DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

27 NOVEMBER

2003

Thursday, 27 November 2003

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Thursday, 27 November 2003

The Assembly met at 10.30 am.

(Quorum formed.)

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

Petitions

The following petitions were lodged for presentation:

Aldi supermarket

by **Ms Dundas**, *from 84 residents:*

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
>
> local people want access to cheaper groceries.
>
> Your petitioners therefore request the Assembly to:
>
> Pass legislation allowing Aldi Supermarket to build a supermarket next to Belconnen Markets.

Gay, lesbian, bisexual, transgender and intersex people

by **Ms Dundas**, *from 60 residents:*

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory.
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that:
>
> Gay, lesbian, bisexual, transgender and intersex people of the ACT continue to suffer legal discrimination under ACT Law.
>
> Your Petitioners therefore request the Assembly to:
>
> Pass legislation ensuring gay, lesbian, bisexual, transgender and intersex people have equal rights under the law, including the ability to adopt children and have their relationship formally recognised through Civil Unions.

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.

Justice and Community Safety Legislation Amendment Bill 2003 (No 2)

Mr Stanhope, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.34): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Justice and Community Safety Legislation Amendment Bill 2003 is the ninth bill in a series of bills dealing with legislation within the Justice and Community Safety portfolio. The bill makes a number of substantive and minor technical amendments to portfolio legislation and the amendments are as follows:

The Agents Act: the vast majority of offences in the Agents Act 2003 are strict liability offences. Sections 86 and 87 of the act are exceptions, as both sections expressly include a fault element. The addition of a subsection stating that the offences in these sections are strict liability offences was an oversight and is removed by this amendment. The amendment also makes changes to the act for consistency with the Consumer and Trader Tribunal Act 2003, and corrects a typographical error in the act.

Consumer Credit Act 1995: this amendment removes section 10 of the Consumer Credit Act 1995 and inserts a new part 3A into the act to amend the current wording of the regulation-making power under the act, which is currently limited specifically to the setting of a percentage rate. The amendment is necessary to facilitate an amendment to the consumer credit regulations to require all fees and charges associated with a loan to be included in the maximum annual percentage rate charged. Short-term credit providers will be required to disclose the full cost of credit in their precontractual and contractual documents so that consumers are aware of the true cost of the loan.

Consumer credit regulations 1996: this is a consequential amendment required due to changes to the Consumer Credit Act.

Cooperatives Act 2002: this amendment corrects a number of anomalies identified in the course of drafting the regulations for the Cooperatives Act. The Cooperatives Act 2002 provides that a registrar of cooperatives is to be appointed by the chief executive, but that deputy registrars are to be appointed by the minister. This bill amends the act to allow the chief executive also to appoint deputy registrars. This amendment corrects the anomaly, provides for easier administration, and ensures consistency with provisions in other legislation, such as the Consumer and Trader Tribunal Act.

Cooperatives regulations 2003: the bill amends the cooperatives regulations to specify the Commonwealth Aboriginal Councils and Associations Act 1976 as a law under which a cooperative may, if approved, become registered or incorporated under section 307 of the Cooperatives Act.

Fair Trading Act 1992: currently section 41 (5) of the Fair Trading Act refers to sections 180, 182 and 183 of the Crimes Act which, following the introduction of the criminal code 2002, no longer exist. Accordingly, section 41 (5) of the Fair Trading Act is being removed, together with reference to the ancillary provisions in subsection 41 (1).

Magistrates Court (Civil Jurisdiction) Act 1982: this amendment corrects a technical error in section 461 of the Magistrates Court (Civil Jurisdiction) Act 1982.

Protection Orders Act 2001: section 33 of the Protection Orders Act requires the respondent to be personally served with a copy of a protection order made by the Magistrates Court. The purpose of personal service is to ensure that the person upon whom the order is served is aware of both the existence of the order and the consequences of a failure to comply with the order. Personal service should not be necessary if the respondent was before the court when the order was made, as the magistrate has explained the order to the parties. The bill amends the requirement for personal service on the respondent to provide that personal service may be dispensed with where the respondent is before the court when the order is made, varied or revoked. Personal service will only be retained where the order is ex parte.

Security Industry Act 2003: it was envisaged from the outset that decisions made regarding the regulation of the security industry would be reviewable by the newly established Consumer and Trader Tribunal. The amendment will put in place the technical requirements necessary for decisions made under the Security Industry Act to be reviewable under the Consumer and Trader Tribunal Act.

Mr Speaker, I commend the Justice and Community Safety Legislation Amendment Bill to the Assembly.

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

First Home Owner Grant Amendment Bill 2003

Mr Quinlan, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.39): I move:

> That this bill be agreed to in principle.

Mr Speaker, the First Home Owner Grant Amendment Bill makes two main amendments to the First Home Owner Grant Act 2000. Firstly, it restricts the circumstances in which a first home owner grant may be paid to applicants who are under 18 years of age. Secondly, it introduces a six-month residence period that applicants must satisfy for entitlement to the grant.

The grant was introduced as part of the introduction of the GST, in accordance with the intergovernmental agreement on Commonwealth/State financial relations. The payment of the grant is administered on a common basis by states and territories under their own

legislation. Since the act commenced on 1 July 2000, the ACT has maintained and administered the legislation as required by the IGA and has applied the agreed eligibility criteria.

The current eligibility criteria for the grant does not impose a minimum occupation period of the home as the principal place of residents and applicants can be of any age. However, treasurers of all states and territories and the Commonwealth have now indicated that they support an age restriction. Without an age limit, potential abuse of the scheme for the grant can arise. For example, minors may apply for the grant, but the real purchaser could be the parent who is ineligible for the grant or has already received it. This bill will therefore amend the First Home Owner Grant Act to require an applicant to be at least 18 years of age.

To cater for genuine applications by a minor, the bill will give the Commissioner for ACT Revenue a discretion to approve the grant in appropriate cases. This discretion is consistent with the discretion given to the commissioner in some other states that have enacted or have recently introduced legislation imposing an age restriction. An example of where discretion may be exercised is if a 17-year-old child has used funds from an inheritance to purchase a home in which they will live. It is proposed that this change to the First Home Owner Grant Act be made retrospective to 14 October 2003, the day I announced the government's intention to impose an age limit.

Mr Speaker, this bill contains another change to the eligibility criteria for the grant. Currently, applicants seeking to qualify for a grant must satisfy a residence condition. This condition requires an applicant to move into the home as their principal place of residence within one year of acquiring the property or any longer period approved by the commissioner. The problem with this condition is that it does not state a minimum period in which an applicant must live in the property.

Case law provides guidance as to whether a home is used as a principal place of residence. However, it is difficult for an investigator to determine whether an applicant has resided in the property as the principal place of residence. This is especially the case where an applicant has occupied the home for a short period of time.

At the same time, there is also the risk of abuse of the scheme by an applicant moving in for a short period before leasing or selling the home. Introducing a time period will overcome these difficulties. A six-month residence period has been agreed to by all states and territories and communicated to the Commonwealth. A six-month residence requirement will therefore be added to the existing residence requirement.

In addition, a discretion for the commissioner to accept a lesser period or waive the six-month residence requirement is included. This discretion will only be exercised where there are good reasons to do so. Two examples of good reasons are where an applicant's employer requires the applicant to relocate out of the ACT and where the applicant's home is destroyed.

The amendment with respect to the residence requirement will commence on 1 January 2004; that is, it will apply to eligible applications received from 1 January 2004. This commencement date will allow time for applicants and financial institutions to prepare for the change.

The bill will facilitate fair and effective operation of the ACT First Home Owner Grant Act for the community's benefit by addressing inadequacies in the current eligibility criteria. Mr Speaker, I commend the First Home Owner Grant Amendment Bill 2003 to the Assembly.

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

Rates Bill 2003

Mr Quinlan, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.44): I move:

> That this bill be agreed to in principle.

Mr Speaker, currently the Rates and Land Tax Act 1926 and the Rates and Land Rent (Relief) Act 1970 deal with the imposition and administration of rates and their concessions, as well as land tax. The Rates Bill 2003 is a result of combining the rating provisions from the Rates and Land Tax Act with the concession provisions from the rates relief act. As both of these acts will no longer be required, they will be repealed by this bill. I will also introduce a new bill into the Assembly today, a land tax bill dealing solely with land tax. The acts resulting from both of these new bills will be administered under the Taxation Administration Act 1999.

Mr Speaker, as these bills do not introduce any significant policy changes from the acts to be repealed, I shall limit my comments to the reasons the bills are necessary and the administrative changes they introduce. The Rates and Land Tax Act was originally a 1926 Commonwealth ordinance. With the introduction of self-government this ordinance, which had already been amended numerous times, became the Rates and Land Tax Act 1926.

Over the years, large sections have been inserted and there have been frequent ad hoc amendments. The current provisions are convoluted, inconsistent and frequently use outdated language. The format is not logical and the provisions are often difficult to follow. Some provisions apply to both imposts, some to rates and others to land tax.

The rates relief act was also originally a Commonwealth ordinance and historically provided for deferral and rebate of all rates and land rent charges for eligible persons. Relief for land rent and for water and sewerage rates has been taken up by other legislation. As this act now applies only to rates, it is appropriate to move the remaining provisions to the rates bill. For these reasons, the bills are necessary to bring the administration of rates and their concessions and land tax into line with other ACT tax legislation. The new bills will reflect the current drafting practice and make the legislation clearer, more logical and less complex.

It is the nature of any rating system to require frequent amendments to maintain its relevance. This bill incorporates and rationalises the rating provisions of the Rates and Land Tax Act and the concessions from the rates relief act. A second stage of this rationalisation process will be necessary to address any policy and administrative changes that may be required to further streamline the legislation and the rating system. This bill provides the basis for that second stage to more easily address policy issues and implement any further amendments.

The Land Tax Bill provides for the imposition of land tax, its payments and exemptions from liability. Land tax is imposed on the basis of the use made of a property or on an owner which is a corporation or trustee, rather than on owners solely as a consequence of their ownership. As such, land tax is based on an entirely different policy concept from rates and the Land Tax Bill is necessary to provide standalone legislation.

The only major change resulting from the passage of these bills is that both rates and land tax will now be administered under the Taxation Administrative Act in line with all other ACT tax legislation. The assessment of tax liability, refunds, collection of tax, record keeping, general offences, tax officers, investigation and secrecy provisions, and objections and appeals will be taken over by the Taxation Administration Act.

There are, however, provisions in the rates bill specific to rates administration. Some of these are: the calculation and remission of interest, no penalty tax imposed on a tax default and no loss of right to pay by instalment if a payment is overdue. I would also like to point out that the calculation and remission of interest provisions remain with the land tax bill. However, the failure to pay land tax will be a tax default and penalty tax will be assessed under the provisions of the Taxation Administration Act, as is the case with other tax laws.

In line with other tax laws and to remove the necessity to amend the act to change variable factors, the amounts and percentages used to work out rates and land tax will now be determined by disallowable instrument. As you know, Mr Speaker, this still allows the Assembly to scrutinise the changes.

The schedule to this bill contains amendments to the Taxation Administration Act to include the Rates Act 2003 and the Land Tax Act 2003 as tax laws for the act. It amends the objection and appeal provisions to include decisions prescribed under tax law. The schedule also repeals the Rates and Land Tax Act, the rates relief act and associated regulations and determinations.

These bills also contain transitional provisions to ensure that all existing assessments, debts, deferments, rebates, applications, decisions and objection and review rights under the repealed acts continue as if they had occurred under the new acts. The provisions of the Rates Act 2003 and the Land Tax Act 2003 will commence from 1 July 2004 and I would like to emphasise that no ratepayer will be disadvantaged by this change in administration or the introduction of these bills. As the bill contains no significant policy change, there are no direct or indirect revenue implications. I commend the Rates Bill 2003 to the Assembly.

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

Land Tax Bill 2003

Mr Quinlan, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.50): I move:

> That this bill be agreed to in principle.

Mr Speaker, as I said in the previous speech, the Land Tax Bill is also the result of splitting the Rates and Land Tax Act. The bill provides for the imposition of land tax, its payment and exemptions from liability. As mentioned, land tax is imposed on the basis of the use made of the property, or on an owner which is a corporation or trustee, rather than on property owners solely as a consequence of their ownership. As such, land tax is based on an entirely different policy concept to rates and this bill is necessary to provide standalone legislation.

As with the Rates Bill, this bill contains no significant policy changes from the Rates and Land Tax Act. The historical details and difficulties with this act are the same as those in the Rates Bill which I have just introduced into the Assembly. As with the Rates Bill, this bill has no direct or indirect revenue implication. I commend the Land Tax Bill 2003 to the Assembly.

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

Validation of Fees (Cemeteries) Bill 2003

Mr Wood, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

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) (10.52): I move:

> That this bill be agreed to in principle.

This bill is necessary to ensure a legal basis for fees which have been charged for cemetery services between 1 July 2001 and 14 November this year. Regrettably, failures in process have meant that a series of documents prepared to determine cemetery and crematoria fees have not been legally effective. Complicating this, the Cemeteries and Crematoria Act 2003, recently commenced, replaced the Cemeteries Act 1933, but no provisions were made to save any existing fee determination under the repealed act, with the consequence that, as of 27 September 2003, when the new act began, there was no determination in place for cemetery fees.

When this situation was brought to light, I determined fees under the relevant provision of the new legislation and these fees were notified on 14 November 2003, effective

15 November 2003. However, it remains necessary to validate those fees charged prior to 15 November 2003, which were not authorised by a valid determination.

Briefly, the history concerning this matter is that the last valid determination under the old Cemeteries Act was made in June 2000. Documents purporting to increase these fees and impose fees for new services were prepared in subsequent years. They were signed by the chairperson of the Canberra Cemeteries Trust, who had been given a delegation by the relevant minister in the former government to determine fees for the purposes of the act.

Unfortunately, none of these documents was ever notified and presented to the Assembly, as is required under the Legislation Act, with the result that they were to no legal effect. This means that, to the extent that any fees charged in reliance on these documents exceeded the fees set in the last valid determination in June 2000, there was no legal basis for the charging of those fees. The amount involved is considerable, in excess of $2 million.

As I mentioned earlier, the situation was complication by the repeal on 27 September 2003 of the legislation under which the last valid determination was made. Because the determination was not saved, it ceased to have effect on that date, with the result that there was no determination at all in place authorising the charging of fees for cemetery and crematoria services. This was remedied with a new determination under the new act, effective 15 November 2003.

The bill has the effect of validating fees which have been charged in reliance on the documents prepared as fee determinations, even though those determinations have not been validly made. While it is always regrettable to have to legislate to remedy administration process failures of this kind, as members will appreciate, this is not the first time that an ACT Assembly has been asked to do so. Even with the best intentions of avoiding similar situations in the future, it would be unrealistic to think that this will be the last time an ACT Assembly will be called on legislatively to rectify a procedural failure.

The approach taken on this occasion and other occasions has generally been that a valuable service has been provided for a fee and that the fee charged should therefore be validated by enactment. That is not to deny, of course, that every effort should be made to avoid these problems in the future. The bill includes an amendment to the Cemeteries and Crematoria Act—members will remember the time that took to get through—which is directed precisely at that.

The bill amends the act to provide that the power to determine fees cannot be delegated by the minister. It does appear that the delegation of this power may have contributed to the failures of process which resulted in a series of failed determinations. I have now made a valid determination and, in future, it will be the minister who makes any new determinations. I commend the bill to the Assembly.

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

Human Cloning and Embryo Research Bill 2003

Mr Corbell, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

MR CORBELL (Minister for Health and Minister for Planning) (10.58): I move:

> That this bill be agreed to in principle.

I am pleased to introduce the Human Cloning and Embryo Research Bill 2003. This bill forms the ACT component of the nationally consistent scheme to prohibit human cloning and regulate research involving excess human embryos agreed to at the Council of Australian Governments meeting on 5 April 2002. The COAG decision was informed by close analysis of the central ethical, social, legal and moral issues that are relevant to this matter.

The Commonwealth Prohibition of Cloning Act 2002 and the Research Involving Human Embryos Act 2002 provide the framework for the national scheme and were assented to on 19 December 2002. The ACT government and other states and territories were involved in the extensive consultation process undertaken on the Commonwealth legislation. Input focused on the development and implementation of the national scheme and how it could be best facilitated.

This bill is consistent with the Commonwealth legislation. A single Commonwealth bill was presented to the House of Representatives, then split during debate and passed as two acts. The ACT bill is presented as a single bill. I believe that the prohibition of human cloning and the regulation of research on human embryos represent issues requiring equal moral and ethical consideration and can be dealt with effectively within one bill.

As previously stated, the bill that I put before members today forms part of a national scheme to effectively ban human cloning. It also prohibits a range of other practices, including the creation of hybrid embryos and commercial trading in human reproductive material not considered safe or ethical. The bill makes it an offence, with a maximum prison term of 15 years, for a person to create a human embryo clone.

The bill also supports the establishment of a comprehensive national regulatory system to govern the use of excess assisted reproductive technology embryos. Under the scheme, researchers and scientists proposing to undertake work on excess assisted reproductive technology embryos will be required to meet strict criteria and obtain a licence.

The Victorian, Queensland, South Australian and New South Wales parliaments have already passed nationally consistent legislation to support the COAG scheme. Relevant legislation has been introduced into the Western Australian parliament and is expected to be introduced into the Northern Territory parliament before the end of the year.

The bill establishes an appropriate balance between a need to enable potential lifesaving research and the imposition of the oversight and sanctions necessary to ensure ethical research practice. I commend the bill to the Assembly.

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

Education Bill 2003

Ms Gallagher, pursuant to notice, presented the bill and its explanatory statement.

Title read by clerk.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (11.02): I move:

> That this bill be agreed to in principle.

I am very pleased to table today the Education Bill 2003. The bill has been shaped by extensive community input following our circulation of an exposure draft last year. I really appreciate the time and effort that people were prepared to put into the consultation process and in adding significantly to the bill.

The bill replaces the four existing laws for school education with a single new law based on the shared community expectation that all children should have high-quality education. The new bill incorporates general principles which underlie high-quality education and which are expected to be applied by everyone involved in children's education.

The principles embody a commitment to and an enthusiasm for learning and to the completion of senior secondary education by all students. They recognise the needs of individual students, including the needs of children at risk and students with disabilities, and the need for full parent participation in all aspects of their children's education. The general principles affirm the need for accountability and effective quality assurance in the provision of education for children.

Mr Speaker, the principles of the legislation, as strengthened by this government, guide and direct the objectives of this law which states parent and government responsibilities for children's education and provides for the governance and operation of government schools and the registration of non-government schools and home education. The bill maintains the current provision that education in government schools is to be free and that no fees shall be chargeable for it. It also maintains the current minimum school leaving age of 15.

There is an argument for raising the minimum school leaving age to 16. I would value the community's view about the advantages and disadvantages of doing so. I therefore plan to have discussions on this matter with educational and youth interest groups early in 2004. However, given the extensive period of debate and consultation, we should not hold up the legislation pending discussion of this issue.

I will briefly indicate some of the improvements made to this legislation. The functions of the government and non-government schools education councils have been enhanced by requiring, in addition to the general advisory and inquiry powers, the councils' formal input to the development of budget priorities and strategic direction. The operations of the councils have been made more open by requiring that formal advice to the minister be tabled in this Assembly.

The new bill incorporates upgraded accountability and information requirements applying to both government and non-government schools. These include, as well as a legislated requirement for schools to inform parents about their child's progress at school, that each school keep parents fully informed about the school's educational program and its general operation. Both government and non-government schools will be required to develop processes to allow parent participation in the school.

New requirements are imposed on the chief executive to monitor and report on the performance of the government school system as a whole, as well as on individual schools. Both government and non-government schools are required to establish a process for investigating complaints.

We have also responded to the recommendations of the Connors inquiry into education funding in the ACT and have introduced a fair and open process for the consideration of proposals for new non-government schools. New proposals will be considered in the context of a static population of school-age children in the ACT and with regard to the substantial public and private investment in existing schools.

In response to submissions from home educators, we have reshaped the provisions on the registration of home education. The new bill provides a basis for cooperation with home educating families in the registration process towards the common objective of providing high-quality education for all children. I commend the bill to members for their consideration.

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

Executive business—precedence

Ordered that executive business be called on.

Totalcare—disposal of undertakings

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (11.07): I move:

> That, in accordance with section 16 (4) of the Territory Owned Corporations Act 1990, this Assembly approves the disposal of all of the undertakings (including its assets, rights and liabilities) of Totalcare Industries Limited to the Territory.

Mr Speaker, this is a matter of machinery. I think that the Assembly is aware of what is being done with Totalcare. We have given notice of our intention to wind it down through a phased process and transfer various business activities back to ACT government departments. The Territory Owned Corporations Act prohibits the disposal

of main undertakings of a territory-owned corporation; so, technically, this resolution is required.

I do have in front of me a little of the history of Totalcare which, unless members want to debate the point, I will skip over and just advise the house that the way forward in relation to Totalcare has been that an implementation team has been established, headed by the Department of Urban Services, consisting of members of the Chief Minister's Department, Treasury, the Department of Education, Youth and Family Services, and ACT Health, as well as various unions and Totalcare representatives.

The implementation team is undertaking a thorough due diligence process, including critically reviewing the operating requirements of the separate businesses pending transfer, including associated legal and financial issues, and reviewing the nature and the structure of the work force and associated industrial relations issues that need to be resolved. Any associated transitional or operational costs will be identified as part of the process and taken into consideration in the framing of the 2004 budget.

The government is now seeking the support of the Assembly to the resolution in order to provide certainty in negotiations with Totalcare's many staff and with suppliers and parties with which Totalcare has contracts. I commend to members of the Assembly the resolution under section 16 of the Territory Owned Corporations Act seeking the transfer of various undertakings of Totalcare to the territory.

MR CORNWELL (11.09): Mr Speaker, I appreciate that the Territory Owned Corporations Act requires the approval of the Assembly to be given for this transfer. I also note that the Treasurer has indicated that a potted history is available, if required. I am more interested in raising a few questions which, I trust, will be answered in due course in relation to this transfer. Although I have a statement of corporate intent from 1 July 2003 to 30 June 2006, it does not provide me with all the information that I would like.

Mr Quinlan: A question on notice would go well, Greg.

MR CORNWELL: Yes, that is a possibility, Mr Treasurer, but I am quite happy to put the questions down here and at some time in the future you might like to come back with the answers, because I think that this is an important matter.

For example, with the transfer of the Totalcare business units back to the government, will any assets remain with the Totalcare shell? If so, will they be converted into cash later or will they be otherwise disposed of? What is the time line for the movement of each of the Totalcare business units that remain—linen, sterilising, the roads business, facilities management and fleet? That is a matter of interest to all of us here. Will there be a cost to government of this transfer? What has been the cost to the ACT government of the provision of the implementation team to advise the government on the Totalcare transfer?

The next question might be a harder one to answer. What evidence is there to show that each business of Totalcare will be a viable operation after its transfer to the territory? Perhaps only time will tell on that one, but any evidence or information you can give would be appreciated. Will the Totalcare business units, after their transfer to the

territory, be in a position to compete in the private market against private companies? Although the answer to that could be that they can compete, I would like to know in a little more detail whether they will be obliged to compete in the market against the private sector unencumbered, if I may put it that way, and whether they will be given any advantages. I can understand that the answer to that probably is that they will not; nevertheless, I would like to hear it.

What arrangements have been made for the continuation of any contracts with Totalcare's existing customers? I trust they will be continued, that they will not be curtailed. What will happen to all the staff, Mr Treasurer? Have they all been given assurances that their jobs are safe? If any staff are to be laid off, how many and under what terms, to the extent that you can provide me with that information without breaching privacy legislation? Where is it intended that Totalcare's business units will be located physically after the transfer? If they are all to be located at Mitchell or Fyshwick, what is going to be the situation with the unused site, if there is going to be an unused site?

Perhaps another question is whether the current board of directors will have any ongoing role in Totalcare after its disposal. I noted in the statement of corporate intent that a new board has been appointed. I am just trying to find the reference to that. These are, you may imagine, fairly basic questions, but I think we do need to have a look those matters and receive those assurances if this Assembly is to approve this transfer, as required by law.

MS DUNDAS (11.14): The ACT Democrats will be supporting this motion today. The return of each of Totalcare's functions to the ACT government departments where they best fit has the potential to eliminate the cost of a separate board, a CEO and some senior management positions. But I have little confidence that the winding up of Totalcare Industries will eliminate the risk of the ACT government undercutting private businesses in the provision of services to the private sector, using taxpayer subsidies. It looks like we are merely shifting the problem to the departments that will absorb Totalcare's functions.

Through the briefing that the Treasurer offered on the winding up of Totalcare, I learned that the government planned to continue to enter into new contracts to deliver services such as fleet, linen and building management to private businesses. There was no plan to phase out private sector provision and return to delivering only core services, as required by the ACT government.

I was informed that the government will not accept as high a level of financial risk in private contractual arrangements as Totalcare may have done as a commercial corporate entity, but it appears that there is little concern that the government may continue to lose money on private contracts. From the outset, I have argued that it makes sense for the government to perform functions directly related to the delivery of public services, but it is not desirable for the government to compete with private businesses for contracts to deliver services to the private sector.

The government claim that private sector contracts in the linen sector are required to bring the business close to a break-even point. They cite the excess capacity inherited from the Commonwealth government at the time we moved to self-government as the

reason we need to take on private linen contracts. However, the long-term nature of these contracts also provides justification for endlessly deferring decisions about the future of private linen provisions.

We know that much of the linen equipment and the building housing the linen service is up to 30 years old. Some parts of the production line have recently needed replacement and most of the remaining equipment is very near the end of its economic life. I understand that the new ironing machine cost around $800,000. So decisions to extend the life of this oversized facility by replacing bits and pieces should not be made unthinkingly. I think that we really need to consider how much it costs to run linen services for the ACT government versus how much it costs to run linen services for the entire community and what impact that is having on the ACT business community that this government says it supports so strongly.

It appears that the government is endlessly deferring the hard decisions about when it is time to cut our losses, move the equipment on and make the laundry facility operate on a more appropriate scale. I hope that the government plans to do a full cost-benefit analysis, comparing the construction of a new laundry facility now with options for keeping the existing facility going for another couple of years or for five years or 10 years, with this analysis taking into account the full social impact and the full economic impact of what it is we are doing in linen services, because without this analysis it is impossible to make a sound decision about the future of the facility.

I was glad to learn that the income and expenditure from businesses formerly within Totalcare will now be separately identified in departmental annual reports. I would be very concerned if the losses ended up being buried within accounts of other departmental activities. However, because new private contracts will still be entered into, I fear that the Assembly will continue to be denied access to full information to enable it to make an informed judgment about whether public money is being used improperly to deliver services. I expect the commercial-in-confidence excuse will continue to get a workout.

In fact, when Mr Cornwell asked during the debate for more information the Treasurer interjected, "Ask the question on notice." I have asked a number of questions on notice about Totalcare and moved motions in this Assembly to try to get information about was happening in Totalcare and have always been hit with the answer that it is commercial-in-confidence, which means that we are being limited in the amount of information we can access, so the picture that we were able to develop of what was actually happening in Totalcare itself was limited.

I reiterate what I said in February when I moved a motion seeking to obtain more information on Totalcare's accounts: I want the Assembly to be satisfied that the decision to keep performing private sector contracts is financially, socially and environmentally sound. If this decision cannot be justified, it is the duty of the government to direct Totalcare to withdraw from this area of private sector operations. I believe that the comments I made in February are just as relevant now with the winding up of Totalcare. The Assembly needs full information on government activities that affect the budget bottom line and we are still waiting for that information.

MS TUCKER (11.20): Technically, this is a simple procedure: the Assembly needs to agree to Totalcare's assets, rights and liabilities being disposed of to the territory.

Essentially, that means that we are agreeing to wind up what has been a costly experiment in trying to make government services behave as if they were private companies.

The work that will flow from here is not simple. This is the first time that a territory-owned corporation has been wound up and I understand that it will take some time to work through the necessary steps in the Corporations Law. During the briefing on this motion, after debate was adjourned in August, it was indicated that the process could take around two years.

During this winding up and transfer time we do need to be sure that the work will continue to be done and that the workers will be looked after. Early on it seemed that some jobs may be lost. The opposition has asked questions on these points this year, suggesting that 150 people will be sacked. The government has since given a clear commitment that no-one involved will lose their jobs involuntarily. Voluntary redundancy packages will be offered at the time the business units are transferred back into the public service, but this may be some time away.

The motivation for moving away from this structure is partly ideological, an ideology which the Greens support. This is about decisions on how public services should be run. Totalcare's core business, if you like, is about ensuring that hospital linen is clean, dealing with waste and urban services, and ensuring that other assets, et cetera, are maintained as public services. Totalcare as a corporate entity is losing money.

Savings are expected to come from the cost of running the statutory authority required of a territory-owned corporation and the cost associated with the Corporations Law. The crux of the problem appears to be that, as a territory-owned corporation, Totalcare was, properly, required to meet additional standards of probity and accountability and could be held to account for its environmental and social performance. At the same time, it was to be in competition with private businesses operating without these goals. This competition was unfair for Totalcare.

Ms Dundas raised a campaign on the cross-subsidisation between parts of the enterprise where the ACT government was the client and parts where others were the client on the basis that it was unfair to the existing private businesses which could have competed and that it prevented new players from coming into that market. However, I think that the answer really should be about making all activities accountable for their impact and costs on society and the environment equally. I think that it is of concern that you can have higher standards being seen as a problem.

However, in this case, part of the work done will be brought back entirely within the fold of the public service. This means of winding up Totalcare as a corporation ensures that we maintain public ownership. I hope that it will also mean that the apparent tension between corporation goals of maximising profit and public service goals of equity, environmental responsibility, industrial democracy and fairness will be more easily carried through in the way these functions are delivered.

MR SMYTH (Leader of the Opposition) (11.23): Mr Speaker, I think it will come as no surprise to members that the opposition is disappointed that this action is being taken. For a party that believes government should not be involved in providing services that

can be rightly provided and equally or better provided by the private sector, the attempt to make Totalcare an entity that competed in the real world is sadly coming to a close.

I alert members to page 13 of Totalcare's statement of corporate intent for 1 July 2003 to 30 June 2006 and ask them to consider what the Assembly is actually doing today. The assumptions that underlie this document include the assumption that the current operations remain unchanged until the transfer. Minister, what will change when the transfer has been completed? It says that the property management team will transfer on 1 December 2003 and the roads, facilities management, sterilising and linen teams will transfer on 1 March 2004, the fleet team will transfer on 1 April 2004 and the current corporate arrangements will remain in place until 30 June 2004.

The interesting question is the next line, which says that all assets and liabilities will be transferred at a net book value, that is, no profit or loss on the transfer. If we go to page 14 we see that liabilities, both non-current and current, add up to about $21 million. Perhaps the minister could explain what those liabilities are and how they might affect the position of the territory when they come back onto the territory's books.

The document goes on to say—this is the line that I think we need to be concerned about—that no cost of transfer has been estimated. We do not know that; the government has not done its work. What will be the cost to the taxpayers to carry out this transfer? We have the guarantee that the government will endeavour not to lose any jobs, but we do not know that for real and we do not know what it will be costing us. I think that the government should be able to tell us at this stage what will be the cost of the transfer.

We had liabilities of some $21 million at the end of 2002. At the end of 2003 it looks like they will be $24 million. But we do not know what is going to happen. I think that is sad, given that this transfer has been on the books for some time and given that the minister really should be able to give us a full picture on what is going to happen here. Perhaps he would like in closing the debate to give us at least an estimate, maybe a round figure, if he has any idea at all of what the cost of the transfer will be.

When we have the full picture, perhaps then Assembly members can actually make a decision as to whether they should vote for this transfer today. Without the knowledge of that particular cost and what it means, we would not be making an informed decision. I accept that this transfer is probably a fait accompli, that the numbers will be there for the move back into the ACT public service, but I would ask the members who have not spoken, even those who have, to add their voice to this question of what is the real cost of this transfer to the ACT and, based on full knowledge of the real cost, decide whether such a thing should proceed.

I also have problems with bringing services back into the government and the whole issue of competitive neutrality. Urban Services will be putting out tenders for roads and things like that and ACT Roads, as a unit of Urban Services, will be bidding for them. How do we make sure that the whole process is above board? The dilemma then is the true cost of the service provision. Part of the reason that Totalcare was established was to work out what these services are truly costing the people of the ACT. Taxpayers have the right to know that.

By bringing them back in we will be putting in doubt whether the true cost of a group such as ACT Roads winning tenders in the ACT is taken into account and we are not undermining companies in the private sector that do not have that advantage. It will be interesting to see whether the Treasury can guarantee that. I note that Ms Dundas raised the whole commercial-in-confidence issue as well. How do the two shareholders who are now sitting here in the chamber guarantee that the new roads unit inside Urban Services will not have an advantage, to the disadvantage of private sector companies? How will they personally guarantee that there will be fairness? Those questions also need to be answered.

On the basis that we still do not know how much the transfer will cost, how neutrality will be guaranteed and whether it is right to do it in the first place, on the basis of a philosophical position that these services are ones that truly can be provided by the private sector, and on the basis of the warning note that I have sounded in my speech, the opposition will be voting against the transfer.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (11.29), in reply: Mr Speaker, may I thank first of all Ms Tucker for being the one person who recognised just how much work was involved in this transfer and just how much work is involved for the officers that are now involved in it. Let me say that the major cost is the blood and sweat of those people that have to unravel this particular exercise.

I am amazed really at Mr Smyth's speech, I've got to say. This was one of the great stuff-ups—one of many, but one of the bigger ones—of the Liberal government. Whether it was CanDeliver, Bruce Stadium or the spin-off of Williamsdale quarry, Totalcare as a whole was a disaster. I would have thought that any self-respecting Leader of the Opposition would have kept his gob shut today, would have been shamefaced that we have come to this situation. As I said in my opening speech, I will leave out some of the history, history that Mr Cornwell recognised and acknowledged. Mr Smyth talked about costs. There were accumulated losses of $21 million—his party's handiwork. Mr Smyth came in here and sniped about the administrative costs of winding up. Yes, it will cost money, and that cost is also down to his party because it set up something that was doomed to fail.

We now have Mr Cornwell showing abiding interest in great detail. If your party had shown that level of abiding interest in Totalcare over time, you would have done something or should have done something about it a whole lot sooner. I want to recognise the administrators, who have worked very hard. I want to thank the staff of Totalcare, who have been tolerant as we have unravelled this process, this disaster of your making. It has been a rather thankless job.

I thank the management of Totalcare for their forbearance as well and for their acceptance that they knew exactly what needed to be done. This is not something that we have done on some philosophical bent. It has been done of necessity as Totalcare was haemorrhaging taxpayers' money because of just one of the many disastrous decisions made by your lot.

I will take a little time to answer the questions I can of Mr Cornwell's so that, hopefully, we can put this matter to rest and get on with the difficult job that people are doing in cleaning up. Will there be some assets remaining? There probably will be some property assets as the various arms of Totalcare are absorbed into a logical structure within the departments. That will be worked through.

The time line will be as soon as possible, but it is a very difficult job. There is a myriad of contracts to be worked through; in particular, with the fleet unit. There is a whole heap of individual contracts. How long that will take is not totally within our control. That is a process to be negotiated with the parties involved in the contracts.

Will there be a cost? I have said already that the major cost will be the sweat and the effort of the administrators and the people in Totalcare, because a whole lot of work is needed from this point on. Will business units compete? Yes, business units will compete where necessary. For example, we have a laundry that will depend for its viability on a cost-volume basis. If it only does government work, its viability will be difficult to sustain. If it can increase its throughput, there will be economies of scale to make it viable. It has to compete. Will it compete on a level playing field? Yes, there are competitive neutrality laws in relation to how government agencies can compete.

How will staff be treated? They will be treated a whole lot better than they were over the previous years of Totalcare and there will be no forced redundancies. How many jobs were lost and how many people were put out of work during this disaster of your making?

The location will be the most logical location for the business units within the departmental infrastructure. The current board of directors is a board appointed out of our own administrators. The previous board of management have long resigned their posts, realising and accepting that that was really the only choice.

Ms Dundas made some reference to endlessly deferring decisions. I am sorry, Ms Dundas, but this is not a simple process. There is a lot of work to be done. There are lots of people working very hard to make sure that we get it right—to make sure that we have got our contractual basis right and our due diligence right—and it is being done as fast as these people can work. It is being done, I have to say, in an atmosphere of goodwill between the former management, the staff and the administration, and we intend for that to be the way that it should finish.

For Mr Smyth to say that the government has not done its work and that we should be concerned about the cost after the situation that his lot set up, as I said, I am just amazed and I think it is some commentary on his continued process of self-delusion. I commend the motion to the house.

Question put:

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

The Assembly voted—

Ayes 10		Noes 6	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Stefaniak
Mr Corbell	Mr Quinlan	Mr Cornwell	
Ms Dundas	Mr Stanhope	Mrs Dunne	
Ms Gallagher	Ms Tucker	Mr Pratt	
Mr Hargreaves	Mr Wood	Mr Smyth	

Question so resolved in the affirmative.

Motion agreed to.

Public Sector Management Amendment Bill 2003

Mr Stanhope, by leave, presented the bill and its explanatory statement.

Title read by clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (11.42): I move:

> That this bill be agreed to in principle.

Mr Speaker, this bill amends the Public Sector Management Act 1994 to provide for the transfer of Totalcare staff to the ACT public service. Totalcare commenced operations in 1992 under the Territory Owned Corporations Act. Totalcare has developed through a series of asset and business transfers from ACT government departments.

In July 2003, the government, after considering recommendations from the joint union and ACT public service working group, decided to wind down Totalcare Industries Ltd through a phased process involving the transfer of existing businesses and staff to various territory agencies. As Totalcare is established under the Territory Owned Corporations Act, section 16 of the act requires the Assembly to approve the disposal of Totalcare by resolution. Mr Speaker, a resolution to that effect has just passed in the Assembly, which has agreed to the disposal of all of the undertakings of Totalcare.

This bill is one element of this process to wind down Totalcare in that it enables the progressive transfer of Totalcare staff to the ACT public service. Employment in the ACT public service is governed by the Public Sector Management Act. This act requires that staff are employed by a merit process. As many Totalcare staff are not employed under the Public Sector Management Act, these amendments are required to permit the transfer of non-public service Totalcare staff without a merit process.

The bill provides for the Commissioner for Public Administration to transfer Totalcare staff to equivalent positions in the ACT public service without a formal merit process. The bill also confirms the public service status of those public service staff on loan to Totalcare. The bill permits a staged transfer of Totalcare staff, as staff will be transferred by business unit. That is why the bill does not transfer all staff on a set date.

The bill also excludes general actions relating to employment in the ACT public service, such as gazette notifications of appointments and pre-employment medicals, to validate the employment action that Totalcare has taken. In the case of temporary employment, the bill excludes certain criteria designed to restrict temporary employment only to specialist or urgent services or where no permanent officer is otherwise available.

The approach set out in the bill supports the maintenance of terms and conditions insofar as they are set by the Public Sector Management Act. This includes that staff are transferred at level and on equivalent tenure arrangements, noting that probationary staff would continue on probation. The bill also provides for the retention of leave entitlements, unless paid out, the recognition of prior service with Totalcare and the retention of entitlements no less favourable than immediately before transfer.

This approach has been adopted as most terms and conditions for staff are provided through industrial instruments, such as certified agreements. As industrial instruments operate with the force of Commonwealth law, they override inconsistent ACT laws. The approach under the bill reflects the continued operation of Totalcare certified agreements under the Commonwealth Workplace Relations Act transmission of business rules. Following the transfer of staff, a separate industrial process is likely to be necessary to negotiate new agreements with unions and staff to translate and align terms and conditions with staff of the ACT public service.

While Totalcare staff will be transferred on the same tenure, the bill also permits the commissioner to convert temporary employees to permanent tenure in certain circumstances. This includes where staff have been employed by Totalcare on a temporary basis for at least five years, reflecting the limit of fixed-term employment under the Public Sector Management Act, and in other circumstances where the commissioner considers it appropriate. This may include where a position is of an ongoing nature. This capacity reflects the government's commitment to permanent employment.

The bill provides that the Commissioner for Public Administration may, with my advance approval, make public sector management standards for matters incidental to the Totalcare transfers and individual determinations to address anomalies arising from the transfer. The bill also includes a regulation making power to deal with transitional matters and modify the operation of the new part, if the executive considers it appropriate. These provisions are often included in transitional legislation and are designed to reflect the complexities that may arise during the transfers.

Mr Speaker, in summary, the bill will: insert a new part in the Public Sector Management Act to provide for the Commissioner for Public Administration to transfer Totalcare staff to equivalent positions in the ACT public service without a merit process; provide an approach to the transfers to support maintenance of terms and conditions under transmission of business practices, including transfer of staff on the same tenure and classification, with any probationary staff to continue on probation, the transfer of leave entitlements not paid out, and the recognition of prior service and entitlements no less favourable than immediately before the transfer; provide capacity for the commissioner to convert temporary employees to permanent tenure in certain circumstances after the transfer; provide a capacity for the commissioner to make management standards with

my approval for matters incidental to the Totalcare transfers and individual determinations; and provide a capacity for regulations to be made.

Mr Speaker, the bill is a temporary measure to facilitate the winding down of Totalcare. The bill provides for expiry in December 2005, the anticipated date for the completion of the winding down. However, the bill also provides that the regulations may specify a date later than December 2005 if the winding down of Totalcare is not completed by that date. Mr Speaker, I commend the bill to the Assembly.

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

Electoral Amendment Bill 2003 (No 2)

Debate resumed from 20 November 2003, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (11.48): As I have indicated, the opposition will be supporting this bill. Mr Hargreaves and I, as chair of the Legal Affairs Committee, were unanimous on the bill. Looking through the bill, in my view, it faithfully replicates exactly what the majority of the committee recommended in relation to four-year terms.

The issue of four-year terms has been around for quite some time. To me, this is something that makes eminent sense, especially when one considers that nearly every other state, including the Northern Territory, has four-year terms. Queensland is the only state which does not have four-year terms.

I am not going to repeat myself and go over the debate we had when the committee introduced its report but, in addition, most states now either have or are going towards fixed terms. That is one of the highlights of the ACT electoral system and I think it is a very sensible one. Governments cannot fiddle with election dates to possibly gain an unfair advantage. They go the full cycle, which facilitates a true reflection by the electorate of how the government are travelling. Having fixed terms is something that has served us well.

There could be a lot of people playing politics with something like this. Last Assembly I was disappointed to see the then opposition, the now government, not support four-year terms. At that stage, being in opposition you were probably not thinking long term but thinking as an opposition would think. The Chief Minister has certainly changed his mind on this. I wonder if that is simply because he is now in government or whether it is more than that—that he and other government members have realised the significant benefits of four-year terms. From what I can gather, Mr Hargreaves has been consistent on this one all the way along.

There are a considerable number of benefits in four-year terms. Firstly, four-year terms mean we will not have to worry about Commonwealth elections taking place around the same time as local elections. I believe that is a sensible thing when it comes to better democracy for the ACT.

The ACT electorate tends not to confuse Commonwealth and local issues. I wonder how many electorates around Australia do. It is pretty obvious that they do not, given that all current state governments are Labor and we have a federal Liberal government. I can recall a time when virtually all the state governments were Liberal and we had a federal Labor government. At the first lot of ministerial meetings I attended, that was indeed the case, except for Queensland. They seemed to fight very much with the federal Labor government. That was an interesting meeting.

Australian electorates generally tend to be able to discern those types of issues. Nevertheless, it is a plus that we will not be clashing with federal elections. There is always a danger, though, that the federal election could land on the same day as the ACT Legislative Assembly election, which would cause problems.

In fact, Malcolm Mackerras, who appeared before our committee, suggested that the next federal election would be on 16 October. That would tend to interfere with our election because it would move it out to December. Mr Mackerras may well be wrong on that one, but it was an interesting prediction. We will overcome that problem. People from the business community who appeared before the committee indicated that a four-year term is better for business confidence because businesses can plan with more certainty. That is a strong point as well.

The traditional wisdom of a three-year term is that governments are feeling their way for the first year; they get a substantive amount of work done in the second year—you would not really know with this lot; they are a bit slow—and in the third year everyone is back into election mode. That probably does not make for ideal government.

I have always thought, from looking around the world and from what occurred in the United Kingdom, that five-year terms are a little too long—although they are not fixed terms. Five years is a very long period of time. Four years seems to be the norm not only in Australia but also in a number of other countries. Four years is a reasonable period of time—it is not too long. In terms of conventional wisdom, a new government can find its feet in the first year; it can get on with the business of government for the next two years and, in the last year, go through the normal electoral shenanigans that occur in any democratic system.

There is a cost saving as well. It is a relatively minor cost saving; nevertheless, it is there. The Chief Minister indicated—and it was replicated by our committee—that there had been a number of studies and inquiries into this issue. In his speech he mentioned that there have been about four over the last five years. There has been considerable community consultation throughout that process.

It is not something that we as a committee found excited great passion in the community with lots of people wanting to see us. Out of 40 groups or people asked, only about 22 either sent in submissions or appeared. As a result of all those studies, there was a fair volume of evidence indicating strong support in the community for four-year terms. Anecdotally, from talking to people over the years and finding out what they think about this issue, I have noticed a preference for four-year terms over three or five-year terms.

I believe this is a move that will be accepted and will probably be preferred by the ACT community. In fact, we had a term of three years and eight months, between February

1998 and October 2001. There did not seem to be any dramas in relation to that. Indeed, people I spoke to generally out in the electorate fully expected that, after that, the Assembly would go to four-year terms. That did not occur and we now have the Fifth Assembly with a three-year term. On balance, the benefits tend to outweigh the minuses.

I think you need to take a long-term, practical and principled view in relation to that and, as an opposition, we have taken that view. We could say, "Right, we are in opposition now. Stuff it! Let us just go for a three-year term." But I do not think that would be sensible and I do not think it would be right. I think it is important to look at the benefits of the system. If the system will benefit from a four-year term, then it is worthy of support.

The opposition has looked quite closely at this over recent years, with various views, I must say—much like the Labor Party. It is true to say that not everyone in our party would support a four-year term. But, looking at it on balance and after considerable discussion, we have come to the view that a four-year term is in the better interests of the ACT community. It brings us into line with all governments except the federal and Queensland governments. As I have indicated, it would be beneficial to avoid federal government elections clashing with those of the ACT government. The opposition will be supporting this bill.

MS DUNDAS (11.56): We have already had a debate about four-year terms in this Assembly. I refer members to the comments I made when the report of the standing committee was tabled in October. I must say I find the speed at which this decision has been made to be very quick. We had a very fast committee inquiry that went for about six weeks. The report of the committee was tabled in the October sittings; the legislation appeared in November; and we are now, a week later, voting on it.

I guess that demonstrates that, when Labor and Liberal get together, they can move things through the Assembly very quickly. If everything moved through the Assembly at such speed, maybe we would not need four-year terms because we would get everything done!

I think we all need to recognise that this bill is really one of political convenience for members of the Labor and Liberal parties. There is no-one out there in the community, I understand, desperately pushing for this to happen. I have never heard of a community rally to extend the terms of the Assembly. This bill is about politicians who want to keep their jobs and enjoy the prestige and power for a longer period of time.

Members can sit around and invent dozens of reasons why this is a great idea but it really boils down to the fact that it is the people who are in the best position to judge whether we should have longer terms here in the ACT. The voters are our employers. They are the people who know best whether we should be given extensions of our contracts. But Labor and Liberal members have decided that they can renew their own contracts; that this will not go to a referendum; that we will sit through the job interview again and whoever gets the job will be there for a longer time. I believe the reason the major parties refuse to put this to the electorate is that they realise the voters will not support them if given the opportunity.

I also think the reason we are debating this so soon is in the hope that the electorate will forget about the change and take it as a fait accompli. I reiterate the fact that the arguments for a change to four-year terms are very weak—and Mr Stefaniak repeated many of them today.

