DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

9 DECEMBER

2003

Tuesday, 9 December 2003

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MR SPEAKER (Mr Berry) took the chair at 10.30 am, made a formal recognition that the Assembly was meeting on the lands of the traditional owners, and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Petition
Development of Lake Ginninderra foreshores

The following petition was lodged for presentation:

by **Mr Stefaniak**, *from 100 residents:*

> To the Speaker and members of the Legislative Assembly for the Australian Capital Territory:
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that there is an urgent need to oppose the development application 20032016, block 80, section 65, Emu Bank, Belconnen which is located on the foreshores of Lake Ginninderra.
>
> Your petitioners therefore request the Assembly to call on the Minister for Planning to reject this application as this development will bring residential dwellings within 9 metres of Lake Ginninderra and will cause a number of planning, environmental and other local problems, which are contrary to good planning for the foreshores of Lake Ginninderra and its environment.

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

Health—Standing Committee
Report No 7

MS TUCKER (10.34): I present the following report:

> Health—Standing Committee—Report No. 7—2002-2003 annual and financial reports: ACT Health—Community and Health Services Complaints Commissioner—Healthpact, dated 4 December 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.

MS TUCKER: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS TUCKER: I move:

That the report be noted.

As with its inquiry into the 2001-02 annual and financial reports, the committee has in this report raised matters on which it feels that reporting can be improved. The committee recognises the role of annual reports as a key reporting document in the financial cycle. In its previous report on annual and financial reports—Report No 3—the committee discussed the purpose and intent of annual and financial reports and their importance as an accountability document for the government, Assembly and the community.

When the committee looks at annual reports it looks for a well-analysed summary of the outcomes, challenges and achievements of the agency, it looks at the impact of major outside scrutiny on agency business and it looks for clear and concise qualitative links to budget papers and performance measures. This year, ACT Health is a new entity, comprising what were formerly the ACT Health and Community Care Service—the Canberra Hospital and ACT Community Care—and the ACT Department of Health and Community Care, so there is a new structure and there were some hiccups in the annual report in regard to that new structure on which we have made comment. In general, we have made comments, once again, on performance indicators. I will comment particularly on that one.

In recommendation 4 the committee recommended that the government forward the new suite of performance indicators for ACT Health to the Standing Committee on Health when finalised. We raised that with the 2001-02 annual reports. As an example, we mentioned the 100 per cent measure for mental health services maintaining national mental health standard accreditation and at that time the committee recommended that the performance measures be reviewed and that numerical measures be used only where they convey meaningful information.

We were told at that time that ACT Health was reviewing the criteria for performance measures and the government agreed that they needed to be looked at. This issue has not been resolved in this report, although the chief executive of ACT Health told the committee that a suite of performance indicators is currently being developed which will improve the comprehensiveness of reporting. The committee is still of the view that the current numerical performance measures inadequately represent the agency's performance.

As members probably would be aware, other committees of the Assembly also have consistently raised this issue, including select committees on estimates, and we go into some detail in the report to remind the government of this fact and make the point that numerical measures should be used in isolation only when they are self-explanatory, for example, occasions of service or number of bed nights. I think that this is a really important aspect of reporting by agencies and we really do hope that we will see an improvement in the next annual report.

I will not go through all the recommendations, but one other one that I will pick up is the comment we made about how Health was reporting on committee recommendations. As members are aware, the agencies now have a responsibility to report in each annual

report on recommendations which are agreed to by government and how they have progressed those recommendations. We were not happy with how this reporting occurred in this annual report and hope to see an improvement in that.

I note that other agencies are doing so really well. From memory, Urban Services or Chief Minister's—one of them that I was looking at just last week—was a good example of how to do it by listing the recommendations and the government response and giving a quite clear description of how those recommendations are being progressed. I commend this report to the Assembly.

Question resolved in the affirmative.

Law Reform Commission
Report on bail—government response

Debate resumed from 19 June 2003, on motion by **Mr Stanhope**:

> That the Assembly takes note of the paper.

MR STEFANIAK (10.41): Mr Speaker, it is timely to discuss the report of the Law Reform Commission on bail. I certainly hope that the government will be bringing forward its bill very early in the new year. In fact, I would hope to see that being done on Thursday. That would be timely as it would allow us to look at it over the break.

Bail is incredibly important. It is incredibly important for a number of reasons. It is a very important right and privilege under our criminal justice system. In recent times there have been a number of problems in all Australian jurisdictions in relation to just how to approach the issue of bail. I note that the issue crops up quite often in jurisdictions even more robust than ours.

Until 1992, the law was not anything like codified in the ACT. Basically, it was very much up to the individual court official—judge, magistrate or whatever—to decide whether to grant bail. I do not think that the 1992 act particularly helped. I think that it went far too far in favour of granting bail to persons charged with serious offences in circumstances which were not necessarily reasonable for the community and even the good administration of justice.

Some of the problems in terms of balancing the needs of the community with the legitimate rights of the persons charged and the need for a fairly robust approach were highlighted in a case I had the misfortune to be involved with in relation to the kidnapping by Patrick Hudd, who had a series of very violent crimes to his record, of a 17-year-old boy who was his stepson by way of a de facto relationship with a Nancy Nomchong.

The police had grave concerns. The kidnapper was committed to the Supreme Court for trial by, I think, Warren Nichol, who, I thought rather sensibly, remanded the accused in custody. The accused appealed. Mr Justice Kelly, after hearing the case, granted him bail. There were real fears as to violence. Sadly, some 48 hours later, Hudd breached his bail, kidnapped Nancy Nomchong and blew her back away when officers from the New South Wales police force in Sydney were attempting to rescue her in a siege situation.

Luckily, she lived; and Hudd received a considerable period of time in jail for attempted murder as a result.

That really brought home to Mr Justice Kelly the importance of protecting the community, given his approach to the issue after that. It is a difficult issue. That was a bit of a landmark case in terms of the need for courts to be very cautious in regard to ensuring that the rights of criminals are balanced by the legitimate rights of the community and the legitimate expressions by police and prosecutors of the danger an accused might be if released.

In 1992 we had our first real bail act and there were a number of problems with it. I note from the report which the Attorney-General has tabled that he does not support recommendation 9, basically for the good reason that it was overtaken by amendments in 2001. One of the biggest problems we have had in the territory, apart from the complaints that you get anywhere about persons being let out on bail when lots of people think they should not, is with the revolving door situation, especially in instances where repeat offenders appear in court, are granted bail and very soon afterwards are back in court, having been charged with more offences.

In fact, I have heard stories of people who were granted bail several years ago after going to court for, say, 15 counts of stealing cars. In one instance, some bloke stole a car outside the court after he was given bail and drove himself home. Fairly soon he was back in front of the court, but again got bail because of the presumption in the act in favour of bail. At present, that presumption even applies to murder and serious crimes like that.

Section 9A was introduced by me for the previous government in relation to serious offences. I am pleased to see that this government has seen the sense in that, probably grudgingly because it goes against some of the normal left wing, overly excessive, civil libertarian leanings you get with some Labor governments, whilst not supporting recommendation 9 of the Law Reform Commission. In previous debates I have read out the names of the members of the commission who made this report. I am not going to do that again; members can refer to *Hansard* for that.

The commission has recommended a presumption against bail for offenders who commit serious offences, which is something that has been taken up by section 9A. Whilst this government says that it is reviewing that, I think that the evidence shows quite clearly that it has been a very significant part of the act, especially for burglary, armed robbery and a number of serious offences, and has lessened the incidence of those offences in our community, simply because repeat offender who commit further offences whilst on bail have been remanded in custody pending the disposal of their matters. It is quite clear that that has worked. Anyone on the police force will tell you that. Most people who operate in the court system will do so as well, even though there might be a few there who do not particularly like it because of their excessive civil libertarian views.

Mr Speaker, there are a number of other recommendations and issues in relation to this paper. I think it is unfortunate that the government has not supported recommendation 8. Again, I have read it out and we have had a debate on it in terms of a bill I brought before the Assembly to faithfully replicate that recommendation. It is interesting that the Chief Minister and Attorney-General has indicated that he will do something there.

I think it is a shame that the presumption in favour of bail still exists for serious offences such as murder, supplying serious drugs and particularly nasty crimes where violence is involved. The committee has recommended that it should be reversed to a presumption against bail. I think that it is eminently sensible to have a presumption against bail there. It is a presumption that is rebuttable, but the accused really have to be on their mettle to show why they should be entitled to bail and why the right and expectation of the community to be protected should be put to one side in relation to their particular matters.

At least the Attorney is indicating that there will be a presumption against bail for murder and, I think, serious drug offences, which is something. He has listed a whole series of matters where there will be no presumption, which is, again, an interesting concept and one probably going back to the situation pre-1992. I would have preferred a more robust approach to this issue by the government. The Law Reform Committee is hardly comprised of the redneck law and order types that this government rails against from time to time. It is a very learned committee which made these recommendations after several years of deliberation. I am disappointed that the government does not support recommendation 8, but do acknowledge that at least they go a little bit of the way there, which is better than nothing.

Obviously, the opposition will wait to see the government's bill before it makes a detailed response to any of these matters, but I would tend to think that the government might be being sensible in regard to recommendation 12. The government's decision not to support recommendation 12 may well have some merit. I will see what pans out there in terms of the bill. The government goes part of the way concerning sensible recommendations by the committee in recommendations 11 and 17 which would remove the obligation on decision makers to consider the best interests of a child when deciding on bail or bail conditions in respect of children.

The committee talked about the duty to the community and the real danger to the community some young people might cause if they are released on bail and how the best interests of the child should be a relevant consideration. It conflicts with the obligations courts have to the community to interpret that to mean their best interests are in being allowed to be at large. I think that it is an eminently sensible recommendation that that is merely an interest that can be looked at alongside a whole lot of other interests.

The deciding factor, however, should be whether, on balance, the community's interests are not going to be served by someone, be it a child or otherwise, getting bail. The paramount concern should be the safety of the community, the safety of witnesses, the likelihood of persons getting out there and committing further offences. It really annoys the community to see that happening. Whilst the government is going a little bit of the way there, I think that that is something on which it probably should have supported the Law Reform Commission much more fully than it has done.

There are a number of other interesting recommendations in this report—for example, the one about specified conditions being imposed on bail for minor offences. I can think of a number of instances where that would be very appropriate. Another issue in relation to bail which can be of concern and which I do not think our courts necessarily handle

terribly well and probably have not since the time I appeared in them here in 1979 is the forfeiture of sureties.

A surety is basically a promise signed on a piece of paper, but sometimes there is a cash surety, that is put to the registry of the court to ensure that an accused turns up. Sometimes the surety is self-surety by the accused, the defendant, and sometimes a surety is also needed from a wife, husband, parent or whatever. Invariably, perhaps too often in our court system, that has often just been the signing of a piece of paper promising to turn up and having an arbitrary amount set—$1,000, $500 or $5,000—but quite often no action is taken in relation to those sureties when there is a breach of bail. The surety is not forfeited: an excuse is given and often the surety is reissued. I must say that I have known of occasions when action has been taken.

I would commend an effective practice in New South Wales when I was practising there—admittedly, that only goes up to about 1990 or so—whereby cash would be put down and, if the defendant did not turn up and no special reason was given for not doing so, the money would be forfeited. That is a great way of concentrating the mind. It is a great way of ensuring that the defendant who puts up the money will turn up. Secondly, if some other individual is prepared to go surety—meaning that they have put themselves in the position of being responsible for ensuring that the defendant will turn up and stand to lose money if that person does not turn up—they are going to make a much bigger effort to ensure that the defendant turns up if they know the court is actually going to enforce the forfeiture of the surety. I have found from practice that cash sureties are a very good way to go.

I think that it is important to tighten the areas around the forfeiture of sureties. It is something that I do not think our system has done terribly well. Word soon gets around that, if you do not turn up and you do not have a particularly good excuse, you will get your surety back and off you can go again. I think that is an area we need to tighten up. The usual thing when someone does not appear on bail is for a warrant to be issued and the police to have to go out and arrest them. If the case is down for hearing, you often have witnesses who have turned up at court ready to go and a lot of money has been expended by the authorities and often by the defence itself to get people there. If the defendant does not front up you have a very serious situation. It is something that has been taken too lightly in the past. I hope that the government is doing something in relation to that.

Finally, the Law Reform Commission has recommended that it be made an offence to breach bail conditions. The government does not support that. I think that that is a shame. The commission was headed by, I think, Mr Justice Crispin and made these recommendations after much deliberation, coming to the unanimous conclusion that it should be made an offence to breach bail conditions.

Bail is a very serious matter, especially if someone is charged with a serious offence. If they are given bail, they really should appreciate that fact. Yes, normally it does make it easier to conduct a defence and things like that, but they have been given their freedom, effectively, until the case is finalised. To breach a bail condition is a very serious matter and I do think that it should be an offence. I cannot agree with the government there. I await with interest what the Chief Minister will bring in on Thursday. This is an area of great concern to the community.

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

MS DUNDAS (10.56): Mr Speaker, the Democrats believe that the fundamental human right to liberty should not be denied lightly. A demonstrable risk to public safety is clearly a situation where the denial of liberty is justified and we believe that magistrates and judges are well placed to make a judgment about that risk.

I agree with the Law Reform Commission that it is not possible to devise a rigid formula that would do justice in all circumstances, but I support the setting of parameters around the discretion to grant or deny bail. Although the Law Reform Commission has extensively considered the issue of bail guidelines, I am not convinced of the soundness of all of the recommendations put forward in its initial report.

With the right to liberty taken as a starting point, I am doubtful about the value of legislation that stipulates that a person subject to particular kinds of charges should automatically be denied bail. This has been a theme of bills put forward by the ACT Liberals in recent times. That kind of law appears to prejudge the guilt of an accused person in situations where only a prima facie case has been made.

The ACT Democrats agree with the Law Society that reversing the presumption of bail for serious offences, as proposed by the commission, is undesirable for the same reason. I am glad to see that the government has not supported these recommendations. I am also doubtful about the soundness of a recommendation that permits the Magistrates Court to remand people for more than 15 days at a time. If an accused is incarcerated, the justice system should be focused on the conclusion of the justice process and making sure that happens in a timely manner.

The right to liberty is particularly important in the case of children charged with criminal offences. With children we must make every effort to strengthen their social connections and promote their rehabilitation. Incarceration must be a last resort. I support the continued obligation of the decision maker to consider the best interests of the child when deciding on bail or bail conditions. I am pleased that the government has not embraced the recommendation on that put forward by the Law Reform Commission, but I will have to look carefully at the form of the final bill on bail reform in relation to young people because the government's position in relation to young people needs a bit more work.

I was concerned about the recommendation from the Law Reform Commission to remove the presumption against bail in the instance of domestic violence and I was pleased to see the government deciding to reject this recommendation, considering the evidence that many women who have been killed by ex-partners have been killed while an apprehended violence order was in place and also when the ex-partner was out on bail.

I remain concerned about the recommendation to remove the requirement for a decision maker to consider a victim's concerns about violence or harassment if bail is granted, which is clearly most applicable in situations where women have been subject to stalking. I would not support a blanket rule that bail be denied in these circumstances, but there is evidence that stalking also has often ended with assault or murder. A victim's

fears are often very well founded and are worth considering when decisions are being made about bail.

With those concerns in mind, I await with interest the government's bail reform package. I think that there will be a need for greater consultation with stakeholders and the community and more discussion to take place before any final decision can be made about changes to our bail system.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (11.00), in reply: Mr Speaker, Australian law upholds the tenet that a person is innocent until proven guilty. In criminal law there is a natural tension between the presumption of innocence and protection of the community once a person is arrested. As a result of this longstanding tension, our legal system, which has its origins in English law, has used bail for well over 725 years.

The Statute of Westminster of 1275 was the first act to regulate bail. Prior to this historical act, bail was allowed at the discretion of the Crown's sheriffs. Monarchs, their courts, and increasingly over the years legislatures have ebbed and flowed in their policy towards bail. The fundamental question of bail faced by any law-maker is: who should be detained and who should be at liberty? We face this question again in this debate.

The fact that we are discussing bail again is both consistent with the history of bail law and in the best interests of the community. Over the centuries, law-makers have shifted between a policy that emphasises the accused's freedom from detention and a policy that emphasises the certainty of the accused appearing for trial. The law of bail is something that law-makers have examined critically over the centuries on an increasingly regular basis.

Consistent with the rich history of bail, the ACT Law Reform Commission's report on bail itself took some time to mature. The previous government referred the issue of bail to the commission in December 1997, and the commission's report was released on 13 July 2001. The commission was asked to review the Bail Act to ascertain any changes that would better suit the public interest and the interests of victims of crime. The commission was also asked to assess the success of the Bail Act and specifically review the criteria used to assess whether bail should be granted. As members would recall, I tabled the government's response to the report in June and, as discussed in the government's response, the government supports the majority of the commission's 25 recommendations.

Three principles shaped the government's response to the bail report. Firstly, the role of the legislature is to make laws for the peace, order and good governance of the territory. It is not a substitute for the court, nor can it adjudicate on criminal cases in place of the court. Secondly, bail decisions are not a test of guilt or innocence. Bail decisions are made to ensure that those accused face their trial. Thirdly, it is the responsibility of the government to govern for all. Government must calmly take into account the rights of the community, the victims and those accused of crimes on equal terms.

As the territory's Attorney-General, I am naturally inclined to be an advocate of our courts and their role. The task of the legislature regarding bail law is to provide a guide

to the judiciary when the judiciary hears applications for bail and it is my view that this discretion, especially for judicial officers, is a crucial component of our justice system.

The alternative is for the government to take a prescriptive approach and simply enact a framework which automatically links detention, conditions or freedom to each and every crime on the territory's books. Schematic legislation would undermine the very reason for judicial officers determining bail at the outset of the criminal justice process. In developing the government's policy, we were mindful of this danger.

In responding to the Law Reform Commission's bail report, the most important policy decision the government had to make was on the issue of presumption. The government wants to support the work of the judiciary, but it also wants the judiciary to have a clear picture of the community's expectations. As a government and as a legislature, we are elected to make those decisions. At the same time, we should not necessarily restrict the courts' discretion or substitute for the courts' role. The major policy decision is the explicit identification of crimes which attract different types of presumption: a presumption for bail, a presumption against bail, and no presumption at all.

The Law Reform Commission recommended introducing a presumption against bail for serious offences that were in some cases explicitly listed by the commission and in other cases described by the commission. The government's policy incorporates the spirit of the Law Reform Commission's recommendations, but takes it a step further by creating the means for the court to assess bail for people charged with serious offences without any statutory bias.

Replacing the presumption for bail with a presumption against bail for serious offences would run the risk of creating a new set of problems, rather than solving the problem at hand. I have to say, Mr Speaker, that the commission envisaged an application of a presumption against bail which would hold a greater subtlety than how the current presumptions against bail actually work in the legislation. In other words, the commission suggests a lower test to overcome a presumption against bail by simply working through the normal criteria for bail and placing the onus on the defence to argue that bail would be appropriate for the defendant.

As I said before, the government took on board the spirit of the commission's policy, but improved it in two ways. Firstly, we cleared the desks altogether by deciding that there should be a category that holds no presumption towards bail, neither for nor against. Secondly, rather than trying to describe the offences, which would create a number of interpretive problems, the government decided to specifically identify the offences that should hold a neutral presumption.

In that regard we decided there should be a neutral presumption in relation to manslaughter, industrial manslaughter, intentionally inflicting grievous bodily harm, sexual assault in the first degree, sexual assault in the second degree, sexual intercourse with a person under the age of 10, manufacture of drugs of dependence, cultivation of prohibited plants for supply, wholesale or sale of prohibited substance or drugs of dependence, Commonwealth Customs Act drug trafficking offences, armed robbery, aggravated burglary, and treason.

The government also decided that a policy of a neutral presumption towards bail should also apply to people charged with an offence involving violence, or threatened violence, if the accused person was found guilty of one of the following offences within 10 years prior to the current charge: threat to kill, threat to inflict grievous bodily harm, stalking, and contravention of a protection order. By specifically identifying the offences which will hold a neutral presumption towards bail, we avoid the muddle that we believe Mr Stefaniak got himself into during the October sitting.

Mr Stefaniak introduced a bill which raised just one issue in the bail system. He tried to describe the offences he wished to designate as holding a presumption against bail. In this regard he tried to copy the commission's recommendations and tack on definitions from the Crimes Act, but the method was flawed because describing the offences abstractly is no substitute for being specific.

Just about anyone charged with an offence described by Mr Stefaniak's bill would have been put into remand. This bill would have sucked the life out of the judiciary's discretion. The government's policy of creating a category of neutral presumption for specific criminal offences will give the judiciary greater discretion to consider the facts and nuances of serious cases without the impediment of a statutory bias.

The offence of murder is our community's most important criminal law. Murder is the ultimate betrayal of trust in our community. A person who has committed murder has taken a step beyond the boundaries of what it means to be human. The primal trust that we will not kill each other is a fundamental precondition of human society. The sanction for murder holds the greatest severity in our criminal justice system, and rightly so.

The government's policy is that a presumption against bail should apply to the charge of murder and the ancillary offences of murder, such as attempted murder, conspiracy to murder and accessory to murder. This approach revisits the common law position on bail for murder charges, namely, that bail was not granted to those charged with murder unless exceptional circumstances applied.

Mr Speaker, drug dealing is a mainstay of organised crime in our country. Drugs are a source of big money for organised crime and perpetuate other layers of crime, from murder to petty theft. The government has taken important steps this year to improve the territory's ability to dismantle organised crime. For example, we enacted the Confiscation of Criminal Assets Act 2003 and have it up and running in order to investigate and seize the funds procured through drug-related crime.

Next year the government aims to produce a modernised set of drug offences as part of the ongoing development of a national model criminal code. Once drug trafficking offences are modernised, the government intends to introduce a presumption against bail for the foreshadowed new offences that target organised crime. Having specified the offences which will hold a neutral presumption towards bail and the offences which will hold a presumption against granting bail, it is the government's policy that all other offences before authorised officers or the courts will retain a presumption for bail.

In relation to minor offences, the government agrees with the commission's view that courts and authorised officers need the greatest flexibility to make appropriate orders when faced with an enormous diversity of circumstance. At present, the Bail Act 1992

stipulates that bail for minor offences must be unconditional. The government's policy is to remove this impediment to courts and authorised officers applying their discretion to impose conditions upon bail.

The government also intends to improve another aspect of law enforcement through the Bail Act. For people arrested for the breach of peace, the government believes that authorised officers of the court should be able to impose a condition upon the granting of bail as part of upholding peace in the community. Giving authorised officers and courts the discretion to impose conditions in the context of minor offences and breaches of peace is a practical way to improve the prevention of crime and to maintain the community's respect for the law.

Mr Speaker, the government agrees with the substance of the commission's proposals to improve the criteria courts and authorised officers must consider when deciding upon bail. In this spirit, the government's policy is to build upon the commission's recommendations about bail criteria by creating first order and second order considerations for the judiciary and for authorised officers.

The government's view is that the first order of consideration should be: the likelihood of the person appearing in court in respect of the offence for which bail is considered; the likelihood of the person committing an offence whilst on bail; the likelihood of the person harassing or endangering the safety or welfare of members of the public whilst on bail; the likelihood of the person interfering with evidence, intimidating witnesses or otherwise obstructing the course of justice, whether in relation to himself or herself or another person; and the interests of the person.

When considering these first order criteria, the court or authorised officer should also have in mind the second order criteria, namely: the nature and seriousness of the offence; the character, background and community ties of the person; the probable effect that a refusal of bail would have on the person's family; the history of any previous grants of bail; and the strength of the evidence against the person.

Mr Speaker, the government is a government for all. We are a government that considers the expectation of the community in a calm and measured way, we are a government that acquaints itself with Australia's legal history and traditions and we are a government that intends to uphold everyone's rights.

