DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

11 MARCH

2004

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Thursday, 11 March 2004

The Assembly met at 10.30 am.

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

Matters of public importance
Statement by Speaker

MR SPEAKER: Members, this morning Ms MacDonald and Mr Smyth lodged MPIs for discussion today. Having considered the MPIs I have ruled Ms MacDonald's out of order. The MPI concerned matters that were not within the scope of ministerial action.

Appropriation Bill 2003-2004 (No 3)

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

Title read by Clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.32): I move:

> That this bill be agreed to in principle.

The bill provides for an increase in appropriation of $103.33 million. This appropriation bill is necessary for a number of reasons. Firstly, it provides the financial resources to support a number of initiatives under the social, spatial and economic plans, including providing funding to begin implementing the government's response to the shaping our territory report. Secondly, this bill provides funding for a number of enterprise bargaining agreements that either have been agreed or are expected to be finalised soon. The appropriation will also provide for other cost pressures within agencies, including ACT WorkCover and other initiatives. Thirdly, the bill provides funding for ACT Housing to address homelessness and housing affordability through the expansion of public and community housing. Finally, the bill is necessary to ensure the transparency of government decision making in relation to the allocation of financial resources. The Assembly should note that a number of items within this bill would have been drawn from the Treasurer's Advance, had there been no third appropriation bill.

The appropriation provides for funding to support the Canberra plan and associated subplans. The bill includes appropriations of $27.2 million for Canberra plan initiatives. This includes: $1.93 million to implement the government's response to the recommendations of the shaping our territory report; $10 million to establish an ACT-focused venture capital fund, focused on innovative firms to assist them in developing intellectual property in the ACT; $10 million to provide grant funding for the construction of facilities for the School of Health Sciences at the University of Canberra to allow new courses in physiotherapy, allied health and dietetics to be established; $0.42 million to provide integrated early intervention support services for communities through the establishment of two child and family centres; $0.3 million to support community

events, enhanced engagement between the ACT government and the community; $0.133 million to establish a community inclusion fund that was part of a concerted attack on the causes of poverty and exclusion; $0.318 million in concession payments for electricity, water and sewerage charges to meet an increase in the price of electricity after the introduction of full retail contestability on 1 July 2003 and for increases in other utility charges; $3.265 million to respond to the dramatic increase in community demand for intervention and support services in child protection; $0.19 million to provide for the design and preliminary works to be undertaken for the restoration and enhancement of the Cotter precinct; $0.375 million to provide for the design and preliminary works to be undertaken for the restoration and enhancement of the Tidbinbilla Nature Reserve; and $0.28 million to commence the implementation of the draft water resources strategy, including providing rainwater tank and water efficiency shower head subsidy schemes and development of community awareness and education programs.

The government acknowledges the value of our staff and has included funding of $29.671 million with its appropriation for enterprise bargaining agreements. This includes funding for teachers, police, visiting medical officers, nurses and clerical staff. The appropriation also supports the government's commitment to safe working environments. ACT WorkCover is provided with a quarter of a million dollars to investigate the cause of the Fairbairn hangar collapse. The findings will assist in the prevention of future workplace accidents. In addition, ACT WorkCover receives appropriation of $0.56 million to provide for the first payment under an agreed resolution process relating to a substantial contractual dispute. The Department of Justice and Community Safety receives appropriation of $0.35 million to provide for the Eastman inquiry to be re-activated following the decision of the High Court. In addition, the department receives $0.545 million to provide for base budget pressures in ACT courts, for, amongst other things, increases in remuneration of judges, the Master and magistrates over recent years.

The Chief Minister's Department is provided with $0.29 million to conduct a review of the safety of children in care in the ACT to address deficiencies in the current policies, procedures and practices for supporting children and young people on orders in residential and foster care; $4.5 million to provide funding for capital improvements to the Lyneham Hockey Centre to bring the facility up to international standard in order to host the 2005 Women's Championship Trophy and other tournaments. It is necessary that that commitment be made now to secure that tournament as we are competing with other cities who wish also to host a great international women's sporting event. The sum of $0.2 million is provided in funding to assist ACT Squash with the purchase of the Woden squash courts, which would otherwise probably be lost to redevelopment. ACT Planning and Land Authority receives an appropriation of $0.8 million to purchase the lease over Phillip Oval from the ACT AFL. Much discussion has already been aired on that issue. The Department of Disability, Housing and Community Services is provided with $0.16 million to meet the full cost of the new taxi subsidy scheme introduced from 1 July 2003; $0.803 million to provide for increased costs of contracting relief disability support workers; and $0.525 million to provide funding for increased workers compensation premium payable by Disability ACT.

The Stanhope government is dedicated to reducing the risk of bushfires and to completing the ACT's recovery from the January 2003 bushfire. This appropriation follows on from the funding previously provided by this government and by this

Assembly and includes $0.36 million funding for the Department of Urban Services for, amongst other things, further fire fuel reduction and co-ordination of fire management activities; $0.175 million for the Department of Urban Services for urgent revegetation work in fire-affected areas in the Canberra Nature Park and the Murrumbidgee River corridor; $0.18 million funding to the Department of Urban Services for fast-tracking of conservation work in the Cotter catchment to repair damage that has occurred subsequent to the January 2003 fires; $1 million for funding to the Department of Urban Services for the repair and replacement of fences damaged or destroyed in the January 2003 fire. The Department of Justice and Community Safety is provided with $0.275 million for additional accommodation for the Emergency Services Bureau staff; $0.275 million for a new generator at the Emergency Services Bureau that will provide an abundant source of electricity for this key site, and garaging facilities; and $2 million for the continuation of the coronial investigations into the January 2003 bushfire. ACT Housing is provided with $33.2 million to address homelessness and housing affordability. This represents a significant step in addressing the public housing needs of ACT residents.

In summary, this appropriation bill will provide for the government's initial response to the recommendations of the Canberra plan and its subplans. The appropriation provides additional funding for bushfire initiatives and continues the government's commitment to adequately prepare the ACT for future bushfire seasons. It continues to provide fair and equitable remuneration for staff and it provides a significant injection of funds into public and community housing sectors. The impact on the operating result is $104 million, of which $66 million was already factored into the operating result produced in the mid-year review. This result is a net provision for enterprise bargaining agreements, included within the 2003-04 budget. They certainly have amounted to a considerable sum as we bring public sector wages only up to Australian averages as it is.

The ability to finance the bill comes from strong performance in revenues to date and the redistribution of surplus funds from the home loan portfolio, which probably should have been redistributed before this. This is a responsible bill. It redistributes the strong performance in revenues back to the community. Recent times have witnessed calls for windfall budgetary gains to be expended for the benefit of the community. So I do not anticipate major objections other than those that might be politically based. Our financial position remains strong. This is confirmed by recent commentary from Access Economics in its March 2004 *Budget Monitor*, in which it states that:

> The ACT's public finances are fire-proofed by its incredibly strong balance sheet. While there may be future risks, it is difficult to imagine even the worse-case scenarios doing much damage to these finances over the foreseeable future.

For the information of members, I also table the supplementary budget papers in accordance with section 13 of the Financial Management Act, and I commend this bill to the Assembly.

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

Estimates 2003-2004—Select Committee
Appointment

MR SMYTH (Leader of the Opposition) (10.43): I seek leave to move a motion to refer the Appropriation Bill 2003-2004 (No. 3) to a select committee on estimates.

Leave granted.

MR SMYTH: I move:

> That:
>
> (1) notwithstanding the provisions of Standing Order 174, the Appropriation Bill 2003-2004 (No 3) be referred to a Select Committee on Estimates 2003-2004 (No 3);
>
> (2) a Select Committee on Estimates 2003-2004 (No 3) be appointed to examine the expenditure proposals contained in the Appropriation Bill 2003-2004 (No 3);
>
> (3) the Committee be composed of:
>
> (a) one Member to be nominated by the Government;
> (b) one Member to be nominated by the Opposition; and
> (c) one Member to be nominated by the ACT Greens or the Australian Democrats or the Independent Member;
>
> to be notified in writing to the Speaker by 4.00 p.m. today;
>
> (4) the Committee report by 4 May 2004;
>
> (5) the Committee to send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing, circulation and publication; and
>
> (6) the foregoing provisions of this resolution so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

One hundred million dollars is a very large amount of money. It deserves appropriate scrutiny. The appropriate day for the committee to report would be the first sitting day in May. Obviously the government will want to get on with its expenditure program. I do not believe it is possible for such a committee to have completed its work by the last sitting day in March or the first sitting day in April for that matter. Therefore that would be the soonest practical date. Of course, under part 4, the committee could publish out of session if it finishes early. I commend the motion to the Assembly.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (10.44): I seek to amend the motion so the reporting date would be 30 March. I move:

Paragraph (4), omit "4 May", substitute "30 March".

Certainly the amount of money is substantial. A substantial body of paper goes with the bill. However, when it comes to the analysis of content, there is no great complexity in analysing the content. As I said in my presentation speech, many items in this bill would not have been in the bill and would have just been incorporated and funded through the Treasurer's advance, but as members will know, the requirements for the Financial Management Act provide that if there is an appropriation bill, then all expenditures that are intended should be included in it. So there is a tail in the bill of a lot of ancillary items but in the main it represents EBAs and it represents a couple of very substantial investments that have already been heralded in the economic white paper. I suggest to the House that an appropriate reporting date would be 30 March. That would allow the appropriation bill to be debated in that week, given the sitting pattern. It is unfortunate the way the sitting pattern falls and allows these things to be done. The delay is really at the cost of Canberra.

It is at the cost of, for example, the University of Canberra who is anxious to be sure that it has the funding to extend its capacity to provide for allied health professionals. We have great difficulty in finding those professionals in this town. Although we have the facilities, from time to time we cannot find, for example, radiologists. People are suffering because of that. So I do think that it is not beyond the capacity of the Assembly given the amount of work that has been done to pitch in and make sure that we can implement these initiatives. I think members would have to concede that they are all very positive initiatives in a reasonable space of time.

MR SMYTH: Speaking to the amendment, I think it defies belief that the government would ask that a $100 million appropriation go through the entire estimates committee process in under three weeks. Today is the 11th and he wants it on the 30th. It is not even three weeks. The argument from the Treasurer is that it is fairly simple and we have heralded some of it and the University of Canberra wants to get on with it. If the University of Canberra wants to get on with it, why didn't the government bring this appropriation bill or a number of appropriation bills in earlier? If, as he states, some of this has been around for some time, and the government had already decided, it could have brought in a number of appropriation bills over a period of time, or paid it through the Treasurer's Advance and sought to recoup the Treasurer's Advance at a later date in a bill.

The three members who will do this work will have three weeks. One of those will be a day of the next sitting week. Of those weeks I believe the Chief Minister is away for two weeks, so how will we be able to scrutinise the Chief Minister on his segments, which, just at a quick glance, are fairly substantial amounts of money on some fairly substantial issues? So, the committee will not have time to talk to the Chief Minister about his part of this bill. The government talks about being honest, open and accountable and involving the community, and a three week process would not allow for a committee to call for any community comment on this plan. So it is a ridiculous notion to think that we should push through a committee this amount of money in that time simply so the government can discuss this in the last sitting week in March. It could have brought this down last week, which would have made it slightly better. That would not have given us

three weeks—it could have brought it down in February—but the timing is to coincide with the government's own political agenda.

Today we saw the launch of the Canberra plan. The Canberra plan was launched at the unique hour of 9.15—I do not believe any other plan ever has been—so that the Treasurer could come to this place to drop his bill so that the government could have it in a couple of weeks. It does not work that way. This bill deserves appropriate scrutiny. It deserves adequate scrutiny. It deserves the involvement of the community and I think even 4 May, six or seven weeks, is a very quick process for an estimates committee. I say to members that 4 May is an appropriate time; 30 March is totally unacceptable.

MS DUNDAS (10.50): I have some concerns with such a quick turnaround for this appropriation bill because of the workload it would put on the committee. I understand the Treasurer's need to have this debated quickly and would like to move this forward before the next budget. However, there are some significant initiatives in here such as disability, housing, and services with relief costs, transport initiatives, and workers compensation. There are some new initiatives under the Treasurer's portfolio that he has spoken about at length today with some new funds. One is a capital works grant to the University of Canberra. We also need to look at the supporting children at risk matters—a significant amount of money is going there. It is quite possible that those few things could be investigated within two weeks but to turn it around and also have the report drafted within those two weeks is putting a great burden on three members of this Assembly.

The other concern I have is that, even if the committee were able to report by 30 March, the Treasurer would like to fast-track this debate and have the debate on 1 April. Again, it is a great workload for the entire Assembly to get through an appropriation bill in such a short amount of time with or without the support of the estimates committee. So I cannot support the amendment. If there is further discussion about this maybe we can have the leave of the Assembly to table the report out of session. So the information the estimates committee gleans and its report could be submitted in April, weeks before we have the next sitting in May. Then the whole Assembly will have time to consider that, and have time to see the report from the government, and it can debate it on that first sitting day in May in a fully informed sense. Hopefully another member will speak so I can draft that motion to table it out of session.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services and Minister for Arts and Heritage) (10.53): Ms Dundas and Ms Tucker are two members who talk with legitimacy about housing, the housing crisis in the ACT, and the need for housing for people in the ACT. I say to Ms Tucker and to Ms Dundas that it is important to get $33 million contained in this bill into the system as soon as we can. They will lose a great deal of credibility with me if they do not support this bill and the timetable that the Treasurer prefers.

Mrs Burke: The taxpayers deserve to know what the government is doing though. Say something real.

MR WOOD: Well, those members have had credibility in housing in the past. That is why I separate them out from others. Compare Appropriation Bill (No 1) to this

Appropriation Bill (No 3). This is a much smaller document. Relatively much less time will be required and the time that we factored into this is ample. Because of that housing issue I ask some people to pay attention to how they vote.

MS TUCKER (10.54): So there is not such pressure on the committee to look at this in the time that the government wants, the report could be tabled out of session in April. That would then allow members to be fully aware of what the expenditure is and be willing to immediately pass the appropriation bill on the first sitting day. The arguments I am hearing are that this money needs to be spent before the end of the financial year but we already know that under the current law as soon as that money is transferred to departments—this is what came up with the Treasurer's Advance issue last time—it is spent, so that should not upset the bottom line for the government's next budget. That is how I understand it but if someone wants to tell me that I am wrong, I will be interested to hear it. That was the issue raised with the Auditor-General over the Treasurer's Advance, the question of what was spent. So I think we do need reasonable time and we can table the committee's report out of session in April. Everyone will be well and truly ready for a debate.

MR STEFANIAK (10.56): The sum of $106 million is no small matter and to expect the committee to report by 30 March, in about 19 days or something, is quite ludicrous. The government supposedly prides itself on proper consultation but in this case it clearly thumbs its nose at that. Ms Tucker is quite right. If the report is done before 4 May, it can be added to the speaking list. Paragraph 4 of Mr Smyth's motion enables just that to happen. What Mr Smyth is proposing is far more realistic. It is still a tight time frame but it is in line with the budget. What Ms Tucker says has a lot of sense. It is appropriate that a lengthier period be given and if need be this report can be handed in prior to 4 May. The provision is there for that to happen. To expect a committee, which probably has a lot of other things to do as well, to look at such a major matter, $106 million, in such a short time, is quite ludicrous.

MR CORBELL (Minister for Health and Minister for Planning) (10.57): This is not a complex inquiry for the Assembly to undertake. This is a very straightforward investigation. While Mr Smyth will make the assertion that it is $100 million, members have heard the Treasurer say in his presentation speech where the money is being spent. The government is quite happy for this to be investigated through an estimates process. We have no difficulty with the bill being scrutinised, but we do not think it is warranted to delay full Assembly consideration of this bill for the period that Mr Smyth is suggesting. When you look at the detail of the bill you see that a significant majority of the funds proposed to be expended deal with wage increases and the provision for enterprise bargaining arrangements with ACT public servants. That is the bulk of this bill. That is not an item that traditionally has come under heavy scrutiny by any estimates committee in any Assembly. So to suggest that somehow there is going to be some forensic bit-by-bit examination is quite misleading. When one looks at those items and then at the items that would have otherwise been dealt with through a Treasurer's Advance without an estimates committee investigation—

Mr Smyth: On a point of order: Mr Corbell has said that comments made are quite misleading. If they are quite misleading, the member should be asked to withdraw them. I am not aware of any misleading comments that have been made and if there are and Mr Corbell is not happy with them then he should move the substantive motion.

MR CORBELL: There is no point of order. I was making the point that the argument is misleading, and it is.

MR DEPUTY SPEAKER: There is no point of order.

MR CORBELL: The issue at hand is that there are a number of items in the bill that are new expenditure for new programs. They should be fully scrutinised by an estimates committee and the government has no argument with that. But it is not a process that is going to take weeks and weeks of investigation. Indeed, I think two full sitting days will be the total sum of this committee's public hearings.

Mr Smyth: It is not for you to say.

MR CORBELL: That's my bet. Then there are the deliberative meetings that the committee will have to go through in preparing its report, and that will take some time. The Treasurer is proposing three weeks, which is not an unreasonable period. Of course the government will co-operate fully in making sure that officers and ministers are available. So it is not a complex process. It is not a full budget that the government is presenting to the Assembly today. It is a very specific bill that has a number of key elements to it, some of which are relatively routine, and some of which are new proposals, which should be fully scrutinised. So the Treasurer's request is a reasonable one and I ask members to consider that in the context of deciding on the report date for the committee.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Motion agreed to.

Gene Technology (GM Crop Moratorium) Bill 2004

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

Title read by Clerk.

MR CORBELL (Minister for Health and Minister for Planning) (11.05): I move:

> That this bill be agreed to in principle.

In June 2003 the government announced a three-year moratorium on the commercial release of GM food crops for marketing purposes, and foreshadowed the introduction of legislation to give effect to this policy position. To this end an exposure draft of the Gene Technology (GM Crop Moratorium) Bill 2003 was released in December 2003 for public comment. Release of the bill as an exposure draft enabled the government to undertake broad consultation with primary producers, consumers, industry groups, and researchers on the proposed regulatory scheme. No major changes have been made to the bill as a result of this consultation process. The bill creates a legislative framework for the prohibition of the commercial production of certain genetically modified food crops in the territory for a period of three years.

The government is not opposed to GM crops, but is prepared to intervene for marketing purposes. The proposed legislation has a sunset clause and is to be in effect for three years from June 2003, with provision for annual review in light of trade and marketing developments. The moratorium will sunset on 17 June 2006. This clause will provide time for the ACT community to evaluate the potential marketing impacts both locally and internationally of the introduction of genetically modified food crops on the territory's non-genetically modified food crops. The bill will enable the government to prohibit the cultivation in the ACT of a specified GM food plant or class of GM food plants. This will be done by ministerial order if it is believed necessary to protect the territory's markets for conventional crops, and to protect our reputation as a clean, green source of agricultural products.

The legislation will make it an offence to knowingly cultivate a GM food crop if an order has been issued banning the cultivation of that crop, and will allow substantial penalties to be imposed. Under a moratorium order, the minister may specifically exempt from prohibition any field trials or contained research involving a plant for which a moratorium order has been issued. This will enable the highly valued research endeavours of scientists in the ACT GM biotechnology sector to continue unhindered. I commend this bill to the Assembly.

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

Health Professionals Legislation Amendment Bill 2004

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

Title read by Clerk.

MR CORBELL (Minister for Health and Minister for Planning) (11.08): I move:

> That this bill be agreed to in principle.

As members of the Assembly would be aware, the Health Professionals Bill 2003 was introduced on 19 December 2003, and will be debated in the Assembly during the third

sitting week of March this year. My intention in presenting the Health Professionals Legislation Amendment Bill 2004 today is to allow members of the Assembly an opportunity to consider the provisions of this bill so that the Health Professionals Bill 2003 and the Health Professionals Legislation Amendment Bill 2004 can be debated at the same time. The Health Professionals Legislation Amendment Bill 2004 provides the consequential amendments that are necessary to follow from the replacement of the ACT's current laws relating to the regulation of health professionals in the ACT. The consequential amendments proposed in this bill are primarily a result of the changes to the ACT's Health Professionals Act, which consolidates the existing health professional laws into a single act.

The bill includes amendments proposed to the Community and Health Services Complaints Act 1993. These reforms, amongst other changes, propose an enhanced process in relation to the assessment and investigation of reports about health professionals. To effect these changes it has been necessary to slightly revise the Community and Health Services Complaints Act 1993. The remainder of the consequential amendments relate to removing references in the ACT legislation to acts that are to be repealed under the transitional provisions of the Health Professionals Bill 2004. I commend the bill to the Assembly.

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

Planning and Environment—Standing Committee
Reference

MRS DUNNE (11.11): I seek leave to amend the notice circulated in my name to delete the words "block 99" substituting "section 99, block 11".

Leave granted.

MRS DUNNE: I move:

> That the Legislative Assembly refer to the Standing Committee on Planning and Environment for investigation and report by 1 July 2004, the proposal for aged care facilities on part of Section 99, Block 11, Holt, the disused holes 19 to 27 of the Belconnen Golf Course.

It could be fair to say that this sitting week has been dominated by the notion and the issues relating to aged care. They are issues of considerable discomfort for the Minister for Health and Minister for Planning—who has just left the room—and I think that it is appropriate that a considerable amount of testing by the opposition and some crossbench members on the issues—

MR SPEAKER: What the member says must be relevant to the motion.

MRS DUNNE: Yes, this is entirely relevant, Mr Speaker. I think the Chief Minister might call it context but it is actually more than that. As a result of some testing of the issues by the opposition and members of the crossbench we come to a motion today to refer a somewhat controversial proposal—well, it is been made controversial—to the Planning and Environment Committee for inquiry and report back. It is a fairly

straightforward motion to refer to the Planning and Environment Committee the troubles that relate to an application to build a range of environmentally sensitive housing which centre around aged care facilities on the disused golf course holes at the Belconnen Golf Course to see if the Planning and Environment Committee can cut through the mire of conflicting evidence and conflicting views, so that the Assembly might come to a conclusion as to whether or not this proposal merits support.

There is a view amongst members that it probably is a proposal which merits support, but a range of issues has been raised by the planning minister from time to time and I and members here are wondering whether these issues have merit and whether we can address the issues so that we can get on with the proposal to provide aged care facilities because there is such a crying need. The crying need has been highlighted in this place. It was also highlighted on the *Stateline* program of two or three weeks ago where this proposal was brought into focus and some of the conflicting views about what was happening with this proposal were brought into sharp focus. A lot of issues about this go to the heart of how the Labor Party formulates policy. It is unfortunate that there has been a lot of conflict and conflicting things said about this proposal. To set it in context, last year at the ALP conference an employment and industrial relations resolution was passed of which clause 5 said:

> In recognising that the ACT clubs are a major landowner in the territory, the government will commit to fast-tracking changes to the ACT territory plan in order to assist the clubs in ensuring job security for all staff and suppliers and to ensure the minimal cost impact on the sporting community and other charitable beneficiaries of the ACT clubs.

This came about for a variety of reasons including changes to smoking laws and the impact that that might have on clubs. At clause 6 it states that the government would seek the support of the Assembly for socially responsible packages. There is a view in the community, which needs to be tested by the Planning and Environment Committee, that the proposal put forward by Madison Lifestyle Communities may fall into the category of a socially responsible package. There is a great deal of angst in the community about the lack of aged care accommodation available and the snail's pace with which this is being addressed by the current government and the current minister. This reference will take a proposal that has been on the drawing board since July 2002 and try to find a way to address the issues if they have merit, and in a way that if the community decides that this is something that should be done, we may actually get to see a sod turned in the reasonably near future.

This proposal is not for the Planning and Environment Committee to somehow subvert the land of the provisions of the Land Act. It is just to find where the blockages are in the Land Act, or if they are outside of the Land Act. I contend, on the basis of evidence provided to me, that the blockages are not necessarily all in the Land Act. Last week Mrs Cross asked questions in this place about the approaches made by Madison Lifestyle Communities to the minister, and the minister answered the questions in a particular way—that this proposal had first come to his attention in the early stages of last year. The proponent has put to me that that happened not in the early stages of last year, but midway through the previous year, when it went to PALM, and in November 2002, when the matter was taken to the minister. More importantly, the minister said in response to Mrs Cross that at the outset he had made it clear to the proponent that he, the minister,

was opposed to this. One of the main reasons he gave for this was you, Mr Speaker. Last week Mr Corbell said

> I made reference to the commitment that you, Mr Speaker, gave on behalf of the Labor Party at the time prior to the election that we would not support development on this site.

This morning I received a statutory declaration from the proponent. It is his account of the meeting and I would like to read some of that into *Hansard*. This is signed by the proponent, David O'Keefe of 10 Oatley Court, Belconnen and states:

> I am the director of Madison Construction Pty Ltd.
>
> On or about 26 November 2002, a meeting was held with [Mr] Corbell—

He names many other people who were at that meeting in Mr Corbell's office—

> During the discussion, [Mr] Corbell said words to the effect of "I am not supportive of the proposal because the land was a concessional lease and the Government's Policy is to not allow lessees to redevelop concessional leases."

That is a sentiment that I strongly agree with. The declaration goes on:

> To that I advised him that this was a standard crown lease. I believe he was surprised with my comment.

Mr O'Keefe goes on:

> I then asked [Mr] Corbell words to the effect of "what did you understand about our proposal?" to which he replied saying words to the effect of "I understood it is to be for environmental housing".
>
> I then said words to the effect of "Is that all you know about it?" and he replied…"yes."
>
> I then informed him that that was not the case saying words to the effect of "Our proposal includes setting aside approximately 50% of the land for older persons' accommodation including an aged care facility." He then seemed interested in what I was saying. I remember him leaning forward in his chair and listening to me with greater attention and interest.
>
> I also remember [Mr] Corbell saying words to the effect of "It is of some interest to me and I will reconsider this matter in the light of the new information and I will respond to you in the near future."
>
> I then asked words to the effect of "When could I expect that response?" to which he replies in words to the effect of "it would be prior to Christmas". Of course, I understood that he was referring to Christmas 2002.
>
> I remember that no mention was made by either [Mr] Corbell or—

He mentions other people—

> of the fact that the Golf Club had previously been developed and there was a promise from the previous developers that there would be no further development.
>
> I also remember that no mention was made by either [Mr] Corbell nor [other people at the meeting] of any promises made by either Wayne Berry or the Labor Party that there was a pre-election commitment to oppose any further development on the Golf Club.
>
> On or about 9 December 2002, I provided Simon Corbell with further information regarding our proposal, but no response was received.

That is not unusual. The declaration goes on:

> On about 6 March … I received a letter from Simon Corbell dated 4 March … in which he stated "whilst your proposal has considerable merit, in view of the broader planning issues, I cannot support it at this stage."

Mr O'Keefe concludes:

> Some of his concerns, I believe, related to safety and access as a result of the firestorm that swept Canberra's western fringe on the 18 January … highlighting the need to design for multiple access and egress points.

Having read the letter that Mr Corbell wrote to Mr O'Keefe dated 4 March that is my recollection of what was there. Mr Corbell made the point that from the outset he was opposed to this proposal because of the commitment that you, Mr Speaker, had made. But Mr O'Keefe points out to me that that issue was raised with him not in any formal way, not by correspondence, not in a formal meeting with Mr Corbell, but at a function that Mr Corbell and me and other members of this place attended—the Housing Industry Awards in October 2003. I received a further statutory declaration from Mr O'Keefe, which states in part:

> [Mr] Corbell approached me that evening making some comments about my presence at those meetings and said words to the effect of "what did you think about the meetings?"

These were meetings about aged care that were held by federal Labor members earlier in October. He went on:

> … I said words to the effect of "it is obviously highlighting the significance of the issue to the ACT community particularly to our older citizens."
>
> I recall that some time later the same evening, after discussion on a number of issues in relation to the industry, I mentioned to Simon Corbell words to the effect of "I am somewhat frustrated by the intransigence of the planning authority with regards to our proposal at Holt." [Mr] Corbell responded to that saying words to the effect of "It is not so much the planning authority; It is me who has problems with your proposal".

I repeat that, "It is me who has problems with your proposal," because it makes one question the whole notion that this minister touts of an independent Planning Authority.

If it is the case that the minister has problems with the proposal, it does seem that he is undermining the independence of the Planning Authority on this case. Much more can be said about this. It goes to the heart of the private sector being able to provide aged care facilities in the ACT. This is a very important issue. There seems to be a lot of intransigence by this government, an unwillingness to communicate openly and effectively with members of the public about providing these very important services. We have had considerable debate on the need for these services. I consider the reference to the Planning and Environment Committee may help to ease the way for one important facility for which, as we have all attended public meetings relating to this, there does seem to be considerable public support.

I notice that Ms Dundas has circulated an amendment to my motion to refer this proposal to the Planning and Environment Committee, adding to it the planning proposals that relate to section 87 Belconnen, with particular reference to the social and environmental impacts on the Belconnen lakeshore. I am quite happy to support this amendment, because it helps to highlight the great problems that we have with planning for aged care in the ACT. I hope by reference to these two projects we may find a way clear to address these issues and also find what are the general impediments, what are the general problems, and perhaps address general issues that will facilitate the approval of aged care in the future so that proponents who come after Madison Lifestyle Constructions do not go up so many arid gullies before they actually get any answers to their questions.

I commend the motion to the Assembly. I think that it is well within the purview of the Planning and Environment Committee to look at these issues. I understand as well as anyone else just how busy the Planning the Environment Committee is, but we are a hardworking committee. I gave notice of this motion before it went on the notice paper to all parties. It went to all parties before it went on the notice paper. The Planning and Environment Committee has not met since it was determined that we should do this. But Ms Dundas has an amendment and I will be happy to support it.

MR CORBELL (Minister for Health and Minister for Planning) (11.27): The government is quite comfortable supporting the motion of Mrs Dunne, but not for the reasons that she outlines in her speech. I need to set the record straight on some issues. The argument from Mrs Dunne is that there seems to be some problem with the process, and that we need the committee inquiry to look at that process.

That shows a fundamental misunderstanding of how the planning process in the territory works. Decisions about variations to the Territory Plan —what we are discussing here; a request for the government to initiate a draft variation to the Territory Plan —are policy decisions of government. It is not the role of the planning authority to say, "These are the draft variations that need to occur." They can advise government of what they believe are the appropriate variations to occur, but at the end of the day it is the decision of the government whether a variation should be prepared in a particular area.

That is where Mrs Dunne's argument on this matter falls down. The government's policy is quite clear. We do not support the redevelopment of golf courses for housing. In fact, any astute observer of ACT politics would have seen that battles out in this place over the past three to four years. I need only draw members' attention to the debate in this place under the previous government relating to the proposal to provide housing on the Federal Golf Course, which this place, in a previous Assembly, rejected.