We have heard at length how most other jurisdictions have four-year terms. However, that does not mean that a four-year term is suitable for the territory. All other jurisdictions have separate levels of local government. Does that mean we need local councils here in the ACT? All other jurisdictions have some sort of state governor who formally assents to legislation. Does that mean we need a governor here in the ACT? Most jurisdictions have an upper house. Does that mean we need one here in the ACT? Where is the legislation for the upper house in the territory? The arguments put forward are quite frivolous. It seems that the government and the opposition believe that, if they repeat them often enough, they will become more convincing.

It is not the responsibility of members of this place to make the ACT the same as every other jurisdiction. Their responsibility is to represent the needs and wishes of the territory community—and this is a community that does not need four-year terms.

Another argument is that four-year terms will somehow improve the quality of governance here in the ACT and produce a longer-term approach to decision making. Once again it is a nice line but, as the government conceded in its submission to the committee inquiry, there is no way of proving it.

In the Fourth Assembly we had an unusually long term. If we believe that longer terms produce better quality of government, then we should look at the history of the Carnell/Humphries government. Was that a better-quality government? Was that the best government we have ever had? I do not think the people of the ACT thought so.

I note that a number of members have referred to the problem of committee recommendations not being actioned into government policy. Several members have referred to problems in the last Assembly, when several social policy inquiries did not translate into government action. However, as Mr Stefaniak has pointed out, the last Assembly was almost four years long. The last Assembly had four budget cycles where policy could have been implemented through new government spending. Despite the longer term and the greater number of budgets, this did not happen.

The real determinant of a longer-term approach to good governance and better decision making is that members of the Assembly incorporate those approaches into their roles. It is not the length of the term that determines the time horizon over which governments make decisions, it is the approach that ministers and members take to decision making. Are members really happy to argue that projects like the spatial plan and the economic white paper are only looking to the next election—that they have only a three-year time horizon? I think both the Planning Minister and the Treasurer would argue otherwise and see them as long-term visions.

A further argument put forward is that four-year terms are better for the economic bottom line, but I think we all know that the cost savings are minimal. The cost savings total about $1 for every $20,000 of government spending each year. Equally wearisome is the continued reference to business confidence which Mr Stefaniak repeated today. Do

members really believe that democratic institutions should be designed for the benefit of the economy? I find it utterly distasteful that members would seriously say that the functions of democracy come second to the need for business confidence. I guess that, if you have no real justification for your argument, you can make almost anything up.

I return to the point that we had nearly four years worth of government in the Fourth Assembly. Was the community confident then? Was business confident then? I do not think the arguments being put forward by either the government or the opposition justify these changes. The Labor and Liberal parties have decided that political expedience overrides democratic institutions in the territory. The writing is on the wall and this bill will pass today, but I do not think the people of Canberra will thank the Labor and Liberal parties in the long term for reducing their democratic rights.

MS TUCKER (12.02): The Greens will not be supporting this legislation either. I was a member of the Legal Affairs Committee that looked at changing the term from three to four years and I produced a dissenting report. Having gone through the committee process and listened to the arguments, I was not able to conclude that there had been any persuasive evidence given to the committee to extend the term of the Assembly to four years.

There are arguments that a four-year term potentially gives the government more time to develop its thinking. But I do not think that alleged benefit is strong enough to outweigh what I see to be the costs of basically removing voter sovereignty to the degree that extending the term does.

I reject the claim that four-year terms would allow a long-term approach to planning. I think Ms Dundas has made the point pretty clearly that, if you want to move out of the thinking that governments really are guided to a large degree by the electoral cycle because of the pressure to get re-elected, then you have to challenge fundamental approaches to decision making.

To this government's credit, they have produced long-term strategies such as the spatial plan, the coming social plan, the water strategy and so on. Those are documents that look into the long-term future. I think they are important, although I have criticisms of them as to the amount of detail they get down to. That strategic vision is useful but, despite this, I think you will still see a lot of decisions made by this government which are much more in response to immediate and local pressure. That is about the electoral cycle—more than the long-term interests of the people of Canberra.

I think I mentioned this in my dissenting report. It takes about 15 years to see the benefits of long-term thinking brought into social policy areas. It can be much longer when it comes to environmental benefits and protection. I do not believe we see that adequately accommodated by either of the major parties. For that reason, I suggest that extending the term by one year is not a persuasive argument that that will in some way bring about the real shift in thinking that is needed.

The Greens have linked this question with the notion of accountability. I notice that, in its submission, the Labor Party said that loss of voter sovereignty is not such an issue in the ACT because we are unlikely to have a majority government. With this question, the

Labor Party has made the connection between the composition of the Assembly and whether or not there is a majority government.

On behalf of the Greens, I am also making that link. It is a reasonable and logical link because, if you are giving another year to the government of the day, you want to be confident that the executive can be held accountable by the parliament, and also that the vote of the electorate is representative of the voices in the community. At the moment, having two electorates of five and one of seven means that, quite often, the major parties end up with two seats each in the five-member electorates, even though there can be a significant difference in votes between the two.

There is obviously a strong argument to support seven-member electorates so that preference can be expressed, as well as the fact that, if the community is wary of majority government—traditionally they have been in Canberra—they can ensure there are a diversity of voices in the Assembly in a minority government. If we have that assurance, then I think there would potentially be greater acceptance of extending the term by a year.

There is also the question of whether or not there should be a referendum. I believe there is a perception that there is conflict of interest if, as politicians, we do extend the term of our employment. I think it is reasonable that this is put forward—for a vote in the Assembly.

In conclusion, I think it is important to respect the fact that any changes to how a democracy is run need to go to the people. I think there is already a real concern in the community, whether it is justified or not, that the democratic system is in some ways failing—that it is not actually representing the voices of the people.

I do not necessarily agree with that. I think the Assembly is a people's house in many ways. I believe that, compared to other parliaments, the Legislative Assembly of Canberra is very effective in voicing the concerns of people in the community—and the voting system is part of that effectiveness. Having said that, I believe that, by extending the term of the Assembly to four years, we will be decreasing the effectiveness of the Assembly unless we ensure accountability through extending the number of members and having the electorates arranged in a way that will ensure representation of a diverse range of voices in our community.

MR HARGREAVES (12.09): I thank the opposition for their support of this bill. I pay credit to the point Mr Stefaniak made. It would have been easy for the opposition to say, "We will wait and do this when we are in government." I believe they have taken a responsible position for the good of our system of governance and not allowed any perception of self-interest that may be bandied about to affect their decision making.

I would like to address a couple of issues raised by Ms Dundas and Ms Tucker. Ms Dundas talks about the speed at which the decision has been made. If people read closely the reference material that supports the committee's report, they will realise that this subject has been spoken of for years. People have been born, lived their lives and died in the time people have been talking about this.

Ms Dundas suggests that the speed of the passage of the bill through the Assembly is

a bit on the quick side. I suggest that this is something which has been spoken about in this place for a long time. In the content of this bill, we are talking about nothing more than the mechanics of achieving something we have been talking about for a long time. If people believe they have not had enough time to look at this bill with its two-line change, then I suggest they have a good look at their diaries, because they are out of control.

Both Ms Tucker and Ms Dundas made points about this not being a democratic process. Ms Tucker talked about loss of sovereignty—not the will of the people. She said the community is wary of majority government. She has no proof—just a wild statement that the community is wary of majority government. Not one member of the community has ever broached the subject with me since I have been in this place. I have heard it a stack of times from Ms Tucker, but I have not had one person down the pub tell me, "Hey—you guys cannot get in there with a majority government."

This Assembly is not the first one which happens to suffer from the balance of power syndrome. What happens is this: we often have decisions of some moment, moved either by the opposition or the government—it matters not—which sink or swim on the whim of one member of the crossbench. One member of the crossbench does not represent this town. Each of those comes from a different—no, I tell a lie. Ms Tucker and Mrs Cross come from the same electorate. There is nobody on that crossbench from my electorate, so what right do any of these people have to try to influence what is going to happen in my electorate, any more than I have a right to influence what is going to happen in theirs?

I suggest that a person who gets elected with 12 per cent of the vote in one electorate has a disproportionate distribution of power in this place. We ought to be more worried about minority government than about majority government. It seems to me that, when Liberal and Labor agree on an issue in this place, we actually, at the moment, represent 14 out of 17. That sounds like a majority representational view to me. So I reject out of hand any suggestion that, because the minority view is not heard, the democratic process has not been honoured. That is a lot of tripe.

Ms Dundas made the point that maybe the Carnell government was not the best one we had ever seen in our lives; that the Chief Minister left, and so on. I might remind Ms Dundas that it was not the four-year term of the Carnell government; it was in fact the six years and nine months term. In fact, it was the second term on which that government was being judged by peers in here—not necessarily by those out there. People will remember that, even at the height of her difficulties within this Assembly, the Chief Minister still held a fairly popular vote out there. I do not think that argument holds a cupful of cold water, quite frankly. The numbers are all wrong. The numbers are totally wrong.

Ms Dundas said something else, which I am paraphrasing. She said words to the effect that the democratic institution should not exist for the economy. In other words, I believe she is making a comparison with the chicken and egg stuff here. Which comes first—the chicken or the egg? What is made to serve what? I would agree with her. You obviously do not have a system of governance to make sure everybody is rich, but you certainly cannot ignore the implications of a decision. You cannot ignore the implications of governance over the economy and decisions we make. It even goes down to the fact that

utterances the Treasurer might make in a social context will have an effect on the economy in this place and, in fact, do. And so they should. He is the best Treasurer we have had since the commencement of self-government.

I have to say that pronouncements are made—I suggest the opposition will support this view—of government policy, government intentions and government programs with a certain degree of fear that the whole lot will be scuttled by some crazy person sitting on the crossbench. We all come in here with the best of intent but, every now and again, people end up not displaying that. Incidentally, I base my opinions on the antics of the Fourth Assembly and not the Fifth. I make that very clear. I felt that the government and the opposition of the day in the Fourth Assembly were held to ransom by the crossbench once or twice too often. It was refreshing to see an improvement.

I support very sincerely the move to four-year terms, as I support very sincerely an increase in the number of members of this place. I have a minimum number of members in my mind. If we are going to be playing in the paddock of politics with our state counterparts, we need to be in the same sort of environment as them.

Ms Dundas did not give us a valid argument as to why we need to stay with three-year terms. She just said there was no valid argument to go to four-year terms. I would argue that the valid argument to go to four-year terms is there, but I have not heard anybody advance a valid argument to stay at three-year terms.

I reject the notion of a concept or perception of self-interest. We are putting this bill forward in this Assembly 10 months out from an election. If the members of the crossbench want to make much media out of this and go to the electorate and say, "We did not vote for four-year terms, so kick those people out and leave us in," they are welcome to do that.

If anybody wants to say to me on the hustings, "I'm not voting for you, mate, because you have just feathered your own nest," my reply will be: "Fine—go for it." There has been plenty of time for that. There is no self-interest. There is no such thing as a safe seat in this place, with the exception, of course, of the Chief Minister and Treasurer. There is no such thing as a safe seat. We are all going to be judged on how we have contributed to the community while we have been here.

The perception of self-interest and people saying, "Okay, we can do it for four years" is garbage. We must remember that no-one is safe in this place. This place has a history of dealing with people who do not do things necessarily in the community interest. We have knocked off a Chief Minister and we have changed the government a couple of times because it did not work the way the community or the Assembly wanted it to.

There is nothing safe about this. Jacking it up to four years right now does not mean that any one of us—other than, as I said, the Chief Minister and Treasurer—is guaranteed to come back for four years. So I reject entirely the idea that the democratic system has been compromised. Just because we are saying, "You have to wait another 12 months for an election; you do not want to go and vote for that" I do not think has much to do with it.

Ms Tucker makes a lot of noise about accountability. She says this a lot from the position of never having to be accountable for these decisions herself. As long as we draw breath, the Greens will not have a minister in an ACT government. She can now say, "This accountability thing is a bit suss." But she will never be held to account for that, apart from within the electorate. She will never be held to account in this place the way the government and the opposition are constantly held to account. I think there is—I balk at using the word—hypocrisy, but I wanted to say that in a systemic sense. I am not directing it at Ms Tucker personally. I think the argument smacks of it.

A four-year term does allow business confidence and business predictability, which is important in this town. We all recognise the need for some sort of significant economic direction. The Treasurer's white paper concept has been embraced particularly well by business. If we allow time for all these developments to settle down—and four-year terms will do just that—then we will have, as we have heard from the Chamber of Commerce and Industry and the pro-development lobby, much greater confidence and certainty, and the business community will be better off.

We also know that the retail trade goes into a catatonic state for a number of months prior to an election. I believe small shopkeepers suffer that more heavily than the larger retailers do. If we can avoid that, it will be a spin-off benefit. I do not suggest it is a big one, but it will be a spin-off benefit to them.

I have not spoken today about the role of members in committee work, but I have spoken about it on other occasions. One of the difficulties people have when they are new members here is coming to grips with the subject matter of their committee and coming to grips with the way in which business is conducted. This being my second term, I came in with a certain degree of experience, but even then I was still learning.

I can confirm from my observations the growth in ability and confidence of the newer members of the committees on which I serve, which has been demonstrated over the last couple of years in the way they have conducted themselves. Gone are the days of not knowing what to do. Gone are the days of wondering whether we are going to be able to absorb all the material or not. Together we have a more frequent joining of the minds and conclusions. The committee work itself will be enhanced by leaving committees in situ for a period longer than three years.

We say, "You should not take into account the three-year cycle because, in the third year, we are worrying about getting re-elected." But it is a fact of life. People who do their own polling in their electorates in election years and realise that they are in strife will then want to have some flurry of activity to make sure they are re-elected. The first thing to go is the committee work.

If we leave it for an extra year we can avoid that. Furthermore, that extra year enables the committee to hold the government of the day accountable for the promises it made. That is the bit Ms Tucker has forgotten to mention. The fact is that the committee can hold the government accountable more readily if they have time to check things. Too many times we have seen committee reports gather dust because there has been a change of government, or because the term has not been long enough.

Mr Speaker, this is not an exercise of self-interest. My support for this concept goes hand in hand with my commitment to having a greater number of people in the Assembly to service the people of the ACT. I commend the bill to members and look forward to the vote.

MRS CROSS (12.23): The moving of this amendment to the Electoral Act is interesting. Both the government and the opposition have, in previous Assemblies in the mid-1990s, argued loudly against the idea of four-year terms. Members who are still here will probably remember their own words. It is interesting that they think the time has now come to support the idea. The prospect of a majority government is in the wind, according to this current government. It is something both major parties keep aiming at. The prospect of an unaccountable majority government for Canberra means, even more, that we need to be able to keep any government on their toes, with the electorate able to have a say every three years.

I will not support this amendment to the Electoral Act, as I believe it is an abrogation of our responsibilities to the people of Canberra. In this situation it is no good saying that we should be the same as other jurisdictions. It is interesting that Queensland does not have four-year terms. Like Queensland, we do not have an upper house to offer a final check on legislation and keep tabs on the government's behaviour. Over the past 15 years we have had an effective crossbench which has provided scrutiny and kept the checks on accountability. The prospect of a majority government means open slather for the governing party.

Mr Speaker, I understand that this is the ideal, the dream, for these parties—your own included. However, we are talking about providing the very best democratic representation for the people of Canberra, not the best buzz for a party and its members. I would urge that members not support this bill. However, I can count and am aware of the realities.

I find it interesting that Mr Hargreaves makes reference to the chamber of commerce as if it is the font of all wisdom. I look forward to the comments he makes about that organisation for the next bill that is coming up for debate. Any good marketer could even market you as fairy floss, Mr Speaker. It is not that you look like fairy floss, but a good marketer can package someone in any way. They can sell an idea this way or that way. I urge that members not support this bill but, as I said, I can count and am aware of the realities. I will not be supporting the bill but I thank you for listening.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.26), in reply: I think the argument has been well made out in the speech I made upon presentation of this bill. I set out a whole range of reasons why I felt it was appropriate and timely for the ACT to move to fixed four-year terms. This democratic institution—this Assembly—here within the ACT has matured well over the last 14 years. Over that period of time we have had three-year fixed terms.

On the basis of that experience it is certainly the view of both the Labor Party and the Liberal Party in this place that there are very good reasons for moving from three-year fixed to four-year fixed terms in respect of the quality of governance that is delivered, the quality of the operations of this place, the capacity for governments to view issues in the longer term, and even the issues in the budget cycle. Everybody who has served in

government in this Assembly would be very aware that, on a three-year fixed term, the budget cycles come around quickly.

The years turn fast. We have been in this Assembly now for more than two years. We as a government have delivered two budgets, and there is one to go. My experience in government is that the quality of governance, the quality and capacity of the government to deliver on its agenda to meet the wishes and aspirations of the people, will be significantly served by adding a year to the term of the Assembly. I simply do not accept any of the arguments that have been mounted around this being anti-democratic or in any way diminishing the capacity of the Assembly to be held accountable.

Having four-year terms would make us consistent with almost every other jurisdiction in Australia—certainly the majority of jurisdictions. It is happening everywhere else around Australia, and we are no different. I do not know how you could possibly argue that the people of New South Wales, Victoria, Western Australia, the Northern Territory or South Australia would claim that they have a less accountable parliament or a lesser democracy, in any way, as a result of the fact that they have moved from three to four-year terms. They have done that and, in the majority of those instances, they have fixed terms.

This is consistent with what is happening around Australia. I think this would make us the sixth of the nine jurisdictions to do this. In one other jurisdiction legislation has been introduced but has not yet been passed. It would mean we would be approaching a situation where six of the nine jurisdictions in Australia have four-year terms, the majority of those terms being fixed. I believe the time for this has come, in the development and maturing of this parliament and this institution within the ACT. I think this is a good move for us to be making at this time.

I will concede—the point was made by the previous speaker—that I have changed my view on this issue over the last six years. I am prepared to admit to that. I have owned up to it quite openly. I have changed my attitude and view about the three-year term as opposed to the four-year fixed term. I believe this is an appropriate time for us to be making this adjustment to our Electoral Act.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Economic white paper

MR SMYTH: My question is to the Treasurer. One of the real sagas of this government has arisen from your promise, made in June 2001 whilst in opposition, to prepare an economic white paper. This saga has involved a major additional investment in a raft of

consultants' reports, the release of a discussion paper rather than a draft of the economic white paper and, after all these delays, the apparent release of the final economic white paper next week. I understand that your government appointed a consultant to help prepare the final economic white paper. What was the cost of this consultancy? Did the consultant provide a satisfactory product at the end of the consultancy, and is it the case that the white paper was so completely inadequate and such a dog's breakfast that staff of BusinessACT have been completely rewriting the white paper over the past six weeks?

MR QUINLAN: Certainly we have hired consultants along the way. There have been versions of the white paper, and no matter how good it is, the opposition will find that it is no good at all. That is entirely consistent with the negative approach that has been taken by those on the other side.

Mr Smyth: On a point of order, Mr Speaker: standing order 118 (b) says that the minister cannot debate the question; he has to answer the question. The question asked was there a rewrite, was there a consultancy and have staff of BusinessACT been rewriting the product?

MR QUINLAN: On the point of order, Mr Speaker: contained within the question was the expression "such a dog's breakfast", and there was criticism of the paper and its various stages. I feel quite entitled to respond to that—and I will.

Mr Smyth: Further to the point of order, Mr Speaker: at no time did I use the word "criticism".

MR SPEAKER: That is a matter the member might want to take up as a personal explanation. A point of order has been taken in relation to the minister's response. The minister is responding to a question asked of him. I cannot see any reason to direct him how to respond to the question. I ask him to continue, bearing in mind the standing orders.

MR QUINLAN: Clearly, the question asked today is a portent of tomorrow, and I do not anticipate anything different from the opposition than whatever criticism it can find. I suppose it is part of politics that one does that, and I would not expect anything different, particularly from Mr Smyth.

MR SMYTH: I ask a supplementary question. Treasurer, what is the estimate of the total cost of preparing the economic white paper, including the numerous consultants and the extra burden carried by public servants trying to salvage the fiasco?

MR QUINLAN: The whole question says salvaging the fiasco. There has not been a fiasco, so the question is a non sequitur

Williamsdale quarry

MRS CROSS: My question is for the minister for business, Mr Quinlan. During the previous Assembly, I understand that a constant stream of questions was asked by you, Mr Speaker, on the Williamsdale quarry, the reasons for its demise and the problems possibly associated with it. I have been approached by constituents who are concerned

that the issues related to the winding up of that quarry have not yet been finalised. They have also mentioned that they believe that they have been treated unfairly and have not had their cases heard. Minister, is the government still involved in actions, legal or otherwise, associated with the Williamsdale quarry?

MR QUINLAN: I will have to take that question on notice. Let me say, however, that there was a stream of questions from the then opposition in relation to the Williamsdale quarry as there jolly well should have been. This government has certainly found itself stuck with some difficulties. This really continues the theme of this morning in relation to Totalcare generally. Yes, it has been a difficult process and we are working through it. However, I will have to take on notice the question of exactly what stage it has reached and whether there are legal actions afoot or threatened, or whether letters have been exchanged.

MRS CROSS: Minister, in your answer to the first part of my question, would you also advise the Assembly what the results of those actions, if any, have been and when the people concerned can accept that the situation has been finalised?

MR QUINLAN: Okay, it is probably sensible to give you as full a briefing as possible. However, it may be the case that the people involved may never be satisfied. There were certainly some quite acrimonious disputes afoot at the time. As I said, this is a continuation of, and probably an indicator of, how things were when our friends over there were in government.

Aldi supermarkets

MS MacDONALD: My question is to the Minister for Planning, Mr Corbell. Minister, you announced today that the ACT government has agreed to a direct sale of land to Aldi Foods Pty Ltd. Can you please advise the Assembly of the details of this decision?

MR CORBELL: I thank Ms MacDonald for the question and acknowledge her interest in ensuring that residents in Tuggeranong get access to cheaper groceries. That, fundamentally, is the objective behind the government's announcement that it will sell directly to Aldi two sites for discount supermarkets at the Kippax group centre and the Conder group centre.

These two sites, which are blocks 15, 16 and 53, section 51, Holt and part block 2, section 228, Conder, will add to the existing three Aldi supermarkets either already operating or proposed for Canberra, at Gungahlin and Greenway and the one over the border in Queanbeyan. The government's approach to the direct sale of land at Conder is contingent on a Territory Plan variation being approved. The direct sale of land at Kippax is subject to planning conditions, which are currently being finalised for the direct sale and offer of the lease. The government will be selling the land at market value.

The most important thing the government is seeking to achieve through this direct grant is the introduction of further competition into the supermarket area in the ACT. We Canberrans frequently complain about the cost of basic groceries, and we know that the ACT has a high level of market dominance by one of the major national supermarket

chains. Indeed, the other major national supermarket chain also has a significant presence in Canberra.

We know that getting Aldi into the market is a good way to improve competition in the market and force those major supermarket chains to discount their products and stay competitive. That is good news for the people of Canberra, especially in West Belconnen and the Lanyon Valley, as well as those people in Gungahlin and in Tuggeranong who are about to reap or who already reap the benefits of an Aldi nearby.

The decision behind the direct grant is premised not only on access to cheaper groceries but also on the concern that, had these sites been released through a competitive process, which is the government's normal, preferred approach, we might have seen Aldi kept out of the market through some sort of bidding process. We did not want to see that outcome; we wanted to see more Aldi supermarkets in Canberra and cheaper groceries for Canberrans.

MS MacDONALD: What benefits will this decision deliver the Canberra community?

MR CORBELL: In detail, on top of the objective of cheaper groceries, it is worth having a look at the analysis that has underpinned the government's decision. As I said earlier, the preference of the government is for a competitive process, but direct sales will be considered where the public benefit outweighs the benefits likely to be gained through such a process.

In looking at this, the government was very conscious of work done by the Australian Consumers Association, which, in its most recent *Choice* survey on the standard basket of groceries sold at various supermarkets across Australia, ranked Canberra seventeenth, with a basket costing $102.07, compared to Newcastle, with a basket price of $96.40, or even Sydney, with a price of $101.07. Canberra is more expensive than equivalent centres, like Newcastle, and larger centres, like Sydney.

We know that Aldi delivers lower prices in-store and prompts discounting by its competitors. It is worth consulting the analysis—also conducted by the Australian Consumers Association, through *Choice* magazine—that found that products cost $59.20, compared to the average price of over $100 for similar goods at other supermarkets. A recent report by Deutsche Bank shows that Aldi has a significant impact on prices at nearby Woolworths and Coles stores. After surveying prices at Coles and Woolworths supermarkets, it concluded that prices declined on average by 4.2 per cent after Aldi opened a store nearby.

Those are the real benefits that we hope will flow to the Canberra community as a result of the government intervention to ensure that Aldi has a strong and competitive base in the ACT and that it has a sufficient number of stores to justify its ongoing operations in Canberra, in particular in relation to the supply chain and the supply of products and services. Now, with these sites in Lanyon Valley and West Belconnen, the government is committing itself to ensuring that Canberrans get access to the cheaper groceries they need and greater competition in the supermarket area.

Aged-care facilities

MR CORNWELL: Mr Speaker, my question is to the Minister for Planning, Mr Corbell. Minister, in this Assembly earlier this week you stated in a discussion about aged care that your government had "now approved beds at both Calvary and Garran for new facilities, land has been granted, and that work is under way". I visited both of these sites at lunchtime yesterday. Not a soul around, not a sod turned; just pristine trees and grasses.

Have you, Minister, in stating that work is under way misled the Assembly or are those more unfulfilled promises by this Labor government to aged care?

Mr Hargreaves: On a point of order, Mr Speaker: the question was: has the minister misled the Assembly? I think that is unparliamentary and should be withdrawn or rephrased.

Mrs Dunne: On the point of order, Mr Speaker: in the past you have ruled that a question like "have you misled the Assembly" is not out of order; it is not an assertion; it is a seeking of clarification.

MR SPEAKER: It is open to the minister to respond, and he is going to.

MR CORBELL: No, Mr Speaker, I haven't because I think any commonsense reading of that answer would suggest that what I was saying was that planning work was under way to ensure the sites were developed. If you read "work" as meaning construction work, that is your view of the world, Mr Cornwell. The government is keen to see construction work commence on those sites as soon as possible, and that is why we are undertaking the necessary planning work, including at Calvary the requirement under the land act for a preliminary assessment, so that development can commence.

MR CORNWELL: I have a supplementary question, Mr speaker. Thanks for that, Minister. As soon as you know, would you advise me, and I don't expect you to do it now, obviously, because you have just indicated that planning work is taking place, when work is intended to begin—I am talking about foundations and that type of work—on these two sites?

MR CORBELL: Mr Cornwell would have to ask the Little Company of Mary that question. It is their development.

Belconnen markets—Aldi supermarket

MR STEFANIAK: My question is to Mr Corbell as Minister for Planning. Minister, I am aware that you received a briefing from the proprietor of the Belconnen markets, as indeed did the opposition, and that at that briefing you were advised that the Belconnen markets would cooperate in handing back their recent grant of land in order to allow it to be granted to Aldi. At the briefing you were also told that another—

Mr Hargreaves: On a point of order, Mr Speaker: that is the subject of a standing committee inquiry at the moment and I seek your ruling that it is out of order.

Mrs Dunne: We haven't had the question yet.

MR STEFANIAK: Yes, I would suggest we get the question and then I will respond to your point of order, Mr Hargreaves.

MR SPEAKER: If you want to deal with a point of order you had better do it now.

MR STEFANIAK: All right. I would say in relation to that, Mr Speaker, that this question is seeking information that does not relate to the inquiry that is currently before the committee. That is what I am advised in relation to this particular question.

MR SPEAKER: We will go for the question.

MR STEFANIAK: You were also told at the briefing that another proposal is on the table as an alternative that included the possible direct grant to Aldi of the adjacent car park owned by the territory. My question is: is this information not contrary to your assertions in today's paper in relation to the position of the Belconnen markets? Will you now withdraw those comments and apologise to the owners of the markets for misrepresenting them?

MR SPEAKER: I cannot see that that would be interfering with the committee's work, so I will allow the question.

MR CORBELL: Mr Speaker, I cannot recall the detail of my discussion with the owners of the Belconnen markets. I will need to check my notes on that meeting—it was some time ago. But let us assume that what Mr Stefaniak has outlined is the case. Mr Speaker, no, not in any way have I misrepresented Belconnen markets' position.

The fact is that they have taken the territory to the Administrative Appeals Tribunal, appealing a decision by the ACT Planning and Land Authority to refuse a development application for a supermarket on the site currently owned by the Belconnen markets at the Belconnen markets. They claim that a supermarket is an organic fresh food produce store. If other members in this place want to stand up and make the assertion that an Aldi supermarket is an organic fresh food produce store, go for your life but the ACT government and the ACT Planning and Land Authority do not accept that view and we are in the AAT about it at the moment. So in no way have I misrepresented the Belconnen markets' position and I am not, therefore, in any position to apologise.

But it is worth making the point that Mr Stefaniak seems to be advocating an approach that would establish a supermarket at the Belconnen markets which would have a very serious impact on one of the major shopping centres in his electorate, and that is Jamison. Why is Mr Stefaniak proposing to put in place an alternative retail centre when less than a kilometre away is the Jamison group centre which is designed to deliver the level of retailing, including a variety potentially of supermarkets? Why is he talking down the viability, why is he proposing to compromise the viability, of the Jamison group centre, because that is what he is doing? Really, it is quite—

Mrs Dunne: On a point of order, Mr Speaker: Mr Corbell is debating this, which is not allowed under standing order 118 (b). There was no reference to the Jamison shopping

centre. There was a question about whether or not he should apologise to the owners of the markets.

MR SPEAKER: The public information that has been circulated about these issues has involved the Jamison markets and the arrangements for various shopping centres. It is hard for me to say to the minister that he cannot mention that in the course of his answer to a question which is obviously about the general question of where supermarkets ought to be.

MR CORBELL: Maybe Mrs Dunne endorses Mr Stefaniak's approach to undermine the Jamison shopping centre, Mr Speaker. But the reason I raised Jamison is this: there is a very clear retail hierarchy in the ACT and development of a supermarket at the Belconnen markets would directly undermine that retail hierarchy. It would establish another supermarket outside of the retail hierarchy, which would have a deleterious effect on the already established traders and shop owners at the Jamison group centre, which is the closest group centre to the Belconnen markets.

It is interesting that those opposite—both of them from the electorate of Ginninderra—seem to think that it is okay to advocate policy which undermines the future viability of the Jamison shopping centre. I am sure that the owners of the Jamison shopping centre, I am sure that all of those small business operators in the Jamison shopping centre, would be very disappointed to learn that their local members are advocating a planning approach which would undermine the capacity and viability of those local shops.

This is the party that purportedly represents small business. This is the party that is meant to stand up for those individual little shopkeepers and say, "We are going to look after you." Well, next time Mr Stefaniak and Mrs Dunne visit the Jamison shopping centre I am going to make sure that they all know that the Liberal Party advocates putting a supermarket away from Jamison in a way which will directly undermine the capacity of Jamison to be an effective shopping centre, in a way which would undermine the retail hierarchy and the investment decisions that those shopkeepers and building owners have made.

So, Mr Speaker, that is why the government does not support a supermarket at Belconnen markets—it undermines the retail hierarchy and it places at direct risk the viability of all those small business operators at the Jamison group centre.

MR STEFANIAK: Mr Speaker, I ask a supplementary question. Minister, would not Aldi at Lanyon and Aldi at Kippax have a similar impact on Calwell and Charnwood? Have you got a vendetta against the owners of the Belconnen markets, Minister?

MR CORBELL: Desperate stuff, Mr Speaker. I do not know whether Mr Stefaniak has ever looked at a copy of the territory plan, but if he did he would find that Kippax is a group centre and that Conder is a group centre. We have no difficulty with existing retail centres competing against each other. But what Mr Stefaniak is proposing and what Mrs Dunne is proposing is a complete obliteration of the retail hierarchy in Canberra. "Yes, sure, just build a supermarket wherever you like. We don't care about what that means for existing shopping centres. We don't care about what that means for the investment decisions and the small business—

Members interjecting—

MR SPEAKER: Order! Resume your seat. Mr Corbell, direct your comments through the chair. Members of the opposition will cease interjecting.

MR CORBELL: Mr Speaker, what the opposition is saying, in marked contrast to the government's position, is: undermine the retail hierarchy, undermine the capacity and the investment decisions that have been made by both building owners and small business operators in group centres, local centres and town centres for the past 30 years and just allow development to happen wherever you like. That is what they are proposing.

In contrast, what the government is proposing is releasing land in existing, established and formally recognised retail centres to improve competition and improve access to cheaper groceries for all Canberrans.

Business delegation to United States

MR HARGREAVES: Can the Deputy Chief Minister inform the house of the outcomes of his recent business delegation to the United States?

MR QUINLAN: This government went to the election in 2001 with a policy of building a knowledge-based economy within the ACT. The main purpose of the recent visit to the United States was to support eight ACT companies which were attending the Australian-New Zealand Technology Showcase Conference in Silicon Valley. It was a conference of Australian and New Zealand companies in the embryonic stage with good ideas or good processes to sell and in need of partners or finance.

Of the 43 companies represented at the showcase, eight were from the ACT, a disproportionately high representation. The eight ACT companies really shone in terms of their presentation. I have to mention the assistance of Greg Woods of Australian Business Ltd, who was also there and who went through a process of preparing each of these companies for their presentations. The quality of the presentations and the quality of the ideas and processes put forward by ACT firms shone amongst those presented at the showcase.

I can inform the house that several of the companies which presented had, by the end of the first day of presentations, firm connections. At a function that evening, one of our representatives just could not escape a couple of American gentlemen who were associated with defence procurement; they just followed him all round the room. A couple of the other companies have made very solid contacts as a result of that showcase.

While in the United States we had the opportunity to meet with the Los Angeles Economic Development Corporation and Larta, which was formerly known as the Los Angeles Regional Technology Alliance, and its investment bank, Fidelys. These organisations are charged with building and are working actively to build the knowledge industries within their jurisdiction. Los Angeles is quite a large place and it would be easy for us to conclude that we are a bit too small and walk away, but there are lessons to be learned from the smart cities in developing areas.

The conventional wisdom these days is that it is not a case of nation competing with nation any more; region competes with region. The ACT has a considerable advantage which we intend to leverage and the government will continue to promote and to build whatever support mechanisms are necessary for our companies and for our region to compete amongst the other regions of the world. I think that this place has tremendous prospects.

We also visited San Diego, an area that built itself because it made a conscious effort and got on the front foot in terms of developing, particularly, high-tech industries and biotech industries. I have to say that all credit goes to the eight companies that effectively presented the ACT to Silicon Valley a matter of a few weeks ago and did us proud. I am absolutely certain that in the future those companies will do us proud, as have companies that have gone before them to the States, such as Tower Software, SoftLaw, Protocom, CEA and Phenomix, companies that are now established on the world stage.

MR HARGREAVES: I have a supplementary question. I thank the minister for his answer about what happened on the West Coast. Could the minister advise the house of the outcomes of the second half of his visit?

MR QUINLAN: The main point of heading to the East Coast of the States was to sign a memorandum of understanding with the Greater Washington Initiative. That organisation is funded mainly by the private sector but it acts as a link between emerging business opportunities and investment and sells Washington as a high-tech capital. I have to advise that the Greater Washington Initiative does not sign MOUs lightly. I think that it had signed one before. We have visited them twice and we have a memorandum of understanding, which I table for the information of members. I present the following paper:

> Memorandum of Understanding between The Greater Washington Initiative and The Australian Capital Territory.

The MOU does commit both parties to the sharing of information and ideas, identifying export opportunities and facilitating trade, facilitating the exchange of people and skills, and marketing the respective regions. We do have to come to terms with the fact that the ACT is a relatively small jurisdiction or region and we do not have the resources to have agents-general scattered around. At the same time, we do need to have processes whereby companies in the ACT that wish to export have the easiest entree that it is possible for us to arrange in the world markets.

This government will continue to work with organisations such as the Greater Washington Initiative to try to build the doorways upon which our local companies can knock and get a friendly reception and possible assistance in breaking into markets. It is quite clear now that the best way that our emerging companies can enter export markets is by partnering, by being part of a group that puts a complete system package together, or by having contacts with firms on the ground in other centres across the world who do know the lie of the land and can assist in building the right connections for the very good ideas that are emerging from the ACT to enter the world market.

The government intends to continue to try to build a network. Beyond the Greater Washing Initiative we have made a number of other contacts, solid contacts, which we

hope to build and will be working on building into a network which will allow ACT companies with worthwhile products—there are some brilliant products coming out of this territory—to reach the world market.

Land auction—Mitchell

MRS DUNNE: My question is to the Minister for Planning. Minister, at the government land auction on 19 November this year, you released blocks for sale in Mitchell with the lease purpose of bulky goods retailing. These blocks were restricted to a maximum gross floor area of 3,000 square metres each. Minister, what information did you provide to potential bidders about these blocks that could possibly affect the price paid for that land?

MR CORBELL: The exact detail of the information provided to potential bidders is something that I will have to take on notice, but I can confirm for Mrs Dunne and members that the two sites released at Mitchell were of 3,890 square metres and 3,928 square metres, were both on Flemington Road and were both for the purposes of bulky goods retailing, business agency, light industry, office plant and equipment hire and/or a shop. As I understand it, both of these sites were sold. I will take the rest of the question on notice, Mr Speaker, and provide the information to Mrs Dunne.

MRS DUNNE: Minister, why did you keep mum about your intention to sell an additional 20,000 square metres, potentially in two lots of 10,000 square metres each, of bulky goods retailing space in the Gungahlin town centre until after 19 November?

MR SPEAKER: There is an imputation there, Mrs Dunne. I think there was an imputation in the use of the word "mum' that the minister was deliberately keeping a secret from the community. Imputations such as that are not allowed in questions. If you want to ask the minister why he did not tell people, that is fair enough.

MRS DUNNE: I will rephrase the question, Mr Speaker. Minister, was the information that you intend to sell 20,000 square metres of bulky goods retailing space in the Gungahlin town centre made available to the bidders at the auction of land in Mitchell on 19 November?

MR CORBELL: I am not aware of the information that has been provided in relation to those sales, but I will take the question on notice and provide the information to Mrs Dunne.

Internet pornography—children

MRS BURKE: Mr Speaker, my question, through you, is to the Minister for Education, Youth and Family Services, Ms Gallagher. It deals with children's services. Minister, it is reported in today's press—actually the *Australian*—that children younger than 10 have initiated sexual intercourse and oral sex with other children after seeing explicit images on the internet and this "exposure to internet porn had led children to commit sex crimes against other children".

This research, a collaboration between Canberra Hospital and the Australian Institute of Family Services National Child Protection Clearinghouse, says that allowing children to

access internet pornography was a form of child abuse. It is expected, Minister, that 70 children will visit Canberra Hospital's child-at-risk assessment unit this year, while in the 1990s the unit was seeing only three children per year.

Minister, although this report has only just been released, these sized figures are not produced overnight. Could you advise the Assembly what you are doing to protect our children from inappropriate sexual behaviour caused by internet exposure?

MS GALLAGHER: I became aware of that information when I read the paper today, Mrs Burke. I think it is concerning. I have been on the record a number of times expressing concern about the levels of reported or suspected child abuse in the ACT. They are on the rise. Family Services in the ACT does an excellent job of trying to deal with the increases that it is seeing in this area. It is disturbing.

In relation to my responsibilities in this area, it probably falls more within the education portfolio than in my ability to regulate what children are witnessing on the internet in their private lives or in their home lives. Certainly within the education department there are a number of mechanisms put in place to ensure that children, when accessing the internet as an education tool, are not able to log onto sites that have pornographic material, search for sites that have it or even type in key words that may lead them to sites that we wouldn't want them to look at. We have a filtering system through the department.

Government school students access the internet by way of the department's ISP service, Canberra Schools on the Net. CSN is an ISP service company and an Australian company. It was developed and sold to a number of state school systems. Part of that product is content filtering, which provides daily updates of sites that meet criteria for blocking. A considerable database has been built up of sites that are automatically blocked if anyone using EDU Net attempts to access them. We are constantly looking at this because it is an issue, particularly as ICT becomes a more integral part of the education system.

There was an incident at a school this year which alerted us to a weakness in the system. On that same day procedures were put in place to make sure that doesn't happen again.

I am confident that within the education portfolio, where I do have responsibility for how children are accessing the internet and what they are accessing on the internet, we have the appropriate procedures in place and that they are constantly being reviewed, often including updates from the ISP to ensure that we are protecting our children.

MR SPEAKER: A supplementary question?

MRS BURKE: Thank you, Mr Speaker. I thank the minister for her answer. I appreciate the response in terms of the internal measures that you have. You may need to take this on notice. What specific initiatives, externally and in the broad community, would you now consider undertaking to address this crisis within your portfolio?

MS GALLAGHER: It comes to a question of the responsibility the state has to influence decisions that are taken at a family level. I will look at the report. I saw it today. There may be avenues that we can include—internet sites or whatever children

have witnessed on internet sites—in risk-assessment procedures in terms of investigations of suspected child abuse. I presume they could already be taken into the risk assessment, but I will have a look at it.

I understand your commitment in this area, and I am happy to get Child Protection to talk about it with you if you like. I saw it, too, and it is disturbing.

Motor vehicle registration surcharges

MS DUNDAS: My question is to the Minister for Urban Services. On 26 June this year you agreed that the impact on low-income people of the surcharges on short-term registration was concerning, and you undertook to quickly and comprehensively review the application of these surcharges. When will the Assembly be informed of the results of that review?

MR WOOD: Yes, I did make the statement that I would act quickly, and I thank Ms Dundas for giving me a prompt about that quickness. I can say to the Assembly today, as a result of Ms Dundas' representations, we will be making some moves. Ms Dundas made the point that pensioners, gold-card holders and students needed some consideration, and we have agreed on two of those. We are holding up on the students at the moment because, while we can identify people in need in those other two categories, we cannot always claim that students necessarily come from difficult circumstances. I thank Ms Dundas for her efforts. Gold-card holders and pensioners will be open to those concessions, and I will be giving more precise details of that any day.

MS DUNDAS: I ask the minister a supplementary question. When looking at the impact of surcharges we also looked at the administration fees on phone and internet transactions. Can the minister inform the Assembly where that part of the review is up to?

MR WOOD: No, I cannot. That is not quite so easy for me to resolve. I will have to come back to the member on that matter quickly, or as soon as I am able.

Alcohol and drugs task force report

MS TUCKER: My question is to the Minister for Health and concerns the mental health strategic action plan and the strategic plan coming out of the alcohol and other drugs task force. Can you advise the Assembly if you have seen these plans, when they will be publicly released and how they will inform the budget process?

MR CORBELL: I have been briefed on the detail of the issues raised in the report of the drugs task force, which the government established after its election. That final report has not yet been submitted to me, but I am aware, from briefings with ACT Health officers, of the detail of that report. It has certainly been figured into my consideration as we prepare for next year's budget.

In relation to the mental health strategy, whilst I have not seen the final form of the document, I am aware of the details that have been worked on to date. They are also part of the consideration by me in the lead-up to next year's budget.

MS TUCKER: I have a supplementary question. Can you tell the Assembly how you will ensure that these plans are implemented and funded across the whole of government?

MR CORBELL: If I can convince my colleagues in cabinet of the desirability of a certain level of funding, it will be funded very well. As is always the case during the budget process, there is a wide range of priorities, both within the health portfolio and across the portfolios of all of my colleagues. That inevitably means that the government will work hard to develop a comprehensive and balanced budget.

Draft water strategy

MR PRATT: My question is to the Minister for Environment, Mr Stanhope. Minister, the draft water strategy "Think water, act water", which was discreetly launched last Friday, said:

> The current level of environmental flows was determined in 1999—

Ms MacDonald: On page 210, can you tell us what is at line 5, please?

MR SPEAKER: Order, members! I am having trouble hearing Mr Pratt's question. Mr Pratt, would you start again, please?

MR PRATT: My question is to the Minister for Environment, Mr Stanhope.

MR SPEAKER: Yes, we got that bit.

MR PRATT: Okay, so far? Are we progressing?

MR SPEAKER: Yes, I think we are going well.

MR PRATT: I am swimming upstream. Minister, the draft water strategy "Think water, act water", which was discreetly launched last Friday, said:

> The current level of environmental flows was determined in 1999 by a panel of scientific experts using the information that was available at that time to decide how to balance the needs of humans as water users with the needs of the environment. A significant scientific study is now taking place in the Cotter catchment. The results of this study and other relevant information will form the basis for a review of the *Environmental Flow Guidelines*.

Yet, "Think water, act water" makes clear that the environmental flows from the Cotter and Googong catchments have scaled down from 23 per cent of the total flow to less than 17 per cent. This is quite apart from the short-term decisions to turn off environmental flows from some dams altogether, with disastrous consequences.

Why are you reducing the environmental flows before you receive the review of the environmental flow guidelines?

MR STANHOPE: I thank Mr Pratt for his question. I am not reducing the environmental flows. That is a decision that is taken by the Environmental Defender. It is not taken by me. The answer to the question is that I have not done that.

Mr Smyth: You have abrogated your responsibility to the Environmental Defender?

MR STANHOPE: Look at the act, mate!

Ms MacDonald: Don't forget to take your direction from Vicki!

MR PRATT: How about you take some direction, Ms MacDonald? Minister, is it not the case that the only way to maintain environmental flows in times of reduced rainfall is to increase our water storage?

MR STANHOPE: I would think not, Mr Speaker. I would think that the capacity to maintain environmental flows would depend on the amount of water in the system so, if it rains a lot, there is a lot of water and, if it does not rain much, there is not much water. That determines the capacity of those who make the decision in relation to environmental flows to decide how much water will flow. It is not just about our capacity to store water, it is also about how much rain falls.

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

Supplementary answers to questions without notice
Draft water strategy

MR STANHOPE: Mr Speaker, I would like to correct an answer I just gave. I referred to the Environmental Defender when I of course meant the Environmental Protector.

Papers

Mr Stanhope presented the following papers:

> Ministerial Travel Reports—
> 1 January 2003 to 31 March 2003
> 1 April 2003 to 30 June 2003
> 1 July 2003 to 30 September 2003.

Mr Quinlan presented the following paper:

> Territory Owned Corporations Act, pursuant to section 19(3)—ACTTAB—Statement of Corporate Intent—1 July 2003 to 30 June 2004.

Pharmacies—establishment in supermarkets
Assembly resolution—government response

MR CORBELL (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Resolution of the Assembly to report on the establishment of pharmacies in supermarkets—Government response, dated November 2003.

I seek leave to make a statement.

Leave granted.

MR CORBELL: At its sitting on Thursday, 23 October this year, the Assembly passed a resolution calling on the government to:

> (1) Investigate the pharmacy legislation as it stands and any related commercial legislation and determine whether there are any loopholes which may allow the establishment of pharmacies in supermarkets in the ACT; and
>
> (2) Report back to the Assembly with the results of this investigation by 27 November 2003.

I have tabled the government's report in response to the Assembly's resolution. Mr Speaker, the pharmacy profession in the ACT is regulated under the Pharmacy Act 1931. The Pharmacy Act 1931 provides that only a registered pharmacist may own the business of a pharmacy and prohibits anyone other than a registered pharmacist attempting to carry on the business of a pharmacist.

This does not mean that the building in which the pharmacy business is located cannot be owned by a person other than a registered pharmacist, or that a pharmacist cannot carry on a business within the premises of a larger retail organisation.

It would therefore be possible, Mr Speaker, under our existing legislation, for a supermarket to lease an area within its store to a registered pharmacist who dispensed scheduled medicines. The supermarket would not own the pharmacy and could not be said to be carrying on the business of a pharmacist. In these circumstances the supermarket would not provide a pharmacy service merely by allowing a pharmacist to operate his or her business inside a supermarket store. Mr Speaker, it would, however, be illegal for a supermarket to operate its own pharmacy with an employed registered pharmacist in charge. In this instance, the supermarket, as owner of the pharmacy, would be carrying on the business of a pharmacist.