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

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny Report No 41

MR STEFANIAK (11.10): Mr Speaker, I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 41, dated 9 December 2003, together with the relevant minutes of proceedings.

I seek leave to move a motion authorising the publication of the report.

Leave granted.

MR STEFANIAK: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR STEFANIAK: I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny Report No 41 contains the committee's reports on six bills, 47 pieces of subordinate legislation and four government responses. I commend the report to the Assembly.

ACT taxi subsidy scheme
Paper and ministerial statement

Debate resumed from 26 June 2003, on motion by **Mr Wood**:

> That the Assembly takes note of the paper.

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

Indoor air quality monitoring
Papers and statement by minister

Debate resumed from 23 October 2003, on motion by **Mr Corbell**:

> That the Assembly takes note of the papers.

MR SMYTH (Leader of the Opposition) (11.12): Mr Speaker, the report and the government's response have been rendered somewhat superfluous by the decisions taken by the Assembly in the last sitting period, but I will address a couple of comments to the actual report and then to the government's response.

At the ClubsACT annual function at the Shellharbour Workers Club questions were put to the minister about the accuracy of the actual monitoring that was done and there were concerns from that industry that some of the measurements were just impossible. One particular club raised issues about measurements taken in some areas seeming to be quite out of sync with what one would have expected or one would have expected to be possible.

I got the impression from conversations at the lunch that followed that many people were concerned about the way the monitoring was undertaken. When the minister responds or speaks to the debate he might like to clarify how it was done and his support for or concerns about the matter that was raised with him at that function.

Given that, as an Assembly, we have already set the date for the ending of the exemptions, it is interesting to go through some of the things that the government talks about. The government's response is particularly wishy-washy in that it is more a statement of fact than government acceptance of the report and a path forward. We are seeing so often with this government the inability to take hard decisions and tell people where it is going and how it is going to get there.

One of the government's comments is that the inescapable fact is that under the ACT's present exemption system tobacco smoke was found in most areas where people chose to go in order to avoid exposure to tobacco smoke. What will the government do about that? There is nothing in the government's response to its own report to indicate that it is going to do anything significant. That brings us to the issue of enforcement and control.

From issues raised in a number of forums, the lack of enforcement by the government or the lack of will to enforce by the government has become apparent. If the minister is going to speak, he might like to say how many inspectors there are, how many inspections are being done, how much enforcement is being carried out, how many fines have been issued. If smoke was being found by the monitoring in, I think, 82 per cent of the premises, how many premises were shut down for violating their exemptions?

I think the answer to most of the enforcement issues is that nothing has been done. That does raise again questions about the minister's control of his portfolio and whether he is interested in it. I hope that the minister will speak to the motion, because it is important to know that laws passed by the Assembly are actually being enforced by the government. There is concern among a number of people who have spoken to me and, indeed, to other members on this side of the chamber as to places that have been caught for not complying with their exemptions but no action has taken place.

The minister may be being negligent in his job if things are being brought to his attention or to the attention of his officers and nothing seems to happen. We have a similar circumstance, Mr Speaker, with the occupational health and safety on-the-spot fines that you had passed by this place in March 2001. Not a single fine has been issued and I understand that very little attempt has been made to rectify the flaws in the bill or the regulations that have caused that situation to occur. It is well and good for the government to say that it is going to do things, but if it has in existence the tools that allow it to do those things and it is not enforcing the law and it is not resourcing the enforcing, you have to question the intention of the government.

That being said, Mr Speaker, there are some other interesting recommendations. On page 14 of the response the government says that it believes that children should not be subjected to ETS, environmental tobacco smoke, in enclosed public places. I think we would all agree with that, but the government does not say what it is going to do. This document is meant to be a government's response, not a government's lack of response, to its own report, but you really could characterise it as the government's lack of response.

The government has stated that the fact that children visit many licensed premises means that the impact of ETS on children is also an issue, but what is the government going to do about it? Perhaps the minister could point out where the answers are in his response to

his department's report. For instance, if the debate that was brought on by Mrs Cross in the last sitting week had not come on, what would the government be doing about it? The answer seems to be that the government was waiting till next year.

If this is an important issue, and I think we all acknowledge that it is, we are not seeing in the government's response how the government is going to address the issue, which is normally the purpose of a government response: "This is what we are going to do to fix the problems that have been highlighted or indicated."

The government's response is short on answers. The minister heard individuals say at the ClubsACT function that they are not so certain that the monitoring was carried out correctly, so that the accuracy of the report itself is under some doubt. I think that we need to make sure that laws passed by this place are enforced by the minister responsible.

MS DUNDAS (11.19): Mr Speaker, the Australian Democrats have had a long history of campaigning for tighter regulation of tobacco products and smoking in Australia. Smoking cigarettes is the leading cause of drug-related deaths and hospital morbidity. It is the largest single preventable agent of illness and death. In Australia, there were 19,000 estimated deaths in 1998 from tobacco-related disease.

The Democrats initiated a Senate inquiry which reported in 1995 and the major recommendations of that report are now being implemented, including the banning of smoking in many public places. Eight years later, I am proud to have finally participated in the removal of smoking from public places in the territory, a move which many have said has been long overdue, but we still have a long way to go. Our goal must be to substantially reduce the rate of smoking, particularly by young women.

This report reviews the ACT's previous scheme of enforcing the installation of air abstraction equipment in venues that wish to continue to allow smoking in enclosed public places. At the time, that was an agreed compromise that was supposed to protect business revenues and still protect patrons and workers from the harm caused by passive smoking. The report clearly demonstrates that this compromise did not work. The report states:

> The primary finding is that markers of ETS are clearly present in non-smoking areas of exempt premises. This indicates that non-smoking areas are not smoke-free and individuals present in these areas may be exposed to ETS. The correlations between ETS markers measured in non-smoking areas of exempt premises and density of smokers in smoking areas indicate that ETS in non-smoking areas comes from smoking areas. Even physical separation did not prevent ETS penetration, as shown by the detection of nicotine in a non-exempt premises that was a separate room adjacent to an exempt premises.

That means that if smoking is permitted anywhere in an enclosed public space the entire premises becomes infected with environmental tobacco smoke. Air ventilation systems have proved ineffective in controlling environmental tobacco smoke. The only option left to legislators is to require that all enclosed public spaces be smoke free if we are to protect the health of people in Canberra, particularly employees, from the damaging effects of passive smoking.

I am glad to see that we have taken this step. While there were some clinical machinations occurring around that decision, I think the Assembly reached a reasonable agreement when the legislation was debated. However, we must remain vigilant against any proposals to water down that decision or delay its implementation and ensure that the necessary monitoring occurs so that businesses are aware of the changes and are able to assist with a smooth transition to a healthier, safer environment for ACT consumers and workers.

MRS DUNNE (11.22): Mr Speaker, I want to speak briefly on this matter. I want to speak specifically on enforcement. As the Leader of the Opposition has said, the track record of the current government on enforcement is a poor one. As we go about the city, we often visit licensed establishments that have exemptions and have smoke extractors on, or may not have smoke extractors on, and at the same time we often see breaches of the licensing laws in relation to people smoking in proximity to the bars.

I received an email the other day from someone who said that in his experience of visiting licensed establishments in Canberra he had only on one occasion seen a member of the bar staff have the guts to tell someone to take their cigarette away from the bar. The people who serve behind bars are in the business of customer service and it is often very difficult for them to be up front and assert their rights, but it is a matter of them asserting their rights and sometimes they are not inclined to do so. They do need the support of their employers and their licensees to allow them to do so and my experience is that it is often very difficult for people to do so.

I would like to raise in an indirect way my own experiences of occasions when complaints have been made to the health inspectors who go and inspect licensed premises. I have brought to the attention of the health inspectors a licensed premises which does not turn on its extractor fans or does not have them on all the time. I know that the premises have been inspected on a number of occasions and no-one has been found to be in breach, fined or had their licence suspended.

If we are going to have exemptions and we are going to have rules relating to them, the people who run licensed premises and who pay a lot of money for the privilege of having a smoking environment in their establishment need to adhere to the responsibilities that go with that. They need to keep them on and they need to keep them fully serviced. If health inspectors and licensing inspectors visit the premises and they are not on, they should be found to be in breach, especially if they are repeat offenders.

MRS CROSS (11.24): Mr Speaker, the smoking issue was an interesting issue to work on. Blind Freddy knows that having smoking rooms has not worked. The exemptions, albeit well-intentioned, did not work. We know that passive smoking is dangerous; it has been proven by every independent study conducted in the world. There was a very high proportion of non-compliance with the exemptions in the ACT.

We have started by banning smoking in enclosed public spaces, but I would like to support the comments made by Mrs Dunne on enforcement. The greatest complaint that I had from the clubs that lobbied me on how long we should take to phase in a smoking ban was that the enforcement was not there. They said that we would not need to do what we were doing if the government had done the right thing and ensured that all these places were monitored regularly, rather than in an irregular, haphazard way, if that.

The studies that have shown that passive smoking is dangerous and that, in fact, exemptions were not as efficient as they should have been, which is one point, but it is a shame that we have bureaucrats there to do a particular job after laws are passed—I understand the exemptions issue has been around for a number of years—and they do not actually implement the laws we pass. We have rules there and we have laws there. Why is it that we do not actually enforce them. It is a bit of a joke, really.

At least the well-intentioned in this place that wanted this smoking issue addressed have tried their best to do it in the quickest possible way. It is a shame that when we do try to get things through as quickly as some of us would like we are hindered by a number of varied agendas.

MR CORBELL (Minister for Health and Minister for Planning) (11.27), in reply: It was with pleasure that I tabled on 23 October this year the report on indoor air quality monitoring for environmental tobacco smoke in premises with exemptions under the ACT Smoke-Free Areas (Enclosed Public Places) Act and the government's response to that report. I was pleased to present these documents for several reasons. I believe that they comprehensively address the issues raised by the Assembly in the original motion of 25 September last year. They also represent a significant contribution to our knowledge about tobacco smoke in social venues. This information has proved to be useful to a wide range of people, including proprietors and staff, as well as the public health officers in the ACT and in other jurisdictions.

The report is the product of a cooperative effort between the Health Protection Service's environmental health unit and government analytical laboratory, ACT WorkCover, and dozens of proprietors of restaurants, pubs, clubs and bars where the indoor air quality monitoring took place. As I explained when I tabled the report, the fires which destroyed the Health Protection Service's building in Holder in January of this year resulted in the loss of some of the data, the need to retest some premises and, most importantly, severe disruption to the work of the public health officers and laboratory analysts involved. I would like again to place on the record my acknowledgment of their contribution in developing and presenting this work.

The context of the Assembly's original motion made clear that the focus of the study should be on environmental tobacco smoke, or ETS as it is known, and the extent to which ETS may be present in premises which are exempt under the smoke-free areas act. Given the common assumption that people working or socialising in non-smoking areas would be protected from ETS, the focus of the study was on these non-smoking areas. Some monitoring also took place in premises where smoking was not permitted. The two substances that were chosen for monitoring purposes—airborne nicotine and small respirable particles—have been widely used as ETS markers and have been found to be satisfactory indicators of ETS in a number of other studies.

Mr Speaker, protocols for the conduct of the study called for the cooperation of premises proprietors. Each proprietor was notified in advance that the monitoring would be taking place on a specified date and time. Premises and monitoring dates were chosen at random in November last year from a list of exempt premises, with adjustments made where necessary to take account of normal operating hours and to ensure a reasonable representation of different types and sizes of premises.

The fact that the study was conducted with the full awareness of proprietors serves to minimise the risk that the monitoring was conducted at a time that was unusual or atypical. Under these circumstances, non-compliance with exemption requirements is less likely to be a factor. It may be the case that the levels of ETS recorded under different circumstances would be different, but I do not believe that they are likely to be lower than those found in this study.

I would like again to highlight the major finding of the report, that is, that ETS was found in measurable levels in the non-smoking areas of most exempt premises and, in some cases, in adjacent non-exempt premises. The study found that the concentrations of ETS were related to the number of people smoking in the vicinity of the monitoring.

The inescapable conclusions are that "non-smoking" and "smoke free" cannot be assumed to mean the same thing, and that people in non-smoking areas are still exposed to the smoke that they believe they are avoiding. Patrons and employees in premises where smoking occurs may still be exposed to the health risks of tobacco smoke, which is a concern because both short-term and long-term exposure have been associated with increased risks of ill-health and disease. These risks not only have been found to be detrimental to otherwise healthy adults, but also are a particular issue for young children, pregnant women, people with allergies and people with respiratory or cardiovascular conditions.

Consistent with the findings of other reports, the ACT study found that mechanical air handling systems cannot be relied upon to protect patrons and employees from ETS exposure where smoking and non-smoking occur within the same air space. This is not entirely surprising, given that the Australian standard for mechanical air-conditioning and ventilation was not designed as a health-based standard for ETS control. However, as the Assembly has recently agreed, the continued exposure of workers and patrons to ETS—a known cause of cancer and heart disease, with no safe level of exposure—cannot be justified.

Mr Speaker, in responding to the findings of the report, the government has noted that a number of other studies have also found severe limitations on the ability of ventilation systems to control ETS in indoor environments. More recent studies over the past year or so have highlighted the fact that difficulties arise regardless of whether the smoking occurs in separately enclosed or open spaces within the premises. In other words, attempts to control and contain ETS by using smoking rooms have also been found to be problematic.

The government's response has also highlighted the fact that there are no occupational or environmental standards for ETS exposure and there is no safe level of exposure. It is worth noting here that the National Occupational Health and Safety Commission has recently issued a revised guidance note on ETS which calls for workers to be provided with a smoke-free workplace. The guidance note specifically states that measures such as dilution ventilation are not effective in achieving that.

Mr Speaker, in June this year I released a discussion paper on the proposed phasing out of the exemption system. I believe that it was appropriate to begin this discussion and to invite the community's views. I noted at the time that, although the results of the indoor

air monitoring study were not yet available, they would be taken into account in the development of the government's legislation. That legislation has been superseded by the decision of the Assembly to bring exemptions to an end and to agree to the government's proposal for a common end date of 1 December 2006, when the last of the present exemptions will have expired.

The findings of the present study, in addition to meeting the government's obligations in responding to the Assembly's motion, also provide important information about how to ensure that employees and patrons are not exposed to unnecessary health risks. The report's findings, together with the legislative framework now agreed, present an opportunity for proprietors and employers to review their smoking arrangements and to consider how smoking will be phased out in all indoor areas.

Mr Speaker, the success of the ACT's smoke-free areas act at a time when many people were saying it could not be done stands as proof that public health measures once thought to be controversial can be popular and well-supported. We now take for granted that people can go about their daily lives and participate fully in the life of the community without risks to their health from unnecessary pollutants in the air that they breathe. However, as the present study has shown, many workers in the hospitality industry and patrons in the hospitality venues have not been able to take that for granted.

Mr Speaker, the question is: where to next? In tabling these documents on 23 October, I noted that the government had a number of concerns: concerns for patrons who believed that they were being given a choice of a smoke-free environment; concern for employees who were subjected to tobacco smoke; concern for employers and proprietors who would like to believe that they were providing a safe and healthy environment; and concern for children who had no choice about the quality of the air that they breathed.

The findings of the report, together with the weight of medical, legal and public opinion, certainly suggest that moving in the direction of entirely smoke-free public enclosed places is advisable and achievable. I am pleased to acknowledge that we are now as an Assembly taking firm steps in the direction of being smoke free in all public places. I intend to work further with unions, employers, clubs and pubs in a cooperative manner to ensure that we are smoke free by the end of 2006.

The government is completing the regulatory impact statement which it commissioned prior to the debate last month to allow for the full regulatory impact still to be properly assessed, so that any assistance the government feels needs to be provided to employers, clubs and pubs to make the transition to being smoke free in 2006 can be well-informed and well put together.

I am looking forward to working in a cooperative manner with affected proprietors, employers and unions as we move to ensuring safe workplaces for all ACT workers. The government is committed to working with all parties towards achieving this goal on 1 December 2006.

Question resolved in the affirmative.

Australian Crime Commission (ACT) Bill 2003

Debate resumed from 23 October 2003, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MR PRATT (11.37): The opposition supports the Australian Crime Commission (ACT) Bill 2003, which complements the Commonwealth Australian Crime Commission Act 2002 and provides for the operation of the Australian Crime Commission in the ACT under territory law. This bill is part of a uniform scheme that was clearly agreed to by the heads of the national, state and territory governments in 2002. The Australian Crime Commission will replace the National Crime Authority and combine the investigative functions of the National Crime Authority with the criminal intelligence functions of the former Office of Strategic Crime Assessments and the former Australian Bureau of Criminal Intelligence—something that is desperately needed in the ACT.

In our present difficult terrorist environment it was fundamentally important that the NCA be overhauled and replaced by the Australian Crime Commission, thus integrating all those investigative and intelligence activities. The opposition supports those developments and the alignment of the ACT with this new national capability. The Commonwealth government identified the need to develop a new national framework to deal with transnational crime and terrorism. The ACT will benefit greatly from complementary state and territory legislation that will enable the operation of the Australian Crime Commission under territory law. I hope that all members in this place understand and agree to the need for this integration which is in the interests of the safety of our community.

We realise that these are timely and much-needed benefits for the community when we take into account the current lack of staff in ACT Policing. The Australian Crime Commission will now undertake investigations into criminal activity relating to the ACT, despite any federal basis that those alleged offences might have. The Australian Crime Commission will now assist ACT Policing and the Australian Federal Police in regional and national crime investigations. ACT Policing requires that assistance to help combat crime in the ACT and reduce the current number of criminal offences in the community.

ACT Policing will be supported through the commission's sanction to pursue organised crime in the ACT and as a result of the flow of intelligence information through territory and federal policing arrangements. That will greatly assist the already stretched resources in ACT Policing and better enable police to investigate offences in the territory. The most positive element of this bill is the representation of the ACT chief police officer on the board of the Australian Crime Commission. That will ensure that the needs of ACT Policing are met and that the information flow between federal and territory jurisdictions is consistent and clear.

In addition, the ACT will be able to ensure that law and order in the territory is dealt with at many different levels through many different strategies. We need as much support from other law enforcement agencies as possible to fill the staffing gap that is currently being experienced in ACT Policing. Members would be aware that I am concerned about effective frontline police strength in the territory. It is an issue that I have raised in the past and it is an issue that I will continue to raise. I welcome this bill which I think will

help to extend our police force capabilities, open up communication channels and bring together territory and federal policing agencies. In that way we can more effectively tackle crime not only in the ACT but also around Australia.

MR SPEAKER: Before I call Ms Dundas, I acknowledge the presence in the chamber of the Hon. Otinielu Tautelemalae Tausi, Speaker of the Parliament of Tuvalu, who is accompanied by Mr Paulson Panapa, Clerk of the Parliament of Tuvalu. I welcome them to the Assembly.

MS DUNDAS (11.43): The ACT Democrats believe that the Australian Crime Commission (ACT) Bill raises serious human rights issues. For a long time the ACT has been one of Australia's jurisdictions at the forefront of the protection of human rights. This legislation will damage not only the reputation of the ACT but also its stance on human rights protection. It is ironic that soon after the government tabled its intention to legislate for a bill of rights we are debating legislation that erodes human rights and that will undoubtedly conflict with proposed human rights legislation.

The Democrats have no objection to the allocation of resources to fight organised crime but we do not support the setting up of a pseudo secret service, which is what the Australian Crime Commission will become under this bill. I agree with the minister that the ACT should not be regarded as a soft target for organised crime. I am sure that all members agree it is important to have a national approach to fighting such crime. But I cannot support legislation that will give some people the right to examine, detain and confiscate material from those who are not subject to investigation by or the operations of the ACC.

This is a massive step backwards from the presumption of innocence until proven guilty—one of the fundamental tenets of our common law system. I also have concerns about the ability of the ACC to pass information on to the Australian Security Intelligence Organisation. Normally that would be a quite logical provision but, with the expanded and draconian powers that the federal Liberal and Labor parties combined have given to ASIO, I fear that the rights of Canberrans will be further eroded. I can envisage people being summoned by the ACC to be examined about an incident in which they had no involvement. When those people leave they could be taken into custody by ASIO who could detain them for up to a week for the purposes of interrogating them.

It could be argued that the ACT should have laws that are similar to the laws in other jurisdictions, in particular, legislation that is designed to operate under a national framework. However, just because bad laws have been implemented elsewhere, it does not mean that Canberrans should also be subject to those bad laws. The Australian Crime Commission, which is a good idea, should be useful in fighting organised crime. But a good idea accompanied by bad practice does not remain a good idea. I oppose this bill in principle, but I understand that it will pass through the Assembly today with the support of members of the Labor and Liberal parties. I foreshadow that the Australian Democrats will attempt to amend the bill at the detail stage in an attempt to clear up these issues and protect the rights of people in the territory.

MS TUCKER (11.46): The Greens are also cautious about this legislation. Based on conservations that we had this morning I am pleased that debate on the detail stage of

this bill will be adjourned. We can then take time to establish what effect this bill will have on the community.

Mr Wood: I didn't know about that.

MS TUCKER: The government was not aware that debate on the bill was to be adjourned. We were under the impression that members were happy to adjourn debate on the bill after the in-principle stage.

Mr Wood: I understand it's going right through.

MR SPEAKER: Order! Ms Tucker has the call.

MS TUCKER: I think the majority of members would support a motion to adjourn debate on the bill after the in-principle stage. It is puzzling, disturbing and frustrating when we encounter this sort of attitude towards law reform. We must not just tap into available expertise in the community; we must also, for the sake of democracy, alert practitioners or those working with them in this field—people who might be affected by any decisions that we make—to the fact that they have an opportunity to have a say. We might even learn something if we listen to the views of relevant people.

The bill was introduced in October but the scrutiny of bills committee reported on it only recently and the government has yet to respond to that committee's report. The committee's report, a 12-page document, raised important principles of justice and other outstanding issues that should be considered by all territory representatives. The Australian Crime Commission is the latest incarnation and refinement of the super police system for investigating organised crime that was originally proposed in 1982—the National Crime Commission. That proposal was rejected after being reviewed by a former federal Labor government. It established instead the National Crime Authority and incorporated a few additional safeguards.

When the National Crime Authority was established by former Prime Minister Hawke and former Attorney-General Gareth Evans, they recognised the need to avoid fragmentation of law enforcement efforts in the fight against organised crime; the need to take into account fears that had been expressed about a permanent criminal investigation body with unlimited terms of reference and uncontrolled investigative powers; and the need to obtain state involvement in the NCA's activities. The new Australian Crime Commission, which commenced operation nationally on 1 January 2003, combined the functions of the former National Crime Authority, the Australian Bureau of Criminal Intelligence and the Office of Strategic Crime Assessments.

The ACT enacted legislation relating to the National Crime Authority but it did not enact legislation relating to the other two bodies. The Australian Crime Commission carried over the functions and rules of the National Crime Authority and the amendments that were effected in 2001. This is not the same body that the territory took into consideration when passing the National Crime Authority (Territory Provisions) Act 1991. There is some question about whether those changes have led to that body having a greater effectiveness. The commission has been entrusted—the former NCA was also entrusted—with special powers beyond those given to any police service.

Those special powers, which are similar to the powers that have been given to a number of other statutory bodies, include the power to obtain documents and other evidence and to summons a person to appear at a hearing to give evidence under oath. The powers are utilised in a confidential manner to protect not only the integrity of investigations but also the privacy of suspects. The provisions in the bill establish when the commission will be able to use or exercise the extraordinary coercive and investigative powers that have been given to it by the Commonwealth government to investigate organised crime.

Members in this place should consider whether these provisions adequately protect them and the citizens of this territory. We must also ensure that the bill will safeguard us from corruption, corrupt police officers or a corrupt chief of police. The commission will have associated with it a broad and intergovernmental committee of relevant ministers. A chief executive officer will control the operations of the commission, which is a new development. The process that will be followed to appoint members to the board differs from the process that was followed by the NCA. I will not go into those details at this stage but I advise members that those details should be considered when we are determining issues of accountability and oversight.