It should be no surprise to any observer of planning policy in the ACT—especially someone who makes investment decisions in relation to the planning policy—that the Labor Party in government and in opposition has had fundamental problems with the redevelopment of golf courses for housing. There should be no surprise about that.

Indeed the position that you, Mr Speaker, put to residents of West Belconnen in relation to redevelopment of the golf course was entirely consistent with decisions already taken by the Labor Party in opposition and subsequently in government: that we had fundamental concerns with the use of areas of golf course as land banks for residential development.

Investors are entitled to take that risk. But they should take that risk knowing the facts and knowing that the government, the Labor Party, has had a fundamental problem with redeveloping golf courses for housing.

Mrs Dunne's motion refers to the proposal to develop the south-west portion of the site of the Belconnen Golf Club previously used for holes numbers 19 to 27 for residential development. The proposal is presented as a lifestyle village containing a proposed nursing home, older persons self-care units, surrounded by housing for more active persons. The proposed area of development is only indicative. However, it suggests it will cover an area similar to the existing residential development known as, I think, Woodhaven Green, which is approximately 31 hectares. So this is not a small development by any means.

The government, on the advice of ACTPLA and on its own assessment, has a number of concerns. I have outlined a number of those but I will reiterate some and expand on others. Firstly, the Belconnen Golf Course was the subject of a previous preliminary assessment and variation to the Territory Plan to change the land use policy from restricted access recreation to residential. This was gazetted on 27 August, 1993. At the time, the PA stated that further extension of the residential component was not contemplated and indicated that the playing areas of the golf course were intended to remain permanently.

It was on this basis that the Assembly of the day approved the variation. At this point certainty was provided. Indeed, it is this certainty that I am repeatedly told by industry that it wants. The certainty was provided when the Assembly originally considered redevelopment of this course back in 1993—very clear certainty: no further development on the golf course. That was said to the community then. It is not unreasonable to expect that that will continue to be the case.

The government is concerned that the proposed development will create an isolated pocket of development with limited egress on the western fringe of Belconnen facing an area that was the subject of a significant threat during the 2003 bushfires. The proponents have stated that their preferred strategy is for residents to be able to stay and fight a fire should it come close.

Whilst for able-bodied persons this is probably a reasonable approach, consistent with the approach the government itself is advocating for other residential areas on the urban edge, we question it in the context of a facility that will house people who are aged, who

are particularly infirm and who may in fact be nursing home occupants. So the evacuation issues are of concern for people who are infirm, people in a nursing home context.

Indeed, there are now measures in parts of Sydney to ensure that these facilities are not built in areas that are bushfire prone because of the problems associated with evacuation of elderly or infirm people in an emergency.

The Belconnen Golf Club is among a number of potential proposals by lessees of other restricted recreation sites including other golf courses, enclosed ovals, tennis centres and swimming facilities that have sought the government's support for land use policy changes to enable the use of the land for more profitable purposes, particularly residential. A number of these have stated that they would like to target their proposals to the older persons' residential market.

Despite the recognised importance of older persons' housing, the Assembly and the government must also consider the progressive loss of recreational facilities for both current and future generations. It is a key concern that must be balanced against any proposal for expansion of residential uses if we are to continue in our pursuit of building a city that achieves healthy and sustainable communities.

Those are a number of the concerns that the government has raised with the proponent. The proponent has been advised on a number of occasions that the government does not support the proposal. On each occasion the proponent was advised that the government did not support the proposal, the proponent requested that the matter be reconsidered. The proponent, in some instances, presented further advice on issues that he felt would address or alleviate the government's concerns.

The government of course met with the proponent and listened to those concerns. I have to advise members that as of February this year the government has again formally advised the proponent that we do not support the proposal. We feel that we have been up front and consistent in the views that we have expressed in relation to this. That is not to say that the government is not addressing issues to do with the provision of land for aged persons' accommodation. Indeed, it is a high priority of the government. It should be noted that ACTPLA, the Land Development Agency, the Chief Minister's department, and ACT Health are working directly with the Commonwealth to coordinate the land requirements for residential aged care complexes.

I have recently informed the Assembly of six development applications out of 11 for aged persons' accommodation that have been approved since January 2002—six out of 11. A number of other applications that may accommodate aged persons' accommodations have been determined or are still under consideration by the ACT Planning and Land Authority. Members will also be aware that the government has developed a proactive strategy for streamlining the delivery of aged care facilities and housing for older persons. These initiatives include the case management of aged accommodation projects, the development of a land release program to provide for sufficient beds to meet projected demand, and the alignment of Commonwealth bed allocation policies—

Mrs Dunne: I rise on a point of order. Standing order 62 relates to relevance and tedious repetition. The minister's comments have been made by him and the Chief Minister on at least two or three other occasions in the last sitting fortnight.

MR SPEAKER: The issue of tedious repetition goes to the debate at hand, not something that has happened in the past. In any event, if we got too heavy handed about tedious repetition in this place it would shorten the proceedings, I can tell you, by a long way and we would have to sit for fewer days. But so far as relevance is concerned, aged care facilities were raised in the context of this debate and I think the minister is entitled to address that.

Mrs Dunne: But Mr Speaker it is about reference of a particular proposal to the planning committee, not about the sort of—

MR SPEAKER: Sure. And without trying to enter into debate, I think you used the aged care issue as part of your argument for the reference.

MR CORBELL: Thank you Mr Speaker. Obviously Mrs Dunne does not like hearing what the government is doing in relation to ensuring aged accommodation projects.

Mrs Dunne: We've heard it before.

MR CORBELL: Well you will keep hearing it, Mrs Dunne, because it is the government strategy, it is a proactive approach, it is the establishment of a land bank, it is the alignment of Commonwealth bed allocation policies more closely linked with demand, and it is the development of a system of reform to improve processes overall.

For all of those reasons the government is not supportive of this proposal. But we have no difficulty in the matter being referred to the planning and environment committee. But I think the committee will find that the process issues are not things that they will be able to get much out of. I think they will find a fundamental difference of policy opinion between the proponent and the government. That happens all the time; there is nothing unusual about that. There is nothing wrong about that either. It just means that we disagree.

I do not know that members consider it a valuable use of a committee's time if it spends all its time doing an investigation that ultimately finds that the proponent and the government disagree. But if a majority of members in this place feel that to be appropriate, the government has no difficulty with that.

The government has seen the amendment proposed by Ms Dundas. That raises a number of interesting points. I am happy to address that when she raises that in the debate.

MS DUNDAS (11.39): I will speak to Mrs Dunne's motion before I move my amendment. The specific issue that Mrs Dunne has asked us to debate today is aged care facilities. It is a very important issue, specifically in the Belconnen and north Canberra area. A joint inquiry, possibly by the planning and the community services committees, to look at the provision and location of aged care facilities across Canberra would be a

very interesting and important inquiry. But there is not the time to do justice to such a full inquiry that looks at aged care across Canberra.

The particular issue of section 99, Holt, raises a number of questions. Questions about this proposal in relation to open space and concessional leases have been asked both by the community and by ACTPLA. Further investigation into those matters is needed. There is also the need to balance issues with increasingly urgent need to provide accommodation for older people in the Belconnen, north Canberra region. There are some real issues that do need consideration.

The amendment that I have circulated is about extending the scope of the inquiry to look at other sites in Belconnen. There has been some discussion about section 87 Belconnen, on the lake shore, being an alternative site to section 99 in Holt. It is quite possible that neither site is suitable, or that both sites are suitable. There should not be the suggestion that aged care accommodation can be built only on one, not the other. We need to look at what land across Belconnen is available when we are looking at the provision of aged care facilities.

We need to extend the scope of the inquiry. We need to consider how developments are impacting, as the minister has already mentioned, on residential amenity, and also on lake shore amenity. A number of concerns have been raised about the development on the shores of Lake Ginninderra. There are wider issues about the uses of open space, as well as the provision of aged care facilities. An examination of these two particular sites, and referring to demand, will allow the committee to uncover some of the underlying debates that I am sure will be around for a little while longer, and start to propose some solid solutions to the aged care crisis that we are facing.

I note that there has been some concern about the process in relation to the moving of this motion. I note that Mrs Dunne put it on the notice paper maybe a week and half, two weeks ago. When seeing that it was going to be raised for debate today, I worked to make sure that I had my amendment circulated this morning so that we could have a broader inquiry.

The issue of aged care facilities, specifically section 99 in Holt, has been around for a number of months, even a year.

Mr Hargreaves: Twenty years.

MS DUNDAS: Mr Hargreaves shouts out 20 years. The issue is not a surprise to anybody. I am almost foreshadowing what I think other members are going to say, but I know that there are concerns about the process in terms of how this inquiry is being established. That means that better processes need to be instigated in the future. But that should not devalue the importance of what this inquiry is about. It is the provision of aged care facilities, and looking after both our open space and our ageing community in the territory.

Mr Speaker, I move:

> Omit everything after "1 July 2004", substitute:

"(1) the proposal for aged care facilities on part of Section 99 Holt, and disused holes 19 to 27 of the Belconnen Golf Course;
(2) the proposal for aged care facilities on Section 87 Belconnen, with particular reference to any impact on the social and environmental impact upon Belconnen Lakeshore; and
(3) refer to the demand for aged care accommodation in the Belconnen region and any other relevant sites.".

MR CORBELL (Minister for Health and Minister for Planning) (11.45): The government will not be supporting this amendment. I feel the Assembly is trying to have it both ways. I really feel that the Assembly is trying to say, "You're too slow at providing land for aged care accommodation; you do not listen to requests to provide aged care accommodation." But when the government has identified a site and the Territory Plan already permits aged care accommodation, you want us to revisit that as well. You cannot have it both ways. You cannot say, "The government should be changing the land over here to allow aged care accommodation, but this site over here which already—

Ms Dundas: You're prejudging the outcome Simon.

MR CORBELL: Members are quite clearly saying they have some concerns about the proposal at Lake Ginninderra, otherwise Ms Dundas would not be moving the motion. Why else would it be even up for consideration unless there were some concerns that members feel warrant investigation? It is an inconsistent and illogical position to say, "The government should be changing the territory land use policy here to permit aged care accommodation at Holt, but where the Territory Plan already permits aged care accommodation, no, we should go and revisit that as well." That is what this amendment says.

I am deeply concerned that, if Ms Dundas's amendment is passed this morning, the government will not be able to release that site or will run into trouble in the Assembly in terms of releasing that site because I will get told, "Oh, that's being considered by the planning and environment committee; don't you dare release that site before we report it."

This site is due to be released later this year. It has been on the land release program for three or four years. It has been on the Territory Plan for more than 10 years as a community facility land use site. It has been identified since the NCDC did the original planning for Lake Ginninderra as a community facility site. It has been there. It has been accepted as part of provision of community facility land in the Belconnen Town Centre area for decades and decades. Ms Dundas is now proposing that the Assembly agree that this site also be reconsidered. You cannot have it both ways. You cannot say to the government, "You're bad because you should have approved Mr O'Keefe's proposal at Holt" but "You're bad because the site that's gone through the planning process has now perhaps got some question marks over it as well." You're either serious about providing land for aged persons' accommodation, or you are not.

We have a planning process that has been agreed and approved. The previous government did the Belconnen Town Centre master plan, which identified this site for

aged persons' accommodation. The current leader of the opposition agreed, when he signed off the master plan for Lake Ginninderra, that this site be for aged persons' accommodation. Now they are saying that it is time to revisit the proposal. They are playing politics with the planning process when it comes to Lake Ginninderra. Mr Smyth was the minister who agreed that that site on Lake Ginninderra be for aged persons' accommodation. He signed off the master plan. He was the minister. He had to formally agree to the master plan, and he did it. And part of the master plan was that this site on Lake Ginninderra be a site for aged persons' accommodation.

If you want to try to delay the provision of this land, go for your life. But I will be pointing out the hypocrisy of your position—the hypocrisy which says, "The government is too slow with aged persons' accommodation, but we want to revisit the planning issues about this site, which has been on the Territory Plan for decades, which has been identified for years and years as aged persons' accommodation, and which the government actually wants to sell so that we can build aged care facilities on it."

It is not reasonable—and there is no argument—to revisit the question of the Lake Ginninderra site. There is no argument. The issue has been comprehensively investigated and addressed. Time and time again under the NCDC, under the previous Labor government, under the Carnell government, under the time when Mr Smyth was minister for planning and under this government it has been confirmed as a site for aged persons' accommodation. You are now saying, "We want to go back and have another look at that because a couple of people"—only a couple of people—"are not happy with it." There are always a couple of people unhappy with something in the planning system. You never get consensus. I think members will have learnt that you never get consensus on planning issues in this city; you never get 100 per cent.

I challenge you to go out and say to most Canberrans, "This is the site that should proceed for aged persons' accommodation because it is the right place for it, it is a great place for aged persons' accommodation. Why can't an aged care facility be sited on the foreshore of Lake Ginninderra so that people can enjoy that aspect, so people can enjoy the proximity to the town centre, so people can enjoy the proximity to other services and facilities. What is wrong with that?"

The government will not be supporting Ms Dundas's amendment. We are quite happy to support the substantive motion. We question whether it will prove to be of any real worth but we are quite happy to give our acceptance to the Assembly that the committee do that work. But to suggest that section 87 Belconnen should be included is not appropriate. It revisits an issue that has been debated time and again, an issue that was signed off by Mr Smyth when he was minister for planning as an appropriate site for aged persons' accommodation and it has been identified since the NCDC first did the planning for Belconnen Town Centre as a site for community facilities. It is a good site, it is a sensible site, and we do not need to revisit that debate.

MR HARGREAVES (11.52): I am not happy with the substantive motion; I am not happy with the amendment, so I will speak to them both. My concerns about them go to a number of issues, so if I seem to jump around a bit I am sorry.

I do that because there has been so little notice of this thing coming forward. The first I heard about this—to my recollection—was a mention in an administration and

procedures meeting a couple of days ago that it might be on. I have not heard any of the content. I have not heard any of the intention or any of the detail at all. One would assume that I, as a deputy chair of the committee, might be consulted to see whether I felt that it was appropriate that the committee consider that particular inquiry, particularly when this has been moved by the chair of that committee. The chair holds either my position as deputy chair or the whole committee in gross contempt, because I know that my fellow committee members have not been consulted about this.

Committees are not about taking up the cudgels on behalf of particular person or a particular company; we talk about advising the Assembly and the government about policy or procedure. I have not heard anything from Mrs Dunne's dissertation this morning to indicate to me that there was anything in the process, in the rules or in the procedures that was breached. I did not hear anything like that. All I heard was that there was a company wanting to build aged care facilities on a disused part of the Belconnen Golf Course. That process in fact concerns me very greatly. We are not seeing a committee being used to examine process; we are seeing a committee being used by the chair of that committee to achieve a particular aim, to change a particular government decision.

In fact, the content of Mrs Dunne's speech goes to the heart of that. She has indicated—in no uncertain terms in my view; and *Hansard* will bear this out no doubt after examination by various people—that we should allow a specific developer to go and develop something on a particular site. That particular process has a smell about it. We just had a conflict within the planning and environment committee over just that approach, to the extent where the chair stepped down from an inquiry because of a perceived bias. What we are seeing in morning's debate is perceived bias. Now, I happen to—my personal view—

Mrs Dunne: I rise on a point of order Mr Speaker. I seek your ruling on whether it is appropriate for Mr Hargreaves to make assertions of bias or perceived bias in the debate.

MR HARGREAVES: On the point of order, Mr Speaker, if I may.

MR SPEAKER: Sure, Mr Hargreaves.

MR HARGREAVES: I am not referring to matters before any select committee of this Assembly. I am referring to correspondence that the planning and environment committee sent to other people about its lack of bias.

MR SPEAKER: I take it that the imputation directed at Mrs Dunne was that there was a perceived bias.

Mrs Dunne: And in this context, not in a previous context. Mr Hargreaves was imputing that I had a bias or a perceived bias in this matter, not in relation to another matter before a committee.

MR HARGREAVES: I fail to see how it could be out of order, Mr Speaker. If I am advising this chamber of my concerns of a perception of bias before an inquiry is about to be instigated, I think it appropriate that I share that concern with the Assembly before

that referral is picked up so that, on examination of *Hansard*—if my fears are confirmed—something can ensue.

MR SPEAKER: I think it imputes some impropriety and I will rule in favour of Mrs Dunne.

MR HARGREAVES: I accept your ruling, Mr Speaker. The planning and environment committee will deal with it in committee.

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allotted to Assembly business be extended by 30 minutes.

MR HARGREAVES: I will share this with you yet again. I am not convinced that the terms of reference of our committee suit looking into a government decision which works to the disadvantage of a particular company. I said that once before in a previous inquiry. I will say it again: I do not think that is our role; our role is to talk about policy and procedure.

Notwithstanding my position on that, I think it would have been appropriate for the committee to have discussed that issue. Were my position not consistent with the committee view and advice from the secretary then, fine, the committee could frame that term of reference, and the chair could come into this chamber and say, "We're picking this up." I would have no difficulty with that. But I have a lot of difficulty with having this sprung on me with this sort of notice, knowing nothing of the content. One of my big worries is that you will go into this thing half baked. The only thing that can come out of this is a delay in process. There will be a delay in the provision of aged persons' accommodation in the Belconnen area. There will be no guarantee whatsoever for the proponent of this proposal that anything different will be the case. This committee makes recommendations to the Assembly. The Assembly does not say to a minister, "You will give a contract. You will approve a proposal for a specific developer." That is not the business of this Assembly.

I disagree with Ms Dundas's amendment. I concur with the view of the minister. This is a case of having it both ways. Again: an Assembly committee is being used to try to change a decision of government. This is not the role of Assembly committees. These are parliamentary committees; these are not weapons for the opposition to use for political purposes. I have said that before when I recommended the construction of these committees.

Ms Dundas is as guilty as Mrs Dunne on this. I ask Mrs Dunne: when were you consulted about the idea of widening this to include the lake foreshores of Belconnen? I bet it was today. When were you consulted, Mrs Cross—the other member of the committee—about the widening of it? No, I hear, loudly. Nobody has been consulted about this. This is a poor piece of process. It should be knocked on the head now.

There are ways in which these things can be investigated. I, for one, cannot see a better use for a disused lump of golf course. However, there is a process to go through. The minister is quite right. He says the process has been gone through, and the people did not like the decision. Okay, fine—whether I like it or not. But unless I can see evidence that

a process has been breached—has not been adhered to—I cannot support an inquiry into it. I will not support an inquiry that has as its prime objective the same sort of issue as applied at the Belconnen Fresh Food Market. The only loser will be the proponent. I will not sit by and watch this proponent get his hopes up only to have them dashed later. I will not wear it.

MRS CROSS (12.02): I truly did not believe I would have to get up in this place for a second time in less than a month to criticise Mrs Dunne for her stupidity. I am just appalled at her modus operandi. I am not surprised by her bulldozing techniques, because it seems to be a technique used by her leader. But I am so disappointed that the interests of the community and the interests of the proponent, the developer in this instance, are being compromised because of self-serving political point scoring.

Yes, there is a need for aged care facilities; yes, the suggestion that has been put forward by the proponent sounds good; yes, I did ask questions last week on this matter of the minister, because I had concerns that, given we do need aged care facilities in the ACT, it should have been considered; and yes, I was concerned because of a political promise made by you, Mr Speaker, that one of the reasons why the ALP was not prepared to pursue this was because of a promise that you made. It is good that you are prepared to stick by your promises. But sometimes we, during the course of our political career, make promises that may not always be fruitful or beneficial for the community down the track.

I asked these questions of the minister last week because I wanted this issue to be revisited. The understanding of the proponents was that the issue was going to be reassessed or assessed. The understanding of the proponents was not that the issue was already decided and they had been clearly informed; they had not. In fact I have written advice on that.

The concern I have this morning is that I, as a member of the planning and environment committee, was not asked by the chair, Mrs Dunne, whether I was prepared to conduct an inquiry. What Mrs Dunne did yesterday was bring to my attention a misunderstanding between what I and the proponent thought was a motion brought on last week versus one that was being brought on this week.

I was aware that Mrs Dunne was bringing on a motion today. She did not however say to me, "Is it all right with you as a member of this committee that we conduct an inquiry?" She did not consult her committee members to say, "Look, let's have a quick three-minute chat, committee members, and see whether we're prepared. Do we have the time to conduct an inquiry?" That is a typical bulldozing technique Mrs Dunne has. She feels, because of all her years in this place, that whatever she wants she can do.

This is not the way we conduct business. And I am not prepared to wear it the way it is. I think Ms Dundas's motion is a good motion. To look at those issues is fine. But how we look at them is a matter for the members of this Assembly to decide. Until we decide how we want to look at these issues, and until the committee members and the members of this Assembly make a decision on how this process should be handled, this should not go any further.

Shame on you, Mrs Dunne. Instead of putting the proponent and the aged care needs of Canberra ahead of your own selfish motives, you have compromised yet another situation. And that is out of order. So for the time being I am not prepared to support or not support this motion because it needs to be thought through more clearly. Again, Mrs Dunne has compromised the members of this place and the Assembly process at the expense of what we need; that is, aged care facilities in Canberra.

The proponent's idea is a good one. I am concerned that, with this motion, she has, without consulting her committee members, not only put the proponent in an awkward position because of the brilliant strategic political strategies that the leader and some of the members on that side used, but also has done it at the expense of the community, and that is unacceptable.

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

> That the debate be now adjourned.

The Assembly voted—

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

Question so resolved in the affirmative.

Ordered that the resumption of the debate be made an order of the day for the next sitting.

Electoral Act—Subordinate law SL 2004-6
Disallowance

MR STEFANIAK (12.11): I move:

> That Subordinate Law SL2004-6, Electoral Amendment Regulations 2004 (No 1), made pursuant to the *Electoral Act 1992*, be disallowed.

Currently government publications are exempt from the authorisation requirements of the Electoral Act if they do a number of things: first, have the city of Canberra crest, the words "ACT government" and the name of the agency who published the material, for example, Department of Urban Services. Government material often meets the definition of electoral material if it has the photo of a minister or quotes from a minister or, indeed, any MLA.

Subordinate law 2004-6 Electoral Amendment Regulations 2004 No 1 tabled last week by the government changes this exception to add the words "Building our city, building our community". Note that this requirement is for the words only, not the logo. I think members also need to note that there is not the triple requirement of crest, government and agency identification.

A government publication will be exempt only if it uses "Building our city, building our community", which I will now keep referring to as BOCBOC. In effect, this will allow the Labor Party many months of free political advertising, because there is absolutely nothing to stop the Labor Party from using BOCBOC—"Building our city, building our community"—as its campaign slogan after it has been used as a banner headline for any amount of taxpayer funded advertising; if not exactly that slogan, something very similar.

There is also the point that "Building our city, building our community" is not an appropriate identifier. Governments should be identified only by their coat of arms or crest, the government's name and the government's agency involved. Traditionally that is how it has been done. That is why we have laws and have passed laws in terms of the Electoral Act. You cannot have a minister's smiling face there within six months of an election without an authorisation.

It is to ensure that a notice from a government agency is just that, and it cannot be confused with propaganda or advertising for the government and some sublime message that will be then used as part of an election campaign. It is there for very good reason. The government, in trying to slip this one under the radar and pull a swiftie on us, should be ashamed of itself. It is a very audacious attempt by the Labor government here to rort the Electoral Act.

This subordinate legislation gives this slogan of the day the same status as that of the coat of arms. The coat of arms and the words "ACT government" represents all governments; they represent government as a neutral entity. They are effectively a public service notice: the coat of arms, the words "ACT government", and usually the agency. That has been traditional for many years.

The coat of arms and the words "ACT government" represent the government regardless of whether it is a Labor government, a Liberal government or even the old Alliance government. This subordinate legislation, if allowed, will make the concept of government inherently partisan. It is completely inappropriate and represents an abuse of government. It may be a cynical view, but I have no doubt that come the election campaign I would not be at all surprised to see this mob unveil as its slogan "Building our city, building our community" or something very similar to that. I suppose it is not a bad slogan. Why not use it? It is probably better than "Feel the power of Canberra" and I certainly did not put that on my numberplate. God knows what would have happened had I gone to Sydney.

"Building our city, building our community"—catchy little slogan—watch this space. If this subordinate legislation is passed, we will be plastered with taxpayer funded "Building our city, building our community" material. It effectively gives Labor seven months of free advertising. Guess what members? We are only about seven months and I

think one week away from the election—interesting timing. This really is quite an astonishing rort, and were it not for advice received from the Electoral Commissioner, I would doubt its legality. But no, it is legal. Legal it may be, but it is still inappropriate. It is also quite dishonest to go down this path: so much for open, accountable government.

It is contrary to Mr Stanhope's promise of no hoopla and no circuses. By the way, that was a wonderful three-ring circus we saw out there in Civic Square earlier today. Seriously, if we do not disallow this law today, we leave a very bad legacy—a legacy that basically says it is okay to tamper with the symbols of the territory and to make even the abstract concept of government partisan.

These symbols—the crest, the words "ACT government" and the agency—have been there for decades; people are used to them. They are entirely appropriate, and they represent the government of the day. As I said earlier, it does not matter what political persuasion that government is. But this is something very different. This means that you can take out some of those things; you could take out the crest. It is going down a very dangerous path. It is very dangerous for our democracy. It is an abuse of the executive power. There is no real need for it.

If the government wants to use these words "Building our city, building our community" why not have, "Authorised by J Stanhope, 191 London Circuit, Civic, ACT"? What is wrong with that? Surely that is no great impost. This is quite serious. It is quite dangerous. It is something that should be disallowed. The government should be somewhat ashamed to try this sort of swiftie on the Assembly. It is unnecessary and I ask the Assembly to disallow this particular regulation

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (12.17): These amending regulations provide that publications of ACT government agencies that contain the ACT government's "Building our city, building our community" logo will not be required to include an electoral authorisation statement, if the publications include electoral matter. The intent of these regulations simply is to extend the standard exemption of government agency publications from the need to include an authorisation statement where they use the new government logo. It is simply an extension of the status quo.

The definition of electoral matter included in the Electoral Act is very broad. It includes any reference to the performance of the ACT government for example. Therefore it encompasses many ACT government publications, which are not, of course, intended to be, nor are they, political.

The purpose of the Electoral Act authorisation provisions is to make sure that voters know who is responsible for publishing material that may impact on voters' minds when they come to cast their votes. This enables voters to make judgements about the accuracy, balance and fairness of published material. In particular, the authorisation laws are intended to prevent irresponsibility through anonymity; that is, making it unlawful to publish electoral material that does not identify the author, so that voters are unable to judge whether the material is coming from a source with a particular interest in the election.

The authorisation rules also mean that people cannot hide behind anonymity to make irresponsible or defamatory statements about election matters. It is standard practice in the Electoral Act to exempt government publications from the need to include an "authorised by" statement provided that the publications are clearly identified as ACT government publications using standard elements such as the Canberra coat of arms. These amending regulations simply extend this exemption to government publications using the "Building our city, building our community" logo.

The regulations apply only to publications of ACT government agencies. If these regulations are disallowed, all ACT government publications that use the "Building our city, building our community logo" that fall within the broad definition of electoral matters will need to carry an "authorised by" statement. This would clearly be unnecessary and out of step with the intent of the authorisation provisions.

My government decided to adopt the "Building our city, building our community" theme in April last year. The branding "Building our city, building our community" comprises a graphic logo and a tag line with the words "Building our city, building our community" and "ACT government". It was first introduced in May 2003 in association with the budget. Since that time it has been progressively introduced on a cost conscious basis across government agencies, with the exception of most statutory authorities and government business enterprises.

The aim of the theme is to simply and coherently communicate what the ACT government is seeking to achieve for Canberra and its residents. This attempt by the Liberal Party to disallow the exemption shows that they must be worried about the success of the government. They must be worried that the residents of Canberra can see that the government is in fact building a city and building a community.

The "Building our city" component of the theme emphasises the physical and tangible programs the government is undertaking to help the ACT and its citizens develop in a sustainable and equitable way. It applies to the variety of government decisions, policies and initiatives that plan for, build or deliver physical infrastructure. The "Building our community" component of the theme applies to government decisions, initiatives and policies that plan for, and deliver, support, community services and capacity building, focusing on social policy reform and service delivery. The purpose of the "Building our city, building our community" logo is to promote the ACT government to the Canberra community. It is applied to most government communication material and ought to present a coordinated message promoting ACT government administration and service delivery.

The ACT has copyright in the "Building our city, building our community" logo and will take action to protect its legal interests in the logo. It would be an infringement of the ACT's copyright interest here for an unauthorised person to reproduce the work in a material form, publish the work or otherwise communicate the work to the public. It will not, of course, be used by Australian Labor Party candidates for the forthcoming election. I give that commitment. I am surprised that I need to do so, but I give that commitment. In that light there is simply no justification for proceeding with this disallowance motion. This is simply another example of the sort of needless, shallow, mindless, petty politics that we see so often from the other side.

MS DUNDAS (12.22): The ACT Democrats will be supporting the disallowance motion today. I am disappointed by the flippant arguments put forward by the Chief Minister about why we should not support the disallowance. I have noticed over the last little while that the government has been adopting the language and practices of corporate marketing. I want to make it clear that the Democrats oppose this superficial and cynical way of communicating with the community.

Even today we had a massive example of this marketing trend at the launch of the Canberra plan, which looked more like a trade fair than an actual public policy announcement of any substance. It was a very fun trade fair and I think everybody was pleased to be there, but the gloss did not let us get to the substance.

We have seen the increasing use of phone polling and focus groups instead of public meetings and stakeholder roundtables. We have seen more and more energy put into glossy brochures and cover design, big launches and public spectacles, with far less focus on detailed policy considerations or extensive and meaningful community consultation. The LAPACs, the local area planning and advisory committees, are a very good example of this. Where a consultation body has been shut down, we have seen nothing to replace it. But in the meantime we have the spatial plan being put forward.

This amendment that the government wants to make to the electoral regulations is in some respects a pretty minor change. But it is a continuation of a program of corporatisation that I believe is a threat to our democratic institutions. Why do we need a quarter of a million dollars spent every year on additional media advisers? Why do we need $10,000 spent on developing a logo for government? I do not think that the ACT government should be seen as a corporation. It does not need to be branded like a soft drink or a fast food chain. We need to consult and communicate with our community, not just give them marketing and image consultants.