With respect to other related commercial legislation, I am advised that a supermarket could not rely on the Trade Practices Act 1974 to challenge the ownership restrictions included in the Pharmacy Act 1931. Whilst it could be argued that the provisions of the Pharmacy Act 1931 relating to pharmacy ownership might be construed as contrary to the competition principles agreement between the territory and the Commonwealth, a recent national competition policy review of pharmacy published in February 2000 recognised that, while there are serious restrictions on competition, the current limitations on who may own and operate a pharmacy are seen as a net benefit to the Australian community as a whole.

The review went on to recommend that legislative restrictions on who may own and operate community pharmacies should be retained and that, except for existing exceptions, the ownership and control of community pharmacies should continue to be confined to registered pharmacists.

Mr Speaker, in summary, the current advice available to the ACT government is that a supermarket cannot own and operate a business of a pharmacy within the ACT. However, the legislation does not prevent a pharmacist who owns a pharmacy business from choosing to operate his or her business from within the premises of a larger organisation such a supermarket.

Papers

Ms Gallagher presented the following paper:

> Occupational Health and Safety Act, pursuant to section 96D—Quarterly performance report for the period 1 July to 30 September 2003.

Mr Wood presented the following papers:

> National Road Transport Commission Act (Cwlth)—National Road Transport Commission—Annual Report 2003, including financial statements and report by the Australian National Audit Office.
>
> Subordinate Legislation (including explanatory statements, unless otherwise stated)—
> Legislation Act, pursuant to section 64—
> Corporations Act 2001 (Cwlth)—Supreme Court (Corporations) Rules 2003—Subordinate Law SL2003-40 (LR, 11 November 2003).
> Liquor Act—
> Liquor Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-45 (LR, 12 November 2003).
> Liquor Licensing Board Appointment 2003 (No 1)—Disallowable Instrument DI2003-296 (LR, 13 November 2003).
> Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-43 (LR, 10 November 2003).
> Supreme Court Act—
> Supreme Court Amendment Rules 2003 (No 3)—Subordinate Law SL2003-41 (LR, 11 November 2003).
> Supreme Court (Remuneration) Amendment Regulations 2003 (No 1)—Subordinate Law SL2003-44 (LR, 11 November 2003).
> Tertiary Accreditation and Registration Act—
> Tertiary Accreditation and Registration Council Appointments 2003 (No 1)—Disallowable Instrument DI2003-289 (LR, 13 November 2003).
> Tertiary Accreditation and Registration Council Appointments 2003 (No 2)—Disallowable Instrument DI2003-295 (LR, 13 November 2003).
> Vocational Education and Training Act—
> Vocational Education and Training Authority Appointments 2003 (No 1)—Disallowable Instrument DI2003-299 (LR, 17 November 2003).
> Vocational Education and Training Authority Appointments 2003 (No 2)—Disallowable Instrument DI2003-300 (LR, 17 November 2003).

Law and order
Discussion of matter of public importance

MR SPEAKER: I have received a letter from Mr Pratt proposing that a matter of public importance be submitted to the Assembly, namely:

> The state of law and order in the ACT.

MR PRATT (3.25): Mr Speaker, firstly let me say that the ACT has an excellent police force but we have some questions about it and about the state of law and order in the ACT. Clearly the police force, I would say, is one of the best in the country. We know that the force is well trained and does not carry the baggage of corruption carried by other forces in this country and elsewhere. As I said recently when speaking to a motion in this place when I put forward a new policy proposing a new community policing program, the force has a good number of overseas experienced officers.

The performance of ACT Policing during the January 2003 bushfires exemplified their selfless behaviour, Mr Speaker. In plain terms, they risked their lives to save others. Incidentally, for their troubles they seem to get the cold shoulder and way less recognition for the excellent job that they had done in that disaster.

Indeed, we wonder whether this reflects an attitude that the force has to confront among some elements of society—certainly amongst some elements of the professional and administrative leadership here in the ACT. I think that this goes deeply to the issue of morale and, therefore, their performance as a police force. It is this concern about their performance and perhaps the lack of support that they do get that goes to the heart of the issue of this matter of public importance.

Mr Speaker, the men and women of ACT Policing do the best job they possibly can under the current structure and funding that is imposed on them by the Labor government. However, there are many elements of ACT Policing that can be greatly improved and which are no fault of the police force. We outlined this in some detail recently at our community policing policy launch.

The profile, integrity and trust in ACT Policing over the past few years seem to have declined to the point that my office received a call only today from an elderly gentleman who discovered that his car had been broken into overnight. He preferred to call my office to complain rather than to call the police. He stated, "They wouldn't do anything for me anyway."

I don't quite agree with that view. I know that the police do try hard and I don't think the problem is so much attitudinal as it is the fact that they are simply overstretched. But the problem is that we have this community perception developing and something needs to be done to turn it around.

Mr Speaker, unlike the Labor government, the Liberal opposition is greatly concerned about the safety of the Canberra community. I do not mean that in terms of what is in the Labor government's heart. I'm sure the Labor government is just as concerned as anybody else in this place is about safety in the community. However, Mr Speaker, by not taking the actions needed to ensure that our police are properly equipped and

organised, there is concern particularly about the vulnerable groups in the ACT community, such as the elderly.

Another example of this lack of concern is the absence of staff at Canberra police stations to answer the phone when the community calls for help or information. We have spoken about this at some length. I have talked about the examples of Latham, Lyons and Weston. I have talked before about the example in Lyons of the four houses in a row where cars were broken into. All of those residents tried to call police to get to the scene of the crime before "the trail went cold", but for 90 minutes no phone calls were answered.

The Labor government has accepted this lack of service by transferring all calls to police stations to the 131 444 call centre. Mr Speaker, this means that no-one in the Canberra community has telephone access to their local police station for assistance or information. The minister for police has said before in the chamber that people should call the 131 444 number for assistance. That is fine, Mr Speaker, but what if they need information about a certain event, a law and order matter, or simply some advice about what they should do in a particular set of circumstances?

They do not necessarily know how to report an incident to the NRMA. Sometimes people need to be able to get general advice, and this is not a five-day-a-week, eight-hour-a-day type of advice. This is seven days. The Labor government has simply removed the Canberra community's telephone access to their local police stations instead of solving the problem through positive solutions such as more police officers available to serve the community.

Mr Speaker, let's get the favourite subject of the minister right here on the table, the mounted police force; or should I say the former mounted police force, the recently disbanded mounted police force. I know the minister loves talking about all the valuable things in the ACT that he has canned during Labor's time in government.

Canberra's mounted police force comprised two mounted police officers and horses and equipment, Mr Speaker, that was originally established by our former Chief Minister, Mr Humphries. There were plans to develop this force into six mounted police officers and horses. Unfortunately, the Labor government came into power and the mounted police force really had no chance.

Mr Speaker, people notice the presence of the mounted police force on the street. Children and youths actually engaged the mounted police officers and interacted with these officers. We cannot undervalue that. What we do know, and this is traditional right across western society communities, is that a lot of people will not talk to police. That is just the way things are, particularly in the sorts of societies we live in now.

What we do find, and what has been clearly recorded here in the Canberran experience, is that mounted police always have people coming up to them. Firstly, people are attracted to the horses, and naturally it flows that people then talk to the officers. The officers begin to engage, there is an interface, people become more confident with those police, people are more likely to offer information to those police, and police feel much more confident in being able to gain information and so-called crime intelligence.

So the mounted police was clearly a mechanism for breaking down barriers. Mr Speaker, community policing was active when these mounted police officers were also active. The Labor Government has simply removed the Canberra community's mounted police force instead of solving the problem through positive solutions such as more police officers available to serve the community in the mounted police.

What we know is that the two mounted police who had been available to ride earlier were transferred to other duties. We know from feedback from the community that these policemen were transferred not because they were not needed to ride horses, but because there simply were not enough police to do the administration that they had to do get back on their horses and get back out there and community patrol.

Mr Speaker, I have a number of questions I do want to ask the minister right now. They go to the heart of what has happened to the mounted police force. What funding and/or equipment was provided for the mounted team through sponsorship and donations? What sponsorship funding and/or equipment were rejected by ACT Policing? How much did ActewAGL donate under their community sponsorship program? How much and when was funding drawn down on that sponsorship by ACT Policing?

I have it on fairly good authority that there was a strong arrangement of funding available from perhaps more than one source which should have been utilised to keep the mounted police force viable, but it would seem that that funding simply was not taken up. That is what I am led to believe. I cannot be absolutely sure about that but it is a reasonable question to ask. We want to know, Minister, what actually happened. Did this contribute to the demise of the force?

We have heard the minister say that two horses and two riders were simply not a viable, capable force. The opposition would beg to differ and certainly seasoned, experienced policemen currently serving and retired would also beg to differ. For example, if the mounted police unit of two riders and two horses was deployed to a large community event, such as something happening at Canberra Stadium, the deployment of the horse float could double as a local command post or a mobile police station, for want of a better term. One policeman could man that, and two policemen could be out riding—undertaking surveillance of the 2,000 cars parked in the area. This was a significant way of combating the sorts of crimes that occur around large events. Yes, there are two horses and two policemen, but what is being missed here is that the way they were able to extrapolate their presence and their force meant that they were doing the work of many other police.

Mr Speaker, by simply building on that existing capability, and it wouldn't have cost too much more to actually do that—by getting a force of around four to six horses and riders—a significant capability would have been developed that would go to the heart of community policing. I think the government has missed an opportunity. They have simply and lazily wiped that capability away, taking the easy bureaucratic option and negated what should have been a very important capability.

Let us go to police numbers, Mr Speaker. The Australian Federal Police Association's assessment of current police numbers is as follows: close personal protection personnel, 290; ACT Policing personnel, 720 including 579 sworn officers and 141 unsworn officers; ACT Policing personnel seconded overseas, 52—42 to the Solomons, five to

Cyprus and five to Timor. We have been questioning the government for some months now on what is the actual strength situation of front-line police in the ACT. It has been our view since May 2003, when we began to examine budgetary aspects of policing, that the effective strength of policing has actually dropped. I repeat that the effective strength has actually dropped. Yes, the bureaucratic analysis of numbers is probably close to what the contractual requirements are supposed to be, but a picture is gradually emerging that indicates an actual decline in effective strength.

Let me also talk about experience. In addition to these grim figures, the AFPA has said that 70 to 80 per cent of ACT Policing comprises junior constables. Mr Speaker, I would like to ask the Labor government where the experience is in ACT Policing. And don't tell me that they are all in the Solomon Islands because we know that we should still have sufficient numbers, once you take those 52 out, to have a balance of experience. If we do not it is because we have allowed good experienced policemen to leave the force. Retention, retention, retention; it is so important. Why are we not retaining good experienced police?

In addition, I would like to cite the results of a recent poll that I have used previously as an example of the general feeling of the Canberran community on law and order. Mr Speaker, we have talked about the 47 per cent of people surveyed in the *Canberra Times* poll of September 2003 who do not feel safe in shopping centres after 9 pm. We have talked about before the 80 per cent of people who believe that Canberra's police forces are simply not visible enough. They are not visible; there is no police presence out there in our community.

The Labor government has said previously in the chamber that they do not consider this poll to be accurate. What can be more accurate than the feelings of the Canberra community? Let us see the government, or the Greens or the Democrats who have also raised this issue with me, table their surveys debunking the one that I have just detailed above.

Let us see the surveys or empirical evidence which would deny that there is a problem. Let us see the surveys which say we have got too many police, and we have got too many police harassing the community. Increasingly, Mr Speaker, a puzzled public is asking the question why general bad behaviour, vandalism, violent crime, and home invasions are on the increase, and why cannot the MLAs in this place take appropriate action to protect the community.

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) (3.40): The Liberals are, if nothing else, quite blatant. In raising the topic for this matter of public importance, they are right up in front. It is the state of law and order. So they are very blatant about this campaign. They are going to beat up this law and order campaign—soft on crime—and hope they can convince the community that black is white or white is black. So there is no subtlety about it. In fact, the MPI really is about the state of the Liberal opposition. That is what it is about as they stagger around looking for some issue that they might make some impact with in this community. And I do not think this will do anything.

I will start with Mr Pratt's last point or perception. Yes, publics have perceptions. And I think that is understandably when you can turn on your TV every night—and especially Sydney TV, not Canberra TV. When you have the occasional word from this opposition that crime is rampant and things are dreadful, people may be concerned. Certainly I would not walk behind a couple of the city buildings at 3 o'clock in the morning, but very few people do that. This remains the safest community in a city of this size anywhere. It is the safest community.

So we have a beat-up case on law and order, but in fact no case was made today. The issue that Mr Pratt raised, and then does not want to hear about as he goes from the chamber, related to the mounted police team. I hope he will come back here at some stage so he can hear what I have to say. I will carry on. Mr Stefaniak is here; he can report back to Mr Pratt. Mr Stefaniak wanted to look after the interests of the people of Hall who just like to go and pat the horses. The mounted police force was never a goer; never!

Mrs Burke: You never gave it a chance.

MR WOOD: You pay attention. It was forced on ACT Policing by the then minister. They were most unwilling—

Mrs Burke: I know about the police forces. You never use them.

MR WOOD: It's the simple fact, Mrs Burke. They were unwilling and it was at the insistence of the minister of the day that they got this mounted police force. Two horses, supposed to build up to six. They have a massive, wonderful police float and all the gear to go with it, but it was forced on them by your colleague, now Senator Humphries. And they didn't want it. In fact, I think it would be a good idea in the interest of transparency if Senator Humphries, as he is now, were to come out and indicate all the interesting background to the decision to force that on the police. The team was never a goer. It was never able to work.

Mr Pratt wanted some details about the funding and the sponsorship. What a way to go! I suppose it is the measure of the struggle at the time that Mr Humphries had that he had to send out begging letters to try to get some money for this. Of course, ActewAGL, being a half-government instrumentality, can often be induced to come to the party.

There was $40,000 in each of two years from ActewAGL. The Hall Rotary Club—good on them—contributed $1,000 in one year. Letters went around everywhere encouraging agencies to support the team. But it didn't really get off the ground. Sponsorship, or proposed sponsorship, was closely scrutinised by the AFP. We could have had the saddlecloths sponsored by ActewAGL, sponsored by McDonalds, or sponsored by KFC. They could have been sponsored by some more dubious places around Canberra. Naturally, the police are always concerned about sponsorship and needed to look at it.

One potential sponsor was the subject of an AFP investigation, and others had identified interests in providing services to the AFP. But the majority of those approached in the final analysis were not keen to provide substantial sponsorship funds. In fact, nor should they; it is not the function of this government to require ACT Policing to seek sponsorship for its services.

Why would you go out seeking sponsorship? Are we going to put on our patrol cars "Sponsored by McDonalds"? Perhaps we could put a sign on the top of the car. We could get one of those Domino's Pizza signs for the top of the police car "Sponsored by Domino's". This government is of the view that we fund the police services and we do not go seeking sponsorship for them. That really is a reflection of the struggle Mr Humphries had in this unviable proposition that he forced on the police force.

Operationally, the mounted police team had very severe limitations. It was not a function that could really work successfully. Police horses are good in some circumstances: they are good for show, for ceremonial occasions, and for promotions; but not much else. It has been estimated that in an eight-hour shift, the horses and their riders patrol for approximately five hours. It is just not a matter of hopping into a car and off you go.

Being based at Hall, the horses have to travel and be prepared prior to commencing duty, which may have taken up to one-and-a-half hours just to get them ready. Preparations include grooming, strapping, feeding, saddling, and then transportation to the patrol area.

Mr Pratt: Come on, Bill!

MR WOOD: Do you deny that? Doesn't that have to be done?

Mr Pratt: No, what I'm saying is that you're making a big deal out of normal administration.

MR WOOD: No, you simply don't understand it; simple as that. Following completion of the patrol it takes up to another one-and-a-half hours to return the horses to their stables and deal with their general welfare—grooming and washing most commonly. Horses also need rest times during the patrol period and cannot be expected to work every day, particularly if patrolling on hard surfaces.

The horses were, at various stages when they were used, showing signs of work stress with their hooves being damaged by regularly patrolling on concrete and bitumen roadways. Ongoing maintenance costs and welfare issues for the horses limit the hours they can safely work. It was good to look at, yes, but it was not efficient.

Further, MPT patrols must have two members working at any one time, which means that if one member was undertaking training, rostered off, or on leave, then the team was effectively grounded. It was estimated that at least six horses and riders—that was the original aim—were needed to provide a sufficient police presence to manage staffing fluctuations.

In the final analysis, ACT Policing—even with a full team—would be able to deliver only limited operational outcomes for this service. The cost benefit, in terms of the time spent by members, could be much better utilised. There was a claim that the team was good in demonstrations. In fact, one of the conditions set in establishing the team was that the horses were not to be used, and properly not to be used, in those circumstances. That is not the place for horses both in respect of their own welfare and that of people.

So the claim that we were somehow wrongly motivated in dispensing with the mounted police team is simply nonsense. It was never a goer. If we were a very large community, if we had lots of money and a very large police force, there certainly may be circumstances in which you have horses for ceremonial or for promotional occasions. But in this relatively small police force, two horses—even six horses—simply is not a goer. And the police always knew that. But Mr Humphries insisted; he absolutely insisted.

Mr Pratt also mentioned police numbers. I suppose he will stick his chin out. I would not know why he would mention police numbers. Police numbers in this territory were never so stressed as when the Liberals were in power and police went off to Timor. That was a time of the lowest numbers of police in this territory and the greatest stress on the police force. The ACT has maintained its commitment to increase the police force. We added 13 in our first two years and we are on target to add an extra seven this year. We indicated we would go to 20 extra police over three years and we are doing that. The police numbers are high. They do fluctuate. I might say that the way police numbers are recorded have been a source of debate between me and ACT Policing. I do express my great interest in the numbers and in how they are calculated and how they are dispersed.

I have indicated that I have had a meeting with the federal minister, Senator Ellison, on this issue and on the issue of whether our police forces should go to the Solomons, with which I agreed, or should go to PNG if, in the future, there is a requirement from the federal government for that to happen. My claim at this time has been that we could cope with the deployment to the Solomons but there is not a circumstance where we could allow police to go to PNG, at least until we get the Solomons contingent back and are able to have a bit more flexibility. That is my strong position. I do not simply accept every claim that is made from the AFP nationally.

Our numbers are high. In fact, we have taken in a new recruitment and before the end of the year there will be further numbers into the AFP. Our numbers are more than at any time under the Liberals' administration. I will say that again: they are more than they were at any time under your administration, especially at that time when they were very severely depleted. But, of course, Mr Pratt was not in the Assembly at that time; so he would not know about that.

Mr Pratt: Per capita less.

MR WOOD: No, that does not change it. That is trying to move away from it. The population base has not changed so much in that short period of time. There is a further issue and that is the experience of the police officers that remain. I do argue that we need to be careful in future moves to maintain—indeed, to build up—the level of experience of the officers we currently have.

We have had good recruitments in recent times, but the balance has moved towards less experience. They are very good officers. I am asserting that we need to be sure that we maintain that level of experience that we need. It is one advantage in the way that AFP recruits, that they recruit more senior people, people with much experience in the community, people with high skills in other employment or in academic qualifications; so we're not sending out, as was the case in earlier years, young recruits perhaps not long out of school.

Certainly we do have younger recruits, some that are not long from university. But these days the police force is much better able, because of the attraction of the service, to attract people with very good backgrounds that give them, I think, a pretty good jumping off point for the policing work that they do.

Mr Speaker, Mr Pratt's matter of public importance has been a fizzer. It is about the state of law and order, and he could only talk about the unsustainable mounted police team and about their numbers. He has no case because his colleagues in the last Assembly had no record to speak of.

Nevertheless, that will not stop this Liberal opposition from frequently raising the issue of law and order. They cannot find any better issue. Mind you, Mr Speaker, I think this one will sink because the arguments given by Mr Pratt today simply have no weight. They have no substance. I suggest they try to find something else to direct their attention to.

MS DUNDAS (3.56): Mr Speaker, I said yesterday, when we were talking about the sentencing bill, that this Assembly would be undoubtedly discussing law and order before the next election. Somehow I thought we would have at least one day's grace on that debate, but it appears the Liberal Party has become more obsessed with the state of law and order in the ACT than I thought.

Once again, we are talking about punishment and about police numbers rather than talking about serious ways to stop crime. I think the ACT should be adopting the best practices for crime prevention from around Australia to improve the state of law and order in the territory.

Sadly, at last month's Australian Crime Advance Prevention Awards, only two out of the 59 recognised programs were from the territory. These were the perpetrator education program "Learning to relate without violence and abuse", and the counselling program for offenders of family violence, which are run by ACT Corrective Services, and the YMec program run by the Billabong Aboriginal community. Both of these are excellent programs and very deserving winners at the national level.

But I think we should be looking at what we can learn from the other winners—what is going on in other states and territories around the nation. The national winners were the Victorian life work violence prevention program, which is a whole-of-family early intervention program for men who abuse their partners and children, and for women and children who experience domestic and family violence.

Another winner was the bush break-away youth action program for South Australia, which places identified participants on the challenging offending pathway for 12 to 18 months. The new living initiative, which has been happening in Western Australia, upgrades older public housing estates, including the refurbishment of dwellings, redesigning paths, upgrading lighting and using safe city designs to assist in reducing crime and allowing residents to feel safer in their community.

There were a huge number of great ideas that came through the 59 programs that won at the national awards. I would like to mention a few more of them, hopefully to spark

some good ideas about how we can work to improve law and order in the ACT without the simple knee-jerk reaction of increasing sentences or having more police on the beat.

There is a break-in-the-cycle program running in Victoria which helps break the inter-generational cycles of abuse, violence, addictions, institutionalisation and poverty for young people at risk through an intensive arts-based and education program. Women ex-prisoners with a history of drug addiction work with youth at risk during the early stages of anti-social behaviour and the substance-abuse cycle.

In Queensland they have running an initiative called "Picture the peace, reject the violence". It is designed to educate 12 to 18-year-olds about healthy, violence-free relationships. The focus is broadly on relationships rather than violence and uses printed resource and education sessions.

Doing anger differently is a program running in New South Wales. It is a community-based project conducted in secondary schools. The schools refer angry, violent and aggressive boys to the program and the groups meet with two social workers twice a week for a term to work through their issues.

There is a your choice program, which is operating in New South Wales. It is a two-hour short course designed to reduce the reliance on law enforcement methods of dealing with under-age drinking. When young people are detected committing any alcohol-related offence, they are invited to attend the program in lieu of receiving an infringement notice.

A whole lot of these different programs that were recognised as national winners and receiving certificates of merit looked at how we can reduce crime, how we can help our members of the community without locking people away and without putting extra stress on the police force that is already operating. There is an amazing number of projects here working with a whole range of complex issues. I think the ACT government should look at what is going on across Australia and see what we can pick up and use here.

Although it appears that we are not learning from what is happening across the nation, as I said, the debates that we are having seem to be about fostering fear and promoting fear instead of working to alleviate that fear and actually reduce crime. As an example of that, we need to look at the Justice and Community Safety annual reports, which have specifically in their purview crime prevention programs. But over the last two financial years they have run below target. Programs have been dropped or not run as they should be, and there is always this concern that we are not actually implementing community crime prevention programs as we say we should.

There is always a little money left over that is not then being put back into crime prevention programs, supporting Neighbourhood Watch or any other of those other initiatives that are out there. I think that is very concerning. I think that is something we need to look at further. What are we currently doing with our resources in terms of crime prevention? Why are not we meeting our targets for crime prevention programs? How can we be working more efficiently to actually make sure that what we want to see happening, which is a reduction of crime—working with the community—is happening? Why isn't it happening even though we are setting aside significant amounts of money for this every year.

As I said yesterday, and as I will continue to say, as long as we continue to have a law and order debate that looks only at the short term, at the sentencing reforms, at the number of police on the streets, as opposed to what it is that police should be doing and how they should be working with the community and how we can foster greater community participation in the reduction of crime and helping and addressing the social causes that lead to crime, I do not think we are having proper debate. Again, it appears that this MPI, which has so far had a focus on a horse team that had two police members in it and how that is now finished, is not necessarily constructive in the bigger picture.

I think a proper debate on law and order will be about how the programs I have discussed will work here in the ACT and what we can do to help residents here in the ACT. It will also talk about reducing poverty and homelessness. It will talk about improving the health and education of Canberrans. I would like to see that involved in a law and order debate. I would like to see us actually look at this in a very holistic way. Until we do that, we are going to be stuck with the same old attitude of tougher sentences and penalties as the way to address our problems, and we have seen that that does not work.

MS TUCKER (4.03): The Greens welcome the opportunity to speak again about how, we, as a society, best ensure order and safety for our citizens. Like Ms Dundas, I am not going to focus on horses. I want to talk about some of the broader issues. I will not again go into detail on the demographic profile of those among us who are antisocial or who come into contact with the law. It is well and truly on the record already and it would be clear to anyone who look at it that the majority of such people are themselves suffering in some way and have stories which, not surprisingly, have resulted in their coming into the criminal justice system.

The work of governments is to understand that and act to intervene before it happens through social support systems sensitive to the potential for positive and appropriate support and intervention. This sensitivity also needs to be applied after the fact of involvement with the criminal justice system, and that is what I will speak about in more detail today. Yesterday, I did speak about underlying causes and Mrs Dunne was getting interested in our talking about underlying causes. It is not going to stop, because underlying causes are a very important part of this debate. Today, I want to focus on what happens once people do come into contact with the criminal justice system.

Some people claim that order can be maintained by imposing tougher penalties and that victims demand that. In fact, such generalisations are not helpful or accurate. People respond differently to the trauma of being a victim of crime. It is true that some demand vengeance, but it is also true that some find the notion of vengeance abhorrent. There is a large body of evidence that shows that victims are not as punitive as the ones whose bitter calls for brutal punishment get most media coverage.

I will talk about conferencing in more detail later, but it is interesting to look at how the experience of being a victim of crime is affected by approaches such as conferencing. Studies show that when victims are involved in that approach the fear of revictimisation and victim upset about the crime declines after the restorative justice process. But I think that we could all accept that most, if not all, victims of crime do agree that, whatever the response of society, the objective should be that the crime does not happen to anyone else.

That brings us to the question of what works to achieve this outcome. A reading of the research into this question supports the notion of seeing crime as a social issue which requires an understanding of the human story of the individuals concerned. To a degree, the tension in this debate is between being punishment oriented or problem oriented. It is not, as some like to portray, about being either tough on crime or soft on crime. That simplification of a complex issue has to be condemned for the political rhetoric that it is.

I want to make clear that the problem-oriented approach does not rule out prison for certain offenders, but it recognises that other responses are appropriate as well and that if we are focused on reducing and preventing crime we must be prepared to invest in those alternatives. If the ultimate agreed objective is to reduce crime in our community, we must recognise that evidence does not indicate that the prison experience turns people into law-abiding citizens. In fact, the opposite is true.

It is clear that the potential for a person to be healed and rehabilitated in prison is very limited. That is an argument for a much better prison system, but it is also clear that prison is just one part of a suite of measures necessary to deal with the problem of crime. I stress again that this approach does not rule out prison and it does not remove the notion of punishment. Punishment is within the suite of responses available to a community.

The Greens are not of the view that there is no place for punishment, but we do regard other responses as appropriate, including sentencing programs which give people sentencing options which deal with their particular issues in a more effective way. Restorative justice is also an alternative approach which the Greens support. In the preface to *Restorative justice and responsive regulation*, John Braithwaite says:

> For informal justice to be restorative justice it has to be about restoring victims, restoring offenders and restoring communities as a result of participation of a plurality of stakeholders…So long as there is a process that gives the stakeholders affected by an injustice an opportunity to tell their stories about its consequences and what needs to be done to put things right, and so long as this is done within a framework of restorative values that include the need to heal the hurts that have been felt, we can think of the process as restorative justice.

The evidence also supports the premise that this approach can be important in reducing reoffending. The evidence suggests that it is much more powerful for some offenders to be shamed by those we respect and trust than by police, judges, and so on. To quote John Braithwaite's research again:

> In terms of reintegrative shaming theory, the discussion of the consequences of the crime for the victims (or consequences for the offender's family) structures shame into the conference, the support of those who enjoy the strongest relationships of love or respect with the offender structures reintregration into the ritual. Evidence from the first 548 adult and juvenile cases randomly assigned to court versus conference in Canberra indicates that offenders both report and are observed to encounter more reintegrative shaming in conferences than in court. Data such as this calls into doubt what was a common earlier reaction that contemporary urban societies are not places with the interdependence and community to allow the experience of shame and reintegration to be a reality.

The main point that I am making in the debate on this matter of public importance this afternoon is that we do have to look at the complexity of crime as a social phenomenon in our society; we do, as I said yesterday in more detail, need to look at the causes; and we do need to be prepared to look at the individual human stories and respond appropriately.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (4.10): Mr Speaker, I am pleased to respond to this matter of public importance. The impact of crime on an individual person and the ripple effects of it into the rest of the community strike at the heart of what we understand it is to be a community and of what we aspire to be in Canberra.

I think that the issue of how we respond to crime, how we debate law and order, is integral to the wellbeing of the community. Because of that I would hope that none of us, particularly those of us in this place, would use the issue to debate these matters opportunistically, that none of us would promote scare campaigns, and that we would underpin proposed approaches in relation to law and order with some sound data and research. That is my hope and the hope of those within the government. We are continually disappointed by the opposition, with their cries of wolf and attempts to beat up a law and order campaign in the ACT.

I do not think that the opposition have yet realised that the people of Canberra view Canberra differently. It is not like many other places in Australia. Sydney and Canberra are significantly different and attempts to suggest that we need to incorporate into the law of the ACT all of those provisions that pertain in Sydney as a result of issues the people face there, particularly in relation to drugs, the drive by shootings they experience, and the heinous gang rapes that have been a feature in the immediate past of law and order issues in Sydney.

They are not, thankfully, issues that we have faced in Canberra. We do have an opportunity to seek to deal with issues that affect us in Canberra on the basis of the evidence that we have to hand and we, as a result of that, have an opportunity to find some evidence-based solutions, not just the knee jerk, hard on crime, lock them up solutions that are often propounded or put forward within the Assembly by our opponents as real solutions to issues in relation to community safety.

When we look at the reported rates of crime for Australia—that is, the rates of crime per head of population—we see that in the most recently reported year, which was 2002, the ACT was well below the Australian average for all categories of recorded crime collated by the Australian Bureau of Statistics. In that last ABS report we recorded 924 offences per 100,000 of population, compared to an Australian average rate of just over 1,000; that is, 100 fewer offences per 100,000 of population in the ACT than in other places.

When we look at the rates for the last eight years we see that the picture has been the same except for two years, 1999 and 2000. For two years in the last eight, Canberra did have offences or recorded crime rates above the Australian average. Of course, we do know that in 1999 and 2000 Mr Pratt's colleagues were in charge of the ACT. Indeed, during those two years, Mr Humphries and Mr Smyth were, respectively, the Attorney-General and the minister for police.

In the context of the campaign that has been attempted over the last few weeks by the Liberal Party in relation to law and order and the determination to beat up issues around community safety as issues of major concern to the people of Canberra at the moment, we do need to reflect on the fact that the highest rates of crime recorded in the ACT in the last eight years were recorded in 1999 and 2000 when Mr Humphries and Mr Smyth were, respectively, the Attorney-General and the minister for police.

We do have significant rates of crime now in a range of areas and, of course, we all abhor that. It is fair to say that all crime is to be regretted, all crime is to be abhorred. No crime rate is every acceptable. We do acknowledge that, but we work assiduously at it. The way we work at it is very important in terms of our real determination to address issues around criminal behaviour and the causes of antisocial behaviour within the community, all of which are related and connected.

To that extent, the government has been driving a major criminal law reform program in the two years that it has been in government. Ours is the only jurisdiction in Australia outside the Commonwealth that is committed to the full implementation of the criminal code. That is a significant and major piece of law reform that this jurisdiction is engaged in. I know that previous governments within the ACT implemented parts of it and have been associated with it, but this government has made the decision to fully implement the criminal code.

It is the most modern exposition of criminal law in Australia. It has been so well consulted. It is a code that was developed in consultation with every jurisdiction in Australia and it is a piece of law reform that, at the end of the day, will stand the ACT in very good stead in terms of its commitment to all those instances of a modern and progressive approach to law and order and to criminal justice issues.

I think that it is fair to say in the face of the assault that we have experienced in recent times from our opponents in relation to our attitude to crime and the mantra that, as a government, we are soft on crime because we are looking for alternatives, rather than just locking up criminals and forgetting about them, that we are looking in a progressive and evidence-based way at how to address the causes of crime, the reasons that some of our young people get into strife with the law, what causes them to engage in antisocial behaviour in the first place and what we can do as a community to address the causes of that sort of behaviour.

We all know, we know it in our hearts, that the real reason for a whole range of kids getting into strife at an early age and ending up developing a culture around antisocial behaviour and crime goes to the extent to which they suffer disadvantage in their very early years. We know that. We know all about the cycles of despair and disadvantage that so many people—far too many—in our community continue to suffer. That is where this government is focusing so much of its energies. We know that we need to identify where disadvantage occurs and why it occurs, to address that disadvantage, to break those cycles of disadvantage, and to keep people supported and nurtured from a very early age so that we can address seriously why it is that some of our people, particularly our young people, get caught up in crime.

We know what it is: they are not supported when they are young, they are not supported when they get to school, they are at risk of failing to achieve at school, they get into

strife there, they play truant, they get into strife mucking around and not going to school, they do not achieve at school, they get led into petty crime, they get led into drugs and other substances, and get into a never-ending downward spiral that leads inexorably to petty crime, pinching cars, burgling houses and then, of course, their first entree to our correctional facilities after a life wasted as a result of our failure to recognise that they needed support.

There is a whole range and raft of other things that this government has done to deal with some of the singly important issues in relation to crime. We have addressed issues around firearm ownership and are working with the states, particularly recently in relation to the need to ensure a buy back of handguns. We have engaged in a major sentencing review, not just a knee-jerk one. I announced yesterday the significant changes that we are making to sentencing in the ACT, a complete overhaul of the way sentencing is undertaken.

We are reviewing the protection orders legislation, providing for a whole series of proposals designed to ensure that the ACT provides for the safety and protection of people from violence, harassment and intimidation. We have just legislated to protect the counselling notes of sexual assault victims from disclosure. We are reviewing at the moment some very difficult issues in relation to fitness to plead, those difficult circumstances where a person commits a crime and, at the time of committing the crime, was fit to plead and knew what they were doing and subsequently falls into a state where they are not fit to plead or are in and out of that state, a very difficult area of the law which is being reviewed.

We have introduced the Australian Crime Commission Bill. We are committed to restorative justice and restorative justice principles, which I alluded to before in relation to the need for us to ensure that we do restore people, that we do look at alternative ways, rather than just dragging people before the courts and setting them on a treadmill that will lead inexorably to jail, recidivism, repeat offending and repeat jailing.

We are introducing circle sentencing for young indigenous people, who are so savagely overrepresented in our criminal justice mechanisms and in our correctional institutions. Circle sentencing, trialled at Nowra very successfully, is a process that includes indigenous people and indigenous elders, respected members of the community, as part of any tribunal assessing what should happen to young Aboriginal people.

That is not an exhaustive list of the sorts of things that we are doing, Mr Speaker. We on this side of the house take law and order extremely seriously. We know that it is important to each of us. It is something that we treat with the utmost seriousness and regard.

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

MR STEFANIAK (4.20): I will just deal with a few points that the Chief Minister raised and some that Mr Wood raised. The Chief Minister will have noted that the opposition believes in having a very comprehensive package in relation to law and order. Law and order is a complex issue; it is multifaceted. The Chief Minister might recall—bye-bye, Chief Minister; he is leaving the chamber—that we have no problem with things such as circle sentencing. I came out very sympathetic to that because it is

working very nicely in Nowra. A trial is a good idea. Restorative justice is another. Those things are fine.

They are not the be-all and end-all, but they are fine and you need to try a number of different things. We will support anything sensible, but to hang your hat on those things and ignore some of the other issues is very wrong indeed. I have looked at the press statement which—surprise, surprise!—the Chief Minister put out when we debated my sentencing package. I have to say in relation to that that it only deals with a very small part of the real sentencing options. Having had a quick look at it, he has listed probably 20 to 25 per cent of what you would really need to do in terms of having a comprehensive review of sentencing.

My package is not complete, either, but it really does address some crucially important issues. It would be probably 50 to 60 per cent complete. All right, we have debated it; that bill was lost yesterday. I have indicated that the opposition will bring it back in the new year because those things are equally important. The government misses issues such as deterrence and the need to properly sentence and have proper laws in place to assist the courts and, indeed, to indicate to the courts what the community wants and expects in terms of sentencing so that they can arrive at proper sentences, especially for serious crimes. Clearly, the community feels there is a problem, that our courts are not robust enough, that they are somewhat weak and need some assistance and the laws need to be changed in relation to making that part of the system more robust.

At the initial end of the scale, to start with, it means having an efficient, effective police force. We are blessed in the territory with having a very good police force. I believe that it has consistently been the best in Australia. But, quite clearly, it is feeling the strain; quite clearly, it is suffering from resource problems. The national average is, I think, 282 police officers per 100,000 people and we are only at 241. That is a problem. That is 41 short per 100,000 people or 123 per 300,000 people; so, with our population, we are probably about 125 police officers short of the national average. That is a very real problem and it is showing itself in terms of phones ringing out at police stations and the like.

Mr Wood: A simplistic approach.

MR STEFANIAK: No, it is not a simplistic approach, Minister. Quite clearly, the public is frustrated because the police are not necessarily able to attend and phones ring out. That frustrates the police, dedicated officers who really and desperately want to do their job as well as they can, but they are being badly affected.

I must correct Mr Stanhope in terms of saying that we were the burglary capital at one stage when Mr Humphries and Mr Smyth were the relevant ministers. Mr Smyth did not become the police minister until mid-December 2000. Mr Humphries might have been both. Mr Humphries did start Operation Anchorage. I recall being the minister for two months at the end of 2000 and it was ongoing then.

Mr Wood: Was it in your time that things went bad?

MR STEFANIAK: No. Mr Wood, funnily enough, I thank you for mentioning that because—

MR SPEAKER: Direct your comments through the chair, Mr Stefaniak. Order, Mr Wood!

MR STEFANIAK: Mr Speaker, I would point out to Mr Wood, through you, that as Attorney-General I introduced the Bail Act—especially section 9A—which the police wanted. The first part, I give credit, the government supported when a few improvements to that were suggested by the Chief Justice and the Chief Magistrate. For some reason, they went back to showing their true colours—they probably were soft on crime even then—and did not support that. But Anchorage was responsible, even members opposite have grudgingly conceded, for the number of burglaries dropping. Burglaries have continued to fall, with a few hiccups, as a result of good programs such as Anchorage and the more recent Halite, and the Bail Act.

MR SPEAKER: Order! The time for this debate has expired.

Crimes (Industrial Manslaughter) Amendment Bill 2002

Debate resumed from 12 December 2002, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MS TUCKER (4.25): Mr Pratt has gone missing, so I will pick it up. This is very important legislation for the Legislative Assembly to be debating today. I have been very concerned about some of the misinformation that has been put out about this legislation, so I want to make some points about what this legislation actually does.

Firstly, I would like to make clear that this legislation will not be onerous for responsible employers. It will not mean, as Mr Peters of the chamber of commerce has claimed, that responsible employers will be sentenced to prison for events over which they had no control. I am aware that there are already many pressures on the business community and I am very sorry that this campaign of the chamber of commerce has been so ill-informed and has caused so much unnecessary distress.

My support of this proposed legislation is largely because it will make clear that in this society we do not believe that large corporations should be able to avoid responsibility through complex subcontracting arrangements. The bill does not change the legal situation for natural persons. A person will commit an offence only if it is proved beyond reasonable doubt that the person was criminally reckless or criminally negligent and caused the death of a worker. We are talking about the death of a worker—a very serious issue.

Both negligence and recklessness are defined in the criminal code 2002. This legislation does not vary these definitions and both terms have been the subject of extensive legal debate before the courts. Recklessness requires the person to be aware of a substantial risk and, having regard to the circumstances known to the person, it is unjustifiable to take that risk. Negligence requires such a great falling short of the standard of care that a reasonable person would exercise in the circumstance, and it must be proved, again, beyond reasonable doubt, which is a very high test. The test is not the civil test of the balance of probabilities, as some people still seem to think.

Mr Peters of the chamber of commerce has communicated to me his concern that negligence is problematic because there is no requirement to show intent. Clearly, if there is intent, then we are dealing with a potential charge of murder, not manslaughter. Negligence, in itself, is a mental fault, as is recklessness, and that has to be proved beyond reasonable doubt. It is also important to understand that there is no vicarious liability. An officer cannot be liable for prosecution just because he or she occupies a particular position in an organisation.

It is not the case that under the offences an unrelated death could be blamed on an employer, because it is clearly stated in the description of the offence that it has to be established by the prosecution that the conduct of the employer caused the death. In the case of injuries that later led to death, it has to be established that the injury occurred in the course of employment and that an employer or senior officer substantially contributed to the worker's death and their conduct was reckless or negligent.

I have heard of concerns that the legislation, if passed, would be particularly unfair on employers in industries, activities or occupations that were particularly high risk—for example, firefighters, security guards, doctors, nurses and police. However, the responsibility of an employer to provide a safe working environment does not mean that employers in inherently dangerous jobs should or would be judged against the criteria appropriate to employers in so-called safer areas.

A firefighter or a security guard obviously will be exposed to greater risk of physical harm than a white-collar worker. The obligation on the employer is to ensure that the risk is managed in the appropriate way; that is, that a good occupational health and safety regime is in place, such as appropriate training to educate the individual, the teams and the workplace about the risks and how to deal with them. For these high-risk occupations, given the inherently dangerous nature of firefighting and other emergency service work, there would need to be very clear evidence of a high degree of negligence to support a prosecution.

The identification of a range of employment relationships is central to this bill and what we are really talking about and it recognises the change in the nature of employment relationships in Australian society. The conviction of a corporation would not automatically result in the guilt of any particular officer of the corporation, but it is absolutely essential for legislators to respond to the practice of corporations so that they cannot avoid basic responsibilities, such as not allowing people to die in the workplace.

Death in the workplace is a very serious issue. It is not a minor transgression against OH&S practice that this law deals with; it is the loss of someone's life which has resulted from such a falling short of responsible practice that it can be proved beyond reasonable doubt in criminal law that that falling short caused the death.

It is remarkable to me that it is suggested that we should not deal with this in the law. Why should there not be the same responsibilities for corporations as there are for other employers? Do we really support the fragmenting of employment relationships to avoid responsibilities of all kinds to workers? The argument that we should just work with prevention and education does not address the purpose of this law.

Of course there needs to be support for the business community to do the right thing and WorkCover should be resourced appropriately to do that work. There would be outrage in the community and in this Assembly if this argument were applied to any other area of law regarding manslaughter where a person loses their life due to the recklessness or negligence of another person.

What is this really about? Why is a death in a workplace different from a death in another place? Certainly, there is none for the person who is killed or for the people who loved that person. I acknowledge that in the gallery of the Assembly today there are lots of people present who have lost someone that they cared for or know people who were involved with those persons.

There is also, of course, an educative purpose in having a specific crime for industrial manslaughter. As we campaigned to make clear that domestic violence was a crime because there was an underlying community acceptance of it, so we name this crime and send a clear message to irresponsible employers. Responsible employers have nothing to fear from this legislation.

I know that there is a lot of concern in the community about this bill—a lot of confusion in the business community in particular—and I have called on the government to allow three months to elapse before enacting this legislation and to communicate further with the business community about the intent of the legislation. The minister has agreed to this request. I commend this legislation to the Assembly.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (4.32): Mr Speaker, this is important legislation that the government is determined to see introduced. The government recognises that this bill is landmark legislation. It is a key part of our overall strategy to build a more robust system of occupational health and safety in the territory. There are too many workplace deaths—even one is unacceptable—and my government is determined to do all it can to prevent them, from education to a regime of sanctions.

As my colleague the Minister for Industrial Relations, Katy Gallagher, said in introducing the bill, the current law has made it exceedingly difficult to prosecute a company for manslaughter. Employers have a duty to provide a safe workplace and this legislation reinforces that obligation. It is simply not good enough that an employer, a company, can cause the death of a worker through negligence or recklessness and not be held to account simply because of the veil of corporate anonymity. That basic premise is the reason the government has taken this initiative.

The government is not alone in seeking to introduce laws that protect workers by sending the clearest possible message to our community and to employers that avoidable workplace deaths will be dealt with in the strongest possible way. I think it appropriate that we acknowledge the presence in the gallery today of Ms Sue Exner, a tireless campaigner for the introduction of similar laws in New South Wales. Ms Exner is, of course, the mother of Joel, the 16-year-old construction worker so tragically killed in a workplace accident in October this year. Joel's brothers, Brendan and Ashley, are also here, as is his next door neighbour, "Uncle Charlie" Williams, and many of his friends. I pay tribute to the unstinting efforts of, particularly, Ms Exner, her family and colleagues for taking up this cause so forcefully in the midst of their grief.

I think it appropriate that we do make some mention—I do not want to dwell on it or overstate it—of the somewhat desperate campaign that has been launched against this initiative in the ACT, principally by the ACT chamber of commerce. I acknowledge the efficiency of the organisation in marshalling its membership, particularly through some fairly flurried keyboard activity, and I acknowledge that that campaign has generated perhaps a couple of hundred letters of some displeasure to both the Minister for Industrial Relations and me.

It is a pity that the campaign has been so disingenuous and that so many of the chamber's members have accepted without question what I regard as serious misinformation that has been peddled to them, even to the extent of including in the letters that the minister and I have received the chamber's instructions on what should be included in the letters. The campaign perhaps would have been a touch more persuasive if there had been a little more variation in the letters.

Just sticking to the pro forma has resulted in some very unfortunate illogicalities or perhaps some very interesting possibilities in that I have received, for instance, and these are all fine organisations, letters from the West Belconnen Leagues Club, the Kaleen Sports Club, the Canberra Club and the cafes at RMC and ADFA in which they all suggest that if the legislation is past they will all leave town.

I must say that that does raise some very interesting possibilities. I am not entirely clear how the West Belconnen Leagues Club, the Kaleen Sports Club or the cafe at the RMC might fare if it moved interstate. That does go to explain the nonsense of some of the representations that have been made to me and to the minister in particular. Of course, the legislation can only operate within the territory's borders, so those many emails from outside the territory's borders do also come as a surprise.

In any event, contrary to statements made by the chamber and its members, the bill does not include vicarious liability law, nor does it alter the current law as it applies to natural persons. The bill does not apply to events beyond the control of the employer, but rather applies to negligent or reckless actions or omissions that contribute directly to the death of a worker.

This bill does nothing more than amend the law to ensure that corporations can be effectively prosecuted. All this has been carefully explained to the various representative business groups, including, of course, the chamber of commerce. Let me repeat for the record what my colleague the Minister for Industrial Relations, Katy Gallagher, said in introducing this legislation. That position was put at the outset. It is the position that has been maintained since and it is the true position. Ms Gallagher said in her presentation speech:

> A credible and robust enforcement strategy requires both positive support for voluntary compliance, on the one hand, and a range of increasingly strong deterrent measures for serious offences, on the other.
>
> The bill's intent is to ensure that employers can be held responsible where their reckless or criminally negligent conduct causes the death of a worker. The legislation will enable a more effective application of the law of manslaughter to

> corporate employers whose conduct is criminally negligent or who take unjustifiable risks with the lives of their workers.
>
> The bill also provides that senior officers of businesses, corporations, government entities, and government ministers can be prosecuted—as natural persons—where they cause the death of a worker.
>
> Currently, the general manslaughter offence in the Crimes Act applies to anyone who negligently or recklessly causes the death of another person. This includes an employer, so that if an employer who is a natural person negligently or recklessly causes the death of one of their workers, they can already be charged.
>
> These days, however, most people are employed by companies. It is very difficult to prosecute a company for manslaughter, due to antiquated common law principles that are used in Australia to attribute criminal liability to a company. Mr Speaker, the ACT is not alone in facing the problem of effective prosecution of companies responsible for workplace deaths.