We have only to look at Commonwealth legislation to know that the constitution of the board is not defined in territory legislation. The board's consent is required before the commission can declare an ACC territory intelligence operation or investigation as special. The chair of the board must provide such a written determination to the intergovernmental committee. The determination of the board must have immediate effect if such an operation is to begin. The intergovernmental committee, within a period of 30 days, can ask for more information or decide to revoke such a determination. This bill will basically enable police ministers to oversight such investigations and operations. Clause 19 (10), a curious provision, states:

> The committee does not have a duty to consider whether to exercise the power under subsection (1) or (6) in relation to any special determination, whether the committee is requested to do so by anyone, or in any other circumstances.

I think that this clause, which places quite extraordinary limitations on the committee's scrutiny powers, needs some further consideration or discussion. The parliamentary joint committee also recommended, among other things, that the Commonwealth bill be amended to ensure that the relevant state or states are informed of any operations or investigations proposed within their boundaries. I do not believe that change appears in this legislation. The PJC also recommended that, under our system of responsible government, the federal Minister for Justice and Customs should be the minister accountable to the parliament for the work of the ACT. It might be useful to identify in this legislation the minister who is accountable and responsible to the parliament.

We all want organised crime to be investigated and halted but we do not want innocent—or even guilty—people harassed and we do not want anyone convicted for things that they did not do. The powers that have been given to the commission to conduct special investigations go beyond the powers that have been given to ordinary police officers. We have placed a limitation on the ability of such bodies to conduct investigations in order to protect ourselves from being falsely accused or arbitrarily deprived of our liberty.

Jurisdictions such as Western Australia have looked at complementary legislation in more detail before voting on it, although they have made it a little more complicated by tying in a corruption commission. In fact, the Western Australia committee is still looking at this legislation. Federal law was subject to a committee discussion but not all the issues that were raised by that committee were included in the final bill. We are being asked to pass legislation to ensure that territory laws are policed in a certain way without the benefit of careful investigation to determine its implications.

Even though the federal parliament could not reach agreement on this model we must not abrogate our responsibility on this issue. We must know what we are doing and we must be happy with it. We must seek the views of and obtain input from local concerned groups. I note also that the ACT was not represented on the steering committee or at the national level when discussions on this bill were ensuing. At a public hearing on 17 October 2002 the parliamentary joint committee reported that it had been informed that discussions had taken place at officer level, in addition to consultation with a steering committee on the implementation process. The general manager of the criminal justice and security division of the Commonwealth Attorney-General's Department chaired that steering committee.

Other members of the steering committee included state police commissioners from South Australia, New South Wales and Tasmania, the commissioner of the Australian Federal Police and the chair of the Australian Securities and Investment Commission. Two senior government officers from Victoria and New South Wales were on the steering committee, and another officer from Victoria was present as an observer. The commissioner of the AFP plays a dual role, as he works also for the ACT, but that representation on the committee cannot really be described as ACT representation in the development process.

The Commonwealth steering committee inquiry was also subject to time constraints. The committee acknowledged in its report that, due to the fact that its reporting date was 6 November 2002, it had invited contributions at very short notice. The Greens first preference would be for a committee of this Assembly to examine this bill. After talking to members, I understand that there is no support for such a proposal so I foreshadow that I will move a motion to adjourn debate on the bill after the in-principle stage so that members can seek further advice from the Law Society and other informed people. Members might also wish to consider what the Western Australian committee had to say about its proposed legislation and determine whether or not the provisions in that bill are adequate.

I would like to outline some of the issues that I believe ought to be considered. What is the membership of the board and how much of its work concerns police work versus strategic work? What is the definition of "organised crime"? Clause 7 states that incidental offences may be taken to be serious and organised crime:

> If the head of an ACC operation/investigation suspects that an offence (the ***incidental offence***) that is not a serious and organised crime may be directly or indirectly connected with, or may be a part of, a course of activity involving the commission of a serious and organised crime (whether or not the head has identified the nature of that serious and organised crime), then, the incidental offence is, for so long only as the head so suspects, taken, for this Act, to be a serious and organised crime.

So the types of activities that can be made subject to these coercive powers can be broadened beyond the offence of organised crime. There is a possibility that the head of operations or investigations could be corrupt. When we give a body such strong powers of investigation we need to ensure that it does not misuse its powers. Does this bill achieve those aims? Has a case been made out for limiting the period of office of board members? Can territory matters be referred to the commission for investigation? I am not clear on those points. The former NCA had the capacity to deal with matters that were referred to it by state, territory and Commonwealth governments. The intergovernmental committee mediated those requests.

The scrutiny of bills committee report went into some detail on the principle of protection against self-incrimination and the question of legal professional privilege. In a briefing the government made the point that legal professional privilege was also available to the client and that it would take more than a failure to list the client to remove such a privilege. However, when we create a list and leave out one category it could be interpreted as a deliberate intention. It is not a big amendment to include the word "client" in the explanatory statement to clear up this matter. However, the question of protection against self-incrimination is more complex.

The former National Crime Authority retained the privilege against self-incrimination but later Commonwealth amendments removed that privilege. So far as I am able to ascertain, the ACT government did not make those same amendments to this bill. As we are yet to consider those changes, the committee's comments should be taken into account. I refer next to the principle of privilege against self-incrimination. As I said earlier, when the NCA was established it retained the privilege against self-incrimination. That principle is an important safeguard against the forced and possibly false confessions that we abhor.

The power balance in a police or commission investigation could easily terrify a person suspected of committing an offence. It could so befuddle that person that he or she could say inaccurate or incorrect things or admit to things that he or she did not do. We place restrictions on how those investigations are conducted or designed in order to afford people some protection. What do we do to democracy and to society when we allow coercion to outweigh fairness? In a recent lecture, Lord Steyne, Lord of Appeal in Ordinary in the United Kingdom, quoted the president of the Israeli Supreme Court, Mr Barak, reflecting on a case over which Mr Barak had presided. The court held that the violent interrogation of a suspected terrorist was not lawful even if doing so might save human life by preventing impending terrorist acts. Barak quoted from an essay that he wrote relating to the case in the following terms:

> We are aware that this decision does not make it easier to deal with the reality. This is the fate of democracy, as not all means are acceptable to it, and not all methods employed by its enemies are open to it. Sometimes, a democracy must fight with one hand tied behind its back. Nonetheless, it has the upper hand. Preserving the rule of law and recognition of individual liberties constitute an important component of its understanding of security. At the end of the day, they strengthen its spirit and allow it to overcome its difficulties.

Lord Steyne said "such restraint is at the very core of democratic values". Although those comments related to terrorism they are relevant today as we are considering

organised crime. Both terrorism and organised crime have been developed into concepts of great menace and it has been argued that human rights are less important in light of this work. I made those points to emphasise the fact that we should not agree to this legislation lightly.

MR STEFANIAK (12.00): We are living in dangerous times—not in the 1920s, the 1930s, the 1950s or even in the 1980s. The Australian Crime Commission (ACT) Bill, which was introduced almost two months ago, has as its object the establishment of the Australian Crime Commission, a body that will replace the National Crime Authority. I became aware of the intention to introduce legislation such as this when I attended a police ministers meeting in Perth in 2000. When we are looking at big-picture issues such as terrorist threats to Australia, we realise that this commission will assist in countering terrorism and organised crime. National legislation such as this is important in balancing our rights.

In this sophisticated modern era it is not really satisfactory that the community, through its law enforcement agencies, has to fight organised crime and terrorism with one hand tied behind its back. It should do so fairly in a democratic system and it should have in place laws that are powerful enough to ensure that ordinary citizens are protected. All that reasonably can be done should be done to bring evil people such as criminals and terrorists to justice. A famous person once said, "All that is needed for the forces of evil to triumph is for enough good men to do nothing." These days we would refer to good men and women. It is a very true saying.

The ACT, as part of the Commonwealth of Australia, must enact legislation similar to legislation that has been enacted by the Commonwealth to establish the Australian Crime Commission. The minister, in response to the issues raised in the report of the scrutiny of bills committee and pursuant to our charter, prepared a measured and reasonable statement. I refer to the first paragraph of his statement which effectively sums up this legislation by stating:

> As the Committee is aware, this Bill is part of a national uniform scheme to complement the Commonwealth government's *Australian Crime Commission Act 2002* (the ACC Act) which was agreed to by heads of Australian governments in 2002. The Bill was modelled on a Western Australian Bill (that was largely based on the ACC Act) and was drafted by a National Parliamentary Counsel's Committee. With the Commonwealth ACC Act as the "centrepiece" of the scheme, the model Bill was drafted in a way to ensure that there were no legislative gaps in State and Territory legislation that would impede the investigation and pursuit of serious organised crime across jurisdictions. The provisions that the Committee has commented on therefore, reflect the agreed national position on these matters.

We participate in many state and national schemes. This scheme is just another of those schemes, but it is probably the most important as it involves protecting the community against organised crime, big drug syndicates and terrorism, and against those who wish us ill. Crime knows no boundaries even if the boundaries between the ACT and New South Wales, New South Wales and Queensland, and Queensland and the Northern Territory are artificial. We must enact legislation such as this. As Mr Pratt said earlier, the opposition will be supporting this legislation which will bring us into line with all other jurisdictions.

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) (12.03), in reply: Ms Tucker is right; we should not agree lightly to the implementation of legislation such as this. I inform members that we have not agreed lightly to implement this legislation. Debate on this bill has been long and arduous across every jurisdiction and we have reached certain conclusions.

Ms Dundas said earlier that the bill raised serious human rights issues. The bill does raise serious human rights issues but, in the end, we will achieve a balance by establishing a body that is able to fight sophisticated and serious crime. However, that body needs certain powers—powers that we can give it without undue intrusion into the rights of honest citizens. It has been quite a difficult task but, given all the circumstances, I believe we have achieved a reasonable outcome.

These changes represent a major restructuring of national law enforcement, among other things, to overcome jurisdictional boundaries that have often hindered the effective investigation of organised crime. By facilitating the operation of the commission in the ACT, we will enable officers of that commission to pursue organised crime within and outside the borders of the ACT. The commission will identify a number of national law enforcement intelligence priorities, and law enforcement agencies will work in partnership with it to tackle serious and organised crime.

If we are to deal effectively with organised crime, jurisdictions cannot operate in isolation. Heads of Commonwealth, state and territory law enforcement agencies, including the ACT chief police officer, will be on the board of the Australian Crime Commission. There are local benefits in providing for the operation of the commission in the ACT. The commission may undertake investigations in relation to criminal activity that relates to ACT offences, whether or not those offences have a federal basis. That is significant as it will assist the ACT in investigating and combating territorial as well as national crime. Enhanced mechanisms for a coordinated sharing of intelligence about criminal activity will assist ACT police in the investigation of such crime.

An important aspect of this legislation is the presence of the ACT chief police officer on the board. The ACT is actively represented in this scheme in other ways. The territory minister of the day will be represented on the intergovernmental committee, along with ministers from each participating state and the Commonwealth. This committee, which will oversee the work of the Australian Crime Commission and its board, will have the power to revoke determinations of the board. The chair of the board will give the committee a report on the findings of any Australian Crime Commission operation or investigation. The territory minister, who will be a member of the intergovernmental committee, can also request from the chair of the board information relating to the performance by the commission of its functions.

So we will be able, independently, to obtain information about the conduct of the commission. The territory minister will also be able to enter into arrangements with the Commonwealth minister for the board of the Australian Crime Commission to receive from the ACT or an ACT authority information and intelligence about criminal activities. There was some comment today about the report of the scrutiny of bills committee and, in particular, its reference to clause 26 subclause (9) of the bill which relates to the application of legal professional privilege, the modification of privilege against self-

incrimination by the removal of derivative use immunity in clause 26 subclause (8) and the human rights implications of that modification.

Given that the bill is part of a national uniform scheme and that it is based on the provisions of the Commonwealth Australian Crime Commission Act 2002, the provisions that the committee has commented on reflect the agreed national position on these matters. There has been a full and lengthy response to that comprehensive report of the scrutiny of bills committee. I refer to the issue of legal professional privilege. The Commonwealth equivalent of clause 26 subclause (9) was included in National Crime Authority legislation to clarify legal professional privilege. Although the bill does not specify the extent to which a client, as opposed to a legal representative, may refuse to disclose information that has been the subject of confidential communication with his or her legal representative, it is the view of the government that clause 26 subclause (9) would achieve that end by invoking the common law and any relevant statutory law relating to legal professional privilege.

Clause 26 subclause (9) makes it clear that the defence in clause 26 subclause (4) does not affect the law relating to legal professional privilege. As the privilege resides in the client, it follows that the client may also claim legal professional privilege in respect of communications and documents to which privilege would attach and that a person could refuse to answer a question or produce a document under clause 26 subclause (3) by claiming legal professional privilege. Derivative use immunity was removed from the equivalent provision in the Commonwealth National Crime Authority legislation because it was found to have seriously abused and frustrated the work of the National Crime Authority, impeded investigations and undermined the effectiveness of the legislation. The authority's task in investigating organised crime was made difficult because of the way in which people under investigation manipulated existing legal rules and procedures.

The need to modify the privilege against self-incrimination by removing derivative use immunity goes back to the fundamental reason for the existence of the Australian Crime Commission and the existence of the National Crime Authority before it. It is part of the package of coercive powers that is available in relation to special operations and investigations. However, those powers are applied only in situations when ordinary methods of collection of criminal information and intelligence or the usual police methods of investigation are ineffective. Those powers relate only to serious and organised crime.

I refer next to human rights issues. Under proposed human rights legislation those rights will be subject to reasonable limitations in circumstances where it is regarded as a reasonable and proportionate measure to achieve a legitimate aim. It is the view of the government that the removal of derivative use immunity would be a reasonable limitation in light of the fact that the purpose of the bill is to combat serious and organised crime.

The government considers seriously any infringement or displacement of rights and looks closely at whether it is justified in the circumstances. I am satisfied, given the thorough consideration of this issue in the Commonwealth sphere, as set out in the government's response to the committee, that in the context of fighting that crime these measures are appropriate and essential.

That committee stated that it would not be practicable for the ACT to depart from the national template, alter these provisions and risk jeopardising the effectiveness of the national scheme. This bill largely resembles model uniform state and territory legislation to ensure that the commission can conduct investigations and operations anywhere in Australia. The bill sets out the functions of the commission under ACT law. It also provides for the functions of the board of the commission and the chief executive officer.

The bill provides for the powers of investigation of the commission, including search powers under warrant and examination powers. There are safeguards relating to the exercise of powers under the bill. The determinations of the board that invoke the coercive powers of the bill will be subject to special requirements for the composition of the board, special voting requirements and a power for the intergovernmental committee of the commission to revoke such determinations. The bill provides for the commission's examination powers, such as summoning witnesses and taking evidence, to be exercised by examiners who will be independent statutory officers appointed under Commonwealth legislation. These requirements will ensure that the commission's special powers are used appropriately.

The bill creates offences for a failure to comply with the act to facilitate the operations of the commission. Those offences include: failing to attend an examination or to answer questions and failing to produce documents or things when required to do so by a summons. Offence provisions have also been restructured to comply with the requirements of the Criminal Code in line with new ACT legislation. Provisions now specify the requisite fault elements that are applicable to an offence, such as knowledge, intention and recklessness. The offences in the bill are based on similar offences in the Commonwealth legislation and existing National Crime Authority legislation.

The penalty levels in the bill strike a balance between maintaining consistency with the current ACT penalty code by conforming as closely as possible with the penalty levels in the Commonwealth and other jurisdictions. The penalties either closely match or are higher than Commonwealth penalties for similar offences. In no cases are penalties lower as it is imperative that in this respect also the ACT is not regarded by organised crime groups as a soft target. Under the Commonwealth act the chair of the board is required to prepare an annual report that includes descriptions of any special territory investigations conducted during the year. That report will be tabled in this Assembly.

Finally, the bill will repeal the National Crimes Authority (Territory Provisions) Act 1991, make consequential amendments to related legislation and contain necessary transitional provisions to ensure a smooth transition from the National Crime Authority to the Australian Crime Commission. The commencement of the bill has been delayed to enable regulations and related Commonwealth amendments to be prepared to ensure the validity of certain provisions. Consultation with the Commonwealth is continuing to ensure that this process is completed as quickly as possible. The government has moved quickly to prepare ACT crime commission legislation to ensure that state, territory and Commonwealth policing and intelligence gathering agencies are not impeded in preventing and combating serious and organised crime.

The bill will facilitate the national law enforcement effort, which has been marked by cooperation and coordination between law enforcement agencies throughout Australia.

The bill reflects legislation in other jurisdictions while maintaining consistency with ACT policy. I believe that this bill, which deals with a number of serious issues, adequately addresses those issues.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 15		Noes 2
Mr Berry	Ms MacDonald	Ms Dundas
Mrs Burke	Mr Pratt	Ms Tucker
Mr Corbell	Mr Quinlan	
Mr Cornwell	Mr Smyth	
Mrs Cross	Mr Stanhope	
Mrs Dunne	Mr Stefaniak	
Ms Gallagher	Mr Wood	
Mr Hargreaves		

Question so resolved in the affirmative.

Bill agreed to in principle

Detail stage

Clause 1.

MS TUCKER (12.19): I move:

> That the debate be adjourned.

Question resolved in the negative.

Clause 1 agreed to.

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

Bill agreed to.

Revenue Legislation Amendment Bill 2003 (No 3)

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

> That this bill be agreed to in principle.

Motion (by **Mrs Dunne**) put:

> That the debate be now adjourned.

The Assembly voted—

Ayes 6	Noes 11	
Mrs Burke	Mr Berry	Ms MacDonald
Mr Cornwell	Mr Corbell	Mr Quinlan
Mrs Dunne	Mrs Cross	Mr Stanhope
Mr Pratt	Ms Dundas	Ms Tucker
Mr Smyth	Ms Gallagher	Mr Wood
Mr Stefaniak	Mr Hargreaves	

Question so resolved in the negative.

MR SMYTH (Leader of the Opposition) (12.24): The opposition supports the Revenue Legislation Amendment Bill. The opposition attempted to adjourn debate on the bill simply to make the point that the government is introducing a large amount of legislation in the last sitting week of this Assembly. The government has not said that any of this legislation is urgent. However, if the government states that a bill is urgent, for example, the Totalcare bill that will be introduced later, the opposition will oblige the government by assisting it to achieve its aims. The government should not introduce bills in the last sitting week of the Assembly and expect us to pass them during the same parliamentary session. Members should note the importance of having time to consider and to consult in relation to any of the bills that might have a retrospective effect.

That was the purpose of the opposition's thwarted attempt to adjourn debate on the bill. However, as I said earlier, the opposition supports the bill. The Treasurer said in his presentation speech that this bill, which is an omnibus bill, would amend a number of provisions that required amendment. The proposed amendments to the Rates and Land Tax Act are intended to ensure that the land tax regime applying to units in the ACT is applied in accordance with the policy intent. The government has been provided with legal advice that reflects that there might be a difference between the way in which current legislation is interpreted and the application of land tax to units in unit subdivisions. The opposition is concerned that taxpayers could be disadvantaged if there is a dichotomy between what is described as current practice and the strict application of relevant legislation.

The opposition will seek to implement legislation that imposes taxes that are clear, equitable and administratively efficient. The one aspect in this bill that is a bit worrying is the availability of information from a number of years ago. The Treasurer told us in his tabling speech that limited material was available from 1987. As 1987 is only 16 years ago—it is not a long period—I would have thought that our record-keeping processes for that period and our access to that information would have been appropriate. I acknowledge the change in the way in which the territory has been governed, given the implementation of self-government. That might have created some difficulties in relation to accessing information prior to the self-government era. All members are aware of the farce with which we are confronted every January when Commonwealth cabinet papers from 30 years ago are released for public scrutiny.

There appear to be problems relating to the archiving and availability of records for the administration of the ACT for the period until 1989. How does the Territory Records Act, which was implemented only last year, apply in this case? How does it apply to

records relating to the administration of the ACT both before and after self-government? The explanatory memorandum to this bill notes that the legislation applies to records created by the Commonwealth of Australia prior to ACT self-government. The Treasurer might wish to comment on that matter when he replies to debate on this bill. I noted the Treasurer's comment about the retrospective aspect inherent in this bill. As a principle, we do not favour legislation that imposes taxes retrospectively. On this occasion, however, it is evident that the provisions in this bill seek to clarify the imposition of land tax since the introduction of this tax prior to self-government.

The government said that this bill would not impose any additional tax burden on taxpayers—a fundamental proviso in legislation such as this. The proposed amendments in the Taxation Administration Act seek to ensure that the information provided by taxpayers under this act is protected. Again opposition members have no objection to that objective. It is of paramount importance that information provided by taxpayers is properly protected. We are required to take this action some years after the repeal of a particular act which is perhaps a reflection of the increasing complexity of the legislative regimes that govern our lives.

If the Office of the Government Solicitor only recently identified the problem, how much more difficult would it be for ordinary people who have no experience in these areas to understand legislation to which they are being subjected? There is an added dimension in this instance. In this interregnum, information that was provided by taxpayers might not have been protected and presumably could have been sought legitimately by any person. As I said earlier, the Liberal Party supports the bill.

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

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Oz Help mental health program

MR SMYTH: My question is to the Minister for Health, Mr Corbell. George Wason has accused you of having an agenda of cutting funding to the Oz Help mental health program targeting the construction industry. Indeed, Oz Help has informed me that you intend to cut their budget by $20,000. Mr Wason claimed that you were unable to meet with him until February, despite the fact that the budget is being put together now. In the *Canberra Times* of 8 December he is quoted as saying:

> The Budget is being put together now. This is totally unacceptable. It's absolutely ridiculous. …For some reason Simon doesn't give it the importance or urgency it quite frankly deserves.

He adds that there is "real time" and there is "Simon's time". Minister, why are you cutting funding to a successful community mental health program?

MR CORBELL: We are not cutting funding to a successful community program.

MR SMYTH: I have a supplementary question. Minister, why do you consider that Oz Help is not a successful mental health program? Or is someone else doing the cutting for you?

MR CORBELL: Oz Help is a successful program and is a program that this government and previous governments have supported. The Oz Help foundation is a joint venture of the Construction, Forestry, Mining and Energy Union, the MBA, the Commonwealth government and ACT Health. The ACT government has provided $320,000 over the past two years to support the Oz Help program.

The Oz Help program was initially established as a pilot program with one-off funding. The current financial commitment to Oz Help ceases when the existing service agreement expires in June 2004. The program was originally funded from a one-off source to honour a commitment by the previous government for which no source or recurrent funding was ever allocated. The government will be considering the options for ongoing funding for Oz Help. Part of that process will be based on an evaluation of the Oz Help program.

The government has no intention of cutting funding and has not indicated in any way that it will be cutting funding to Oz Help. Oz Help knows that their existing service agreement expires in the middle of June next year and that it will be considered in the same way that all other programs are considered when their contracts come to a conclusion.

Mr Wason's comments that I do not give youth suicide a high priority are of some offence to me. Mr Wason may feel that I should have a meeting with him as soon as he demands one, but the reality is that, as a minister for health, I have to meet with a wide range of people, and there are, in fact, only a limited number of days between now and when I go on leave. For that reason I have indicated to Mr Wason that he can meet with my senior adviser prior to Christmas so that his concerns can be communicated to the government and, further, that I am available to meet him after I return from leave in the new year.

Inclusion awards

MR HARGREAVES: Mr Speaker, my question, through you, is to the Minister for Disability, Housing and Community Services. Minister, I notice that last week a dinner was held to mark the occasion of the inaugural ACT inclusion awards. What significance do these awards have for the people of Canberra, particularly the disability community? Who won these awards and for what did they win them?