We need to focus on the detail of the change for regulations that is proposed. We are talking about an apparently simple addition that allows the government document to be recognised by the presence of the phrase "Building our city, building our community". This is the slogan that appears under the Labor government's corporate style logo. It has a house, a building, some people, a tree and a road. And it is not only appearing on documents; this logo is now appearing on buildings—the ACT government owned buildings around the community.

However, this change to the regulation significantly changes the intention of section 295 of the Electoral Act. This section specifically sets out how a government document can be recognised and therefore whether that document should be exempted from the provisions relating to electoral matter. The Act states that a government document is recognised by the presence of the agency's name, the phrase "Australian Capital Territory" or similar words, and the Canberra coat of arms. I believe that the last point is the real effect of the change to the electoral regulations. It means that the government no longer will need to display the Canberra coat of arms on government documents in order for them to be recognised as official. It can now replace the coat of arms with a market tested image managed logo. It is quite a drastic change to government policy to see the official symbol of Canberra being supplanted by a marketing campaign.

The Chief Minister made the point that this does not mean that every document with a logo on it will be a document that requires authorisation. But if the document has the coat of arms on it and complies with those other regulations, it does not need to be authorised electorally. He is trying to put the logo—this logo that went through Cabinet that cost $10,000 to develop–on the same level as the Canberra coat of arms.

We should remember what the coat of arms looks like because it has not been appearing on many government documents recently. It shows a shield supported by two swans, one is black and the other is white, symbolising the Australian and European people of Australia. It appears on the Australian Capital Territory flag and has been the official symbol of government in Canberra since 1928. It appears behind the Speaker. We all show our respects to the coat of arms of the ACT when we enter and leave this chamber. Maybe the government does not like the coat of arms, maybe it does not fit in with the desired corporate image, maybe they even want to distinguish this—

MR SPEAKER: I thought that was me.

MS DUNDAS: I am happy to respect the Speaker as well, but we will get to that later. Maybe the Labor government is trying to distinguish itself from the former Liberal government, which, like other governments before it, used the coat of arms. Regardless of the reason, this is not the way to change the official symbols of Canberra—not by some underhanded change to an electoral regulation that they hoped nobody would notice. We should not be putting a marketing slogan into legislation so the government of the day can brand itself. I want to make it clear that I am happy to debate our symbols.

MR SPEAKER: The time being 12.28 the time for this debate has expired.

Suspension of standing and temporary orders

Motion (by **Mrs Dunne**) agreed to:

> That so much of Standing and Temporary Orders be suspended to prevent Assembly Business Order of the Day relating to Disallowance of the Electoral Regulations be called on after the conclusion of discussion of the Matter of Public Importance.

Sitting suspended from 12.27 to 2.30 pm.

Questions without notice

Bushfires—warnings

MR SMYTH: My question is to the Chief Minister. Yesterday, Mr Quinlan advised the Assembly that cabinet was warned about the fires approaching the urban edge of Canberra. He said:

> We talked of how close the fires would come to Canberra, and there was discussion of something maybe even a bit worse than the 2001 event.

In his response to the supplementary question, Mr Quinlan said:

> I think that the town—people in Canberra generally—understood that there were bushfires, that those bushfires were proving difficult to control and that they were headed towards Canberra.

Chief Minister, in response to questions in the past fortnight, you have stated that you were not contacted by anyone on the evening of Friday, 17 January or the morning of 18 January 2003. Why weren't you contacted, given the serious developments that occurred? Why did you fail to ask? Why didn't you seek information, given that cabinet was warned on the Thursday that the fires were going to come close to Canberra and it was public knowledge that the fires had broken containment lines?

Why did you fail to take the initiative as Chief Minister and contact your department or the ESB on Friday night or Saturday morning? Why did you do nothing when you had information which the citizens of Canberra did not have about the fire threat? Since your deputy knew of the danger, why didn't you? Why were you just drinking coffee on the morning of that fateful day when the fires raged towards people's homes, redolent of fiddling while Rome burnt? When did you intend to warn the people of Canberra about the fire danger, if at all? Why should people rely on you when the next disaster approaches?

Mr Corbell: I take a point of order, Mr Speaker. How many questions is Mr Smyth allowed to ask? He has asked about a dozen and I seek your guidance on whether that is within the standing orders.

MR SPEAKER: He is entitled to ask questions without notice, but if the questions become too complex a minister is entitled to say, "I will look into that and come back to you later."

MR STANHOPE: Mr Speaker, I will look into that and come back to it later.

Canberra plan

MR HARGREAVES: My question is to the Chief Minister. This morning's announcement by you of the Canberra plan was a most significant moment for the future of the territory. Can the Chief Minister please explain to the Assembly how the government intends to meet its commitment to the Canberra plan, particularly those initiatives that flow from the social plan.

MR STANHOPE: This is most certainly a government that delivers. The Canberra plan sets out an exciting new direction for this city. It weaves together the threads of the past and the present and, through that, it creates the fabric of the future. It will guide our city's growth and development for this generation and beyond. It sets out a vision and a strategy for the future.

Canberra will be recognised throughout the world not only as a beautiful city, not only as the seat of Australia's government and not only as the home of Australia's national institutions; it will be recognised as a place that represents the very best in Australian creativity, community living and sustainable development. That is our vision and a vision that is shared by the Canberra community.

It will be achieved by focusing on seven strategic themes: investing in our people, building a stronger community, a city for all ages, Canberra's knowledge future, partnership for growth, a dynamic heart, and the sustainable city—our bush capital.

The first theme is "investing in our people"—our greatest asset and potential. It is about promoting the concept of a learning city and providing the choice and opportunity to pursue personal growth and development. We will also be building a stronger community. Strong communities are those in which people are encouraged to contribute and to participate in community life.

It will also be a city for all ages: a city that caters for children, the elderly and everyone in between. That is one of the foundations of a fair, equitable and inclusive society. Canberra can only benefit from the different experiences and perspectives that people of various ages contribute.

We will also develop Canberra with a knowledge future by building on our competitive advantages and capitalising on our strengths. There will be partnership for growth when people join forces. When government, the community and business work together for a common cause much can be achieved. Dynamic and adaptive partnerships will help our community to achieve a common city vision.

We will also continue to develop a dynamic heart. Civic and central Canberra is a critical, unfinished part of our city's planning and development. It is the piece missing from the Canberra jigsaw; a piece that is absolutely critical to our economic and social success.

Through the Canberra plan we will live with the environment in our bush capital. Canberra is and always will be a city and a landscape. It will be a sustainability city, one which is less vulnerable to bushfire and one which captures the many environmental and recreational opportunities in non-urban ACT.

These seven strategic themes will inspire and guide the government's actions in the years ahead. These integrated themes reflect the strategy of the major component plans: the economic White Paper, the social plan and the spatial plan. It is the most comprehensive planning document Canberra has seen since not only self-government but also our city's foundation. We are working through all this for a sustainable Canberra. We will be striving to make a lasting difference in the quality of life and wellbeing of current and future Canberrans.

The Canberra plan is an expression of where we as a community want to head and of what we need to do to get there. Having regard to the extent to which the community has engaged in this process, it is not surprising that its key elements are strongly supported. This is very much a plan for Canberra that has been developed by the people of Canberra to ensure their future.

It is a wonderful plan. I am proud to have been associated with its development. It is the singular, most significant piece of strategic work ever done in Canberra, particularly to the extent that it covers the field as it does. It is a classic, triple bottom line approach to strategic planning to create a vision that joins and links our spatial future, the need for

our social development—the development of an inclusive society—and an economic White Paper or plan that provides a sustainable economy into the future in order to allow us to deliver on the undertakings we make in this strategy.

MR HARGREAVES: I have a supplementary question. I thank the Chief Minister for his answer. Can the Chief Minister tell the Assembly what the government is doing to make the vision of the Canberra plan a reality.

MR STANHOPE: Thank you very much, Mr Hargreaves. Today, through the tabling by the Treasurer, Ted Quinlan, of a third appropriation bill, we have given a real dollar commitment to start the process of implementation of the Canberra plan as delivered today. We see the first concrete steps in implementing the three central components to the Canberra plan. There is $10 million for a venture capital fund to turn ideas, knowledge and research into new businesses and more money for the University of Canberra.

What pleases me most are the commitments that go towards implementing *Building our community: the Canberra social plan.* The Canberra social plan measures included in the third appropriation bill amount to more than $37 million for 2003-04 alone. These measures include $33 million to increase the supply of public and community housing to help Canberrans in need and provide a long-term sustainable and affordable housing sector. We in Canberra are in the main a wealthy, fortunate community. For that very reason, we cannot leave people behind.

There is more than $3 million to help care for children at risk. There is $130,000 to kick-start the community inclusion board. Over the weekend we sought expressions of interest from members of the community interested in becoming board members, joining respected social commentator Hugh Mackay, who will chair the board. There is $300,000 for the social plan flagship "building a stronger community" and there is $320,000 for electricity, water and sewerage concessions.

On top of that, the third appropriation bill has funding for the Cotter precinct, Tidbinbilla Nature Reserve and the water resources strategy. These go directly to the commitments made under the social plan priority "respect and protect the environment". All that is just the funding for this year as included in the third appropriation bill. It is just the start of our work to implement social plan initiatives that make up part of the Canberra plan. It shows the government's determination to get started immediately on implementing its vision for Canberra.

More will be announced in the budget. As I flagged today when I announced significant out-year funding, there will be $10 million over four years for the social plan's child and family centres. The first centre will be developed in Gungahlin and it will be up and running within months. There is $8 million for the water resources strategy. The funding I have announced today—

Mrs Dunne: I rise on a point of order. I am just not sure how much of this that Mr Stanhope is talking about is in the appropriation bill that has been referred to the public accounts committee. I seek your guidance on that.

MR SPEAKER: Mrs Dunne, if you cannot be sure, neither can I. I do not think you have a point of order. If you have specifics you want to raise, please do. But by saying that you are not sure—

Mrs Dunne: There are some elements that Mr Stanhope said that these things were in the appropriation bill—the one tabled this morning—and that has been referred to a committee. I do not think Mr Stanhope can refer to those things that are in the appropriation.

MR SPEAKER: I think that in an answer he is entitled to refer to matters that have been in the appropriation bill.

MR STANHOPE: The third appropriation and the one-year commitment ensures an immediate response to each of the social plan's five flagship commitments. It ensures that work on important initiatives such as the child and family centres can commence immediately. The Canberra plan has three components: the social plan, the economic White Paper and the spatial plan, which are ambitious in their scope and objectives.

The funding we are announcing today represents a down payment on the commitments we have made. As we have shown today, this is a government that does not shoot from the hip and does not throw money around without thinking; it is a government that plans and it acts on those plans—it is a government that delivers.

Child protection

MR CORNWELL: Down to earth, again, please: my question is to the Minister for Education, Youth and Family Services, Ms Gallagher. Yesterday this Assembly heard how a question on notice from the community services and social equity committee sent on 8 December sparked a rush of activity. To refresh your memory, Minister, the committee question related to section 162(2) reports provided to the Office of Community Advocate and asked:

> Could the Attorney General please comment on the Government's approach to Chief Executive Officers that are reported to have failed to comply with their statutory obligations?

The fax that was sent to you on 11 December specifically referred to that question to the Attorney-General. You are nodding in agreement—thank you.

As I said, this question on notice seems to have prompted a rush of activity, namely: a meeting between the Director of Family Services and the Community Advocate on 10 December to discuss the issue and a commitment to provide outstanding reports from July 2002; secondly, the distribution of a director's instruction to comply with section 162 (2) on 11 December 2003 to family services staff; and, finally, the sending of a brief to you on 11 December advising that family services was in breach of the law. Was this sudden spurt of activity by your department due to the question from the CSSE committee going to the Attorney-General on 8 December?

MS GALLAGHER: I am going to have to give largely the same response that the Chief Minister gave yesterday. I cannot answer that. I think there is a series of events there that indicate it could have been the trigger that set this process off. I guess for me a lot of questions need to be asked about all of those events leading up to the briefing that was provided to me on the 11th. Since being briefed, my office in particular has gone back and sought documents from the department. As we all know, it has gone back a number of years, where there have been promises given and promises not kept.

I have asked myself the question: what led to my being given the briefing on the 11th? When we look back we find that there was a period of activity in the days leading up to the 11th that, it appears, prompted the department to put in place meetings with people, documents, guidelines, as you say, director's instructions and, in the final instance, a briefing to me.

I have some questions: if the department knew about this on the 8th, why wasn't I told about it; why wasn't I told on the 10th when they met with the Community Advocate; why wasn't I even given the courtesy of a call prior to my tabling the government's response, saying, "Hey, we are about to send you a fax. This relates to the tabling of your response and you might want to hold off on it"? I have some questions on all of these things that did not happen.

I think these are the things that the commission is looking at in relation to how ministers were given information. I tend to agree with you, Mr Cornwell: there does seem to have been a trigger. There was that on 8 December but there was a series of potential triggers that occurred before the 8th that should have set the process off and did not.

MR CORNWELL: Mr Speaker, I ask a supplementary question. You may have covered this, Minister, in your response, but was anyone in your office or your department advised of this question by anyone in Mr Stanhope's office or department, given that the brief of 11 December refers to it?

MS GALLAGHER: Certainly no-one in my office was told about the question, to my understanding. I am not sure who told the department but the department was obviously aware of the question because they included it in the brief. To my understanding certainly there was no communication with my office specifically but obviously it did go through to the department.

Public hospitals—funding and administrative arrangements

MRS CROSS: My question is to the Minister for Health, Mr Corbell. Minister, it was reported in yesterday's *Sydney Morning Herald*:

> The Prime Minister is seeking advice on a Commonwealth takeover of public hospitals in what would be one of the biggest shifts in responsibilities between Canberra and the states since Federation.

In the light of the ongoing problems being experienced within state and territory hospital systems, do you think there might be some merit in such an approach given the funding divisions that exist between federal, state and territory governments in the health area?

MR CORBELL: I am not sure whether that asked for an expression of opinion, but I am happy to answer the question if it did not. It is an interesting proposition that the Prime Minister—or, at least, some members of the government—has raised. It is interesting for a number of reasons. First of all, this is the same federal government that has taken $1 billion out of public hospitals over the period of the existing Australian health care agreement—$1 billion nationally. On top of that, I have had a recent discussion via correspondence with the federal minister, Mr Abbott. A letter to me from Mr Abbott as late as 19 February this year indicated that he felt that the states and territories were best placed to finance, administer and deliver primary health care services. So it is quite an extraordinary turnaround for the federal government to now put the view, even though their health minister says the states and territories are best placed to deliver health care, that perhaps that is something that the federal government can do.

There is no doubt in my mind that there are gaps in the system between the states, territories and the Commonwealth when it comes to funding and that can have, on occasion, a detrimental impact on the continuity of care for people using the health system. That is one of the reasons why the ACT government, along with all of the state and territory governments, has consistently argued that there needs to be a broad-ranging discussion about reform of our health care system and reform of the administrative and funding arrangements. It is not just an argument about how much money. We will always have that argument at the end of the day. It is about how the dollars are funnelled, who pays them and to where, so that we can improve continuity of care. That is something that the Commonwealth rejected in the lead-up to the last round of the Australian health care agreements. If the Commonwealth government is serious about reform, I welcome that. We do want to have a discussion about reform, and I think all the other states and territories want that as well. Certainly from my discussions with my colleagues that would seem to be the case. I think that would be a very positive thing, but I do have some doubts about the credibility of the federal government on this particular issue.

MRS CROSS: I thank the minister for his answer and ask as a supplementary question: Minister, would you support the federal government having complete funding control if it improved hospital waiting lists, hospital waiting times and improved services for the residents of the ACT?

Mrs Dunne: I raise a point of order, Mr Speaker. I would contend under standing order 117 (c) (i) that that is asking for an expression of opinion.

MR SPEAKER: I think Mrs Cross said, "Would you support".

Mrs Cross: Yes, I did ask, "Would you support".

Mrs Dunne: I still think that is asking for an expression of opinion.

MR SPEAKER: Well, what is the government's position; would you support—

Mrs Dunne: That would be executive policy, Mr Speaker.

Mrs Cross: No. I was not asking for executive policy.

MR SPEAKER: You can ask about executive policy. The point that you are going to is that you cannot announce executive policy. But you can ask about it; you can ask for points of clarification about executive policy. Heavens above!

MR CORBELL: I think it is a bit early to tell. It depends whether or not the Commonwealth are serious about a reform discussion. If the Commonwealth are serious about a reform discussion, that is something that the territory will treat seriously, because we do acknowledge that the existing funding arrangements, and the gaps that are created for patients, for people, in the health care system between the states and territories and the Commonwealth, are a problem. If there are ways of improving that, let us have that discussion. I would welcome that, as I am sure would all my state and territory colleagues. But I think the fundamental question remains: are the federal government serious? I do not really know, but I would have to say that, based on their record of $1 billion out of the health system over the term of the current Australian health care agreement, their credibility would have to be questioned.

Sex education

MS DUNDAS: I have a question for the Minister for Education, Youth and Family Services. On 22 August last year, in response to the health committee's report on school-age children, it was noted that the government would accept the idea that condoms should be made available to students in schools through sex education programs. Following the decision of late last year by Sexual Health and Family Planning ACT to stop providing sexuality education services in government schools, can the minister inform the Assembly how government schools are delivering sex education programs? Are condoms currently available, as per the government's commitment of last year?

MS GALLAGHER: Yes, I am aware. I have had meetings with Sexual Health and Family Planning about their claims for extra funding to provide extra services within schools. My understanding is that there are teachers trained to provide sex education to students within schools. Some of the services that Sexual Health and Family Planning have offered in the past have been withdrawn whilst discussions are had about current funding levels to that service. In relation to the specifics about condoms being provided or whether sex education is being provided—

Ms Dundas: I asked about both.

MS GALLAGHER: Yes. I can get back to you, but my understanding is that it is being offered through the curriculum. Yes, we have lost some of the support we had from Sexual Health and Family Planning. I could not meet their claim for extra funding. They sent me a letter towards the end of last year with a demand for several hundred thousand dollars worth of funding that I could not approve, as I explained to them, outside the budgetary context. I simply did not have the money to give to them.

We had some very difficult discussions about that. I felt a bit that they had not provided it to me before; it was simply in a letter demanding this funding or threatening withdrawal. We have had a very difficult discussion. They have done what they said they needed to do in the short term and I have undertaken to look at what resources we

provide in this area through the next budget round. In terms of what we are doing within schools, we are keeping that going, but we have lost some of those services.

MS DUNDAS: Minister, can you specifically clarify whether condoms are freely available in our schools at the moment or are only being offered through programs as part of the curriculum?

MS GALLAGHER: In some colleges they are available through the programs that the colleges run, such as the ones at the Bay and Tuggeranong college which have a health focus. In the high schools, our commitment was not to put in vending machines, but to allow for condoms to be distributed through training programs. I know that sex education programs are going on. I will check on whether condoms are being given as part of that. Certainly, that was part of the work that the Sexual Health and Family Planning services were doing. But we never said that we would distribute condoms through the schools.

Ms Dundas: You said that you would consult with the students about it.

MS GALLAGHER: Consult with the students but always, we have said, through the delivery of an education process. I will get back to you on that.

MR SPEAKER: Before calling Mrs Burke for the next question, I wish to point out that I have just been alerted to the possibility of the question Mr Cornwell asked being very much the same as one that he has on notice, question No 1409. I invite members to look at page 534 of *House of Representatives Practice*, which states:

> It has been the general practice of the House that questions without notice which are substantially the same as questions already on the Notice Paper are not permissible.

I intend to follow that practice whenever I am on to it early enough, but I would ask members to look at the questions they have on notice before they ask questions in the house because action has already been put in train to answer them in various departments and ministers' offices.

Mr Cornwell: The question was addressed to the Chief Minister, but I am not arguing with your ruling, Mr Speaker.

MR SPEAKER: The page goes on to say:

> It is not relevant that questions on and without notice may be addressed to different Ministers.

I will be taking that course of action.

Transitional housing

MRS BURKE: My question is to Mr Wood, Minister for Disability, Housing and Community Services. Last week my office spoke to a constituent who has recently been released from a prison sentence for minor crime. He has broken his addiction to heroin and now works with the police in a voluntary capacity, mentoring juvenile offenders to

keep them from entering a life of crime. He has a partner and young daughter, and he is highly involved with Menslink in the ACT.

Minister, this same constituent has been applying for ACT housing for over six months, with the only likely options being Northbourne flats or Fraser Court. With increasing crime and drug concerns at these ACT housing complexes, how does the department deal with individuals like my constituent who are genuinely trying to make a go of their lives? And is the minister committed to helping people who want to help themselves?

Mr Stanhope: Are you suggesting other residents aren't making a go of their lives?

MRS BURKE: I am glad you find it funny, Chief Minister.

Mr Stanhope: I don't find it funny; I find it insulting—that people who live in Northbourne flats aren't making a go of their lives!

MRS BURKE: Get real!

MR SPEAKER: Order! Mr Wood has the call.

MR WOOD: Mr Speaker, I am pleased to hear good news about someone who is turning his life around. We would wish anybody who goes astray a little to take the same path. But I take issue with the comment about increasing crime in certain places. That is just a throwaway line, which is unsubstantiated and incapable of being substantiated.

I do not give the Liberals any credibility in housing matters. They ran the system down. We inherited—well, we did not accept—their program of reducing housing stock progressively to something like 8 per cent of housing. We did not accept that. We have taken on the harder task—

Mr Smyth: What are you knocking down? What are you shutting down? So no closures?

Mrs Dunne: What about Burnie Court?

MR WOOD: I know that you are sensitive about it, but it is a fact of life. Mr Smyth was housing minister. I do not know whether it was Mr Smyth, Mr Stefaniak, Mr Moore or someone else who made some of these decisions, but I have taken the harder road of trying to maintain the level of public housing. I recall that somewhere in my files there is a quote attributed to Mr Smyth—

Mrs Dunne: Mr Speaker, on a point of order, standing order 118 (a) says that the answer should be concise and confined to the subject, and the subject was providing housing for people who were coming out of prison, and 118 (b) is that we should not debate the subject. What the minister of the previous government did is not relevant.

MR SPEAKER: Mrs Dunne, resume your seat. Let's deal with the issue of "concise" first. This Assembly decided that five minutes is concise. There is a five-minute time limit on questions and I am tied to that. As far as responding to the subject matter goes, I think the minister is doing that, and I would ask him not to stray from the subject.

MR WOOD: I will not stray off the subject. I know that it is embarrassing for Mrs Dunne and others. Mr Smyth is reputed to have said, "We can find someone a house overnight," when in fact the waiting list at that time was six to seven months. That is what we inherited. It would have been worse if we had followed your program of progressively selling off properties. But we have taken a totally different policy line.

The appropriation bill that you, Mr Smyth, and others do not want to pass fairly rapidly ascribes another $33 million to housing. It never crossed your mind to put money into Housing. You took $20 million out of Housing to hand over to Mr Howard, and you have the gall to stand here today and ask us what we are doing about it. We are putting money where our mouth is and, if you had any sense, you would keep yours closed.

Government members: Hear, hear!

MRS BURKE: Mr Speaker, I have a supplementary question. Minister, is the only solution a dispiriting revolving door, where you come out of prison into an ACT multiunit housing complex and you, the government, have failed to address associated drug use and violence issues? Will the minister commit to developing a transitional housing policy in the ACT for ex-prisoners, and others, trying to rebuild their lives?

MR WOOD: We are heading up to election time. We are heading up to the time when Mrs Burke or Mr Smyth or someone else will announce the Liberal Party policy towards housing. I would be very interested to see if they put $13.4 million into homelessness, as we have. I would be very interested to see if they can match the very progressive programs of this government. As I said before, we put our money where our mouth is. We have delivered, where you cut housing. You gave it no priority and had no interest in it—and you more than most!

Public interest disclosure

MS TUCKER: My question is to the Attorney-General and goes to the effectiveness of the Public Interest Disclosure Act and agencies that have carriage of such disclosures. The Assembly would be aware of reports on the front page of the *Canberra Times* of an internal survey of staff at the University of Canberra in which some staff cited management coercion, dishonesty, slyness, discrimination, bullying, a culture of mediocrity and a boys' club. The Assembly also would be aware that a range of public interest disclosures have been made in regard to the university, both in respect of activities at the university union and at university board level.

I raised questions in the Assembly on 18 June 2003 expressing concern that the PID Act was not effective in providing sufficient protection for people making public interest disclosure. A week back you wrote as Attorney-General advising me that you had asked your department to review the provisions of the act in terms of their effectiveness and to provide a response as soon as possible, but no such response has been forthcoming.

Given the front page story in the paper yesterday, what reassurance can you give the Assembly that, firstly, the act does provide scope for those agencies that have carriage of PID inquiries to pursue their concerns promptly to the highest level and, secondly, those

people making disclosures are sufficiently protected and supported while inquiries proceed?

MR STANHOPE: I am aware of Ms Tucker's long history of interest in issues around the utilisation of the public interest disclosure provisions at the University of Canberra. I have not had a recent update in relation to those issues. I will get a full response to address the concerns Ms Tucker has raised.

MS TUCKER: Thank you for that, Mr Stanhope. Can you also confirm now whether the AFP has pursued or is pursuing allegations of fraud involving the university union as identified by the Auditor-General in report 6 of 2003?

MR STANHOPE: I do not know the answer to that, but I am more than happy to find out.

Mr Phil Cheney

MRS DUNNE: My question is to the Chief Minister. In response to a dorothy dixer from Ms MacDonald last week, you advised that Phil Cheney would be giving the Canberra Day oration. To give some context, Chief Minister, this is the person about whom you stated in October last year:

> I didn't know that Phil Cheney existed until a few weeks ago; I didn't know there was any such individual. I didn't even know there was such a person.

On 21 October last year Mr Cornwell asked you a question about comments by Mr Cheney of the CSIRO, that he had warned the Emergency Services Bureau about the 2003 fires and their likelihood of coming to Canberra earlier in the week before they came. In response you said:

> I don't believe he told the Emergency Services Bureau.

You continued:

> As I say, I'm not aware that he told anybody within this government of his concerns or his fears. I'm not aware of what discussions he had with the Emergency Services Bureau, but he had no discussions with me; he didn't write to me; I'm not aware that he wrote to any member of the government. We now know he didn't actually brief the media on the position.

We know now that Mr Cheney had told the territory's chief fire control officer of his concerns. We also know that an Emergency Services Bureau planning meeting on Tuesday 14 January, attended by, amongst other people, the chief fire control officer, the director of the Emergency Services Bureau and the chief executive of Justice and Community Safety, discussed Mr Cheney's warning. Will you now correct the record regarding the inaccurate statements you made about Phil Cheney, a distinguished Canberran?

MR STANHOPE: Mr Speaker, as Mrs Dunne has just explained in the quotes she attributed to me, I said I am not aware that he has contacted any member of the government. My statement was correct—I was not aware.

MRS DUNNE: Mr Speaker, I ask a supplementary question. Do you think it was appropriate for you to criticise Mr Cheney, who is well known and highly respected in his field, for the evidence he gave at the Coroner's Court? Was it because he contradicted the government's spin on the bushfires?

MR STANHOPE: Mr Speaker, I stand by the comments I make.

Long Service Leave (Private Sector) Bill 2004

MR STEFANIAK: My question is to the Chief Minister. Chief Minister, on *WIN News* last night you said about the Long Service Leave (Private Sector) Bill 2004, "no-one in caucus supports this" apart from Mr Berry. This comment is surprising given that your colleague Mr Hargreaves, as a member of the Standing Committee on Legal Affairs, approved of this bill in principle on 25 February this year. Mr Berry, on the same day, issued a media release, stating:

> It is good legislation, and it delivers on the promise made by Labor in Opposition to protect workers' long service leave entitlements.

You were a member of caucus when this promise was made, along with five other members of the government. Today's *Canberra Times* reports that Ms Gallagher is working on a similar proposal for portability of long service leave. Why did you claim that no-one in caucus supports this proposal apart from Mr Berry, when Mr Hargreaves approved the bill in principle, it was a Labor Party promise at the 2001 election and Ms Gallagher is working on a similar proposal?

MR STANHOPE: Well, nobody supports the particularity of the legislation that you refer to. Certainly, we have a position in relation to this and Ms Gallagher, as Minister for Industrial Relations, is pursuing that—and pursuing it well and actively. In relation to Mr Hargreaves's position, Mr Hargreaves, as chair of a committee, was representing the parliament.

Mr Hargreaves: Deputy chair.

MR STANHOPE: I shudder to think, Mr Stefaniak, what you suggest about members of the government. I hope it is not the attitude that members of the Liberal Party take when they represent this parliament on a standing or select committee—that they are representing their party. Heaven forbid!

MR STEFANIAK: I ask a supplementary question, Mr Speaker. As Mr Hargreaves interjected, he was actually the deputy chair, but my supplementary question is: why did the government not make a submission to the Standing Committee on Legal Affairs, opposing this bill, if it was so strongly opposed to it?

MR STANHOPE: The government chose not to.

Child protection

MR PRATT: My question is to the Minister for Education, Youth and Family Services. In your response to a question from Mr Cornwell, you stated that the fax that you received from your department did not refer to your ministerial response. I quote you:

> At the time I did not know the relationship of that advice to the government's response. It was not mentioned in the response. The response related to recommendations of the committee report, not to section 162 (2) of the act. I did not understand it at the time.

Why do you expect us to believe that you did not understand the connection between the brief and your response, when the brief refers to the relevant section of the community services and social equity report? It states:

> 6.23 The Committee is extremely concerned at reports Family Services has failed to comply with its obligations under the Act.

It then outlines section 162 as the area of concern of the committee.

MS GALLAGHER: I do not know how many times you want to go through this. We can go through the timing again. Somewhere between four and five, prior to the Assembly adjourning on the final sitting day, I received a rather alarming brief from my department—a rather short brief, not going into too much detail—alluding me to the fact that they had failed to meet statutory obligations under the Children and Young People Act.

Sections in that brief related to the committee report—not to the response given by government. It said, "We are responding to the government." There was not a recommendation about 162 (2). As a minister I could have stood up here and said, "By the way everybody, I've just been given a brief that tells me a few things that I'm not sure about. I don't understand because there's no detail. I think it is alarming but I'm not sure, because it does not really tell me anything about what it is to do with." Instead, I chose to talk to the Chief Minister and say, "I think this is a serious matter. I'm calling my Chief Executive in tomorrow morning to talk to her. I'm referring this matter to you today." The Chief Minister referred that to the Chief Executive of his department that day. I met with Ms Hinton at 9 am the following morning. I wrote to her overnight asking her, "What did that really mean? What about the status of children in care? How many children did this relate to? What were the allegations made?"