That was a quote from Ms Gallagher's speech in introducing this very important legislation. It is important to note that Ms Gallagher concluded that paragraph by acknowledging, as we all know, that the ACT is not alone in facing this problem. I have to say that the ACT is prepared to amend its law to ensure that, consistent with existing and established tenets of criminal justice, such prosecutions can be launched and that we as a community are prepared to meet our obligations for assuring the occupational health and safety of workers in the ACT. I think that it is important that we acknowledge that and that certainly is the commitment that this government shows through the presentation of this legislation.

In concluding, and I acknowledge that there will be many other speakers in this debate, let me acknowledge the role of my Minister for Industrial Relations, Katy Gallagher, in developing this legislation and in articulating, explaining and defending its objects and its integrity. This is legislation of which I am and all of my government are proud.

MR PRATT (4.40): The Liberal opposition is concerned that the Labor government continues to push the introduction of this amending bill, the Crimes (Industrial Manslaughter) Amendment Bill 2002, in the Legislative Assembly. I foreshadow four amendments which, firstly, will go to the heart of the actual wording and definition of behaviour and, secondly, will seek to bring the government's proposed penalties into line with other benchmarks. I will talk to those in more detail later.

May I state at the outset that there is no demonstrated need for this legislation in the ACT. There were five workplace deaths in the ACT between 1996 and 2001. Whilst even a single fatality should be avoided, there is no evidence that the government's proposed legislation would reduce workplace deaths. In addition, the incidence of workplace deaths in Australia decreased by a third between 1996-97 and 2000-01 through successful risk management programs.

Since the tabling of this amending bill in the Assembly in December 2002, I have received overwhelming opposition from business groups and businesses around Canberra. Workers have also expressed their concerns about an amending bill that they see causing disharmony in the workplace and doing nothing for their safety. This opposition can be seen from the media releases of two of the largest business groups in

the ACT, the ACT and Region Chamber of Commerce and Industry and the Housing Industry Association.

The headline of the media release from the chamber of commerce, 99 per cent of whose members opposed the legislation, was: "Chamber concerned at government's industrial manslaughter proposal." The headline of the media release from the HIA was: "No need for industrial manslaughter legislation." I have copies of those available to me, if the minister would like to look at them. Obviously the government did not consider them when they were first issued in December last year.

I heard the minister say on radio that she had significant support from the business community, in particular the building industry. There is something wrong with that statement because we have continually spoken to the broad business community, especially the MBA and the HIA, and they will not have a bar of this amending bill. I have here a list of the organisations which do not support this unacceptable and unnecessary bill. This list was received by me at 10.15 am today. Of course, the government has to give to the ACT community a false impression of the size of the support that it thinks that it has in order to sell this draconian legislation. I have here a list of 39 ACT business organisations that are deeply concerned with this amending bill.

Although the industrial manslaughter legislation is being promoted by the union movement nationally, it is being opposed by the Australian Chamber of Commerce and Industry, all state and territory chambers of commerce, a wide range of ACT business groups, including the Canberra Business Council and ClubsACT, and a wide range of national industry associations, including Masters Builder Australia and the Minerals Council.

I commend the ACT chamber of commerce and the other employer agencies for their efforts. They have done their duty and represented the best interests of their members. They should ignore the Chief Minister's disingenuous comments today on their efforts. They have done their duty. They should ignore the Chief Minister's wedge politics as displayed yet again today to try to distract attention from the fundamental weaknesses of this amending bill.

The Liberal opposition is also extremely concerned about the likelihood of the legislation, if it is successful today, driving businesses out of the ACT. Earlier, the Chief Minister pooh-poohed the idea that this could happen. The concern is serious. Let me quote Mr Mark McConnell, who runs a successful business in this town. On radio this morning he suggested that if this legislation is passed he and other business colleagues would have to consider moving some or all of their operations across the border.

I spoke to Mr McConnell as well today and he told me that the most dangerous aspect of this insidious legislation is its overwhelming impact on the microbusiness culture that underpins small to medium business in this community. It is predicted that insurance requirements will rise for them with this law in place and the costs for microbusiness particularly will be prohibitive. That will not support the lot of workers. That will not improve the livelihood of workers.

Let's talk about Summernats. We have been advised by the Summernats people that they would have to consider seriously pulling the activity out of the ACT. That is what they have said in the last couple of days. They have predicted that their insurance requirements would rise beyond control. Having already seen large events lost, it would be unforgivable to lose Summernats as well. Surely this sentiment is a lesson to be noted by the government. As the ACT is an island in the middle of New South Wales, it is very likely, as with the example that I have just given, that some businesses will move to adjacent jurisdictions.

Do we really want to support ACT government legislation which runs the risk of driving business out of Canberra? The answer has to be no. Does the government fail to understand that 60 per cent of the commercial and operational activity, business activity, in the ACT is private enterprise? Does it not realise that the people on the list that I pointed to earlier, representing corporate owners, business owners, managers and workers, are the heart and soul of activity in this territory? The government wants to put in place further impediments to their operations through this divisive draconian legislation.

As well as major business groups in Canberra being unhappy with not only the introduction of the proposed legislation but also the consultation process, there are other holes that the government has left open regarding this issue. I am referring to the questions around the review of ACT OH&S laws commissioned by the former Liberal government, specifically the Leader of the Opposition, Mr Smyth. The long-awaited review has only just been confirmed as being completed under the Labor government.

The former Liberal industrial relations minister announced a review in early 2001 of OH&S laws in the ACT which included a regulatory impact statement. He did so because the then government was dissatisfied with the standard of the workplace safety culture permeating both the private and public sectors. The then government strongly believed—and this opposition continues to carry that torch—in proactive preventive strategies to make the workplace safer.

The idea of having some sort of draconian industrial manslaughter legislation was never thought necessary and it was certainly clearly considered by our side to be severely counterproductive to workplace safety and workplace harmony. What about that OH&S review? That review was ongoing but near completion upon the change of government. If the review was completed, where is the report? Did the government consider the report's recommendations when it drafted this piece of legislation? That does not seem to be the case.

Mr Deputy Speaker, it should have been properly assessed if it was genuinely necessary to introduce such legislation into the ACT. A proper review of OH&S and the implementation of recommendations should have been completed long before any new considerations to introduce industrial manslaughter or even to rectify any other part of the Crimes Act to cater particularly for corporate behaviour, a move that we would have supported. We would still support that move. But we are yet to see and debate in this place the report on the OH&S review. That is yet to occur.

We now have the cart being put before the horse with this unnecessary industrial manslaughter law being thrust upon us before we are able to examine existing OH&S

legislation which we believe could be amended to include provisions for reckless corporate behaviour. I say again that we would support any moves to combat reckless corporate behaviour whereby guilty individuals in the workplace, including owners, managers, subordinate supervisors and workers, could be sent to jail with respect to workplace deaths if a judge thought that that was necessary. Let's look at the issue holistically; let's not just look at one level of activity.

Why did the government not go down this path? It seems that it is because they are lazy about administering OH&S and are more attracted to running with this sexy, ideologically attractive industrial manslaughter package. Is this government serious about improving workplace safety? Are they mindful of the need for proactive and preventive measures in the workplace that would minimise risk? It does not seem so, otherwise the government would not have faffed around for two years with a review that had almost been completed when it came into government.

Ms Gallagher: Fraffed?

MR PRATT: I said faffed, Mrs Cross.

Ms Gallagher: No, I interjected. I didn't catch it.

MR PRATT: For Ms Gallagher, it is spelt f-a-f-f-e-d. Why did they faff around for two years with a review that had almost been completed when they came into government? That is outrageous. Why did they ignore good governance and why, instead, did they run with this piece of divisive legislation?

Mr Hargreaves: What does "faffed" mean?

MR PRATT: It is an old soldiers' term. You should know that, John?

Another hole is that, although the legislation provides tougher penalties for employers, it provides no more power or clear rights to implement improved safety control mechanisms. The legislation makes the employer fully responsible without clarifying areas such as drug and alcohol testing and dismissals for safety breaches. There are no layers of preventive activity. It goes straight to the top and straight for the throat. These are not covered as part of this package.

The fundamental issue here is that this ideologically driven legislation will not improve workplace safety by one millimetre. In fact, it will downgrade workplace safety. It will drive a wedge between employers and employees and that is not conducive to having a harmonious, safe working place. We are not the only state or territory parliamentary party opposing the introduction of such legislation. I heard today on ABC radio one of the peak employer groups talk about why such legislation has not been introduced in other jurisdictions. Essentially, their concerns were that this legislation is not going to improve safety in the workplace, is bad for business and is unnecessarily divisive.

The Victorian and Queensland governments have considered similar proposals and they have refused to meet the demands of the unions in their jurisdictions. They have done so out of recognition of the unfairness of this legislation and the fact that there is no balance

in it and that such legislation would be seriously detrimental to business and not advance workplace safety one millimetre. The government needs to take note of that.

Mr Deputy Speaker, the Labor government is going to go against not only the will of Canberra business and many Canberra workers and, hopefully, the Assembly, but also its colleagues from Victoria and Queensland. Why is that? *(Extension of time granted.)* The Blair government decided that such legislation was unnecessary and divisive. They were concerned for the business climate. They also said that there would be no improvement in workplace safety.

Let's look at the comparative penalties. Last night in this place the government refused to support the raising of the Crimes Act penalty for manslaughter to 25 years, yet today they are laying down here a 25-year penalty target for business owners and managers. What about the small business owner who does not have the capacity and the skills to run OH&S entirely? There is no excuse for not running good OH&S legislation, but what about the small business owner? Look at the capacity.

Why have a penalty of 25 years for the business owner when we do not seem to find any support from the other side of the chamber for an increase in the penalty for manslaughter to 25 years, as proposed in this place last night? Isn't that somewhat out of balance? This is breathtaking and blatant discrimination: put up penalties for bosses but do not strengthen laws to hold anybody else in society accountable. Do not put in place mechanisms which would protect workers; just go for the throat.

There are strong arguments for strengthening the existing OH&S legislation to deal with possible reckless behaviour of CEOs and boards, business owners and their subordinate supervisors with respect to workplace safety, injury and death. We support that and we want to see it in place, but this is not the way to do it. We know that major business groups in the ACT support changes to the OH&S Act in regard to tougher penalties. We know that because we have been talking to them. This option should be explored before introducing completely new legislation that cannot be supported by major stakeholders in the ACT. We do believe in toughening up penalties for dealing with owners, managers and supervisors of rebellious and slack companies, as I was saying earlier.

The ACT government represents all people in the ACT and should consider all options and impacts that this legislation may have upon introduction. The government is not here to support the narrow sectional interests of individual lobby groups. It is obliged to support and represent the best interests of the ACT, but that is not what the government is doing with this legislation. The interests of the broader community and the voice and advice of business interests have been entirely ignored by this government. Canberra business opposes the industrial manslaughter legislation, small business opposes the industrial manslaughter legislation and many workers oppose the industrial manslaughter legislation. Canberran developers oppose it. The government is proactively driving business out of Canberra by introducing this amending bill. Canberra businesses will be negatively impacted upon by this legislation.

Mr Deputy Speaker, we completely oppose this legislation and find no reason why it should be supported by any member of the Assembly who has an interest in keeping the ACT economy as strong as it currently is and who would not wish to see legislation

passed which is not going to protect the workers and is not going to advance by one millimetre safety in the workplace.

MR HARGREAVES (4.59): Speaking about blind Freddy, I listened to that diatribe from the captain of the junker corps, and I thought to myself: what a crock. But I suppose if you send a boy on a man's errand that is what you are going to get. Of all of the things that I heard, the most offensive was "the sectional interests of individual lobby groups". How appalling is that?

Through you, Mr Deputy Speaker, turn around, Mr Pratt, and look into Sue Exner's eyes and tell her she is a sectional lobby group. Turn around and look at those kids up here who have come from Sydney to support their friends and tell them they are a sectional interest.

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

MR HARGREAVES: There were a couple of other things that really put my nose out of joint. According to those opposite, this legislation is going to see the death of Summernats. I do not believe you. The organisers of Summernats are not going to kill the golden goose; they are going to stick around for a while. They have nothing to fear if they have done everything. The burden of proof is enough.

Mrs Burke: On a point of order, Mr Speaker: I also request that Mr Hargreaves direct his comments and remarks through the chair.

MR HARGREAVES: I have been addressing my remarks through the chair. I have said on at least three occasions in this speech, "Through you, Mr Deputy Speaker".

MR DEPUTY SPEAKER: He has been scrupulous in that, Mrs Burke. There is no point of order.

MR HARGREAVES: Even if—and it is not so—it came to a choice between a motor sports event and a young person's life, I have no choice. You may have the choice, members opposite, but I do not want that choice and I will not make it. There is no necessity to make that choice.

Mr Deputy Speaker, many who are in small business in this town have been sucked into the vortex of propaganda. It is an absolute herring. There is no change to their responsibility at the moment. They can still get done for manslaughter if they are responsible and the burden of proof prima facie proves the case. End of story.

This legislation does two major things, apart from a few other little bits. First, it underscores the necessity for businesses, corporations and entities to have OH&S practices that do not allow the death of an employee. Second, it sorts out the food chain of responsibility, and it brings to account—and I can stand to be corrected—the directing mind and will of a corporation. Hitherto, that was not the case.

Where you have a corporate culture that ends up with such pressure that some negligence occurs, where a supervisor makes an honest mistake because of the corporate pressure that exists and where he or she has done everything that he or she may have done, but a death nonetheless resulted, the directing mind and will can now still be held accountable for that death under this legislation. It will now hold a corporation, as a non-real identity, responsible for that death. That is the major issue with this. I will say it again: there is no change to the individual responsibility for persons at the workplace.

I do not know what these people opposite are a bit afraid of. There are many rules in our statute laws that say you should not do something, and they apply to the same things. For example, with some traffic offences, you will find that you are charged with three or four traffic offences for the one infringement. It is still the same here, only we are talking about the death of people.

Mr Pratt talked to us about following our Labor mates. Well, if Tony Blair has got it wrong, bad luck, Tony Blair. If Victoria has got it wrong, bad luck, Victoria. Bad luck.

Mr Pratt: They have all got it wrong.

MR HARGREAVES: "They might have it all wrong," says Mr Pratt. I am glad to see the admission on that, and I am glad to see Hansard recording Mr Pratt agreeing with me. The issue, of course, is that Victoria were right to go, ready to rock and roll. But they included vicarious liability, which I note you have not acknowledged has been removed by the ACT legislation. You did not acknowledge that.

It is not so that, if a person does everything in their power to prevent something, they will be charged. If a person cannot possibly be expected to have known something, they will not be charged. That is a defence. Read the legislation and you will see that. That is one of the major differences between here and Victoria.

What you have before you is just legislation. This is legislation that gives the people in the gallery who have come to support this what they are demanding. The mothers of young people killed on work sites are demanding it. The union movement are demanding it. The young people—the friends—are demanding it. And the small business people that I know, those who are not fooled by the propaganda about this, are quite happy about it too because they know they have nothing to fear. Why you people would spread fear amongst these people is beyond me—beyond belief. Why would you do it?

Why would you not say to these people, "If you have good OH&S practices and you're doing everything you can to stop anybody getting injured at your place, you have nothing to worry about"? Perhaps it is a worry because your propaganda might be catching, a bit like Hong Kong flu or something, and might zip around the insurance industry, and the insurance industry will have a reason to jack your premiums up. Maybe they should come to your propaganda. All I can say is that, if the insurance industry jack their premiums up, let it be laid at your door, not ours. We are saying, "You haven't got anything to worry about." You wouldn't, though. You have not thought about it enough.

This legislation picks up everybody in the food chain. I recall the example that we talked about in committee. We had a scenario where an owner/truck-driver gets a contract from a bloke who has a transport contract to deliver stuff to Sydney, but that bloke is actually

working for a supplier of a particular fresh food, who has a contract by a major retail outlet, who shall be nameless, like Woolies or Coles or any corporation of that size. The owner/driver is then pressured to deliver the stuff at 3 o'clock in the morning. He has an off-sider in the truck to help him offload it. Off he trots to Sydney, and he is under pressure. "If you don't deliver that by 3 o'clock, your contract's gone." He is an owner/driver, so he needs the contract. This scenario is not that far from a real case. What happens is an accident on the Hume Highway, halfway between here and Sydney.

According to our stats at the moment, that is a motor vehicle accident. Nothing more is said. Under this legislation, the head contract, the Woolies/Coles-sized company, will be held responsible if their corporate culture contributed significantly to the death of the off-sider in that truck—provided, and I underscore this, provided that the burden of proof is satisfied that their action is either deliberate or significantly negligent. The rules of testing that are pretty tough. No DPP in the world will charge someone unless those criteria have been satisfied, and even then the court has to be satisfied that significant negligence and/or deliberate action contributed.

At the moment there are a lot of furphies running around business saying that the world is going to end tomorrow. I can assure you it is not going to end tomorrow. But with the passage of this legislation, hopefully, we will wake up people. We will be able to maintain the ACT's great record of lack of death in the workplace. We will set an example to our Labor colleagues in the states and perhaps—I may hold my breath a bit too long and go blue—the federal government will understand that this is the will of the people talking here.

We are giving expression to the expectations of young people coming on in the future who want a safe workplace. They do not want to go onto a building site and worry about falling off and killing themselves for the sake of a $40 harness. They just want to go to work and earn a quid and have a nice future. In my view, this is a courageous piece of legislation, and I want to give some credit to a couple of people for this.

First, I credit the Speaker, Mr Berry, with kicking it along early on in my term here. I would like to pay the courtesy to Mr Corbell, the former minister, for booting it along a bit further, and to our current minister, Katy Gallagher, who has really taken charge of it. I thank members who are going to vote for this for their support, and I particularly wanted to acknowledge Ms Tucker's role in this.

This was not an easy report for us to consider. This was not an easy inquiry for us to do. It was fraught with a lot of difficulty, and a lot of fact and emotion were all mixed up. But at the end of the day we have a responsibility to legislate for the future, not to protect the bank balances of people who have been frightened to death by a stack of furphies.

I want to pay tribute to Sue Exner, to the CFMEU for running the charge—that has been absolutely brilliant—and to the young people who have joined us in the gallery for coming this far to support the bill. I urge members to look into their souls when they vote on this bill.

MS DUNDAS (5.12): The ACT Democrats will be supporting this bill before us today. My Democrat colleague the Hon. Arthur Chesterfield-Evans has introduced a similar industrial manslaughter bill in the New South Wales parliament, and Democrats have

spoken up federally in support of such legislation. I am satisfied that the ACT bill is sufficiently clearly worded to cover only those offices or corporations who could reasonably be held substantially or wholly responsible for the death of an employee.

But, as this bill passes, I hope that no employer or corporation is ever convicted of the offence of industrial manslaughter. I hope and expect that every ACT employer is taking occupational health and safety seriously enough to prevent them ever being found to be criminally negligent or reckless.

Accidents, tragically, do happen and will continue to happen, even in workplaces with outstanding health and safety measures, because some workers will unthinkingly cut corners and put their own safety at risk. If that happens it will not lead to employers being convicted of manslaughter. If employers have safety measures in place and senior officers have informed workers of the risks in the workplace and the importance of working safely, they will have done all they can reasonably be expected to do.

Some occupations are inherently more dangerous than others, and it can be close to impossible to completely eliminate all the risks while still getting the job done. However, employers and senior managers who run businesses that involve working at heights, with toxic materials or even with heavy equipment have nothing to fear from this legislation if they foster a culture of safety in their workplace and take reasonable steps to safeguard their workers. Key to what we are looking at today is how we can help employers make their workplaces safe for all their workers.

This bill does not provide for vicarious liability of officers, which has been an element of industrial manslaughter bills introduced elsewhere in Australia. A person can only be convicted of an offence under this bill if their own act or omission is substantially responsible for a worker's death. A corporation can only be convicted if it did not have organisational processes and practices in place to protect the safety of workers. Let me put that in another way. If a corporation has in place organisational processes and practices that protect the safety of their workers, they cannot be charged with industrial manslaughter.

Many people in this community, in the business community in particular, have raised concerns about how this bill would operate, and the Housing Industry Association has talked about how it will impact on small businesses. But it will only be if small businesses do not take their occupational health and safety responsibilities seriously that this bill will impact. Again, I will put that in a different way. If small businesses are making sure that their OH&S responsibilities are being met and that their workers are informed of their safety responsibilities, they should not be charged with industrial manslaughter.

I, too, have spoken with many people about this legislation. I was particularly interested in how it would impact on small business because most of the businesses in the territory are small businesses. Through my discussions with unions, with businesses, with people who just work in the ACT, with the minister and with a range of other people it is quite clear that this legislation is not targeted at people who are doing the right thing.

It is not targeted at small businesses, which have a lot of investment in their employees because they are usually family businesses—or if the employees are not related by blood,

they become family through their work. Small businesses and small business owners I have spoken to want their workplaces to be safe because they value their employees. This legislation is not out to catch them. It is not out to catch those who are doing the right thing.

Many of the employer groups I spoke to were concerned about the use of the word "negligence". I understand their concern since individuals, businesses and organisations are found to be negligent and are forced to pay compensation for what can be seen as trivial oversights that result in injury. In motor vehicle accidents, a tiny error of judgment or an inadvertent act is often held to constitute negligence, resulting in hefty damages.

However, criminal negligence is significantly different to civil negligence. We are talking today, with the industrial manslaughter legislation, about criminal negligence. The test of criminal negligence, or criminal recklessness, is a very tough one. It is a pity that, when we talk about criminal and civil negligence, we use the term "negligence" in both of those instances. It has only served to make people anxious about the effect of this bill when, really, they should not be.

Some people have argued that the bill needs to be amended to make the distinction between civil and criminal negligence very clear; I think that is what one of Mr Pratt's amendments seeks to do. But there is a substantial amount of case law explaining the difference between the two concepts. Courts and lawyers draw upon case law in prosecutions. I would like to quote Lord Chief Justice Hewart in the case of R v Bateman. I quote:

> In explaining to juries the test which they should apply to determine whether the negligence, in the particular case, amounted or did not amount to a crime, judges have used many epithets, such as "culpable," "criminal," "gross," "wicked," "clear," "complete." But, whatever epithet be used and whether an epithet be used or not, in order to establish criminal liability the facts must be such that, in the opinion of the jury, the negligence of the accused went beyond a mere matter of compensation between subjects and showed such disregard for the life and safety of others as to amount to a crime against the State and conduct deserving punishment.

It is clear that we are talking about what a jury would see as disregard for the life and safety of others. If there are employees out there who are disregarding the life and safety of others, they should be tried for industrial manslaughter.

Of course, in criminal prosecutions, this level of negligence must be established beyond reasonable doubt, not merely on the balance of probabilities, as is the case in civil law. In fact, there are many instances where a criminal prosecution for a negligent or reckless act fails but the civil action for damages succeeds.

There are two ways in which the test is higher than in civil law. First, the act of negligence must be wicked, not merely that a person or a corporation was less careful than you might expect. Second, that the person or corporation was wickedly negligent must be proved beyond reasonable doubt. These two requirements mean that I am confident that no person or corporation would be convicted unless an ordinary person would agree that they were criminally culpable.

A lot of the concern that I heard from groups was about the confusion between criminal and civil. By looking through case law and taking the time to work through what has actually been done, we can see that their concerns are quite ill-founded. When you look at the tests that apply to a criminal case, businesses can rest assured that they will have had to be doing something pretty bad before they can get tried. This is what we are trying to catch: businesses doing things that are pretty bad.

I have received a lot of correspondence over the last two days through a campaign that has been run by the chamber of business and commerce. Most of the people who wrote to me included this statement:

> As a responsible employer with a very good safety record I am deeply concerned about the implications and negative impact such legislation will have on me personally and professionally.
>
> I do not believe you or your government have communicated to me why I, as a decent and fair employer, should face 25 years imprisonment if one of my employees is unfortunately killed in the workplace through no fault on my part.

I will respond to the many letters I received on this topic individually, but I say now in this place: if the accident is no fault of yours and—as has been asserted—there is a good safety record at your workplace, there is no reason why you should be afraid of being charged with industrial manslaughter. What we are looking at are the people who do not have a good safety record, those people who are being negligent and allowing their workers to work in unsafe conditions.

As this bill passes, we will become the first jurisdiction in Australia to have an offence of industrial manslaughter. I think many would have been comfortable if we had the experience of other jurisdictions to draw upon and had the evidence before us that this offence makes employers take safety more seriously. But there are some areas where the ACT does need to take the lead, and it has led the way in many areas, such as the no waste target, decriminalisation of abortion and recognition of same-sex relationships. Down the track, we have not regretted our courage, and we have shown other states and territories the way. That can happen with industrial manslaughter.

I was concerned, when this piece of legislation was first tabled, about how it would impact on the workplace inspection role that ACT WorkCover currently undertakes. I believe that on-the-ground safety has suffered recently because a substantial amount of resources have been diverted away from working with employers and looking at workplace safety towards one individual campaign.

However, the Minister for Industrial Relations has now put on the record that the existing level of workplace inspections and the amount of time and money spent on education will not be allowed to drop, even if an industrial manslaughter prosecution is pursued. We can continue to work on the ground for workplace safety, and the industrial manslaughter legislation will be part of the package we are working towards.

The minister has informed me that she herself has consulted with eight employer representative groups and 14 unions operating in the ACT about the content of this bill, as well as receiving submissions from six employer groups. I have met and consulted widely with employer representatives and unions. Obviously, I have not been able to

meet every person who has said that they have concerns about this bill. But, where I have met with employers or their representatives, I have gained the impression that they believe they could be held liable for manslaughter in a situation where they would only be liable for a civil penalty. More education about the effect of this bill is necessary.

Because there are many business people who are unclear about the effect of this legislation, I endorse the government's decision to delay commencement of this law for three months to provide time for an education campaign to allay concerns based on misunderstandings about who could be convicted of industrial manslaughter. I hope the debate that we are having today is an important part of that. There are many people with us here in the gallery, from both businesses and unions, and I hope they are listening to the understandings that each individual member has of this industrial manslaughter legislation and that they are hearing about how it will actually work in the workplace.

We all believe that a death at work is a tragedy, so we all have common ground on this issue. I believe we would all support any law that would help prevent a death in the workplace. I am willing to support this law because I believe that, on balance, it will send a message to any rogue employers who are operating in the territory and it will improve the chances that they will take their safety responsibilities more seriously.

I hope we do not have any of these rogue employers currently operating in the ACT, and I hope that we never have a prosecution under this law, but I am convinced it is worth having this law there if we need it because it will support workers and it will support employers. At the moment it does not always make business sense to comply with our current laws. People have actually said to me that it is cheaper to cop the fine for having an unsafe workplace than to do the work to make your workplace safe. I hope that having the crime of industrial manslaughter on the books sends a very clear message to employers that it is good business sense to have good workplace safety. I hope that our workplaces in the ACT become safe workplaces.

In closing, I will respond to Mr Pratt's comment that the industrial manslaughter legislation will degrade workplace safety. I do not see how we can see this industrial manslaughter legislation as a step backwards. If employers and employees want safe workplaces and take their responsibilities seriously, this will not be a step backwards. *(Extension of time granted.)* If employers and employees want to work to make sure that their workplaces are safe and employees are not working in unsafe conditions, then this legislation does not degrade workplace safety. It supports workplace safety. I fail to see how the argument put forward by Mr Pratt helps anything.

MR STEFANIAK (5.27): As I said when I introduced the committee report as chair and my dissenting report, and as most people in this place know, I am very much in favour of strong laws that have strong deterrent effect. I have no problem with that part of this. If people do the wrong thing and if people harm others in a criminal way, and in a serious criminal way, they should be punished—whether they are bosses harming workers, workers harming other workers or people involved in nasty armed robberies.

One of the first concerns that I had about this was the government's attitude to criminal law issues. The government, in its submission to the committee inquiry, said that it did not have any problems with the contradiction inherent in, on the one hand, industry working together with workers to have a safer workplace and, on the other hand, the big-

stick approach of legislation like this. In fact, the government said it supported a range of increasingly strong deterrent measures for serious offences. It went on to say that the offences in this particular bill provided a necessary deterrent for the most serious of workplace accidents—and, yes, it does that.

Yet yesterday, in relation to a very comprehensive bill that dealt with all sorts of other offences in the Crimes Act—which was defeated—the government indicated the exact opposite: punitive actions do not reduce crime; rehabilitation should be looked at; deterrence does not work and is not going to stop crime. Why the change, Mr Speaker? Why is deterrence so important in this particular matter but in the plethora of matters we looked at yesterday completely unimportant—in fact, counterproductive because punitive actions do not reduce crime?

The other big concern I had was the fact that we actually have a law of manslaughter. It is a very serious law; it is one down from murder. It covers all manslaughters. We do not have two types of murder or two types of common assault. The one offence covers all circumstances in relation to it. The other Labor states and territories are not going down this path. That must tell the government something.

I was very concerned to see that no evidence was put before the committee to indicate that a law like this was actually necessary. Thankfully, in the ACT there are very few deaths attributable to negligence in our workplaces. The evidence failed to indicate whether any of the deaths we had seen in the ACT would have sustained a charge of industrial manslaughter, had one been brought.

These deaths went back to the 1980s, and there seemed to be no justification for introducing a separate offence of industrial manslaughter in the territory. If anything, indications are that considerable efforts have been made in recent years in Canberra to improve occupational health and safety, and they are ongoing. This is great because it means our workplaces are getting safer. Workplace accidents are less common now than they were.

We are unique, in that we do not have industries that are more likely to have accidents. We have neither a significant manufacturing industry base nor a large primary industry base. Indications are that there is even less call for legislation here than in the other states, which have not gone down this path. I am totally unconvinced about the need for this legislation.

We have the crime of manslaughter in our Crimes Act, which has been further enhanced by the Criminal Code. That was a point Ms Gallagher missed when she did an ABC interview today. Last year they introduced corporate responsibility in a Criminal Code. That was something the opposition fully supported. There are instances of corporate crime, and we have seen thousands of Australian citizens suffer as a result of it. It is terribly important that corporations can be picked up—hence it is in the Criminal Code.

That is already there with our existing law of manslaughter, and further improvements to the code next year will include a restatement of manslaughter and a number of other laws. Why on earth do we need this? The fact is we do not. The fact that corporate responsibility is in the criminal code takes away one of the main arguments for the need

for this legislation. It was put strongly to our committee that bad corporate culture needs to be attacked—through the corporate responsibility part of the criminal code.

Mrs Dunne: Absolutely.

MR STEFANIAK: Mrs Dunne says, "Absolutely," and we agree with that wholeheartedly. It is not as if we have not had successful prosecutions for manslaughter in the industrial context in the past. While not in Canberra, in Victoria manslaughter is generally a very hard offence to prove. In New South Wales recently, someone threw someone off a train in the face of an oncoming train, and they had difficulty finding manslaughter there. The jury found manslaughter—and so they should have—but it shows how difficult manslaughter can be. It is a hard act to prove, and rightly so, because it is a very serious offence.

There was a recent successful prosecution in Victoria for industrial manslaughter. A young apprentice was told by his foreman, at the direction of his boss, to fix up the acid vat. The foreman did not show him how to, and the young fellow died. There was a successful prosecution against the boss, who went to jail. I was going through Watson and Purnell on the criminal law—I have got the 1971 edition—and found that it quoted as an example of manslaughter a case where one someone did the wrong thing in the workplace and a worker died; they went to jail. It happens under our existing law.

Why do we need a separate offence for industrial manslaughter? If we go down this path, why don't we have sporting manslaughter arising from incidents on the sporting fields, motor vehicle manslaughter arising from accidents on the road or maybe manslaughter when the victim is under 18? We do not have those, because we do not need them. I will take the case in point of motor vehicle manslaughter.

People have been convicted of manslaughter in relation to the driving of motor vehicles. There is also the lesser offence of culpable driving, which I suggested in my report might be a more appropriate road for the government to go down. It is a lot tidier legally and is more consistent with the law. Why do we need a separate offence for industrial manslaughter? Manslaughter is manslaughter, and the fact that there have been successful prosecutions says it all.

Ms Dundas raised the question of how often this legislation would be used. Thankfully, we have very few deaths, and they are getting fewer. But how often would this be used? It could well be that we never see this offence used. If, as the government says—to my committee and, I assume, today—there is no real difference between the standards and elements needed to prove manslaughter and those needed to prove industrial manslaughter, why on earth do we need this bill? If both offences are the same, you do not need it.

You do not need to scare off all these businesses, rightly or wrongly, and jeopardise the jobs of thousands of ACT workers, the prosperity of this territory and the families of workers. That does not help anyone, especially if the laws are in place now and other laws in relation to occupational health and safety can be enhanced.

Other laws in relation to occupational health and safety are being enhanced in other jurisdictions, which are not going down this path. They are going down the path of

enhanced occupational health and safety laws—yes, sometimes with jail penalties. The Queensland laws have three-year jail terms for some serious offences. They are looking to add a penalty of seven years for a negligent act in the workplace causing death, along exactly the same legal lines as we have for culpable driving. But they are not going down this path.

New South Wales is enhancing its occupational health and safety laws, and it was put to my committee that that is something the ACT needs to do. That is an area where we can lift our game—which will help workers—and at the same time not introduce a separate, unnecessary law of industrial manslaughter when we have a tried and true, time-proven law of manslaughter that covers all situations, including manslaughter in the workplace. There are some very big problems here.

That leads me to the next point: if this is in fact a different law from normal manslaughter, is that good? I do not think it is. I think it is very bad law. It is like an apartheid system of law: a first-class law and a second-class law. Our laws are meant to cover all scenarios. To split the law is a worrying aspect. If this is going to be somewhat easier to prove than normal manslaughter, it is bad law. In fact, in itself it is a form of discrimination.

One has to ask the question: why on earth do we want to go down this path? That is a very worrying aspect. The way around it is enhanced occupational health and safety laws and consistency with proper legal principles, such as what Queensland is looking at, which I submit would be a far better path for the Labor government to go down than the one it is actually taking.

Another problem, which we address in our amendments, is the fact that this law will have a maximum term of imprisonment of 25 years, as opposed to 20 years, under section 12 of the Crimes Act, for normal manslaughter. If this is passed today unamended, it will be discriminatory in terms of the existing law of manslaughter. I hope members will at least see fit to fix that up today. That can always be adjusted later, when the government brings in another series of amendments to the Criminal Code— stage 4, I think.

Those are some of the problems I have with this piece of legislation. On my point that maybe this is a different type of manslaughter law—whilst the standard of proof is beyond reasonable doubt, which is the same—it is of concern that maybe there is something in the elements that are a bit different. It was put to me in a committee hearing that someone could be convicted under this and not convicted under normal manslaughter simply because of their status.

The example was as follows: an employer has a faulty electrical plug and socket, which is behind the counter of a shopfront. This employer knows the plug is faulty and has taken absolutely no steps to repair it. An employee drops a coin, which rolls behind the counter, and attempts to retrieve the coin. The coin somehow gets stuck, and the employee electrocutes himself or herself. It was put to me that the employer would be liable under this bill.

It was then suggested that we consider the situation of an ordinary citizen who comes to the shopfront, drops a $2 coin, which rolls behind the counter and gets stuck, tries to

retrieve it and electrocutes himself or herself. It was put to me—and it was probably right—that in that case it would be very difficult for the prosecution to sustain a charge of manslaughter against the owner or manager of the premises. As I said in my dissenting report, I would defy anyone to get up on a charge of manslaughter in the ACT courts in terms of that later case.

If that is the type of scenario we are looking at, we are talking two very different laws. That is inherently a significant problem because, if the standard met by the prosecution to sustain a manslaughter charge under this legislation is less than what it is under current section 15 of the Crimes Act, this legislation is bad law. We have taken a step that we have never taken as a jurisdiction and one that I do not believe any other Australian jurisdiction will have taken.

If people refer to my dissenting report, they will see how I suggest we can improve our occupational health and safety laws and how we can have tough laws, with deterrents, that are consistent with the law and will not needlessly terrify businesses in the ACT. I do not think that in my term in the Assembly I have seen businesses so genuinely worried about a piece of legislation—indeed, not just businesses but also big events.

I was speaking to someone today who did not ask to be named, but who will no doubt say this at some stage. He said that this legislation had dampened his enthusiasm and was breaking down his spirit. This fellow had talked to a number of people involved in Canberra who said that it had dampened their enthusiasm so much that they did not even feel like making a start in business. That is very sad, because a lot of workers who would otherwise have jobs, especially young people going into the work force, might well be deprived of jobs.

There are huge fears in the business community about this, and I do not think anything said by the government has really allayed those fears. If this legislation is exactly the same as normal manslaughter, why are we having it? There is absolutely no need for it. And if it is not the same, what is the real difference? If it is easier for someone to be convicted under this type of manslaughter than under the section 15 of the Crimes Act type of manslaughter, I think that is bad law.

The government needs to go away and look for a better way of achieving its aim, and its aim is shared by everyone in this Assembly. Unfortunately, the way it is trying to achieve the aim has so many bad effects on our community that this law is going to have a far worse effect than any possible good it may do. *(Extension of time granted.)* The government should go away, at the end of the in-principle stage perhaps, and have a big rethink about this, because there are some very significant problems with it.

I am not going to read this out; Mrs Dunne will. I will not waste any more of people's time. Very few people support this legislation. Various groups have concerns with it, and every other government is basically against it. Maybe Canada has some type of industrial manslaughter legislation, but I cannot think of any other jurisdiction that does. Surely that tells you something.

We are all for protecting the worker. In this party we are all for punishing people who commit crimes and for punishing them properly. Unlike the government, we are very much in favour of proper deterrence, as well as proper rehabilitation, for people who

commit any sort of crime—be it a crime in the workplace, robbing a bank or committing some sort of other crime in the community. We do not differentiate. It is terribly important to get it right, and the government, perhaps with very good intentions, has got it sadly wrong.

MS MacDONALD (5.44): I am sure it is no surprise to anybody that I rise in support of this very important bill, as many other people have today. I know that Sue Exner was in the gallery previously; I believe she is now in the committee room. As the mother of Joel Exner, who died back in October, I would like to pay tribute to her. I think it is very brave of her to have come along here today so soon after Joel's death.

I was speaking to Sue earlier. We were talking about Joel's death and how sad it is that he died at such a young age. She said he didn't realise the risks of going to work; he was just excited to be in the job. He was very excited to have got the job. Mr Deputy Speaker, a young man, 16 years of age, has been cut short before he has even had a chance to experience life.

Mr Deputy Speaker, the unfortunate thing is that it happens too often. There are many of us who go out to work every day and we shouldn't have to expect when we go to work that we may not come home again at the end of the day. But unfortunately, in all too many cases, that is what actually happens.

Mr Stanhope, in his speech, talked about this government being supportive of providing measures to have an education campaign through to a regime of sanctions. I would say that it is unfortunate that we actually need to introduce sanctions, but sometimes, Mr Deputy Speaker, just sometimes, the education doesn't work. If it did work, Mr Deputy Speaker, then we wouldn't have the situation where people were dying in their workplaces. If we have a situation where every employer and every employee out there were taking responsibility to ensure that all workplaces were healthy and safe places to work, then those accidents which needn't necessarily happen would not happen.

Obviously, where there is an act of God, that can't be prevented. But in the situation that we are talking about—a 16-year-old walking around on a roof, three days into the job, without the training, without the safety harness and not wearing the appropriate footwear—no wonder Joel ended up no longer with us. I think, if we can prevent even one death like this by introducing this legislation, this amendment bill to deter large corporations from actually allowing unsafe practices to take place, then it will have been worth while.

Mr Deputy Speaker, yesterday I actually moved a motion which everybody in this place supported and passed and which talked about the occupational health and safety awards. Mr Deputy Speaker, this legislation goes to the other end. Where yesterday I spoke about the important leadership provided by employers in providing safe and healthy workplaces, today we are speaking about letting employers know that this government will not accept, will absolutely not accept, recklessness or negligence that leads to the death of workers. We must send the message that, no matter who you are, if your actions or lack of actions have led to someone's death you will be held accountable.

At the moment, Mr Deputy Speaker, that is not necessarily the case; it doesn't apply to large corporations. This bill will close that loophole and make sure that those corporations are held accountable for their actions, which is as it should be.

Mr Deputy Speaker, previously in the gallery I noticed there were some representatives from business organisations. I am not surprised they were here. The employers' response, in the main, has been that the sky will fall in. Well, Mr Deputy Speaker, in my six years working in the industrial movement, that was always the employers' response whenever we talked about progressing the rights of workers. "No, you can't give those employees a 50c a day increase; you can't have them claiming their laundry allowance; you can't have them doing this; you can't give them the overtime rates that they work hard for and deserve to have; you can't give them their meal break allowance because the company will go bust, the company will move out of town." Mr Deputy Speaker, it was always their response in my negotiations within the Industrial Relations Commission and of course outside the Industrial Relations Commission whenever we were talking about improving the conditions of workers.

I anticipated this response. It is no surprise to me that the employers gave this response. That is part of their strategy. I accept that; it is part of the way that you—pardon the phrase—play the game in industrial relations. One side puts in an ambit claim; the other side puts in an ambit claim, ups the ante and says, "No, no, you can't do that now" or "You must do that" because of whatever.

However, Mr Deputy Speaker, there is one thing that is really not appreciated within this campaign, and that is misinformation being spread by people on the employers' side. I have absolutely no problems with the employers saying that they are worried about it and that they think it is wrong but, when they start spreading fear amongst small businesses that small businesses are suddenly going to be prosecuted for things that are beyond small businesses control, then I think that is really quite despicable, Mr Deputy Speaker.

In regard to that, I would actually point out that the explanatory statement which was circulated on the introduction of this bill says, on page 4:

> An employer will only commit the offence if the employer's conduct caused (substantially contributed to) the worker's death and the employer's conduct was either reckless or negligent.

Then again, Mr Deputy Speaker, on page 5:

> A senior officer will only commit the offence if the senior officer's conduct caused (substantially contributed to) the worker's death and the senior officer's conduct was either reckless or negligent.

So if you had nothing to do with that person being killed, then you can't be prosecuted.

Mr Deputy Speaker, pretty much everybody in this place knows that I worked in the union movement for six years—six years that I am very proud of. I worked for white-collar unions. I have to say that the prospect of death for the members that I represented was very remote. In fact, in comparison to my fellow union officials in areas such as

construction, forestry and manufacturing, my tales of occupational health and safety hazards usually seemed fairly tame.

But I do remember one instance, Mr Deputy Speaker, of a member who was told to stay and answer telephones as the fire alarms blared through the building in which she was working. Because she was a contractor, she rang her supervisor and said, "The fire alarms are going. What should I do?" "Well, you have to stay there and answer the phones because that's what we pay you to do, and if you don't stay there and answer those phones we won't get paid and we'll get sacked as the people who actually have the contract in this building."

I just wonder, Mr Deputy Speaker, if it hadn't been a drill, what that supervisor would have said in explanation both to himself or herself and to the rest of the world if that worker had been severely injured as a result of a fire, an explosion or a gas leak even or, if that person had been killed, what they would have said to themselves every night when they went to bed. "It's okay, we managed to keep that contract but such and such is dead. But it's okay at the end of the day because we kept the contract."

I would also like to mention that white-collar workplaces aren't necessarily renowned for being hazardous to the extreme, places where you are going to lose your life. I would quote from my friend Tony Bourke, a member of the Legislative Council in New South Wales, who was talking about his experience as an organiser for the Shop Distributive and Allied Employees Association, the shoppies. Tony said:

> I have seen work practices, some great and some that I never would have believed if I had not seen them for myself, such as managers telling staff to work in an area covered by two inches of water with electric cables running through it on the basis that their shoes would have thick enough soles to protect them.

Mr Deputy Speaker, this sort of behaviour is just abhorrent and we must send that message out there. As I said before, we must send that message out there that that sort of behaviour is not acceptable and this government will protect the rights of workers and not allow that to happen.

Mr Deputy Speaker, I had the privilege several years ago now to have been involved in the inaugural organising works program, which was a program which got young people—I was then a young person; some people still consider me to be young; I am sure you do, Mr Deputy Speaker—involved with the union movement.

As I said before, a lot of my experiences seem fairly tame because I was working in the government sector where, in general, the working conditions are good. The occupational health and safety hazards are fairly minimal. They have a fairly good attitude to looking after their employees. The reason why? They have to; they have to be out there as leaders and set an example to the rest of the workplace; and they have got the money to do it, the know-how, the people. They are a large organisation. It doesn't mean that occupational health and safety problems don't occur, of course, but it is like having a cut finger compared to having your arm chopped off.

Anyway, when I was an organiser in the organising works program, I remember, at the end of that year, we did a film of all the trainees and their experiences, what they had

actually learnt in that year, working on a number of sites. I remember my friends from the CFMEU—and I rang my friend Cameron Murphy today to refresh my memory, because I couldn't remember exactly and I wanted to get the details from him—speaking of one instance where workers were treating timber by soaking it in cyanide. These workers weren't using the appropriate safety gear because it slowed them down. The employers were saying, "That's okay. It slows them down; it slows down productivity; we can't have that." I remember them talking about that.

Cameron said he didn't remember the exact circumstances of that, but a similar situation had happened at Laminex in Wagga, where the chipboard was soaked in formaldehyde. Once again, they were putting the masks on, taking the masks off; it slowed down productivity. The workers had to take breathing apparatus on and off; they didn't wear it all the time that they were working, just when they were working with the formaldehyde. So some of those workers decided that this was just too much of an irritant; they stopped doing it. Those workers were irresponsible for doing that, but they weren't necessarily aware of what the end results would be. Some workers stopped doing it and, as I said, what ended up happening as a result, Mr Deputy Speaker, was that this made those workers faster than the other workers, because they didn't have that situation slowing them down, and it placed pressure on the others to do the same.

Why did it place pressure on the others? Because management was saying, "That's okay; we like the fact that productivity has increased; we want you to increase your productivity so that we can meet the enterprise bargaining agreement conditions; that way you can get a pay increase at the end of the day; and that way we look good to the owners of the company." As I said, Mr Deputy Speaker, the company was aware that it was happening, and they were quite happy for these unsafe practices to go on because of the increased productivity. (*Extension of time granted.*)

You might say, "Well, what's the problem with that? What is the problem with saying, 'That's okay; don't wear your masks; you increase your productivity; it's okay; it's only formaldehyde'?" The problem was that workers were developing coughs; they were having difficulty breathing; and some of them started coughing up blood. Mr Deputy Speaker, if the union hadn't intervened, it may very well have been that some of those workers would have had irreparable damage done to their health or, indeed, ended up dead.

This isn't acceptable. It is never acceptable, Mr Deputy Speaker. The company was complicit in the damaging of the health of these workers. As I said, it is not acceptable, and this government will not allow that sort of thing to happen. We are going to send out the message to people in this territory that it's not acceptable to allow unsafe practices to take place—whether that be by actively promoting unsafe practices, being complicit in it or just an error of omission; they couldn't be bothered fixing it up.

On a happier note: I would like to say that I did actually say to Cameron in the conversation today, "You did end up fixing it up, didn't you?" He went, "Yes, we fixed it up; we pulled them out and we made sure that the breathing apparatus was put back and the correct health and safety procedures were followed."

Mr Deputy Speaker, I would like to thank all those people who have contributed to the debate. I would even like to thank the employer organisations for contributing to the

debate. I think it is important that we have a strong, vigorous debate about these issues. But as I said before, it was always going to be the case that the employer organisations would say the sky was falling in, because that is what they do.

However, when they start giving out incorrect information, that is unacceptable as well. Let's play fair here. Let's talk about what is really going to happen. It is not going to be the situation where we will go out and pursue people who have done nothing wrong. If you have done nothing wrong, if you have ensured that your workplace has got safe health practices in place and have minimised the risks, then you have nothing to fear.