MR WOOD: I thank Mr Hargreaves for his question because this is an issue that I think needs as much airing as I can possibly give it. Last Wednesday, along with a quorum, I think, of this Assembly, I attended the inaugural ACT inclusion awards. I acknowledge and thank those members who were present for lending their support.

This bold venture was attended by just over 400 guests at the Institute of Sport arena. So, put into context, it was a pretty big thing. Although it was certainly the first event of this kind, I think by the end of the night we knew it would not be the last.

Of particular significance was an address by Warren Macdonald, a double amputee, who showed films that had me on the edge of my seat. He is able to do incredible things, and one of the best things he does is speak very well. He is an outstanding speaker. Guests at the awards witnessed a performance from James Kearney, a wonderful pianist who is deaf. These two presentations were very appropriate to the night.

On the night we saw video examples of how disabled people were performing and managing. It is all about inclusion—about how people with disabilities should be included in every possible way.

The premier award on the night, the ACT Chief Minister's Award for Excellence in Inclusion, was presented to Capital Careers. This quite extensive business has demonstrated how people with a disability can be effectively employed. They actively recruit and source employment for people with a disability.

Other award winners in major categories that were well received on the night were: the Curtin milk bar—a wonderful place to go to, if I can put in a commercial; I think people will accept that; the Canberra Theatre Centre, which is doing great things for people with hearing disabilities and other disabilities; and the ACT Planning and Land Authority, which, as always, is doing a very good job. A range of commendations was also presented.

The awards attracted over 30 nominations, which is, I think, a remarkable result in the first year. This awards process is a partnership between the government and community sector organisations, including the Disabled People's Initiative. Business, community and government organisations were very active in supporting it. Sponsorship for the event was very much appreciated. Sponsors included Canberra Cabs, Koomarri, RPR Consulting, Canberra *City News,* Business ACT—thank you to Business ACT—the Pavilion Hotel and the Children's Resource Centre.

I think it was an enjoyable night—a very rewarding and instructive night. I look forward to being at the awards again next year with members of this Assembly.

Bushfires—coronial inquiry

MR STEFANIAK: My question is addressed to the Chief Minister. Chief Minister, it was reported in the *Canberra Times* that counsel assisting the coroner investigating the January bushfires, Lex Lasry, had stated that he hoped the briefing provided to cabinet before 18 January about the fires would be provided to the inquiry. In answer to my question in this place on 21 October, you said:

> … the government intends to fully cooperate with the inquiry and we will, of course, respond to all requests made of us by the inquiry.

Chief Minister, have you cooperated fully with the coroner and provided her with a copy of all documents relating to that cabinet briefing?

MR STANHOPE: Yes, the government has cooperated fully with the coroner and the coronial inquest. At this stage we have not received a request from the coroner for the particular briefing that Mr Lasry referred to. I have received advice from the department

of justice and from the cabinet office in relation to the issue. The government stands ready to respond to all requests from the coroner. The government will participate to the extent requested and desired. We will respond to all requests from the coroner.

Land sales

MRS DUNNE: My question is to the Minister for Planning and relates to the government's land venture at Wells Station. Mr Corbell, your government has been critical in the past of developers selling subdivisions before they have been approved, but the plans for the subdivision balloted on Saturday did not contain block and section numbers, but alphabetical references. For instance, the first block balloted was designated "KKu" and had no block and section number. Does this alphabetical designation indicate that the subdivision was not approved before it was put up for ballot?

MR CORBELL: I am not aware whether the subdivision has been formally carried out with the Land Titles Office. I will, of course, make inquiries and provide the information to Mrs Dunne. I think, though, that the Land Development Agency is engaging in a normal process for land sales in new greenfields areas and I cannot recall occasions when the government has criticised similar proposals by the private sector in the terms Mrs Dunne outlined.

MRS DUNNE: I have a supplementary question. Will the minister ensure that the blocks currently do legally exist? Can he assure the Assembly that this is not part of the government's profit at all cost approach to land development?

MR CORBELL: That was a silly comment from Mrs Dunne, because the bottom line is that you cannot sell a block of land unless you can give somebody a lease over it. As Mrs Dunne knows, people did not pay for a lease on Saturday; they paid a deposit. They paid a deposit for that block of land; they did not pay for title over that land. They have not made full payment for that block of land; they have paid a deposit. That is a normal process and the government, of course, will only receive full payment for that land when the lease title is granted to the buyer. That is pretty basic stuff—something I thought the shadow planning minister would have got her head around after two years in the job.

Aged persons accommodation

MS DUNDAS: Mr Speaker, through you, my question is to the Minister for Planning, Minister Corbell. Minister, I understand that some non-profit organisations have investigated the construction of aged persons rental accommodation on concessional leases that they hold, but they have been informed by ACTPLA staff that they will be liable for the full change-of-use charge if granted a lease variation to permit a multi-unit development.

Under what circumstances does ACTPLA use its discretion, which is in the legislation, to waive the payment of a change-of-use charge?

MR CORBELL: Mr Speaker, discretion to waive a change-of-use charge is not the responsibility of the planning authority; it is only vested in the Treasurer. The Treasurer

has the power to waive a change-of-use charge. The authority simply administers the change-of-use charge. It cannot itself waive any charge.

The charging policy that is in place in circumstances such as those outlined by Ms Dundas is a charging policy put in place by the previous government; it is a charging policy which the government is currently reviewing to see whether or not it is still appropriate. I have asked both ACTPLA and the Land Development Agency to consider, and give me further advice on, the appropriateness of charging a full change-of-use charge to not-for-profit providers of aged-care accommodation in circumstances such as those outlined by Ms Dundas.

I am currently awaiting advice in relation to that matter, and I would hope the government would be in a position some time early in the new year to outline its position.

MR SPEAKER: A supplementary question, Ms Dundas?

MS DUNDAS: Thank you very much, Mr Speaker. Can you tell us when that advice will be available and whether or not there will be changes to the legislation? Also, I am interested in your comment that it is the Treasurer who waives these change-of-use charges when the determination that is currently up on the ACT legislation website in relation to West Civic and the forgoing of change-of-use charge is signed by yourself as Minister for Planning.

MR CORBELL: That is not a waiver, Mr Speaker; that is a different instrument in terms of determining the level of change-of-use charge paid. It is not a waiver; it is where a fee is waived, Mr Speaker. That can only be done by the Treasurer.

Mr Speaker, I have indicated to Ms Dundas that the process is now under way for reviewing the charging policy. As I indicated in my previous answer, that should be available early in the new year.

Economic white paper

MRS BURKE: My question is directed to the Treasurer, Mr Quinlan. Minister, leading up to the 2001 election, you promised an economic white paper that would set out implementation plans and targets, but it seems that after an extraordinarily long time all we have actually had delivered is a very expensive damp squib, costing over $1 million. It is a con job. Of the so-called 47 actions in the white paper, 18 are no more than "statements of the bleeding obvious", to use your own term, Minister—

MR SPEAKER: Order! Mrs Burke, would you withdraw the words "con job".

MRS BURKE: I withdraw the words "con job", Mr Speaker. Eighteen are no more than "statements of the bleeding obvious", to use your own term, Minister, 16 are previous or repackaged announcements, three require further review—more reviews, can you believe it?—and only nine can be regarded as new policies, if you are really being generous. So much was promised, and so little was delivered. As the ABC observed, the main outcome will be jobs in the Assembly writing reports for the government.

Minister, why did you promise so much but deliver nothing tangible? Why did you fail to do what you said you would do?

MR QUINLAN: Beauty, of course, is in the eye of the beholder, and I would not expect—for five minutes or for two minutes—that the opposition would find anything but wrong in the economic white paper. We will be debating it later today. Let me say, it has been roundly accepted and has had very good press and a very good reception.

MRS BURKE: I thank the minister for his answer. But when will you actually commit yourself to implementation plans and targets as you promised?

MR QUINLAN: The plan itself is a commitment, but it is a plan—it is a long-term document. I know that that is a difficult concept for you guys to get your heads around, but it is a long-term, strategic directional document. Nothing like it existed in the six years of the previous government. There was an appalling lack of strategy. The performance of the previous government was hip shot event after hip shot. And, when a strategic plan is put together, you cannot even see it.

Tourist brochure

MRS CROSS: My question is to the minister for tourism, Mr Quinlan. Minister, recently I was informed that there was a promotional brochure developed by your department which was of such a low standard that it needed to be withdrawn and destroyed. Following this, there was a need to re-do this publication. As we know, this is an expensive process. Minister, is it true that a promotional brochure had to be destroyed due to the fact that it contained many mistakes?

MR QUINLAN: Not that I know of, but it certainly is a matter that I can follow up for you.

MR SPEAKER: A supplementary question, Mrs Cross?

MRS CROSS: Thank you, Mr Speaker. Can you also advise the Assembly, Minister, how much the brochure cost the people of Canberra, firstly, to publish; then, destroy; then republish? What process has been taken to ensure that this waste does not happen again in this area?

MR QUINLAN: I will advise on the numerical side of that, but we are employing human beings and there will be mistakes from time to time. Let's give a little bit of tolerance to people that, I think, have done a cracker job in the last year or so.

Mrs Cross: So you will take that on notice, then?

MR QUINLAN: Yes.

Land sales

MR CORNWELL: My question is to the Minister for Planning, Mr Corbell. It relates to the government's land venture—gamble, perhaps—at Wells Station and Dunlop. Minister, in the policy lead-up to the 2001 election you spoke of a focus on affordability

in housing which had the following specific initiative, to quote from your planning and land management policy "Planning for people":

> Designate First HomeBuyer and Low-Income blocks in new residential releases.

Minister, why have you broken your election commitment by ensuring that there are no designated first home buyer or low-income blocks in the Wells Station or Dunlop land developments?

MR CORBELL: There were blocks for low-income earners. There were blocks for people who are seeking to enter the housing market for the first time. That is reflected in the cost of some of the blocks offered for ballot. For example, the lowest priced block sold was $130,000, which is very cheap. That is an example of the types of blocks offered for purchase. The government seeks through its land release program to make available a range of blocks at prices which meet a range of buying intentions, and those include people who are looking to enter the market for the first time as well as people who are looking to spend larger amounts of money. The Wells Station release makes provision for that.

I think that it is worth noting in terms of overall land availability in the ACT—we have not heard much on this lately from the opposition, but that is probably because they have been caught out once again—that there is a combined total of over 8,204 dwelling sites in the builders and developers pipeline. How many more is that than was put in place by the Liberal Party? It is 3,500 sites more than was in place under the Liberal Party. Not only is the government releasing a range of land for a range of income types in new estates like Wells Station, but also we have now in the builders and developers pipeline 3,500 more dwellings than the Liberal Party ever achieved when they were in government.

Mrs Dunne: Are the L&Ds written for all of them? No, they are not.

MR SPEAKER: Mrs Dunne, cease interjecting, please.

MR CORNWELL: I have a supplementary question. Minister, does your government believe that low-income blocks could be classified as blocks selling for $130,000, with an average out there for first home buyers as well of $203,000?

MR CORBELL: Mr Speaker, as I have already indicated to Mr Cornwell in my answer, the government is providing a range of block sizes and block costs to meet a range of home buyer expectations. If you were to speak to anyone about the cost of land, $130,000 for a block of land is cheap. Those cheap blocks were all sold; so there is a demand for those types of blocks.

Mrs Dunne: Not to low-income people. The low-income people walked away.

MR CORBELL: Mr Speaker, we have the rabbiting on from Mrs Dunne, the constant interjection, the constant accusation without substance, but the reality is that the government has a range of block sizes available for sale at a range of prices. On top of that, the government has more land in the market in the builders and developers' pipeline than the Liberal Party ever came close to achieving.

Mr Smyth: Table the list.

Mrs Dunne: Show us the list.

MR CORBELL: Mr Speaker, they are rabbiting on again, but 3,500 more dwelling sites, over 8,000 dwelling sites, are now in the builders and developers' pipeline—a significant improvement on that left by the previous government. The government has that in place. The Liberals should be ashamed of themselves for failing in their capacity to properly plan land release, which they know they have to plan in advance. When we came to office there was no planning capacity to plan the estates needed to get them out onto the market. We have now rectified that, Mr Speaker.

Mrs Dunne: Have you written the L&Ds for these 8,000 blocks?

MR SPEAKER: Mrs Dunne, I warn you.

MR CORBELL: We have now rectified that, Mr Speaker, and we now have over 8,000 dwelling sites in the builders and developers pipeline. It is interesting that Mrs Dunne says, "I don't believe you." I invite her to go and talk to the MBA and ask the MBA whether it thinks that there is enough land in the market, because it will say, "Yes, there is enough land in the market." It probably galls Mrs Dunne that the MBA would say such a thing for a Labor government, but that is the reality. There are now enough dwelling sites in the market.

On top of that, the government will continue through its ballot process and through over-the-counter sales to make a range of blocks available at a range of prices. We think that we will see some equilibrium come back into the market and we will see some sensible prices come back into the market because people are thinking more seriously about their purchases, they are thinking about the consequences of interest rate rises for their mortgages, and that is important in seeing a sustainable housing market into the future.

Education of children with additional needs

MR PRATT: My question is to the minister for education. Minister, I recently received a copy of a letter to you from a constituent whose six-year-old grandson has been having difficulties at school, which may be related to fine motor skills. She has been told he would face a wait of six to eight months for testing before treatment could commence, with the possibility of more tests being required and, presumably, more delays.

Assuming a child of this age were facing difficulties with writing, due to problems with fine motor skills, what would be the likely effect of a six to eight month delay in treatment in educational, psychological and social terms?

MS GALLAGHER: I remember the letter, Mr Pratt. From memory, I am waiting for some advice from the department in responding to that child's grandmother. In relation to your question, I am not a qualified child psychologist or therapist. The question you ask is: what impact will this delay have on the education of that child? I am not qualified to answer that question. I think it is a concern if there is a wait that long. The advice I have sought from the department is to find out exactly what that child's needs are

because, in terms of day-to-day education for children with additional needs, all the support required for them to participate in their education is provided.

Specialist services, on top of that, which may flow over into Minister Wood's portfolio, are another matter. But in terms of participation in education, I am confident that every child who has additional needs is being catered for in our education system. I will be happy to forward you a copy of the response I send when I get the advice.

Aldi supermarkets—location

MS TUCKER: My question is to Mr Corbell. In regard to the direct sale of land to Aldi supermarkets in West Belconnen and South Tuggeranong, you made pertinent comments on the different cost of supermarket goods in different parts of Australia. So, clearly, cost to consumers was one of the factors you considered in making the choice to encourage Aldi to expand its operations in the ACT.

Could you advise the Assembly what further analysis was undertaken on the social and environmental impact of that decision—in particular, whether a similar comparison was made of the number of local residents, employment figures, environmental impacts of the nature of the products, buying policy and so on as opposed to local supermarkets such as the IGA?

MR CORBELL: Mr Speaker, those are all issues which the government sought to take into account in making its decision to direct-grant the land to Aldi for those two supermarket sites. I cannot provide to Ms Tucker a comprehensive study that deals with the environmental impact of direct-granting land to Aldi supermarkets.

But the government did take account of the impact that Aldi supermarkets would have in terms of retailing in established areas of Canberra. For example, it is well recognised—and the government certainly took this on board—that Aldi supermarkets provide competition in the retail sector in a way which is different from those supermarkets that provide a broader range of products, particularly local supermarkets. Mr Speaker, it is well recognised that they have an impact on Woolworths and Coles retailing, and Coles and Woolworths quite openly admit that they discount when they have an Aldi in the market.

In relation to employment, I would have thought that overall there was going to be a net gain in employment. That was certainly the assumption the government made, and we think a not unreasonable one, that there would be a net gain in employment. Equally, locating Aldi supermarkets at group centres would reinforce the arrangement of retailing services across the territory and would not act to detrimentally undermine lower order retailing, which I think is the point Ms Tucker is trying to make.

Mr Speaker, overall the government considered that the direct sale of land to Aldi at both Conder and Kippax supported the existing retail structure in the city, supported a greater diversity of jobs in those centres and further supported greater discounting of groceries, which is of ultimate benefit to the Canberra community. It was those value judgments which the government made in coming to that decision.

MR SPEAKER: A supplementary question, Ms Tucker?

MS TUCKER: Thank you. I think you did say that you had done an analysis of the social impact, but not the environmental impact. Could the Assembly see that social impact analysis?

MR CORBELL: No, Mr Speaker, I didn't say the government had done a social impact analysis. I said the government had taken account of the range of issues that were pertinent to any decision around granting land to Aldi. We took account of what it would mean in terms of impact on local centres and impact on group centres, and we took account generally of employment issues and environmental issues. For example, we know that Aldi encourages an approach where you have to pay for your plastic bag or your shopping trolley.

Mr Speaker, those are all things that we took account of in making a decision to direct-grant land to Aldi, but there is no specific document that I can provide to Ms Tucker such as a social impact assessment.

Rugby world cup

MS MacDONALD: My question is addressed to the Minister for Sport, Racing and Gaming, Mr Quinlan. Minister, yesterday you released a report on the economic benefits of Canberra hosting the rugby world cup. Could you inform the Assembly of the success that the tournament has been for Canberra?

MR QUINLAN: Thank you, Ms MacDonald. Of course I can. In fact, we did release yesterday a summary of the costs and benefits—

Mr Stefaniak: It's old news then, isn't it, Ted?

MR QUINLAN: But worth repeating, Mr Stefaniak, just in case you missed it. The first important point to make is that every ticket to the Canberra Stadium, for four matches, was actually sold—all 96,000.

Mrs Burke: Good idea, that stadium.

MR QUINLAN: I will get to the stadium later. However, as is often the case, not everyone turned up, but there was an attendance of 86,415 overall, an average attendance of over 20,000 per game. Research shows that, of those attending, 36 per cent were from interstate and 11 per cent were from overseas. This is a vast improvement on the original estimates of 13,000 visitors from interstate and 7,000 from overseas.

The overall cost to the taxpayer of hosting the rugby world cup is officially $941,000. I would be the first to admit that it probably cost a bit more, with some providing their normal services and not particularly costing it to the world cup, but that is a pretty good indicator and comparator for other events. Our research shows that the investment return was $7 million spent in the town. Now, it depends on whose economic multiplier you like to use—if you had the one out of the dragway feasibility study it would be an enormous figure—but we will just take the $7 million, which is considered conservative. That was certainly a very pleasing result for the ACT.

MS MacDONALD: Mr Speaker, I ask a supplementary question. How does this event compare with the other major events that Canberra has hosted, especially with regard to costs?

MR QUINLAN: I am glad you asked, Ms MacDonald, and I am pleased that members on the other side of the house mentioned the stadium. The stadium at Bruce was a great stadium before the Olympic expenditure. Let's get history right.

MR SPEAKER: Come to the point of the question please.

MR QUINLAN: I was just talking about the football in this stadium, which just happened to have pre-existed any refurbishment that was the subject of one of the most embarrassing political events in the history of the ACT, and it was, as I recall, watching Fitzroy playing West Coast, I think, at a great stadium way back then. And it is a stadium now where you can play a lesser variety of sport than you could way back then.

Nevertheless, let us just make a comparison between the world cup and, say, Olympic soccer. Now, the true cost of Olympic soccer in the year 2000 for the ACT, again, may never be known. According to the Auditor-General's report, the Carnell government estimated that, if every seat to every match was sold, the event would achieve a net loss of $12 million.

From time to time, we hear the interjection and the hooting from that side of the house saying, "We built the stadium." You did not. And they say, "We ran successful events." No, you did not. It was planned to make a $12 million loss. That is the starting point. But, as they say, wait; there's more. This was, of course, to be offset by a $23 million benefit, which was going to be earned as a result of 93,000 interstate visitors and 20,000 international visitors. Tragically, we know that this did not take place. Of the 144,000 seats on offer, a little more than half were sold, and there was an average attendance of less than 13,000 per game. Of those attending, only 18,000 were from interstate—18,000 compared to 93,000—and only 5,700 from overseas, as compared to the 20,000 international visitors projected.

Given the dynamics of SOCOG's ticketing regime, the event ran at an estimated loss of $16 million, with a further $5 million having been spent on running the government's Olympic unit, Project 2000 and other programs like Streetsmart. The record of the previous government in running anything is appalling.

Mr Stefaniak: You're embarrassing yourself.

MR QUINLAN: I am enjoying myself, Bill. Maybe this is my natural habitat, then. Let me say that I am likely to stand and do it again. The recent rugby world cup and the soccer of 2000 are an eloquent commentary on the differences between the two sides of this house today.

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

Supplementary answers to questions without notice
Williamsdale quarry

MR QUINLAN: Mr Speaker on 27 November 2003 I was asked a question without notice by Mrs Cross in relation to Williamsdale quarry. I would like to table the following paper:

> Closure of Williamsdale Quarry—Answer to question without notice asked of Mr Quinlan by Mrs Cross and taken on notice on 27 November 2003.

Answers to questions on notice
Question No 1042

MR PRATT: My question 1042 to the Minister for Police and Emergency Services regarding fireworks was due to be answered on 21 November.

MR WOOD: It is here. I have just signed off on your question. It is about the number of prosecutions under the relevant act. I will be taking this upstairs, it will go through the system and you will get it in due course.

Auditor-General's Report No 10 of 2003
Paper and statement by minister

Mr Speaker presented the following paper:

> Auditor-General Act—Auditor-General's Report—No. 10 of 2003—*Financial Audits with Years Ending to 30 June 2003*, dated 8 December 2003.

Motion (by **Mr Wood,** by leave) agreed to:

> That the Assembly authorises publication of the Auditor-General's Report No 10 of 2003.

Executive contracts
Papers and statement by minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs): For the information of members, I present the following papers:

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments –
>
> Long term contracts:
> Mark Bassett, dated 24 November 2003.
> Ian Thompson, dated 14 November 2003.
> Carol Harris, dated 1 October 2003.
> Wayne Chandler, dated 27 November 2003.
> Short term contracts:
> Tu Pham, dated 21 November 2003.
> Joanne Howard, dated 14 November 2003.

Helen Strauch, 10 October 2003.
Schedule D variations:
Susan Killion, dated 6 November 2003 and 11 November 2003.
Graeme Dowell, dated 24 November 2003 and 25 November 2003.
Michael Roberts, dated 17 November 2003.
Rod Nicholas, dated 21 November 2003 –

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

Leave granted.

MR STANHOPE: I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 25 November. Today I present four long-term contracts, three short-term contracts and four contract variations. The details of each of these contracts will be circulated to members.

Direction to Land Development Agency
Paper and statement by minister

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming): For the information of members, I present the following paper:

Planning and Land Act, pursuant to section 48 – Direction given to the Executive of the Land Development Agency, dated 8 December 2003.

I ask for leave to make a statement.

Leave granted.

MR QUINLAN: I present this direction to the Land Development Agency under section 48 of the Planning and Land Act 2002. As you are aware, Mr Speaker, the Land Development Agency was created to provide a planning and land system that contributes to the orderly and sustainable development of the ACT in accordance with sound financial principles. The agency was budgeted to pay a dividend to the territory in the order of $131 million for the 2003-04 financial year. I am pleased to report that the operations of the Land Development Agency have continued to flourish.

The quantum of this interim dividend has been agreed between Treasury and the Land Development Agency and has been calculated with due regard to the continuing operations of the agency. Under the terms of the legislation, a copy of this direction must be laid before the Assembly within six days of it having been given. I commend this instrument to the Assembly.

Paper

Mr Quinlan presented the following paper:

2003-04 Capital Works Program—Progress report—September quarter.

Community and Health Services Complaints Commissioner
Report and statement by minister

MR CORBELL (Minister for Health and Minister for Planning) (3.13): For the information of members, I present the following paper:

> Investigation into Adverse Patient Outcomes of Neurosurgical Services provided by the Canberra Hospital—Final Report, prepared by the Community and Health Services Complaints Commissioner, dated February 2003.