In hindsight, I could have stood up in the adjournment debate and told you all that I had a 2½ page brief that did not really tell me anything about what I felt at the time was a rather alarming matter. Instead, I chose to research the facts, find out what it was about, and put in place plans to fix it. Then, on the first sitting day of the new year—the next opportunity that I had, as this had occurred on the last sitting day of the previous year—I made a statement to the Assembly that gave members all the facts that I had.

The ministerial code of conduct refers to issues such as respect for the law, systems of government, integrity, accountability, honesty, diligence, economy and efficiency. I have, at all times, acted within that code of conduct. I have provided the information to

the Assembly as soon as practicable, once I had that information to give. I am frequently given something that makes me frown and think, "This could be serious"; that is the job of a minister. I did not have anything to tell the Assembly within the fifteen minutes that I could have stood up, other than to say, "Hey guys, I think there's an issue. I'm not sure what it is."

MR PRATT: I have a supplementary question. Minister, why did you claim that you had not made the connection when the facts make it crystal clear that your response did not address one of the key concerns of the committee?

MS GALLAGHER: It was not one of the key concerns of the committee. The concerns of committees are normally in recommendations that they want the government to respond to. The recommendation that related to section 162 (2) of the act, from memory, said that the government should insert into senior executive or executive performance contracts requirements that they meet their statutory obligations. The government noted that response, primarily because we do not have performance contracts, or AWAs, for executives; there are AWAs for chief executives. But it is a chief executive's job to adhere to statutory obligations. We noted it. It fell under the portfolio of public service responsibility. It did not relate to the failure to meet section 162 (2).

As I said, the information that I was given by the department at the time alarmed me. I immediately acted. The Chief Minister immediately acted. We put in place a process to fix this. As information became available, I provided it to everybody, because nobody had picked up on this. I allowed you to have the information that we had on the process to reform in child protection.

Canberra plan

MS MacDONALD: Can the Minister for Health please tell the Assembly about the benefits of the government's $10 million grant to the University of Canberra's new school of health sciences under the Canberra plan?

MR CORBELL: I am very pleased to advise the Assembly of the announcement today of a $10 million grant to the people of Canberra through assistance to the University of Canberra's new school of health sciences. This multimillion dollar grant, backed by the Assembly this morning through the third appropriation bill, will support the construction of new facilities for the school of health sciences at the University of Canberra.

The grant, which we want to provide in full during this year, will be used to expedite the construction of the new departments of physiotherapy, allied health and dietetics. One of the first benefits of this grant will be the provision of a significant number of construction jobs, which will add to the economic growth of our territory. In addition, when the new courses come on line, around $36 million per annum will be added to the ACT economy. This is a direct example of the government putting its plans into action, of funding these commitments and of making it happen and making it happen in a way that supports the knowledge-based economy that we want to create for our city's future.

Upon completion, the university will be able to offer 17 new degree courses—a substantial number—for around 440 students. So 440 more Canberrans, interstate students and international students will have the opportunity to come to the University of

Canberra. There is no doubt that the breadth and the expansion of degrees available in Canberra will attract more young people to the city and will add to the vibrancy of our community. Around half of the 440 places available under the new courses are expected to attract international students. That is particularly important because in 2002-03 education exports were worth around $114 million to the ACT economy.

Mrs Dunne: I take a point of order. Under standing order 117 (e) (ii), the minister cannot answer this question because it relates to proceedings of a committee not reported to the Assembly. The appropriation bill this morning was referred to a committee and it has become the responsibility of the committee.

Mr Hargreaves: It is in the *Canberra Times*.

Mrs Dunne: It does not matter whether it is in the *Canberra Times* as the *Canberra Times* is not subject to the standing orders. The grant is provided for in the appropriation bill and it is being investigated by the committee.

MR SPEAKER: Did you mention the appropriation bill in your question, Ms MacDonald?

Ms MacDonald: No, I did not, Mr Speaker.

MR SPEAKER: I think it is the question that you are trying to refer to, Mrs Dunne.

Mrs Dunne: But it does refer to the amount of money in the appropriation bill and in the presentation speech on the appropriation bill. It refers to $10 million to provide a grant for funding consultation to the school of health sciences. It is in the appropriation bill.

MR SPEAKER: Take a look at standing order 117 (f), which provides that questions can be asked to elicit information in relation to business pending on the notice paper. Ministers can answer them in accordance with standing order 118. The minister may continue.

MR CORBELL: They just do not like it, Mr Speaker. They just do not like it that after the comprehensive engagement of the people of Canberra by this government through the development plan we are now putting Canberrans' words into action. I challenge them to go to the University of Canberra and criticise the $10 million grant. Go and talk to Roger Deane, the vice-chancellor, and go and talk to Mohamed Khadra, the head of the faculty there, and tell them that this a poor idea, a waste of time and they do not know what they are doing.

Opposition members interjecting—

MR CORBELL: They just do not like it, Mr Speaker. Of course, this helps give Canberra the competitive edge. It helps support our educational institutions. It is well worth making the point that for every international student that comes to the ACT an average of 4.5 visitations occur, a very significant contribution to the ACT economy.

MS MacDONALD: I am sorry I did not hear all of the answer to the question because of the interruption from the other side, but my supplementary question is: could the minister please inform the Assembly of the specific benefits of this grant to the health sector?

MR CORBELL: This is, again, the advantage of the government's strategic approach. Not only do we greatly benefit the economic development of our city through investing in our key tertiary research and educational institutions but also there is a direct benefit for the health sector and the health workforce. Through the education and training provided in these courses, the ACT will strengthen its ability to attract and retain specialist health professionals. These specialties include being able to meet the ACT's need for more physiotherapists, dieticians and other health professionals.

Our hospitals and our community health sector struggle at times to fill positions in vital areas of allied health, such as physiotherapy, occupational therapy, nuclear science, radiotherapy and pharmacy. All of that is now being opened up. The potential to train those people locally and to employ those people locally is now being opened up as a result of this government's grant to the University of Canberra.

The university's school of health sciences will provide the ACT with more graduates in these areas—a good thing for Canberra, a good thing for the people who use our health services and a crucial need that has been highlighted by the career, health and ageing sectors as more of our population and the populations of other states and territories grow older and live longer.

It will also directly benefit the health sector by lifting the standard of care that comes with the integration of service delivery within a teaching and research environment. For the same reason as the government is investing in the medical school—putting our money where our mouth is, spending the money in the hospitals to train medical graduates, working with the ANU—we are now working with the University of Canberra as well, funding health sciences, funding those allied health professionals, supporting the institutions and getting the benefit for our health sector.

That shows that we are serious about partnerships between our education sector, our business sector and the government itself. It is about growing our own health professionals. Of course, the more health professionals you grow locally, the more you can keep in Canberra, the more you can employ in your own public hospitals, in your own community health centres and in private practice. Once again it is a case of the government listening, planning and acting and making a big difference for health services in the ACT.

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

MR SPEAKER: Ms MacDonald, did your question relate to the venture capital fund?

Ms MacDonald: No, Mr Speaker, I do not believe so. It related to a grant which was being given to the University of Canberra in terms of allied health.

MR SPEAKER: I am afraid your question was out of order. I should not have allowed it. I have just trawled through the presentation speech and spotted it.

Mrs Dunne: Thank you, Mr Speaker.

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

Supplementary answer to question without notice
Private developments—traffic arrangements

MR CORBELL: Mr Speaker, in question time yesterday Ms Tucker asked me a question about the importance placed on advice regarding roads and traffic from City Management when development decisions are made. In response to Ms Tucker's question, I can advise her and the Assembly that advice from City Management is never ignored by the ACT Planning and Land Authority.

The Territory Plan specifies in part A3 that any comments of a body to which the application has been referred for comment should be carefully considered. To this end, advice from City Management, when provided, is always considered in the development application assessment process.

However, as Ms Tucker and other members would be aware, ACPTLA receives considerable advice from agencies, and from time to time that advice must be balanced against other considerations to make an appropriate decision on a development application to ensure the best outcome for the community.

Paper

Mr Stanhope presented the following paper:

> Ministerial Travel Report—1 October 2003 to 31 December 2003.

Home detention for sentenced prisoners
Paper and statement by minister

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

> Rehabilitation of Offenders (Interim) Act 2001, pursuant to section 100—Report on the Review relating to Home Detention for Sentenced Prisoners, prepared by the Home Detention Review Committee, dated March 2004.

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: Mr Speaker, I have presented to the Assembly the report on the review of the provisions of the Rehabilitation of Offenders (Interim) Act 2001 relating to home detention for sentenced prisoners. A home detention review committee was formed with representatives from ACT Corrective Services and Youth Justice Services of the Department of Education, Youth and Family Services. The review committee has

undertaken a review of the operation of the provisions of the act relating to home detention for sentenced prisoners, as required under section 100 of the act. The review covers a two-year period from September 2001 to September 2003.

The review's primary focus was on the operational aspects of the legislation. Comments and feedback were sought from stakeholders, including home detainees and their families, correctional officers, the courts, Director of Public Prosecutions, the Department of Education, Youth and Family Services, ACT Policing, Legal Aid, the Law Society of the ACT, Victims of Crime Coordinator, the Aboriginal Justice Advisory Committee and the intersectoral reference group on women's corrections issues.

The main findings of the review are:

- In general the provisions in the legislation operate effectively, although there are some minor amendments that would improve the operation of the legislation.

- There has been a low referral and uptake of home detention in the two-year period to September 2003—17 referrals for assessment, nine home detention orders made and eight successful completions. The reason for home detention not being taken up as a sentencing option needs further consideration and is outside the scope of this review.

- The eligibility criteria may overly restrict the number of offenders who are eligible for consideration of home detention. Conversely, the eligibility criteria may contribute to the high completion rate of home detention orders.

- Home detainees who successfully completed their order—eight successful completions out of nine orders—considered the option preferable to imprisonment because it allowed them to address their offending behaviour, maintain connections with family, complete schooling and remain in the workforce.

This review did not include a formal evaluation of the effectiveness of home detention orders as an alternative to imprisonment. This was because of the low number of people subject to orders during the period and the short time elapsed since they completed their orders. I have asked ACT Corrective Services to undertake an evaluation in 2005 to assess the longer term benefits of home detention. Home detention as a remand option became available in September 2003 and it will therefore be possible to review the effectiveness of this option at the same time.

Financial Management Act
Papers and statement by minister

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

Financial Management Act—

Pursuant to section 14—

Instrument directing a transfer of appropriation from the Department of Urban Services to the Chief Minister's Department and a statement of reasons, dated 8 March 2004.

Instrument directing a transfer of appropriation within Urban Services from Capital Injection to Expenses on behalf of the Territory and a statement of reasons, dated 8 March 2004.

Pursuant to Section 17—Instrument varying appropriation related to Capital Injection, Department of Urban Services and a statement of reasons, dated 8 March 2004.

Pursuant to section 19B—Instrument varying appropriation related to the Forestry Industries Assistance Package for ACT Businesses grant, Chief Minister's Department and a statement of reasons, dated 8 March 2004.

I seek leave to make a statement in relation to these instruments.

Leave granted.

MR QUINLAN: Mr Speaker, as required by the Financial Management Act 1996, I table four instruments issued under sections 14, 17 and 19B of the act. The directions and statements of reasons for the above must be tabled in the Assembly within three sitting days after it is given. The instruments relate to the 2003-04 financial year.

The first section 14 instrument transfers the Multicultural Festival to the Multicultural and Community Affairs Group of the Chief Minister's Department. The transfer of $200,000 between provisions of the Department of Urban Services allows the completion of the Belconnen pool project through facilitating final grant monies to Sports Centres Australia.

The section 17 instrument increases existing funding from the Commonwealth as part of the Commonwealth's television black spots program.

Finally, Mr Speaker, section 19B of the Financial Management Act allows for an appropriation to be authorised for any new Commonwealth specific purpose payments where no appropriation has been made in respect of those funds, by direction of the Treasurer. In this case, the Department of Treasury has received an additional grant applying to the ACT softwood industry of $1 million. This grant is to assist the ACT softwood industry to recover after the January 2003 bushfire.

Mr Speaker, I commend the papers to the Assembly.

Seventh Ministerial Insurance Summit
Papers and statement by minister

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

Ministerial Meeting on Insurance Issues—Hobart, 27 February 2004—
Ministerial report.
Joint Communique.

I ask for leave to make a statement.

Leave granted.

MR QUINLAN: Mr Speaker, this is the sixth time that I have reported to the Assembly on my attendance at various ministerial summits on insurance. As is customary, the ministers issued a joint communique. Members will recall these summits were convened in response to the public liability insurance crisis. Since then, as members will be aware, the issues have become more complex and expanded to encompass the medical and other professions, and some business groups.

The most recent summit was held on 27 February 2004. It was the seventh and, in some ways, the most important in this series of summits. The purpose of this meeting was to review progress on a very ambitious work program assigned to officials following the August 2003 summit. Ministers also received briefings from Mr Graeme Samuel, chair of the ACCC, an actuary commissioned by the ministers and by a number of insurance company chief executives.

Mr Speaker, the summit addressed three main themes:

- long-term care for catastrophically injured people;

- price movements in various classes of insurance; and

- availability of reasonably priced insurance for the broader community.

Long-term care is an issue raised by the ACT and has now been taken up in earnest by all governments. Broadly stated, the objective is to determine initially whether people who have been catastrophically injured are truly better off receiving lump sum damages or whether there is a better way of managing their lifelong future needs against the cost of provision.

It should be noted that motor accidents are the major cause of catastrophic injury. The level of injury to which I refer is acute quadriplegia or acquired brain injury requiring at least two hours of care per day for life.

Mr Speaker, for the first time in Australia, our officials, with the assistance of an actuary, have ascertained the number of catastrophic injuries per year across Australia under various statutory systems—compulsory third party and workers compensation—the amounts paid to them in lump sum damages and the global costs of rendering long-term care to them. The advice provided to ministers is that lump sum awards are, on average, dissipated within seven years. Further, the long-term care provided for in the damages is not always assessed and, if it is, often it is at a level insufficient to provide true long-term care.

Officials have also begun to estimate the cost of administering long-term care to those catastrophically injured in motor accidents or, in some cases, at work, but who cannot prove negligence and therefore remain largely uncompensated outside the welfare or family framework.

The plan is to devise a national framework within which long-term care can be provided efficiently to all people catastrophically injured as a result of motor accidents or at work. While work has been done on this issue, much needs to be done before the concept can be offered to the national community. However, all jurisdictions are committed to proving the concept and, if it is truly feasible once all the implications are known, considered and dealt with, implementing a national framework.

The price of insurance has been of concern to members in this place, particularly public liability insurance. The rate of public liability premium increases has moderated. The ACCC reported that national average premiums in real terms increased by 44 per cent in 2002. For the first six months of 2003 the average premium increased by 4 per cent. The effect of the government's liability reforms was estimated to provide reductions in claim costs, and therefore premiums, of around 3 per cent. This estimate did not take into account the majority of ACT tort reforms enacted in the latter part of 2003.

However, public liability premiums are expected to rise by 11 per cent on average for 2004. The government has anticipated this. In addition to the government's indemnity reform legislation, in November last year I launched significant enhancements to Treasury's online risk planning technology, together with a series of 20 insurance business risk seminars targeting small businesses in the Australian capital region. All seminars were fully subscribed and the 16 seminars held so far have been rated highly by participants. I have instructed my office to continue their community and small business engagement efforts for the remainder of this year and to develop additional policy and strategy options if necessary.

In February this year, I launched the government's enterprise-wide risk management framework. For the first time in Australia, a fully integrated risk management policy and operational infrastructure will operate across the whole of government.

Availability of affordable insurance was a theme ministers took up in their discussion with insurance company executives. While general insurance products, including public liability, are more available, there are still areas of high cost, low availability public liability insurance that affects those least able to fend for themselves. The insurers agreed that they had a social responsibility to consumers with respect to both the availability and affordability of insurance products and agreed to pass on the dividends they obtained from tort reform. The ACCC advised it would seek additional powers if insurers failed to deliver on their undertakings.

Mr Speaker, the government is not going to relax in light of these small steps forward. While this government has done much for the ACT community sector, it is clear to me, as I have outlined before in this place, that there is still work to be done by all Australian governments. It is for these reasons that the government continues to be a very active participant in ministerial and intergovernmental committees. In this regard, the outcomes

of the seventh insurance summit underscore the benefits of the hard work that the ACT government has done in relation to these summits.

The ACT proposed that more direct, relevant action be taken nationally with respect to the long-term care of catastrophically injured people. This has been taken up and is proceeding as expected.

The ACT expressed concern that the benefits of proposed tort law reform could not be guaranteed for consumers because the ACCC lacks sufficient enforcement authority. The Commonwealth and the ACCC have recognised the possibility of enhancing the ACCC's powers if it becomes clear that cost savings are not being passed on to consumers. Mr Speaker, the government will continue to keep members informed of developments as they occur.

Papers

Mr Wood presented the following papers:

> Subordinate Legislation (including explanatory statements unless otherwise stated)
>
> Legislation Act, pursuant to section 64—
>
> > Civil Law (Wrongs) Act—Civil Law (Wrongs) Amendment Regulations 2004 (No 1)—Subordinate Law SL2004-8 (LR, 2 March 2004).
> >
> > Public Sector Management Act—Public Sector Management Amendment Standard 2004 (No 1)— Disallowable Instrument DI2004-27 (LR, 4 March 2004).
> >
> > Supreme Court Act—Supreme Court Amendment Rules 2004 (No 1)—Subordinate Law SL2004-7 (LR, 25 February 2004).

Mental health
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 state of the mental health system in the ACT.

MR SMYTH (Leader of the Opposition) (3.39): Mr Speaker, I propose this matter of public importance today as it cannot have escaped anyone's attention that there has been a lot of media attention lately on mental health in the ACT.

Let me read some of the headlines that have been in the *Canberra Times* over the last few months: from 27 February, "Mental health plea for action"; 19 February, "Don't mix mad with bad: criminologist"; 18 February, "Blast for system that jails the sick"; 18 February, "Furore on mentally ill grows, Dire need for secure facility"; 17 February, "Mental health patient outcry, Courts being blackmailed"; 31 January, "Mentally ill exploited, Abused in custody"; 28 January, "Nowhere for them to go, says Magistrate"; 12 January, "Parents plead for family"—the family of a schizophrenic woman who has

been in and out of the prison system for almost 10 years. Indeed, letters to the editor were headed "Community-based support is just not there", "Quality care crucial on mental health", "Flaw in mental health service" and "Specialist psychiatric care facility needed".

Part of this attention is based on the inability of our justice system to handle those who are mentally ill, and we have seen, unfortunately played out in a very public way, the plight of two young women in the criminal justice system. In the case of one of these women we had the extraordinarily nasty circle at work. She has an episode, is admitted to the PSU, assaults staff at the PSU, gets hauled before the magistrate whose only choice is to send her back to the PSU, the PSU refuse to admit her because she is violent and so she ends up at the Novotel but later on ends up in the Belconnen remand system.

If this particular incident did not get the minister's attention then perhaps he should have attended the recent mental health forum hosted by the Schizophrenia Fellowship. I notice that the minister and other members of the frontbench—the other ministers of the government—did not attend. If the minister had attended, he would have heard many tales of heartbreak from friends, families and carers of people with mental illness. Also, stories were given personally by people with mental illness. While the stories varied, they did have common themes. Without exception, they all felt this current system was letting them down. Many of them were complimentary about the efforts of mental health teams in the field and they all had useful and constructive suggestions for improvement.

No doubt the minister will soon rise up on his hind legs and say, "How dare the Liberals talk about mental health after what they did. How dare they when they underfunded the mental health system." Let me say here and now that, yes, I believe we could have done more in mental health when we were in office but we did not have the funds because we were left a $344 million operating loss. And when we did spend we got better value for the dollar than the current government does.

As I have said, I believe we could have done more, just as I believe that the current government should be doing more. I have a news flash for Mr Corbell: the spending on mental health as a proportion of the health budget has not changed—it is still approximately 7 per cent. Let me also say for the record—and it is something for all of us here to ponder—that I am told and I believe that mental health spending should be closer to 11 or 12 per cent of the health budget to really effect change. That is the level of spending in those countries and jurisdictions that are dealing with mental health better than we are in the ACT.

I understand that that represents a lot of money but the ultimate point is that it will cost us a lot less than losing one Canberran a month to mental illness. And it is not just about the money. I know that this is a hard concept for the government to understand, but it really is about what you do with the money that counts.

I would draw members' attention to an excellent report released recently by the Mental Health Council of Australia entitled "Out of Hospital, Out of Mind". I will not go into it in too much detail but it does say that the post-Richmond report policy of de-institutionalisation has failed. The council says that the failure is not a failure of the policy but rather a failure of implementation. I would argue that a failure of implementation would suggest that there is a serious problem with the policy.

Nevertheless, the feeling at the mental health forum was that the Richmond policy had its merits—it just needs to be better funded and better run.

The other strong feeling of the forum was the need for a secure facility and a forensic facility. There is no reason why we cannot embrace both community care and institutional care for our mentally ill. The problem with the Richmond model is that community support is fine until a patient is psychotic and cannot be dealt with by either the carers or by the CAT team. If there is nowhere to admit a psychotic patient or a patient who is at risk of suicide then community-based care fails. We have to accept that there is a point where hospitalisation is required both voluntary and, in some cases, involuntary.

Mr Speaker, I really do not want this to be a partisan debate but the Labor Party seems happy to use typical Labor bovver boy insults. They do not seem to understand that people are dying because our mental system—and I emphasis, Mr Speaker, "our mental system"—is not managing. It is too important an issue for partisan slanging matches and I really wonder what the motives of the government, particularly Mr Stanhope and Mr Corbell, are in some of their public utterances.

I think it needs to be pointed out to the government that the ideas that I have put up in the mental health debate come directly from extensive consultation with clients, carers and mental health professionals. It seems that the Labor Party oppose these initiatives because they come from the Liberal Party. This is a shame because the Liberal Party is merely in this case listening to the community and representing their ideas in the Assembly.

It amazes me that the government continues to assert that there is no need, for instance, for a time-out facility. They see no need for a secure facility of any kind and Mr Stanhope has dismissed out of hand a forensic facility as part of the prison. I have lost count of the supporters of the time-out facility. The Schizophrenia Fellowship, former Chief Police Officer John Murray, Chief Magistrate Cahill and Magistrate Burns are just a few who have said that such a facility is required. The question is: why won't the government listen?

Mr Corbell: Name some of the consumers who want it.

MR SMYTH: Mr Corbell says, "Name some consumers". I am not going to name in this place consumers of mental health services here in the ACT.

Mr Corbell: You have never met a consumer who wants it.

MR SMYTH: It is entirely inappropriate for the minister to even suggest such a thing. If Mr Corbell had bothered to attend some of the forums he could have actually met the consumers—

MR SPEAKER: Direct your comments through me, Mr Corbell. Please cease your interjections.

MR SMYTH: They were at the meeting and they were saying that this should occur.

Mr Speaker, let us look at the question of a forensic facility. Mr Stanhope has said it would be too expensive and remarked that we can purchase the service for, say, $150,000 per person per year from New South Wales. Well, I would be interested in knowing just where these beds are. Are they at Kenmore, are they at Morrisett, will they be at Long Bay?

The reality is that New South Wales does not have enough forensic beds for its own needs. They are not going to be able to rent us beds that do not exist. That, by the way, is also ignoring the rather inhumane policy being espoused by the government that we should be sending forensic patients a long way away from their families, a long way away from their support networks and a long way away from their community.

However, Mr Speaker, the lack of beds in New South Wales is an opportunity for us and if we, for instance, built a 10-bed forensic facility as part of the prison, I am sure that we could always lease any excess beds back to New South Wales. I guarantee you they would be snapped up in a second. The advantage there is that people from our region, from down the coast, out to Wagga and down towards the snow country, who have difficulties could be housed much closer to their families, to their support networks, their communities, and that would be a good outcome.

The remand centre Official Visitor has told us that up to a third of remandees have mental health issues. I take Mr Refshauge's point that not all of these remandees can blame their actions on mental illness. The proportion that can, though, is still significant. This is a real problem. There are very serious adverse events occurring monthly and something must be done. If you look at the New South Wales corrections website, they say something like 40 per cent of inmates in the New South Wales system have mental health problems.

It is not just a matter of money: it is a matter of listening to those in the community, listening to the families and friends of those who are affected. It is about listening to those who have a mental illness and to those who have recovered from one. If the government does that, as I have done and, indeed, as Ms Tucker and Ms Dundas often do, they will find out how to address the problems and they will find the solutions. They will then just need the courage to actually do what is needed.

The Canberra Liberals are aware of the problems in mental health and we are acutely aware of the shortcomings of the past. However, under my leadership, the Canberra Liberals are committed to solving the problems of the mental health system. Indeed, I can say that mental health policy will be at the forefront of the policies that we will take to the people of Canberra at the next election.

MR CORBELL (Minister for Health and Minister for Planning) (3.50): I thank Mr Smyth for bringing this matter of public importance before the Assembly today. Mental health is a matter of importance for all Canberrans and it is certainly a priority for the Stanhope government.

When the Stanhope government came to power in 2001 the spending for mental health in the ACT was $67 per head of population, the lowest in the country. Mental health had been neglected and ignored for five years under the previous government. I am proud to

stand here today and describe some of the achievements of the government in addressing this neglect. But you cannot fix everything overnight. Like most things in health, there are no quick fixes, just worthwhile investments in longer term positive reform, and it would be simplistic to suggest otherwise.

One of the first things the government did early in 2002 was to convene a health summit to explore the range of issues and challenges for the whole of the health portfolio, including mental health, and to seek input in developing ways to improve these services. The summit resulted in the development of the health action plan, which identified mental health as one of the major priorities for the government. The action plan has guided us in decisions about programs and initiatives in the mental health sector.

Since coming to office we have increased the funding for mental health from the miserly $67 per capita under the previous government to $115 per capita in 2003. This may still not be enough but it is a very significant improvement on the problems and the neglect we encountered on coming to office. Initiatives under these budget increases have enhanced the services for mental health consumers in the ACT, especially in the area of community-based care. Funding has been targeted particularly in the areas of supported accommodation, respite care and additional mental health after-hours and outreach teams to support people in the community.

In 2003, Mental Health ACT provided care for 6,291 people. This included 1,226 inpatient hospital separations and 177,443 community occasions of service—an increase of 26,443 from the 151,000 community occasions of care provided in 2001 under the last government.

There is little doubt that the demand for mental health services is ongoing and increasing in several areas. The government does not want to let mental health consumers down. Investing in good mental health services is a sound investment in the welfare of individuals and the welfare of the community. This was a point obviously not understood by previous administrations.

In line with international and national current best practice and standards, there is now an emphasis on providing services for clients in their own homes or in regional community team centres. Except for acute care, the aim is to reduce the use of hospital and extended-care beds and to care for people with a mental illness in the least restrictive environment.

Mental Health ACT provides a full range of mental health services for the ACT community, including 50 acute public inpatient beds, four adult community teams providing community-based case management, crisis intervention, child and adolescent mental health services, older persons mental health services; and a range of specialist services, including forensic mental health services, a dual disability program, an eating disorders program, perinatal services and a drug and alcohol linkage program.

The government also provides $4.45 million to fund a range of community organisations to provide a wide spectrum of services for people with a mental illness living in our community. These services include supported accommodation, respite care, outreach services, vocational training and employment, carer and consumer advocacy and support, mental health education and promotion, mental health support to refugees, services

focused on the social and emotional wellbeing of Aboriginal and Torres Strait Islander peoples and leisure and recreational programs.

The government has commissioned a number of investigations into the status of mental health services in the ACT and ACT Health is working to implement all the recommendations of those reviews aimed at continuing to improve mental health services. The government has fulfilled requests by the Assembly, in particular by the chair of the Standing Committee on Health, Ms Tucker, for regular reports on progress in its implementing the recommendations arising from the Mann-LaRoche report into the psychiatric services unit at the Canberra Hospital.

The government also provides the Assembly with reports regarding the recommendations made by the Health and Community Services Complaints Commission. The government is committed to an open and transparent analysis of the problems and opportunities for improvement in all areas of health, including mental health. This is, I have to say, in marked contrast to the previous administration.

Most recently the Chief Minister established an interdepartmental committee to explore the full range of issues around the appropriate management and care of forensic mental health clients, in response to the public commentary and debate we have seen in recent weeks. This is an extremely complex and emotive issue, and one which has been the focus of media interest over recent weeks and months.

I think it is worth saying, Mr Speaker, that all involved acknowledge that there is no one simple solution to the complex needs of this group of clients who have very particular requirements for support, accommodation and clinical care. It is also worth making the point that the viewpoints of carers and the viewpoints of consumers themselves will not always necessarily align. We need to be conscious of these needs and the needs of the wider community and not respond with a knee-jerk response.

I do not wish to pre-empt the findings of the interdepartmental committee, which is due to report to the Chief Minister shortly, but I can assure the Assembly that this matter is being taken very seriously by the government. We are committed to developing ways to ensure that forensic mental health clients have access to the safest and most appropriate care we can provide. In his comments, Mr Smyth raised issues about where these beds were. Currently the arrangement is for beds provided by the Hunter Mental Health Service in New South Wales.

We are not content to rest on these past improvements. We acknowledge there is still a long way to go to reverse the damage and neglect of previous years. We continue to look to the future and to develop a strong and strategic direction for the delivery of mental health services across the territory.

The draft ACT mental health strategy and action plan 2003-2008 will be launched in the next few months and it provides directions for improving the mental health of all Canberrans. The release of this document has been postponed to allow significant community and consumer input. The mental health strategy and action plan has been developed in consultation with a wide range of health professionals, consumers, carers, community organisations, other government agencies and the general public. All parties have worked together to achieve a genuine collaborative agreement on mental health

priorities and actions for the people of the ACT. Indeed, as I have indicated, the consultation timeframe for this strategy was extended to ensure that all interested parties had a chance to have a detailed say.

The strategy also provides a base for further consultation and participation to identify and address specific and emerging areas of need within both public and community mental health services. The plan is in line with the broader social policy framework of the Canberra plan and, in particular, the social plan, the health action plan and the national mental health strategy. It will also, of course, reflect the outcomes of the government's current work on forensic mental health services.

I look forward to continuing to work with all key stakeholders in implementing this plan as we seek to continue to maintain and improve the quality mental health care that all members of the ACT community deserve. This is an indisputable and clear commitment made by the government. It is backed up by our actions to date and we will continue to work hard on this issue.

MS TUCKER (3.59): As Mr Corbell said, as chair of the health committee I have certainly written to the minister requesting reporting on the government's response to the Mann-LaRoche report and the Patterson report.