Mr Deputy Speaker, I would also like to thank the department for having put all the work into the bill that they have done and, once again, those people who have turned up and have come from Sydney, including Joel's family. As I said before, I think that Sue is a very brave woman for having come down. I understand she has taken on the Prime Minister today and tried to get him to talk about a human response as opposed to a political response. I think that is very admirable on her part, and I applaud her for that.

Finally, Mr Deputy Speaker, I just reiterate that the offence will only be committed if the conduct has caused the worker's death by either being reckless or negligent. You have to have done something on purpose, by being negligent or being reckless. It is not if somebody else, a third party, has caused it that you will be charged; it is if you have contributed to it yourself. Mr Deputy Speaker, I commend the bill.

MR BERRY (6.03): I too would like to acknowledge the family and friends of those who have been killed as a result of industrial accidents in other places and who have the strength and commitment to come to the Australian Capital Territory while we have this debate in this Assembly. They hope—and it is my hope—that the success of this debate will lead to changes in other jurisdictions and that workers, as a result, will find themselves in safer circumstances as they get on with life.

I would also like to acknowledge that people from the employer groups were in the Assembly earlier. I would also like to say that I am a little disappointed with the organised employer groups' approach to this because I think the message that they have sent out in representing their employers has been quite inaccurate. I will say some more on that a little later.

The history of workplace safety is an experience that many of us have had in our working lives. I am no different. I started work a long time ago. I don't look like it, I know, but I did start work a long time ago when there was less concern about workplace safety. I do recall vividly an incident where I was working in a parquetry tile factory, with a machine that cut up pieces of wood into smaller pieces to make parquetry tiles. I had a co-worker working with me. This machine had a number of blades in it which cut the timber to the required size. If you can imagine a piece of timber about twice as thick as a paling and it goes through a machine and gets sliced into strips. There are a number of blades that slice it into strips.

We sometimes used different sized pieces of timber—one was about 75 millimetres wide and one was about 90 millimetres wide. But they used the same set of saws for both pieces of wood, which meant there was an off-cut. My job was to stop the off-cut from being caught in the saw blades and hitting my co-worker. I still recall the day when

something went awry and the off-cut hit my co-worker. He was taken away to hospital and had to have it removed. He was sewn up and came back to work several days later. That was considered to be routine.

That was just an intolerable situation which occurred in workplaces many, many years ago. But since then there has been this incremental change, and the incremental change has occurred, regrettably, as a way of treating the symptoms. Each time there was a workplace injury somebody was affected by it financially; so there was a move to fix the problem so the financial effects of it weren't felt, in the business usually.

The state or the insurance scheme usually looked after the injured worker, and the cost of it was a burden that was carried by everybody. Time and time again we heard of incidents where workers were killed or seriously injured and the same thing happened; it was treated as quite routine that we would tolerate these things.

Even in those days in the mining industry and in my own industry, in the fire service, there were calculated risks taken which were intolerable by today's standards. But there is no point having one particular workplace being very safe and not the rest though, and that is where government comes in. We need to regulate to ensure that there is a level playing field for workplace injuries so we don't get the situation where some employers are able to trade at a lower rate because they have got an unsafe workplace and they don't put the resources into safe workplaces, to the disadvantage of their workers but to the advantage of their business.

That is why we have seen later on of course the development of occupational health and safety legislation. The aim of that was to create a level playing field for everyone. I recall, in the first days of this Assembly, the very first bill that was introduced into this Assembly was an occupational health and safety bill. This is an Assembly that since 1989 has had a lot to do with improving workers safety in the ACT. That piece of legislation was designed to create a level playing field for all employers, to create a new culture in the workplace to make sure that workers were safe. Of course it did improve things, but there is more to be done. That is what this legislation is about. Regrettably it too is a treatment of a symptom.

Workers and other people continue to be killed in the workplace. I must say that over time we have tried in the ACT to improve things. I personally had the good fortune to be involved in things like the development of on-the-spot fines and an independent OH&S commissioner. Of course those developments have made it a little better.

The genesis of this legislation is a tragedy in the ACT when the hospital implosion occurred. That implosion was accompanied by a litany of negligent recklessness. A young person was killed, and many other people narrowly avoided serious injury or death. There was a long and involved legal process and there were some charges laid under the occupational health and safety legislation, but it seemed to me that that just wasn't enough, that we had to put in place a regime which gave rise to a stronger defensive culture against workplace injuries.

I am not somebody who routinely supports laws which could lead to somebody being incarcerated, because I just don't think that law-and-order campaigns work. But there is a time when you have to make a stand on some issues and you have to send a strong

message in an attempt to create a different culture about workplace safety. We cannot continue to have a situation where some people think it is all right to have dangerous workplaces, and this is the strongest message that I could think of.

All of this hasn't occurred principally because one person in the Labor Party had a bright idea about occupational health and safety; it is about a movement which is concerned about workplaces. Happily, in this Assembly we have been supported by progressive members, like the members who are supporting us today, over time as we have improved the workplace safety of the people we claim to represent.

As we approached the last election, my colleagues supported a promise to introduce legislation to create the crime of industrial manslaughter. In the environment of an election, that is not always the right sort of promise to be making, and there was some apprehension about it. But my colleagues courageously supported that, because it was consistent with the long traditions of the Labor Party. Here we are today because of their continuing commitment to this legislation. I would especially like to acknowledge my colleague Simon Corbell, who first started work on this matter, and Katy Gallagher, who is now at the sharp end and has had to deal with some of the hard work that goes with this sort of progressive legislation.

But I would also like to acknowledge the person who assisted me in putting together the recommendation to the Labor caucus which led to that promise, and that was a fellow called John Charchalis. John is in the gallery today. He is a good Labor comrade and one who supports the sorts of things that those of us who are concerned about workplace safety have continued to support. I would just like to acknowledge the work that he put into assisting me to bring that matter to the Labor Caucus. I merely want to point out that it is not just one or two people that do these things; there's a whole lot of work going on underneath the water out there among people who are concerned about workplace safety.

But it is not only confined to unions and to politicians; there are some very good people out there in the business world who are working on this as well, who want to make sure that their businesses are safe, who want to make sure that everybody else's businesses are safe as well. You have got to acknowledge that those people are making a major contribution. But sometimes it is hard for them if there are others out there who are prepared to play some politics with this and mislead not only their business colleagues and sometimes the memberships of their organisations but the community as well.

This is not something to be frightened of. This is a logical step to deal with the issue of workplace deaths. It is something that we have to have the courage to stick with, and I am sure we will. In my view, it is also something that we can be very proud of if we are able to pass this legislation today and it serves as a measure for other people in other places.

I can't criticise other jurisdictions because they probably haven't had the fortune to have as progressive a legislature as we have had here in the ACT over many years on industrial issues. It has been generally progressive. There have been times when it has wobbled a little bit, and there have been some arguments across the floor, as there is today, about the appropriateness of this legislation.

I want to thank members for their contribution to this debate. I especially want to thank all of those people who are out there worrying about workplace safety and looking forward to a major change and a major development which will ensure that workers come home safe.

MRS CROSS (6.16): This industrial manslaughter bill has caused a great deal of anxiety in the business community in Canberra. The name of the bill was, I am sure, chosen to create a stir and frighten employers. I am sure that this name is a deliberate move to use a big-stick approach to the issue of workplace deaths. It is, however, better than using workplace killings, as I gather the British are using. Workplace deaths are just not acceptable, and we do need to minimise the number. No-one wants to see accidents that cause harm at any time, let alone in the workplace.

On the other hand, accidents do happen—sometimes even when all the correct procedures are followed. In these situations it would be very unfair to persecute or prosecute anyone. Stuff-ups do happen sometimes. Choosing the name industrial manslaughter as the big stick is fine as long as the effect is that employers and employees take note and work very hard to prevent deaths through the proper application of occupational health and safety procedures and basic common sense.

Mr Deputy Speaker, choosing a name to frighten employers with a big stick is just plain confrontational and not conducive to a good workplace environment. All that happens in that case is that the old divide of "them and us" is re-established and people are not encouraged to work together; rather, we get back to the days of mistrust, making do with fewer employees or even closing businesses. Then no-one wins, Mr Deputy Speaker. The employers lose their businesses, and the employees are out of work.

There is a need to make sure that deaths that result from recklessness or negligence as described in the bill are indeed punished. There has been a gap in the Crimes Act with respect to corporations, and it is important that this gap is closed. This bill does close the gap, but in doing so has caused a great deal of disquiet in the business community.

It may perhaps have been better for the government to do as the Canadians have done and simply amend the Crimes Act to include corporations. This method could well have lowered the anxiety level for many and yet achieve the main aim of closing that corporations gap. I think that probably there are elements in the government and the union movement that would not have been happy with an amendment as they are keen to wave the big stick and keen to get the message across loudly.

However, last week I organised a round-table meeting with key stakeholders from the business community in Canberra and the minister responsible for industrial relations, Katy Gallagher. As most of Canberra would know by now, I come from a business background, and I understand the concerns of business. The result of this meeting was the agreement by the minister to delay the implementation of the law by three months to enable an effective education program to be carried out. In fact, I will be encouraging business leaders to be involved in the process of developing the education package with WorkCover.

A second round-table meeting I organised earlier this week resulted in a further concession from the government. The business leaders who attended this week were

concerned that the emphasis was all on the employer. They felt that there should be an equal emphasis on the employee. Mr Deputy Speaker, that is probably not the case as the employer is always responsible for the running of the business and the culture that is maintained.

However, the minister agreed yet again to include a clause that includes all workers. This amendment indicates that any worker who recklessly or negligently causes the death of another worker can also be charged with manslaughter. The reason for this is simple: this comes straight from the Crimes Act. The amendment points to section 15 of the Crimes Act covering manslaughter. It highlights the worker's responsibility.

I originally organised a round-table meeting after my discussions with business people who indicated to me that there was a lack of understanding on their part of the actual detail of the bill and what in fact the bill does that is different to the current situation. This lack of understanding has led to discontent and fear felt by the general business community. It was interesting, however, to discover that the main concerns of the business community related to issues of fear of a potential overreaction by the courts and the fear that employers would have to defend themselves against a manslaughter charge when they believed they were not at fault.

They were concerned that they would be liable for huge amounts of money to defend themselves when they were not guilty. In fact, under our current Crimes Act, this situation already exists. Employers can be charged with manslaughter now, and could have been last year and the year before, under the Crimes Act. If an employer has recklessly or negligently caused the death of an employee, that employer can be charged with manslaughter now if indeed the police have evidence and the Director of Public Prosecutions decides that there is a case to answer.

This situation does not change with this bill. This bill does not add anything new for individual employers or small businesses. As I have tried to point out to the business people I have spoken to, the bill is designed to provide the final, hard point to capture those corporations which cannot be charged with manslaughter under the current Crimes Act. Corporations not individuals, or to use the legal term "natural persons", are the ones to be captured by this bill.

It is unfortunate that a certain peak business body has taken the approach to panic its members about this bill by using misleading information and emotive rubbish. I have had many emails and phone calls from business people over the last couple of weeks who relay to me the mantra put out by the ACT and Region Chamber of Commerce which is pure hyperbole and designed to keep the panic alive. It is sort of a "maintain the rage" campaign on the other side of politics.

I do wonder whether this organisation is aware that it has abrogated its responsibility to its members. This organisation has a responsibility to its members to lobby the government and other members of the Assembly on behalf of its own members. I am not aware of any amount of lobbying, and certainly not with my office, since the bill was tabled over a year ago. There should have been lobbying in all areas to make sure that the chamber, first, understood the detail of the bill and then made sure that the aspects it was not happy with were amended. This did not happen.

The responsibility of the chamber also includes helping members to understand the legislation, to educate the business community with facts, not emotive, grandstanding statements that are obviously designed, as I have said, to achieve maximum panic. Their job, I would have assumed, is to help the members and not to drum up hysteria.

Mr Deputy Speaker, the main message that the peak bodies needed to get across to their members was that this bill is adding to the criminal area the ability to prosecute corporations with manslaughter. Individuals can already be prosecuted with manslaughter if they are found to be reckless or negligent and therefore cause the death of a worker because we have the Crimes Act, which we have had since 1900.

The government is also at fault here, Mr Deputy Speaker, with a lack of an effective education program to date. I am sure that they are now aware of that and are aiming to rectify that. It is good to have delayed implementation to enable this process to be undertaken over the next few months, and I hope it is done fully and effectively.

The feelings of doom need to be dealt with. I am now prepared to support the bill, Mr Deputy Speaker, as the government has agreed to amendments that address the main issues of business leaders who have approached me directly. The delay of the start of the industrial manslaughter bill in order to carry out an intensive education program for employers means we will be able to lower the angst level.

The clause that highlights the responsibilities of workers as well as employers is put in balance by the second amendment so that all people in a workplace situation are aware of their responsibilities to maintain a safe environment and prevent any workplace deaths. I should stress at this point, Mr Deputy Speaker, that both the Master Builders Association of the ACT and the Housing Industry Association of the ACT indicated to me directly on a number of occasions, including today, that they support this bill with the two amendments that the government agreed to following our round-table meetings. I thank the Assembly for their attention.

Sitting suspended from 6.26 to 8.00 pm.

MRS BURKE (8.00): Quite rightly, major employer groups, employers, individuals and other states and territories have come out strongly against industrial manslaughter legislation. This legislation does nothing more than heap yet another unnecessary layer of legislation into our statute books. All those who have refused to go down this path have recognised that there is enough protection under existing legislation for serious workplace injuries, including death in the workplace.

Those against going down such a path realise that there are far more sensible and less adversarial approaches. I know that the New South Wales Labor Minister for Industrial Relations, John Della Bosca, is looking at a less divisive and more sensible approach to an extremely important matter. He stated publicly that he would be seeking to strengthen the Occupational Health and Safety Act to allow for tougher penalties, such as jail sentences, to be imposed for breaches that result in death.

He obviously does not see the need for industrial manslaughter legislation. This legislation could seek to punish those who are trying to help the system. Let me explain. Mr Robert Clark MP, the Victorian shadow minister for WorkCover, quite rightly asked:

> Who will work as an occupational health and safety manager if managers risk being gaoled, or being bankrupted by legal fees, despite doing all they can to ensure a safe workplace?

How will this legislation impact on morale in the work force? Are we not seeking to set worker against worker? Mr Clark went on to state that this proposed law "threatens" which I believe is the key word in this debate. We are approaching a serious and important topic in a really threatening way. Nobody wants deaths in the workplace. People fear jail but if they do the wrong thing perhaps they deserve to be jailed.

We should not presume that people are guilty until they are proven innocent. We should apply that rule not only to directors and to white-collar management of big corporations; we should apply it also to husbands and wives and to small business people. Let us not forget that it could even impact on volunteers running community organisations. They, too, would fear jail.

Ms Gallagher: As they should.

MRS BURKE: I acknowledge the minister's interjection. People who do the wrong thing need to be penalised. However, I believe to be inappropriate the severe way in which this legislation has been worded. This legislation has the potential of having a negative effect and impact on the construction industry and, therefore, on the local economy. It will impact on the smallest of companies and on the biggest.

A constituent of mine relayed to me one of many such examples—an accident at a work site. There were no deaths as a result of the accident but four people were injured. The firm that was doing the work, which was most diligent in its pursuit of safety culture on the job, employed two full-time and dedicated safety officers to ensure that staff and contractors complied with work safety best practice.

Notwithstanding that fact an accident occurred—an issue to which a government member or a crossbench member alluded earlier. It is a fact of life that accidents happen even though we do not want them to happen. Despite five engineers' reports, no agreement can be reached as to the cause of the accident. For many years to come there will be litigation pursuing various insurance companies.

It is tragic that we are going down a path that will result in the legal system—not the families, the people who are injured or those who have lost loved ones—benefiting from something from which it should not benefit. We are taking the wrong course of action. There are better ways of doing this.

Have we used the wrong bolts and steel in the design and construction of this legislation, or is it an act of God? Lawyers will probably spend in the region of half a million dollars attempting to work out this legislation. After spending that amount of money they might still find out that they do not have it right. Who is benefiting from this legislation? It is certainly not the victims, the victims' families or injured workers. These cases can go on for years.

The point that I am trying to make is that this legislation is not as black and white or as cut and dried as we would all like to believe. Big brother is watching and the threat of a jail sentence hangs over the heads of those who have no control over certain circumstances. As a result, people will be less inclined to start up a business or, worse still, they will throw up their hands and say, "Forget it. I am leaving."

I am referring to a minority of people who do the wrong thing; I am not talking about the majority of good, upstanding businesses that Mr Quinlan often applauds in this place. This proposed legislation appears to be starting from a base in which the employer is seen as some sort of enemy.

Ms Gallagher: The rest of us applaud businesses too.

MRS BURKE: I listened to the contributions of government members in silence. They should show me the same respect that I showed them and listen to my contribution in silence.

MR SPEAKER: Order! Mrs Burke has the call.

MRS BURKE: Under this legislation employers appear to be the rogues. In that climate, why would businesses even contemplate establishing themselves in the ACT? The requests made by this business minister to try to get businesses to come to Canberra have fallen on deaf ears. Is that what government members want? The left hand of this government does not know what the right hand is doing.

Ms Gallagher: It is complementary.

MRS BURKE: It is certainly not complementary. I have talked to people who are fearful of coming into this country to do business. Why on earth would they want to establish a business in this country? As I said earlier, Mr Quinlan and I recently returned from a successful business trip to the United States of America. Some of those elite businesses and companies are now nervous, sceptical and concerned about this government's commitment to small business.

Why are we waving this sort of stuff in front of their faces? It is like waving a red rag to a bull. Businesses are not stupid. The majority of business people do the right thing and protect their workers. I do not think this legislation is really necessary. My colleagues Mr Stefaniak and Mr Pratt have already said that we have in place sufficient legislation and that we should not be loaded with more red tape and more legislation.

The government must think that Liberal opposition members are idiots. No-one wants to see negligence in the workplace. No-one wants to see people suffer at the hands of employers who refuse to make their workplaces safe and compliant. Many members obviously have no understanding of the practical running of a business and that is the base from which they are speaking. They must think that businesses revel in seeing problems occurring in their operations. They must think that businesses delight in having workplace injuries, accidents and deaths. That is not the case.

The government should look at page 2 of the first of its occupational health and safety quarterly reports for 2003-2004, which states:

COMMISSIONER'S FUNCTIONS

1. **Promotion of Occupational Health and Safety**

WorkCover @ Work

In addition to the ongoing site visits and information program, 46 new participants became involved in the use of the *Small Business Occupational Health and Safety Toolkit*. The *WorkCover @ Work* service continues to be recognised as a very useful resource for small businesses and other workplaces.

What a fantastic union and interface between WorkCover and businesses! No big sticks or hard and harsh words are being used. I applaud WorkCover for working hard to ensure that businesses are doing the right thing. In addition to WorkCover @ Work, the information that is being sent to clients and the education programs, telephone calls, counter inquiries and presentations, there were a staggering 33,033 contacts with employers and employees this quarter. I applaud the government and WorkCover on that magnificent work.

Whilst the majority of contacts related to questions or to the provision of information about occupational health and safety matters, it is interesting to note that this quarterly statistic includes 1,686 telephone inquiries about the operation of amendments to the Workers Compensation Act 1951. I believe that 162 information packs were sent to employers who wanted to learn about those amendments, which is absolutely fantastic.

I applaud the government and WorkCover on that brilliant approach. Ham-fisted legislation would just be a waste of time and energy. Ms MacDonald, the minister, Ms Gallagher, and I have applauded the occupational health and safety awards. Forty-nine nominations were received for the awards—a significant increase on the nominations that were received last year and an indication of the increasing awareness of workplace safety and the quest for its recognition through those awards.

The government, which apparently wants some sort of medal for the work that it has done, should use that avenue. I think the occupational health and safety awards are wonderful. I applaud the government on the work that it is doing in that area. I think it is a move in the right direction. As I said earlier, businesses in the United States are now quite sceptical about this government's commitment to small business. Is this legislation necessary? Nobody really wants it and nobody thinks that it is necessary.

Why is the government not satisfied with just ramping up occupational health and safety legislation? Ms Gallagher said earlier that she was committed to doing that, and I applaud her for that. We must have safe workplaces. We cannot allow injuries to continue and we do not want people to become maimed or injured. Suffice it to say that ACT WorkCover will ensure that occupational health and safety legislation is implemented in a non-adversarial way—in the way in which the minister wants it implemented.

The government should give WorkCover additional resources and it should toughen up occupational health and safety legislation. This legislation would then be redundant. Is it a matter of pride? The government, having gone down this track, does not appear to want to let go of this legislation, which is silly. We have a really good body of people, and

excellent legislation is already in place. The government, through the implementation of this legislation, would just be adding another layer of red tape to bog down people.

If the government gave WorkCover additional resources this legislation would then be redundant. Most employers want to do the right thing. Despite what the government has said, businesses in the ACT want to do the right thing. In fact, that statement is borne out by a huge increase in the number of businesses contacting ACT WorkCover. People are not running from the problems; they are seeking a solution to them. This government, to its credit, has provided a solution, which should be implemented.

Surely no reasonable and sensible business owner believes that any injury in the workplace is acceptable. What is this government's true agenda? It could be summed up best by referring to comments that were made by the Australian Chamber of Commerce and Industry. It states:

> The ACT government's proposal is a matter of national policy concern to the Australian business community.
>
> It is an unnecessary proposal that responds to an extreme union agenda. Governments and parliaments in Queensland and Victoria have already rejected it.
>
> An industrial manslaughter law does not reduce the risk of workplace fatalities in Australia, which are decreasing as employers and employees increase awareness and communication on workplace safety.
>
> A separate statutory offence of industrial manslaughter diminishes the real focus on occupational health and safety in the workplace.

If we want to achieve—

Mr Stanhope: Garbage.

MRS BURKE: The Chief Minister knows that that is not garbage. This legislation, which is an absolute sham, will serve no good purpose at all. Legislation is already in place and we also have a good body of people. If this bill becomes law it would send the wrong message to investors in small and medium-size businesses, which are the backbone of this city and Australia. The Australian Chamber of Commerce and Industry also states:

> Enactment of the bill would send a message to investors (especially small and medium business) that the ACT is a jurisdiction of high risk and excessive sanction in terms of business activity.

I do not think this government wants to become known as a jurisdiction of high risk and excessive sanction. What a lovely title that would be! The Australian Chamber of Commerce and Industry also had this to say:

> When OHS becomes the 'whipping boy' for extreme and unbalanced policy responses by government the importance of OHS in the workplace is diminished.

[Extension of time granted.]

The Australian Chamber of Commerce and Industry then states:

> Worse still, the real message of mutual co-operation to improve workplace safety that should be communicated to ACT businesses and employees (a message which we as the nation's peak employer body spend so much time on promoting) is lost in the fog of a punitive Bill such as this.

That statement speaks for itself.

Mr Stanhope: Who wrote that?

MRS BURKE: The Australian Chamber of Commerce and Industry made that statement.

I will make a few comments about another of the biggest and most experienced industry groups in Australia that quite wisely and rightly want safer workplaces in Australia. Who does not want safer workplaces? This government seems to think that Liberal opposition members do not want safer workplaces, which is utter rubbish. We must ensure that our workplaces are safe.

I have contributed on many occasions to debate in this place to promote ACT WorkCover practices. I have told members that when I was in a former occupation I worked well with ACT WorkCover to promote safety in the workplace through small businesses and students. I won an award for that work—an award of which I am proud. I read from a document prepared by the Australian Industry Group that states:

> … no more power or clear rights to institute improved safety control mechanisms. The Bill puts the full onus of responsibility on employers without clarifying the uncertainty around issues such as drug and alcohol testing and dismissals for safety breaches. These issues will have heightened importance in this new safety regime and should have been clarified as part of the package.
>
> Success in avoiding the tragic consequence of a workplace death is best achieved by the joint efforts of employers and employees.
>
> There is a danger that the Industrial Manslaughter Bill could lead to resources being diverted from existing successful OH&S priorities.

This government is robbing Peter to pay Paul. The minister should stick with what is going well. There is no demonstrated need for this bill in the ACT. The safety and welfare of our workers is paramount. However, it is ridiculous to force additional legislation on a jurisdiction such as Canberra. There is no point in doing that. The provisions under the Crimes Act cover that. The existing national focus on managing risk in the workplace is already working.

We require a much less adversarial approach, though I was told by a couple of government members that this place is adversarial. If that is the way in which members want to operate they should go for their lives. The government and those members do not appear to want to work with the people. The Australian Industry Group also states:

> …there should have been a review which specifically assessed whether the Bill was genuinely necessary or whether reform of existing remedies could have achieved a better outcome.

Why do we not build on the things that we already have? The Australian Industry Group goes on to state:

> The Bill is vague and imprecise in its application and scope.
>
> The Bill has significant potential for unintended and unfair consequences.
>
> This Bill introduces a new concept unlikely to get the balance right even if it was necessary.

Have members thought about the fact that this bill, as a new law, is open to interpretation? The Australian Industry Group finally states:

> Approaches in other jurisdictions that focus on broad based risk management systems, education and, where necessary, reviewing existing sanctions have been more successful.

This proposed legislation, which is adversarial in nature, is not consistent with the underpinning themes of the national occupational health and safety strategy, to which this government is a signatory.

MR SMYTH (Leader of the Opposition) (8.21): Mr Hargreaves, in his contribution to debate on the Crimes (Industrial Manslaughter) Amendment Bill, said that this was "just legislation". Will this proposed legislation come into effect only after someone is dead? It cannot assist someone who is dead and it cannot bring that person back to life. This government should have introduced legislation to prevent workplace deaths.

Ms Gallagher: Exactly.

MR SMYTH: The minister said that we should enact legislation to stop workplace deaths. As I said earlier, this legislation will not bring back to life those people who have died. Ms MacDonald said in debate on this bill that we should not tolerate employer negligence or the avoidance of work practices that could result in the death of a worker.

Is the minister guilty of that same negligence and avoidance? Mr Corbell, who was Minister for Industrial Relations for a year, did nothing in that portfolio. Perhaps the same charges could be leveled at Ms Gallagher. While she has been Minister for Industrial Relations the only bill that we have had to deal with is a bill that will punish someone after the event. Questions that were asked of her on Tuesday, which she answered yesterday, revealed the low level of government activity in the occupational health and safety area.

Yesterday the minister revealed some startling facts about an issue that I am sure was picked up by Mr Speaker. The minister said that not one on-the-spot fine had been issued by this government for breaches of occupational health and safety legislation. She must have forgotten to tell us the number yesterday. Perhaps she will leap to her feet today and tell us how many fines have been issued. I understood from her answer yesterday and

from what I have been able to find out today that not one on-the-spot fine has been issued since Mr Speaker's legislation was passed in March 2001. Why has that not occurred when the necessary legislation is in place? If that legislation is unworkable this government has had two years within which to amend it.

Ms Gallagher: There are no regulations. We have to do the work.

MR SMYTH: This government has done nothing in the two years that it has been in office. Ms MacDonald now has the admission of negligence and avoidance that she was seeking earlier. The legislation has been in place for two years but the regulations do not work.

Ms MacDonald: You are low and you are speaking a load of rubbish.

MR SMYTH: How quickly government members bite back when the truth is revealed. Ms MacDonald was heard in silence. This lack of courtesy from government members is an indication of just how touchy they are.

MR SPEAKER: I will remind you of that, Mr Smyth.

MR SMYTH: I am sure you will, Mr Speaker. I would like to read from one of your press releases. I am an avid fan of the Wayne Berry archive. It is a wonderful thing. Members should go there occasionally and read what Mr Berry said he was going to do when his party was elected to office. I refer to a press release that is headed "Criminal sanctions for workplace injuries and deaths", and that is dated 20 September 2001. This is a revelation of the government's inactivity.

The only thing Ms MacDonald said in debate that is true is that while there is government inactivity people will die. Two years of inactivity on the part of this government has resulted in more workplace deaths. Ms Gallagher said earlier that workplace incidents and deaths are on the increase. What has this government done to stop that? I refer again to Mr Berry's press release dated 20 September 2001, which states:

> Labor will immediately move to have these industrial manslaughter laws drafted after the October Assembly election in consultation with industry and the union movement with a view to having these laws in place by the end of 2002.

That was a year ago. Mr Speaker, you are absolved because of the position that you hold. We have now reached the end of 2003 and two Labor industrial relations ministers have not honoured that commitment. Is that an indication of the importance that this government places on occupational health and safety issues?

We could fight this out on ideological grounds as the lines have been drawn. It is a good thing that government members intend to support the union movement and the workers. Opposition members believe that businesses should be given some consideration but workers should also be looked after. For those members who are not aware, I am wearing a CFMEU lapel pin that was given to me by that body because I defended it against the Labor government.

The stingy, mean and narrow-minded Labor government would not accept a gift. An interesting thing about the pin is that it was a gift from the CFMEU—the union—and from business. I say to the union and to Andrew Robb and Associates and the Kingston Hotel, "Well done!"

Ms Gallagher: Gary Robb.

MR SMYTH: The minister is right; it is Gary Robb and Associates. I thank her for pointing that out to me. I also say, "Well done" to those members of the Liberal Party who stood up to a government that would not accept a free utility to help bush firefighters. When we work together we can actually achieve something.

This adversarial system will implement special industrial manslaughter provisions that will result in the imposition on employers of heavier penalties than those that would be imposed on a criminal who was caught in the act of committing manslaughter. This government is not fair dinkum.

Another unique thing happened in March 2001 when Mr Berry introduced his legislation for on-the-spot fines in the occupational health and safety area. The then minister responsible for industrial relations matters released a discussion paper about upgrading the Occupational Health and Safety Act 1951. I was that minister. Almost three years later that paper has not come back to this Assembly. The work of the committee that was established at that time has not progressed because two negligent Labor ministers have avoided their responsibilities. Things do not progress if decisions are not made.

What we have is government through inactivity. This government has had two years within which to work with unions and employers. The Stanhope Labor government has had plenty of opportunity to honour its commitment to workers and to do something to prevent these workplace deaths. It has done nothing to stop those deaths. Under the new act we will have an inadequate number of inspectors to implement on-the-spot fines. Training programs are non-existent. We should ensure that those inspectors are competent and that they have been trained to implement these provisions. They must also be helpful rather than a hindrance.

Mr Hargreaves: Go on, criticise them now.

MR SMYTH: No, I am not criticising inspectors. That is Mr Hargreaves' standard defence when he gets titchy. Mr Titchy will never sit on the front bench.

MR SPEAKER: Order! I remind members that interjections are disorderly.

MR SMYTH: I agree with Mr Speaker. Mr Hargreaves is disorderly.

MR SPEAKER: If members respond to interjections that is also disorderly.

MR SMYTH: This supposed commitment of the Labor Party has been shown up for what it is—a sham. We as a community can achieve a great deal when we work together to make things better. Putting in place legislation that many groups have said will lead to alienation, resentment or fear is not working together. When I was the responsible minister I was proud to be able to stand with CFMEU representatives at a building site in

Belconnen. The CFMEU, in conjunction with employers, launched a program to reduce drug and alcohol abuse in the industry.

In a little office at the Belconnen markets, businesses and the union—the CFMEU—are working together to reduce the incidence of mental health problems among workers in that industry. It is a fabulous initiative. No punitive laws have been put in place and no new sections have been included in the act. Businesses and the union are doing that together to try to make it work. That is the best way to approach this problem. The only way to make a real difference is by getting businesses, the union, the government and the community working together. We must do that with peer support to ensure that everybody looks out for everybody else rather than having alienation, resentment and fear. That is the problem.

I repeat the words spoken earlier by Ms Gallagher. During Mr Pratt's contribution to debate on the bill she interjected, "And the incidence is on the rise." What has this government done to stop the increased incidence of workplace deaths? Where are the budget initiatives to beef up WorkCover? Where are the regulations that government members said earlier were missing?

Ms Gallagher: They are coming.

MR SMYTH: The answer that we have been given is that they are coming. That is the standard mantra of the Stanhope government. What we have is government through inactivity. The government has told us that the regulations are coming. It has taken this government two years—which is too long—to put together some regulations. I suspect that this bill is a smokescreen because of the inactivity of this government. What is the best way to address these occupational health and safety issues? As Mr Stefaniak has already pointed out, we do not want to be soft on those who breach the act or on those who cause a death in the workplace. But those people can already be sanctioned under the existing act.

Last year we changed part 2.5 of the Criminal Code, which includes sections 49 to 55, to establish corporate criminal responsibility. Those provisions are already in the act. Why did the Attorney-General not tell the Minister for Industrial Relations when this legislation came through cabinet that the act had already been changed? Last year we helped the government change that act. The Attorney-General forgot to tell people about that.

Those sanctions already exist in the law. We must be proactive in relation to this issue. Should we embrace this adversarial legislation or should we approach this issue as a community? Was this legislation introduced because of Labor Party preselections? Labor members could be showing their muscle in an attempt to obtain union backing and votes. However, that approach is not helping the worker. By alienating business this government is not helping the worker.

We should work with those groups and try to solve these problems together. That is the only way in which these problems will be solved. Occupational health and safety workers have not been allocated the necessary resources to resolve these issues and the government has not given these issues adequate priority. I refer members to a report that was tabled today concerning a review of the Occupational Health and Safety Act 1989

and associated laws. We have ongoing reviews of the Public Health Act, the Radiation Act and the Electricity Act, which is good. We must examine proposed laws.

During the last quarter advice was provided to the Chief Minister's Department about the implementation of reforms to the Workers Compensation Act, the review of occupational health and safety—it has taken the government 2½ years to do that—and the review of numerous legislative proposals relating to the Dangerous Goods Act. Did the minister take any action during that quarter? Did the minister say or do anything? The report to which I referred, which makes reference to ministerial activities, goes on to state:

> The Minister gave no directions in the period 1 July 2003 to 30 September 2003.

Earlier in debate the minister admitted that workplace incidents and deaths were increasing. I have with me a report that damns the minister as she gave no direction to departmental officers to stop those incidents or to stamp them out. She did not tell departmental officers that they should utilise their resources to stop deaths in the workplace through providing education or whatever else was required. We have not had anything of that sort from this minister.

A broader issue is involved in the relationship between this government and business. Other states and territories have said that they would enact similar legislation. It is important to remember that the Bracks government in Victoria, which controls not only the lower house but also the upper house, has decided that this legislation is unnecessary. The Carr government in New South Wales has decided that this legislation is unnecessary. The Queensland government will not be proceeding with its proposed legislation. Tony Blair does not believe that we should enact legislation such as this. All those things should have an impact on our decision.

What is the cumulative impact of this government's legislation on businesses in this state? We have proposed industrial manslaughter legislation and portability of long service leave provisions. Unions have been given the right to enter premises. and payroll tax thresholds have not been increased. The government's attempt to impose an additional tax burden fell over and a white paper, which has been on the boil since June 2001, has delivered nothing. We must work together as a community to make these things happen.

Mr Stanhope: Why don't you like workers? Tell us about that. Why don't you like workers?

MR SMYTH: Once again the Chief Minister is clutching at straws. He asked me a rhetorical question: "Why don't you like workers?" Of course I like workers. Everybody likes workers. What a ridiculous defence! That is the Jon Stanhope defence. He does not have anything witty, funny or cunning to say, so he says, "Why don't you like workers?"

MR SPEAKER: Order! Members will come to order.

Mr Stanhope: Let's get to the nub of the issue.

MR SMYTH: Let us get to the nub of the issue.

MR SPEAKER: Order! Mr Smyth has the call.

MR SMYTH: We must put appropriate legislation in place quickly. That is not what we are seeing from the current government. Commitments are not being met and reviews are not being completed on time. *(Extension of time granted.)*

Mr Speaker, I will comment on some of the things that you said earlier in debate and I will do so with great trepidation. You commenced your speech by thanking people in the gallery. It is appropriate to thank people in the gallery because of the intense community interest in this issue. It is to their credit that many of them came back to listen to the debate this evening. I welcome them to their Assembly which should be making good laws on their behalf. However, we should not be implementing laws that lead to alienation and fear or that drive wedges between various sections of the community.

We have only to look at some of the lists that have been compiled to see the organisations that oppose this legislation. If we are to deal effectively with occupational health and safety and workplace safety issues we need a different culture. We must work together to achieve our goals and we must try to prevent accidents from occurring. That is not what we are seeing today. What we are seeing today is a cheap shot; it is the easy option.

This bill seeks to blame somebody. Why do we not all take responsibility for the deaths of people in the workplace? Bosses, unions, workers, the community, educators and lawmakers should all take responsibility for the deaths of those workers. After all, we are all responsible for the safety of those around us. I believe that we should work together rather than drive wedges between different sections of the community. We must not blame one another across this chamber.

That will not happen if members have that sort of attitude. We must be willing to pull down the barriers and work together. There are better ways to improve the Occupational Health and Safety Act. It will not happen if wedge politics are employed and the government adopts a simplistic approach to a very serious issue. This government has had two years in which to implement a review and to draft some legislation. What we have seen is two years of inactivity by this government.

Mr Stanhope: Will you have the numbers before Christmas, Bill?

MR SMYTH: I am sure that government members hope that Kim Beazley has the numbers as Simon lost his seat.

MR SPEAKER: Order! Mr Smyth has the call.

MR SMYTH: The Chief Minister, who is trivialising this issue, clearly has no depth. We, as legislators, must be willing to get together with unions, employers, community groups and educators to do something about this whole issue.

An incident having occurred in the gallery—

MR SMYTH: A person in the gallery interjected that we should have a big group hug. That highlights the shallowness of that individual, which is no reflection on members in this place.

MR SPEAKER: Order! Interjections from the gallery are highly disorderly.

MR SMYTH: If the government is intent on employing that technique we will not have a community approach to resolving these issues. Experience has shown that it will work much better if we do things together. The opposition opposes this unnecessary legislation that will drive a wedge into the community rather than bringing the community together. We oppose this legislation because it is badly drafted and because it does not have widespread community support. We oppose this legislation because it will not achieve what it purports to do—that is, reduce the number of workplace deaths.

If we are to reduce the number of deaths in the workplace we need a modern, efficient Occupational Health and Safety Act. We look forward to seeing the draft regulations that were alluded to earlier by the minister. We would like to see WorkCover adequately resourced. Its present inadequate resources have resulted in its inability to enforce the law. Those are some of the things that will reduce workplace deaths. Bosses, workers and unions must work together towards a common goal. They must not work against one another to the detriment of all.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (8.41): Tomorrow we will see in the *Canberra Times* the headline "Liberals fought long and hard against this legislation". It appears as though the only tool that the Liberals have is volume. We have heard some lengthy speeches that were full of clichés but that were totally devoid of any reasonable arguments.

I was amazed at some of the arguments that were put forward today as opposed to the arguments that were put forward yesterday when we were debating a sentencing bill. There appears to be a 180-degree difference in the type of logic that is being employed. I participate in debate on this bill to advise Mr Smyth that if the HR Nicholls Society had given me a lapel badge I would not wear it regularly. The member appears to be the butt of a cruel joke. The member, who wore the badge on an earlier occasion, is now making himself the butt of a cruel joke.

MRS DUNNE (8.42): It is sad that such an important matter—deaths in the workplace—is being treated in such an offhand way by a party that alleges it is concerned about the workers. The Chief Minister interjected earlier, "What have you got against workers?" Quite frankly, we do not have anything against workers. We are all workers, we are married to workers, we have children who are workers and we have parents who are workers. I was a member of a union when I worked in places where that was appropriate, I have been a union organiser and I attended union meetings regularly.

Mr Stanhope: What union was that?

MRS DUNNE: Over a period of 20 years I was a member of the CPSU and the ACOA and all the various versions of that union. I was a member of a union for the whole of the period that I was a member of the public service. My father and I participated in union

activities and my children participate in union activities. I come from a union family and a working family. I have nothing against workers. We have only to look around this chamber to see people who have worked all their lives. Those people, their families and the people that they represent have worked all their lives.

Members in this place represent people who work every day. Debate on this issue should not be between them and us—a 19th century, antiquated version of bosses versus workers, or union versus capital. That is not what this legislation is about. As Mr Smyth said earlier, it is an issue that concerns the community. We should all be concerned about the fact that people, in whatever walk of life, might needlessly die one day because they go to work. We hear horror stories on a regular basis about negligent activities in the workplace. Regardless of whether workers or supervisors are responsible for those negligent activities or whether bosses encourage them, they should all be prosecuted.

People who do the wrong thing and who put themselves, their workmates, their employees or the people that they supervise at risk, should be prosecuted. We should have legislation in place that allows us to do that. The provisions in this legislation are unnecessary because, for the most part, those provisions are already in place. This legislation will not prevent the phoenix company—the people who disappear and re-form themselves as a $2 company—coming back and doing the same thing.

Those are some of the things that this legislation does not address and that this government has not addressed in the two years that it has been in office. Those are the things that I, as a representative of people who go to work every day, want to see happen in this place. If that does not occur the ministers and the people responsible for these issues would have let down the community.

Most opposition members have alluded to the fact there is a considerable lack of support for this legislation. I am mindful of the fact that people in the gallery, whose views I respect, would have liked to see this legislation enacted. I disagree with them on that issue. A great many people do not support this legislation. The lengthy list that has been compiled encompasses a wide cross-section of the Australian community. Included on that list are: the ACT region Chamber of Commerce and Industry, the Canberra Business Council, ClubsACT, the Australian Chamber of Commerce and Industry, the Victorian Employers Association, the State Chamber of Commerce of New South Wales, Employers First, Australia Business Ltd, Commerce Queensland, Business SA, the Chamber of Commerce and Industry of WA and the Chamber of Commerce of the Northern Territory.

The list includes also a large number of national business organisations, for example: the Agribusiness Employers Federation, the Australian Soft Drink Association, the Australian Consumer and Speciality Products Association, the Australian Entertainment Industry Association, the Australian Hotels Association, the Australian International Airline Operators Group, the Australian Mines and Metals Association, the Australian Minerals Association, the Australian Paint Manufacturers Federation, the Australian Retailers Association, the Housing Industry Association, the Insurance Council of Australia and Investment and Financial Services Association Ltd.

The list includes the Master Builders Association of Australia, although Ms Gallagher pointed out earlier that the local MBA is less concerned about this legislation. I had

conversations with the MBA and I established that it is quite comfortable about this legislation. The list also includes: the National Electrical and Communications Association, the Pharmacy Guild, the Plastic and Chemicals Industry Association, the Printing Association of Australia, the Restaurant and Catering Association, the Victorian Automobile Chamber of Commerce, the Corporate Directors Association of Australia, the Australian Industry Group and the National Farmers Federation.

That represents a large cross-section of interests and industries that sent a strong message to us that this is not the way to go. I suggest to members of this house that a more consultative, more inclusive and more community-based approach would have been better. It could have led, in a few years time, to a much more satisfactory industrial safety record than we currently have. The test of this legislation will be whether in two, three, or five years time things will be any better.

The test of any legislation in this place must be whether anything will be better as a result of the passage of that legislation. I get a little tired of being Cassandra in this place. However, on this occasion, I fear that nothing will be better. Nothing will change unless there is much more activity from those who are responsible for the occupational health and safety of people attending work. Nothing will change for the better until there is more community-based consultation and an all-embracing approach to occupational health and safety.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.49), in reply: The ACT is poised tonight to become the first jurisdiction to legislate a specific crime of industrial manslaughter. This legislation will complement other occupational health and safety laws and initiatives which seek to protect the health and safety of all ACT workers. This government has taken the view that, if a worker dies at work and that death was the result of a reckless or negligent action of an employer, the offence should be treated as more than an occupational health and safety breach; it should be treated as a crime under the Crimes Act.

Australia has a terrible record when it comes to workplace deaths. Annual work-related deaths across the country exceed 2,500 per year, or approximately 50 deaths per week. The annual road toll in 2001 was 1,736. In the ACT we have had 20 work-related deaths reported since 1989, and so far in 2003 we have seen two people die at work locally. While the ACT record is better than most, this is largely due to the lack of heavy manufacturing and transport industries here rather than because we are doing anything better than anyone else.

It is important to recognise that this bill places no additional responsibility on an employer. It is currently against the law for an employer to kill an employee at work. The current responsibility for employers and employees under the OH&S Act remains in place. The general manslaughter offence in the Crimes Act applies to anyone who negligently or recklessly causes the death of another person. And if an employer negligently or recklessly causes the death of one of their workers they can already be charged. This bill does not extend the current manslaughter laws as they apply to an individual.

However, importantly, the bill does seek to catch a corporate responsibility in relation to the death of a worker. The Crimes (Industrial Manslaughter) Amendment Bill has been developed to address gaps in ACT criminal legislation regarding the prosecution of companies for manslaughter.

These days most people are employed by companies and, as other speakers have mentioned, it is extremely difficult to prosecute a company for manslaughter. Essentially, the person whose reckless or negligent conduct caused the death of a worker must be proven to be the directing mind and will of the company for the company to be held liable. This has only ever been established in one Australian case.

It is particularly difficult to establish for large companies who often have many levels of management between the directors and the shop-floor managers whose conduct in employing the directors' policies has the actual impact on workers. Whether directors' policies and decisions are what actually cause the death of a worker or the directors allow a corporate culture to develop that disregards workers' safety, that company needs to be held to account.

The bill addresses these problems by applying the principles of corporate criminal responsibility set out in the new ACT Criminal Code to the new industrial manslaughter offences, making it simpler to prosecute large corporations and putting all ACT employers on an even footing regarding their potential liability when a worker is killed at work. Just as the law provides for manslaughter charges where a motorist is so negligent or reckless that their driving results in the death of another person, so too it is proposed that the law provide for industrial manslaughter charges for an employer whose conduct is so negligent and reckless that it results in the death of an employee.

Throughout the consultations on this bill there has been much discussion on the terminology "negligent" and "reckless" and how courts may interpret these words. In civil cases, judgments surrounding negligence have varied, as have interpretations of what constitutes negligence. In civil cases the court reaches a verdict based on the balance of probabilities and without a jury.

The important difference of the offence of industrial manslaughter is that it will be a crime under the Crimes Act—that is, the DPP must bring the charge; the matter will be dealt with before a jury; and the criminal test of the words "negligence" and "reckless" applies. The point here is that you cannot compare judgments made in civil cases and apply them to the proposed industrial manslaughter laws. We have trust in our courts for all other areas of criminal law, and this will remain the case with industrial manslaughter.

This bill is good law; it protects both employees and employers who do the right thing. If you are an employer who abides by the OH&S Act, then this law will not change anything. Your responsibilities towards your employees remain the same.

Mr Speaker, the bill has been subject to extensive consultation since its introduction in December of last year. At that time the government asked the Assembly to refer the bill to the Standing Committee on Legal Affairs to enable the community and members time to consider the bill's provisions.

The bill has been subject to public hearings and submissions to the committee. I and officers from the Chief Minister's Department and my own office have met with representatives of business and workers throughout the year to promote understanding of the bill. Unfortunately, there is still a good deal of misinformation being promulgated by some parts of the business community.

In order to ensure that employers fully understand the new legislation and their occupational health and safety responsibilities more generally, I am introducing an amendment to delay its commencement for three months, to 1 March 2004. The government will undertake an education campaign for all ACT workplaces about the new laws before commencement takes effect.

I have earlier referred to concerns in the business community that a worker whose criminally reckless or negligent conduct causes the death of another person will be subject to a lesser offence than that applying to senior officers. To make absolutely clear this is not the case, I am also proposing to amend section 49D of the bill to insert an explanatory note that the general offence of manslaughter in section 15 of the Crimes Act applies to everyone including workers.

In summing up, Mr Speaker, I would like to take a moment to look at the human side of this. I would also like to acknowledge the presence in the chamber of Ms Sue Exner—I think Ashley and Brendan have gone home, but they were here earlier today—the mother of the young man who died on his third day of work six weeks ago. We have with us today a family and some of the friends of a young Australian who went to work one day and never came home. He never came home to his family. It was his third day at work, on top of a roof; no safety equipment; no OH&S training; just straight onto a roof, put there by a cherrypicker; and left to work it out for himself. He paid the ultimate price, Mr Speaker; he paid with his life.