I ask for leave to move a motion to authorise the paper for publication.

Leave granted.

MR CORBELL: I move:

> That the paper be authorised for publication.

Question resolved in the affirmative.

MR CORBELL: I seek leave to make a statement.

Leave granted.

MR CORBELL: For the information of members, I have tabled a report entitled *The adverse patient outcomes of neurosurgical services provided by the Canberra Hospital*. This report documents the findings of an investigation carried out by Mr Ken Patterson, Community and Health Services Complaints Commissioner, into neurosurgery at the Canberra Hospital.

In November 2000, under section 11 of the Community and Health Services Complaints Act 1993, the then minister for health, Mr Moore, directed the Community and Health Services Complaints Commissioner to inquire into possible adverse clinical outcomes as a consequence of neurosurgery at the Canberra Hospital and to report back on the issues. I received the report in February 2003. When the report was provided to me I was advised by the Government Solicitor's Office that it was not advisable to publish it, in order to protect patient privacy. The Community and Health Services Complaints Commissioner also recommended to the then ACT Health Chief Executive Officer that the report not be made public.

There is, however, public interest here in that the public have a right to know about the quality and standards of health services provided in public ACT health facilities. For this reason I have decided to now table the report following recent developments in a matter before the ACT Medical Board involving a neurosurgeon, as well as representations that ACT Health have received from concerned consumers and staff. Members will see that only two recommendations were made in the report, both of which have been actioned.

The commissioner has also noted in his report that as his investigation proceeded a range of concerns were expressed about one neurosurgeon. The commissioner notes in his

report that during the investigation he narrowed the focus of his investigation onto this neurosurgeon.

I am advised that this report was considered by the ACT Medical Board at its meeting held on 21 March 2003 whereupon the board resolved to take no further action. It should be noted that the neurosurgeon referred to in the report is no longer operating at the Canberra Hospital. This neurosurgeon has also submitted to me that he does not consider that comments made by him in response to the report have been adequately addressed by the commissioner in the final report. It should also be noted that I have confidence in the service being provided by the three neurosurgeons who are currently appointed at the Canberra Hospital. The government acknowledges that despite the inconclusive findings made by the Community and Health Services Complaints Commissioner there are issues identified in the report commissioned by the former Liberal government, and this government will take responsibility to deal with the matter now.

The Community and Health Services Complaints Commissioner's report outlines several individual patient cases but draws no specific conclusions regarding the standard of practice in the neurosurgery unit at the Canberra Hospital. However, it is now possible that more adverse outcomes may come to light as a consequence of the tabling of this report. It is therefore appropriate to take stock of the commissioner's findings through a review I am announcing today into clinical governance and a further review of the neurosurgical outcomes of the patients of the neurosurgeon investigated by the Community and Health Services Complaints Commissioner. This second review is intended to ensure that all patients of this neurosurgeon who were admitted to the Canberra Hospital in recent years have been provided with appropriate post-discharge care. These reviews will be conducted by ACT Health using external experts in case review and clinical governance.

The clinical governance review will be forward looking. This clinical governance review will be an opportunity to evaluate recent improvements and areas for further improvement. Both reviews will also consider any other actions that should be undertaken. The panel of experts conducting these reviews will be announced shortly.

The first recommendation in the report is that the Minister for Health supports the reporting provisions set out in the Health Professionals Bill. I support this recommendation. The reporting provisions are set out in the new bill, which will be introduced into the Assembly during this sitting. Recommendation 2 reads:

> The management of The Canberra Hospital needs to ensure that the internal peer review systems in the Neurosurgical unit are adequate to ensure those engaged in it cannot claim not to be aware of their colleagues practice or competence.
>
> There needs to be reporting systems within The Canberra Hospital to ensure that, if any health professional has concerns about the standard of practice or clinical competence of another health professional, their concerns can be reported and acted upon in a timely fashion. There needs to be routine collection of information that is sufficiently comprehensive to allow effective peer review of clinical standards.

Mr Speaker, this recommendation by the Community and Health Services Complaints Commissioner brought to the fore the need to improve clinical governance arrangements at the Canberra Hospital. In response to the issues raised in the report the Canberra

Hospital has made several important changes to promote accountability and deliver improved patient safety. The hospital has established a peak clinical governance committee chaired by the general manager. This committee is responsible for subcommittees that monitor clinical quality and clinical risk to promote patient safety at the Canberra Hospital. The clinical privileges subcommittee is responsible for ensuring all medical staff of the hospital are suitably trained and competent to fulfil their responsibilities at all times.

The clinical review committee undertakes clinical audits to ascertain patterns of care and investigate serious adverse events. This committee advises the clinical governance committee on issues identified and recommends action. Individual health professionals are encouraged to report any concerns to this review committee. The clinical health improvement program supports clinicians to implement evidence-based best practice and evaluates the effectiveness of the implementation. ACT Health is also in the process of establishing its clinical governance model to ensure accountability and quality across the territory. ACT Health has supported a territory-wide approach to quality and safety and is in the process of developing the second ACT health and quality safety plan built on the achievements of quality first.

Mr Speaker, in tabling this report, and announcing the review, I acknowledge that there may be some difficulties or personal concerns for patients of the neurosurgery unit. The government and ACT Health want to support people during this time and have initiated a phone line for former neurosurgical patients to call should they have any questions regarding the government's investigations or the Community and Health Services Complaints Commissioner's report.

I also publicly place on the record my thanks to the doctors and others who have provided information to the Community and Health Services Complaints Commissioner. They are protected by the Community and Health Services Complaints Act 1993. We need to acknowledge the difficulties this kind of action creates for the individuals concerned. It is essential to the safety of the health system that these individuals and actions are supported.

Members should note that the original report provided by Mr Patterson contains some 91 attachments. These are not included in the material being tabled today and are in the process of being de-identified by Mr Patterson. Should members require this information, I ask them to contact my office and I will arrange for it to be supplied.

I have also included in the report submissions made to the commissioner by neurosurgeons in response to adverse comments made to a person or body identifiable from the report. Section 79 of the Community and Health Services Complaints Act 1993 states that where a person or body so requests, the commissioner shall include in the report the statement given under paragraph (1) (b) or a fair summary of it. I move:

> That the Assembly takes note of the paper.

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

Planning intent
Paper and statement by minister

MR CORBELL (Minister for Health and Minister for Planning) (3.22): For the information of members, I present a statement of planning intent for the ACT and I ask for leave to make a statement.

Leave granted

MR CORBELL: For the information of members, I table the following paper:

Statement of Planning Intent for the ACT, dated 9 December 2003.

The establishment of the ACT Planning and Land Authority and the ACT Planning and Land Council signifies both the political and administrative maturity in the planning and development of the territory. It reassesses planning as a vital public function that must be conducted in an open, educative and accountable manner. It vests with an independent authority the stewardship of planning for our social, economic, cultural and environmental wellbeing, setting a clear vision for our future. The authority is supported in its role by the Planning and Land Council, which is comprised of people with a range of skills and expertise to provide advice to the authority and the minister. Members will be aware that in the debate on the Planning and Land Bill last year, I sought to include a provision that enabled the Minister for Planning to give to the authority a written statement that sets out the main principles that are to govern planning and land development in the ACT—the statement of planning intent.

While the ACT Planning and Land Authority has responsibility for implementing a range of planning and land development instruments, it must be led by the policy intentions established by government as determined by the minister. In this regard, the obligations of the minister and the authority are clearly expressed in section 14 (1) of the Planning and Land Act 2002. The act goes on to state that the minister must table the statement in the Legislative Assembly within six days of having given it to the ACT Planning and Land Authority. Section 9 of the act requires the authority to perform its functions, taking into consideration the statement of planning intent.

The statement of planning intent establishes a number of planning and development principles that I, as the minister, wish to be achieved. It is not, however, an explicit direction to the authority on how this is to be achieved, as the authority's administration of the planning and development system is at arms-length from the government.

The attached statement of planning intent includes a number of major issues that the authority will be required to have regard to. These are:

- (a), governance and legislative reform;
- (b), professional leadership and capacity;
- (c), spatial planning and sustainable development;
- (d), providing for the community;
- (e), capitalising on good urban design and
- (f), celebrating Canberra.

With the spatial plan nearing completion and a recognised need to move to the next phase of the planning reform agenda, the authority should be provided with clarity in relation to those key principles I believe are important in governing its work in the foreseeable future. I commend the inaugural statement of planning intent to members of the Assembly. I move:

> That the Assembly takes note of the paper.

Debate (on motion by **Mrs Dunne**) adjourned to the next sitting.

Territory Plan—variation No 130
Paper and statement by minister

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

> Land (Planning and Environment) Act, pursuant to section 29—Approval of Variation No. 130 to the Territory Plan—North Gungahlin—Bonner, Casey, Forde, Jacka, Moncrieff, Taylor and Part Amaroo and Ngunnawal, dated 4 December 2003, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I ask for leave to make a statement.

Leave granted.

MR CORBELL: Draft variation 130, North Gungahlin, concerns the suburbs of Bonner, Casey, Forde, Jacka, Moncrieff, Taylor, and part of Amaroo and Ngunnawal. The variation confirms the planning for the remaining undeveloped areas of the existing suburbs of Amaroo and Ngunnawal and introduces a revised structure for six additional suburbs. It is anticipated that these suburbs will provide around 14,100 dwellings accommodating approximately 34,500 persons when fully developed. The variation provides for three group centre sites, five local centres, one new high school, and three new primary schools. The urban open space is further refined to give definition and identity to each of the six North Gungahlin suburbs and meet open space needs. The Horse Park Homestead and wetland precinct are retained in urban open space.

The arterial and collective road network has been designed to service high and medium-density housing nodes adjacent to all retail centres and community facilities and provide for a potential increase in public transport usage. Stormwater management systems have been refined to implement sustainable urban water management design principles. The variation also updates the residential B8 and B9 area-specific policies to ensure that the controls are appropriate in a mixed-use context.

The variation was released for public comment on 21 October 2002, with comments closing on 20 November 2002. Nine written comments were received as a result of consultation on the draft variation.

A number of revisions were made to the variation as a result of the consultation process and a review of action plan 10—yellow box/red gum grassy woodland. The Standing

Committee on Planning and Environment considered the revised draft variation and in its report No 23 of 27 November this year and made eight recommendations. The committee's first recommendation was the government should not seek to implement land-use policies that are dependent upon committee recommendations and then attempt to dictate the direction and timing of deliberations in such a way as to compromise the independence of committees. However, it has not been the government's intention to compromise the independence of the committee. Draft variation 130 represents a substantial body of work carried out by the ACT Planning and Land Authority to a very high standard. By its nature it is a complex process where time pressures are almost inevitable. In this context the government appreciates the timely manner in which the committee considered the variation.

The committee's second recommendation was that amended structure and implementation plans be readily accessible to prospective land purchasers. The Territory Plan map and written statement will be amended to incorporate the revised structure plan. The Territory Plan is available at the ACT Planning and Land Authority shopfront and at the ACTPLA web site. In addition, a copy of this recommendation will be forwarded to the Land Development Agency for its consideration in preparing land release packages for developers and for individual block releases to members of the public.

The committee's third recommendation was that ACTPLA ensure sufficient time for the committee to conduct a valid examination of the draft variation to reduce the potential for the committee to be compromised by already-approved government policies. The committee handed down its report on 27 November this year, four months after the referral of the draft variation.

The committee's fourth recommendation was that adequate community facilities be provided for in future planning for ACT suburban developments. The North Gungahlin structure plan identifies community facility sites throughout the new suburbs, introducing a greater level of detail of their location. Most community facility sites are located close to commercial centres, thus providing good access to public transport, open space and schools and facilitating a sense of community. Changing community needs will affect the number and types of facilities required, resulting in the need for planning to retain a degree of flexibility. Sites for government primary schools are identified at Bonner, Jacka and Taylor. The site at Taylor is co-located with a government high school. A further site is set aside for a possible education facility, a college, at Moncrieff. In addition to identified school sites, other possible community facility sites are identified within the open space system for community facilities requiring smaller sites such as churches, scout halls and community halls.

The committee's fifth recommendation was that the protection and possible expansion of the Mulligans Flat Reserve be considered as further detailed planning is undertaken. Following the preparation of the draft variation, detailed planning studies were undertaken for the suburb of Forde, which lies adjacent to the Mulligans Flat Nature Reserve. In response to these studies, the specific policies for Forde have been amended to increase areas of open space and retain endangered species. Further detailed planning studies are now proceeding with regard to Bonner. In addition, the government is progressing a nature reserve in the Gooroo area as an extension of Mulligans Flat to the

south-east and is undertaking studies to determine possible future reserves to the north of Bonner, Jacka, Taylor and Casey.

The majority of committee members recommended in the sixth recommendation that government must not use the committee process to blueprint land release policies for already-determined government decisions on suburban developments. Much of the land to be released was already covered by a residential land use policy in the Territory Plan. The North Gungahlin variation further refined the existing policies at a greater level of detail.

The committee's seventh recommendation was that the government incorporate the ACT lowland/woodland conservation strategy as part of its current variation process, and in further detailed planning in North Gungahlin and other developments in the ACT. After the draft variation was released Environment ACT completed a review of action plan 10—yellow box/red gum grassy woodland. This review takes account of significant areas of yellow box/red gum grassy woodland requiring further study at Gooroo in East Gungahlin and Kinlyside, both adjacent to the area subject to this variation. The outcomes of this study are part of the draft ACT lowland/woodland conservation strategy—Action Plan 27. The outcomes of this review were taken into consideration in finalising the North Gungahlin structure plan. The principles and policies contained in the variation are consistent with the draft lowland/woodland conservation strategy.

The committee's eighth recommendation was that the government proceed with the implementation of draft variation 130. The Planning Institute of Australia (ACT Division) recently presented an award to the North Gungahlin structure plan for excellence in environmental planning. This award is designed to encourage schemes or projects which promote the principles of environmental planning or conservation and show how the environment can be maintained to meet the present needs of the community without compromising future generations. In the words of the judges, the North Gungahlin structure plan demonstrates a high level of appropriate research and planning rigour with realistic and achievable outcomes. The plan includes a clear structure of planning principles that should lead to the creation of accessible, vibrant community spaces and living environments. I commend the variation to the Assembly.

Papers

Mr Wood presented the following papers:

> **Subordinate Legislation (including explanatory statements unless otherwise stated)**
>
> Legislation Act, pursuant to section 64—
>
> > Architects Act—Architects (Fees) Revocation and Determination 2003 (No 2)—Disallowable Instrument DI2003-308 (LR, 24 November 2003).
> >
> > Land (Planning and Environment) Act—Land (Planning and Environment) Exemption 2003 (No 2)—Disallowable Instrument DI2003-309 (LR, 24 November 2003).

Occupational Health and Safety Act—Occupational Health and Safety Council Appointment 2003 (No 4)—Disallowable Instrument DI2003-303 (LR, 24 November 2003).

Public Place Names Act—Public Place Names 2003, No 26 (Street Nomenclature—Lyons)—Disallowable Instrument DI2003-305 (LR, 24 November 2003).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Approval of Taxi Network Performance Standards 2003 (No 1)—Disallowable Instrument DI2003-298 (LR, 20 November 2003).

Road Transport (General) Act—Road Transport (General)—Declaration that the road transport legislation does not apply to certain roads and road related areas 2003 (No 9)—Disallowable Instrument DI2003-301 (LR, 20 November 2003).

Surveyors Act—Surveyors (Fees) Determination 2003 (No 2)—Disallowable Instrument DI2003-307 (LR, 24 November 2003).
Unit Titles Act—Unit titles (Fees) Determination 2003 (No 2)—Disallowable Instrument DI2003-306 (LR, 24 November 2003).

Workers Compensation Act—Workers Compensation (Fees) Determination 2003—Disallowable Instrument DI2003-302 (LR, 24 November 2003).

Economic white paper
Discussion of matter of public importance

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

The lack of goals and targets in the government's Economic White Paper.

MR SMYTH (Leader of the Opposition) (3.35): This is an important matter for the public because the public of the ACT, in particular the business community, were promised a white paper. For the edification of members I will explain what a white paper is. A white paper follows a green paper and a green paper normally follows some discussion papers but is often the discussion element. A white paper is traditionally the way of releasing a major initiative out of the budget cycle that tells you where the government is taking you. It would traditionally tell you how you are going to get there, where you are going and, more importantly, how you will fund it. Mr Quinlan has broken all the traditions. He has produced an almost $1 million mirage—it simply disappears under close scrutiny.

I want to give you, as a comparison, two white papers which have been released recently. The first is a tourism white paper released by federal Minister Hockey and comes with $235 million worth of funding to achieve its targets. It tells you how the federal government will achieve structural reform, international and domestic marketing, research and statistics, event and niche markets, structural initiatives and improvements in infrastructure and implementation. It is a white paper in the true sense of the word. Mr Quinlan has released version 3 of a discussion paper that probably does not warrant the appellation of a green paper because there is nothing in it.

The original promise of Labor is reflected on page 4 of the ACT Labor policy, which is Labor's plan for developing industry. Under the section headed "White Paper", it states:

> The results of this strategic review will be published as the ACT Economic White Paper, outlining the Government's implementation plans and targets.

If you run the word "target" through the electronic copy of the economic white paper that was delivered to members, it is interesting to find that it appears a dozen times, in the context of strategically targeted strategies or specific targeted groups, but it doesn't tell you what the targets are. This is a good example:

> Initially the following sectors will be targeted:
> - Information and communication technology,
> - Space Sciences,
> - Biotechnology,
> - Public Administration,
> - Environmental Industries,
> - Creative Industries,
> - Sport Science and Administration,
> - Education; and
> - Defence.

The government tells you that it is going to target areas but refuses to define the areas. Perhaps the only real target that exists is for City West. Page 86 of the white paper states:

> This study will be a key element in developing City West as one of the three targeted arts and cultural precincts ...

So City West is a target. We know that there will be three targeted arts and cultural precincts—City West, Civic Square and Kingston Foreshore—but we do not have any detail on how the targets will be achieved. I thought that the government had got it wrong and that perhaps there were goals specified in the document. So, again, courtesy of the electronic document that the government has provided, I looked up the word "goal". What is the government aspiring to achieve with this document? The goals are airy-fairy or somebody else's and you don't know what it wants to achieve, except perhaps for page 10, where it is stated:

> It contains a range of government commitments to achieve the goal of making the ACT the most small business-friendly location in Australia.

I will talk about that goal in a few moments. Things that have happened or are about to happen in this place show that the government has no intention of becoming the most small-business-friendly location in Australia.

We had a promise that has been broken—a promise that clearly there was no intention to fulfil. This paper, which is signed off by the minister, says in the foreword:

> At the policy level we will do this by:
> - being unashamedly pro-business and committed to actions that will make the ACT the premier business friendly location in Australia;

Minister Quinlan should get out and talk to the community. Industrial manslaughter, the right of unions to enter premises, portability of long service leave, not raising the thresholds on payroll tax, the introduction of a levy on parking spaces, three failed attempts, thankfully, on extra revenue initiatives aimed at the business and the planning legislation, which will be discussed somewhat later—the litany goes on—have all put the mockers on business in this territory. How the government can say that it is unashamedly pro-business and think that it is convincing people is beyond me; it has an odd way of showing it.

Let us look at the government's commitment. The government is obviously committed to its white paper—or is it? At the briefing in the afternoon, after the launch of the white paper—I will get to the launch because it is an important part of the way in which this paper is viewed—officials were asked whether the government's commitments were firm commitments. There are 47 actions. They are not action plans or strategic plans, they are just actions. You can do actions at kids preschool as well. This white paper is as effective as a song at a kids preschool, except the kids preschool would be far more enjoyable and cost a whole lot less.

The answer was that they are not actions; they are maybes—maybe 47, maybe 46, maybe 45. There is no money to fulfil the strategic plan that the Treasurer is so proud of. Without the money or the commitment, and having to go back through the budget process which should have been done after 2½ years, you begin to get the picture of this government's commitment to an economically sustainable future in the ACT, based on the diversification of our revenue base, so that we can put more nurses into hospitals, more teachers into schools and more police out on the beat.

The white paper is a fabulous document. There is the full-on version—the 97-page full document—or the 37-page synopsis document. Perhaps somebody should explain to the Treasurer what a synopsis is. You are gobsmacked when you see it. The government was so proud of its documents and its efforts that it could not wait to give them to people. It called in the business leaders of this community at 10.30 a.m. on Wednesday last week to give them a briefing. Business leaders turned up to get their documents, so that they could read them and be ready for the full-on briefing at 11.30. After an hour were they handed anything with great pride by the Treasurer and his officials? The answer is no; nobody got the documents.

We then went through almost an hour of the launch where all the minister did was read from a prepared speech that announced absolutely nothing. At the end officials had the gall to ask, "Any questions of the Treasurer?" What questions would you ask him when you did not know what was in the document? People who had spent two hours waiting in expectation of reading the documents and being able to have a reasonable conversation with the Treasurer were told that they could go outside, have a sandwich and read the white paper. Perhaps they should have had a Bex and a good lie down—it would have probably been more beneficial—but they were told they could have a sandwich, a glass of juice, and talk to the Treasurer about the documents that they weren't allowed to see. We were certainly proud of our little white paper, weren't we?

Let us get to the nub, to the guts of this. What is the government going to do for us? It was interesting that in question time the Treasurer said, "The plan itself is a commitment." A commitment without action, a commitment without money,

a commitment without a goal amount to a very shallow and hollow plan. The Treasurer stated that the white paper was "a long-term strategic document". But you cannot tell whether it is long term because there are no timelines and no targets to reach. I do not know where we are going, I do not know when we will get there, and I have not been given any tools to tell me how we have achieved what the Treasurer has taken almost 2½ years and close to $1 million to do.

The Treasurer went on. This was the killer punch from the Treasurer—he was all geed up for question time; he knew the white paper question was coming—"And anyway, it's never been done before. I've got the first one. Mine is the best. It's never been done before; there's never been a strategic plan for the ACT." To put lie to that, I have a document entitled "Canberra: a capital future". I will turn it on its side so that the Treasurer can see it—the ACT strategic plan for 1996. The interesting thing about the plan is that it has actions and says who is going to carry them out. It does not purport to be a white paper; it is a strategic plan. It does not purport to be what the Treasurer has put on the table before us, but it achieves a whole lot more.

I would like to refer to one chapter, chapter 7, entitled 'Supportive planning and infrastructure". What is the Treasurer going to do for you? You read, and you read and you read until you get to action 41 where there is a bit of coordination—that will be beneficial. Coordination is beneficial. Perhaps I should not be so disparaging. Action 42 states:

> The Government will create a planning environment that better reflects residents' aspirations for living close to work.

I wonder whether Mr Corbell was told this. You cannot be close to work; you have to be further away. Action 43 states:

> The Government will establish a Central Area Development Task Force.

Something is coming out of this: we are going to have a task force. Action 44 is my personal favourite:

> The Government, through the Land Release Program, will release residential and commercial land in Civic as part of the Central Area Strategic Implementation Plan.

That is a novel concept: a land release program that releases land. That is fabulous. And on it goes. Action 47, the last one, states:

> The Government will recognise Canberra International Airport as a major activity centre and work with the Commonwealth Government and airport management to continue to upgrade connections to the airport, especially from Civic.

That is original. Look, it is an airport! We are going to recognise that planes come to the airport, that international planes might come to it. Chapter 7—"Supportive planning and infrastructure"—is interesting. What is that going to achieve? Absolutely nothing.

If you flick through the document that the Treasurer has never seen, the ACT strategic plan for 1996, you will see that it lists what the community wants: critical infrastructure projects. The former CIRT council, now renamed the Australian Capital Region

Development Council, has identified the following transport projects as potentially contributing to the development of Canberra and the region: an upgrade of the Barton Highway, which was achieved during the term of the last government; the very high speed train project, which the previous government did not achieve but we tried damned hard; an upgrade of the Canberra airport to international standards, which has happened; completion and duplication of the Federal Highway, which has also happened; and improvements to the Monaro Highway, which have also happened. A strategic plan, not a white paper; a few actions—actual achievement.