There really is so much that I could say. I could go through every single recommendation of Mann-LaRoche or Patterson and potentially criticise a lot of the government responses, and the slowness of the responses, to a number of key and critical recommendations of both these reports. I would also be able to acknowledge where some work has been done and give credit where it is due. But there really is so much, I do not think I will even start. What I might do is make a couple of general comments.

Firstly, I think there is still a tendency to focus very much on the medical model of mental health. That is something that applies more generally to health, of course, and is in response to the political and community pressures around acute care. While I appreciate that those pressures exist and government has to respond to them, I get concerned when it is to the detriment of the broader social health model.

In mental health in particular, what has come out clearly time and time again from people involved in the field, particularly consumers and their families and loved ones, is the need for government to understand better and resource better the notion of social mental health. This means that you look at people in a holistic way—you do not leave them isolated in the community.

There are social supports in place to enable these people to reach their life goals. If people are experiencing mental illness and are vulnerable—and my memory of the statistic is that one in five of us experience mental illness at some point in our lives—social support, if available, will help them get through this period in their life in a way that does not scar them permanently. Basically, for some people their period of illness can become chronic because of the lack of social support, the associated stigma, and the loss of things such as employment, housing, social connections. These factors are critical to how a person will get through an episode or episodes of mental illness. I have to say that I do not think we do that at all well.

In respect of the more acute aspect of mental illness, some of us have had loved ones die while we thought they were in the care and protection of the mental health service. Key recommendations have come out of a number of coronial reports. I will talk in particular about the coronial report of my friend Bob Beatty. I will comment on not only the coronial recommendations but also the general feedback I am getting from the community about how well those recommendations have been dealt with.

I will briefly summarise the recommendations of the coroner. I probably need to say—I note that the coroner has written this—that I am not attempting to blame; I am attempting to be constructive in raising these points. I hope that the government is learning from these tragedies and the recommendations that come out of the inquiries that look into them.

The key issues identified by the coroner were, firstly, that there was the absence of therapeutic interaction between staff and patients in PSU. The feedback I am getting generally is that, while it is generally changing, it is still a problem. Some of that relates to the physical structure of PSU and the well understood problems now—and I know the government understands this—about the position of the nurses' station. I know from the last response that I saw, which was December, that it is being looked at. I do not think we have got a March response from the government, so we are due for one quite soon. But work was being done, architects were being consulted, et cetera. I am hoping that in the March response to these reports we are going to be told that work has started.

There are also questions of therapeutic relationships between staff and consumers. There are questions about the number of staff members in the unit, and obviously that can aggravate that situation. Some members of the staff have an unhelpful cultural attitude, and that has been highlighted by consumers many times. I am sure the government is already aware of that. There are certainly opportunities for professional development and support for staff who are not helpful. This can, as much as anything, be a result of all the other things that I mentioned—unacceptable working conditions; a bureaucracy or a culture within the bureaucracy which is not affirming of the extremely stressful work that people are doing on the ground.

The health committee is certainly interested in looking at how the cultural attitude within the bureaucracy meets the needs of workers right through the system and particularly those people on the ground who are quite often dealing with, as I said, quite stressful situations. The expert evidence also talked about the notion of a low stimulus environment, which they criticised. They made it quite clear that the only way to have a low stimulus environment is to have ongoing involvement of staff with patients who are at the peak or trough of their illnesses, and that is part of the therapeutic engagement.

The observation regimes and poor note taking in the recording of the observations were also issues. As I understand it, there are still serious issues in respect of continuity of patients' records, whether those records are in paper form or computer form, and how they relate to each other. Maybe that has been fixed up, but I am looking forward to hearing about what has been done. Another question that has recently been raised again publicly—and this was certainly in the coroner's report—is the implications for the management of the psyche unit when a patient is very disturbed and dangerous. This was one of the quite significant issues that came up in the coronial report on Bob's death.

I have talked about the design of sight lines and so on as being really important. There is also the question about the currency of the treatment and care plan. I understand from speaking to consumers that this came up at the forum that was held to commemorate Bob's death. People who spoke at the forum raised the question of whether we are really seeing a plan developed which involves consumers, carers and other health workers, where there is a real focus placed on early warning signs and so on.

There were also issues around the coronial process, and I do not know if they have been fixed up—issues such as the fact that the process took two years. Very serious consideration has to be given to the devastating impact that has on people who were involved with a person who has died. I have witnessed firsthand the impact on people of not being able to experience any closure for over two years. There were some delays that resulted from the reluctance of people within Health to speak to the coronial process, and that is already well understood here. But I still am not sure whether that has been dealt with, so I hope that is also in the government's report back to the committee.

My final comment is that it is critical to work with the carers and people involved with people who have a mental illness, because they are often the ones who know best what is going on. I know the government have said that they are working on that and they have got different forums. I am sorry to say that I am still not hearing that there is real respect for this role in some circumstances but I have been told that that is improving. As I said, I do not have time to go through all of the other issues—triage, CAT teams and so on—that were mentioned in the Mann-LaRoche and Patterson reports, which have to be addressed in a detailed response from the government.

MRS BURKE (4.09): Firstly I will address some of the comments by Mr Corbell. He stated that mental health was a priority of this Labor government. If Mr Corbell insists on quoting from the national report on health, I suggest that he should look at the correct page and the correct references. He would see there very clearly the true picture. That is that under the Follett government spending on mental health was at its lowest point, but perhaps he does not want to see that or read that. The Liberals increased funding and it has kept on growing ever since. Another thing the minister said which opened my eyes wide was in regard to the forensic unit. Certainly, for humanitarian reasons it would make sense to have such a unit within the ACT. The Hunter Area Health Service is a long way from Canberra—north of Newcastle—and to send forensic mental health clients there is really not acceptable.

I applaud the Leader of the Opposition, Mr Smyth, for bringing forward this issue today, as it is an issue that we need to keep out in the public arena. We cannot let the state of the mental health system in the ACT fade into the background, given the Labor government's commitment to mental health. That is all good, and I am sure that the government will see that it is all good, too. My focus will be on and around public housing. I will outline the basis of my argument as follows. ACT Housing policy is not adequately addressing mental illness concerns. ACT Housing policy is not taking into account well enough national guidelines for mental health outcomes.

Many ACT multi-unit housing complexes make mental health outcomes worse by not adequately addressing dual-diagnosis strategies, for example. It is interesting to note that the plan that was put out by the former Liberal government, the 10-year plan dated 1

June 2000, has no additions to it. I confirmed today that this is the plan that we are following for, in particular, multi-unit properties. It is certainly falling short of some of the suggestions and guidelines under allocation policy. ACT Housing policy does not adequately address the merry-go-round phenomenon. Given the state of ACT multi-unit housing, tenants with a mental illness go back into a housing environment that is detrimental to their illness, hence the merry-go-round. People are desperately trying to get out of an habitual lifestyle, only to be thrown back into it by a system that seems to be inflexible and almost intolerant of people with such illnesses.

Let's look at some specifics. The guiding principles for national standards in mental health highlighted, among other things, the promotion of optimal quality of life for people with mental disorders and/or mental health problems; continuity of care through the development of intersectoral links between mental health services and other organisations; and a mental health system which emphasises comprehensive, co-ordinated and individualised care. I do not see much evidence of that happening with some of the tenants that I speak to and the residents who live around these people in multi-unit complexes and elsewhere. A mental health system which emphasises comprehensive, co-ordinated and individualised care is what we need to be looking for. Also highlighted were accountability to consumers, carers, staff, funders and the community; adequate resourcing of the mental health system; and equally valuing the various models and components of mental health care. With regard to housing and mental health in the ACT, where are the intersectoral linkages between housing policy and mental health objectives? Where are housing policies that promote an optimal quality of life for people with mental disorders and/or mental health problems? I am very concerned also to note in this thick document here that there is little to no mention, from my understanding, of mental health in the 2002-03 annual report of tenants, of people living in housing complexes.

There are other issues. The national action plan for promotion, prevention and early intervention for mental health 2000, put out by the Commonwealth Department of Health and Aged Care, acknowledged that health and illness is the result of an interplay between diverse factors including, and not by any means exclusive, biological, physiological, social, environmental, economic and political factors, and the importance of early intervention in mental health. It seems to me that we are not intervening in these people's lives, we are just ignoring them. Keeping them on this revolving pattern, this revolving door, a merry-go-round, from being well to not being well, to being well to not being well, is not adequate. It is not giving mental health the priority that is been spoken about in this place. If the government is committed to mental health why is ACT housing policy at odds with mental health concerns and national health objectives? Why are ACT housing complexes so dilapidated? The territory is awash with cash, so I presume we are to look forward to some really good outcomes with the Minister for Disability, Housing and Community Services spending all his money.

Why are ACT housing complexes honey pots for crime? Why do ACT Housing complexes have serious drug problems? The Minister can shrug his shoulders and huff and puff—he is obviously closing his eyes to some very big problems out there. Why do I receive countless concerns with violence at ACT housing complexes from people who should not be within these complexes but should be within a mental health step down facility? It is not fair on these people, they are suffering and they are causing inappropriate situations for other tenants and residents. That is not acceptable. It is not

these people's fault. We are not looking after these people. We have a duty of care. Why does the government continue to mix elderly tenants with young tenants who continue to display antisocial behaviours and also have mental health problems? We are not doing these people any favours by throwing them back into the community. I have talked to the minister. He will remember the conversation, his wrestling and struggling about saying we do not want an institution. He will not deny we talked about this, that there needs to be a type of facility for such people.

Mr Wood: You talk but you never listen.

MRS BURKE: No, you talked and I did the listening on that occasion. If the government is not convinced, then what about dual-diagnosis strategies? At the beginning of 2000 under the former Liberal government the ACT implemented a dual-diagnosis project based on a report entitled "Stopping the Merry-Go-Round" which identified a series of recommendations about dual-diagnosis needs in the ACT. Phase 1 of the project was completed in July 2001 and resulted in the ACT community care alcohol and drug program, the Canberra Hospital and the mental health service employing dual-diagnosis clinicians. The role of the senior clinicians is to provide consultation liaison services to their respective sectors and to facilitate and co-ordinate joint ventures. I strongly believe one of these joint ventures should be the development of housing policy that better reflected mental-health outcome needs. This means better integrating mental health and housing policy in the ACT. It is not good enough for Mr Wood to leave this place with the housing issue in the ACT in crisis with drug use, crime and anti-social behaviour at alarming levels.

The housing minister has not done a good enough job in regard to mental illness outcomes. I receive copious complaints to my office with regard to drug use, antisocial behaviour and crime at ACT multi-unit housing complexes. This housing situation is not conducive to good mental health outcomes and does not help housing tenants who are suffering from mental illness. ACT multi-unit housing complexes must be cleaned up. There needs to be greater policy integration, where housing policy better supports mental health objectives as stated by a number of reports I have just mentioned. Mental illness is a real concern and if the housing minister is committed to early intervention initiatives then the first port of call should be the cleaning up of all ACT multi-unit complexes.

MS MacDONALD (4.19): I support my colleague the Minister for Health in his statement. Despite the rhetoric and media attention around some aspects of mental health services in the ACT, the state of mental health services in the ACT is in a much better position than it was under the previous government and when the Stanhope government came to power in 2001. As the Minister for Health has indicated, this government has increased mental health funding significantly, boosting it from $67 per capita in 2001 to $115 per capita in 2003. Once mental health had been identified as a major priority in the ACT health action plan the government worked collaboratively with the department, the community and other key stakeholders to develop and implement initiatives to improve the delivery of mental health services across the territory.

Areas of need identified in the health action plan include early intervention, depression, suicide prevention, dual diagnosis, physical health, service integration and quality and safety. This government has made significant progress in addressing a number of these priority areas. In the past two budgets we have provided significant additional funding

for child and adolescent mental health services, Gungahlin outreach services, a link position between Calvary Hospital and the Canberra Hospital, a drug and alcohol mental health worker, discharge planner, supported accommodation initiatives, suicide prevention initiatives, and support for carers, among a range of other initiatives.

The government has also committed to providing 20 psychogeriatric beds in the new subacute non-acute facility currently being developed. This will provide a valuable new option for the ageing population of the ACT. We have moved away from the divisive purchaser-provider model of service delivery to develop a more collaborative way of working across agencies and with community organisations to enhance our ability to provide continuity of care and a more cohesive mental health service.

One significant initiative in the 2003-04 budget, particularly in view of recent media attention, was the establishment of the forensic court liaison worker to assist the courts when dealing with forensic mental health clients who come before them. The forensic mental health services team has also been boosted from a very modest four in 2001 to the current level of eight clinical positions in 2004. This enables the team to provide a range of forensic medical health services including court assessments, advice on management, education on mental health reports and other relevant personnel as well as providing in-reach services to remand centres. This and other initiatives are aimed at improving access to mental health services for people across the territory, including forensic mental health clients, and in improving the links between services and other agencies. The provision of a skilled workforce for mental health remains a significant challenge not only for the ACT but nationally and internationally.

This government is committed to working with all stakeholders to seek innovative ways of addressing this need. The government has also worked with the department to develop a mental health workforce strategy to improve our capacity to attract and retain appropriately qualified and skilled mental health workers. This has included working with the tertiary education sector to establish a post-graduate mental health nurse program, managing a scholarship program to facilitate skills enhancement opportunities and promoting the ACT as a preferred place of employment for mental health clinicians and providing assistance with relocation to the ACT for appropriately skilled workers.

As the minister has stated, the draft ACT mental health strategy and action plan 2003 to 2008 will provide the framework for this government to continue to provide a safe and continually improving mental health service for all Canberrans. We all acknowledge the need to continue to build partnerships across agencies and with the community sector to achieve this goal and we look forward to meeting that challenge. I add finally that we all know that this is a significant issue and one that we can always put more money towards. It will always be a difficult issue. It is my personal, very strongly held belief that this government is doing its utmost to address the issues of mental health funding and problems within the ACT.

MRS CROSS (4.24): I commend Mr Smyth for bringing on this matter of public importance because mental health is something that few politicians take as seriously as we should. Most believe that there are few votes in dealing with mental health. It continues to have a stigma that few people want to examine in detail, and it is an area that is not well understood by most politicians, not just in this place but across the country and, indeed, around the world. I agree that the ACT's mental health system is in

desperate need of assistance and probably a complete overhaul. However, we all need to have a good look at ourselves before that can happen. It is no good just throwing money at the problem or sacking a few public servants and hoping it will all go away, because it will not. It will continue to get worse until we as legislators understand the seriousness of the problem and do something to make a meaningful change.

I was most impressed when I saw a report on *60 Minutes* only two weekends ago about two people who had managed to control a serious mental health condition and now wanted to increase the awareness of the condition and mental health problems in general. It often takes the mainstream media to take on a problem before it becomes recognised by the general public and politicians. In that report it was stated that one in six Australians—and some will say one in five—have or will experience a mental health condition. That means that three or four of us in this Chamber have or will experience a mental health condition. Most of us will have a family member or close friend who will be afflicted by some form of mental health condition. It also means that more than 50,000 Canberrans have or will experience a mental health condition. That is a staggering number and yet the amount of money allocated to mental health in our budget is minuscule in comparison. I was amazed to hear the Chief Minister say in a recent interview in Canberra that Canberra was too small for a certain type of mental health facility. Just how many people with a serious problem do we have to have before he thinks Canberra is big enough to need such a facility?

I am told by a local pharmacist that I would be amazed at the number of senior people within our community who take medication regularly to control mental health conditions. These include people who are in positions where they make significant decisions about the way our country is run. They have recognised and control their condition with the use of drugs and few people would even know they have a problem. However, there are plenty of people who have not been so fortunate or who have more severe conditions. Many of these people end up being marginalised by the mainstream because their condition either goes unrecognised or untreated because the system is limited or non-existent. Often this results in antisocial behaviour. They sometimes hurt themselves or others. With a little help many of these problems could be avoided. One of the major problems people with mental health conditions experience is a stigma attached to the condition. This is one of the first things that need to be addressed before any real headway can be made.

Few people want to admit they personally have a problem—that is, of course, if they are able to recognise that they do. Family members are often the worst enemy of someone with a mental health problem. Because of their love for the person they make constant adjustments and excuses for the person's behaviour. It is very difficult to say to someone you love, "You have a problem, you need to get help". Because of the stigma surrounding mental health few people are able to admit to their workmates or colleagues that they have a problem. While no-one has a problem if someone takes a day or two off work because they have the flu, few workplaces will allow someone the same privilege because they were suffering from depression or having an anxiety attack. It is about time that we as legislators helped change attitudes to mental health. We need to instigate information campaigns to assist people in identifying problems before they become serious. We have no problem in spending significant amounts of public money on encouraging people to stay fit, to eat better, to quit or not take up smoking, to see a doctor about possible cancers and so on, but little has been done to show people how to

identify mental health symptoms, other than in the recent television advertising campaign about depression.

The more we make people aware of mental health the easier it will become for people to get help before the problem puts them or others at risk. The more we spend on detecting problems early the less we will have to spend on fixing the problem and often the adverse consequences later. We also need to ensure our mental health system is treated with the respect it deserves and gets sufficient funding to do the job we expect. We must look at the whole system from start to finish and make sure problems are able to be identified early, able to be treated properly and then able to be followed up on a long-term basis. Most mental health problems do not just go away like the common cold. We need to provide the mental health system with sufficient funding to ensure patients are able to get ongoing treatment where necessary.

While I have concerns with the government over the condition of our mental health system, I have to admit that it inherited the problem and also the attitudes of our community. So instead of just throwing mud let's do something that no other jurisdiction in this country has had the courage to do. Let's recognise that there is a problem. Let's all look deeply at ourselves and our own attitudes to mental health. Let's put politics aside for a short while and do something for the good of the community. If we look cynically at this there are unlikely to be a lot of votes in it for any of us so let's just do this so that when we all leave this Assembly we can look back with pride at the achievement and the difference we made to the lives of so many people.

MS DUNDAS (4.30): I am pleased that we are having this debate about the mental health system in the ACT. Last week, when we debated the way people with suspected mental illnesses were transported to hospital for assessment, we looked at one specific issue in relation to mental health. The Assembly agreed then that it made sense to reduce the stigma and confrontation in interactions between mentally ill and the police. I hope things are starting to get better in that way. What we have seen come out of that specific debate was more discussion about the broader problems with the mental health system in the ACT. The police feel quite rightly that it shouldn't be their problem, that they shouldn't be the ones called upon to help people with mental illnesses. That raised questions about how the CAT team is operating, what resources are there to expand the role of the CAT team so that they can transport people from their homes and into treatment.

We have a long way to go, and I think this debate has gone a bit of that way by raising all those issues. I have been attending the forums that have been held recently—from the forum that Ms Tucker mentioned in relation to Bob's death to the forum that Mr Smith mentioned in relation to a psychiatric care facility for people on remand. The overwhelming thing that comes out of those forums is just sheer frustration that there are so many people out there who are just tired—tired of continually getting the run around from one support service to another support service, to a different community organisation to somewhere else and still their mental illness and their mental health problems are not being treated. That is how we need to look at this. It is a health issue, and the proper treatments are not there to help many in our community.

One of the things discussed is the need to put more resources into after hospital care. We no longer discharge patients from psychiatric wards without finding out if they have

anywhere to go, so things have improved over the past 10 years. However, mentally ill persons in hospital receive 24-hour, round-the-clock care. Everything is on call. Then they are just released. Usually the most they can expect to get is five hours a day care. That leaves a whole lot of hours in the day where they're not getting intensive support. These transitions need to be better managed and support needs to be given so that people are learning to deal with their illness and to look after themselves. Of course, we need timely and appropriate services when a crisis does occur and enough capacity in our hospital system for patients to stay as long as they need. We have had the discussion about the lack of a secure mental health facility in the territory, and we need to have that discussion here in the chamber.

The Chief Minister opposed a criminal psychiatric institution because he claimed the demand would not justify the cost, but if this option is ruled out something else needs to take its place. The only solution we have seen from the government is another working party. We need some action to help people at their most desperate. I would like also to talk about what's happening to young people in mental health. Over the past couple of years we have had a lot of awareness-raising programs about youth suicide and about mental health problems of our young people. I take this opportunity to remind people that Friday 2 April is National Board Shorts Day, which is a fundraising and awareness day for the organisation Here for Life, who is dedicated to raising awareness of and preventing youth suicide. Mental illness and depression are frequent reasons why young people attempt suicide and these are real problems that need real solutions. We need to put resources towards empowering young people so they are able to help themselves.

We talk about building resilience in young people and we have identified all of these problems but the resources are going to programs to help on the ground. We have had great pilot programs, which then suffer from lack of funding. There's no continuum of care, there's no ongoing support. People might get great support over here but if something flares up again they get put on a merry-go-round. As the report says, we need to help people off the merry-go-round. With all the resources and all the talk that's coming from the government, that's what we need to focus on. That way we can start to make life better for those people who experience crisis while they're suffering from mental health problems.

MR STEFANIAK (4.36): One of the crucial issues and the one I will start with is the need for a secure mental health facility. Quite clearly, when in the space of three or four months probably half the magistrates on the bench are stressing the need for such a facility, it is time the government listened to that. That is the first point I want to make. We do not have a secure mental health facility here. There are some significant problems because of that. Today I was reading about a woman who for her own safety and the safety of the community quite honourably said, "Send me to the remand centre". I think she now probably has bail. She feels a bit better, she is stabilised, and can go back into the community. Clearly, someone in that situation should be able to be put into a secure facility for that purpose. So many people caught up in the criminal justice system would be far better off because of their problems being treated in a different way—hence the secure mental health facility. I impress that upon the government.

I have had a number of dealings—as most members in the Assembly have—with persons who have mental health problems. Some basic improvements can be made. One fellow came down from Queensland where he was still on some sort of community order or

perhaps a suspended sentence. I cannot recall the original sentence, but it related to smashing up his restaurant. It was a family restaurant, he and his wife were estranged, and it was because of his mental health problems. It is a particularly sad case. It was a young fellow I used to coach in the under 14s. He is now about 40 or so. He came to me with some accommodation problems and simple problems too like needing to transfer from whoever was assisting him with his problems at Woden to Civic because that is where he lived, and that seemed to take some time.

Whilst Mr Corbell's staff was of great assistance, there were still some really basic problems in his being transferred from Woden to Civic. On one occasion he presented in my office almost suicidal and was assisted reasonably promptly there. It brought home to me some of the very real problems in this area and the need for us to improve our systems to deal with people with these problems. I have not heard back from him. I will not say his name in this debate, but I will get in contact with Mr Corbell's office because I hope he is all right. The last time I saw him he had some significant problems and was a real danger to himself. He was suffering from utter depression as a result of his needs not being attended to. I certainly hope he is now being assisted by someone in the Civic region, which is where he lives, rather than at Woden. There are many issues. More recently, another lady who, from what her carer and friend tells me is quite normal, can hold down jobs and can study a part-time degree, but has some medication that—

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

Select Committee—Estimates
Membership

MR SPEAKER: I have been notified in writing of the nomination of Mrs Cross, Ms MacDonald, and Mr Smyth to be members of the Select Committee on Estimates 2003-2004 (No 3).

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

> That the Members so nominated be appointed as members of the Select Committee on Estimates 2003-2004 (No 3).

Electoral Act—Subordinate law SL 2004-6
Disallowance

Debate resumed.

MS DUNDAS (4.40): Before lunch I was talking about the coat of arms and what the coat of arms looks like. The coat of arms has been the official symbol of Canberra since 1928. Maybe the government does not like the coat of arms, maybe it does not fit with the government's design corporate image. Maybe it wishes to distinguish the Labor government from the former Liberal government that used the coat of arms, as did all governments before it. Regardless of the reason, this is not the way to change the official symbols of Canberra, not by some underhanded change through electoral regulation that the government hoped nobody would notice. We should not be putting a marketing slogan into the legislation so that the government of the day can brand itself in this way.

I am happy to debate our symbols and what they mean to our society but there is a process that needs to occur through consultation and debate with the people of Canberra if the government wishes to change those symbols. It was the last Labor government who opened up debate on the ACT flag. However, the people of Canberra seem to be quite happy with the present one. Equally, if we want to change the symbol of government in the ACT, we should have that debate with the people of Canberra. After all, it is their government. The decision should not be made by some marketing company. So if the official symbols of Canberra are to be changed, let us have that debate.

Some people would prefer something different to the present coat of arms. There are concerns about its link to the British monarch. It is quite a stark symbol, but change shouldn't happen just through a disallowable regulation. The coat of arms has a history and a symbolic meaning about Canberra's place as the nation's capital. It has cultural meaning and reflects some of our heritage. I do not want to see it replaced by some corporate-style logo that means nothing and is simply designed to project a positive image of the Labor government, especially without debate within the community.

So I repeat that I am not happy with the government trying to add that a government document be recognised by the presence of the phrase "Building our city, building our community". It is quite a disturbing trend that we're seeing from the government and I hope the Assembly will support this disallowance today. If the government is serious about changing the symbols of our government, it should have that debate with the community and not use some underhanded regulation changes to try to allow a slogan to become something of a government trademark.

MS TUCKER (4.43): The electoral amendment regulation that we're debating would mean that the current government could use the "Building our city, building our Community" logo on material that can appear to be electoral material without requiring an electoral authorisation statement. In other words, it would become an official ACT government logo. It is fair to say that while the "Building our city, building our community" logo is owned by the ACT government, it has become and is designed to be associated with the programs and policy platform of the current Stanhope Labor government. Making the program of this present government synonymous with the territory government more generally is to blur the line between the institution of government and the government of the day.

I understand that if Mr Stefaniak's disallowance motion is successful the logo could still be used on government documents if the ACT crest is on the documents and not require any authorisation in any form. So I cannot see that it is too much of an imposition. I also understand that as the logo is the property of the ACT government it cannot be used on party political material. If we succeed in disallowing this law, while the logo would still be stamped on government documents, it would be clear that it is a document of its time and reflecting this government's program, and that should not be such a bad thing for the Labor Party. However, it will not reinforce the political notion that this Labor Party is synonymous with government overall. So I will be supporting the disallowance.

MR SMYTH (Leader of the Opposition) (4.45): As Mr Stefaniak outlined quite clearly, this is a very disturbing thing that the government is attempting to achieve today through these regulations. We want to stop the growing arrogance with which, through the use of

the regulations of the Electoral Act, it can muddy the waters about what is an official publication and what is not. It is an audacious attempt by the government today to rort the Electoral Act.

Currently, government publications are exempt from the authorisation requirements of the Electoral Act if they have the words "ACT government" and the name of the agency publishing the material. That clearly identifies it as an official government publication. Government material often meets the definition of electoral material if it has the photo of a minister or quotes from a minister or any MLA.

Subordinate Law SL2004-6, Electoral Amendment Regulations 2004 (No 1), tabled last week by the government, changes that exemption to add the words "Building our city, building our community". We have to note that these are the words only, not the logo. We also need to note that there is not the triple requirement of crest, government and agency identification.

A government publication will be exempt if it only uses what the community is now referring to as "BOCBOC"—"Building our city, building our community". In effect, this will allow the Labor Party many months of free political advertising. There is nothing to stop the Labor Party from using BOCBOC as its campaign slogan after it has been used as a banner headline for any amount of taxpayer-funded advertising.

We need to remember that "building our city" was a Liberal government slogan. It was the third stage of "our city", "creating our city" and "building our city". Mr Stanhope said this morning that they have copyrighted it. I would be interested to see whether they have copyrighted just the words, because my understanding is that one cannot copyright words. Maybe the entirety of the logo, including the words "Building our city, building our community" under it, can be copyrighted. It is interesting because it is a slogan that the Liberal Party put out when in government some years ago.

There is also the point that BOCBOC is not an appropriate identifier. Governments should only be identified by their coat of arms or crest, the government's name and the government agency involved. As Ms Dundas pointed out so well, it is this trendy little symbol that some people would obviously identify with. Does everybody know what "Building our city, building our community," is? I think not. But I am sure that with a taxpayer-funded advertising campaign that may well be the objective of the government.

It is appropriate that we look to our symbols. They are established for the purpose of identification. They are the symbols that people recognise, and what we are seeing today is a most audacious attempt to rort the Electoral Act by the Labor Party. I refer to some advice my office received from the Electoral Commissioner on the matter. He said:

> This change was made as the ACT government has recently adopted new government publication guidelines relating to the use of the Building Our City, Building Our Community theme. One of the features of these guidelines involves, in some circumstances, dropping use of the City of Canberra Arms and/or agencies names and using instead the Building Our City, Building Our Community logo.

Let me read the last bit again. He said:

> Some of the features of the new guidelines involve, in some circumstances, dropping use of the City of Canberra Arms and/or agency names and using instead the Building Our City, Building Our Community logo.

Mr Stanhope's commitment that he will not use the BOCBOC, "Building our city, building our community", logo in campaign therefore is disingenuous. First, as he well knows, it is not the BOCBOC logo that is being exempted in this regulation. It is the words themselves. I draw members' attention to a statement Mr Stanhope made on August 19 last year, when he said:

> I will come to the point, Mr Speaker. Ultimately, responsibility rests with the government. I am happy to let members of the Liberal Party and Mrs Cross know here and now that I intend to go to the next election campaigning on this government's response and my personal response to the bushfires and to issues relating to the bushfires. As part of my campaign at the next election I hope to have some graphic footage of my involvement in bushfire-related issues.
>
> I would welcome the next election, which is to be held in 14 short months, being fought solely and exclusively on this government's response to the bushfires. I am happy for the people of Canberra to make the judgment that they feel inclined to make about my response and this government's response to those fires.

This makes it pretty clear to me that BOCBOC is about to get an extensive workout. We should not forget that while the logo is protected by copyright the words are not. This disallowance must be supported if for no other reason than to save the dignity of the concept of government.

Question put:

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

The Assembly voted—

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

Question so resolved in the affirmative.

Motion agreed to.

Planning and Environment—Standing Committee
Report 27

MR HARGREAVES (4.55): I seek leave to present a set of minutes relating to report 27.

Leave granted.

MR HARGREAVES: I present:

> Planning and Environment—Standing Committee—Report 27—*Inquiry into the building of a supermarket next to the Belconnen Markets*—Final minutes of proceedings.

I advise the chamber that this is a mechanical process, which completes the set of minutes that should accompany that report.

Construction Occupations (Licensing) Bill 2003
Detail stage

Debate resumed from 9 March 2004.

Clause 1 agreed to.

Clause 2.

MRS DUNNE (4.56): I move amendment No 1 circulated in my name *[see schedule 1 at page 1177]*.