His family and friends' pain will live on, and it will always be there. As a parent, I can only imagine the pain his family and loved ones are going through. I had the privilege of meeting Sue Exner yesterday, a woman who lost a son six weeks ago, and yet who is brave enough to turn up here today and speak with me about why it is so important to pass these laws.

Her question to me was simple. Why would anyone oppose these laws? Why wouldn't you support laws that protect working people? My answer to her was just as simple. The opponents of this law have a harder job than mine. They have to prove why, in a situation where a worker dies at work and it can be attributed to an employer or any employing body, this act should not be treated as a crime; why in every other situation manslaughter can be used but not in workplaces? It is you over there that have some convincing to do. Mr Pratt, I challenge you: go and speak with Joel's family; you tell them why his death should not be treated with the seriousness it deserves from the Liberal Party; you go and tell them and you convince them.

When you are convincing them, you convince Robyn McGoldrick whose son, Dean, died, aged 17, four years ago. A paltry $20,000 fine was awarded for his death, and four years after that his family find out that the employer has paid $1,800. So you go and convince his family that the law is adequate. I believe your job is harder than mine, and you have to win that one.

I would also like to acknowledge the efforts of you, Mr Speaker, in bringing this bill together; and my predecessor, Mr Corbell, for making the decision to pursue industrial manslaughter as an offence. I am here as the third person in this chain and I am proud to be the minister responsible for this bill.

I would also like to thank the crossbench members for working with me on this—Kerrie Tucker for talking to me about education and the need to ensure that it is all in place before this law takes effect; Mrs Cross for holding two meetings that I attended, where discussions were useful and led to the government's amendments and, in terms of Mrs Cross's background and the conflict I think that she felt in dealing with small business, managing to look at the intent of the bill, to look at what the government was doing and overcome some significant challenges from her background to agree that this bill was the way to go. So to the crossbench I say thank you very much.

Before I finish I should just respond to some of the points raised by some of the speakers. I start with Mr Pratt. He accused that this law will drive businesses out of the ACT. To that I would say, "Employers who are responsible and take reasonable precautions to protect the safety of their workers have nothing to fear from this legislation." It is the irresponsible scaremongering by employer groups and to some extent the opposition that is frightening local businesses.

In terms of insurance, the claim that the impact on small business will drive insurance premiums up is totally inaccurate. It is not possible to insure against breaches of criminal law and the legislation will have no impact on insurance premiums.

You say that we are not serious about prevention. An earlier Liberal OH&S review that you mentioned, and I think Mr Smyth mentioned, focused on national competition policy only. There was no review of an effective compliance and enforcement model for OH&S.

Since coming to government, this government has required the OH&S Council to conduct a very thorough review of the OH&S Act, which took 12 months. It includes a range of recommendations for improved education and compliance sanctions that have been accepted by the government.

In relation to other governments not proceeding with this: the British government announced in May this year that it will introduce corporate killing legislation in autumn. Canada has already enacted corporate manslaughter legislation. The New South Wales government announced last week the inquiry to look at workplace deaths. So this issue is certainly not off the agenda in New South Wales. The Queensland government is still considering laws about workplace deaths and has specifically said that industrial manslaughter is not off the table.

In relation to some of the comments by Mr Stefaniak that the Criminal Code already applies to the manslaughter offence: again this is not correct. The corporate responsibility provisions in the Criminal Code only apply to new offences established after the Criminal Code took effect on 1 January 2003. So corporate responsibility provisions do not apply to the existing manslaughter offence. They would apply to the new industrial manslaughter provisions.

In time, the government will review other fatal offences in the Crimes Act and apply the corporate responsibility provisions to the other offences, but the government's priority is to apply these provisions to workplace deaths as most people are employed by corporations. The bill also introduces special penalties for corporations that are not available under the general manslaughter offence, such as community service orders, publication of offences and notification of shareholders.

You also mentioned there was a recent Victorian prosecution for manslaughter. There has only ever been one successful prosecution of a corporation for manslaughter in Australia, and that was in 1994 in the Queen v Denby. Mr Stefaniak, you may be referring to a prosecution under Victorian OH&S legislation, but prosecutions under OH&S legislation have consistently resulted in low penalties, such as the case relating to Dean McGoldrick. His employer was fined $20,000.

The government does not consider that it is good enough to prosecute employers under OH&S legislation where they have been criminally reckless or negligent and this causes a worker's death. In this case, appropriate criminal sanctions should apply, and this is what industrial manslaughter will do.

Finally, I would sincerely like to thank the officers of the Chief Minister's Department, particularly Penny Shakespeare, Shelley Schreiner and Fiona Gallaugher; along with Garrett Purtill and Brendan Ryan from my office. To get the bill to this stage has required enormous effort from all those involved, and on behalf of the government I would like to recognise that tonight.

This bill is a good one. It is one which protects workers and employers who do the right thing. I urge members to look to their conscience, to think about their own families and the value of working people's lives and show some respect and support the bill.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 10		Noes 5
Mr Berry	Ms MacDonald	Mrs Burke
Mrs Cross	Mr Quinlan	Mr Cornwell
Ms Dundas	Mr Stanhope	Mr Pratt
Ms Gallagher	Ms Tucker	Mr Smyth
Mr Hargreaves	Mr Wood	Mr Stefaniak

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.06): I move amendment No 1 circulated in my name *[see schedule 1 at page 4919]*.

This amendment just delays the commencement of this legislation till 1 March 2004, and that was in response to discussions I had with Mrs Cross, Ms Tucker and members of industry who wanted a period of time after the bill was passed to allow for education of their members and for education by WorkCover. I agreed to this amendment after they raised their concerns with me.

MR PRATT (9.06): Mr Speaker, we will support this amendment, and this thing is fait accompli. We will support this because it at least will allow more time for consultation with business and with other interests and perhaps time in which the government might look to make it a lot fairer than what it currently is.

MRS CROSS (9.07): Mr Speaker, I wanted to thank the minister and her office, Mr Purtill and Ms Shakespeare for their co-operation on this. My involvement in discussing the concerns with the minister had its genesis at a Master Builders Association lunch that I was invited to a few weeks ago, and it was interesting at that lunch that key stakeholders said to me that they didn't have too many concerns with this bill but the concerns that they had they wanted to discuss; so we discussed them.

Something I didn't mention before was Mr David Dawes and Frank Gillingham on behalf of the MBA were extremely calm, balanced and reasonable in dealing with the concerns that their industry had. They in fact had actually studied the bill quite thoroughly. They understood the bill, and it was refreshing for me to meet people who represent a peak body which this new bill affects more than most other industries and who were very reasonable in dealing with their concerns.

At the first-round table meeting that I had, which included the MBA among a number of other peak industry bodies in the ACT, it was the voice of reason and calm of Frank Gillingham of the MBA that in fact prevailed and helped just introduce some calm into the discussion.

I made it very clear to the meeting with businesses that I was not going to support this bill unless the businesses themselves found that the bill addressed their concerns. This first amendment of Ms Gallagher's does that. It does address some of the concerns. I will speak to the second amendment later. I wanted to thank the minister for being reasonable and I also wanted to acknowledge the work of the MBA and also the work of the HIA by David O'Keefe and Caroline Lemezina.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 and 4, by leave, taken together and agreed to.

Clause 5.

MR PRATT (9.10): I seek leave to move my two amendments on the pink sheet together.

Leave granted.

MR PRATT: Mr Speaker, I move the two amendments together *[see schedule 2 at page 4919]*.

The aim of these two amendments is to ensure that the offences prescribed here apply both to managers and workers. A worker is defined in the Crimes Act as a person who is an employee, an out-worker or an independent contractor. We think it is very important to embrace all those people in a company. We think, from the boss down, it is important that anybody be held accountable, where appropriate, for workplace deaths. It is to that end, Mr Speaker, that I put forward these two amendments.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.13): The government won't be supporting these amendments. Section 15 of the Crimes Act already covers the general offence of manslaughter, which would apply to workers in this instance.

MRS CROSS (9.13): I also won't be supporting them, not because they are not good amendments but because we already did the work behind the scenes with the minister to address the issue. This is covered in the minister's second amendment which says that the general offence of manslaughter in s.15 applies to everyone, including workers. I feel that that is covered under the term in this clause, so I won't be supporting these amendments.

MS DUNDAS (9.13): Mr Speaker, I would like to address the amendments on the pink sheet of paper as moved by Mr Pratt. I won't be supporting them because I don't actually think they do what the opposition want them to do. We heard through the debate at the in-principle stage about shared responsibility and how everybody should be responsible for looking after other workers. But what this amendment actually says is:

> An omission of a worker to act can be conduct for this part if it is an omission to perform the duty to avoid or prevent danger to the life, safety or health of another worker of the employer ...

I think the problem with this is that it is assuming that the worker knows all about health and safety responsibilities, can be everywhere at once and can see what is going on across the entire work site. It also talks about—

Ms Tucker: You didn't explain it very well, Mr Pratt.

MS DUNDAS: Ms Tucker pointed out that, if I have misinterpreted this, you haven't explained it very well.

Mr Speaker, this amendment was circulated quite late in the day, even though this has been on the agenda for over a year now from the time this bill dealing with industrial manslaughter was first introduced into the Assembly. The way I look at this is that it seems to say that every worker must be responsible for the health of every other worker on the site. I think we have just had the debate that a lot of that responsibility lies with the employer to make sure that workers are educated. So I don't think I can support this because I don't think it does what Mr Pratt wants it to do. It goes against the whole idea of industrial manslaughter which is talking about the responsibility of corporations and employers.

MR STEFANIAK (9.16): I don't know if it's going to be of any assistance to Ms Dundas, but I will seek to elucidate her in terms of what this actually means because it really is quite basic. I think Mrs Cross probably has got a pretty good idea of what it actually does. Ms Gallagher, I will come to your amendment No 2 which you have mentioned because that I think tends to wreck your argument in relation to this bill.

But my point, Mr Speaker, is that what Mr Pratt's two amendments do is this: the first one actually includes, apart from employers and senior officers, the two categories covered by this bill to date, workers as well.

What this bill, which has now been passed in principle and obviously has the numbers, is seeking to do is prosecute people who, through their omissions and actions, cause deaths which, under the criminal standard, form the offence of industrial manslaughter. It currently covers employers and senior officers who are defined.

I think we have heard today that there are other deaths in the workforce which sometimes are caused by actions, which indeed also can be criminal, by workers as well. In fact Lyall, Watson and Purnell mentions a case of a foreman, who might have under this act been classified as a worker and who didn't safeguard the lives of his fellow employees, who was found guilty of manslaughter. So this act covers two classes of people.

I come to the second of Mr Pratt's amendments. What he replicates there is exactly what is replicated on page 6 and page 7 of the bill, clauses 49B (1) and 49B (2)—in terms of the employer in (1), and the senior officer in (2). He adds a new subsection, (2A), at the bottom of (2), to include—and if you just have a look—a worker, because workers too can be negligent and cause the death of their fellow workers. This actually picks up—and I think in a much better way—what Ms Gallagher, with respect, is doing in her second amendment where she seeks to include workers by harking back to section 15 of the Crimes Act. If she does that—and I will speak more on that when that turns up—that is actually saying that you probably just need section 15 of the Crimes Act.

But we have this new act here now, and this I think is a much better way, a tidier way, of actually doing that because it includes a negligent or reckless worker who is negligent or reckless to the criminal standard, along with a negligent or reckless employer or senior officer. So you have covered all the types of persons who may, by their criminal activity in a workplace, cause the death of a worker, be it an employee or be it indeed a fellow worker.

Question put:

That the amendments be agreed to.

The Assembly voted—

Ayes 5	Noes 10	
Mrs Burke	Mr Berry	Ms MacDonald
Mr Cornwell	Mrs Cross	Mr Quinlan
Mr Pratt	Ms Dundas	Mr Stanhope
Mr Smyth	Ms Gallagher	Ms Tucker
Mr Stefaniak	Mr Hargreaves	Mr Wood

Question so resolved in the negative.

Amendments negatived.

MR PRATT (9.22): I seek leave, Mr Speaker, to move amendment No 1 and amendment No 3 circulated in my name on the white paper together.

Leave granted.

MR SPEAKER: Can I just ask the question: does that mean that amendment No 2 is not relevant to these two?

MR PRATT: Correct, Mr Speaker. I move the amendments circulated in my name *[see schedule 3 at page 4920]*.

Mr Speaker, given the government has now established industrial manslaughter alongside the garden variety, general law manslaughter, we now have two offences of manslaughter. These amendments will address major concerns that industry does have, without detracting from the legislation which has now been passed.

I speak to the definition of recklessness. We seek to pull out "negligence". Mr Speaker, recklessness in the Criminal Code covers the situation the government is trying to address; it does that. I just draw your attention to section 20 of the Criminal Code. In relation to "recklessness", I would just point out this:

(1) A person is reckless in relation to a result if—

(a) the person is aware of a substantial risk that the result will happen; and

(b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

(2) A person is reckless in relation to a circumstance if—

(a) the person is aware of a substantial risk that the circumstance exists or will exist; and

(b) having regard to the circumstances known to the person, it is unjustifiable to take the risk.

(3) The question whether taking a risk is unjustifiable is a question of fact.

(4) If recklessness is a fault element for a physical element of an offence, proof of intention, knowledge or recklessness satisfies the fault element.

We believe that this definition of recklessness is a much tighter and much fairer definition to be applicable to this new offence the government has now put down.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.26): The government won't be supporting either of these amendments as they would remove the component from the proposed offences relating to negligent manslaughter. Manslaughter applies to deaths caused by both criminally reckless and criminally negligent conduct.

The existing manslaughter offence in the Crimes Act applies to a person who is criminally negligent and causes the death of another person. Therefore if the negligence component of the two offences was removed, it would simply have the following effect, contrary to Mr Pratt's claim: employers and senior officers who are natural persons could continue to be prosecuted where they were criminally negligent and cause the death of a worker, only this prosecution would occur under the general manslaughter offence in section 15 rather than under the industrial manslaughter offences in sections 49C and 49D. Employers who are corporations could only be prosecuted where the corporation recklessly caused the death of a worker. There would be no effective capacity to prosecute a corporate employer who is criminally negligent and caused the death of a worker of the corporation.

Therefore, there would be two standards established: the normal manslaughter standard for employers who are natural persons, and a different lower standard for corporations. This would essentially allow corporate employers to be criminally negligent in causing the death of a worker and escape prosecution.

MS TUCKER (9.28): Amendment No 1 and amendment No 3 seek to fundamentally alter the definition and legal test for the offence of manslaughter for one group in society—for corporations. They propose removing one of the mental fault elements from this offence—that of negligence.

Do the Liberals truly want to let corporations get away with criminal negligence manslaughter? Do they really think it would be better for the community that, in a situation that involves a high risk of death and a corporation's conduct falls so far short of the standard of care a reasonable person would have exercised in the circumstances that criminal punishment is warranted, a corporation should get off scot-free for the actions that led to someone's death?

The links can be clearly shown. This law applies to corporations the same standards for manslaughter that already apply to everyone else. It means that corporations cannot escape their responsibilities. Criminal negligence is defined in the Criminal Code to apply to everyone. Negligent manslaughter in the workplace should not be something that corporations can escape responsibility for.

MR STEFANIAK (9.29): Mr Speaker, I am not quite sure if people were actually listening to Mr Pratt. Ms Gallagher is now saying, "Oh well, you'll have two standards." Ms Gallagher, we do and it will be as a result of the rejection of Mr Pratt's amendments 2 and 3.

Ms Gallagher: No, we have two offences, not two standards.

MR STEFANIAK: Sorry, you have just ensured there are two offences. Indeed, I think you used the word "standards", Ms Gallagher, and so I will use that too. So you have effectively ensured that occurs by excluding workers, which Mr Pratt quite sensibly was going to try to put in. But you have rejected that.

So realising there are in fact now two offences of manslaughter, Mr Pratt, I think most sensibly, has moved these amendments to get a little bit of balance and to recognise the fact that, yes, we are now going to have two offences of manslaughter—section 15 of the Crimes Act plus industrial manslaughter. His amendments go towards that.

Quite clearly, a lot of the problems which nearly all ACT businesses have revolve around the concept of negligence. Mr Pratt, I think, in referring to recklessness has quite clearly shown that the intent of what you are trying to do will indeed be achieved. But you have already managed to achieve two separate laws of manslaughter, and that in itself quite clearly will lead to problems.

Amendments negatived.

MR PRATT (9.30): Mr Speaker, I seek leave to move my amendments Nos 2 and 4 together.

Leave granted.

MR PRATT: I move amendment No 2 and amendment No 4 circulated in my name *[see schedule 3 at page 4920]*.

Mr Speaker, last night the government knocked out the opposition's attempts to increase the penalty under the Crimes Act for manslaughter, as we know it—

MR SPEAKER: But you won't reflect on that debate, will you?

MR PRATT: No, I am just making a comparison.

Ms Tucker: Well that's reflecting.

MR PRATT: No, it is not, Ms Tucker. Just sit back in your seat and wait.

MR SPEAKER: Mr Pratt, you cannot reflect on yesterday's decision.

MR PRATT: I am not reflecting. I do apologise to Ms Tucker—it is a complicated matter. I am not reflecting, Mr Speaker. I am making a comparison between the two manslaughters that we currently have.

MR SPEAKER: Thank you. The question is that Mr Pratt's amendments be agreed to.

MR PRATT: Can I finish my speech?

Mrs Dunne: Yes, keep going.

Ms Gallagher: Yes, go on. We understand the point.

MR SPEAKER: Order, members! Mr Pratt has the floor.

Mr Quinlan: Yes, but does he know it?

MR PRATT: You would not think certain members were listening, Mr Quinlan.

MR SPEAKER: Mr Pratt, do you want to speak to these two amendments?

MR PRATT: Mr Speaker, last night the government rejected attempts to amend the Crimes Act to up the ante on the maximum for manslaughter to 25 years. We cannot have two standards. If we are going to have two separate manslaughters then we had better make sure they conform.

Bearing in mind the definition in section 15 of manslaughter, the aim of this amendment is to at least make these two offences conform. The definition of manslaughter in section 15 is as follows:

> (1) Except where a law expressly provides otherwise, an unlawful homicide that is not, by virtue of section 12, murder shall be taken to be manslaughter.
>
> (2) A person who commits manslaughter is guilty of an offence punishable, on conviction, by imprisonment for 20 years.

Unless I have got it wrong, industrial manslaughter has a very similar definition. If we are going to play that game here then I am suggesting that we need to amend the legislation and reduce the government's proposal from 25 to 20 years.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.34): The government will not be supporting Mr Pratt's amendments No 2 and No 4. The existing penalty for manslaughter is 20 years imprisonment. However, this is inconsistent with the nationally agreed model criminal code which recommends a maximum penalty of 25 years imprisonment for the offence of manslaughter.

The government is committed to progressively applying the Criminal Code to all ACT legislative offences. All new offences created after 1 January 2003, when the ACT Criminal Code came into effect, must be consistent with the code. Rather than reducing penalties for industrial manslaughter so as to be inconsistent with the Criminal Code, the government will be introducing legislation to increase the penalty for the general offence of manslaughter so that it is consistent with the Criminal Code and the industrial manslaughter offences. It is expected the Department of Justice and Community Safety will review the other fatal offences in 2004.

MS TUCKER (9.35): This is a very unusual amendment from the Liberals. They want to reduce the length of a maximum prison sentence, and I am delighted to support them. It is so good to see them taking this sort of very sensible approach.

I understand the arguments that have been put by the government—that they are anticipating the fact that the Criminal Code which came into effect this year will increase the other penalty. I agree that it does not seem particularly equitable to have two different penalties, even if it is for a year. I am expecting that the Liberals will vote with Labor next year to make the maximum penalty 25 years anyway, but for the moment I will support Mr Pratt.

MS DUNDAS (9.36): Bearing in mind what has been said in the debates that have taken place in the Assembly about the lengthening of sentences, the ACT Democrats will also be supporting the amendments in regard to industrial manslaughter. The minister has explained that 25 years was picked because that is the maximum penalty recommended in the model criminal code. We have already raised in this house problems with the model criminal code, how we need to think about what is happening here in the territory, and how it fits in with the rest of the territory legislation.

The offence of industrial manslaughter will now be on the books. That is a good thing, but let us not go overboard. Let us look at how it fits in with the rest of the offences in the ACT. We can consider this matter when we come back in 2004 and look at what punishments we put on fatal offences.

MRS CROSS (9.37): I will also be supporting Mr Pratt's amendments. Given last night's debate and the result, I think I echo the sentiments of my crossbench colleagues Ms Tucker and Ms Dundas. I think it is in order that we bring the terms into line.

MR STEFANIAK (9.37): I think this is probably the first time I have ever risen in this place to suggest we reduce a penalty. But quite clearly—and I think the crossbenchers have explained the situation very well—there is a need to be consistent. It would be almost a form of legal apartheid to have two different penalties for effectively the same offence.

I am a bit disappointed with the government. Three or four months ago I suggested to them that if there was only one thing they felt they could vote for in my very sensible bill—the bill that they defeated last night—they should bring the maximum penalty for manslaughter into line with everywhere else in the country and with what we are going to ultimately have in the Criminal Code, and that is 25 years. The government did not do this. Accordingly, as Mr Pratt most capably stated, manslaughter, under section 15, remains at 20 years. Until such time as the code is reviewed, when we can look at upping it again, the maximum penalty here should be 20 years as well.

Amendments agreed to.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.39): I move amendment No 2 circulated in my name *[see schedule 1 at page 4919]*.

Mr Speaker, this very simple amendment seeks to insert a note under proposed new section 49D, explaining that the general offence of manslaughter in section 15 applies to everyone, including workers. Again, this has come out of my consultations with Mrs Cross and ACT business people who were concerned that the bill did not explain the obligations of workers and that the general offence of manslaughter would apply to them. The amendment seeks to insert a note so that that is clear to everybody.

MRS CROSS (9.40): I rise to support this very hard-fought, well-negotiated amendment. The genesis of the amendment came from a second round-table meeting that I had with members of the printing industry, who employ over 800 people, a representative from the Motor Traders Association, and a couple of others. It is interesting to note that these groups employ more people than do members of the ACT and Region Chamber of Commerce and Industry.

It is important that I highlight the point that the chamber represents fewer than 4 per cent of businesses in the ACT. It is not that those members are not important—they are—but it is important that we put things into perspective when we give credence and air time to one chief executive of one industry association who represents only a small number of businesses. It is odd that most of the emails, letters and phone calls that I have received in the last 48 hours, out of the last 12 months, have come from those members, who in fact are very good people—I have spoken to many of them—who have been panicked into an unnecessary situation.

Isn't it odd, Mr Speaker, that after the eloquent speech our Chief Minister made—I will not get to say that very often—on Ms Gallagher's bill, Mr Peters left the chamber. I wonder why. He could not stand the heat so he got out of the kitchen. He got caught out—that is the problem. He got caught out misleading his members, he got them worked up into a frenzy, and instead of him doing the job he is paid to do by the membership and lobbying all the members of this place on this bill in one way or another and looking to benefit and look out for their interests, he let them do his dirty work for him. That is the problem. And that is an abrogation of his responsibilities as a chief executive of a business association. Shame on you, Chris Peters!

I want to thank the minister, Garrett from her office, and Ms Shakespeare, who were extremely conciliatory in dealing with this issue. I am very pleased that the minister was respectful enough of businesses in the ACT—she did not have to really because she had the numbers to get this bill through—to genuinely take on their concerns. Following her offer to include this clause in the bill, those businesses made it very clear to me that they were then happy to support this bill with its two amendments.

I would like to express my gratitude to the minister because she is well aware that, to start off with, I, as a former businesswoman, had grave concerns about this bill. I think this goes some way in showing that when we are prepared to work together we can achieve good outcomes.

MR STEFANIAK (9.43): Whilst I can certainly understand Ms Gallagher's first amendment—indeed, we supported it—this one, I suppose if anything, is just a statement of the bleeding obvious. But it really brings home the nonsense of what we have done tonight because it seeks to insert a note—and I suppose that in itself is relatively

inoffensive; I might get some advice from Parliamentary Counsel on this one—that states:

> The general offence of manslaughter in s 15 applies to everyone, including workers.

Now, "everyone" is everyone. I would assume that would mean bosses, senior managers, anyone else—and, of course, specifically workers. If section 15 applies to everyone, including workers, why don't we just stick with section 15, which is going to be part of, I think, stage 4 of the Criminal Code next year? This picks up a point that Ms Gallagher raised in relation to what we already have in 2.5 of the code of 2002. Why on earth are we going down this path? Why couldn't you wait probably another six months for effectively the same result without causing us to now have two offences of manslaughter? It is an absolute nonsense; it is really a bastardisation of the law; it is appalling legal practice.

This just brings home the fact that we have two offences of manslaughter. Both of them seem to apply to bosses and to senior officers; one of them applies to workers and everyone else, including bosses and senior officers again. This just shows what an absolute nonsense this is. However, there probably will not be a huge amount of difference either way.

Obviously this provision is going to pass. But I just point out to you people the fact that this just shows the idiocy of what you have done, because you have now referred everything back to the old offence of manslaughter under section 15 that has served us well.

Mr Hargreaves: On a point of order, Mr Speaker: Mr Stefaniak just said this pointed to the idiocy that somebody has done. I think that remark should be withdrawn. That was a reflection on a member.

MR STEFANIAK: No, not a member, mate. That was a collective "you"—"you" plural.

Mr Hargreaves: Well, withdraw the remark.

MR STEFANIAK: All of you—all of you voting for this.

Mrs Cross: On the point of order: was that an imputation, Bill?

MR SPEAKER: I think it is unparliamentary to refer to the collective.

MR STEFANIAK: Stupidity or—

MR SPEAKER: Well, yes I think you should withdraw that.

MR STEFANIAK: I will withdraw "idiocy". But "stupidity", "silliness"—

MR SPEAKER: It is a point of debate.

Amendment agreed to.

MR SPEAKER: Mr Pratt, I have some other amendments in front of me and I am not quite clear what they are.

Mr Pratt: Mr Speaker, I am not proceeding with those.

MR SPEAKER: Thank you.

Mr Pratt: The point has been reached where they are now redundant.

Clause 5, as amended, agreed to.

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

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

Ayes 10		Noes 5
Mr Berry	Ms MacDonald	Mrs Burke
Mrs Cross	Mr Quinlan	Mr Cornwell
Ms Dundas	Mr Stanhope	Mr Pratt
Ms Gallagher	Ms Tucker	Mr Smyth
Mr Hargreaves	Mr Wood	Mr Stefaniak

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Statute Law Amendment Bill 2003 (No 2)

Debate resumed from 23 October 2003, on motion by **Mr Wood**, on behalf of **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (9.50): Mr Speaker, the opposition will be supporting this bill. The purpose of bills like this is to make statute law revisions that are minor, technical or non-controversial. This bill certainly seems to do that, although there are a couple of issues I will mention briefly.

Government agencies and the Parliamentary Counsel have proposed a number of amendments in relation to syntax, redundant provisions and the need to update legislation in relation to technical matters. For example, schedule 4 repeals redundant legislation such as that relating to the Institute for the Study of Man and Society. This amazing institution surfaced in about 1968 but it never actually got off the ground. Land was allocated but was surrendered. I understand that the institute undertook some work

in the late 60s and 70s. However, the legislation relating to the institute is redundant, so out it goes.

An item of some note is new section 75A, which clarifies exactly what "retrospective commencement" means and ensures that this can only occur under the authority of an act. I think that is a very sensible and somewhat significant provision.

The other noteworthy thing the bill does—and I would ask the Chief Minister to address this—is validate the actions of the Building and Construction Industry Training Levy Board for the period 1 November 2002 to 18 July 2003. I just want to know what happened there, why this has to be validated, why it was not validated initially and also the implications for the period 1 November 2002 to 18 July 2003. I appreciate that the appointment of some people needed to be validated, and that occurred on 19 July. But I think it is important for the Assembly to know what else occurred that needs to be validated.

I would like to make one further point. I think Parliamentary Counsel or the people who gave them instructions might have got ahead of themselves. The second last page of the bill, page 161, refers to the repeal of redundant or obsolete legislation and registrable instruments that are no longer needed. Reference is also made to division 4.4.3, Legislative Assembly (Members' Staff) Act, disallowable instruments, terms and conditions of employment of staff, et cetera. This has been made redundant and I have been advised that that is a little bit premature.

But apart from those points, Mr Deputy Speaker, there is nothing else that appears controversial in this bill. The opposition will be supporting it.

MS DUNDAS (9.53) The ACT Democrats will also, as with prior statute law amendment bills, be supporting this piece of legislation. I would like to take the opportunity to congratulate the Office of Parliamentary Counsel. I am continually impressed by the volume and quality of the legislation they prepare. Little slip-ups like the error in schedule 3 of the Public Sector Management Act, where the word "employers" was substituted for "employees", almost never happen despite the urgent timelines that drafters are forced to work to. So I commend all the drafters for preparing elegant legislation that is as clear and simple to understand as is possible. I commend them for always maintaining grace under pressure at times when amendments and revised amendments are flowing back and forth.

Despite dealing with so many drafting requests from ministers and other members of the Assembly, many of which are quite substantial, Parliamentary Counsel also find time to update and modernise our statute book. Reading legislation will probably never be the easiest way for ACT residents to find out what their rights and obligations are but I commend the efforts to make legislation as simple and as well-structured as possible. Although most of our statute book has been created by our own Assembly, we still have many acts that were incorporated from the Commonwealth and New South Wales, and the antiquated Public Institution Act of 1880, governing religious teaching in public schools, is one example that comes to mind.

So the process to update our statute book and eliminate antiquated acts and provisions is ongoing. The removal of the redundant reference to New South Wales legislation in the

Magistrates Court rules by this statute law amendment bill is one example of efforts to create a fully consistent and relevant statute book, and the elimination of unnecessary references certainly reduces confusion.

Mr Stefaniak and I found the same error with this piece of legislation—perhaps it would be better described as evidence of confusion. As Mr Stefaniak pointed out, on the final page of the bill before us the most recent determinants governing employment conditions of staff of Assembly members are listed for repeal and apparently Parliamentary Counsel, in its enthusiasm to tidy up the statute book, included these instruments for repeal, even though they are still currently in force for staff of Assembly members.

Parliamentary Counsel and the Chief Minister's Department have agreed that they will endeavour to communicate better in the future so that the effect of any proposed repeal is fully checked out before the instrument is included in a statute law amendment bill. But no harm is done in this instance because the bill, once passed, will not commence until 14 days after notification.

By the time the act commences, the new certified agreement governing members staff, which was overwhelmingly endorsed by staff last week, should be certified by the AIRC. The Chief Minister is then expected to have made a new, much shorter determination of employment conditions for members staff, and he will formally then revoke the old determinations at the same time. I will keep my eye out for the new determinations. I hope we have them within 14 days, otherwise we will be in quite a bind with the old ones being repealed by this piece of legislation.

That having been said, I again reiterate my support for cleaning up the statute book and making it more accessible for the people of the ACT.

MS TUCKER (9.56): This is another omnibus bill to tidy up or better express various parts of territory laws. There are just a couple of matters on which I want to comment. The Greens welcome the clarification of the Legislation Act so as to leave no doubt that making a retrospective law is a very serious matter. A retrospectively commencing act requires a clear intention. Further, a subordinate law—a statutory instrument—cannot provide for retrospective commencement of a prejudicial provision of the instrument unless this is done under the authority of an act. This is indeed a topical change.

The explanatory note uses the hypothetical locus damage compensation determination to show what a prejudicial provision is. This example is about a retrospective regulation seeking to take away something a group of people were entitled to. This echoes the federal government's recent stunt with retrospective subordinate legislation, excising even more islands from the definition of Australian territory. So I certainly welcome this change.

I would also like to comment briefly on the amendment which fixes up a mistake made in the appointment of members of the Building and Construction Industry Training Levy Board. Specifically, there is no record of a formal appointment or re-appointment of members of the board between November 2002, when the previous appointments expired, and July 2003, when new appointments were made.

The Chief Minister, in his presentation speech, described this instrument in July as a re-appointment but in fact there was a change made to the employer representatives on the board. Members of the board—one chair, two industry and two workforce representatives—are appointed by the minister, which should be done in accordance with part 19.3, division 19.3.1, of the Legislation Act.

The instruments of appointment to this board are disallowable instruments. The legislation register for 2002 does not show any disallowable instruments appointing members to this board. It is not until July 2003 that we get an appointment, and at that time the employer representatives were changed, as I said. However, the board's annual report states that the minister re-appointed the members for the period 1 November 2002 to 30 June 2003. Clearly, there was confusion in the paperwork. In any case, according to the board's annual report, there was no change in membership of the board throughout 2002-2003 and it is clear from the report that the board continued to do its important work of facilitating training, including substantially increasing the amount of money that went to entry-level training and to promotion and marketing.

It is still not really clear what happened, other than that there was an administrative oversight. It seems clear that the board continued with its membership unchanged through to the end of the 2002-03 financial year. This part of the Statute Law Amendment Bill is effectively to retrospectively approve the board continuing with its work, as it did, even though technically the members were not properly appointed for that period of time.

The Legislation Act does have a provision that the board should not be affected by mistakes in the appointment, but this is a little different to that situation. In one sense, this is a minor administrative matter. However, it is pretty important that, when we have statutory boards who are responsible for administering public money, the open processes of appointment are adhered to. We have all made mistakes and forgotten forms, but it could have been a problem. I would have felt a bit more comfortable with some more explanation up front.

On a related matter, the Public Accounts Committee has recently had some correspondence with the Chief Minister about the amount of information provided by ministers to committees in connection with appointments. I would like to point out that, contrary to the Chief Minister's assertion in his letter that appointments to boards are a matter for the executive and not for the Assembly, for the types of statutory appointments that must come to committees the Assembly does indeed have a role. Not only must the minister have regard to the recommendations of the relevant committee in making the appointment but the Assembly can disallow the instrument of appointment.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.00), in reply: I thank members for their contribution to the debate. I think, as members have indicated, periodic statute law amendment bills are very significant pieces of legislation. They tend to pass through the Assembly rather quickly, often with real ease.

We all acknowledge the significant work that the Office of Parliamentary Counsel does in preparing these periodic pieces of legislation to update our legislation. I also acknowledge the work and expertise of our Office of Parliamentary Counsel. I think the

ACT Office of Parliamentary Counsel has acquired for itself a reputation that is not surpassed by any similar office around Australia. That is a real credit to the office and to the ACT, and I would like to acknowledge that again tonight.

Both Mr Stefaniak and Ms Tucker went to some lengths to discuss the amendment relating to the Building and Construction Industry Training Levy Act 1999. The explanatory note in my introductory speech in introducing the legislation sought to explain the basis and the nature of the amendment.

Ms Tucker laments—and Mr Stefaniak made the same point—the lack of a fuller explanation. I rush to assure you, Ms Tucker, there is no conspiracy around this. There was a mistake. We do not quite know how or why it occurred or what particular system broke down, but I am prepared to cop the fact that a mistake occurred in the appointments and that the act needed to be amended retrospectively to fix it in the way that you indicated. I think it is appropriate that we do that after the event.

We acknowledge the error, the breakdown of the system. Certainly, it was a serious breach of process and we have no full explanation of exactly how or why that occurred. I regret that that happened. We have fixed it and we will move to ensure this does not happen again.

I am not sure there is much more I can say. I have no greater explanation than is provided in these documents, nor do those ministers of mine who were involved. I am afraid I cannot throw any greater light on the breakdown in process that occurred in relation to those particular appointments. It is a matter of regret and it certainly was an administrative failing on our part. All I can do is hope that it will not occur again.

I will say no more than that. This is a useful piece of legislation, a valuable continuing service provided to the legislature by the Office of Parliamentary Counsel. I thank them again and I thank members for taking an interest in this continuing law reform.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Gene Technology Bill 2002
Detail stage

Debate resumed from 28 August 2003.

Clause 4.

MS TUCKER (10.04): Just for the information of members, I was going to be moving some amendments, but I will not be moving them now. I would like to thank the minister for taking the time to get comprehensive advice to assist us in understanding what the implications might have been, had those amendments been passed. However, at no stage

did he, or could he, reassure us that those amendments are not needed. It is, in a way, one of the implications of Commonwealth-state agreements that we may find ourselves trapped with legislation that this parliament has never agreed to and would never willingly agree to.

Given that the gene technology regime as it now exists is governed by a very narrow construction of the notion of science, specifically excludes the consideration of social or economic cost, does not include a mechanism to ensure that liability is carried by the enterprise engaged in the trial or commercial exploitation of gene technology, and only applies the notion of the precautionary principle where it is cost-effective, we do, as a society, need to set up a framework to consider these other factors.

It is for that reason that I have proposed a ban on any environmental release of GM organisms, at least until such time as we have a better structure in place, and until more information is at hand. I understand from the Office of the Gene Technology Regulator that there are no applications for trials in the ACT before then. As the turnaround time is about 170 days, there is no likelihood of any such trials being put in place before March 2004.

Similarly, at the same time, the only new crop that is likely to be permitted for general release is the Roundup-ready canola, which in this part of the world is a winter crop, and so, even if it were to be planted in the ACT, would also not be planted before March next year. Consequently, the debate on the Greens bill, which does impose a ban on the environmental release of GM organisms, can be held off until a cognate debate with the government's moratorium bill in February next year. If, however, we find in the next few days that it is important to debate the ban earlier, then we would seek to have it debated in the December sitting.

Clause 4 agreed to.

Clauses 5 to 7, by leave, taken together and agreed to.

Clause 8.

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) (10.07): On behalf of Mr Corbell, I move amendment No 1 circulated in his name *[see schedule 4 at page 4921]*.

Clause 8 of this bill is to be amended due to the repeal of the Criminal Code 2001 and its replacement with the Criminal Code 2002. The 2002 code commenced on 1 January 2003 and will apply to all offences against the Gene Technology Act. The amendment substitutes replacement clause 8 in the bill. This is to ensure the correct version of the code is referred to and to update the clause to the standard form of this provision that is currently used in the new principal legislation. I present the explanatory statement to the government amendments.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clauses 9 to 135, by leave, taken together and agreed to.

Clauses 136 and 137, by leave, taken together.

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) (10.09): On behalf of Mr Corbell, I seek leave to move amendments 2 to 4 circulated in his name together.

Leave granted.

MR WOOD: On behalf of Mr Corbell, I move amendments 2 to 4 circulated in his name *[see schedule 4 at page 4921]*.

Clauses 136 (2), 136A (3), and 137 (2) of the bill are to be amended to change the period allowed for the presentation of reports to the Legislative Assembly from 15 sitting days to six. These amendments are necessary to maintain consistency with the standard period allowed for presentation of instruments to the Legislative Assembly under ACT laws.

Amendments agreed to.

Clauses 136 and 137, as amended, agreed to.

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

Bill, as amended, agreed to.

Planning and Environment—Standing Committee
Report No 23

MRS DUNNE (10.11): I present the following report:

> Planning and Environment—Standing Committee—Report No 23—*Draft Variation No 130 to the Territory Plan—The suburbs of Bonner, Casey, Forde, Jacka, Moncrieff, Taylor and part of Amaroo and Ngunnawal in North Gungahlin*, dated November 2003, together with a copy of the extracts of the relevant minutes of proceedings.

I seek leave to move a motion authorising the publication of the report.

Leave granted.

MRS DUNNE: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MRS DUNNE: I move:

> That the report be noted.

Mr Speaker, on behalf of the Standing Committee on Planning and Environment, I present to the Assembly the report on draft variation No 130 to the Territory Plan. This report addresses the background and intent of draft variation 130 while also scrutinising changing land-use policies in the ACT. The key intent of draft variation 130 is to revise the detailed planning and basic land-use policy framework of the existing Territory Plan for the proposed new suburbs of Bonner, Casey, Forde, Jacka, Moncrieff and Taylor, and parts of Amaroo and Ngunnawal in north Gungahlin. The development covers an area of 1,500 hectares and will provide approximately 14,100 dwellings which will accommodate approximately 34,500 people when fully developed. It also amends two of the area-specific policies in the residential policies in the Territory Plan written statement.

While the committee has recommended the adoption of draft variation 130, the committee believes it was inappropriate for the draft variation to precede the finalisation of the lowland woodland conservation strategy, which is scheduled to be tabled in the Assembly in December this year, as there may be a requirement to review the existing structure plans to ensure the protection of the remaining lowland grassy woodlands in the region.

The central purpose of the draft strategy, as articulated on page 2, is "to inform decision making regarding land use planning, and the development and management of land in the ACT" pertaining to conservation. The committee is hopeful that the government will ensure that the strategy plays an integral role in the development of proposals for current and future draft variations to the Territory Plan.

The draft variation report is being tabled beyond the expiry of its interim effect because the committee required time to research and analyse the issues and evaluate ACTPLA's processes. In addition, from the commencement of its inquiry, the committee felt pressured by ACTPLA and the Minister for Planning due to the land release program being contingent upon the committee approving draft variation 130. Members who care to peruse the minutes will see, on many occasions, reference being made to the committee being given hurry-ups by ACTPLA because it was concerned about the impact this would have on the land release program. And there are recommendations in the report along the lines of: "If you want to release land in the land release program, do the planning first. Don't expect the committee and the community—more importantly the community—to come in line after decisions have been made, but before the planning is done."

The committee is required to scrutinise matters relating to planning and land management. Its role is to recommend improvements in the quality and transparency of government policy-making and decision-making. The committee believes that, due to the limited time between the receipt of the variation and the expiry of the variation's interim effect on 21 October, the committee's ability to objectively consider and give thorough consideration to all the issues relating to the land policy has been compromised.

The committee is of the view that ACTPLA needs to improve its processes of how it achieves meta-planning. There is a need to provide more clarity and specific definitions of what it proposes for land-use policies, and for the process to be clearly understood by the community.

Mr Speaker, the committee recommends that the Assembly accept the report and its recommendations.

MS DUNDAS (10.17): Just briefly, I wanted to echo some of the comments made by the chair in relation to draft variation No 130. It was not just an issue of the amount of time that the committee was given to consider this draft variation. I think it was a problem of a predetermined outcome. The outcome of draft variation No 130 was already included in the land release program, and that did not necessarily provide the community with great confidence that anything we said would be considered as the final variation was put down, because what the government wants to do with the land is already there in black and white as part of the land release program.

If we are going to have processes in this place that involve a statutory requirement for committees to examine variations, to examine legislation, to look over things and consult with the community, then let us allow those processes to take place without a predetermined outcome, without the government indicating that the work of the committee is for nought.

Question resolved in the affirmative.

Adjournment

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

> That the Assembly do now adjourn.

Business awards

MRS BURKE (10.18): Mr Speaker, today in question time the Minister for Economic Development, Business and Tourism, Mr Quinlan, was asked a question by Mr Hargreaves in relation to his trip to the USA. I would like to take this opportunity to formally and sincerely thank Mr Quinlan for inviting me to join him for part of this trip at least. I was just interested, though, in Mr Quinlan's response.

I had an absolute whale of a time over there, being with the businesses that went representing the ACT. They were an energetic bunch of people, and I just thought that Mr Quinlan maybe did not display the same enthusiasm that I do. That is different people, I guess, but maybe he was just tired today.

I was delighted to have been a part of the delegation, and to have had the honour and privilege to be present at the ANZATech, the Australia, New Zealand, America Technology conference, and to actually cheerlead some eight Canberra businesses who displayed their wares in a most professional manner.

The businesses had to showcase their product over two days, and there were some 43 businesses in total. I must give a big pat on the back to Mr Greg Wood from Australian Business Ltd, who did a fantastic job of coaching our ACT businesses. They did a wonderful job and really did the ACT proud.

I would like to give a huge "Well done" to Mr David Malloch, chair of Business Canberra, who did an extraordinary amount of work for and on behalf of the government and the minister, Mr Quinlan, in terms of paving the way and making the connections for the minister to the have the positive outcome that the minister did in signing the MOU in Washington DC. Mr Quinlan must be very pleased that he has such an energetic and enthusiastic chair of Business Canberra.

I would like to congratulate the following businesses, at the risk of boring members. It will not bore those people I mention, who will like the recognition. From Microforte, Steve Harris and John De Margheriti were there. From WetPC Pty Ltd, Peter Moran and Bruce MacDonald were there. It should be noted too that WetPC has been awarded a firm contract in the States, and I know that Mr Quinlan commented on that today. They are providing some pretty high-tech stuff, so we are flying high. We also had Dr Neil Miller and Bob Quodling from TASKey; Jed Johnson and Greg Slaven from Random Computing; Tony Firth and Dr John Ainge from Hatrix; Tim Oxley and Walt Heuer from Alacrity Technologies; Adrian Faccioni and Keith Lee from GP Sports; and Bill Barker and Scott Cargill from Traxsoftware.

I would also extend my grateful thanks to Geoff Keogh, of Business ACT, and give very special thanks to two wonderful women, Michelle Fulton and Annette Wrightson, who worked tirelessly to organise the whole trip, including me. I know just how much effort went into the amazing trip, so well done, ladies, and I thank you for that.

Israeli ambassador

MS MacDONALD (10.21): I will be brief. On Tuesday night I was fortunate enough to attend a dinner to farewell Israel's ambassador to Australia, Mr Garbi Levi, who has been the ambassador to Australia for four years. It was a very interesting dinner. There were people from all sides of the federal parliament, from the Australia-Israel friendship group. There were also a number of people from Jewish communities from around the country, particularly the Melbourne Jewish community, because one of the organisers of that group is Michael Danby, who of course has strong connections with the Melbourne Jewish community.

I understand that last night there was a farewell dinner in Melbourne for Mr Levi and his wife, Irit. I want to say that I wish him and his wife well in Israel. It was an interesting dinner. Although I do not necessarily always agree with the policies that come from the state of Israel in terms of achieving peace in the Middle East, I did agree with Mr Levi's comments about Israel wanting to achieve a two-state solution. I hope that the next ambassador has the same aims and aspirations and that the Israeli government works towards that.

On behalf of the people of the Jewish community of Canberra, of which I am a part, I would like to thank the ambassador.

Minister for Urban Services

MR CORNWELL (10.23): I would like to end this fortnight on a complimentary note actually, in regard to the Minister for Urban Services, Mr Wood. Mr Wood may recall that a constituent wrote to me with the suggestion that signs be put up in public and

private buildings and toilets and sports grounds indicating where to telephone to report water leaks. It sounds a small thing, but it is quite important. Mr Wood wrote back and said that the matter was being considered.

He also mentioned that the matter had been passed on to schools, and that Mr Murch, the facilities manager of the Department of Education, Youth and Family Services, had indicated that he would request that all schools erect signs for reporting of water leakages. This is an important matter because, although the department works assiduously to repair these water leaks, they cannot be everywhere and the public has to be their eyes in this matter. I think, therefore, that this is a step in the right direction and, with so many mobile telephones around, there is no reason why the matter cannot be reported immediately, if it is found.

With regard to the private sector, of course, as Mr Wood has quite rightly explained to me, that is a matter for it, but we would hope that, if the public sector follows this through, then aspects of the private sector may pick up on it, and I think we will all benefit from it.

I think it is probably fair to say that perhaps we should have been doing this years ago. We have been quite profligate with water over the years here, but better late than never. Thank you, Minister, for picking up on the idea.

Mount Taylor Primary School

MR PRATT (10.25): I just rise very briefly to congratulate Mount Taylor Primary School for celebrating its 25th birthday the weekend before last. I acknowledge, of course, that the minister officiated at the opening of that birthday affair. I also noticed that the celebrations were typically school choir and band-oriented.

Taylor has a quite proud tradition of exercising musical capabilities. It would happen to be, I think, the primary school with the most capable musical program I have ever seen anywhere in the country. Taylor Primary really wears it. I had the honour earlier this year to MC one Saturday afternoon at a musical festival, a very high-standard competition. I got locked in for about three hours, and it was three hours of pure musical pleasure. I just did not know that children of that age could perform to such a high standard on a broad variety of instruments.