If you go back to the former government's strategic plan, you will see that at the end of every chapter there is a statement of the economic vitality objectives in each case. It then goes on to principles and how to achieve them and has a four-page spread of actions for economic vitality. It details the priority actions and the lead agency. That is a plan which will make achievements.

Let us look at the government's priority industry sectors because they are fabulous. We have racked our brains, we have worked for 2½ years, we have talked and listened to the community. We have said that we will do space sciences, and that is already happening; biotechnology is already happening; public administration is already happening; environmental industries are already happening; creative industries have been borrowed from the Liberal Party; sport is already happening; defence is already happening; and tourism is already happening. But it is curious that in two of those industries the government forgot to put in the actions. Under "Space sciences" and "Sport science" there are no actions. The government is going to do it but it is just not going to do it now. If you go to the synopsis document, you will see that somebody forgot to put in the action, which I think is a sad indictment of this government, although it is a true reflection.

At the end of "Space sciences" and its astronomical potential the paper says that the space sciences industry will be targeted as a priority industry sector. That is just in the general text; it is not outlined as an action. All the other actions have a statement, something to feel good about. It also says that the biotech industry will be targeted as a priority industry sector. That is the government's concept of action: a few bland words on a piece of paper and then, out of the eight targeted areas, no strategic actions are listed. Where is the commitment?

The white paper is a sham. It is a mirage. It is just fairy floss. No doubt the minister will get up and read the first line of a number of press releases. The opening line will be something like: 'The council for X welcomes the delivery of the white paper." When the Treasurer gets up we need to look at what they really said because I do not believe any group in the ACT is happy with the white paper. If you analyse the paper as we did, you will find that the 47 actions dissolve down to 18 statements of the bleeding obvious; 16 previous announcements; three further reviews; another review, which is the responsibility of the other party; and only nine attempts at action. This is a sham.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (3.50): I will not read from the press releases, I will read from the *Canberra Times* headline "High tech vision for the ACT". I like the word "vision". It is vision for the first time.

I will start where Mr Smyth started: with federal minister Joe Hockey, with bumbling Joe's white paper. The white paper is supposedly specific. I need to get some new bureaucrats because we are still having a lot of bother working out exactly what is on offer.

Firstly, there is no mention of money in Mr Hockey's white paper. Mr Hockey put out a press release in which he announced additional funding of $235 million. If you read through the white paper, you will find that there is confusion as to what is new, what might be new and what is not. We still have to get clarification as to just how much additional money is involved. Nevertheless, Mr Smyth says that we should try to make some sort of spurious comparison for the sake of the debate.

When a white paper like this is put out, you wonder what the reception will be. A commitment has been made and there has been a fair amount of material involved. I am very encouraged by the response. I have met with business people since the white paper has been put out and it has been fairly well applauded. There have been one or two critics. One is a particularly consistent critic of government no matter what it does. His credibility died years ago when he put out a press release supporting a Carnell decision before the decision had been announced, which is going a bit ahead of the game. They were working in tandem.

On the day I brought down the paper there were those that were carping and saying, "Where's the white paper?" "Mr Quinlan has built this white paper up". I did not build this white paper up. If you go back over 18 months you will not find me building it up but the opposition building it up, for which I thank you, Mr Smyth. There were those that were carping and saying, "We want it. We want to gainsay it and naysay it. We want to find what's wrong." What is wrong with this paper? "It doesn't have precision as to money or timetable." Has an idea been put forward?—"Hey, you've left out a major idea"—no.

On radio last week one of our critics was asked by the announcer, "What did you suggest that's not in the paper?" The answer was: "Nothing." You could say that of so many—if there were many, but there are not. In fact, business is generally very pleased with this paper. I have been to a couple of functions since the launch of the paper, which we started some time ago. Since we have been in government this paper has been growing on those who have been carping about it, saying that he things this government has done are no good because they preceded the paper or that they should not be mentioned in the paper because we have got on with them. They were and are part of our vision. I have to confess that I am very happy to allow Mr Smyth to carp on as he did. I was enjoying that.

Since this government came to power it has set about putting quite a number of things right. Let me give you a little insight into the vision of the Liberals. Let us look at Fujitsu, for example. This is your standard, your comparison.

Mr Smyth: I raise a point of order on relevance, Mr Deputy Speaker. This MPI is about goals and targets in the government's economic white paper. I looked for the word "Fujitsu" but I could not find it in the paper. Perhaps Mr Quinlan could give us the reference he is alluding to.

MR DEPUTY SPEAKER: This has been a fairly broad ranging-debate.

MR QUINLAN: Thank you, Mr Deputy Speaker. The government has had to fix a number of things such as Fujitsu, the V8 car race, Sverdrup, IBM Global Services, EDS, Ansett and Impulse.

Mr Hargreaves: Mr Deputy Speaker, on a point of order: the Leader of the Opposition was heard in silence. I ask him to hear Mr Quinlan in silence.

MR DEPUTY SPEAKER: Proceed, Mr Quinlan. I uphold the point of order.

MR QUINLAN: Thank you very much, Mr Deputy Speaker. This government came to power with a fairly ignominious predecessor. There were a number of things to tidy up and they have been tidied up. Since then the government has moved on and has cleaned up and re-organised the tourism industry. It is now running successfully and has seasonal campaigns. It has been involved in a successful rugby world cup, which I compared earlier with what the previous government did in relation to the Olympics. That was just appalling. I just do not know how members opposite can hold up their heads.

We have set up small business development programs, the knowledge bank—192 firms have benefited from the knowledge bank—the Education Council, Partners Canberra and Screen Action. These are elements of a consistent, positive vision, as compared to a ramshackle, hipshot, photo opportunity. I like to think of those opposite as "crash through", "can do whatever"; but Cando didn't, Cando couldn't, Cando failed. This government has vision and is prepared to put forward a strategic vision for Canberra and its future.

I am pleased, in large part, that this has been roundly condemned today because I have occasionally, from that side of the chamber, heard my own words come back to me in economic matters. I am assuming that I will not hear any of my words coming back to me from this white paper, which will be refreshing. There will be naysaying and gainsaying, but no plagiarism, which will be a pleasant change.

The prime example of what the government is doing, consistent with its vision, is the NICTA development. Those opposite have talked about it, but was anything provided for its development in future budgets? No. "We'll say we're kind of interested" was about the best you could get at that time. This government has supported this development. It has negotiated through to the point where a very large slice is coming to Canberra. It promises to be the hub of a substantial cluster. This will be a fillip to the future of the ACT economy.

I have done a little research and got a sense of what is required for areas such as Canberra to grow, to parlay from their strengths. This plan sets that out. It does not have some number that the anal retentive can argue about and pick at—that is the breadth of their minds; I apologise for that. Just for once why don't members opposite open up and see the possibility of Canberra. The business sector does. Since the paper came down I have been to the exporter club of the Canberra Business Council. They were very happy to hear about the plan and thought it was consistent and a good idea.

At lunchtime today I opened a biotech development conference. The government are working with Biotech Australia and have provided it with an office cheek by jowl with

Business ACT. Business ACT, a peak association, Biotech Australia and Austrade are all together. We are being positive and trying to provide export and development opportunities for businesses in the ACT. We are doing the real stuff. We are doing the real thing. This is not a hipshot, scattergun approach; it is a strategic approach which is laid out before you.

I can understand the opposition not wanting to accept it. I can understand that they would feel the need to bag it as much as they could. That is the game we play in this place. Please knock yourself out doing it. I expect no more. However, in your private minds please try to get your head around it. See not only what Canberra can be but also what the government need to do to ensure that we compete with Dublin, Bangalore, San Diego and Cambridge. These areas are taking a strategic approach. They do not have lists of numbers and amounts either; they have conceptual plans to which they are working. We need to do the same thing.

I do anticipate, even though we are playing this silly game in here, that most people in this place would agree with the thrust in the white paper and that they will, in their own way, inasmuch as the political framework allows, be behind it and be behind the potential this offers Canberra. This government has genuine dialogue and a good relationship with educational institutions—not just at cocktail parties—and we are working with them. We are on the same wavelength with these institutions and with business. We are looking forward to Canberra's future success so that our children and their children can make their homes in this beautiful place.

MS DUNDAS (4.05): I have been interested in what the Treasurer has had to say in this matter of public importance. Perhaps he should have waited until more members spoke to get a greater understanding of what government and opposition members think about the economic white paper. This document forgets the majority of ACT adults who lack tertiary qualifications and suggests that we gamble large sums of public money on unproven start-up businesses. It is a document with no timelines, ranking of priorities or indicative costings and it lacks practical strategies to help our local small businesses grow.

At the time the government sought input on the economic white paper the ACT Democrats put forward a submission. The Treasurer has already spoken about the submission process today. He said that many people who put forward submissions saw that the suggestions were being taken up in the white paper. Unfortunately the submission of the ACT Democrats appears to have been ignored by Treasury. The concerns that we have put forward have not been picked up in the white paper. We expressed concerns that the views of the community sector and of ordinary residents were not being actively sought. Submissions were invited through an advertisement in the *Canberra Times* business section, so it is hardly surprising that the overall majority of submissions then came from the business sector.

I am disappointed that the white paper is so white collar in its outlook. ABS statistics show that 69 per cent of ACT residents aged over 15 lack tertiary qualifications and that slightly more than half have not completed year 12. The proportion of younger people with tertiary qualifications is much higher, but we need to build an employment base that is inclusive of our ageing population and all of our younger people, and that means more jobs that are not dependent on tertiary training.

The economic white paper in itself put forward a whole lot of statistics and analyses about the future of the territory, the situations that we are working towards and the demographic changes that we have to deal with. It is disappointing to see that all the action components that come out of this do not mesh with the problems that are identified in these demographic changes.

One of the tables clearly shows that there is a population bubble when people come to the territory for educational opportunities but then leave. Did the people who developed the economic white paper talk to students about why they leave the territory? This was identified as an issue in the discussion paper, but the issue of whether or not students are able to find accommodation or jobs appears to have disappeared from the paper.

We need to look at what is going on and talk about how we need to step up our land release program and those kinds of things. Were students spoken to about this matter? Did we talk to young people and ask them why they leave the territory? ABC Radio was able to do that the day after the economic white paper came down, so it is disappointing to find that the people who developed the economic white paper were not able to do that.

The white paper overlooked new industries that could diversify our employment base, such as agriculture or light manufacturing. These jobs were put forward in the non-urban study; but, again, they seem to have been totally ignored in the white paper.

The focus on more jobs for the highly educated could mean more people migrating to the ACT for work, while the current jobless continue to stay in the dole queue. The draft social plan talks about all Canberrans reaching their potential, and I think the economic white paper should have been able to facilitate this. The foundation of the Canberra plan is meant to be sustainability, so I am disappointed that there are no signs that the white paper process generally attempted to assess the environmental impact of the industries selected for promotion. For example, I doubt that the defence or space industries would score highly on a ranking of environmental sustainability.

I was also concerned about the proposal for venture capital and the venture capital fund. I believe that the ACT government could make better use of public money and use less of it if they helped new businesses prepare prospectus documents to attract private capital rather than entering joint ventures using taxpayers' money.

We know about consecutive ACT government records of perhaps not supporting the most well-picked winners. At the white paper launch and today the Treasurer listed a number of failed government business ventures that he has had to shut down. So even if the new venture capital fund were managed by an investment company, I suspect that cabinet would then insist on a final say about which business proposals attract funding. I fear that this is likely to result in more expensive mistakes.

If the government is serious about wanting our region to become another regional technology powerhouse like Cambridge or Bangalore, it needs to realise that these success stories resulted from governments facilitating venture capital investment, not directly providing the capital themselves. We should avoid making expensive mistakes and losing millions of dollars of taxpayers' money and should focus on capacity

building, sustaining the research and developing commercialisation plans. In that way, we will spend our money wisely and help businesses to grow.

We also need to promote existing small businesses. I think the white paper is very short of ideas to help small businesses in the territory. CRIPs are being scrapped and the government is instead putting forward a new pre-tender process to inform local businesses about major upcoming ACT government contracts. This new process will not guarantee that government contracts are small enough for local businesses to manage, so I am doubtful that outcomes will improve for small businesses. It appears that there are simple and inexpensive alternatives that have been overlooked.

All too often ACT government contracts are offered on a scale too big for local small businesses to cope with. The million-dollar graffiti cleaning contract that Urban Services manages is being run out of New South Wales because no ACT business could do it all at once. Local small businesses would win more work if the ACT government split its contracts into manageable pieces that local businesses could tender for. The government could also help existing businesses win interstate and international work by facilitating consortiums to bid for contracts. That would be a vote of confidence in our existing businesses. Again, it is about providing support and resources. Some of these recommendations are targeted towards that, but the big ones that will result in change do not appear to be there.

The Treasurer has spoken today about the work that is being done by NICTA. I draw members' attention to page 85 of the economic white paper. We had a presentation of what the proposed re-development of section 61 City West, the NICTA building, would look like. That is a very important part of what NICTA is going to be doing. In Monday's *Canberra Times* we were told that the plan was rejected last month.

So we actually have a vision and a target—if you want to say this is a target—a graphic representation of what the Treasurer will build on the site given to NICTA, but the *Canberra Times* quite clearly says that this plan was rejected last month by ACT planners. NICTA has, in fact, submitted a third proposal at about the same time the economic white paper was being put down. I guess that is just a small oversight that happened in the printing of the economic white paper.

The government seems to think more highly of businesses that do not yet exist rather than on small businesses currently operating in the territory—and this is articulated in the white paper. The lack of timelines in the white paper was a disappointment but I think its problems go a lot deeper than that. Some very simple solutions to assist businesses in the ACT have been overlooked.

MRS DUNNE (4.14): It is appropriate for Ms Dundas to point out the planning foibles, towards the conclusion of her very creditable presentation on what is wrong with the white paper. Much of what happens in this town depends on the planning system, which is the victim of a searing indictment in the white paper. Throughout the paper we have things that really say, "Look, lads, we've got to get better at this. This planning matter is a complete and utter disaster. We've got to fix it up before we all go broke." Last week we talked about the planning disasters, the state of planning in the ACT, presided over by the Minister for Planning, and the minister's failures.

I will harp back to some of the things he said. When he first became the Minister for Planning he stated:

> No aspect of long-term planning direction will be left untouched.

He has been so busy with long-term planning approaches and leaving no aspect of it unturned that he has forgotten about the day-to-day administration, approval and land release—all of the things that make business turn over in this place. The other day I highlighted a litany of some of the planning disasters that the Minister for Planning has overseen in his two years in office: the St Anne convent fiasco—the site has taken four years to come to fruition; the dispensing of retail sites in Gungahlin for Coles, Woollies and Aldi took 2½ years; and the unconscionable delays on section 56. Even when things had been approved we came back and said, "You can't do that. You have to preserve the trees." They are not significant trees and approval had already been given for them to be taken down. They had to go back and redo the work.

Other disasters have been the lopsided development, which means that town centres cannot prosper but that the airport can go ahead; the absolute failures of the direct sale of land process in many places in the ACT; and the unconscionable time it takes for direct land sales to take place. My personal favourite was the 18 square metres of land acquired by a major national company. The land was valued at $2,000, but it took three years and $50,000 in fees and planning time of professionals to get 18 square metres of land.

I receive constant representations from members of the public who are trying to get their planning proposals put through. They are not the NICTAs of the world; they are the supermarket proprietors and the small shopping centre owners that are constantly being held up by this government. They cannot make a crust because of this government's ineptitude in dealing with the planning processes.

In January 2002 a shop owner came and told me that he was approaching the government for a direct grant of land adjoining the land he currently owns. He has spoken to me on several occasions about this matter, but I last spoke to him about it last Saturday. At one public function I introduced him to the Chief Minister because he was so frustrated with what was happening in the planning department. The Chief Minister said that he would get onto it—that was over a year ago—and he has still made no progress. This is a searing indictment of the failures of this government.

What do we have in the economic white paper? The government is transfixed. It realises that it has real problems with both the planning system and the Minister for Planning. There are actions in the paper. Action 13 states:

> The ACT Planning and Land Authority will develop systems to ensure businesses and the community are given correct and timely information in relation to building and development applications and overall planning requirements.

This is not an action for a visionary white paper. This should be core business for any public service organisation in this town or any other town. In the capital of a First World country, we are saying that to improve our economic performance we have to get our planners to tell those responsible for building what on earth is going on in this town. This is a searing indictment of a lacklustre minister who is driving this town broke.

There is a big chapter in the paper headed "Supportive planning and infrastructure". Most of this is a searing indictment of the current Minister for Planning and the failure of this government to pull him into line and make sure that planning works for the community. This government went to the election with the planning for people policy. This policy provided people with the right places to live and the right business environment so that they and their kids could get a job. Two years later the key actions in the government's white paper are about getting its planning house in order. We need to have coordination arrangements. Action 45 states:

> The Government is committed to ensuring that ACTPLA operates on 'best practice' principles to deal quickly, responsively and consistently with business needs.

Again, that is not an action. It should be accepted core business for an organisation like the ACT Planning and Land Authority. If it is not core business and if we have to write specific directions, it is a failure of the planning system and the minister who presides over it. Action 43 states:

> The government will establish a Central Area Development Task Force to provide focus for the revitalisation of Civic ...

This means that the government is trying to sideline the Minister for Planning because all he will do is get in its way—just as the Chief Minister has sidelined the Minister for Planning on the non-urban study. The Chief Minister retains responsibility for the non-urban study, simply because he cannot trust his Minister for Planning because he will foul it up, as he has fouled up everything that he has done.

Today we have had a complete admission of the failure of the planning system and its impact on business and our economic prosperity. This is the government's first statement of planning intent and I am sitting here thinking: what does the Minister for Planning want to do? What is his new vision? Where is he going forward?

We have had the garden city and the city beautiful and we have been strategically planning our heart out for some time. What do we have? Another admission that what has been happening with this government is that planning has fallen by the board and is costing us money. The statement of intent, on page 3, states:

> The planning and development assessment system has long been a contentious issue for our community.

Darn tootin'—especially under this government. The statement continues:

> The Government believes it should be reformed. A clearer and more time responsive system needs to be established for the making and administration of planning and development policy, including simplifying and clarifying not only the steps involved in the decision making processes, but also the system's expectations of proponents and members of the community who participate in it.

It is about time that the minister woke up to the fact that the community is absolutely fed up to the back teeth with the government's obfuscation.

Under "Governance and legislative reform" we have a whole list of things that we could do to achieve governance and legislative reform in planning, but where is review of the land act? It is nowhere to be seen. In this place the other day, the minister said that this was being done. But when you look at his words, you see that the government was thinking about doing it. I asked this question of his office: when is the review starting and who is going to do the review? I got the following answer: "We're thinking about the parameters. We're thinking about the things that we might put in a review of the land act." Two years into the life of this government, two years of this opposition calling for a review of the land act—

Mr Stanhope: I raise a point of order, Mr Deputy Speaker. This is all very interesting. At no stage have I heard Mrs Dunne address the issue under debate today, which is the economic white paper. This has been just another personal attack, which is Mrs Dunne's speciality.

MR DEPUTY SPEAKER: Order! Resume your seat, Chief Minister. This has been a fairly wide-ranging debate and we have allowed a certain elasticity. Mr Quinlan raised a few matters in the past, too.

Mr Stanhope: My point of order is: why does Mrs Dunne not want to talk about the economic white paper? Why is she speaking about everything but the economic white paper? Is this a vote of confidence in the white paper?

MR DEPUTY SPEAKER: There is no point of order.

MRS DUNNE: If Mr Stanhope had been listening, he would know that all of this ties back to the principal recommendations in this white paper relating to action 11 which says that we have to do our core business. Action 45 that says that the government is committed to ensuring that ACTPLA operates on "best practice" principles. But the most searing indictment of this minister is his complete lack of vision when it comes to transport and infrastructure.

Action 47 states that the government will recognise Canberra International Airport. This is not the government's vision, this is Terry Snow's vision.

Mr Quinlan: Do you want to sack him too?

MRS DUNNE: You are a pathetic little worm.

Mr Stanhope: On a point of order, Mr Deputy Speaker: Mrs Dunne just referred to me as a pathetic little worm. I take objection to being regarded as little.

MR DEPUTY SPEAKER: Withdraw that, please.

Mr Stanhope: I am certainly not little at all.

MRS DUNNE: I withdraw.

MS TUCKER (4.24): This economic white paper is a discursive document that speaks of the achievements of some small and medium sized businesses in Canberra and sets

many of the qualities and advantages Canberra enjoys in a context. Without a doubt, there is some vision for economic development in the ACT in the white paper. Unfortunately, it does not tie the elements together in a cohesive manner, which perhaps explains the lack of timelines, targets or even ordered priorities. Consequently, it is hard to read the implications of the paper, no matter how much sympathy we might have with some of the broad directions.

I was pleased, for example, to see that the white paper identified environmental industries as a significant area of development and opportunity for the ACT. Unfortunately, action 26 of this paper, the closest thing we have to a target, only commits government to an industry and capability mapping exercise. It is said that this will better link R&D to commercialisation partners, but there is no strategy in the paper that would ensure that development and commercialisation occurs.

It is also worth noting that the decision on transport at the end of the document seems to celebrate the airport expansion with no reference to the problems of the development of employment and industry at that site, that it is not connected to strong public transport links and is a long way from the growth housing areas. Similarly, and interestingly, there is no mention of enhanced rail links to the ACT nor of a light rail or even busway network through the ACT; there is only the Gungahlin Drive extension and the upgrade of Majura Road.

In the context of increasing oil prices, and indeed oil scarcity, and given the scandalous state of the New South Wales rail network, some discussion of these factors in the context of economic development would have been in order and, I would suggest, should have been a priority. A priority for the establishment of a sustainable transport network would have been a good start. The dedication of this government to improving the transport infrastructure as an element to underpin our economic development, with some targets to aim for, would have been a positive sign.

Another important point made in the white paper was that affordable housing in Canberra would ensure population growth within rather than outside our borders, resulting in improved economic growth and community benefit. It also claims an intent to "create a planning environment that better affects residents' aspirations for living close to work". There is no commitment, however, to providing affordable housing in this paper, no targets and no timelines.

The white paper is the product of a lot of work and a lot of consultation. It is hard to know from reading it what the priorities will be for government, and some of the actions in this document will be in conflict with others. The government is not following its own advice either. On the one hand it identifies research as one of the real resources for our economy, yet it is sacrificing our biodiversity which is the basis of so much research here in Canberra. Gungahlin Drive going through O'Connor Ridge; O'Malley; Forde and Bonner are examples.

This is also a white paper for people who do well in their education system and who are more or less affluent and engaged. Poverty and social exclusion are entrenched in different parts of our community and the businesses and industries the white paper focuses on will not create jobs for the people who need them most.

On top of the high tech focus of government, it would be good to see a commitment to the community sector that could both create employment and provide the social support necessary to build a cohesive society. It might be argued that some of these concerns would be addressed in other government documents but it seems more likely that some of these issues, such as the resourcing and development of our social service and community sector, with all of the employment and community development benefits that flow from that, will fall through the crack again unless there are real priorities and targets in the plan.

So it would be possible perhaps to pull this white paper together with a spatial plan, a social plan and, one would hope, an equally explicit commitment to biodiversity and ecological sustainability, to give an overall view of where this government wants to take us. We need at the very least a series of action plans which really do have a series of timelines and targets so that government can be held to account.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (4.29): I think it is important in the context of this debate to acknowledge that this is the first ever significant, serious or rigorous piece of work that has been undertaken in relation to the development of an economic and industry strategy for the ACT.

Mr Smyth: On a point of order, Mr Speaker: if the Chief Minister—

MR SPEAKER: That is not a point of order. That is a point of discussion.