This amendment seeks to delay the commencement of this legislation. As with a number of bills that are quite complex in their nature, we have to ensure that we take the community with us and, when legislation is operational, that the affected parts of the community understand its implications. There is still a high level of uncertainty and suspicion in elements of the industry about this bill and what it does. Before anything happens, the minister needs to ensure that there is a much higher level of understanding than is currently the case. In addition, I foreshadow that I still have considerable problems with schedule 2 of the amendments, and this will allow the minister more time to get into some shape those regulations that are causing members and the community a problem.

It was said to me in discussion the other day that waiting until 1 January may be a long time. I am open to negotiation on an earlier commencement date, but the routine commencement date will cause a problem. It did with the industrial manslaughter bill, and the minister came up with an alternative commencement date so as to ensure that the community understood the implications of the law. This is really a similar process. The industrial manslaughter legislation creates a precedent, and members should support it so that we know the community has a full understanding of what this bill does.

MR CORBELL (Minister for Health and Minister for Planning) (4.58): The government will not be supporting this amendment for the following reasons. With the passage of the Building Bill 2003, that legislation will commence automatically in September, if I do not commence it earlier. To delay the commencement of this legislation until 1 January will have serious consequences and the government cannot support it. The most critical issue that members should be aware of is that the Building Bill 2003 has no disciplinary or licensing provisions. That means that builders will not be able to be licensed in the

period between the commencement of the Building Act and the commencement of this legislation, if Mrs Dunne's amendment is successful.

Clearly, no disciplinary action can be taken either. A builder whose licence expired during this period would be unable to get a new licence and would therefore be unable to undertake building work. That is because the Building Bill clearly states that you must be licensed to do building work. So uncompleted building work would not be able to continue in those circumstances. Is that what Mrs Dunne really wants? That is likely to have significantly detrimental financial impacts upon the territory and undermine confidence in the ACT construction industry. I do not think that Mrs Dunne fully understands the implications of her amendment.

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

MR CORBELL: Is that what Mrs Dunne really wants—no capacity for builders to renew their licence during that period, no capacity for disciplinary action to be taken at all and building work commenced by a builder whose licence subsequently expires and is unable to be renewed, sitting idle during that time? The bill contains important reforms that should not unnecessarily be delayed, and it is clearly better that the two complementary bills have the same commencement day, so they can be implemented together. This provides a clearer and more certain regulatory framework for the building industry. Work on the implementation and education strategies are already well in hand, and in the government's view a delay until 1 January 2005 is both unacceptable and unreasonable.

MS DUNDAS (5.01): I will take this opportunity, while we are talking about the timing of this bill, to note that these bills did create some controversy, particularly in the building industry. That is because there has been a lot of misinformation around about how they will operate and what they will mean for people who work in the construction industry. This afternoon we will be debating amendments from every group in this Assembly. So I thought having a round table on this bill was appropriate. I convened that round table on Tuesday and by all accounts it was a very useful exercise. I thank all members for participating in that. I think we have all gained a better understanding of this bill.

Early in the week and last week, there was a suggestion that the Assembly was being obstructionist, trying to delay debating these bills. I counter that point and make it very clear that this is not the case. Members were simply trying to understand what is a complicated piece of legislation and what were some quite complicated amendments. We should use the roundtable approach more often. It is a great way to make sure everyone understands the issues and to clear a way for legislation to be debated clearly without having confusion and the misunderstanding of amendments flying across the chamber.

I turn to the specific amendment. Mrs Dunne has raised her concerns about the confusion that I have already spoken about in relation to this legislation. I take the points raised by the minister. The Building Act is in place. The minister has the discretion to delay commencement on this piece of legislation for up to six months, and I think there is time between now and September to get some information out there, to have the conversation

with the industry and then to have this piece of legislation commence. So while I see what Mrs Dunne is trying to do, I do not think we can support it, because of what we have already done with the Building Act. The message to the minister is to take the time before commencing this legislation so that the information in relation to the operation of this bill that was gleaned by members during the roundtable process can be fully explained and fully worked through with members of the industry.

MS TUCKER (5.04): The Greens will be opposing this amendment. This project has been years in development and on the table since mid last year. While various interest groups have put forward arguments as to alternative arrangements in some aspects, no-one has made the case for putting off the commencement date. If it is for the purpose of organising advisory boards and then developing a code of practice, it seems to ignore the reality of current standards and the mechanism of this bill.

The regulations, which are included as a schedule to this bill, are tied into existing standards, which the industry complies with. The Building Act, which was passed on Tuesday, describes how the quality of work is to be judged. The bill does provide for codes of practice to be established by the registrar in consultation with the advisory boards, but given that we are importing the existing standards into this new regime, it is no argument for holding off commencement of this bill.

Amendment negatived.

Clause 2 agreed to.

Clauses 3 to 30, by leave, taken together and agreed to.

Clause 31.

MR CORBELL (Minister for Health and Minister for Planning) (5.06): I seek leave to move amendments 1 and 2 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 1 and 2 circulated in my name *[see schedule 2 at page 1178]*, and table a supplementary explanatory statement to the amendments. Clause 31 of the bill specifies that a nominee of a licensed corporation or partnership has the functions of supervising the construction services for which it is responsible and ensuring that those construction services comply with the act and operational acts. Both the nominee and the corporation or partnership commit an offence if the nominee fails to meet those requirements. This clause also provides that it is a defence to prosecution if the nominee has given a mandatory requirement to the corporation or partnership in writing and provided a copy of that requirement to the registrar.

Concerns have been raised by industry representatives that a nominee could issue a mandatory requirement as a way of avoiding prosecution for failing to meet their responsibilities under the act and that the mandatory requirement may not be related to the alleged offence. That would then leave the corporation or partnership as the only responsible licensees open to prosecution. In order to address this valid concern this

amendment further specifies that the issuance of a mandatory requirement on the corporation or partnership by the nominee is only a defence against prosecution if the failure to comply with the mandatory requirement is the reason for the nominee committing an offence under this clause.

MRS DUNNE (5.08): The Liberal opposition will be supporting these amendments because they clarify the situation with the nominees. The issue in relation to nominees is causing angst in the building industry. On reflection, and as a result of discussion, especially with the drafters, I see that the concerns are not strongly founded, but again this is one of the messages that the minister and his officials need to get out into the community. We will be supporting these amendments because they clarify the situation.

MS TUCKER (5.08): The Greens will be supporting these amendments. The role of nominees in providing work quality assurance and in having a somewhat public role in that regard has been somewhat contentious. This clause provides that both the nominee and the construction company would commit an offence if they failed to supervise relevant construction services or failed to ensure that those services comply with the act. Interestingly, in regard to the nominee, the HIA and the MBA have interpreted the clause as being an issue primarily of discipline. They argue that it should be the company's or partnership's responsibility to discipline a nominee for doing the wrong thing and that only if the company fails to effectively discipline the nominee can and should the registrar take action against it.

They have argued "this process recognises the sanctity of the employment relationship as well as the fiduciary duty that a nominee owes to the company or partnership". The Greens would take the view that the employment relationship does not enjoy such sanctity and that nominees for a construction company also owe a responsibility to the public through the registrar. This clause ensures that the nominee carries the personal responsibility for ensuring that the work is supervised and complies with the act. If they the company do not accept directions when it is mandatory to do so, then the nominee will not be held accountable for the actions of that company.

While the HIA and MBA may prefer that nominees are simply qualified employees of the business this more public role for nominees delivers improved quality assurance and accountability. This amendment is important; however, it echoes an improvement of the process discovered in the development of the Architects Bill, which we can expect to debate shortly. The bill, as presented, would ensure that a nominee would not be committing an offence if they gave their employer and the registrar the mandatory notice. These amendments make clear that the nominee is protected only if the mandatory requirement that was ignored would have otherwise prevented failure.

MS DUNDAS (5.10): The Democrats will be supporting these amendments also. I understand that they simply clarify that a building nominee is exempted from prosecution for an offence if they notify the firm of particular events against the act and that has not been complied with.

Amendments agreed to.

Clause 31, as amended, agreed to.

Clauses 32 and 33, by leave, taken together and agreed to.

Clause 34.

MR CORBELL (5.11): I move amendment No 3 circulated in my name *[see schedule 2 at page 1178]*. This amendment is in response to a recommendation of the scrutiny of bills committee. Clause 34 requires the registrar to give written notice to certain people to whom the registrar believes it may be appropriate to issue a rectification order. Rectification orders require substandard construction work to be rectified. The bill allows the registrar discretion in deciding when it may be appropriate to issue the order. The amendment inserts a new note, note 1 at clause 34, which signposts that the registrar must have regard to the considerations specified in proposed clause 35A before exercising the power to issue a rectification order.

MS DUNDAS (5.12): This appears to be quite a simple amendment, but it is the first of a number of amendments that clarify the usage of the building regulator's discretionary powers. As Mr Corbell has noted, the scrutiny of bills committee brought up this issue and the government has responded by moving a range of amendments that further codify the usage of powers under the act. A number of industry groups were concerned that the regulator appears to have an inappropriate amount of discretion.

So, whilst this amendment only inserts a note, other amendments place more substantive statutory considerations into the act. The Democrats are happy to support this process and the other government amendments that seek to address this issue. I hope that these amendments go some way to reducing the concerns of the industry. I believe that they make the bill more rigorous in its application.

MS TUCKER (5.13): This amendment and the next two clarify some of the operations of rectification orders. I note that there has been some concern regarding rectification orders. I will take this as an opportunity to put our position on some of those matters. There is an argument that applying rectification orders to work that has occurred in the past and has now become apparent is retrospective.

It is important to state that unsatisfactory work which fails to meet the appropriate standards and would warrant a rectification order would have failed to meet the standards before the passage of this bill. We are not in this instance introducing harsher penalties, or imposing penalties, where they would not or could not be imposed. The changed arrangement is that the registrar now has a clearer power to order rectification and, with these amendments, somewhat clearer guidelines on how those orders are to be imposed.

I understand that the provision that rectification orders cannot be made to construction carried out more than 10 years prior to the order being proposed was a recommendation of the industry. To now argue that rectification orders could only apply to construction work carried out prospectively is a dramatic change of position which would greatly slow the introduction of a system which promises to deliver much quicker resolution of construction problems.

A particular industry concern seems to be that a client will use a rectification process as a convenient way of slowing down payments. That is why the HIA's preferred model

requires the registrar to assess whether outstanding money is owed. The registrar is then required to seek payment of outstanding moneys into a trust before issuing the order. We are creating a new level of complexity and conflict if we are going to drag the registrar into contractual disputes. What we are putting in place here is a licensing regime, and it is not appropriate to muddy the waters in this way.

It is also important to point out that the registrar needs to have reasonable grounds on which to proceed in regard to rectification orders and that licensees can dispute the order to be issued. Of course, nothing in the process prevents the licensee from fixing a defect that has been brought to their attention informally by their clients before it even gets to the registrar. These amendments make it explicit that the registrar must consider the impact of a contravention that has led to the possible issue of a rectification order—such as injury, loss or damage—and the impact of a proposed rectification.

MRS DUNNE (5.15): The Liberal opposition will be supporting this series of amendments of which this is the first. I welcome the advice of the scrutiny of bills committee on this because it raised similar concerns to those raised with me by industry. I suppose it boils down to the fact, as Ms Tucker said, that there is scope for contractual disputes. When one gets to the end of a building process there might be a dispute about the final payment.

This amendment gives clarity to that situation so that there is less likelihood of someone using the demerit system as a means of holding sway over a contractual dispute. I am reasonably confident that that is what this amendment will do, but we will only really see that over time. Legislators and officials need to keep that in mind in the application of the laws. It is something that will need to be kept in mind, when this bill is reviewed in the future, to ensure that the demerit point system is not used as a blunt instrument in contractual disputes.

Amendment agreed to.

Clause 34, as amended, agreed to.

Clause 35.

MR CORBELL (Minister for Health and Minister for Planning) (5.17): I move amendment No 4 circulated in my name *[see schedule 2 at page 1178]*. This amendment is the same as note 1 in amendment 3. It provides a signpost to the requirement of the registrar to take account of and consider proposed clause 35A before making a decision on a rectification order. The inclusion of note 2 in this amendment responds to scrutiny of bills report 45, which included advice in response to requests from Mrs Dunne in relation to the operation of clause 146, which relates to rectification orders.

While the scrutiny of bills committee confirms that the clause does not have retrospective effect, it made recommendations on the inclusion of some cross-reference notes. In order to ensure that the definition of contraventions of the act with respect to the rectification orders is clear, a new note 2 at clause 35 directs the reader to the extended meaning of contravention at clause 146. I am also moving amendments to insert the same note at clause 36 and clause 53.

MRS DUNNE (5.18): The Liberal opposition will be supporting this amendment. I thank the minister and officials for taking up the recommendations of the scrutiny of bills committee. I would like to go back to the reasons why we are debating this matter this week. It is simply because issues had been raised with me, and others, about retrospectivity. When I sought a briefing on retrospectivity what I heard did not assuage my concerns, so I wrote to the scrutiny of bills committee.

It turns out that I did not get the most thorough brief I could have, and my concerns about retrospectivity have been assuaged by the scrutiny of bills committee. I thank the committee for its fairly prompt turnaround on that issue. It is worth noting that, although there are some guideposts to retrospectivity, it was not picked up the first time through. The adviser of the scrutiny of bills committee had difficulty picking it up the second time through but, when he did pick it up, as well as assuaging my concerns about that specific issue, he picked up some other issues. So I think it was a worthwhile exercise.

It is an indication that members here do not lightly delay bills. We delay bills because we have concerns that need to be addressed. It is a lesson for the future that we have a more effective dialogue than we did on this occasion. Rather than using the letter of the standing orders to attempt to force your will, it would be much better in an Assembly—where there is no majority and where there are no other checks and balances except what the opposition and the crossbenches might raise—to have more dialogue. Then we would not have the unseemly divisions that we had last week and earlier this week.

I thank the scrutiny of bills committee for taking the time to go back over this issue and I applaud its members for their thoroughness. I thank the minister for taking up the issues raised by the scrutiny of bills committee. The concerns that were raised with me initially about retrospectivity have been assuaged, but it would have been remiss of me not to explore that matter. I foreshadow that, although I have circulated an amendment in relation to clause 146, I will not be moving it. It was an oversight that it was not taken out earlier.

MS DUNDAS (5.21): This amendment goes to the ability of past actions to attract a rectification order despite the fact that work was completed before the commencement of this act. As we have heard, Tuesday's scrutiny of bills committee report goes into some detail and explains that this bill is not an example of retrospectivity. The Democrats are always very suspicious of retrospective legislation and generally disagree with its imposition. However, we have been assured that this bill does not make retrospective law, as no action can be taken against a person unless the person has contravened the existing law. Thus, while the demerit scheme is a new way of reporting past contraventions, it does not impose any new penalties. This amendment is just a simple flag for a fuller meaning of "contravention" in clause 146.

Amendment agreed to.

Clause 35, as amended, agreed to.

Proposed new clause 35A.

MR CORBELL (Minister for Health and Minister for Planning) (5.22): I move amendment number 5 circulated in my name which inserts a new clause 35A *[see schedule 2 at page 1179]*. This amendment addresses the issue of discretionary administrative powers raised by the scrutiny of bills committee. Members will recall that in my response to the committee I indicated that criteria would be included to clarify the issues that the registrar must have regard to before making a decision to issue a rectification order.

This amendment inserts new clause 35A, which will require the registrar to consider certain matters when deciding whether it is or may be appropriate to make a rectification order. The considerations set out in the proposed clauses are any injury, loss or damage caused, or that could have been caused, by the contravention; and, if a rectification order is proposed, how the proposed order might affect people affected by the contravention.

The proposed clause includes examples intended to assist in understanding the kinds of things that the considerations may cover. They include reduction in safety, reliability, accessibility and any adverse effect on the health of the user of the thing affected by contravention. The proposed clause also stipulates that the registrar can take into account any other relevant consideration. The intention is to ensure that the registrar can consider matters of relevance that fall outside the scope of the substantive considerations. This recognises that a number of variables may be relevant to a particular circumstance.

This amendment will provide guidance to the registrar in the exercise of discretionary powers to issue rectification orders. This will enhance the consistency, fairness and transparency of decision making. The consideration will also inform the construction industry of the kinds of matters that can give rise to the issuing of a rectification order, thereby assisting the industry to comply with the legislation.

MRS DUNNE (5.24): The Liberal opposition will be supporting this amendment. Basically, it refers back to previous amendments. It gives clarity to what the registrar must take into consideration and, hopefully, will address the concern about contractual disputes.

Proposed new clause 35A agreed to.

Clause 36.

MR CORBELL (Minister for Health and Minister for Planning) (5.25): I move amendment No 6 circulated in my name *[see schedule 2 at page 1179]*. Scrutiny of bills report 45 included advice in response to a request from Mrs Dunne in relation to the operation of clause 146, which relates to rectification orders. While scrutiny of bills confirms that the clause does not have retrospective effect it made recommendations in the operation of clause 36.

Existing clause 36 (1) (c) provides that the registrar must be satisfied that it is not appropriate to make a rectification order because of the relationship between the landowner and the entity before authorising a licensee to rectify work. Clause 35 (3) places a limit on the age of work that can be subject to a rectification order. A

rectification order under section 37 cannot be made in respect of work that is more than 10 years old before the day the registrar proposes to meet the order.

The amendment substitutes a new clause, 36 (1) (c), which maintains the existing requirement and adds a second criterion, which has the same effect as clause 35 (3), so that the registrar cannot authorise a licensee to rectify work if the work is more than 10 years old before the day the registrar proposes to make an authorisation. It is appropriate to ensure that there is consistency of approach to the 10-year limit, and this applies to all aspects of rectification and authorisation of the licensed entities to undertake rectification work. This amendment also inserts the same cross-reference note to clause 146 that has been received at clause 35.

MRS DUNNE (5.26): The opposition will be supporting it because we understand the amendment.

MS TUCKER (5.26): The Greens will be supporting this amendment. It ensures that the registrar can authorise the licensee to rectify work, if the work is more than 10 years old, before the day the registrar proposes to make authorisation. It plugs an inadvertent hole that might have meant that, while rectification orders cannot ordinarily extend to activity more than 10 years old, if the registrar were authorising another licensee to do the work, they might have extended for longer.

MS DUNDAS (5.27): The Democrats will also be supporting this amendment as it clarifies that the territory can issue a rectification order for work that was done more than 10 years ago. It makes it quite clear here in clause 36 and in section 35.

Amendment agreed to.

Clause 36, as amended, agreed to.

Clauses 37 to 41, by leave, taken together and agreed to.

Clause 42.

MR CORBELL (Minister for Health and Minister for Planning) (5.28): I move amendment No 7 circulated in my name *[see schedule 2 at page 1179]*. Clause 42 (1) creates an offence in relation to hindering a person who is a licensee authorised by the registrar to do rectification work. This amendment removes the imprisonment penalty, with the maximum financial penalty of 50 penalty units remaining.

MS DUNDAS (5.28): The government amendment removes the custodial sentence for the strict liability offence in the act. This is the first of three strict liability offences in the bill that have custodial sentences. I note that this one was missed by the scrutiny of bills committee but has been picked up by my office. I applaud the government for moving the amendment to remove it but I reiterate the concerns that I have raised many times before in this place but specifically when debating the Building Bill.

These types of mistakes in relation to strict liability should be picked up before the government tables legislation in the Assembly and should not have been written into the draft bills at all. I hope that continued pressure from scrutiny of bills and here in the

chamber is filtering through and that we will not continue to see strict liability offences with imprisonment clauses attached.

MRS DUNNE (5.29): The Liberal opposition will be supporting this amendment as well. The comments that Ms Dundas made reflect the comments that both she and I made when we discussed the Building Bill. I commend Ms Dundas and her staff for their eagle-eyedness. This is a matter of particular concern—strict liability offences for which the penalty is prison. It goes to the quality of scrutiny of bills in this place, and the amount of time members put into scrutinising the bills, that things that should have been picked up long before getting to cabinet and long before being introduced are picked up in this place. I commend members for their participation in the process.

MS TUCKER (5.30): The Greens agree with the sentiments expressed. This amendment is supported.

Amendment agreed to.

Clause 42, as amended, agreed to.

Clauses 43 to 52, by leave, taken together and agreed to.

Clause 53.

MR CORBELL (Minister for Health and Minister for Planning) (5.31): I move amendment No 8 circulated in my name *[see schedule 2 at page 1179]*. This amendment inserts the same cross-reference note to section 146 that has been inserted for clauses 35 and 36.

Amendment agreed to.

Clause 53, as amended, agreed to.

Clauses 54 to 58, by leave, taken together and agreed to.

Clause 59.

MR CORBELL (Minister for Health and Minister for Planning) (5.31): I move amendment No 9 circulated in my name *[see schedule 2 at page 1180]*. Under the existing clause 59, the registrar must take into account any response given to the registrar in accordance with the disciplinary notice. This amendment retains that requirement and adds the requirement that the registrar must take into account the considerations under proposed clause 60A when the registrar is making a decision to take disciplinary action.

MRS DUNNE (5.32): The Liberal opposition will support this, and the subsequent amendments, because it clarifies what issues should be taken into consideration.

MS TUCKER (5.32): I will speak to government amendments 9, 10 and 11. They all have to do with considerations the registrar has to have when deciding on disciplinary action. The scrutiny of bills committee questioned the wide range of discretionary powers that can be found in this bill. This amendment fairly extensively canvasses the

considerations that the registrar must have when deciding on disciplinary action. It is intended to enhance the "consistency, fairness and transparency" of the decision making.

I certainly think it is important to provide the registrar with some guidelines, and I am a little perturbed that they were not factored into the bill at an earlier stage. At clause 110 I have an amendment defining the registrar as a public authority for the purpose of the Annual Reports (Government Agencies) Act. That report must include details prescribed in the regulations, including—as information to report to the minister in the regulations in schedule 1 of this act—details of all disciplinary action. It is through that reporting process that transparency, fairness and consistency can be judged.

MS DUNDAS (5.33): As I indicated when we were debating Mr Corbell's amendment No 3, the Democrats are happy to support this series of amendments, which clarifies the discretionary power of the building regulator. That will make this legislation better.

Amendment agreed to.

Clause 59, as amended, agreed to.

Clause 60.

MR CORBELL (Minister for Health and Minister for Planning) (5.33): I move amendment No 10 circulated in my name *[see schedule 2 at page 1180]*. This amendment inserts a note into the bill's existing clause to cross-reference to the considerations under section 60A that the registrar must have regard to before taking disciplinary action.

Amendment agreed to.

Clause 60, as amended, agreed to.

Proposed new clause 60A.

MR CORBELL (Minister for Health and Minister for Planning) (5.34): I move amendment No 11 circulated in my name, which inserts a new clause 60A *[see schedule 2 at page 1180]*. This amendment specifies the considerations that the registrar must take into account under clause 59, as has been previously mentioned. The criteria include the degree of responsibility of the person for the act, or admission that made up the disciplinary ground, and whether, and the extent to which, it is necessary to protect the public from the person.

The proposed clause also stipulates that the registrar can consider any other relevant consideration. The intention is to ensure that the registrar can consider matters relevant to a particular circumstance that falls outside the scope of the matters agreed to in the condition. This amendment will provide guidance to the registrar in exercising discretionary power to take disciplinary action. It will also enhance the consistency, fairness and transparency of decision making. The construction industry will also benefit from having clear guidance on the kinds of matters that the registrar must have consideration to in the disciplinary decision-making process.

Amendment agreed to.

Proposed new clause 60A agreed to.

Clauses 61 to 68, by leave, taken together and agreed to.

Clause 69.

MR CORBELL (Minister for Health and Minister for Planning) (5.35): I move amendment No 12 circulated in my name *[see schedule 2 at page 1181]*.

Clause 69 entitles the registrar to require certain people to give evidence and to produce certain things in certain circumstances. This amendment inserts a note into the clause, drawing attention to the rights provided for in the Legislation Act, which may exempt a person from having to comply with a requirement to give evidence or produce documents on the basis of self-incrimination or client legal privilege.

MRS DUNNE (5.36): The Liberal opposition will be supporting this amendment. I will just draw people's attention—unless this is a drafting quirk—to the fact that "self-incrimination" should be two words or a hyphenated word, not one word.

MS DUNDAS (5.36): I welcome the fact that this bill does not seek specifically to displace the privilege against self-incrimination. It is useful that this amendment points out the privileges in the Legislation Act, so I am quite happy to see that the government has not repeated the proposal put forward in the Dangerous Substances Bill, which actually displaced privilege.

I hope that this bill demonstrates that it is possible to have a workable regulatory scheme without having to displace the important legal principle of privilege. It would be interesting to compare how the Dangerous Substances Bill and this piece of legislation work at the same time. I hope we keep a watching brief on this and no longer have instances where we are removing important longstanding legal rights, like the privilege against self-incrimination.

Amendment agreed to.

Clause 69, as amended, agreed to.

Clauses 70 to 77, by leave, taken together and agreed to.

Clause 78.

MR CORBELL (Minister for Health and Minister for Planning) (5.38): I move amendment No 13 circulated in my name *[see schedule 2 at page 1181]*. This amendment has the same effect as my previous amendment, No 12.

Amendment agreed to.

Clause 78, as amended, agreed to.

Clause 79.

MR CORBELL (Minister for Health and Minister for Planning) (5.38): I move amendment No 14 circulated in my name *[see schedule 2 at page 1181]*. Clause 79 creates an offence in relation to a person pretending to be licensed when not retrospectively licensed in certain circumstances. This amendment removes the imprisonment penalty, with a maximum financial penalty of 50 penalty units remaining.

Amendment agreed to.

Clause 79, as amended, agreed to.

Clause 80.

MS DUNDAS (5.39): I seek leave to move amendments No 1 and 2 circulated in my name together.

Leave granted.

MS DUNDAS: I move amendments Nos 1 and 2 circulated in my name together *[see schedule 3 at page 1183]*. These are quite simple amendments, which change the penalties listed in section 80 from 250 penalty units to 50 penalty units for two strict liability offences. The imposition of 250 penalty units for these offences is clearly erroneous, and there is no other strict liability offence with penalties above 50 penalty units within this whole suite of bills.

In addition, the offences are for advertising without a licence nominee, but further on in the bill we find that there is an offence of building without a licence that provides a penalty of only 50 penalty units. It is quite odd that we are presenting a situation where you can get a penalty of 250 penalty units for advertising without a licence but, when you are actually doing the work without a licence, you only get 50 penalty units.

I think, and I hope, that part of the confusion arose from the fact that the value of a penalty unit is different for individuals than for corporations; for corporations it is five times higher. However, I think the presence of these penalties, along with the custodial sentences that we now are moving, show that greater care needed to be taken in developing this legislation. I hope that the Assembly can see how necessary these amendments are, even though they are quite simple.

MR CORBELL (Minister for Health and Minister for Planning) (5.41): The government will be supporting the amendment of the penalty units from 250 to 50. Following discussions with Ms Dundas's office, I consider that 50 penalty units is a more appropriate level of penalty, commensurate with the nature of the offence, as provided by clause 80.

MRS DUNNE (5.41): The Liberal opposition will be supporting Ms Dundas's amendment and commend her again for her eagle-eyedness.

Mr Pratt: That's "eagle—

MRS DUNNE: Don't worry whether it has a hyphen in it. It is a real concern that penalties like this would slip in beneath the radar, and I presume that they got there because they multiplied 50 by five—we are talking about company nominees here, rather than individuals. It does seem absurd that the penalty for doing unlicensed building is 50 penalty units, or $5,000, and that it is such an extraordinarily large amount, by comparison, for merely advertising incorrectly. I thank the government for agreeing to this amendment.

MS TUCKER (5.42): As members have said, these amendments adjust a strict liability penalty from 250 to a more usual 50 penalty units for advertising a service without the necessary licence, which is in accord with the penalty for providing the service itself without a licence. This was, presumably, an error.

Amendments agreed to.

Clause 80, as amended, agreed to.

Clause 81 agreed to.

Clause 82.

MR CORBELL (Minister for Health and Minister for Planning) (5.43): I move amendment No 15 circulated in my name *[see schedule 2 at page 1181]*. This amendment is the same as the previous one and removes the imprisonment penalty from clause 82.

Amendment agreed to.

Clause 82, as amended, agreed to.

Clauses 83 to 98, by leave, taken together and agreed to.

Clause 99.

MRS DUNNE (5.43): I move amendment No 2 circulated in my name on the yellow paper *[see schedule 1 at page 1177]*. This is a simple amendment, which states that the registrar "must" rather than "may" correct errors. I know we have dry, esoteric arguments about what "may", "must" and "shall" mean in legislation, but the school I come from says that "may" gives discretion and "must" does not. That is why this amendment is being moved. We are working on the basis that the registrar is a reasonable person, and we always work on that basis. But from time to time, without compulsion, for some reason errors may be overlooked. There are responsibilities to licence holders, and to the wider community, to ensure that the records are kept straight.

MR CORBELL (Minister for Health and Minister for Planning) (5.44): The government will be supporting this amendment.

MS TUCKER (5.45): This amendment makes it clear that the registrar must correct errors in the demerit register. While, arguably, "may" means "must" in some contexts, there is no room for doubt on this: if the register is wrong it ought to be corrected.

MS DUNDAS (5.45): This is a simple amendment to change a "may" to a "must". It will require the building registrar to change the register if they become aware of any errors. I do not think anyone has a problem with the changes, as members have indicated, although I think the suggestion that the registrar would intentionally not correct an error on the register demonstrates an unfortunately unhealthy level of suspicion. I commend the amendment; it clarifies the situation and codifies what we are trying to do.

Amendment agreed to.

Clause 99, as amended, agreed to.

Clause 100 agreed to.

Clause 101.

MRS DUNNE (5.46): I seek leave to move amendments 3 and 4 circulated in my name on the yellow page *[see schedule 1 at page 1177]*.

Leave granted

MRS DUNNE: I point out to members that there is an amendment 5, which I do not propose to move. I forgot to tell the drafters that I did not want to move it, and I apologise to the drafters.

Amendments 3 and 4 establish the registrar of all these building construction licensees as an independent statutory person, rather than someone who is subject to supervision by other statutory persons. There is considerable concern in the community, and I think I need to put on the record what that concern is. It covers two elements, the first being that building is quite separate from planning, a view that I heartily share.

Planning is about putting together the architecture, the design and the streetscape of something, and building is the execution of that—putting it into effect. It does not matter how good your planning is if your execution—the building process, the wiring, the plumbing—are wrong. If it is not up to scratch, it undermines the planning process. The opposition see those as separate entities which, whilst closely related, should be looked at separately.

The concerns raised with me by the construction industry are twofold. The first is that in the planning system there is a compliance unit with its own building inspectors and certifiers who are licensed by the registrar, which means that colleagues are effectively granting licences to colleagues. There is potential for a conflict of interest there, remote as it might be.