In fact, the standards were so high, and the organisation in Taylor Primary so well-oiled in terms of getting this thing moving, that as MC I was absolutely dead scared of making a mistake. So I myself had to perform to the highest possible standards. That is Taylor Primary, which I think is a very impressive little school.

I commend their celebrations. I hope they have another good 25 years coming up, and I hope that the next caption will be just as impressive to look at when that is presented next time round. It is just a pleasure to have the responsibility occasionally to wander past their front gate.

Chief Minister

MRS DUNNE (10.27): Mr Speaker, I rise in this adjournment debate to make not so much a personal explanation but to explain "personal". I would like to start by quoting the Chief Minister, who said, yesterday I think, about something that I had raised:

> … this juvenile questioning of a technical detail in a major draft strategy really is an attempt … to attack me as the minister.

On the same day, the Chief Minister said:

> … I think that most of us have noticed in recent times about the incredibly personal and nasty politics that emanate from Mrs Dunne. I think she certainly has achieved a very certain reputation in this place …

He went on:

> … there is a source of poison in this place and it is Mrs Dunne. It needs to be said; we all know it. I think we are all just a little tired of the constant, personal, nasty attacks that are just part and parcel of every commentary she makes.

I thought that that was pretty rich, coming from someone who dishes it up so expertly as he did the other day when he was forced to withdraw a personal attack in which he used the words: "You just have a slight conflict of interest as an exploitative employer, I think, Mrs Burke," or his infamous and shameful "mole" attack on Mr Pratt.

One might think that I might take exception to being described as a source of poison, and one might protest—or one might do as I did and conclude that that sort of thing says more about the accuser than the accused and leave the listeners and the readers to draw their own conclusions. Alternatively, I suppose, one might take the view that comments like this are part and parcel of debate, but it would be a shame if people did think that and it would not help the reputation of the Legislative Assembly in the eyes of the average Canberra resident.

What you cannot do, though—not if you want to retain any shred of credibility—is criticise others in these terms and then get precious about any criticism that comes back. It is not just a matter of being able to dish it out but not being able to take it, although this does apply.

There is an assumption here that any criticism is necessarily personal and thus unfair. It is a variant on the famous dictum of Louis XIV, "L'etat c'est moi"—I am the state—"Anyone who criticises my government criticises me personally." The Chief Minister has been accusing me of personal attacks since before the election when I letterboxed his street with a pamphlet criticising the now defunct proposed route of the GDE, which ran close by.

Mr Corbell says things like: "Mrs Dunne is quite gleeful in her continuing personal attacks on me." This was in relation to an inquiry about whey he had delayed in providing answers to questions. Well, there is a bit of a shock here, because from time to time ministers and governments will be criticised by the opposition. Ministers and

governments are answerable to the Assembly and electors for the discharge of their responsibilities.

In the course of this sitting, Mr Stanhope has accused me of being "petty, shallow, politicking", "incredibly personal and nasty", "a source of poison", and of having a "desire to score some miserly, petty, little political point".

Mr Speaker, I am content to be judged by the electors on the depth or shallowness of my politicking. From time to time, though, people in this place might feel wounded by personal attacks, as Kate Carnell was when she was regularly accused of killing Katie Bender, or they might consider that criticism constitutes attack. But if it is about your actions as a minister, your policies, your public statements and not about your appearance, your relationships, your family and your business, then it is not personal; it is politics—and, if it is about your performance as a member in this place, it is fair game.

Chief Minister

MR SMYTH (Leader of the Opposition) (10.32): Mr Speaker, I rise to speak to a press release put out by the Chief Minister earlier today that reads "Liberals veto Chief Minister's attendance at ministerial discussion on Indigenous affairs." It goes on indignantly to say:

> Chief Minister Jon Stanhope said it was staggering that the Liberal Party whip, Mrs Vicki Dunne, on behalf of the Liberal Party had today refused to give him a pair in the Legislative Assembly to enable him to attend the Ministerial Council on Aboriginal and Torres Strait Islander Affairs.
>
> Mr Stanhope was due in Sydney this afternoon to meet and dine with all Commonwealth, State and Territory Ministers responsible for Indigenous Affairs at their annual meeting.
>
> "This veto makes it impossible for the Government to stay in touch with national developments in fundamentally important issues we face as a nation in addressing matters such as reconciliation, violence and the continuing disadvantage of Indigenous people in our community.
>
> "I am appalled at the petty-minded, spiteful and obstructionist policies of the Liberal Party which would prevent me from carrying out my duties as Chief Minister", said Mr Stanhope.

There are a few factual errors in the press release. We have not stood in the path of the Chief Minister in carrying out his duties. One of his duties is in fact to attend the Assembly and to be available at question time. The pair was granted or offered to Mr Stanhope at 3.30, which, of course, would allow him to attend question time and offer him ample time to get to the ministerial council, which does not start until 9.30 am tomorrow morning—a small omission in his press release.

The other thing is that there is a dinner tonight, as is normal, and we all know about ministerial dinners. I understand the dinner was starting at 7.30. It is not unreasonable to leave Canberra at 3.30 to make a 7.30 dinner in Sydney if you are willing to make the effort. So the opposition will grant pairs as is reasonable, when we are provided with reasonable information, and give reasonable time for ministers, where appropriate, to

attend functions. Indeed, Mr Corbell did not have to leave until 4 o'clock, and he is off to New Zealand.

Justice system

MR STEFANIAK (10.34): Ms Gallagher tonight in the debate gave a heart-rending description of a young person who died on a building site. I was approached by a lady recently who sent me a similarly heart-rending story about a tragedy that struck her in relation to her 25-year-old daughter, who died three days after her 25th birthday in 1993.

She had gone to the house of her boyfriend. She had decided that she was going to change the relationship. She felt she needed to see him personally about that. Her mother wrote in the paper. She was involved in the court case, obviously, in relation to the charge of murder there. The young lady concerned, Leanne, was a very good librarian, did wonderful things in relation to children's literature especially, and was awarded a commendation from Canberra University and also an ACT government service award.

Her mother stated:

> Her friends who saw her at work the day she died said they had never seen her so happy. I think she had made a few decisions that seemed right and was satisfied with that. She was a caring, a sensitive daughter who loved her family. She worried a lot about any of us dying
>
> That's why she died. If she hadn't been worried about hurting his feelings, she wouldn't have been at his house. I am afraid of what it was like for Leanne. Did it take a long time for her to die? I hoped he had hit her hard the first time and that she died quickly. But I saw the cuts on her hands and fingers; she had tried to fight him off.

Rae Harvey, the mother, then described the trial, in an article in the paper. She said:

> The trial lasted one week. It was very difficult for us. During that week, we had to relive the horror of the murder and we had to listen to Arrowsmith's lawyer trying (unsuccessfully) to blame her for her death. We felt almost as if Leanne was on trial. We heard various witnesses speak on behalf of her murderer while we were not permitted to say one word on Leanne's behalf. The jury was told about Arrowsmith's sporting abilities and his good character, they heard of his consideration to his parents in cleaning up the blood and the evidence of the murder, of him selecting the very best sleeping bag in which to wrap the body of our daughter …
>
> Where is the justice that allows none of us to speak of the unimaginable horror of a father finding his dead daughter? There was no opportunity for us to tell the jury about Leanne …

She then talked about victim impact statements. She indicated that she joined the Victims of Crime Assistance League as a result of this particular matter. After the trial, she wrote to Miles J. She stated in her article:

> I felt he had been careful and considerate. I told him what it had been like for us, sitting in court. Some time later, he sent me a copy of a speech he had made to an

> International Law Congress in Sydney. He had begun by reading from the main text of my letter ...

And she was very happy with the way Justice Miles handled the case.

She then went on to talk about Arrowsmith's appeal. He appealed against the conviction, asserting that Justice Miles had wrongfully prevented the jury from considering a verdict of manslaughter. The Court of Appeal, whilst dismissing the appeal, reduced Arrowsmith's sentence to 6½ years, saying that Justice Miles had failed to give sufficient weight to his exemplary character, his extreme remorse and a number of other factors.

The mother stated:

> The reasons for the success of the appeal were completely unacceptable to us. We all knew that he had never shown any sign of remorse, but the appeal judges had to rely on the transcript of the trial, and they decided that he had "expressed his remorse in the most devastating way ..."

She stated that she wrote to the three appeal judges, and to many people. She was ill with her anger. She asked: why was the legal system so biased towards the offender? Why was so much concern shown for a murderer? She did speak to an appeal judge and she said he was sympathetic. But she said:

> He explained that the law already allowed judges to give harsher sentences, that the problem was that judges needed re-educating. I let him know about the concerns in the community, about the message to the community— that it's okay to kill a woman, only six-and-a-half years in jail will be the result.
>
> I hope to see changes in the sentencing laws in the ACT. The system should be fair to both victim and accused. Perhaps then, the victims would have some confidence in the justice system. I don't believe any victim feels that way today.

Yesterday, Rae Harvey wrote a letter to the editor of the *Canberra Times*. She wrote:

> About 125 Australian women are murdered each year in Australia ... It seems ironic that, in the ACT Assembly yesterday, the Minister for Women, Katy Gallagher, pinned a white ribbon on Jon Stanhope and called on the community to help end violence against women. Today, the same members in the Assembly decided not to support the call for tougher sentences for violent crime in the ACT.
>
> Ms Gallagher urged us not to be silent about violence towards women. Nor should we be silent about the need for reform of the justice system, so that these women receive justice in our courts.
>
> Does Mr Stanhope expect to get most of his votes from the criminal element in our society?
>
> Yours faithfully
> Rae Harvey

Arts and crafts

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) (10.39), in reply: Mr Speaker, I thought it was a rather unfortunate approach that Mr Stefaniak just took, but that will be a continuing debate, I have no doubt.

I want to raise a happier issue, with Christmas approaching. As Minister for Arts and Heritage, I would urge members to walk across the road to the Crafts Council of the ACT and look at the fine works of art there, especially geared for Christmas. I think that you would do very well for all those people that you have affection for and for whom you will be buying gifts, and you would be supporting our local artists, sometimes small business people, when you do that.

I would also encourage you to visit the Canberra Museum and Gallery, CMAG, which has been the outcome of cooperative activity across boundaries in this place over the years leading to its development. It is operating very well, and I think it is a fine point for people in this city as we focus more closely on our own skills. It does have visiting exhibitions but it also takes every care that it can to see that it sponsors local and regional artists.

As you move around, there are many other commercial galleries in this place. Beaver Gallery is well known, and there are the Made in Australia Galleries. I could not list them all, but you may well feel that you could attend because they all have very fine purchases that I think give a personal touch to the gifts that you might like to buy. Sure, you can go to established jewellers or department stores—any sort of store—and buy the mass-produced stuff, and you will probably pay a deal more for that than you might pay for an original work of art.

You might care to go out to Megalo screen printers, and printers of all sorts, actually. There are many works of art to be purchased there at, I think, reasonable prices. Printmaking allows people of more modest incomes to acquire an original art collection at reasonable cost. I think Megalo is a fine place to go to. Apart from its longstanding work that you would know about, it took over the work of Studio One, which used to be over in Leichhardt Street. It came upon hard times, as organisations do from time to time, and had to be absorbed into another group—which has happened very well. I went out there a little while ago and opened their new premises at the technology park at Watson. It is a fine place and there are original works to be purchased.

On a related matter, I was also at Watson the other day to open, for the first time in about 40 years, a purpose place for the Canberra Artists Society. It used to have a building many years ago, the old Riverside which disappeared long before I came to Canberra, and there have been promises from all sorts of governments over the years of a replacement property.

I have to say that, while we actually found one for them, in the end they found this for themselves. So in they moved only a little while ago. It is costing them a fair deal of money, but it is a good lesson for organisations because a few years ago it was battling just a little. It is probably the longest-operating community body in Canberra. It was started back in the 1920s, and I doubt whether there is any body, agency or group that

has gone for as long as that one. But now it is very actively engaged, it has all sorts of classes, and it provides a very good central point for people.

I do not know that there are works for sale there, but I am sure you would find the names of artists that would be more than willing to discuss their works with you. They have many high-level skills. They also have emerging artists who go along there and begin with lesser skill, but over the years I am sure they would improve themselves.

I just want to say that there is no shortage of arts groups, activities and individual artists who would welcome your patronage and mine in the forthcoming season.

Question resolved in the affirmative.

The Assembly adjourned at 10.43 pm until Tuesday, 9 December 2003, at 10.30 am.

Schedules of amendments

Schedule 1
Crimes (Industrial Manslaughter) Amendment Bill 2003

Amendments circulated by the Minister for Industrial Relations

1
Clause 2
Page 2, line 4—
omit clause 2, substitute
2 Commencement
This Act commences on 1 March 2004.
Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

2
Clause 5
Proposed new section 49D
Page 8, line 20—
insert
Note The general offence of manslaughter in s 15 applies to everyone, including workers.

Schedule 2
Crimes (Industrial Manslaughter) Amendment Bill 2003

Amendments circulated by Mr Pratt

1
Clause 5
Proposed new section 49B, heading
Page 6, line 22—
omit the heading, substitute
49B Omissions of employers, senior officers and workers

2
Clause 5
Proposed new section 49B (2A)
Page 7, line 9—
insert
(2A) An omission of a worker of an employer to act can be conduct for this part if it is an omission to perform the duty to avoid or prevent danger to the life, safety or health of another worker of the employer if the danger arises from—
(a) an act of the worker; or
(b) anything in the worker's possession or control; or
(c) any undertaking of the worker.

Schedule 3
Crimes (Industrial Manslaughter) Amendment Bill 2003

Amendments circulated by Mr Pratt

1
Clause 5
Proposed new section 49C (c)
Page 7, line 23—
omit proposed new section 49C (c), substitute
(c) the employer is reckless about causing serious harm to the worker, or any other worker of the employer, by the conduct.

2
Clause 5
Proposed new section 49C, penalty
Page 8, line 3—
omit the penalty, substitute
Maximum penalty: 2 000 penalty units, imprisonment for 20 years or both.

3
Clause 5
Proposed new section 49D (c)
Page 8, line 14—
omit proposed new section 49D (c), substitute
(c) the senior officer is reckless about causing serious harm to the worker, or any other worker of the employer, by the conduct.

4
Clause 5
Proposed new section 49D, penalty
Page 8, line 19—
omit the penalty, substitute
Maximum penalty: 2 000 penalty units, imprisonment for 20 years or both.

Schedule 4
Gene Technology Bill 2002

Amendments circulated by the Manager for Government Business on behalf of the Minister for Health

1
Clause 8
Page 3, line 22—
substitute
8 Offences against Act—application of Criminal Code etc
Other legislation applies to offences against this Act.
Note 1 Criminal Code
The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).
The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg **conduct**, **intention**, **recklessness** and **strict liability**).
Note 2 Penalty units
The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.
Note 3 This section differs from the Commonwealth Act, s 8.

2
Clause 136 (2)
Page 62, line 20—
omit
15 sitting days
substitute
6 sitting days

3
Clause 136A (3)
Page 63, line 8—
omit
15 sitting days
substitute
6 sitting days

4
Clause 137 (2)
Page 63, line 18—
omit
15 sitting days
substitute
6 sitting days

Answers to questions

Capital funding of private projects (Question No 1021)

Mr Cornwell asked the Minister for Economic Development, Business and Tourism, upon notice, on 21 October 2003:

In relation of capital funding of private projects in the ACT:

(1) Has the government given consideration to loans rather than grants;

(2) If the answer to (1) above is affirmative, how many such projects have also been so funded in (a) 2001-02 and (b) 2002-03;

(3) If the answer to (1) above is negative, why not;

(4) If the answer to (1) above is negative, how does the ACT obtain a tangible financial return upon its investment.

Mr Quinlan: The answer to the member's question is as follows:

(1) No. The Government has not given consideration to using loans over grant-based forms of Government assistance for capital funding of private projects in the ACT.

(2) Not applicable.

(3) Grant-based funding represents the preferred model for delivering assistance for economic and industry development. In particular, grant-based programs:

- can be framed around competitive entry guidelines which means the best projects - i.e. those that can demonstrate the best net return of public funds - are prioritised for support
- allow the Government to cap annual program expenditure thereby providing a high level of budgetary control and certainty
- are constructed around agreements between the Government and recipients, and performance milestones are almost always linked to progress payments. That is, failure to meet performance requirements gives the Government discretion to withhold future payments and/or terminate agreements. Nearly all grant programs managed through BusinessACT also require applicants to contribute their own funds on a 1:1 ratio with Government funds. This means applicants must be strongly committed to projects before they apply or receive funding, thereby reducing overall risk considerably.
- In contrast, loan-type assistance arrangements generally suggest a complete return of the initial investment plus a lending margin. In this circumstance, the Government effectively becomes an equity partner in projects. This carries significant additional risk for the Government. Loan-type assistance is also potentially complex and administratively cumbersome. In general, the Government considers that private lending or venture capital institutions can adequately handle projects that can demonstrate a reasonable rate of return on investment.

(4) In relation to return on Government expenditure support, the Government has performance reporting and performance measures to ensure that the original purpose of providing the assistance is being met. In these instances, it is not about the Government directly recuperating its 'financial investment'. Rather, returns are usually in the form of contribution to economic activity in the ACT (e.g. job creation and job support, export development, increased turnover, import replacement). Programs are regularly evaluated against these performance measures.

Fireworks
(Question No 1042)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 22 October 2003:

In relation to reports of fireworks use:

(1) How many reports have been received by police and Workcover in relation to the use of fireworks in Canberra this calendar year outside of the allocated days around the Queen's Birthday long weekend. Please provide details of the (a) suburb (b) time and (c) date of the fireworks use that was reported;

(2) How were each of these reports actioned;

(3) On how many occasions did police visit the site where the use was reported;

(4) Where any offenders caught, if so, what penalties were awarded.

Mr Wood: The answer to the member's question is as follows:

(1) Police have received 113 reports in relation to fireworks to 26 October in this calendar year outside of the allocated days around the Queen's Birthday long weekend (6 June 2003-9 June 2003).

ACT WorkCover have received 143 reports in relation to fireworks to 31 October in this calendar year outside of the allocated days around the Queen's Birthday long weekend (6 June 2003-9 June 2003).

Details of the reports of firework use received by police are at Table 1 (by suburb), Table 2 (by time), and Table 3 (by month). Details of the reports of firework use received by ACT WorkCover are at Table 6 (by suburb), Table 7 (by time), and Table 8 (by month).

(2) Given the number of reports, it would be very resource and time intensive to extract information on each report as analysis of individual cases would be required. Summary information on police attendance is provided in Table 4 and on ACT WorkCover responses in Table 9.

(3) Of the 113 incidents reported, 70 incidents were attended by police (refer to Table 4).

(4) Twelve people were apprehended as a result of fireworks incidents. In nine cases, the charge was Dangerous Use of Fireworks (refer to Table 5).

Australian Federal Police (ACT Policing)

Table 1: Reported fireworks incidents (police) by suburb 01 January to 26 October 2003 (excluding 06-09 June 2003	
Suburb	Number of reported incidents
Ainslie	2
Amaroo	1
Aranda	1
Banks	2
Bonython	2
Braddon	5
Chifley	1
Chisholm	6
Conder	1
Cotter	1
Dickson	1
Downer	3
Duffy	2
Fadden	1
Fisher	5
Florey	1
Fyshwick	1
Garran	1
Gilmore	1
Giralang	3
Gordon	1
Gowrie	2
Griffith	1
Holder	1
Holt	1
Hume	1
Isabella Plains	4
Kaleen	1
Kambah	6
Latham	1
Lyneham	1
Macarthur	4
Macgregor	2
Macquarie	1
Mawson	1
Monash	3
Narrabundah	2
Ngunnawal	5
Nicholls	1
Oaks Estate	4
Oconnor	1
Oxley	1
Pearce	2
Phillip	3
Reid	2
Richardson	3

Rivett	1
Stirling	
Symonston	2
Theodore	1
Turner	1
Wanniassa	6
Watson	2
Weston	2
Yarralumla	1
Total	**113**

Source: PROMIS database as at 27 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Table 2: Reported fireworks incidents (police) by time of the day 01 January to 26 October 2003 (excluding 06-09 June 2003)

Time	Number of reported incidents
midnight to 2:59am	14
3:00am to 5:59am	2
6:00am to 8:59am	8
9:00am to midday	13
midday to 2:59pm	13
3:00pm to 5:59pm	13
6:00pm to 8:59pm	18
9:00pm to midnight	32
Total	**113**

Source: PROMIS database as at 27 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Table 3: Reported fireworks incidents (police) by month 01 January to 26 October 2003 (excluding 06-09 June 2003)

Month	Number of reported incidents
January	10
February	3
March	3
April	10
May	15
June	32
July	10
August	11
September	12
October	7
Total	**113**

Source: PROMIS database as at 27 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Table 4: Reported fireworks incidents (police) by patrol attendance 01 January to 26 October 2003 (excluding 06-09 June 2003)	
Patrol Attendance	Number of reported incidents
Yes	70
No	43
Total	**113**

Source: PROMIS database as at 27 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Table 5: Number of people apprehended as a result of fireworks incidents 01 January to 26 October 2003 (excluding 06-09 June 2003)	
Offence	Number of persons apprehended
A.C.T. Arson	1
A.C.T. Dangerous Use Of Fireworks-General	9
A.C.T. Knowingly Concerned/Act/Directly (Arson)	1
A.C.T. Possess Explosives Contrary Dang.Goods Act	1
Total	**12**

Source: PROMIS database as at 27 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

ACT WorkCover

Table 6: Reported fireworks incidents (ACT WorkCover) by suburb 01 January to 31 October 2003 (excluding 06-09 June 2003)	
Suburb	Number of reported incidents
Ainslie	2
Amaroo	1
Banks	4
Belconnen	4
Bonython	2
Braddon	2
Bruce	2
Chapman	1
Charnwood	1
Chisholm	4
Conder	1
Cook	1
Curtin	5
Deakin	1
Dickson	2
Downer	1
Dunlop	1
Emu Ridge	1
Evatt	3

Fisher	3
Florey	6
Flynn	1
Fraser	1
Fyshwick	2
Gilmore	7
Giralang	2
Gordon	5
Greenway	1
Griffith	2
Hall	1
Holder	2
Holt	1
Hughes	1
Kaleen	6
Kambah	6
Latham	1
Lyneham	1
Macarthur	4
Macgregor	1
Macquarie	1
Mawson	2
Monash	1
Narrabundah	4
Ngunnawal	7
Oaks Estate	7
Pearce	1
Richardson	2
Stirling	1
Spence	1
Theodore	5
Torrens	1
Tuggeranong	1
Wanniassa	3
Watson	8
Yarralumla	1
General community	1
Not recorded	3
Total	**143**

Source: Inspector Records compiled as at 31 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Table 7: Reported fireworks incidents (ACT WorkCover) by time of the day 01 January to 31 October 2003 (excluding 06-09 June 2003)	
Time	Number of reported incidents
midnight to 2:59am	15
3:00am to 5:59am	2
6:00am to 8:59am	2
9:00am to midday	7
midday to 2:59pm	4
3:00pm to 5:59pm	21

6:00pm to 8:59pm	22
9:00pm to midnight	23
No time stated	44
All day	1
Day time	1
Evening	1
Total	**143**

Source: Inspector Records compiled as at 31 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Table 8: Reported fireworks incidents (ACT WorkCover) by month 01 January to 31 October 2003 (excluding 06-09 June 2003)

Month	Number of reported incidents
January	20
February	7
March	1
April	13
May	16
June	58
July	12
August	5
September	11
October	0
Total	**143**

Table 9: Reported fireworks incidents (ACT WorkCover) by type of response 01 January to 31 October 2003 (excluding 06-09 June 2003

Action by WorkCover	Number of reported incidents
Attended site	14
Seizure	0
Written	3
Verbal caution	1
Phone call	9
No further action	8
Not recorded	105
Police involvement	3
Total	**143**

Source: Inspector records compiled as at 31 October 2003
Note: Queens Birthday long weekend excluded (06 June 2003 - 09 June 2003)

Water consumption (Question No 1054)

Mr Cornwell asked the Treasurer, upon notice:

In relation to stage 3 water restrictions effective from 1 October 2003:

(1) Has an audit been conducted of all ACT government buildings upon ways to reduce water consumption and if so, what steps have been taken;

(2) Do these steps include adjusting the "Flusherettes" in the toilets to adjust timing and amount of flow;

(3) Do these steps include adjusting the cooling and heating equipment to reduce water consumption;

(4) If the response is affirmative to each of the above, what is the estimated annual percentage saving of water overall;

(5) If the response is negative, why has such an audit and steps (2) and (3) not been carried out?

Mr Quinlan: The answer to the member's question is as follows:

(1) **Government owned office accommodation** - A specific water savings audit of government office accommodation has not been undertaken, however a range of initiatives have been identified and implemented over the years as part of the normal audit, building maintenance and upgrade programs. Initiatives include the installation of Aqualoc Tap valves, installation of dual flush systems and upgrades to heating and cooling systems.

Quotes are to be sought for consultancy services to identify options for achieving further reductions in water use in government owned office buildings. The consultancy will consider boiler systems, cooling towers and other plant room equipment as well as water utilization in kitchens and toilets. The initial audit will be on three properties, with other properties to be surveyed as part of an ongoing program.

Assembly Building - this property is managed separately to government owned office buildings. There has been no formal audit of the Assembly Building, however there is an ongoing preventative maintenance program that includes showers, toilets etc.

ACT Government Schools - The Department of Education, Youth and Family Services (DEYFS) has recently appointed a Water Project Officer to assist in the implementation of water restrictions in all ACT Government Schools and other department buildings. To date, the Water Project Officer has visited 32 schools to recommend actions to allow schools to make water savings. The balance of ACT Government Schools will be visited by the end of the school year. In addition, the department is developing a self audit package which will further assist schools to identify and monitor water savings

DEYFS went through a major water audit in 1999, which reviewed all schools and implemented a number of water saving strategies including repairing faulty urinal flushing mechanisms, installation of water displacement devices in cisterns or lowering the water levels by adjusting floats, reducing the extent of irrigated grass at schools, rectifying pressure control valves and sprinkler heads/patterns for irrigation systems and rectifying various water leaks.

(2) **Government owned office accommodation** - Yes – There are a variety of systems used throughout government properties due to the age of government office accommodation. Wherever possible valves, timers and flow rates are adjusted to achieve the optimum outcome for cleanliness and water efficiency.

Assembly Building - the flow of water from "flusherettes" has been adjusted to the minimum level allowable to maintain hygiene standards. Also most of the showers and hand basins throughout the building have flow restrictors installed.

ACT Government Schools – No DEYFS buildings have flusherettes, all toilets are directly connected to mains water and do not have an independent "flusherette" system as hospitals and larger hotels do. Approximately 90% of schools have motion activated urinals. Toilets were investigated in 1999 and had either float levels adjusted or water displacement devices installed where this did not have a negative effect on flushing performance. Further investigation of water saving devices in school toilets is underway.

More recently built schools have either dual flush or low flushing volume toilets installed. In addition to this toilets are being checked to ensure they are in good working order. Also push operated low flow taps are being installed at high schools and colleges where plumbing arrangements allow.

(3) **Government owned office accommodation** - no significant water reductions can be achieved in running the boilers and cooling towers currently installed, the systems have need to be changed. Any such conversions would have significant cost implications and would need to be evaluated to ensure that the changes did not result in increased energy consumption.

Assembly Building - the level and flow of water into the cooling tower has been adjusted to minimize overflow.

ACT Government Schools – Most schools do not have water coolers and this has not been an area of focus for schools as the bulk of water usage is on grounds irrigation and toilets. If there are water savings to be made in this area, these will be identified as part of the visits being undertaken by the Water Project Officer.

(4) **Government owned office accommodation** - water consumption decreased by 15% in 2002-03.

Assembly Building – the estimated annual reduction in water use as a result of the above measures is 20%.

ACT Government Schools – Most measurements were undertaken in 1999 so current data is not available. Under the current water restrictions, schools are aiming to achieve 40% reduction in water use. This will be achieved primarily through a reduction in watered grounds. Toilet and hand basin efficiencies are expected to result in a saving of around 5%.

(5) **See responses above**

Facilitator for Charitable Collections Act 2003 (Question No 1058)

Mr Cornwell asked the Minister for Urban Services, upon notice:

(1) What is the cost to the ACT community of the appointment of a facilitator to assist in the implementation of the new *Charitable Collections Act 2003*?

Mr Wood: The answer to the member's question is as follows:

(1) Minter Ellison Consulting has been appointed for a three month period at a total cost of $31,339.00 (including GST).

The consultancy includes the establishment of an advisory service (including a hotline: 1800 008 284 until 24 December 2003) for a 3 month period; running a series of stakeholder workshops; preparation of best practice guidelines for the *Charitable Collections Act 2003* and regulations; providing legislative interpretation advice on the *Charitable Collections Act 2003* and its regulations to answer questions from the advisory hotline; and to proof read the best practice guidelines.

To date 60 people have attended three workshops, a user group (seven participants) was established to evaluate the best practice guidelines, 25 people have registered for the next two workshops. The advisory service has received 62 calls to the 1800 number and over 20 emails, and 260 copies of the best practice guidelines have been distributed. Minter Ellison Consulting has also held a workshop explaining the new Act for City Ranger Services.

Canberra Girls Grammer School fete (Question No 1059)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to rangers patrolling areas at Canberra Girls Grammar School Fete on 25 October 2003:

(1) How many rangers were present;

(2) How many hours did they stay;

(3) What was the cost of employing these officers to work on a Saturday;

(4) What other schools, by name, have been subject to parking restrictions at fetes in September/October 2003.

Mr Wood: The answer to the member's question is as follows:

(1) 3 parking officers were present.

(2) The officers were on location for 2 hours between 8.30am and 10.30am.

(3) There was no additional cost as the officers were working normal Saturday morning duty as required under the current Service Level Agreement.

(4) No other school fetes were patrolled during September / October as no complaints were received regarding the upcoming events.

Speeding fines
(Question No 1060)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to speeding fines:

(1) What is the average time taken to process and send out such fines;

(2) Is several weeks delay not uncommon and if so, why;

(3) If the fine is delayed in being sent out, how is the offender aware they have broken the speeding law and may continue to do so through ignorance;

(4) Is this another method of raising revenue by the government.

Mr Wood: The answer to the member's question is as follows:

(1) Over the past 12 months the average time taken to process and send out infringements is three days.

(2) Several weeks delay is uncommon. However there were two periods when problems with the implementation of the ACT's new driver licence and vehicle registration computer system (Rego.ACT) resulted in significant delays. Those problems have now been resolved.

(3) Speed signs are clearly posted across the ACT.

(4) No, the reason for the delays is explained in (2) above.

Agencies—funding
(Question No 1061)

Mr Cornwell asked the Chief Minister, upon notice, on 18 November 2003:

In relation to ACT Government funding:

(1) Why have the following agencies not received funding in 2003-2004:
(a) St John's Ambulance Building Fund;
(b) Alzheimers Association (ACT) Inc;

(2) Will there be a further round of funding this financial year and if so, will these bodies be eligible and considered."

Mr Corbell: The answer to the member's question is:

(1) (a) St John's Ambulance Building Fund has not received ACT Government funding in the past. They recently wrote to ACT Health seeking funding to provide first aid training to

homeless youth. The St John's Building Fund has been advised that this submission will be considered as part of the 2004-2005 budget process.

(b) Alzheimers Association (ACT) Inc already receive ACT Government funding through the Home and Community Care Program managed in ACT Health. Alzheimers has a current contract for $65,282.

(2) Applications for growth funding for the HACC program were openly advertised in February 2003 and Alzheimers Association (ACT) Inc did not seek additional funding through this open tender process.

A further open tender process for provision of respite care services is expected early in 2004. Alzheimers Association (ACT) Inc would be eligible to apply for this funding and an application would be considered.

First home owner grants (Question No 1062)

Mr Cornwell asked the Treasurer, upon notice:

In relation to the payment of $7 000 under the *First Home Owner Grant Act 2000* to an ineligible juvenile:

(1) Will the Government seek restitution of the amount;

(2) If not, why not;

(3) If not, who will pay for the error.

Mr Quinlan: The answer to the member's question is as follows:

(1) The Government will not be seeking repayment of the grant paid to the minor.

(2) The First Home Owner Scheme is administered under the *First Home Owner Grants Act 2000.* This Act was drafted in conformity with the principles set out under the Intergovernmental Agreement on the Reform of Commonwealth-State Relations and the "Proposed Arrangements" agreed to by the Commonwealth Treasury. Under the "Proposed Arrangements" it was agreed that there would not be an age limit for applicants. The grant to the minor was correctly paid according to the legislation in force at that time. This applicant satisfied all eligibility requirements, including the requirement to take up residence in the home.

(3) There was no error; however, recently the Treasurers of all States and Territories and the Commonwealth have indicated that they support an age restriction. As the Assembly is aware, I presented a Bill on Thursday, 27 November 2003, to amend the Act to require that applicants be at least 18 years of age.

Gold Creek golf club
(Question No 1063)

Mr Cornwell asked the Minister for Planning, upon notice:

(1) What is the government's involvement with the golf club at Gold Creek;

(2) How will water be managed for the greens under Stage 3 restrictions.

Mr Corbell: The answer to the member's question is as follows:

(1) The Government owns the Gold Creek Country Club Pty Ltd.

(2) Water for the greens will predominately be derived from the dam on the golf course. This dam recovers stormwater from the Harcourt Hill development. As such it is not subject to Stage 3 Water Restrictions. Not withstanding this, the Gold Creek Country Club will carefully manage its water.

Should there be insufficient water in the dam to last the summer the Golf Course will abide by the restrictions on water use as advised by ACTEW.

I understand that an exemption has been sought to ensure that safety works currently underway at the Golf Course can be completed.

Business—bidding wars
(Question No 1064)

Mr Cornwell asked the Chief Minister, upon notice, on 18 November 2003:

Can the Chief Minister provide details of:

(1) the pact signed in August by New South Wales, Victoria, South Australia, Western Australia and the Australian Capital Territory to end bidding wars for big events (*Business Review Weekly*, October 30, p 42);

(2) the agreement signed in August by New South Wales, Victoria, South Australia, Western Australia, Tasmania and the Australian Capital Territory to stop bidding wars for businesses (*Business Review Weekly*, October 30, p 30).

Mr Stanhope: The answer to the member's question is as follows:

Interstate Investment Cooperation Agreement

(1) On 5 September 2003 the ACT, together with New South Wales, South Australia, Tasmania, Victoria and Western Australia, entered into the Interstate Investment Cooperation Agreement. This a three-year agreement to co-operate wherever possible to minimise incentives when it is clear that new projects and major events are committed to Australia.

(2) On 5 September 2003 the ACT, together with New South Wales, South Australia, Tasmania, Victoria and Western Australia, entered into the Interstate Investment

Cooperation Agreement. This is a three-year agreement to co-operate in any case involving a potentially footloose investment where there is no national economic benefit with a view to declining to offer any financial incentive.

Speed cameras (Question No 1065)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to the recent problems in Victoria with irregular testing of speed cameras and the resulting issue of incorrect speeding fines (ABC News Online 'Errors see Vic speed cameras suspended', 13 November 2003):

(1) Are both the fixed and mobile or hand held speed cameras currently in operation in the ACT regularly tested for accuracy;

(2) If the answer to (1) is yes, how often is the testing conducted on each individual speed camera, what is the process involved and who undertakes this testing;

(3) If the answer to (1) is no, why not.

Mr Wood: The answer to the member's question is as follows:

(1) Yes

(2) The ACT conducts a rigorous certification, testing and checking program for both mobile and fixed cameras. This includes:

- Annual independent certification and calibration by CSIRO. Cameras are then retested when they are reinstalled.

- The Traffic Camera Office undertakes quarterly inspections and tests. This includes checking electronics and calibration of cameras plus running police vehicles through the intersections that have electronic speed displays. These vehicles are also monitored by additional speed measuring devices that provide a three-way check.

(3) N/A

Herbicide use—protective gear (Question No 1066)

Mr Cornwell asked the Minister for Urban Services, upon notice:

(1) Are the officers employed to apply these herbicides required to wear protective clothing, gloves and breathing masks when applying herbicides;

(2) Do these protective gear requirements differ depending on the type of herbicide used and if so, what are the requirements for each type of herbicide used;

(3) Do these protective gear requirements differ depending on the weather or other environmental factors, and if so, what are the requirements under these differing environmental influences;

(4) If the answer to (1) above is no, why not.

Mr Wood: The answer to the member's question is as follows:

(1) Canberra Urban Parks and Places (CUPP) employ contractors to undertake general weed control in urban open space as part of the regional Horticultural Maintenance and Cleaning contracts. All weed control contractors are required to hold a current Environmental Authorisation approved by Environment ACT, and under this authorisation spray operators must be trained in herbicide application and safety, including the use of protective clothing and equipment and Material Safety Data Sheets (MSDS).

In addition to the requirements under their Environmental Authorisation, CUPP's horticultural maintenance contracts specify a number of personal safety requirements including:

- the use of overalls, impervious footwear and gloves that must be worn at all times for pesticide handling, mixing and application operations;
- a combined helmet and face visor must be worn when handling and mixing herbicide concentrates;
- a respirator (breathing mask) must also be worn when handling, mixing or applying herbicides with dust or fumes or when spraying herbicides in the open above waist height, and it is likely that spray drift may contact the operator's face; and
- spray operators must also comply with the Material Safety Data Sheets for each herbicide used. The MSDS provides additional information on the protective clothing and equipment that must be worn when mixing, handling and applying the herbicide. The contractor must comply with any extra requirements detailed in the MSDS.

Respirators are not generally required for herbicides commonly used for general weed control in urban open space.

(2) The contractor must provide a register of MSDS covering all pesticides used by employees. Contract employees must familiarise themselves with the contents of the MSDS for products they use and must comply with all safety precautions and warnings that apply when using, storing and disposing of products. For the majority of herbicides used by CUPP the appropriate level of personal protection is overalls, boots and gloves. A facemask and or breathing protection is required when mixing or applying herbicides with dusts or fumes or if it is listed on the MSDS.

The herbicides most commonly used by CUPP in public places, roadsides and median strips are glyphosate, diuron and simazine. These herbicides have been selected as they are of low hazard to the operator, general public and environment. The MSDS for each of these require only the standard personal safety equipment of overalls, impervious footwear and gloves to be used.

(3) The requirements do not vary with changing weather conditions as spraying is not undertaken in windy or wet conditions.

(4) n/a

Watering government ovals (Question No 1067)

Mr Cornwell: asked the Minister for Urban Services, upon notice:

In relation to watering of ACT Government ovals:

(1) On average, how many times per week are Canberra's ovals watered during the warmer summer months;

(2) Has the watering of Canberra's ovals been reduced at all this year in comparison to watering rates last year;

(3) How many days per week are Playing Fields at Amaroo watered.

Mr Wood: The answer to the member's questions is as follows:

(1) The frequency with which ACT Government ovals are watered varies according to rainfall and evaporation rates, as well as the size of the oval and the number of irrigation stations in any given system. In addition to normal watering there is also daytime watering for newly sown areas and newly turfed areas-this watering takes place in Spring and continues until the areas have established.

(2) The watering of ACT Government ovals has been reduced in comparison to last year's watering to reflect the implementation on Actew/AGL's Level Three water restrictions, which require a 40% reduction in consumption. Reduced oval watering has been partly offset by a proportionally larger reduction in the watering of irrigated parkland.

(3) The watering of Amaroo District Playing Fields is determined by rainfall, evaporation, the size of the complex and the number of stations on the irrigation system and varies accordingly.

Graffiti removal (Question No 1068)

Mr Cornwell asked the Minister for Urban Services, upon notice:

(1) What was the cost to government of removing graffiti in the ACT in 2002-03;

(2) What is the total cost to government of removing graffiti in the ACT to the current day in 2003-04;

(3) What was the cost to government for removing graffiti on the Amaroo sports sheds;

(4) What was/will be the cost to government for removing graffiti from the Ainslie shops that was recently attacked by graffiti vandalism.

Mr Wood: The answer to the member's question is as follows:

(1) Funding for the removal of graffiti from public and privately owned assets in urban open space for 2002/03.

Graffiti - Public Assets	$826,853
Graffiti - Private Assets	$204,600
Total	**$1,031,453**

(2) Up to late November 2003, 03-04 expenditure is as follows:

Graffiti - Public Assets	$265,480.86
Graffiti - Private Assets	$24,901.10
Total	**$290,381.96**

(3) The sports sheds at Amaroo are public assets. Therefore the cost for graffiti removal is included in the lump sum contract for graffiti removal from public assets, and has not been costed separately.

(4) The cost of the removal of graffiti from Ainslie shops was $940.

Advertising—Wells Station land sale (Question No 1072)

Mr Cornwell: asked the Minister for Planning, upon notice:

Concerning the advertising campaign to promote the Wells Station, Gungahlin Government land sale:

(1) What is the budget for this advertising campaign;

(2) How many blocks are being marketed;

(3) What is the average price per block;

(4) What is the average size per block in square metres;

(5) Is the cost of the advertising campaign to be drawn directly from profits from the land sales;

(6) What will the lowest priced blocks be sold for and what is their size in square metres;

(7) What will the highest priced blocks be sold for and what is their size in square metres;

(8) Are there any building covenants or other restrictions on building upon these blocks. If so, what are they. If not, why not.

Mr Corbell: The answer to the member's question is as follows:

(1) The advertising budget for Wells Station is 0.5% of estimated gross revenue.

(2) The Estate will comprise 620 blocks. Seventy-nine blocks will be balloted on 6 December 2003. A second ballot will occur in February 2004 and further ballots will be scheduled at regular intervals thereafter.

(3) $221,000 (Stage 1A only) – other prices have not been determined

(4) 613m^2

(5) As is usual in land development projects, any advertising for the estate is considered to be part of the development cost.

(6) 390m^2 $137,000

(7) 791m^2 $225,000

(8) Detailed draft lease and development conditions have been prepared for each block being offered for sale. A copy of the draft conditions can be provided to Mr Cornwell

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Water supply—leaks (Question No 1073)

Mr Cornwell asked the Treasurer, upon notice:

In relation to mains leaks in the ACT's water supply infrastructure:

(1) Is the ACT's water supply system routinely inspected for leaks in water mains, and if so, how often is this undertaken. If not, why not;

(2) How many kilometres of water mains currently exist in the ACT;

(3) In the ACT's water mains system, how many mains leaks per hundred kilometres are there;

(4) How many litres of water (a) per day and (b) per year are lost through leaks in ACT water mains;

(5) Does the ACT Government have a funded leaks reduction program, and if so what is the budgeted amount for this program in (a) 2003-04 (b) 2004-05. If not, why not.

(6) What percentage of all known mains leaks in the ACT are targeted for repairs in (a) 2003-04 and (b) 2004-05;

(7) Savings of how many litres of water per day will be achieved under the leaks reduction programs in (a) 2003-04 and (b) 2004-05.

Mr Quinlan: The answer to the member's question is as follows:

(1) ACTEW advise the water supply system is inspected for leaks, with the frequency of inspection varying on the size, material and age of pipelines and known past fault/leak history.

The major bulk supply pipelines are inspected on a 3 year cycle, however, some of the old, larger diameter cast iron, lead jointed mains are inspected annually.

There is no inspection program for the major part of the city's smaller reticulation mains. ActewAGL relies on visible leaks on the water reticulation mains within Canberra being

reported by the public. Leakage investigations are undertaken of all suspected leaks and repairs undertaken on identification of leaks.

ACTEW also has a hydrant and valves maintenance program. Under this program all valves and hydrants are inspected and checked on a 5 to 8 year cycle.

ACTEW's water meter readers report any leaks identified at water meters.

(2) ACTEW advise the length of water mains in the Canberra water supply system is approximately 2,964km.

(3) ACTEW advise that approximately 50 leaks per 100 kms of main are identified per annum. This includes leaks from mains, maincocks, hydrants, valves, but does not include stopcocks and water services.

(4) ACTEW advise that the estimated total loss in the Canberra system for 2002-03 is 2.96 Gigalitres (GL), with an average daily loss in the order of 8.1 Megalitres (ML) per day. ACTEW's performance in 2002-03 has improved compared to 2000-01, when it had a total loss of 4.3GL.

The Water Services Association, in its WSAA facts publication for 2000? 01, included a comparative assessment of system losses by urban water utilities in Australia. This is the latest published comparison report. The ACTEW system water loss for the 2000-01 period was 147.1 ML per 100 km main, or 4.3GL in total, which was 6.8% of the total volume supplied.

The 2000-01 level was well below the average rate of loss for utilities of 231.4 ML per 100 km supplied (9.6%), and the third lowest out of 17 water utilities for which data was available.

(5) The ACT Government does not fund water leakage reduction programs. All repairs of water main leaks are undertaken by ACTEW.

ACTEW does not have a separately identified leaks reduction program in 2003-04, however all identified leaks are repaired as part of ongoing maintenance.

ACTEW established a pilot leakage management project in 2000-2001. Under this program, a system for continuous remote monitoring of leakage of 3% of Canberra's reticulation system was established. The operation and monitoring of leakage management districts is funded as part of the water supply operating costs.

ACTEW advises that it is considering a more extensive active leakage control program based on installing approximately 70-80 remotely monitored leakage meters throughout Canberra. This program is planned to be introduced over a 7 year period at an estimated cost in the order of $5M. It is estimated this project will lead to a leakage reduction in the order of 1.0-1.5GL per annum (1.5% to 2.0% of total water supply in the reticulation system) once fully implemented.

(6) ACTEW advises that it aims to repair 100% of all known mains leaks in the ACT within the financial year. Typically leaks are repaired within 7 days of ACTEW being notified unless special investigations are required to pinpoint its location.

(7) ACTEW advise that on the basis that the proposed active leakage control program for 2004-05 is implemented, savings of around 274 kilolitres per day or 100ML per annum

are possible in the first year. ACTEW already compares favorably in leakage ratios amongst Australian utilities and as such it is difficult to predict potential savings from an active leakage control program with relatively limited scope for improvements.

Water supply—burst main (Question No 1074)

Mr Cornwell asked the Treasurer, upon notice:

In relation to a burst water main that occurred on the afternoon of Sunday 2 November 2003 at the Woden Bus Interchange:

(1) What was the cause of damage to this water main;

(2) When was this incident reported to ActewAGL;

(3) When were repairs to this water main completed;

(4) How many kilolitres of water were wasted as a result of this incident.

Mr Quinlan: The answer to the member's question is as follows:

(1) The incident referred to was caused by a split weld on an 80 mm diameter copper service pipeline in Bowes Street, Woden, resulting in water leaking from the pavement adjacent to the ACTION bus interchange platform.

(2) The leak on the service was reported to Faults and Emergency Centre ActewAGL at 19:35 on 30 October 2003 and was inspected by ActewAGL the same evening.

(3) Repairs to the main were undertaken on Sunday 2 November between 10:30 and 15:00. While repairs could have been undertaken earlier, repairs were delayed at the request of ACTION to ensure the bus interchange operation was not interrupted. Repairs were completed on 2 November.

(4) The volume of water that leaked from the damaged service is unknown.

Railway repairs (Question No 1075)

Mr Cornwell asked the Minister for Planning, upon notice, on 18 November 2003:

In relation to railway repairs and maintenance in the ACT and the use of NSW trains on ACT railways. Does the NSW Government contribute to the cost of repairs and maintenance of the railway track and associated infrastructure within the ACT.

Mr Stanhope: The answer to the member's question is as follows:

Yes. The NSW Government, through its Rail Infrastructure Corporation, undertakes and pays for all of the railway repairs and maintenance within the ACT. This arrangement dates

back to the days of Commonwealth ownership of the railway land, when it had an agreement with the NSW State Rail Authority allowing the State Rail Authority to operate the railway land within the ACT as part of the NSW system. Rail operations have continued on that basis whilst the ACT and NSW have been negotiating a replacement Service Level Agreement.