MR STANHOPE: This is the only serious attempt that has been undertaken by a government to determine or deliver an overall long-term strategic plan or vision for the ACT, not just in relation to issues around industry and the economy, but in the context of an industry and economic plan, a social plan, a spatial plan—all of which will come together as a plan for Canberra into the future. This is the first piece of genuine, long-term visionary strategic work that has been done by an ACT government—or indeed by anybody. The Commonwealth at the time had stewardship of the ACT prior to self-government.

I take with a grain of salt—as we all should—the criticisms that we have heard today from the Liberal Party, the Greens and the Democrats, in the absence of the scintilla of a policy on the economy or on industry development in the ACT. We will wait with bated breath over the next 10 months to see the response of the Democrats, the Greens and the Liberals to this most pressing of all issues: namely, a vision for the future, a vision for industry for the future and a vision for the economy of the ACT for the future—acknowledging, of course, all the other issues that have been raised.

The focus in the speech made by Mrs Dundas, of the Australian Democrats, was around this being a white-collar—a very clever play on words—white paper. She completely ignored the essential nature or importance of wealth creation as a way of ensuring that all of the other social programs that drive our capacity to develop and expand the economic base, the employment base or employment across the board, derive solely and essentially from our capacity to maintain a strong industry, a strong industry base and a vibrant economy. And that is what this plan does.

There is a fundamental misunderstanding of how the government deliver the wonderful range and array of services in the ACT. We are committed to delivering these services and they are very much part and parcel—a feature—of the social plan. They are driven through economic development and industry stimulation which are at the heart of the economic white paper. This is a fantastic paper. It is a rigorous and excellent piece of work which will stand the test of time and produce the goods.

We will not have to wait years and years to see the immediate benefits of some of the initiatives that have been advanced as a result of the work that has been done by this government over the last two years and that have now been given a place in this excellent piece of work. It is interesting in terms of the community response to this paper to see that the carping criticism of this fantastic piece of work has come from the Liberal Party, the Greens, the Democrats and the chamber of commerce. No other industry group has slated or criticised it. Every other industry group has supported it but for the chamber of commerce. Surprise, surprise!

Nobody is surprised at the criticism of this report by the chamber of commerce. It refused to make a submission and then criticised the lack of content—after refusing to participate. We have been presented with an interesting group of travellers in the Liberals, the Greens, the Democrats and the chamber of commerce.

This is a report, a strategy, that has been broadly embraced by the broader business community. Go and speak to them. Ask them what they think of this report. Ask them whether they think this is the first bit of serious work that has ever been done in the ACT and whether they are proud of it.

MR SPEAKER: The time allotted for the debate has expired.

Mr Smyth: I rise on a point of order, Mr Speaker. The Chief Minister just said that the ACT Region Chamber of Commerce and Industry did not put a submission in for this white paper, and yet it is listed on page 94 of the submissions received.

MR SPEAKER: That is not a point of order, Mr Smyth. Resume your seat.

Revenue Legislation Amendment Bill 2003 (No 3)

Debate resumed.

MS DUNDAS (4.34): The ACT Democrats will be supporting the bill put forward today. We see it as a piece of machinery legislation that clears up ambiguities or admissions in two pieces of taxation legislation. The first issue of concern, however, with the bill is the use of retrospective legislation to backdate the changes to the Rates and Land Tax Act to remove any ambiguities in the position of land tax on units.

The Democrats generally dislike the use of retrospective legislation, especially when it places responsibilities on people that they could not have been aware of at the time. However, we believe that, despite being retrospective, this amendment is unlikely to cause anyone much alarm it as it only confirms the existing land tax regime that has been in place over the last 12 years.

Similarly, the changes to the Taxation Administration Act foreshadowed by the bill are simply to rectify the omission of a now repealed act. This was apparently a legislative oversight when the Taxation (Administration) Act 1987 was repealed in 1999. This amendment protects the privacy of information given to the ACT government under the repealed act, which I assume has been the practice of the government in any case.

Both these changes seem sensible and necessary to maintain certainty and privacy in the ACT taxation system, and both these conditions are necessary for members of the ACT public to have confidence in understanding and trusting the taxation system. However, it is of concern that these problems have not been attended to previously and that we are almost rushing them through at the end of the year.

While I understand that, with the limited resources of the public service, a close review of existing legislation cannot happen every day it is unfortunate that it took 12 years for the problems in the Rates and Land Tax Act to be identified. I assume this has occurred due only to the Treasurer's review of the act. That is of concern. It shows why we need to take time to consider legislation before us, to make sure it is workable.

I note that the Treasurer has also tabled legislation that splits the Rates and Land Tax Act into two separate pieces of legislation. I think this will assist in understanding the legislation more clearly. There have been so many changes to the Rates and Land Tax Act since its inception that it has become extremely difficult to read or follow. These changes to the taxation legislation are obviously long overdue. I am happy that we are rectifying this small oversight today. Hopefully this will not result in a blow-out of the budget. I am sure it will not. It does give us forewarning to consider legislation carefully so that these kinds of errors do not occur in the future.

MS TUCKER (4.37): This bill corrects an error in the wording of elements of the land tax regime, as it has evolved over the past 10 years, and an oversight in the updating of taxation legislation in 1999. It seems fairly clear that this bill is simply about ensuring that the intent behind the acts being amended is pursued.

As I understand it, part of the problem relating to land tax is that it once applied to all properties but now applies only to rental properties, and that the complications occur in how it is applied to unit titled property. It seems the existing legislation could be interpreted to mean that land tax would be imposed inequitably to the disadvantage of some property owners against others and, that being the case, would open the law up to challenge. Either way it makes sense to amend the legislation so that it clearly and inarguably imposes equal land tax on equally valued units.

The urgency here is that, now that this drafting discrepancy has been brought to the public eye, landlords might be inclined to leap in and challenge the validity of the land tax charges imposed on them. Interestingly, however, there was no mention of urgency in the tabling speech or the EM.

The other function of this bill is to remedy an error in transition from the 1987 Taxation (Administration) Act to the Taxation Administration (Consequential and Transitional Provisions) Act 1999. There are specific secrecy provisions in the current Taxation Administration Act. Unfortunately the transition arrangements in that act did not extend that protection to taxpayer information collected and protected under previous

legislation. This bill will ensure that taxpayer legislation, both past and present, enjoys equal protection under the act.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (4.39), in reply: I thank members for their support of this legislation. I would like to have put on record what the legislation is about, but already today three people have told us what it is about. I understand the concerns of the opposition about legislation going through quickly and their desire to possibly adjourn this debate. As to which piece of legislation ought to be adjourned, I think this one would be a bad choice, given that it could give rise to problems once it becomes known. If the bill is passed, problems will not occur.

MRS BURKE: I seek leave to speak. I will be speaking for and on behalf of the opposition on this matter.

Leave granted.

MRS BURKE: We will be supporting the bill.

Mr Quinlan: I knew that!

MRS BURKE: I just wanted to place that on the record. Thank you, Mr Quinlan, and thank you, members.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

First Home Owner Grant Amendment Bill 2003

Debate resumed from 27 November 2003, on motion by **Mr Quinlan**:

> That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (4.41): The opposition will be supporting this bill. Recent publicity surrounding the first home owners grant scheme has demonstrated once again how careful legislatures need to be when framing legislation. Despite this care, there will inevitably be some situations not anticipated in the original drafting of legislation or arising after legislation has been passed that mean that subsequent amendments are required.

The bill we are debating today contains two principal measures. It limits the circumstances in which grants may be paid to applicants who are under the age of 18, and introduces a six-month period of residency that must be satisfied before a person becomes entitled to apply for a grant. Both these measures are quite reasonable. In relation to the first—restricting access to people over 18—it is fascinating to observe

human nature at work. How naive are we that we could not anticipate some parents who already own residential property applying for first home owners grants in the names of their children, some of whom are as young as one year. There will always be those who will seek to circumvent or abuse the provisions of legislation.

The logical consequence of this type of action is that legislation will be more complex than otherwise intended, in an attempt to preclude the actions of a small minority. In the case of this legislation I would have thought that the conditions that already exist—such as the condition that the person applying for a grant must be intending to use it as their main residence—would have ensured the proper policy outcomes. It is rather difficult to conceive of a situation where a six-year-old child could make all the necessary arrangements to own a new home, including signing contracts, dealing with builders, arranging for the removal of furniture and suchlike. Unfortunately, even with these conditions, we still have evidence of abuse. The action proposed by the amendments should overcome this abuse of the first home owners grant scheme.

We must also acknowledge that there must be some flexibility in any arrangements limiting access to these grants. As the Treasurer noted in his tabling comments, there may be quite legitimate situations in which a person under 18 years of age wishes to purchase a home and, if this was the first home that the person had owned, this would establish eligibility for such a grant. The flexibility that will be provided to the Commissioner for ACT Revenue under this bill should ensure appropriate outcomes when applications for grants are made by people who are under the age of 18.

I also note the implementation of the condition that applicants be required to live in the house for which the grant has been obtained for at least six months. This seems to be a reasonable proposal, and we will be supporting this amendment.

It appears that there was knowledge of this age loophole going back for some years. Indeed it appears that New South Wales acted some time ago to close off this age-related loophole. Other governments apparently had not been persuaded to act, despite the evidence of abuse through applications for grants being lodged in the names of children under the age of 18. I am surprised at the comments attributed to the Treasurer in the *Canberra Times* of 15 October 2003. It is reported that Mr Quinlan said that checks made by ACT authorities before approving the six-year-old's grant revealed the Commonwealth had no objection.

Am I correct in understanding that Mr Quinlan's position is that, if the potential abuse is okay with somebody else, it is okay with him? If that is a correct interpretation of the Treasurer's position, then I would have to say I am ashamed of him. But I am sure he will give his side of the story shortly.

Where is the integrity in this statement? Where is his interest in the proper implementation of public policy? Where is his concern about the proper use of public funds? Where is his interest in ensuring proper responsibility and effective accountability? We have a Treasurer who appears to have said: we have a situation where there is a wrong policy outcome; however, let us not be concerned about that because no-one else is interested. What is really surprising about the Treasurer's apparent position is that the people abusing the scheme were presumably rather wealthy

in their own right. They were already the owners of property and were seeking to own more property, using a bit of help from the taxpayer.

Where is Mr Quinlan's concern about those on lower incomes? Where is his social conscience? He made great play about those on lower incomes when he sought to amend the rates regime in the ACT earlier this year but, since this issue emerged, there has been no sign of concern at all. The Treasurer's alleged concern for those on lower incomes is ephemeral. It is a concern he brings out when it suits him but which he subsumes on other occasions.

If the New South Wales government acted on its own to resolve this abuse, what was there to stop the ACT government doing the same? The way in which the ACT Treasurer responded to the situation is disappointing. I do not believe he acted honourably—according to the public reports about how the ACT government reacted to this problem when it was raised in October. On the contrary, he ducked for cover by saying: it is not my fault; it is the fault of the Commonwealth. Mr Quinlan is quoted as also saying in the same report in the *Canberra Times* that this is Mr Costello's scheme. The Treasurer has not gained any integrity out of the handling of this issue. With those comments, the Liberal Party will be supporting the bill.

MS TUCKER (4.47): This bill acts to prevent people under the age of 18 applying for the first home owners grant and introduces an additional requirement that people who receive a grant must reside in their first home for a period of six consecutive months. I support these changes, which target the grant to those who have a genuine need to buy their first home and may prevent some people who might not be eligible taking advantage of this grant.

I note that part of this amendment bill refers to the fact that the Commissioner for ACT Revenue will be referred to to decide on genuine cases where a person under the age of 18 might apply for the grant, and also where there are genuine cases for waiving the requirement for six months residency. These mechanisms should ensure that individual cases can be considered by an independent body.

The scrutiny report clarifies that the provisions of the act regarding appeals would appear to permit an appeal to the Administrative Appeals Tribunal against significant decisions of the commissioner. There are always concerns about retrospective legislation but I think that, in this case, it is justified. I am also interested in how this legislation was declared to be an urgent bill. I think there are arguments for it, although I wonder why we keep having so many of these urgent bills, and what is going on with the process. We have been informed that Treasury, who have been administering applications for the grant, have been making it clear that any applications for people under 18 years old will be affected by this retrospective legislation. That sounds fair.

The original first home owners grant bill was introduced as part of the establishment of the GST in accordance with the inter-governmental agreement on Commonwealth/state financial relations. At the time this bill was introduced I was concerned that the grant was not targeted to those most in need, rather than being equally available to all. I am still concerned about that. Now that we have a housing affordability crisis in Australia, I am also concerned about the contribution of the first home owners grant to price inflation in the housing market. There is a good argument that the grant has benefited

those who have sold their houses in the market, rather than those first home buyers, and consequently contributed to the affordability crisis.

MRS CROSS (4.49): I rise today in support of the government's First Home Owner Grant Amendment Bill 2003. The government is certainly correct in restricting those under the age of 18 from applying for the first home owners grant; however, the provision giving the Commissioner for ACT Revenue power to use his discretion when dealing with minors is also important, as it allows genuine applications from minors to be accepted. The government is also correct in introducing a six-month residency requirement which applicants must satisfy for entitlement to the grant. These changes ensure that a significant loophole in the first home owners grant has been closed. These are good changes and the government should be applauded.

I do, however, have two issues with the bill. I am concerned with the retrospective operation of the bill. It should not be common for retrospective laws to be passed through this chamber. However, the scrutiny of bills report noted that it is common for laws having financial effects to be made retrospective. I accept this but would like to note for the record that I believe the making of retrospective laws is bad law making.

My other prime concern is the haste with which the government found it necessary to debate this legislation. This bill, whilst admittedly less complex than many other bills we deal with, was introduced on 27 November and we are debating the bill 12 days later. The practice of pushing bills through before there is time to properly examine them is unacceptable and will not be tolerated. It has been very difficult for crossbench members and their staff to completely digest, seek consultation on and analyse the raft of fresh legislation the government has hurriedly pushed through in these last few weeks. This discourteous practice will not be accepted in the future.

MS DUNDAS (4.51): The ACT Democrats will be supporting the amendments to the first home owners grant as put forward today. The bill, like many we are debating today, is a machinery one that addresses problems that came with the writing of the act. The present act has a loophole that allows parents to purchase properties using their children as proxy. I think we all understand that that was not the intention of the legislation. This is not necessarily the fault of ACT governments, past or present, as the same error has occurred in Commonwealth legislation, and in other states and territories.

The bill addresses two main issues in the current act. It removes the eligibility of minors for the grant and introduces a six-month residency requirement on recipients of the grant. I note that the current legislation has a residency requirement but there is no minimum period, meaning that a person may reside in the property for only a day.

Concern has been raised over the use of retrospectivity in this bill. I note that the Treasurer has chosen the day of his media release as the beginning of the retrospective operation of this piece of legislation. I think this is an unfortunate choice, and should not be repeated in the Assembly. I have quite often put on the record my concerns about policy by press release.

It is not the duty of this Assembly to be legislating the content of the Treasurer's media statements. The Treasurer should take note that this type of behaviour is unnecessary and undesirable for the legislature. There is an important distinction between the executive

and the legislature, as the Treasurer himself has commented on a number of occasions, so it is not the role of the Assembly to endorse the comments of the Treasurer as a matter of course, and this view should not be facilitated by legislation such as we are debating today.

In the broader context of the act, we should note that the first home owners grant is a Commonwealth initiative administered by the territory and fully funded by the federal government. The territory does not have much choice in implementing this scheme, and we are unable to direct the funds to other purposes.

I note that the scheme has received criticism in both economic and social welfare circles and there is evidence that the scheme has contributed to the rise in housing prices. Consequently the grant may end up being passed on to property sellers, rather than helping first home buyers. It is not much help to receive $7,000 if housing prices rise by the same amount or more. Equally the grant tends to help those who have the resources to invest in housing which, in the current housing climate, tends to be those on high incomes. So, in a sense, the grant is almost a form of middle-class welfare.

From a social perspective there simply has not been the same emphasis placed by the federal government on developing methods for addressing homelessness, public housing, or making the private rental market more affordable. That would assist those in far greater need than people able to buy their first homes. That being said, we will support the legislation as put forward today.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (4.54), in reply: I thank members for their support, and for their dissertations on their support. I would like to respond to a couple of things Mr Smyth said, but I cannot because I missed them. I suddenly heard him say he was concerned about my concern for affordable housing. I do not know how he got into that.

The legislation did have a deficiency in it. It was brought in during a previous government. I do not think there is any blame to be laid on that. We do stretch the envelope every now and then in this place, but this is purely a technical deficiency. I did mention in the *Canberra Times* that one case was considered to fit the criteria and that was it. That was done at an administrative level. As soon as I found out about that, I determined to do something about it here. Not only that, I wrote to all Treasurers across Australia and suggested that we seek consistency, which we achieved. I did raise a couple of other matters in relation to the first home owners grant. We do not have consensus on those, but I will be working on them.

In relation to retrospectivity and my public comments, it is only commonsense, when a loophole like this receives publicity, to advise the public via the media that the loophole is closed. The only way I could make that clear was to say I would be bringing forward legislation at the first opportunity, and that that legislation would be retrospective to the day I was making the announcement. That was only commonsense for administration purposes. It may have avoided a mini rush of applications for the grant between that time and the time we were able, at best speed, in this place to get this simple bill to the point of being passed. Thank you, members. I hope we do not have to revisit this bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Validation of Fees (Cemeteries) Bill 2003

Debate resumed from 27 November 2003, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MR CORNWELL (4.57): The Liberal Party will be supporting this legislation. We are not terribly keen on debating legislation brought on at relatively short notice. I am not worried about the Validation of Fees (Cemeteries) Bill, but it would concern me if we were given a week to look at an inch-thick document and debate it. It is the principle that we are objecting to; we are not objecting to dealing with legislation promptly if it is possible to do so. I ask the government please to exercise some commonsense in this matter.

The Validation of Fees (Cemeteries) Bill 2003 essentially corrects an oversight. For something like 2½ years there was no legal basis for the fees collected for cemetery services. The scrutiny of bills report in relation to the legislation best sums up the approach we should take. First, those who paid the fee probably did so in the belief that they were legally obliged to do so. I have no argument with that. Second, the fees charged were amounts properly related to the services provided. There is no real problem. These fees are legitimate, the people who paid them accepted they had to pay them, and presumably they were happy with the services for which they paid. The fact that there has been an administrative glitch, an oversight, has nothing to do with the payment.

Nobody in this Assembly—and perhaps nobody in the real world—likes retrospectivity, but occasionally these things happen. This government, as much as a Liberal government, would try to avoid that sort of thing happening at all, but unfortunately it does from time to time.

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 CORNWELL: There is no viable alternative to this legislation. I understand from the minister's speech that the amounts total something in excess of $2 million. I do not know what one would do otherwise. One cannot very well refund the amounts. There may not be any feasible way of refunding it. I make the point again that these were legitimate charges for services rendered that people were happy to pay—and presumably they were happy with the services they received. It was an administrative oversight,

obviously regretted by the government—by all of us, because we appreciate that these things happen. The Liberal Party will not be opposing the legislation.

MS DUNDAS (5.01): As I have already said today, the Democrats are generally opposed to retrospective legislation. However, we will support this legislation only because we do not think it is right that the ACT government should be liable to lose $2 million because of a procedural stuff-up. The minister noted that legislation of this kind is regrettable. Illegally charging Canberrans over $2 million is not just regrettable, it is irresponsible—and when talking about cemeteries, it is shameful. It has taken us two years to realise this error. It is a shame that we overlooked it when we passed the Cemeteries and Crematoria Bill earlier this year. That legislation took so much time and there were debates about what it would do, it is disappointing that the fees relating to cemeteries were missed.

It is a positive sign that the government is prepared to fix this. The Assembly has an opportunity to rectify the situation. The section that prohibits the delegation of the fee-setting power is a positive move. Hopefully we will not see a repeat of this type of problem. The excuse that things got confused in the change of governments and powers were not delegated would have worked two years ago, but it should have been addressed then. Hopefully, with this legislation, the problem cannot arise again and the ACT government will not be illegally collecting money from people.

MS TUCKER (5.04): This is another bill to fix an oversight. In itself it is not objectionable. The problem is that the board, the department or the minister, or all of them, forgot that to be validly set cemetery fees must be put forward to the Assembly as a whole as a disallowable instrument. In the proper course, members of this place would have seen the fees and would have had the opportunity to object to them. There is no urgency to this bill. It is possible that a legal challenge could be brought but I am not sure how well that would go. I have not heard any member say they have looked at the fees that we are now retrospectively validating. I asked the minister for those fees after the briefing.

I note that the fees have been increasing incrementally. There is one explanation for that in disallowable instrument No 153 of 2000, which was the last to be done properly. The chair of the board stated in the explanatory statement that some of the fees at the Hall cemetery were increased by up to 15 per cent as previous fees were unrealistically low, and that most fees were raised by 5 per cent, similar to those charged in the state for like services. Exhumation fees were rationalised and some were reduced. That was also the year that GST was added. Fees were adjusted so that the increase was no more than 10 per cent.

Determinations made since then by the successive chairs of the Canberra Public Cemeteries Trust have steadily increased most charges, with the exception of a couple of application fees. For instance, the Gungahlin cemetery fees for a lawn-area allotment in 2000 were $308; from 2000 to 2002 they went up to $323; the next year to $355; and with this recent determination they have increased again to $369. These are all exclusive of GST. The most recent cost inclusive of GST is $405.90, which is really quite a significant increase. I am concerned that the Assembly has had a chance to keep track of this. I am pleased that this bill also removes the power for the minister to delegate determination of fees. This should deal with the problem in the future.

I also note that this is not the first time an instrument has not made it to the Assembly. While no harm has been done here and we can fix it, it is of concern that the accountability and oversight of various statutory bodies seem to be lax. While nothing outrageous has happened that we know of, it could have. That is something to be generally concerned about and aware of.

MRS CROSS (5.07): I support the government's Validation of Fees (Cemeteries) Bill 2003, which seeks to validate cemetery fees paid from 1 July 2001 to 14 November 2003. From 1 July 2001 until 1 September 2003 increased prices were not valid due to a breakdown in process related to the delegation of the ministerial power to determine cemetery charges. Similarly, all cemetery charges made from 1 September 2003 to 14 November 2003 were not valid because the Assembly was not notified of these charges. This bill seeks to validate these charges.

Whilst I am supportive of this bill and realise its necessity, I place on the record that retrospective legislation is generally not good law making. Support for this bill should not signal to the government that retrospective legislation will always be supported.

The most interesting aspect of the bill is the prohibition of the minister delegating fee determinations to a subordinate. This will have no real effect on how cemetery fees are determined. All it will do is ensure the minister signs off on the fee determination.

Mr Wood: I am not sure of that either.

MRS CROSS: Is that right?

Mr Wood: Someone has to remind me.

MRS CROSS: This should have been the case all along. The minister, in order to be fully responsible for his department, needs to be aware of and sign off on all important actions taken by his department. He needs to be reminded by his staff that that is what he has to do. I am pleased this power has been removed as it further strengthens the notion of ministerial responsibility. I will be supporting the Validation of Fees (Cemeteries) Bill 2003 and commend other members to do likewise.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (5.09), in reply: I thank members for their comments and their support. I remind Ms Tucker of the old saying: there are two certainties in life, death and taxes. With this legislation we have those in combination. It is also certain that taxes and fees will rise over a period. The Canberra Public Cemetery Trust has moved to be fully self-funding so the relatives of the dead will pay for what happens there.

I am no longer delegating this authority. Nevertheless, I am not sure the situation has changed much, because someone somewhere still has to remind me of all this—as Mrs Cross and I were discussing. Let us expect that that reminder will come through.