As an example, there is a lot of pressure on the compliance area—there always is—and there is a shortage of staff. Somebody comes along and wants to get the builders licence to become a compliance officer, and the registrar says, "Look, this fellow's just not up to scratch—for a variety of reasons." There is the possibility that pressure will be put on the registrar to give that person a licence and to allow him to operate as a compliance officer so as to meet the demand. That is an unsatisfactory way of doing it.

The other issue—and I must stress that this is not about the current arrangement, but it has been a complaint in the past—is that the registrar has had pressure put on him indirectly when he has attempted to take disciplinary action under the current regime against unsatisfactory builders. We should remove the scope for someone who has that sort of power being pressured by a superior officer to do or not do a particular thing.

This creates certainty, and it creates more confidence in the office of the building registrar—that is, in the office, not in the person. The office holder will, through this amendment, have more autonomy than is currently the case where he is a public servant. There have been significant problems with the administration of building licences in the ACT, and I recommend this as a means of ensuring that the office holder has the autonomy to do the job that he needs to do.

I know that there is concern about this, but I commend the amendment to members because I think that it goes a long way to keeping faith with the community and elevating this important office so that it better serves the whole community—not just the building industry, but the consumers in the building cycle as well.

MR CORBELL (Minister for Health and Minister for Planning) (5.51): The government will not be supporting this amendment for this reason. Clearly, if someone in the private sector is the most suitable applicant for the position, they will be appointed to the public service to undertake the registrar's functions. The registrar, of course, will continue to have other administrative functions, and the position sits within the ACT Planning and Land Authority, which has statutory independence.

The registrar will be responsible for the operation of ACTPLA's building, electrical and plumbing control team, which has roles under other legislation, such as the Architects Act, the Scaffolding and Lifts Act and the Building and Construction Industry Training Levy Act. These are clearly related functions that are appropriately managed by the registrar in overseeing statutory responsibilities for construction work. The government's view is that it is impractical for someone other than a public servant to undertake this role, given the other roles that mesh in with it.

MS TUCKER (5.52): The Greens will not be supporting these amendments. These amendments would establish the registrar as a ministerial appointment, and I do not agree that a direct ministerial appointment of the registrar is necessary or desirable. There is a benefit in independence, and the appointment of the registrar in ACTPLA through the usual competitive public service methods has some attractions over a position that is filled by a minister—arguably, on the advice of a couple of boards.

In fact, there are some real issues with appointments being made without an open appointment process, something we have seen in the courts of late. That is not to reflect on the quality of the appointments but rather to question the process of direct government appointment.

We should bear in mind that the bulk of the decisions made by the registrar will be appellable to the AAT. Amendments to this bill will also see a number of criteria introduced to guide the registrar in the exercise of administrative powers. My amendments to this bill also define the registrar as a government agency for the purpose

of the annual reports act. Regulations in this bill specify the areas that must be specifically reported to the minister and the Assembly.

MS DUNDAS (5.55): We need to be clear about what we mean when we talk about the independence of public servants. For years the Democrats have worked to maintain the independence of the public service by trying to ensure that government decisions are made fairly, with regard to factual professional advice and separated from the political interference of the government of the day.

The whole idea of creating the ACT Planning and Land Authority was to have a degree of independence from the minister and reduce the effects of political intrusion. With these amendments Mrs Dunne seems to have come up with a different sort of independence, in essence saying that two different parts of ACTPLA should be independent from each other. The solution she puts forward seems to separate one part, building regulations, from the rest of ACTPLA and put it back under ministerial control. During the in-principle stage of the debate on a land and planning act, Mrs Dunne attempted to remove building control from the duties of the Planning and Land Authority. We did not agree with Mrs Dunne then; we do not agree with Mrs Dunne now.

There are times when different parts of the public service need to be separate from each other. The Auditor-General obviously needs to be separate from Treasury and, as has recently been amply demonstrated, the Community Advocate needs to be separate from Family Services and the DPP needs to be separate from the police. However, I have not yet been convinced that there is a conflict between the roles of the building registrar and that of ACTPLA.

Good planning and good building are not in conflict. As Mrs Dunne said in her own speech to these amendments, good planning and good building cover good architecture, sustainability and a whole array of things. The discussion on sustainability, when we were debating the Building Bill, demonstrated quite clearly links between planning and building.

The point I am trying to make is that Mrs Dunne's amendments actually make the building regulator less independent in terms of political interference, and that would defeat the purpose of creating ACTPLA in the first place. Mrs Dunne's approach would see the building regulator less independent by subjecting them to greater influence from ministers, and I do not think they would get that kind of pressure as part of the ACTPLA structure. We will not be supporting Mrs Dunne's amendments.

MRS DUNNE (5.56): I thank members for their comments. I would like to make the point that this is not my personal view. It is a view of the Liberal opposition; it is a view that the Liberal opposition has held for some time. In doing so, I recognise that there is not support in this place at this time for this public policy move, but I would like to place on the record the commitment of the Liberal opposition after the election to review this legislation and to establish an independent building registrar.

Amendments negatived.

Clause 101 agreed to.

Clauses 102 to 109, by leave, taken together and agreed to.

Clause 110.

MS TUCKER (5.57): I move amendment No 1 circulated in my name. *[See schedule 4 at page 1184]*. This amendment requires the registrar to provide an annual report under the Annual Report (Government Agencies) Act 2004. Under the act, when passed, this report must conform with annual reports directions and be tabled in the Legislative Assembly. This amendment also requires the annual report to incorporate the reporting requirements found in the regulations in the schedule attached to this bill.

There is a concern that the registrar, who has wide-ranging administrative power, will be perhaps too much a part of the ACT Planning and Land Authority. I recognise that there is a danger that the functions could be too subsumed, and I believe it is important for all of us to have a clear view of how this regime is working. Nonetheless, I am of the view that a small, hybrid jurisdiction, such as the ACT—covering, as I have said, both the state and local government responsibilities—could benefit substantially from dovetailing the functions of planning and building control in the ACT.

Those benefits would be both economic and functional and would extend to the construction industry as well as government and consumers. This annual report requirement will ensure that the registrar accounts directly to the Assembly for his or her activities—through the report and, presumably, the estimates committee process—and gives us some more detailed indication of what is going on in this new scheme, how fair and effective it is proving and the nature of any recurring problems in the industry itself.

MR CORBELL (Minister for Health and Minister for Planning (5.59): The government will be supporting Ms Tucker's amendment. The existing clause required the registrar to report to the minister disciplinary action taken during each financial year. The registrar is accountable to the minister in administering this act and, clearly, disciplinary action is an important indicator of the compliance of licensees with the required standards.

Ms Tucker has identified through these amendments that complaints received by the registrar are also an important indicator of the effectiveness of the regulatory system. Sometimes complaints received do not necessarily relate to work against which discipline or rectification action can or should be taken. The nature of the complaints may, however, give guidance to the registrar and the industry on areas of concern that may require information or education strategies, not just for licensees but also for consumers. This is a useful extension of the reporting to the minister, and the government will support it.

MS DUNDAS (5.59): I am happy to support Ms Tucker's amendment. It presents a much better solution to the argument about independence than Mrs Dunne's proposal does. It gives the statutory responsibility to the building registrar to report independently to ACTPLA so that we see what is happening and what the building registrar is doing, quite separate from the ACTPLA annual report. It is a simple yet important amendment. I welcome, and am happy to support, the amendment.

MR PRATT (6.00): We will support the amendment, as we are in favour of accountability and reporting.

Amendment agreed to.

Clause 110, as amended, agreed to.

Clauses 111 to 140, by leave, taken together and agreed to.

Proposed new clause 140A.

MR CORBELL (Minister for Health and Minister for Planning) (6.01): I move amendment number 16 circulated in my name *[see schedule 2 at page 1181]*, which inserts a new clause 140A. This amendment extends the definition of the terms "former licensee" and "while licensed" for section 53 (3). The intention is to remove doubt that the bill's disciplinary action provisions apply to licences, permit holders and registered people that held or formerly held those authorities under laws that this bill repeals or under the laws that the bill refers to as its operational acts.

MRS DUNNE (6.01): The Liberal opposition will be supporting this amendment because it gets around the loophole of people who may suspend their licence as a means of avoiding demerit points. That would be a reprehensible situation. Therefore, we will agree to this amendment.

Proposed new clause 140A agreed to.

Clauses 141 to 145, by leave, taken together and agreed to.

Clause 146.

MRS DUNNE (6.02): I am not moving the amendment.

MR CORBELL (Minister for Health and Minister for Planning) (6.02): I move amendment 17 circulated in my name *[see schedule 2 at page 1182]*. Clause 146 deals with transitional arrangements in relation to contraventions, before the bill's commencement day may be taken account of in relation to rectification orders. The intention of the reforms was always to ensure that disciplinary action was available where a disciplinary ground occurred prior to the commencement day. However, it became apparent that the bill did not adequately provide for this. This amendment adds a reference to section 53—disciplinary grounds—so that a licensee is still accountable for a disciplinary ground that occurred prior to the commencement day but is discovered after the commencement day.

The nature of work that licensees undertake means that a ground for disciplinary action may not be discovered immediately. It is important to remind members that, as part of this package of legislation, the disciplinary provisions in the existing legislation will be repealed. This means that the power to take disciplinary action and issue rectification orders on construction work prior to the commencement day must be in the new legislation.

This amendment enables appropriate action to be taken under the new provisions. It is important to note that the new disciplinary process and actions that may be taken provide the registrar with greater flexibility to ensure that any necessary disciplinary action appropriately matches the nature of the disciplinary ground and that any decision to impose a disciplinary sanction is appellable to the Administrative Appeals Tribunal.

Amendment agreed to.

Clause 146, as amended, agreed to.

Proposed new clause 146A.

MR CORBELL (Minister for Health and Minister for Planning (6.04): I move amendment No 18 circulated in my name *[see schedule 2 at page 1182]*, which inserts new clause 146A. This amendment addresses a concern that was raised by some Assembly members and by representatives of the building industry in relation to the application of demerit points. It is important to note that a demerit point cannot be issued on an incomplete activity or task, as it is not possible to determine if the work meets the required standard until it is completed. The concern was that, unlike rectification orders, which can only apply to construction of work that is not more than 10 years old at the time that work is discovered to be defective, there was no time limit on the construction work on which the demerit point would be incurred.

I have listened to the concerns and, following a proposal from Ms Tucker, believe it is appropriate to place a reasonable limit on the issuance of demerit points. This amendment provides that a demerit point cannot be incurred against demerit disciplinary grounds if the incident occurred more than three years before the commencement of this act.

MS TUCKER (6.05): This amendment ensures that demerit points cannot accrue in regard to incidents that occurred more than three years before the commencement of the act. While it is not the fact that demerit points are in themselves a penalty, the accrual of a number of points does ensure that some disciplinary action is undertaken. There has been some general concern that this would constitute retrospective punishment.

This is not the case, as the standards against which any demerit incidents would be judged are the same both before and after commencement, and grants are only established against standards that existed at the time of the incident. Nonetheless, as demerit points themselves can aggregate only over three years, it seems a reasonable step to limit the exposure to the demerit system for three years prior to commencement.

Proposed new clause 146A agreed to.

Clauses 147 to 149, by leave, taken together and agreed to.

Schedule 1—Regulations 1 to 29, by leave, taken together and agreed to.

Regulation 30.

MR CORBELL (Minister for Health and Minister for Planning) (6.07): I move amendment 19 circulated in my name *[see schedule 2 at page 1182]*. This amendment inserts a note into schedule 1 cross-referencing to the considerations the registrar must take into account under regulation 31A before endorsing a builders licence for specialist building work.

MS TUCKER (6.08): I will speak to amendments 19, 20 and 21 of Mr Corbell. These amendments ensure that the registrar can take into account a range of factors when endorsing a plumber's licence to do specific work, including demonstrated capacity and the history of the applicant. It is important that the registrar and the applicant are aware that the considerations can include current demerit points and previous disciplinary actions on the one hand and specific skills, knowledge and training on the other.

MS DUNDAS (6.08): Amendments 19, 20 and 21 focus on the need to clarify the usage of the building regulator's discretionary powers and to clarify what those discretionary powers are. These amendments are useful in clarifying what the registrar is doing. We need to make sure that, when we set up this new system, we have those definitions of what the registrar can do with their powers.

MRS DUNNE (6.09): I will speak to amendments 19, 20 and 21 together because they all fit together and, as Ms Dundas says, clarify the powers of the regulator. There are arguments from time to time for not codifying reserve powers, but on this occasion, because of the need and the impact this has on people's livelihoods, the powers of the regulator should be codified. I endorse the amendment.

Amendment agreed to.

Regulation 30, as amended, agreed to.

Regulation 31.

MR CORBELL (Minister for Health and Minister for Planning) (6.10): I move amendment No 20 circulated in my name *[see schedule 2 at page 1182]*. This amendment inserts the same note as the amendment to regulation 30 inserts into regulation 31. It relates to the endorsement of the plumbing licence for backflow prevention work.

Amendment agreed to.

Regulation 31, as amended, agreed to.

Proposed new Regulation 31A

MR CORBELL (Minister for Health and Minister for Planning) (6.10): I move amendment No 21 circulated in my name *[see schedule 2 at page 1178]*, which inserts new regulation 31A into schedule 1. This proposed new regulation requires the registrar to consider criteria that it sets out in deciding whether to endorse a person's licence under regulation 30 or regulation 31, as referred to in the previous two amendments. The considerations include the person's physical ability and skill necessary to do the work

and their qualifications, training and knowledge relevant to the endorsement. The proposed new regulation also stipulates that the registrar can consider any other relevant consideration. As an endorsement enables a person to undertake additional work not covered by their existing licence, an assessment of the list of factors is appropriate.

New regulation 31A agreed to.

Regulations 32 to 42, by leave, taken together and agreed to.

Regulation 43.

MS TUCKER (6.12): I move amendment No 2 circulated in my name *[see schedule 4 at page 1184]*. This regulation simply ensures that figures are kept and reported on with some descriptive detail, not only on disciplinary actions taken but also on the general level and nature of the complaints. While it might seem pedantic, I would argue that it is important that we know how people are responding to the scheme, how they are using it and what the level and nature of concerns are. The qualitative as well as quantitative measures would assist us in appreciating how transparent, consistent and fair the process is proving to be. Any more forensic analysis can then be done through the committee system at annual report or budget estimates hearings.

MRS DUNNE (6.13): The Liberal opposition will be supporting Ms Tucker's amendment, as Mr Pratt so eloquently said before, "because we are in favour of accountability and reporting". They were your words, weren't they, Pratty? This amendment, going with the previous amendment, enshrines that in a transparent and commendable way.

Amendment agreed to.

Regulation 43, as amended, agreed to.

Regulations 44 to 50, by leave, taken together and agreed to.

Schedule 1 to Regulations.

MR CORBELL (Minister for Health and Minister for Planning) (6.14): I move amendment No 22 circulated in my name *[see schedule 2 at page 1183]*. This amendment addresses a small, but significant, typographical error. It changes a reference to class 10A to a reference to class 10 in relation to work that can be done under an owner-builder's licence. Class 10 is a class within the Building Code of Australia's system of classifying buildings by their use. Class 10 buildings comprise non-habitable buildings, of class 10A—garages, sheds and carports, et cetera—or class 10B—pools and fences, et cetera.

The subject provision defines the limits of the authority of an owner-builder's licence. Amendment 16 will extend that authority to cover all class 10 buildings, not just class 10A buildings, to achieve equivalence with the corresponding owner-builder's licence authority provisions of the Building Act 1972.

MRS DUNNE (6.15): The Liberal opposition was biding its time for the explanation. Now that we understand it we will be supporting the amendment.

Amendment agreed to.

Schedule 1 to Regulations, as amended, agreed to.

Schedule 2 to Regulations.

MRS DUNNE (6.16): I move amendment No 7 circulated in my name *[see schedule 1 at page 1178]*. I see the Liberal opposition go down in flames, but I move this amendment because there are considerable industry concerns about the regulations that allocate how many demerit points you lose for particular offences. As things stand, these regulations have to be read in concert with the Building Act, and with any standard which is out there, so you have to refer to three or four pieces of paper in disparate places before you can work out whether someone has incurred the wrath of the registrar or not.

By omitting this part of the schedule at this stage, I propose to give the government an incentive—dare I say it—to go back and draft the regulations with more clarity. I have heard the arguments about how they are perfectly clear if you read four different sources at once, but that is not how you make good law. The full extent of the regulation should be contained within the regulations and not dispersed all over the place. You might like to call it a one-stop shop regulation.

For this reason the Liberal opposition proposes to support the building industry in their concerns about the current state of the regulation. We propose to omit this, with a view to the government substituting other, similar words, but with more clarity, so that all the sources of the information can be in one place.

MR CORBELL (Minister for Health and Minister for Planning) (6.18): The government will not be supporting this amendment from Mrs Dunne. The introduction of the demerit point system addresses the significant shortcomings in the present regulatory system. It also doubles as an educative tool, as licensees in breach of the required standards will be made aware of that failure. This will give them the opportunity to ensure that they understand what the industry standards are that they must comply with.

One of the underlying principles of the licensing system is accountability. If you are a licensee you have obligations, the first of which is to ensure that your work meets the accepted standards as prescribed by the legislation. These standards are recognised in all jurisdictions. If you fail to do work in accordance with those standards, you are held accountable for that failure. This is fundamental to the existing laws, and it is reinforced in the proposed legislation. The only thing that changes is the way in which you are held accountable. To suggest that it is unreasonable to continue to hold licensees accountable for the standards that they are required to meet would no doubt be of great concern to consumers in the ACT.

The primary objective of the new system is to make licensees accountable for non-compliance with the act more efficiently than under the current disciplinary provisions. Under the proposed system licensees can incur up to 15 demerit points before having a disciplinary sanction imposed. The 15 points were included in response to industry concerns that the original proposal of 10 points in a three-year period was too low.

Under existing laws disciplinary incidents can only be handled by a lengthy disciplinary process, which can result in only two outcomes: a disciplinary sanction or no further action. This clearly fails to provide the option that is in the demerit point system of educating licensees in relation to their failure to comply with the required standards. To suggest that the demerit point system is not practical fails to understand the significant improvement it makes to the existing system. It is more accountable because it is transparent, and it is clearly attached, for most of the demerits, to the codes and Australian standards relevant to each occupation.

There are some other demerit points that deal with administrative matters that are important to the effective management of information critical to the licensing system. Unlike the existing multiple systems that can address minor breaches only by commencing a long and involved disciplinary action, the demerit point system enables corrective action to be taken at an early stage. The information collected under the demerit system is no different to that which is already collected and assessed; the proposal simply allows for more appropriate and effective action to be taken. The government will not be supporting the amendment.

MS DUNDAS (6.21): Mrs Dunne's amendment is to omit schedule 2 of the regulations. This schedule contains the list of demerit points for the various disciplinary grounds. I will not be supporting this amendment. The source of these disciplinary grounds was discussed at some length at the roundtable discussion, and it should be noted that the disciplinary grounds relate back to Australian Standards. Yes, there are some circumstances for that, and they may appear vague at first glance. But terms like "proper" and "skilful" are in fact extensively defined in other legislation and relate directly to Australian Standards.

I understand the concerns that came through from the building industry about this schedule, but it reflects the Building Code of Australia and Australian Standards. I think that, on balance, this is the best way to support the demerit system and to clarify what the demerit system is about. Some arguments have been put forward for a code of practice, and the major concern there is about self-regulation of the industry. This schedule as a regulation can be updated, as the building code is updated if necessary, but it will always reflect back on the Building Code. If the Building Code continues to be updated, then that can be reflected in these regulations.

It may be that we come back and look at particular items individually in this schedule, and maybe some of them might need finetuning. But these regulations are the result of a large amount of work, and the officers of the department deserve thanks for their work in codifying the disciplinary agreements in the schedule as they are reflected from the Building Code and the Australian Standards.

MS TUCKER (6.23): The Greens will be opposing this amendment. It would remove all the regulations that have in effect been imported into the bill from previous legislation or that tie directly into the standards that apply in the industry. It is a pointless exercise that would simply create enormous work for industry contributors and government officers. It seems fairly clear to me that the rejection of these regulations is based, at least in part, on a lack of comprehension. In any event, given the fact that we have voted against the delayed commencement date, deleting these regulations now would create chaos.

MRS DUNNE (6.23): I note members' comments, and I will not be calling a division on this, because I can count. However, I would have appreciated it if, rather than read from his prepared script the reasons why he thought that I was proposing this, the minister had actually listened to my reasons and addressed those.

There is nothing in what I have said that indicates that the Liberal opposition opposes the demerit point system. What I said was that, as the system is currently codified, you need to refer to three or four different sources to work out whether someone has actually incurred a demerit point. We do not have a problem with the demerit point system; we have a problem with the way the regulations are executed.

First we say that you have breached clause so-and-so of the Building Bill, then we go to the Building Bill to see what "skilful" means—we know what that means—and then we have to go off and look at a range of standards under Australian Standards. We should cut to the chase and say, "You breach it if you do not comply with the standards," and cut out all the middle stuff. This provides clarity. This means that members of the building fraternity understand what they have to do without going to several different standards, as things currently stand. I think this is a fault with the system.

There is no problem with the notion of a demerit point system, and I recognise that this is early days with the demerit point system. I fully envisage that over time we will come back here and amend these regulations. But the minister should have done me the courtesy of listening to the arguments rather than dismissing what was said and reading from the script. This is not a contention that the demerit point system is wrong; this is a contention that the regulations as they currently stand lack clarity.

There is no dispute that there should be demerit points for doing things that do not meet the standards, but it should be in the regulations what the standards are, rather than having to refer to the Building Act and then to the Australian Standards. It would be much better to do it another way, and this is why I have moved this amendment. It was not to say that we should not have these.

Everybody in this place and in the entire industry understands that these regulations are the nuts and bolts of the disciplinary process. No-one is seriously saying that we should not be doing this. Everyone recognises that this is an improvement on the current arrangement, but it could be much better and it could have been better if the regulations were better executed. This is why I think that, for the sake of clarity, we should be not having this set of regulations. That is not to say that there should not be regulations like this, but it is incumbent upon the government to come back with clearer regulations.

MR CORBELL (Minister for Health and Minister for Planning) (6.27): In response, I hear what Mrs Dunne is saying, but there has been no proposition of a better way to do it. It is quite irresponsible, given that we have already passed the Building Bill, to say, "Oh, by the way, we are going to junk your demerit point system, which is integral to imposing discipline in the building industry." There has been no proposition from the opposition of what the alternative is. There has been no proposition from the industry of what the alternative is either. This is a significant step forward.

If there are issues down the line, you can address those. The capacity for the Assembly to come back and make further regulation is there. There is no difficulty with that. But to junk them all now, which is what Mrs Dunne is proposing, is irresponsible. At some point we have to bite the bullet and say that we want a new regulatory regime, we want to put it into place, we want to start applying it and we will learn from applying it. If issues come up, we will resolve them as they come up.

I happen to think this a positive step forward. Whilst demerits are new in the ACT context, it is a positive reform that allows for greater capacity and is positive for all engaged in the building and regulatory process. I think Mrs Dunne's arguments lack merit. She is saying, "I do not think this is quite good enough; can you do something else?" but she does not have a suggestion. It is crunch time; it is time to bite the bullet; it is time to move forward with the new regulatory system. That is why the government will not be supporting her proposal.

Amendment negatived.

Schedule 2 to Regulations agreed to.

Schedule 3 to Regulations.

Sitting suspended from 6.29 to 8.00 pm.

MR CORBELL (Minister for Health and Minister for Planning) (8.00): I move amendment No 23 circulated in my name *[see schedule 2 at page 1178]*. This is a technical reference amendment to ensure that references to the Australian Standards that relate to electrical wiring work are correct.

Amendment agreed to.

Schedule 3 to Regulations, as amended, agreed to.

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

Bill, as amended, agreed to.

Construction Occupations Legislation Amendment Bill 2003
Detail stage

Debate resumed from 9 March 2004.

Clause 1 agreed to.

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

Bill agreed to.

Bail Amendment Bill 2003

Debate resumed from 11 December 2003, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (8.03): The opposition will be supporting the Bail Amendment Bill 2003. It will also be making a number of amendments to it in line with, as close as I can approximate, the Law Reform Commission's report No 19 on bail. Mr Stanhope's bill does a number of things. The Law Reform Commission back in, I think, 1997 started looking at the Bail Act 1992. It deliberated for some time and in July 2001 introduced its report No 19. The government looked at the report and made its own recommendations, partly based on the report, in a paper issued halfway through last year. It introduced this bill late last year in the Assembly.

I will start by correcting a couple of somewhat inaccurate comments made by some commentators outside this Assembly. Firstly, my old colleague and learned friend Mr Bill Redpath, now President of the Law Society, has made a number of comments. He has sent a letter—perhaps a bit late in the piece, according to the some of the responses I have seen—to all members. He seems to be under a misapprehension in relation to bail. It is somewhat common—and I can recall earlier debates on this—for people to get confused with the presumption of innocence. The presumption of innocence applies to anyone charged with an offence: they are presumed innocent until proven guilty. That is a very different thing, however, to the question of bail, which is very much a preliminary to a substantive matter being decided. I can recall several scrutiny of bills reports which the High Court has quoted where it has noted the difference. This is something the Attorney knows as well, because he quoted from that High Court case when we had a debate on bail in 2001.

There might be several members who are a little confused about this matter. If the presumption of innocence were a cardinal rule which extended to the granting of bail, anyone who pleaded not guilty would always have to get bail no matter what the circumstances. Quite clearly, that has never been the case in the law of bail as it has evolved over the years, or even in our current statute in the Bail Act 1992.

Before 1992, I am not quite sure what statute law we had in the territory on bail. I doubt very much if we had much at all. Bail tended to be just given when you appeared in court. There were certain principles that courts would usually follow. It was a system that worked reasonably well. Obviously some errors were made. One of the main reasons for bail acts is to tighten up procedures in the granting bail. This act takes a few tentative steps in that direction, but does not go quite as far as I would like to see.

The granting of bail has been tightened around the country in recent times because of the very legitimate serious concerns in the community of people who have been granted bail going out and committing further offences. Thankfully in the ACT we have not had any cases of anyone being murdered while someone has been out on bail, but that certainly is the case in the bigger jurisdictions. Often there are some very serious concerns—often by the victims or by people giving evidence—for the safety of the community. Issues such as people perhaps absconding and re-offending are all terribly important in considering

bail. It is very timely that we look at the question of bail. It is an important aspect of our justice system and an important right in many instances. But the granting of bail is not something that should be given lightly—especially for very serious offences and when there are some very real concerns.

In a previous debate I mentioned a man named Patrick John Hudd and the dangers of a laissez faire approach to the granting of bail. Patrick Hudd kidnapped the 17-year-old son of his former de facto, Nancy Nomchong. The Nomchongs are an old Braidwood family. Hudd was committed for trial in the Supreme Court in the early 80s. I remember doing the committal. He appeared before Judge Kelly after the magistrate had refused bail. We strongly objected to him being granted bail because of a history of violence and other problems. The judge—unwisely as it turned out—granted him bail. Within 36 hours, Hudd breached his conditions of bail and kidnapped Nancy Nomchong, his former de facto, and took her out of Canberra. He was apprehended by police after a siege in a house in Sydney. He shot at Mrs Nomchong with a shotgun and blew away half her back. Luckily for her, she moved. Had she not moved he would have killed her. Patrick Hudd served a very lengthy period in prison in New South Wales. I have no idea what happened to him after that. It certainly had an effect on the learned judge who was very wary after that in the granting of bail to people with a violent history.

The judge could have benefited from changes to bail laws. It is important to differentiate between the various types of offences. For fairly minor offences I have absolutely no problem with the presumption in favour of bail. The problem with the 1992 act is that it had a presumption in favour of bail for every single offence, ranging from a common assault to a murder. Mr Stanhope's bill attempts to change that. He imposes a presumption against bail unless there are special exceptional circumstances—and I will come to that point in a minute—for the crime of murder and ancillary crimes related to murder, such as attempt murder and conspiracy to murder. He then introduces a new category for serious offences where there is no presumption either way. It is very similar to the situation that existed 20 to 30 years ago with most offences and in most jurisdictions in Australia regarding bail. For other types of offences, there is still the presumption in favour of bail. The bill does a number of other things as well, one of which we will be seeking to amend.

Some people seem to have trouble with the definition of "the presumption against bail, except in special and exceptional circumstances". That definition, however, is one that is fairly well known to the courts because there has been a rule that has been applied for many years in our law and in law around Australia—that is, bail is only given to someone who has been convicted and sentenced to a term of imprisonment and who then appeals against the conviction and sentence in special or exceptional circumstances. There is ample case law in relation to that. Some of the criticism of this bill has been that it does not define special or exceptional circumstances—just as it was not defined in section 9A of the Bail Act when I introduced it and which is now becoming section 9D in this particular act. The courts are well aware of what that means. I make the point that it has been in our case law and in our system for many years.

Mr Stanhope's bill does not go far enough in a number of areas. I have a number of other minor concerns but I will I will speak about them when he moves a couple of his amendments. The Law Reform Commission is hardly a body of rednecks. It was headed by Justice Ken Crispin, now the President of the Court of Appeal and an ACT Supreme

Court judge; Mary-Ellen Barry; Professor John Braithwaite; Lisbeth Campbell, a magistrate; Professor Richard Campbell—I do not think he is related; Peter Hohnen, a well-known barrister; David Hughes; Jennifer Kitchin; Ian Nichol, a well-known solicitor; and Philip Walker, a well-known barrister who, at that stage, was probably still working with the ACT government solicitors. Professor Charles Rowland, a very distinguished academic—I think he might have even lectured Mr Stanhope at university—was special advisor. They took a long time—they talked to lots of people—but they got a consensus with groups as disparate as the DPP and the Legal Aid Office and a consensus amongst themselves on the vexed issue of bail. Their recommendation, which is to be found at page 36 of the report, is that section 8 be amended and that there should be a presumption against bail for the following types of offences:

> (a) treason or murder;
> (b) any offence in the course of committing which the accused person is alleged to have used or threatened to use violence with weapon apparently capable of causing death or serious injury or a replica of such a weapon;
> (c) contravening a protection order or restraining order …
> (d) an offence of trafficking in relation to a commercial quantity of a drug of dependence or an offence of conspiring to commit such an offence …
> (e) an offence under section 231(1), 233A or 233B(1) of the Customs Act 1901 … in relation to a commercial quantity of narcotic goods …

There are a number of serious offences, but the interesting offence is where "the accused person is alleged to have used or threatened to use violence with weapon apparently capable of causing death or serious injury". That is what the Law Reform Commission want. With my amendments I have faithfully sought, where possible—they have to be put into the context of the bill—to include a number of offences, which Mr Stanhope now has in his category of "no presumption either way", in the category where the Law Reform Commission wanted them: that is, presumption against bail.