Recent indications are that NSW will expect the ACT to contribute significantly toward the costs of providing the service in the future. Discussions are underway with NSW to identify the full costs of infrastructure maintenance and the loss incurred by Country Link in providing the Canberra-Sydney train service, as a first step in establishing what a fair apportionment of costs would be between the two jurisdictions. When the ACT Government has this information we will determine our position on the future of the train service.

Aged-care facilities (Question No 1076)

Mr Cornwell asked the Minister for Health, upon notice, on 18 November 2003:

In relation to a letter-to-the-Editor, *The Canberra Times*, 10 November 2003, outlining a problem with general practitioners servicing of residents in aged care facilities, ie the right under law for residents to choose their own general practitioner:

(1) Has the problem so identified come to the attention of ACT health authorities and to what extent;

(2) If such a problem does exist, what is being done about it;

(3) If 'this law may have to be amended' does the amendment need to be addressed by the Commonwealth or the ACT Government.

Mr Corbell: The answer to the member's question is:

(1) ACT Health is aware of this issue, and that the problem exists to some extent.

(2) Provision of residential aged care, and general practice services are the responsibility of the Commonwealth Government. ACT Health has met and discussed this issue with the ACT Division of General Practice and the Commonwealth.

(3) Any legislative changes that may be required would involve Commonwealth legislation.

Academy of Sport Rowing Centre (Question No 1078)

Mr Stefaniak asked the Minister for Sport, Racing and Gaming, upon notice, on 18 November 2003:

In relation to the ACT Academy of Sport Rowing Centre:

(1) What was delivered for the $10,000 spent in the December quarter on this project?

(2) What was delivered for the $11,000 spent in the March quarter on this project?

(3) Only $20,000 was budgeted for this project, why was it overspent by $1,000?

Mr Quinlan: The answer to the member's questions are as follows:

$20,000 (GST exclusive) was provided in the 2002/03 Budget to upgrade the building and make it more suitable for the storage of rowing equipment. Payment for the work was made in two parts: $10,000 in November 2002 and $9,990 in February 2003. However, records of the February payment incorrectly included an additional $999 for GST thus making the cost of the upgrade appear to be $20,990 when it was only $19,990.

The recording of the cost of the upgrade has already been corrected.

Manuka Oval refurbishment (Question No 1079)

Mr Stefaniak asked the Minister for Urban Services, upon notice, on 18 November 2003:

In relation to the Manuka Oval Refurbishment:

(1) Why was $6 000 rolled over for expenditure on Manuka Oval when the refurbishment was completed with the $7.194m in prior years?

(2) In the Progress Report for Capital Works 2002-03 $4 000 was spent in the December quarter and $2 000 in the final quarter. What was delivered for the $4 000 expenditure in the December quarter and what was delivered for the $2 000 expenditure in the final quarter?

Mr Quinlan: The answer to the member's questions is as follows:

(1) Whilst most of the $7.2m refurbishment work was completed by 30 June 2001, some minor works continued to be done after that time.

After the ACT election in October 2001, the former Bureau of Sport and Recreation was transferred from the Department of Education and Community Services to the Chief Minister's Department. At that time, unspent funds relating to the Manuka Oval refurbishment upgrade totalled $456,000. This amount was also transferred.

By 30 June 2002, the amount of unspent funds was $6,000 – 0.083% of the Territory's allocation for the refurbishment – as a result of efficiencies and other savings. On 8 October 2002, the Department of Treasury approved the expenditure of this amount on capital items that were not originally considered to be part of the original refurbishment, but were nonetheless required for the efficient management of Manuka Oval.

(2) Expenditure in the December 2002 quarter was for the relocation of a small building from Phillip Oval to Manuka Oval and the purchase of a cricket pitch cover.

Expenditure in the final quarter of 2002/03 was for football goal post covers.

Speed cameras
(Question No 1080)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to POLTECH (a supplier of fixed red light and speed cameras in the ACT) and the testing for accuracy of that equipment:

(1) Is POLTECH, as well as supplying the above equipment, also contractually responsible for its testing, repair and maintenance;

(2) If the answer to (1) above is yes, given that POLTECH is said to be in voluntary administration, what is being done to ensure that testing, repair and maintenance of this equipment is not compromised, and that POLTECH upholds any contractual obligations to the ACT, and when does this contract expire;

(3) If the answer to (1) above is no, who does the ACT Government contract to test, maintain and repair this equipment, and when does this contract expire;

(4) What will be the financial impact to the ACT in the event that POLTECH is wound up;

(5) If POLTECH is wound up, what will the ACT Government do to ensure that testing, repair and maintenance of this equipment continues to be performed on a regular basis.

Mr Wood: The answer to the member's question is as follows:

(1) POLTECH is contracted to repair and maintain the fixed red light and speed cameras only. Testing and certification is undertaken independently by the CSIRO.

(2) The contract for maintenance and repair of fixed cameras expires in December 2003. An independent contractor with appropriate qualifications has recently been engaged to conduct maintenance and repairs.

(3) N/A

(4) In the short term it is expected that there will be no financial impact. The longer term implications will be assessed when the future of POLTECH is known.

(5) See answer (2) above.

Periodic detention centre
(Question No 1089)

Mr Smyth asked the Attorney General, upon notice, on 19 November 2003:

In relation to the Periodic Detention Centre (PDC):

(1) Why was there an overspend of $29 000 on the upgrade of the PDC as shown in the 2002-03 Capital Works Progress Report;

(2) Has this project been completed;

(3) What works were undertaken as part of this upgrade.

Mr Stanhope: The answer to the member's question is as follows:

(1) The amount overspent on the upgrade of the PDC represents less than 1% of the total budget for the upgrade. The overspend is a result of:

- latent site conditions that were not reasonably foreseeable at the time the tenders were submitted for the construction; and

- additional specified security requirements for the safe and secure containment of remandees at the facility, the cost of which could not be offset by savings on items remaining in the construction scope at the time.

(2) The project has been completed.

(3) The following works were undertaken:

- a full security upgrade of the existing transitional release facility (minimum security) used by Youth Justice Services, to a new PDC, with the older PDC being converted to a new Temporary Remand Centre (maximum security); and

- upgrade and extension of the existing Community Unit on the PDC site to a Rehabilitation Programs Unit.

The detailed works consisted of:

- supply and installation of cyber locks throughout the facility;
- staff offices and lunchroom;
- supply and installation of a 'Key Watcher' safe for all handcuffs and cyber keys;
- construction of 30 new cells and inclusions;
- construction of staff duty points;
- supply and installation of infra red cameras, internal and external;
- supply and installation of motion detection external lighting;
- supply and installation of roof security (razor wire);
- construction of interview rooms and offices for Indigenous liaison and mental health staff;
- landscaping of site;
- supply and installation of automatic watering system;
- construction of a secure Sally Port (vehicle lock) area;
- supply and installation of boom gate entry; and
- construction of car parking facilities.

Roads—Belconnen
(Question No 1094)

Mr Stefaniak asked the Minister for Urban Services, upon notice:

In relation to suburban roads in Belconnen suburbs. Please list on a suburb by suburb basis how much was spent on repairs and improvements to roads in each suburb in Belconnen for the financial year ending 30 June 2003. (This question does not relate to the arterial roads linking suburbs such as Ginninderra Drive, Belconnen Way or Caswell Drive, rather roads within each suburb.)

Mr Wood: The answer to the member's question is as follows:

Roads ACT has advised that $2,641,258 was expended on the maintenance of the ACT's municipal roads for 2002/03. This included $1,247,267 for planned maintenance and $1,393,991 for routine maintenance.

Roads ACT do not record expenditure on a suburb by suburb basis for road maintenance activities. Expenditure is recorded by project for planned maintenance and task type for routine maintenance. A project can include various roads within the ACT road network and the work is carried out by contractors under a contract sum. In the case of routine maintenance the expenditure may be for pothole repairs carried out during a month.

Hence, under the current system of recording it is difficult, time consuming and costly to back track and attribute costs to a particular road within a particular suburb for the purpose of providing a specific answer to this question.

ACTION bus services (Question No 1095)

Mrs Dunne asked the Minister for Planning, upon notice:

In relation to ACTION bus services:

Have any bus services been taken off line this calendar year, if so:

(1) What routes have been cancelled and why;

(2) What were the pick up and drop off points for those routes;

(3) Have any funds been saved in cancelling these routes;

(4) If so, how much, (please provide figures on a daily cost if possible);

(5) Have any routes cancelled been replaced with alternative routes in that area;

(6) If so what is the new route and what is the cost of operating that route on a daily basis.

Mr Corbell: The answer to the member's questions is as follows:

(1) No regular route services have been cancelled with the exception of changes associated with the trial of a night time area service from Woden Interchange to Weston Creek. The trial commenced on 24 November 2003 and operates from 7.30pm, six days a week. Previously, three routes, 25, 26 and 27, operated between Woden and Weston Creek during these hours at a ninety minute frequency.

Under the trial, one route (725) will operate from Woden to Weston Creek on demand (but no more frequently than every 40 – 45 minutes). Passengers may indicate to the driver their preferred drop-off point, which may be a bus stop or a point closer to their destination. Two routes, 25 and 27, will continue to operate from Weston Creek to Woden every 90 minutes with a slight diversion to cover route 26.

School services are subject to regular adjustments throughout the year. The primary consultative forum for such adjustments is the School Transport Liaison Committee which comprises representatives from the Department of Education, the independent schools, ACTION, Urban Services and parents and citizens groups. ACTION liaises with individual schools on a case-by-case basis to adjust services in accordance with changing enrolments and needs.

(2) The bus stops for routes 725, 25 and 27 are available at www.action.act.gov.au.

(3) The purpose of the Weston Creek evening service trial is to provide greater travel flexibility and address safety issues for ACTION customers. A full analysis of the trial, including costs and patronage, will be undertaken following its completion. As the trial provides an on-demand service, the actual kilometres travelled will vary each night. It is anticipated that there will be some cost savings, however, these cannot be determined until after the review of the trial has been completed.

(4) See (3) above.

(5) See (1) above.

(6) See (1) and (3) above.

Schools—disabled access (Question No 1099)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 20 November 2003:

In relation to disabled access. A total of $292,000 has been spent on improving disabled access as part of the capital works budget. As part of this expenditure can the Minister detail:

(1) What works were undertaken;

(2) Where were they undertaken.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) and (2) During 2002/03 monies were expended at the following sites:

$61,000	Southern Cross Primary School - Disabled Toilet / Shower Facilities and Auto Entry Doors
$26,000	Duffy Primary School – Auto Entry Doors
$28,600	Calwell High School – Auto Entry Doors

$5,400	Tuggeranong College – New Entry Door
$12,300	Monash Primary School – Ramp to Classroom
$58,700	Belconnen High School – Ramps
$32,000	Canberra High School – Lift Modifications
$2,000	Malkara School- Playground Modifications
$24,000	Kambah High School – Auto Entry Doors
$42,000	Gold Creek Senior School – Hoist to Stage

Footpaths—Belconnen
(Question No 1101)

Mr Stefaniak: asked the Minister for Urban Services, upon notice:

In relation to footpaths in Belconnen suburbs. Please list on a suburb-by-suburb basis how much was spent in relation to footpath repair and improvements in each suburb in Belconnen for the financial year ending 30 June 2003.

Mr Wood: The answer to the member's question is as follows:

Roads ACT has advised that $1,998,651 was expended on the maintenance of the ACT's community paths for 2002/03. This included $1,625,708 for planned maintenance and $372,943 for routine maintenance.

Roads ACT do not record expenditure on a suburb by suburb basis for footpath maintenance activities. Expenditure is recorded by project for planned maintenance and task type for routine maintenance. A project can include various suburbs within the ACT and the work is carried out under a lump sum contract. A price break down is not provided for each section of footpath repaired under the contract. In the case of routine maintenance the expenditure may be for temporary asphalt repairs to footpaths carried out during a month.

Hence, under the current system of recording it is difficult, time consuming and costly to back track and estimate costs to a particular section of footpath within a particular suburb for the purpose of providing a specific answer to this question.

Bushfire fuel reduction—Belconnen
(Question No 1102)

Mr Stefaniak asked the Minister for Urban Services, upon notice:

(1) Please list on a suburb-by-suburb basis what works were done in Belconnen from 1 July 2003 until 20 November 2003 in relation to preparing urban parks for the 2003-04 bushfire season;

(2) Please list what work has been done in relation to preparing for the fire season in parks and green space in the Belconnen area that are not confined to just one suburb (eg Umbagong District Park).

Mr Wood: The answer to the member's questions is as follows:

(1) The list below is of fuel reduction activities, including additional mowing carried out to date. Physical removal includes dead trees and shrubs, trees under power lines, thinning of some tree stands, removal of lower branches of some trees and unwanted woody weed species. The additional mowing was commenced in September 2003 and will continue to March 2004. This fuel reduction mowing is additional to the amenity mowing carried out in urban parks.

Suburb	**Location**	**Activity**	**Date**
Belconnen	Diddums Close	Additional Mowing	Sept – Mar
Aranda	Caswell Dr/Belconnen Way	Physical Removal	September
Cook	Skinner Street	Physical Removal	Nov
	Skinner Street	Additional mowing	Sept – Mar
	Bindubi Street	Additional mowing	Sept – Mar
Macquarie	Belconnen Way	Physical Removal	Oct/Nov
Weetangera	Springvale Dr	Physical Removal	Nov
	Coulter Dr	Additional mowing	Sept – Mar
Hawker	William Hovell Drive/Springvale Dr	Physical Removal	Nov
Higgins	Drake Brockman Drive	Physical Removal	October
	Drake Brockman Drive	Additional Mowing	Sept – Mar
Holt	Drake Brockman Drive	Additional Mowing	Sept – Mar
Macgregor	Equestrain Trail @ rear of Macgregor	Physical Removal	June - Sept
	Equestrain Trail @ rear of Macgregor	Additional mowing	Sept – Mar
	Goodwin Hill	Physical Removal	June - Sept
	Goodwin Hill	Additional mowing	Sept – Mar
Fraser	Shakespeare Cres	Additional mowing	Sept – Mar
	Kuringa Dr	Additional mowing	Sept – Mar
Hall	Barton Way	Additional mowing	Sept – Mar
Giralang	Barton Way	Physical Removal	August
	Barton Way	Additional mowing	Sept – Mar
	Spigl Street	Additional mowing	Sept – Mar
Kaleen	Baldwin Drive	Physical Removal	September
	Stormwater Drain	Additional mowing	Sept – Mar
	Shannon Cct	Additional mowing	Sept – Mar
	Daintree Cres	Additional mowing	Sept – Mar
Lawson	Balwin Drive	Additional mowing	Sept – Mar
Florey	Kingsford Smith/Ginninderra Dr	Physical Removal	August
		Additional mowing	Sept – Mar
Latham	Ginninderra Dr	Physical Removal	September
		Additional mowing	Sept – Mar
Spence	Kuringa Drive	Additional mowing	Sept – Mar

(2) The list below includes the works carried out by Canberra Urban Parks and Places and Environment ACT in major areas of open space in Belconnen.

Area	Activity	Date 2003
Canberra Urban Parks and Places		
Umbagong Park	Physical Removal	July/August & Nov
	Additional Mowing	Sept - Mar
Mount Rogers	Physical Removal	November
	Additional Mowing	Sept - Mar
	Trail Maintenance	November
Ginninderra Creek	Additional Mowing	Sept - Mar
Environment ACT		
Black Mountain	Physical Removal	Oct - Sept
	Trail Maintenance	Aug - Sept
	Burning	Sept - Oct
Bruce Ridge	Physical Removal	Oct - Sept
	Mowing	November
Gossan Hill	Burning	October
	Physical Removal	September
Mt Painter	Mowing	November
Pinnacle Nature Reserve	Mowing	November
Aranda Bushland	Physical Removal	September
	Mowing	November

Finance—revenue (Question No 1104)

Mr Smyth asked the Treasurer, upon notice:

In relation to the information provided in the Consolidated Financial Report for the September Quarter 2003:

(1) Why did the Government under-estimate revenue for the General Government Sector by $132m;

(2) Why did the Government under-estimate revenue due from taxes, fees and fines by $26.3m;

(3) Why was it not possible for the Government to anticipate at least some of the 12 "unbudgeted " commercial transactions;

(4) Why did the ACT incur a decrease in interest revenue of $3.9m;

(5) Why did the ACT record an increase in employee and superannuation expenses of $25m;

(6) How much of the additional Commonwealth grant revenue of $4.4m comprises goods and services tax payments;

(7) Why was it not possible for the Government to anticipate at least some of the funds that have been received from land sales.

Mr Quinlan: The answer to the member's question is as follows:

All variances are explained as far as possible in the quarterly report. The Government is not willing to invest additional resources to answer the question.

Griffin Centre
(Question No 1105)

Mr Smyth asked the Treasurer, upon notice:

In relation to the proposed redevelopment of section 84 in the City and the incorporation of the Griffin Centre in the project:

(1) What plans are now being made for the Griffin Centre in the context of the Queensland Investment Corporation's proposal to redevelop section 84 in the City.

(2) What is the specific purpose of the $1.093 million that was identified in Appropriation Bill 2003-04 (No.2) as being for capital requirements for the Griffin Centre;

(3) Will the expenditure of these funds be incurred on the site of the existing Griffin Centre or in a new Griffin Centre.

Mr Quinlan: The answer to the member's question is as follows:

(1) The Griffin Centre project is presently at the design approval stage, and the plans are expected to be finalised by the end of 2003. Construction is scheduled to commence in May 2004 with the completion envisaged in February 2005.

The Queensland Investment Corporation (QIC) will build the new Griffin Centre in Block 1 Section 84 City, with a total usable space of approximately 3,059 m2. This consists of the usable space of 2,689 m2 constructed by QIC under the Development Deed signed in December 2000 and an additional usable space of 370 m2 promised by the previous government.

The Griffin Centre project forms the Stage 1 of the QIC's redevelopment project, which allows the tenants of the existing Centre to be accommodated in the new Centre prior to the redevelopment of the current Centre's site.

(2) The supplementary appropriation for the Griffin Centre project will address two issues that surfaced during the detailed project design process.

Firstly, it provides sufficient funding for the government-funded increase in floor areas. This amounts to $472,000. The unit cost per square meter was underestimated in the initial function brief, on which the funding from the 2001-02 Budget was based.

Secondly, it provides for additional mechanical and circulation space required to increase the usable floor space by 370 m2. This amounts to $522,000. The initial function brief did not make sufficient allowance for mechanical and circulation space.

In addition, the supplementary appropriation includes a 10% contingency.

(3) The additional appropriation relates wholly to the construction of the new Griffin Centre in Block 1 Section 84 City.

Weed control
(Question No 1107)

Mrs Dunne asked the Minister for Environment, upon notice:

In relation to weed control:

(1) How much money was allocated for weed control in 2001-02 and 2002-03;

(2) How much was actually spent in 2001-02 and 2002-03 on weed control;

(3) How much money has been allocated for weed control in 2003-04;

(4) How much has been spent up to the end of November 2003.

Mr Stanhope: The answer to the member's question is as follows:

(1) A total of $440,000 was allocated to Environment ACT for weed control in 2001-02 and $440,000 was also allocated for weed control in 2002-03.

(2) Total expenditure for weed control by Environment ACT during 2001-02 was $480,493. This included an extra $40,000 received as a grant from National Heritage Trust.

Expenditure for weed control during 2002-03 was $341,910. The reduction in spending was due to drought conditions and fire affecting many areas that were going to be treated. The residue of funding was re-directed to fire recovery works.

(3) A total of $650,000 has been allocated to Environment ACT to undertake weed control during 2003-04.

(4) To the end of November 2003: -

- Environment ACT has spent a total of $140,652 on weed control;
- Weed control projects to the value of $101,500 have been started but not completed and;
- Weed control projects to the value of $30,000 have been allocated to contractors but work has not commenced.

In addition, project briefs and requests for quotations have been sent to prospective suppliers for various weed control projects to be undertaken over summer. The remainder of funds will be spent on broadleaf weed control during autumn 2004.

Pest plants
(Question No 1109)

Mrs Dunne asked the Minister for Environment, upon notice:

In relation to pest plant species:

(1) What process is there in place to determine whether plants are appropriately listed;

(2) Is the list reviewed regularly;

(3) When was the last time it was reviewed;

(4) When was the last time a species was added or removed from the list.

Mr Stanhope: The answer to the member's question is as follows:

(1) The process in place to determine whether plants are appropriately listed is for the ACT Weeds Working Group to assess plants using the nationally accepted Weed Assessment Guide developed by the Animal & Plant Control Commission of South Australia. This guide was also used to determine the Weeds of National Significance.

Before any plants can be declared the Minister is required to consult with the Flora & Fauna Committee.

(2) The list is reviewed annually.

(3) The list was last reviewed in May 2003.

(4) The last time a species was added to the list was 11th July 2001.

Adoptions
(Question No 1113)

Mr Smyth asked the Minister for Education, Youth and Family Services, upon notice, on 25 November 2003:

In relation to adoptions in the ACT:

(1) How many adoptions were processed in the ACT in:
(a) 2000-2001;
(b) 2001-2002;
(c) 2002-2003;
(d) to date in 2003-04 (if any);

(2) Have any same sex couples contacted the government interested in adopting children, if so, how many and when;

(3) On average how long does it take to process an adoption in the ACT.

Ms Gallagher: The answer to Mr Smyth's question is:

(1) The number of adoptions processed in the ACT is as follows:

	Intercountry adoptions finalised in the ACT	Relative Adoptions	Local Adoptions
2000-2001	18	7	2
2001-2002	9	11	3
2002-2003	17	7	2
2003-2004 (to date)	4	0	1

(2) Yes, same sex couples have contacted the government interested in adopting children, however, there are no specific statistics kept because those couples are advised that the current legislation would not allow them to apply.

(3) On average adoption takes 2-3 years in the ACT, however, the time taken varies according to circumstances and can be shorter or longer.

Hospitals—cost weighted separations (Question No 1115)

Mr Smyth asked the Minister for Health, upon notice:

In relation to page 16 of the 2002-03 Health Annual Report which notes the following raw inpatient separations at Canberra and Calvary Public Hospitals. What are the figures for the hospitals for these years stated as cost weighted separations (using National Public Hospital Weights version 5):

Inpatient Separations	2001-02	2002-03	Percentage Growth
The Canberra Hospital	48 673	49 683	2.6%
Calvary Public Hospital	13 008	13 412	3.0%

Mr Corbell: The answer to the member's question is:

Cost weighted Inpatient Separations	2001-02	2002-03	Percentage Change
The Canberra Hospital	48 960.62	48 679.05	-0.6%
Calvary Public Hospital	15 787.65	14 817.70	-6.6%

The reduction in cost-weighted separations achieved in 2002-03 compared to 2001-02 was a result of reduced surgical activity at Calvary.

Targets for surgical activity at Calvary in 2002-03 were reduced following the significant increase in medical services demand and the exhaustion of additional funding available under the Critical and Urgent Treatment Scheme (CUTS), provided by the Commonwealth.

Some funding ($0.5m) was diverted from medical services to surgical services in late 2002-03 as a result in less than anticipated growth in medical demand.

The Government has provided an additional $2 million annually for Calvary public hospital to provide an additional 600 elective surgery procedures each year above totals reported in 2002-03.

Apprenticeships—advertising (Question No 1117)

Mrs Burke asked the Minister for Education, Youth and Family Services, upon notice, on 25 November 2003:

In relation to advertising in the Vocational Education and Training (VET) sector:

(1) Please detail the current strategy for advertising VET options to the Canberra community (including TAFE and colleges) in the ACT;

(2) Please detail the current strategy for advertising apprenticeships, including school based traineeships and apprenticeships.

Ms Gallagher: The answer to Mrs Burke's question is:

(1) Advertising Vocational Education and Training (VET) options to the wider Canberra community involves methods and media best suited to the target audience:

- Targeted media advertising, using communication expert's advice, is employed as applicable using mail, print, radio and television.
- The training web site (www:newapprenticeships.act.edu.au) details options available to all seeking training information.
- TAFE and colleges are part of the VET options available to the wider community and use mail, print, radio and television advertising of their products.
- Colleges also access Student to Industry Program advertising strategies. These include:

    i. Newspaper, especially advertising that increases Year 10 student/parent knowledge of VET options at college
    ii. Purchase of sites at forums such as Careers Market and Employment Expo
    iii. Letter box drops to Canberra households
    iv. Conducting of forums such as industry links meetings, public parent/student meetings and teacher meetings
    v. Initiatives such as the *myfuture.edu.au* pilot whereby students access national career information networks and learn about VET as viable and valuable college options.

(2) The current strategy for advertising apprenticeship options to the wider Canberra community is to use methods and media best suited to the target audience:

- Targeted media advertising is employed as applicable using mail, print, radio and television.
- The training web site (www:newapprenticeships.act.edu.au) details options available to those seeking apprenticeships or school based apprenticeships.
- TAFE and colleges are part of the VET options available to the wider community

and use mail, print, radio and television advertising of their ability to offer training to apprenticeships and trainees.

- Colleges utilise a common set of school-based traineeship (SNAPs) marketing materials (brochures, flyers, video, DVD and SNAPs sign up schema). Colleges, high schools, New Apprenticeship Centres, the Chamber of Commerce, employers and registered training organisations extensively use these materials in promoting and explaining the school based apprenticeship option. They are promoted and distributed at high school and college information nights, forums such as the Girls Expo, 2003 Canberra Career's Market, the Employment Expo and the University of Canberra.
- Colleges also access Student to Industry Program advertising strategies. These include:

    i. Newspaper, especially advertising that increases Year 10 student/parent knowledge of VET options at college
    ii. Purchase of sites at forums such as Careers Market and Employment Expo
    iii. Letter box drops to Canberra households
    iv. Initiatives such as the *myfuture.edu.au* pilot whereby students access national career information networks and learn about VET and SNAPs as college options
    v. Conducting of forums such as industry links meetings, public parent/student meetings and teacher meetings.

On-road cycling projects (Question No 1124)

Mr Cornwell asked the Minister for Urban Services, upon notice:

(1) What was the total cost for construction of Stages 1, 2 and 3 of the project;

(2) What is the total expenditure to date on the final two stages of the project:

Mr Wood: The answer to the member's questions is as follows:

(1) The total project cost of stages 1, 2 and 3 was $1.8 million.

Stage 1 Commonwealth Avenue (Commonwealth Av bridge to London Circuit)
Stage 2 Adelaide Avenue/ Yarra Glen (Yamba Drive to State Circle)
Stage 3 Connection between stages 1 and 2

(2) Total project expenditure to the end of November 2003 was $1.8 million.

The final stages 4 and 5 Northbourne Avenue (London Circuit to Mouat Street), yet to be constructed, are expected to cost $0.9 million.

Third party insurance (Question No 1125)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to Compulsory Third Party (CTP) insurance premiums for motor vehicles:

(1) What is the current cost to vehicle owners of the CTP motor vehicle insurance premium in the ACT;

(2) Is this cost the same for all vehicles regardless of class or type;

(3) If not, what are the premiums for each class or type of vehicle;

(4) Are CTP premiums in the ACT different to those in NSW, and if so, how and why.

Mr Wood: The answer to the member's question is as follows:

(1) The current cost to ACT vehicle owners of the CTP motor vehicle insurance premium for a passenger vehicle (eg a car or station wagon) with 12 months private registration is $399.45.

(2) No. Premiums vary according to the claims exposure of each class of vehicle. Within each class, a higher premium applies if the owner is registered with the Australian Taxation Office (ATO) for the Goods and Services Tax (GST), enabling the owner to claim back the GST component of the premium from the ATO as an input tax credit.

(3) The current premium rates for each class of vehicle are shown in the attached table.

(4) Yes. However, it is difficult to make meaningful comparisons between premiums payable under the NSW and ACT CTP schemes because the two schemes differ in many respects. In recent years benefits for injured persons under the NSW scheme have been significantly reduced, as a trade-off for lower premium rates. The ACT scheme can potentially be more generous to accident victims, having none of the restrictions on claiming general damages for pain and suffering that apply in NSW.

In the ACT, premiums are community rated, so all owners of the same class of vehicle pay the same premium. NSW CTP premiums also take into account identifiable risk factors such as the owner's (or driver's) age, accident and insurance history (including whether he or she is an existing customer of the insurer), the vehicle's age and where it is garaged. As a result, some NSW motorists are charged much higher CTP premiums than other NSW (or ACT) motorists for the same class of vehicle, particularly where the vehicle is driven by younger drivers. For example, CTP premiums in excess of $570 apply to cars garaged in Sydney that are used by drivers under 23 years of age.

MINIMUM AND MAXIMUM (12 MONTH) RATES OF CTP PREMIUMS FOR 2003/04

		Premium	
Item	Classification	0% ITC	100% ITC
1	Ambulance	$559.20	$604.80
2	Breakdown vehicle.....	$399.45	$432.00
3	Bus or tourist vehicle		
	(a) if the vehicle has seating for not more than 16 adults (including the driver).....	$798.90	$864.00
	(b) if the vehicle has seating for more than 16 adults (including the driver).....	$1,717.60	$1,857.60

4	Drive-yourself vehicle	$2,396.80	$2,592.00
5	Firefighting vehicle	$499.30	$540.00
6	Goods vehicle		
	(a) if the unladen weight is not over 975 kg	$399.45	$432.00
	(b) if the unladen weight is over 975 kg but not over 2 t	$579.20	$626.40
	(c) if the unladen weight is over 2 t	$1,597.80	$1,728.00
7	Historic vehicle	$39.90	$43.15
8	Miscellaneous vehicle	$599.15	$648.00
9	Mobile crane	$719.00	$777.60
10	Motorcycle		
	(a) if the engine capacity is not over 300 mL	$79.85	$86.40
	(b) if the engine capacity is over 300 mL but is not over 600 mL	$419.40	$453.60
	(c) if the engine capacity is over 600 mL	$379.45	$410.40
11	Passenger vehicle	$399.45	$432.00
12	Police vehicle	$1,118.45	$1,209.60
13	Primary producer's goods vehicle		
	(a) if the unladen weight is not over 2 t	$359.50	$388.80
	(b) if the unladen weight is over 2 t	$279.60	$302.40
14	Primary producer's tractor	$319.55	$345.60
15	Private hire car	$2,276.85	$2,462.40
16	Taxi	$6,391.20	$6,912.00
17	Trader's Plates	$39.90	$43.15
18	Trailer	nil	nil
19	Undertaker's vehicle	$319.55	$345.60
20	Veteran vehicle	$39.90	$43.15
21	Vintage vehicle	$39.90	$43.15

The minimum premium rates shown in the table are the 0% Input Tax Credit (ITC) premium rates. These apply where the registered operator or beneficial owner of the vehicle does not intend to claim an input tax credit (ie he/she is not registered with the Australian Taxation Office for the GST).

The maximum rates shown in the table are the 100% ITC rates which apply where an input tax credit will be claimed (ie the registered operator or beneficial owner is registered with the ATO for the GST). The 100% ITC rates are 8.149% higher than the 0% rates.

Legislative Assembly—counselling services (Question No 1128)

Mr Cornwell asked Mr Speaker, upon notice:

In relation to the provision of an employee assistance program by Davidson Trahaire Corpsych to staff of the Legislative Assembly:

(1) Is this arrangement to provide free counselling services extended to all non-Executive staff of the Legislative Assembly, or are there exceptions:

(2) What is the cost to the ACT Government for the provision of this service;

(3) Why was this service introduced to non-Executive staff of the Legislative Assembly.

Mr Speaker: The answer to the member's question is:

(1) The provision of counselling services has been provided to non-Executive staff of the ACT Legislative Assembly since October 1997, in conjunction with an identical arrangement for staff of the Assembly Secretariat. Since February 1999, the service has also been made available to non-Executive Members.

(2) The cost to the ACT Legislative Assembly Secretariat for the provision of the counselling services by Davidson Trahaire Corpsych is based on usage of the service. It is not possible to distinguish between usage by Secretariat or non? Executive Members and their staff but the combined cost for 2003-04 for those groups is expected to be approximately $6000. The non-Executive Members and their staff represent approximately 50% of the total group eligible to use the service.

(3) The counselling service offers short-term, solution focussed counselling. It can assist employees clarify a problem, identify options and develop plans to approach difficult issues in a constructive manner. The service provides access for staff and their immediate families for both work related and non-work related issues on the basis that the inability to address or resolve these wider issues can have a significant detrimental affect on employee productivity.

It is widely recognised that such services can help reduce the incidence, severity, and costs (both direct and indirect) of workplace injury by implementing preventable measures; can assist in improving the level of communication and consultation between management and staff; and can assist the Assembly achieve compliance with its occupational health and safety obligations.

International Men's Day (Question No 1129)

Mr Cornwell asked the Chief Minister, upon notice:

In relation to the celebration of International Men's Day in the ACT:

(1) What arrangements did the ACT Government make to support and celebrate this important event on 19 November this year;

(2) What arrangements did the ACT Government make to support and celebrate International Women's Day on 8 March this year?

Mr Stanhope: The answer to the member's question is as follows:

(1) Nil

(2) The following arrangements were made to support and celebrate International Women's Day on 8 March 2003 across Government agencies:

- The ACT Office for Women administered the ACT International Women's Day Awards. These Awards were presented by the Minister for Women and the Chief Minister on 7 March 2003.

- The Women's Information & Referral Centre produced and distributed a Calendar of Events providing details of events and functions planned for the celebration of International Women's Day in the ACT.

- Vocational Education and Training, Department of Education, Youth and Family Services, organised a luncheon on 6 March 2003 to celebrate the achievements of women in vocational education and training.

Sustainability indicators report (Question No 1134)

Mr Smyth asked the Chief Minister, upon notice, on 26 November 2003:

In relation to sustainability reporting indicators:

(1) Where is the government up to in preparing its alternative to the State of the Territory report, the Sustainability Indicators Report;

(2) Why has the issues paper only just being released to the community, given that in response to the Question on notice No 871 in September the Acting Chief Minister said that the paper 'will form the basis of consultation with stakeholders scheduled for the next two months'. Does this mean that the project is now two months behind schedule as consultation should have occurred this month and last;

(3) Is the Sustainability Indicators report still on target to be presented to the community early next year, if so, what date or month can we expect it to be released. If no, why not, and when will it be released.

Mr Stanhope: The answer to the member's question is as follows:

The Government has reviewed the literature, released an issues paper and consulted with the community about reporting on sustainability in the ACT. It is now gathering the data and drafting the report.

The Government released an issues paper and consulted with key stakeholders in November 2003, consistent with the timetable as indicated in its answer to your previous question on notice. The project is progressing on schedule.

The Sustainability report is on target to be presented to the community in early 2004.

Work and family policy (Question No 1136)

Mrs Burke asked the Chief Minister, upon notice:

In relation to 'work and family' policy and further reply to Question on Notice No 1045:

(1) How many 'work and family' policies does each ACT Department and agency have in place;

(2) In the response to Question on Notice No 1045 the Minister for Economic Development, Business and Tourism noted that 'The ACT Government does not have data on work and family arrangements in the ACT private sector to provide a meaningful comparison between the Business Council of Australia figures and ACT private businesses'. Will you as Chief Minister and the Minister responsible for public service employment practices look at collecting such data for the public and private sectors.

Mr Stanhope: The answer to the member's question is as follows:

(1) Each Department and agency has the following:

- Chief Minister's Department – 21;
- Urban Services – 14;
- Justice and Community Services – 14;
- Education Youth and Family Services – 15;
- Treasury – 21;
- ACT Health – 20;
- Disability, Housing and Community Services – 14;and
- ACT Planning and Land Authority – 23.

(2) For the public sector, the data exists as indicated in the response to question 1.

In relation to the private sector, the data will not be collected.

Junk mail on car windscreens (Question No 1141)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to junk mail:

(1) How many fines or warnings have been issued to companies found to be posting junk mail advertisements on the windscreens of cars in the ACT in (a) 2002 and (b) 2003 to date;

(2) How are the regulations, preventing junk mail being deposited on windscreens, being enforced;

(3) What is the approximate annual cost of policing these regulations.

Mr Wood: The answer to the member's question is as follows:

(1) (a) In 2002-2003 no infringement notices were issued, with 2 warning notices issued. (The warning notices were issued to interstate groups who had placed information on

both vehicle windscreens and ticket parking machines in the city. Both groups were unaware of the regulations.)

(b) In 2003-2004 no infringements or warnings have been issued to date.

Under the current legislation, because the offence provision, which was introduced by former MLA Michael Moore, only relates to the person who places the leaflet on a car, infringement notices can only be issued to that person. Proposed amendments to the litter Act will make it an offence not only to place advertising material on a car, but to organise for other people to distribute leaflets by placing them on cars. It will, then, be possible for an infringement notice to be issued to a business which has organised for advertising material to be placed on motor vehicles.

(2) Regulations are enforced by:
- Responding to public complaints
- Random carpark patrols by the City Rangers
- Notification from other rangers i.e. Parking Officers.

(3) The cost of enforcing the regulations is incorporated within the daily duties of a City Ranger. This task is undertaken during routine patrols that include locating abandoned vehicles, illegal dumping and Sharps collection. It is therefore difficult to confirm the exact costs involved but duties are estimated to be less than 5% of normal daily tasks.

Bushfire memorial (Question No 1146)

Mr Cornwell asked the Minister for Arts and Heritage, upon notice:

In relation to a Bushfire Memorial:

(1) What consultation has the government undertaken with the community in regards to the establishment of a bushfire memorial in Canberra;

(2) How many suggestions have been presented to the government for a bushfire memorial;

(3) When will the government make a final decision on the design, structure, siting and construction of a bushfire memorial in Canberra;

(4) What is the estimated cost, start and completion date for this project;

(5) Who will pay for this memorial?

Mr Wood: The answers to the member's questions are as follows:

(1) A full community consultation process is being undertaken, informed by a Bushfire Memorial Community Consultation Advisory Committee comprised of Government and community representatives most affected by the fire.

(2) The Government has so far received 22 written suggestions regarding what a bushfire memorial should reflect.

(3) The final decisions on these matters will depend upon the outcome of the community consultation.

(4) Funding allocated to the Bushfire Memorial Community Consultation is $25,000. Funding for the design, fabrication and installation of the memorial is $160,000. Start and completion dates will be determined by the outcomes of the community consultation.

(5) The Government has allocated minor capital works funds through the 2003-04 Budget for the memorial.

Aboriginal sacred sites (Question No 1148)

Mr Smyth asked the Minister for Arts and Heritage, upon notice:

In relation to Aboriginal sacred sites:

(1) What studies or works remain to be completed in regenerating or evaluating aboriginal sacred sites damaged during the January bushfires;

(2) Has the evaluation of sacred trees been completed and what action can now take place following that evaluation;

(3) What is the estimated monetary loss of aboriginal sacred sites in the January bushfires.

Mr Wood: The answers to the member's questions are as follows:

(1) Containment line surveys have been completed. Registration of sites found in the Tidbinbilla Nature Reserve and some rural leases has occurred, with reports documenting findings on fire trails in Canberra Nature Park due shortly. These sites will also then be registered.

(2) The surveys undertaken included inspections for all types of Aboriginal places, including scarred trees. Known scarred trees in Namadgi have been checked and one is known to be lost. Inspection of others in the Kambah area has found that none were damaged there. Bushfire Recovery funds have been set aside to allow for conservation and management of scarred trees when surveys and Registrations are completed.

(3) It is not possible and would be culturally offensive to place a monetary value on any place considered significant to a particular culture. Significant Aboriginal places are irreplaceable.

Shopping centre upgrades (Question No 1149)

Mr Smyth asked the Minister for Urban Services, upon notice:

In relation to shopping centre upgrades:

(1) Has the Minister received any requests or bids for shopping centre upgrades as part of the 2004-05 Budget. If so, which shopping centres have asked for consideration in the next budget;

(2) What shopping centre upgrades are taking place this financial year and to what dollar value.

Mr Wood: The answer to the member's question is as follows:

(1) Requests for shopping centre upgrades as part of the 2004 - 05 budget have been received from Deakin, Hackett and Duffy shopping centres.

(2) Shopping centre upgrades taking place this financial year are at Holder shops (approx $0.5m) and Bible Lane, Civic (approx $0.5m).

Canberra Stadium
(Question No 1151)

Mr Smyth asked the Treasurer, upon notice, on 27 November 2003:

In relation to Canberra Stadium:

(1) How many events are planned to take place at Canberra Stadium next year?

(2) Other than NRL and Super 12 matches, what events will take place and on what dates?

(3) What is the estimated income for the Stadiums Authority from the events planned in 2004?

Mr Quinlan: The answers to the member's questions are as follows:

(1) 22

(2) ACT Junior Rugby League Finals 28-29 August 2004 ACT Junior Rugby Union Finals 4-5 September 2004

(3) $3 m

Land tax
(Question No 1152)

Mr Smyth asked the Treasurer, upon notice; on 27 November 2003:

In relation to the changed arrangements for exemptions from land tax for residential properties owned by a trust or a company, that were implemented as part of the 2003-03 Budget:

(1) How many properties have had their exemptions from land tax removed as a result of these new arrangements;

(2) How much revenue has been raised from the removal of exemptions for these categories of property;

(3) Following the implementation of the new arrangements, how many requests have been made seeking relief from the impact of the new arrangements;

(4) Of any requests that have been made, have these requests been accepted as valid and, if so, what has been the outcome of these requests;

(5) Have any requests for relief been rejected. If so, on what basis were these requests rejected.

Mr Quinlan: The answer to the member's question is as follows:

(1) When the *Revenue Legislation Amendment Act 2002* came into effect on 1 October 2002 and removed the land tax exemption for residential properties that were not rented and owned by a company or a trust, there were 2 183 residential properties that were owned by a company or a trust. Of these, 1 634 residential properties were previously rented and already subject to land tax. The remaining 549 residential properties previously not rented and owned by a company or a trust had their exemption removed and became liable to land tax.

(2) Given the ever changing ownership and rental status of residential properties, it is not possible to provide an exact revenue increase from this initiative. It is estimated that an additional $540 000 land tax revenue was collected in 2002-03 (1 October 2002 to 30 June 2003) from the 549 residential properties owned by companies or trusts that were previously not rented and became subject to land tax. Taking into account increases in the 2003 Average Unimproved Values of properties, it is estimated that an additional $850 000 land tax revenue will be collected from this initiative in 2003-04.

(3) Following representation from a number of affected residents seeking relief from the impact of the new land tax arrangements, I agreed on 13 November 2002 to a one off waiver of stamp duty to allow certain properties owned by a company or trust to be transferred to the beneficial owners in order for the property to remain exempt from land tax.

There were 40 residential properties where requests for the transfer of ownership to shareholders or beneficiaries were made to obtain relief from the new land tax initiative.

(4) There were 38 requests that were approved for a waiver of the stamp duty (or an Act of Grace payment where duty had already been paid) on the transfer of a residential property from the company or trust into the names of shareholders or beneficiaries.

Properties that were transferred under these circumstances were also refunded any land tax that had been imposed from the introduction of the new initiative on 1 October 2002.

(5) There were 2 requests for a waiver of duty that were not approved. One where the ownership was already in the individual's names and no transfer was necessary, and the second because the property was an investment property and was not the principal place of residence of the shareholders or beneficiaries.

International ratings agencies (Question No 1153)

Mr Smyth asked the Treasurer, upon notice:

In relation to the reviews conducted by international ratings agencies, such as Standard and Poor's and Moody's of the ACT economy:

(1) What is the nature of any contact that is made between ratings agencies and the ACT Government. In addition to the Treasury, are any other Departments or agencies of the ACT Government involved;

(2) Are regular meetings or briefing sessions held involving a particular ratings agency and the ACT Government. If so, what is the frequency of these meetings and briefing sessions. If not, why not;

(3) Are meetings or briefing sessions arranged with ratings agencies that involve the Treasurer and/or the staff of the Treasurer. If so, what is the frequency of these meetings and briefing sessions, if not, why not;

(4) Is there any *ad hoc* contact between ratings agencies and the ACT Government. If not, why not;

(5) Are drafts of reports being prepared by a rating agency provided to the ACT Government for comment prior to that agency finalising and releasing the relevant report; if not, why not.

Mr Quinlan: The answer to the member's question is as follows:

(1) A representative from both Standard and Poor's and Moody's will contact the Department of Treasury each year regarding the timetable for the submission and/or presentation to the ACT's annual credit rating review. This contact is made by either telephone or email.

The Department of Treasury provides a written submission to Standard and Poor's, and makes a presentation to representatives from both Standard and Poor's and Moody's. Treasury is the only Department of the ACT government involved in the submission and the presentations.

(2) The Department of Treasury makes an annual presentation to both Standard and Poor's and Moody's. The credit rating review process does not require regular meetings or briefing sessions. The credit rating agencies rely on ACT Budget Papers, and an update only, to arrive at their assessments. This is common practice for all state governments.

(3) The Treasurer and/or the staff of the Treasurer are not involved in the annual presentations, made by the Under Treasurer with supporting Treasury staff, to the credit rating agencies Standard and Poor's and Moody's. The presentations provide an overview of the ACT economy and of the ACT government's actual and forecast budgetary performance and financial position. The presentation is consistent with the information contained in the ACT Budget Paper No. 3 "Budget Overview".

In August 2003, representatives from Standard and Poor's made a presentation to Ministers on the processes involved in assigning the ACT's credit rating. This was an

information sharing exercise and followed the presentation from the Under Treasurer earlier on the same day.

(4) The Department of Treasury liaises with the credit rating agencies Standard and Poor's and Moody's regarding the timetable for the presentations and submission, and the scheduled release date of the final rating. There is no other ad hoc contact.

(5) The Department of Treasury is provided with a draft report for comment prior to release.

Goods and services tax revenue (Question No 1154)

Mr Smyth asked the Treasurer, upon notice:

In relation to the goods and services tax:

(1) The ACT Budget for 2003-04 estimated that the ACT would receive $626.5 million in 2003-04 from the goods and services tax. Is this estimate still valid;

(2) If there has been any changes to the estimate of receipts from this tax, what is the new estimate of receipts and what is the basis for the change in the estimate;

(3) For each of the years for which revenue has been received from the goods and services tax:

(a) what was the estimate of revenue for each year;

(b) what was the actual revenue received for each year;

(c) what were the reasons for any variation between the estimated revenue and the actual revenue received;

(4) For the out-years, how have the estimates for receipts of revenue from the goods and services tax been developed; and

(5) What factors are likely to influence these estimates?

Mr Quinlan: The answer to the member's question is as follows:

(1) No.

(2) The new estimate is $634.5m. The reason for this change is a larger GST pool and a smaller Territory population.

The Government expects to revise its estimate following the release of the Commonwealth's Mid-Year Economic and Fiscal Outlook (MYEFO) on 8 December 2003.

(3) ACT GST revenue receipts to date

(a) and (b)

	Published ACT Budget estimate $m	**Actual Outcome $m**
2000-01	473.5	472.6
2001-02	555.3	543.9
2002-03	600.0	615.7

(3c) Estimates of GST revenue receipts fluctuate throughout the year subject to regular determinations by the Australian Taxation Office (ATO) of the expected size of the GST revenue pool and by the ABS of the total Australian population and corresponding State shares. Any variations between budget estimates and actual outcomes are a result of these determinations.

It must be noted that there have also been significant trade offs in own source tax revenues. This means the change from published estimates to actual outcomes does not necessarily mean a windfall.

(4) Estimates for the out-years (i.e. those beyond the Commonwealth's three forward years) are derived from a model developed by the South Australian Treasury. At the time of signing the Intergovernmental Agreement on the Reform of Commonwealth State Financial Relations (IGA) the States agreed that South Australia would develop and maintain the model on behalf of all States to ensure a level of consistency across all jurisdictions. It should be noted, however, that jurisdictions are not restricted to using these estimates for their own budgetary purposes.

(5) Out-year estimates are subject to the Commission's annual recommendation to the Federal Treasurer of State GST revenue sharing relativities and determinations by the ATO and ABS, with regards to expected GST revenue collections and the size of the Australian population.