It is good to get this legislation through today. In a sense it is not urgent but it is not good to have retrospective legislation—legislation fixing an error—sitting there over a long period.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Public Sector Management Amendment Bill 2003

Debate resumed from 27 November 2003, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (5.11): The Public Sector Management Amendment Bill 2003 will allow the transfer of Totalcare employees back into the ACT public service. Who of us will ever forget the wonderful Pryor cartoon of your efforts to save them and allow this to happen; so congratulations to you, Mr Speaker. With the winding up of Totalcare, the government has committed to transferring Totalcare employees back into the ACT public service. They will, in the main, go into Urban Services and into the Canberra Hospital. This bill provides power for the commissioner to declare those employees to be public servants. In nearly all cases, they will be made into general service officer classifications without disadvantage.

I would like to raise two points though. The notion that voluntary redundancies may be needed into the future should go on the official record as a warning. The other thing that we were still unable to ascertain is what will the costs of this transfer be when the Assembly is making decisions here. If it is the will of the government to bring these employees back into the public service, this is the right thing to do but we should, as Assembly members, know how much it is going to cost. I believe there will be significant financial implications for the winding up of Totalcare and we have not been told what they are or how the government will fund them.

As I said in the debate last week, we oppose the absorption of Totalcare. We think it should remain out there and it should be able to stand on its own legs but, seeing that the government is carrying this out, we believe this is an appropriate course, and the opposition will be supporting the bill. *(Quorum formed.)*

MS DUNDAS (5.14): The ACT Democrats will be supporting this bill. I understand that many current Totalcare employees covered by this legislation who are transferring to the ACT public service were working in the government linen service before it was originally moved to Totalcare. There may also be other staff who were working for the government and ended up working in other divisions of Totalcare. I believe these staff were transferred across because of an ideological campaign by the government of the day, founded on the belief that, if a government agency pretends to be a private company, it will miraculously return a profit. It does not seem right that employees should suffer because of this ideological experiment and the fact that it failed.

As I said in response to the original motion to wind up Totalcare, I have little confidence that the winding up of Totalcare Industries will eliminate the problems that I think exist within the business, chiefly the risk of the ACT government undercutting private ACT small businesses in the provision of services to the private sector. We are merely shifting a problem to the departments, who will now absorb Totalcare's functions. That being said, I commend the government for doing the right thing by the staff, who have been the pawns in this unsuccessful game. Hopefully, all employees who have spent five years on temporary contracts will be granted permanency and also those temporary employees who have worked close to this length of time. The wording of the bill makes this possible rather than mandatory but I trust the Treasurer will make sure that people who would have been granted permanency under public service rules will get security of tenure. It was the Treasurer who made the statement that no jobs would be lost, but I recognise that it is the Chief Minister who now has to implement that promise.

The use of temporary appointments to fill ongoing positions in Totalcare raised broader concerns about the use of temporary employment in other ACT government corporations and ActewAGL, where many former public sector employees have ended up. With the government professing such concern about the creeping casualisation of the work force, I hope they are keeping an eye on the rise of the use of temporary employees in jobs that were formerly ACT public sector jobs. As a key or exclusive shareholder in a corporation, the ACT government has a moral responsibility to do the right thing by employees—not just in Totalcare, as we are doing today, but in all other territory-owned corporations.

I commend the government for putting forward this bill in a timely manner. I hope that all the employees who previously worked for Totalcare have a long and successful career in the ACT public service.

MS TUCKER (5.17): I have already put on the record the position of the Greens on the restructure of Totalcare and how it has been changed, so I will not go through all that again. We are supporting this bill because it is about ensuring conditions for workers who are involved in this restructure.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.17), in reply: I thank members for their contributions and for their support of this bill. As members have indicated, this bill is designed to make a number of quite simple and technical amendments to the Public Sector Management Act to enable the progressive transfer of Totalcare staff to the ACT public service, essentially without a merit process. Members have indicated why that is appropriate at this stage. The transfer of staff under the bill is part of a range of measures to wind down Totalcare. Just recently the Assembly agreed to wind down Totalcare through the disposal of all of the undertakings of Totalcare to the territory.

The bill simply sets in place arrangements to transfer Totalcare staff to the ACT public service without a merit process. That is appropriate, having regard to the decisions that have been made in relation to their place of employment. It deals with employment matters incidental to the transfers to provide structure and surety to those staff so that they may proceed into the future with the security that all people within the workforce deserve and are entitled to. I thank members for their contributions and their support and I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Volunteering ACT

MRS BURKE (5.19): Mr Speaker, this week we celebrated International Day of Volunteers and, of course, may we never forget the invaluable, caring and wonderful service that has been given to our community by many volunteers in the ACT. On that same day, Volunteering ACT celebrated its 10th birthday; it also celebrated a new and fresh look by adopting a new logo. Mr Speaker, it is a fine logo, too—very vibrant and bright—and Green Words and Images are to be commended for their work in this regard. The occasion was well sponsored. People may have seen in the newspapers pictures of the Clown Rounds who go around hospitals entertaining those who are not well. We were duly entertained by such a group of people.

The patron of Volunteering ACT is former Senator Margaret Reid. She has assumed a new title by virtue of the vice-president, Arthur Wilks, referring to her as emeritus Senator Margaret Reid. We were all given an explanation as to why he and we are allowed to now call her that.

It was an exceptional day and a good time to catch up with volunteers. I sincerely hope that Volunteering ACT are successful in their hard lobbying of the government to ensure that they have adequate funds not only to keep the service running but also to enhance the way they serve the community. It would be excellent if that funding could be restored and, if possible, increased. This is what is needed if the organisation is to keep up the good work that it does, thereby saving the government of the day hundreds and hundreds of thousands of dollars a year.

So congratulations to Volunteering ACT on their 10th birthday, and here is to 10 more. My very best wishes to Mary Porter and Ian De Landelles, to name but two—it is a big list but I promise, Mr Speaker, not to name them all—and all the wonderful ladies who work for this organisation. I would like to commend Volunteering ACT and the work they do and congratulate them on their 10th birthday.

Bus stops

MR CORNWELL (5.22): Mr Speaker, I want to talk about bus stop No 2—and I would like Mr Corbell to take note this—in Mulley Street, Holder. This bus stop is being moved 10 metres.

Mr Pratt: Moved by fireworks?

MR CORNWELL: No, no, the earth did not move it. ACTION or whoever looks after these things moved it. The new base has already been placed 10 metres away from the original bus stop.

This is rather peculiar because the original bus stop—I went out at lunch time today and had a look at it—is conveniently located at the end of a lane which goes through to the adjoining street and is directly opposite a drive which will go down to the new Montessori school on the old Holder oval.

I might add that it is claimed, Mr Corbell, that your office, I think in February this year, advised residents of Mulley Street in Holder that there would be no significant disruption to traffic in Mulley Street as a result of the Montessori school being placed on the old Holder oval. Nevertheless, the residents of 36 Mulley Street have considerable concern about disruption because they have now discovered that a bus stop is being placed on their front nature strip. I repeat that this is 10 metres from the original bus stop.

I do not know why—there seems no sensible logical explanation for this. However, because the cement had been laid for the base and I believe there is a certain urgency associated with this move, I have written to you, Minister, today and I would welcome your urgent attention to this representation.

MR SPEAKER: Before we move on to the next speaker, I just remind members that pursuant to standing order 34 (e), if the adjournment debate is continuing at 5.30 pm, I will adjourn the Assembly.

Bus stops

MR CORBELL (Minister for Health and Minister for Planning) (5.24): Mr Speaker, in response to Mr Cornwell's representation, I can advise Mr Cornwell that the bus stop has been moved by the private contractors who are responsible for associated roadworks servicing the Montessori school. That removal has taken place without the approval of the ACT government and the contractors have been instructed to stop all work in relation to that whilst the issue is further clarified. It is not the result of any government requirement that the bus stop has at this point been moved. I appreciate Mr Cornwell's concern and I trust that I will be able to have further information for him shortly.

Suspension of standing and temporary orders

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

> That so much of the standing orders be suspended as would prevent the debate on the adjournment motion continuing past 5.30 p.m.

MR SPEAKER: I am sure that a review of standing orders might take some account of that standing order.

Industrial manslaughter

MR PRATT (5.25): Mr Speaker, I rise to pick up on an issue which the Minister for Industrial Relations raised in her closing speech on the industrial manslaughter bill debate conducted on 27 November. During that speech she challenged me to speak to the families of workplace death victims and justify the Liberal opposition's position on industrial manslaughter. She said:

> 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.

Similarly, there was a challenge for me to talk to the McGoldrick family. We have deep sympathy for those families and I can assure you, Mr Speaker, and members of this place that we do not underrate the seriousness of those deaths or any other workplace deaths.

Mr Speaker, I will speak to those families if the minister thinks it is important for me to do so. Perhaps the minister would like to organise that. I am quite prepared to put my money where my mouth is. If she asks me to speak to those families then I would consider doing that. So if the minister would like to organise that meeting, I will be quite prepared to speak to them.

Let me point out to the minister that I do not think it is necessary to bring into this place a dynamic that does not necessarily advance the debate. While I would not be happy to do so under those circumstances, I will if necessary speak to the people concerned.

Mr Speaker, as for the minister's claim that she had broad business constituent support for the government position on industrial manslaughter, I have to say that that is quite questionable. I have it on very good authority that the Housing Industry Association, ACT, were not impressed or happy with the claims that they supported the government. Consequently, this means that the amount of support claimed by the government was highly exaggerated. Indeed, I do not think the small business communities were in fact universally very happy at all with the government's legislation.

Schools—volunteers

MRS DUNNE (5.29): Mr Speaker, I would like to take the opportunity to echo Mrs Burke's words in support of volunteers and draw the attention of this place to the great work done by volunteers in our electorates. In the last week or so I have attended a number of events at the school of my younger children—the Miles Franklin primary school in Evatt. I want to preface my remarks by saying that this is not an argument for or against government schools.

I think I can say as a parent that I have a broader experience of the education system than anyone else here. Last year I had a child in every level of education, from pre-school to university, and by the time they all complete their schooling, as a family we will have completed 30-child years in each of the government and non-government sectors.

The one thing that all schools have in common is a significant reliance on parental input, and I want to pay tribute to those parents who contribute in this way—disproportionately mothers who do not work full time; and quite a lot of fathers and mothers who do. They run raffles and garden stalls and paint-a-plaster fun stalls. They coach football and netball teams; they teach music and drama; and they drive their children and other children around the city and beyond. I add to that the large number of teachers whose weekends are often busman's holidays—and quite literally they are often busmen.

At Marist and Merici colleges, which most of my children attended, skiing became possible and affordable for a large number of students because teachers, parents and former students gave up their weekends, donated their time and provided food, accommodation and transport. They were responsible for enabling my children and others to get to the snow and then they provided them with free training. All over Canberra on any weekend there are parents, teachers and members of the public providing services to their schools and, through that, to the community.

Last night I attended a concert run by the Miles Franklin primary school's music program. Again, teachers and parents gave up their time on an unpaid basis to organise an event that brings joy to the lives of the students. Events such as these remind students that there is more to education than the most important areas of vocational preparation, literacy and numeracy. The pride from seeing their children perform at the concert brought a lump to the throats of the assembled throng of parents and grandparents.

Last weekend I attended the Miles Franklin fete. I am something of a connoisseur of fetes, having run jam stalls, sausage sizzles and other things at more fetes than I care to number. Mr Speaker, let me tell you that the French food cafe run by the French class and their parents and teachers was a tour de force.

Mr Speaker, what we are talking about here is what I like to call small "v" volunteering. Sometimes this sort of volunteering is forgotten when we think about the slightly higher profile of formal volunteering, which we often do when we talk about the volunteering sector. We should not focus too narrowly and we should not forget the people who give up their time every day.

There are lots of things that we can talk about in the area of volunteering. On Sunday, along with other members of this place, I was privileged to attend the three monkeys race at Lake Tuggeranong organised by Sailability. I enjoyed the race between politicians and the media, even though the media undoubtedly cheated—how else could they have won the race after we took the pin out of their rudder?

Members, when we were there I came across many people who really get a buzz out of volunteering and helping disabled people. I took time to talk to a number of volunteers, who told me about the reward they receive, which is the look on the faces of disabled children and their parents when they see what their children are really capable of.

I was told of their proposals for money-raising ventures, which for vision and imagination would have done credit to any boardroom in this town. And all of this is done so that they can pay rent—yes, Mr Speaker, rent to the ACT government to help them provide this service. We should be looking at whether it is reasonable that an

organisation like Sailability, which is saving the ACT government money, should be paying rent.

Educational awards

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.33): Mr Speaker, I rise to talk about the 2003 Microsoft awards for outstanding achievement in high school years. Mrs Burke and I attended this event, which was held last week. The purpose of the event was to recognise the achievements of some of the students in all of our high schools. It was a great event at which a whole range of education stakeholders came together to celebrate 92 of the best students from ACT government high schools—hopefully 92 of the future leaders in the ACT.

On hearing the citations, as an ex-student of a government high school, I could only sit in awe at some of the achievements of our students in all areas, particularly in areas such as peer support, membership of student representative councils, being leaders and mentors to younger students, and academic results through the whole range of curriculum.

In total, 92 students were recognised: five from Alfred Deakin High, five from Belconnen High, two from Black Mountain, five from Calwell High, five from Campbell High, five from Canberra High, five from Caroline Chisholm High, two from the Dickson College alternative program, two from the Eclipse program at Canberra College, five from Ginninderra District High, five from Gold Creek High, five from Kaleen High, four from Kambah High, five from Lanyon High, five from Lyneham High, five from Melba High, five from Melrose High, five from Stromlo High, five from Telopea Park, two from Woden, and five from Wanniassa High.

On behalf of the government, I would like to congratulate all the students for their achievements and wish them well for the future. I would also congratulate the Department of Education, Youth and Family Services for organising such a wonderful celebration of public education in the ACT.

Epilepsy

MR SMYTH (Leader of the Opposition) (5.33): Mr Speaker, I would like to take this opportunity to speak to members about epilepsy in our community, and in particular the work of the Epilepsy Association of the ACT. The association is a small group with the express aim of making life easier and better for people with epilepsy and their carers.

Epilepsy is a complex and difficult condition. One of the main problems is that we do not have a real handle on how many people in Australia suffer from epilepsy. The data is inaccurate and outdated. However, based on international studies it is safe to say that in the order of 2 to 3 per cent of the population will suffer from epilepsy at some time in their life. In the ACT this translates to anything between 6,000 and 9,000 people, and many others are touched by the problems either as carers, parents, friends, teachers and so on.

Three per cent does not sound like much, but think about it in terms of the equivalent of one person in 30, one child in each class, one person on the football field in each game,

possibly one person in this chamber at a given time. The numbers can fool us into thinking it is not a major problem. But it is. It is a condition that affects people in many ways.

Thousands in the ACT have their epilepsy well managed by medication, but for very many others their days are filled with fear, frustration and an inability to manage their condition. And for a small number the condition is totally debilitating. Some kids with epilepsy cannot attend school, and for others employment is out of the question. But for all of them there remains a social stigma still associated with this most misunderstood condition. Indeed, the World Health Organisation has stated that epilepsy remains one of the most misunderstood and under-researched conditions in the world.

The Epilepsy Association has as one of its main aims to dispel the myths associated with this condition. Even today, at the beginning of the 21st century, people are discriminated against. The association has taken a strong educative role to help employers understand that people with epilepsy are still very productive workers. People are still being sacked because they have a seizure in the workplace.

The association told me last week of parents who are still afraid to declare their child's condition to the school for fear of discrimination. The bottom line, Mr Speaker, is that the community and, might I suggest, the community leaders, including most of us, do not understand all they should about this condition. The association wants to change this. They have recently announced an ambitious work program for the next year, a major element of which is a community awareness program.

The government and the ACT health department are their principal funders. They receive over 30 per cent of their total funding as a government core grant, for which they are very grateful. To operate, the association needs about $140,000 per year. Their core grant is about $50,000.

Importantly, the association recognises that the health and wellbeing of the community are not at all the sole responsibility of government. They came to see me, not to ask me to lobby for more dollars but to start the process of community information building. And be warned, they will be coming to see all of you as well. Their work is underpinned by a range of partnerships with other non-profit groups, with local businesses and with the community in general.

The last year has been a very successful year for the association. With their financial situation relatively sound, they have been able to offer some new and exciting services and increase their role in direct counselling and provision of support to people in our community with epilepsy.

The indigenous program received international recognition and was funded by the US-based Pfizer foundation. This work is recognised as being pioneering and other states and territories are looking on with interest to see how they can adopt the learnings. Isn't it great when a small community-based support group can receive international recognition—and even better still when it is one of ours and we support it.

The next year is a vital one for the foundation. To best address the health priorities of the community they must take a major step forward. They tell me that so many people in the

ACT suffer alone, either not aware of or not confident enough to approach the association. They want to reach these people in particular. They want to continue to help health workers have access to the latest and emerging information about epilepsy.

Mr Speaker, the Epilepsy Association is not alone in its struggles and ambitions. There are dozens of community groups like them. But the challenges are significant and, if they are successful, the result will be great changes for the better. I wish them all the very best in their endeavours and ask members to extend to them the courtesy of a small amount of time when they call to plead their case.

Mr Terry Hannan

MS MacDONALD (5.40): Mr Speaker, I rise today to speak on a couple of matters. Firstly I also would like to extend my congratulations to Volunteering ACT for having reached 10 years. I think they do a sterling job in our community. I congratulate Mary Porter, Ian De Landelles and all the staff and volunteers for the work they do at Volunteering ACT.

I primarily want to speak about an old friend of mine, Terry Hannan. Terry is going to be very annoyed with me now that I have called him an "old friend" because, of course, he does not believe he is old. However, I congratulate my very good friend Terry for having received the Brian Miller Lifetime Safety Achievement Award. The inaugural award, which was known as the New South Wales Workplace Safety Council's Lifetime Achievement Award and commenced last year, has been renamed in honour of CFMEU occupational health and safety coordinator Brian Miller, who unfortunately died earlier this year. I will read the following about Brian:

> CFMEU Safety Coordinator Brian Miller was awarded the inaugural award last year at the first ever safety conference to be hosted by the NSW Labor Council. Brian's name is synonymous with safety and stories about his lifetime of campaigning on behalf of workers is the stuff from which legends are made.
>
> Born in Kensington, Sydney, Brian first started working on building sites in the 1950s, at a time some of the first multi-storey projects, including the AMP and MLC buildings and the Sydney Opera House, were being built.
>
> It was often a case of new techniques, new dangers to address and combined with the bad attitude towards safety held by many employers, Brian saw first hand the devastating effects of poor OHS standards at work.
>
> Coming to prominence in the 1960s, Brian was an active union member who could always be relied upon to come out fighting on behalf of his fellow workers. Brian's driving concern was that men and women throughout Australia should not die while working to feed their families. He was also a strong support to those who did lose loved ones on the job.
>
> In 1973 he became a full-time BWIU organiser. He helped establish the first workers' safety committee, organised a safety blitz in the Liverpool area—and so his career as a tireless watchdog of worker safety was launched.

> Over the years Brian's achievements in the field have become almost as legendary as his passion for the cause. Secretary of the CFMEU New South Wales Branch Andrew Ferguson says Brian has made his finest contribution to the area of safety.
>
> "Who knows how many workers would have lost their lives had it not been for Brian. The building industry is still a dangerous place, but Brian's tireless work—agitating, educating and organising—has made it considerably less dangerous than it was before he started," Andrew says.
>
> Mentoring young unionists so they too can carry on his legacy, Brian has ensured the benefits of his commitment will never be lost. He is also famed for allegedly being able to talk under water with marbles in his mouth or, in the words of another colleague, under wet cement.

The Brian Miller Lifetime Safety Achievement Award was presented at the Labour Council's safety conference on Friday, 24 October. As I have already said, it was awarded to my very good friend Terry Hannan. I think this was highly fitting because Terry was, like Brian, a mentor to young unionists, and I was one of those young unionists.

I first met Terry Hannan in 1994 when I was working in the organising works program area for the New South Wales Professional Officers Association. Terry had been involved for a very long time in campaigning for healthy and safe work practices within the New South Wales public service. I cannot think of a more fitting person to receive the award. I know that Terry and his wife, Adrianne, who has also worked very long and hard in this area, are both very chuffed about it and I give them my congratulations.

Florey shops
Sailability ACT Inc
Belconnen golf course estate

MR STEFANIAK (5.45): Mr Speaker, I rise to congratulate the shopkeepers of Florey for organising last Saturday week a wonderful community event, which both you and I had the privilege to attend. The shops have had some problems, mainly caused by a certain unfortunate unruly element in the suburb. The shopkeepers have banded together really well and a real positive out of all the drama has been a great increase in community spirit.

Over 2,000 people attended the open day at the shops. There were fetes; the local schools were represented; the fire brigade was there, and all the kids loved going through the fire engine; a couple of members of the Raiders were there; and a cake was cut. It was just a wonderful community event. So my congratulations go to all the shopkeepers for organising that event. I think the driving force was probably the boys from the IGA Supermarket, but all the shopkeepers put in and it was a marvellous community event.

Mrs Dunne mentioned Sailability. I think this is the third or fourth year that we have had the three monkeys race. The people involved in Sailability have done a wonderful job for many years. An old friend of mine, Terry Peek, who was in the army with me, has been one of the main organisers for many years and again he helped organise that event. He, I think, was instrumental in getting funding from the then government, which I think was

the first Carnell government back in about 1995 or 1996. I was delighted to give this under one of the sports programs.

We proved again on Sunday that the little boats which are used—they are like bathtubs—are unsinkable. They are just wonderful for people with disabilities or indeed anybody who likes mucking about in boats. Again, it was a great event and I think it speaks volumes for the contribution made by Sailability under the excellent leadership of a number of people, not least Terry Peek.

As Mrs Dunne said, it was a shame that the media won—they did cheat, they were 30 metres in front, and I am sure they did not have their blindfolds on. We almost caught the boys and girls from FM 86.7, or whatever the FM station is in the Tuggeranong valley. I must admit that I thoroughly enjoyed tackling the two Peters just short of the bank. Unfortunately, the third member of that team, who was from Sailability, not the media, got the flag. So maybe they really cannot claim that they won. But, again, it was an excellent event. I would like to thank young Natalie, who is 12 and a member of Sailability, and Elaine, a disability sailor, for being part of the crew with me. That was great and it was a wonderful event.

The final matter I want to raise concerns the Belconnen golf course estate development. I think that you, Mr Speaker, and Ms Dundas and Mrs Dunne were at one of the meetings that were held. I personally think it is an exciting development and I certainly hope it goes ahead. What has impressed me is the process that has been followed by both the Magpies club and the developers. I think they have letterboxed the area. They have had a number of community meetings. At a meeting in June some concerned golfers were worried about the 18-hole course being disfigured rather than configured in a better way. Those concerns were very much taken into account and I think a much better golf course will result from that.

The proponents of the aged complex in the development have shown a lot of patience and engaged in very good consultation in taking on board community concerns. I think they have done a particularly good job in trying to allay community concerns.

I was interested to see some of the figures which were given at one of the meetings. That meeting was attended by people from the Morshead Home, Graeme Evans from the Belconnen Community Council and a gentleman who said that over the years he had run about three different aged persons and nursing homes in Canberra and he thought this was the best development he had seen and that it was right up with the best in Australia.

I was very worried to hear that even in my electorate of Belconnen some 7,450 people were over 70 years of age in 2000 and that that figure will grow to 14,000 by 2010. I think there is a real need for some good lateral thinking here and for developments such as this and others throughout the territory to go ahead. We are facing a bit of a crisis in aged accommodation and I think that brings home just how terribly important it is to have a good mix of sensible, practical developments which will assist in housing all types of elderly people. I think this one is a particularly good one.

I am delighted to see the effort the people involved have made to get out and talk to the community, and I certainly wish them well. This seems to be a very exciting development and more such developments in Canberra will be needed in the years to come.

Question resolved in the affirmative.

The Assembly adjourned at 5.49 pm.