I have added to Mr Stanhope's current offences of murder, attempt murder and conspiracy to murder the offences of intentionally inflicting grievous bodily harm; sexual assault in the first and second degree, that is, rape with violence and in company—the second degree is rape in company—so they are pretty nasty offences; sexual intercourse—in other words, rape—with a young person under 10 years old, another very heinous offence; armed robbery; and aggravated burglary. These are particularly nasty offences where violence is invariably used, nasty offences that the community abhors—the types of offences mentioned by the Law Society in its recommendations.

My other amendments are to include in the category of "no presumption either way" some other serious offences such as recklessly inflicting grievous bodily harm—an offence which, I think, carries 10 years; wounding; assault with intent to commit certain indictable offences; kidnapping; robbery; and burglary. Again, these are very serious offences. The offence of robbery, for example, which carries 14 years, is nothing like, say, armed robbery. Burglary is a very prevalent and serious offence but is not in the same category, obviously, as the offences I mentioned earlier.

The opposition will be seeking to move these amendments to sensibly beef up Mr Stanhope's interesting category of "no presumption either way". We have one further amendment which, again, is in line with the Law Society's recommendation in relation to children. The act as it stands has the court having to take into account, as a paramount

consideration, the best interests of the child. "The best interests"—even though they may not be—are interpreted to mean that the child should be at large. Some juveniles can commit some pretty horrendous offences. The Law Reform Commission saw no difference in relation to serious crimes as to why they should receive special treatment from that received by adults.

On page 69 of the commission's report, in dealing with the current sections there, it is stated:

> The Commission also doubts the need for these provisions. In this case, it is again concerned at the inclusion of a reference to section 12 of the Children and Young People Act. As previously mentioned, it does not seem appropriate to require that bail decisions be based upon the best interests of accused persons even if they are juveniles.

Accordingly, we will be seeking to take out that provision. The government has watered it down to a primary consideration, which is better than a paramount consideration; nevertheless, it has not given force to what the Law Reform Commission has recommended. Remember the names of those on the Law Reform Commission? A cross-section of Canberra's legal fraternity—hardly a redneck committee—deliberated long and hard and came up with these sensible provisions. Those sensible provisions should have been enacted by the government and we will seek to do so. The Law Reform Commission did a very thorough and timely study on this matter. There were some considerable problems with the Bail Act 1992 which the Follett government introduced and passed.

I am glad to see that the government is reversing the presumption for murder. There has been considerable angst in the community that, of six people charged with murder, only one is in custody; the other five are out on bail. That has caused considerable angst in the community. I think we have all received a letter from one of the most learned and respected lawyers in Canberra, Mr David Cross—a man I greatly respect. With the greatest respect to my old friend, I feel that to an extent he misses the point. Time has moved on and other states have introduced different legislation. Our Bail Act 1992 is sorely in need of upgrading. David refers more to the situation that occurred before, a situation he and I are both well aware of where very rarely people were charged with murder in the ACT. I am scratching my head trying to think of anyone who had been charged with murder being granted bail in the 80s or in the early 90s. Thankfully we did not have very many murders. Murder is the most serious offence of all. It is true to say that quite often people certainly tend to murder those they know. Maybe there is not a huge danger of their absconding but murder is still a very serious offence where traditionally, even though—thankfully—we have had very few in years gone by in the territory, invariably persons were remanded in custody because it was the most serious of offences.

I commend the government for doing that. They have had a number of representations from a number of victims, and have at least listened to them. But they should have gone further because the other serious offences I have mentioned are often where problems arise. I have mentioned Patrick John Hudd and his offence of kidnapping. I am certainly well aware of a number of cases where people who have been charged with armed robbery and malicious wounding have been brought before the courts for committing further nasty offences. Whilst it does not happen every day of the week, it still happens

with a worrying frequency that cannot be disregarded. The opposition will be moving these amendments in the detail stage and will be supporting Mr Stanhope's bill. At least this bill does take a few steps in the right direction, which is what the community wants to see. The opposition is pleased to support the bill.

MS DUNDAS (8.20): The Democrats will not be supporting the Bail Amendment Bill 2003 as proposed by the government. I foreshadow that the Democrats will not be supporting any of the amendments either. Unlike the Crimes Amendment Bill we have had more than one week to consider what the government has proposed with this legislation, but I am not at all happy that only this afternoon we saw the government's quite substantial and quite complex amendments. I am concerned about the process. These are quite important parts of law that the government is trying to rush through.

If an accused is remanded awaiting trial the effect on their employment, reputation and relationships with friends and families can be severe. A lengthy period in remand can create a break in employment history that is difficult or impossible to conceal and can severely compromise future employment opportunities. If you accept the research findings that people are more likely to offend if they are excluded from society through unemployment then remanding someone, whether they are innocent or guilty as charged, may increase their likelihood of offending in the future.

Let us first consider the people who are innocent of their charge. I ask us all to imagine what it would be like to be locked in a cell for an offence that you did not commit even for a few hours, let alone weeks or years. Imagine then confronting a cold system that is hostile towards you, apathetic about your treatment and implicitly assuming your guilt. You will be confined with maximum security prisoners because that is our policy for remandees in the ACT. Meanwhile your professional and personal lives just disintegrate. Attempts to extricate yourself from this position are stymied by presumptions of law or unnecessary financial bail conditions that you cannot meet. There are any number of factors that have nothing to do with your actual guilt, innocence or the risk that you pose to the community. You then could spend months in a prison because your government does not regard your speedy trial as a priority.

Despite the difficulties of preparing a defence in prison, the charges against you are exposed as groundless at trial. You then get to walk free from the court but with no apology, no counselling and no compensation. How would you feel? We are all one unfounded allegation away from wrongful imprisonment. We have figures that show that in Western Australia only a third of people remanded in custody are sentenced to a term of imprisonment following trial. One in three remandees is acquitted, demonstrating that they should never have been arrested in the first place. There are certainly instances where remand is necessary for the protection of victims or potential victims, but this represents a minority of cases where people are remanded awaiting trial. At present 14 per cent of Australia's prison population has not been convicted and sentenced by a court of law. Considering that approximately one-third of those remanded will be found guilty but will not get custodial sentences and that one-third of remand prisoners will be found not guilty and cleared, nearly one in 10 of our remand and convicted prisoners taken together should not be in prison.

The presumption of innocence is one of the most fundamental rights held by citizens of this country and in most democracies. Getting tough on crime strategies should not be

allowed to include the denial of important and inalienable individual liberties such as the right to liberty and security of person. There should be a presumption in favour of granting bail in relation to offences. If there are grounds for denying bail they can be heard and examined by the due process of law, which is what happens in the ACT. In today's *Canberra Times* there is a story about a man who has been denied bail. It does happen that bail is denied by the ACT court system. I am unsure of the problem the government and the opposition think they are trying to fix by taking away the rights of Canberra citizens.

In a modern liberal democracy, how can we tolerate a system that enforces a presumption of law against respecting our citizens' inalienable right to liberty? How can we permit the use of power of the state as an instrument of terror by arbitrary imprisonment? Why should someone with strong claim that the death in question was accidental, in self-defence or was not actually committed by them be automatically detained when there is no evidence to suggest that he or she will flee or that he or she is a risk to the community? This is hardly an exceptional situation in a legal sense. The presumption will prevail in defiance of the merits of the case. The shift to a neutral presumption is not as unjust as a presumption against bail, but it still carries an implication of an assumption of guilt. So I cannot support these changes in the principal bill or in the government amendments.

I will comment briefly on some of the government amendments, particularly the amendments to proposed new section 8A that the government seeks to include. My understanding, after having only a few hours to consider these amendments, is that, in effect, the section has a partly retrospective effect because people sentenced to a non-custodial sentence before this bill passes can now be affected by the new presumptions relating to bail if they breach a court order after the bill passes. We are talking about a retrospective criminal law, some of the most regressive laws of all. Once again, the amendments appear to be founded on assumption that a judge or magistrate is not capable of considering all the relevant circumstances when determining whether or not to grant bail if a non-custodial, periodic detention or home detention order is made. I cannot agree with this assumption.

In considering the possible effect of a decision of the Assembly to support this bill it is worth considering that remand prisoners are more than twice as likely to be involved in incidents of self-harm as sentenced prisoners. Suicide attempts have been made by people accused but not convicted of such minor offences as driving without a licence and possession of cannabis. A number of these people should not have been imprisoned at all and were actually wrongly imprisoned. The law as it stands in these cases conflicts with the dictates of justice and essential human freedoms. Those people are there because they and their families do not have the money to provide a surety, because they were presumed guilty from the outset or because the system of remand is perfunctory and prejudiced. Many people's lives are ruined by this clash on their civil liberties and, sadly, some lives are lost.

I now turn to the second part of the government amendments, which are intended to prevent a magistrate from reviewing another magistrate's bail decision unless there is a significant change in circumstances or fresh evidence. Only a judge, I understand, would be permitted to review a magistrate's decision. Similarly, judges would only be able to review another judge's bail decision if there were fresh evidence or changed

circumstances. I understand that the supposed evil this clause is meant to combat is magistrate shopping by the accused where a lawyer keeps pressing for bail with every magistrate that the accused comes before in an attempt to find that one magistrate who will let the accused out on bail. Because I am not convinced that it is usually appropriate to detain an accused prior to conviction, I cannot support the provision. I am glad that there is an exception for fresh evidence or significant change in circumstances, but a decision on what is substantial seems rather subjective.

Finally, I am glad that the government rejected the Law Reform Commission's recommendations in relation to domestic violence charges and has created a requirement that the magistrate or judge grant bail only if they are satisfied that the charged person poses no danger to the victim. However, for all the reasons I have outlined, this bill is, overall, far from satisfactory and deserves opposing. It looks as though this bill will be passed as it has the appearance of being a little tougher on law and order than the existing act and is certainly a bandwagon the Canberra Liberals have jumped on and are pushing all the way downhill. But I am disappointed that the government has put forward such a regressive bill, especially considering the human rights legislation that we passed just last week and the evidence before us about what happens in our courts. Many people who are remanded on serious charges do not disappear; they are not flight risks. I fail to see what the government is hoping to achieve with this legislation. All I can see it doing is limiting the human rights of the people of Canberra.

MS TUCKER (8.29): The Greens will not be supporting the Bail Amendment Bill 2003 either. The fundamental problem with the bill for us, and with other so-called law and order campaigns around bail, is that it confuses punishment with the purpose of remand before trial. It reverses the onus of proof for certain serious charges, thereby undermining the right to be presumed innocent until proven guilty. Basic questions for the Greens regarding any bills before us are whether the changes will make the law fairer or more just. In this case there are really serious doubts in my mind. Why is this change being proposed? What is the vice that we are seeking to avoid? One of the very important principles of our criminal justice system is that someone should not be punished for a crime they did not commit. As one commentator said, "The pre-trial period is no time for punishment and/or revenge." I am not suggesting that Mr Stanhope or Mr Stefaniak necessarily see it that way but I am concerned because I can see that that is one of the threads that is coming through from a lot of community comment. If that is the reason for the government responding in this way, it is very concerning.

The government has put in a neutral presumption clause or concept in the bill. I understand that that is in response to comments from magistrates who feel that, in some way, the presumption is too strongly for bail. After reading the criteria and looking at the comments by the Law Reform Commission, I just cannot see why that is happening. As I understand it, effectively the courts make a decision in the context of each case. The defence lawyers I have spoken to tell me that they understand that is what happens all the time. It is not a matter of a rubber stamp to get bail—a case has to be made, is likely to be challenged and so must be argued. However, it seems that some response may be necessary, which is some indication that the criteria should be weighed up.

I think it is important to put on the record the detail that is provided in the current law and this bill regarding bail to re-emphasise what bail is really about. Section 22 sets out

the criteria for granting bail to be applied for adults facing non-minor charges other than domestic violence. Section 22—the current wording—says:

> (1) In making a determination regarding the grant of bail to an accused person who is not a child, a court or an authorised officer shall have regard to the following matters, so far as they are ascertainable:
>
> (a) the probability of the person appearing in court in respect of the offence for which bail is being considered, having regard only to—
>
> (i) the background and community ties of the person, having regard to the nature of his or her home environment and employment and to his or her criminal record; and
>
> (ii) the circumstances in which the offence is alleged to have been committed, the nature and seriousness of the alleged offence, the strength of the evidence against the person and any other information relevant to the likelihood of the person absconding;

"the nature and seriousness of the alleged offence, the strength of the evidence against the person"—but this is in the context of the likelihood of the person absconding—

> (b) the interests of the person charged, having regard only to—
>
> (i) the period that the person may be held in custody if bail is refused and the conditions under which he or she would be held in custody; and
>
> (ii) the need of the person to be free for the purposes of preparing for his or her appearance before a court and obtaining legal advice and for other purposes; and
>
> (iii) the need of the person for physical protection, whether the need arises because the person is incapacitated by intoxication, injury or use of drugs or arises from other causes;
>
> (c) the protection of the community, having regard only to—
>
> (i) 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 any other person; and
>
> (ii) the likelihood of the person committing an offence while released on bail; and
>
> (iii) the likelihood of the person harassing a victim or other persons while released on bail.

The criteria are not that different with the new bill; there have been some changes in words. As I am reading it, the new formulation not only clarifies the language but also makes the seriousness of the offence something to be taken into account in considering all the principal criteria. The expressed concerns of victims as to harassment are in clause 23A and are to be taken into account. Again, the principal criteria are framed around the likelihood of turning up in court or of interfering with witnesses or other aspects of justice. These are proper concerns.

As I said before, the government through this bill is responding to what it sees as a concern that it is difficult for the judiciary to not grant bail, in particular by introducing this concept of neutral presumption. Why the existing criteria are inadequate has not been argued convincingly, but at least I appreciate the fact that the government, through introducing the neutral presumption, is avoiding a greater application of presumption against.

In response to the scrutiny of bills comments, the Attorney-General explains the bill in terms of the Human Rights Bill as "… meeting three crucial tests in relation to a person's liberty: the bill will ensure that no-one is deprived of their liberty arbitrarily, anyone who is placed on remand can only be remanded according to the law and everyone on remand has a right to apply to the court to test the lawfulness of their remand." However, I would have thought that the right to be presumed innocent until proven guilty was also an important right as is the right to be entitled to a trial within a reasonable time or to release. I have serious concerns on the last point if we continue to see more people deprived of their liberty before trial. We already have a problem accommodating remandees and we know that there are often considerable delays for these people in going to trial. These are practical considerations that I think are very important.

This bill makes significant changes to the granting of bail without, in the Greens' view, an adequate reason. Being put into the remand centre is not a small matter. After six months on remand for many people that means there is no job, they could have lost their house and their relationships as well as their general social support network may well have broken down. This is someone who has been charged but not yet tried. This is someone who may not be guilty.

For murder charges, there is not a high conviction rate. This will make it more likely that people who will be found to be not guilty will be locked up and will have their lives ruined. The Law Society in the comments it sent out on the bail bill made the point that 70 per cent of people charged with murder in Canberra in the ACT have been acquitted. There is a conviction rate of 30 per cent. So 70 per cent of those people under this law would have been incarcerated for a considerable period and may well have suffered all the social damage that I have just listed. Of course I am not suggesting that I do not recognise the terrible impact on people's lives if a murder has been committed. It is a horrific offence. It has ongoing effects on the relatives and friends of the person murdered. But, on the question of bail, we have to separate the matters of what might seem a just punishment or consequence for the person who actually committed the offence from the question of how to treat someone who has not yet been tried, someone who we must presume to be innocent.

It will not help the family or friends if someone who is innocent is jailed. Ultimately, the person who is found guilty must meet the consequences. The courts apply punishments so that the community as a whole can feel and see that justice has somehow been done. There is a very big question as to whether the prison system itself can be said to deliver justice. Prisons generally are brutal and brutalising places. I think there are very serious questions about whether sending people to these kinds of prisons makes our community safer. I think in the end it makes it less safe and also less just. But that is a matter for another debate. I just point it out.

The crude definition of "serious offence" developed under the previous government continues its life here too. As I have said, although I cannot agree with the basis for this division, the limitations on bail decisions are at least structured by reference to specific serious offences rather than the blanket five years which, as I have pointed out before, could be the result for stealing two decent bicycles. It is not serious crime as most people would understand it, I think—as bad as it is.

I am informed that, as a group, people in the ACT who have been charged with murder are probably not likely to re-offend or to offend in any other way while on bail. I will read a section of these comments on this from the Law Society:

> 4. The obvious question then is why should such change be made. Where is there any argument that people charged with murder and granted bail fail to appear? To our knowledge nobody in that situation has absconded. Bail issues must not be confused with proper disposition on a finding of guilt. The principal considerations in regard to bail must remain ensuring the person attends court to answer the charge and—if necessary—to ensure that the community or particular people are protected where there is an *established* danger. There is no evidence in the ACT to suggest that people accused of murder and allowed bail either fail to appear or have committed serious offences while on remand.
>
> 5. This is also a concern as the accused may not be found guilty. The following table suggests that over the last five years there is a homicide conviction rate of over 30% …

and there is a chart there to support that—

> 6. The legislation makes no reference as to what should happen in respect of those wrongly incarcerated and subsequently acquitted. If the onus is to be reversed then it is only reasonable for the state which has, through the police and prosecution, deprived the accused of their liberty to pay compensation for their loss as well as the devastation it may have caused to family, friendship and career.
>
> 7. The proposition that bail is still available misses the point that it is unfair to charge with murder and say to the accused "you are different, *you* must establish exceptional circumstances before we will even consider allowing you bail." The unfairness is exacerbated in cases where the murder charge is later discontinued.
>
> 8. *What is a special or exceptional circumstance?* Clause 9G is quite unhelpful. How do the examples provided refer to 9G(2)? Why would Damien if charged with murder rather than a Clause 9G offence not even get to first base on a bail application? He faces an allegation that has not been tested yet he will lose his job, not be able to provide for his family and lose his chance at housing. An ordinary person may think that situation to be exceptional.
>
> 9. The fact that murder is the most serious charge that can be laid is fully appreciated under the current bail regime. That there is probably a greater risk of flight because of the seriousness of the charge is taken into account under the present bail arrangements. A change in the law that is designed to keep people charged with murder and like offences in custody for no other reason than the type of charge *assumes* guilt.
>
> 10. If a change is to be made it may be appropriate—

and I think this has been done—

> to make the seriousness of the offence a criteria ...
>
> 11. The appropriate time to be talking about being tough on crime is at the sentencing stage—when the offence has been proved.

The Law Society goes on to say:

> 12. The preferred position is that where the issue of a person's liberty is at stake there should remain an onus on the prosecution to establish reasons why bail should not be granted. Incarceration is the most serious punishment available in our system of justice. Loss of liberty must not be treated lightly where the charge is untested and the facts of the allegation have not been determined.

In conclusion, the Greens will not be supporting this legislation because we are not convinced at all by the arguments that have been put. Having reading the Law Reform Commission arguments on this, too, I do not think they are particularly strong. In paragraph 91, page 35, the commission states:

> 91. The retention of a presumption in favour of bail for offences as grave as murder seems strikingly incongruous when section 9A now provides that a person charged with a 'serious offence' alleged to have been committed whilst on bail for another serious offence must be refused bail save in special or exceptional circumstances.

The commission is using that as an argument for this; but, if we didn't agree with that originally, then obviously that is not an argument. The preceding couple of paragraphs, which apparently support this approach, I do not see as being strong at all. They do not provide any evidence at all that we are having problems with people absconding or committing further murders or crimes while on bail.

MR STANHOPE (Chief Minister, Attorney-General, Minister for the Environment and Minister for Community Affairs) (8.44), in reply: It was the Labor government in 1992 that introduced the Bail Act to the Australian Capital Territory. At the time, the Bail Act was the most significant piece of criminal law to be considered by the Assembly. The original act consolidated a number of sources of law and created a coherent method for determining bail decisions. Once again we are working through this important and sensitive area of law.

Bail is a side of law where two important principles of democratic government intersect. Democratic governments are obliged to protect the liberty of the individual and protect the community at large. We are obliged to uphold freedom from unlawful detention and freedom from crime. The government has applied these democratic principles in developing the Bail Amendment Bill.

To make it clear that the Bail Act covers bail decisions about offenders who have breached punitive orders, I foreshadow government amendments to the Bail Amendment Bill during the detail stage of debate. The amendments will enable the court to make bail decisions about offenders who breach punitive orders such as recognizances, community service orders, home detention and periodic detention. The presumption towards bail for

the original offence committed by the offender will determine the presumption the court must apply for breaches of punitive orders.

I also foreshadow minor amendments to clauses 30 and 31, which are too open to interpretation. These clauses address the powers of magistrates and judges to review bail decisions. The intent of the clauses is to enable magistrates or judges to review bail decisions if circumstances change, or evidence changes. The amendments will clarify that the sections contemplate magistrates reviewing their own or other magistrates' decisions, and judges reviewing their own or other judges' decisions.

In closing this debate I would like to summarise the key changes the government's Bail Amendment Bill makes to the ACT's bail law. The major change the bill makes to the territory's bail system is the explicit identification of crimes that attract different types of presumption—a presumption for bail, a presumption against bail, and no presumption at all. The bill will create a presumption against bail for murder and the ancillary offences of murder such as attempted murder, conspiracy to murder and accessary to murder.

The bill removes any presumption whatsoever for the 18 serious offences specified in proposed section 9B. A neutral presumption towards bail will also apply to people charged with an offence involving violence, or threatened violence, if the accused person has been found guilty of one of four offences listed in new section 9B within 10 years prior to the current charge. Having no presumption towards bail for these serious offences will give the judiciary and authorised officers greater discretion to consider the facts and circumstances of each case without the impediment of a statutory bias.

Each and every bail decision involving a serious offence will be determined on its merits alone. Clause 11 of the bill sets out criteria for granting bail and introduces a method for decision-making. The proposed new section 22 is structured to provide bail decision-makers with a clear method of decision-making. I believe that a structured application of bail criteria to bail decisions will increase the community's confidence in our bail system and our prosecution process.

Proposed new section 22 also provides the court with a greater scope to consider other relevant matters. However, the structure of section 22 means that the reasoning for a bail decision must address the prime criteria listed in section 22(1). These key changes of introducing a hierarchy of presumptions and a clear method of applying bail criteria are designed to work together to produce better bail decisions.

The government has endeavoured to present to the Assembly a bill that changes bail law in a holistic way rather than in a piecemeal one. The bill's provisions will also impel prosecutors and defenders alike to improve the information they present to the court. In debates on criminal justice commentators, the media and the community often point to particular cases which cause anger and resentment. Pointing to particular cases of injustice is one valid means of identifying problems and solutions. However, we need to balance the anecdotal method of identifying problems with better research and quantitative evidence. The government is committed to researching these areas as a means of better understanding how we can improve the criminal justice system.

Before concluding, I would like to go to some of the issues raised in the submission lodged last night by the Law Society of the ACT. They raise a number of issues and

make a number of assertions that the government rejects and that, it suggests, do not reflect the law. I have to say that I think the Law Society, in relation to its interpretation of some aspects of human rights law and the interpretation of issues around bail, is so far off the mark and so wrong that I have some real concerns about the integrity of the submission. I must question some of the motivation of the society in the last-minute presentation to members of the Assembly of a submission which I think is, to say the least, extremely questionable in terms of the rigour of the legal position and the legal interpretations that it makes. I will go to some of those now.

In relation to the first of the issues it puts—and these issues have been picked up in the debate this evening by those who oppose it, and I have to say their interpretation is simply wrong—bail and the presumption of innocence, it is well established in Australian law—and I would have assumed that the Law Society would have known this—that bail decisions based upon statutory law do not in any way prejudice the presumption of innocence. That is broadly known. It is widely known and it is accepted throughout Australia. The assertion that the Bail Act can prejudice an accused person's presumption of innocence is factually wrong and legally wrong. The Law Society is simply wrong. There is no right to bail in our legal tradition, as was rightly pointed out by the scrutiny of bills committee in its report of 24 February, after examining the government's bill.

The government considered judicial views on this matter when drafting the Bail Amendment Bill. In 1995 the New South Wales Supreme Court, sitting as the Court of Appeal, considered the issue of the statutory presumption against bail in the New South Wales Bail Act of 1978 in the case of *Chau v Commonwealth Director of Public Prosecutions*. In that case the president of the court, President Kirby, who is now a Justice of the High Court, stated that a statutory provision which held a presumption against bail did not amount to a new development of, or intrusion upon, the judicial function. President Kirby noted as follows:

> The setting of bail is not, as such, a comment on the guilt or lack of guilt of an accused. It cannot affect the process of the trial, the giving of evidence, the determinations of a judge or jury, the outcome of the trial or the subsequent sentence. Indeed, in the course of the trial, the grant of bail is rarely, if ever, alluded to.

In the same case, Gleeson CJ, now the Chief Justice of the High Court of Australia, said:

> A law conferring a discretion on a court can determine the factors to which the court must have regard in exercising the discretion, or the relative weight to be given to different factors, or it can provide that there is a presumption that the discretion should be exercised in a particular way, save in exceptional circumstances.

These issues and the references to the cases are discussed on pages 3, 8 and 9 of the explanatory statement accompanying the government's bill. Introducing a hierarchy of presumptions to the Bail Act will not, cannot and does not prejudice a person's presumption of innocence. The Law Society, the Greens and the Democrats are wrong.

On the issue of bail and human rights, it is interesting to see that the passage of the Human Rights Act has perhaps had its first success. People are now looking at laws of

the ACT Assembly with a view to the extent, or the effect, that they impact on human rights. I think this discussion, debate and the submission of the Law Society—I have to say this to you, Mr Stefaniak—is the first example of the success of the passage of the Human Rights Act; that the Law Society, in its submission to members of the Assembly, measured this particular piece of legislation against the Human Rights Act and the extent to which issues around bail should be measured and marked against the extent to which amendments or law proposed by the government or the Assembly met our human rights.

The government's Bail Amendment Bill does not breach any rights. The bill does not breach the right to be free from arbitrary detention. It upholds the principle that detention must be lawful and reviewable. The bill does not breach the right to a fair trial, it upholds the principle that a trial is not affected by bail decisions. As I have just mentioned, the bill does not breach the presumption of presumed innocence until proven guilty, it upholds the principle that an accused person's status of remand or bail does not prejudice their presumption of innocence. The application of human rights in the ACT should not be, and is not, a matter of counterpoising human rights to other laws. It is not a simple matter of choosing one law over another. The fact is that all the territory's laws, including the Human Rights Act, are interrelated. As I said, the government did consider judicial reviews on these issues when drafting the act. I have just mentioned the judgments of Michael Kirby J and Gleeson J, both now of the High Court, in relation to that.

In relation to the issue of detention, section 18(5) of the Human Rights Act 2004 states that, as a general rule, anyone awaiting trial must not be detained in custody. This is a general rule, it is not an absolute rule. The use of detention for people awaiting trial is a legitimate limitation on the right to liberty. This is recognised in international human rights law. International human rights law does not equate the right not to be detained arbitrarily with a statutory presumption for bail. It never has and it never will. The issue for this Assembly is not simply a matter of counterpoising human rights against bail law but making a judgment to enact law that accounts for all policy imperatives, including human rights and human safety.

From a human rights perspective, the Bail Amendment Bill meets the three crucial tests in relation to a person's liberty. The bill upholds the principles that no-one is arbitrarily deprived of their liberty, that anyone who is placed on remand can be remanded only according to the law, and that anyone on remand has the right to apply to the court to test the lawfulness thereof. The government's bill is totally consistent with the Human Rights Act. The Law Society is wrong, and the Greens and the Democrats are wrong.

I find interesting the notion that there should be a scheme of some sort to compensate accused people placed on remand and later found not guilty. I have to say that I think that is really an extreme position and one that has been put by those in this debate who oppose it. The notion that there should be compensation for people on remand, who are later acquitted, suggests that there is something wrong in the judicial decision to place a person on remand. We should not be, and this government will not be, creating schemes that erode community confidence in the judiciary, the judicial system or in judicial discretion to that extent. The territory already has means for compensating people who are unlawfully detained, which is a completely different issue. If someone is detained unlawfully they can, of course, be compensated through the Australian Federal Police complaints mechanism or under the Financial Management Act. In terms of the cost of a

court case, the ACT is one of the few jurisdictions that still follow the common law in respect of the award of costs in criminal proceedings for summary offences that have terminated in favour of a defendant.

In conclusion—I think this is the fundamental point at the heart of the issue of presumption against bail for people accused of murder—it is the government's belief, no doubt backed by overwhelming community sentiment, that governments have a responsibility to govern on behalf of all citizens. The government must be an advocate of people's liberty, as I am and this government is, and must also be an advocate of the right of the community to live in safety and security.

The government's Bail Amendment Bill strives to meet the mutual responsibility of preserving the liberty of the people of the ACT and, to some extent, strives to meet that other major responsibility which is very much at the heart of community debate in relation to issues such as this—the rights of all the people of Canberra, but particularly those directly affected by circumstances they are confronted with in a situation where someone known to them—a neighbour, friend, relative or whoever—is murdered. There is a balancing act and we know, from exposure to some of the particular cases or incidents, that there is an issue here. The rights of those who continue to be traumatised and suffer and continue to live in a state of other than safety and security demand a response by the government and by this parliament. That is the response we are providing today.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clause 5.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for Environment) (9.00): I seek leave to move amendments Nos 1 to 3 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 1 to 3 circulated in my name together *[see schedule 5 at page 1185]*. As I indicated in my closing speech, these amendments are to do with the presumption towards bail for breach of periodic detention for whatever original offence a person was charged with. Amendment No 3 is consequential to amendment No 1. I table a supplementary explanatory statement.

Amendments agreed to.

MR STEFANIAK (9.02): I seek leave to move amendments Nos 1 to 4 circulated in my name together.

Leave granted.

MR STEFANIAK: I move amendments Nos 1 to 4 circulated in my name together *[see schedule 6 at page 1187]*. *T*hese amendments are in fact consequential on what occurs later on in relation to schedule 2 offences. In this case schedule 2.1 substitutes a new heading—murder and certain other offences. I mentioned those other offences in my speech in principle in relation to the additional offences that I would be seeking to move into the category of offences where the presumption against bail applies as well as murder. Looking at page 4 of my amendment sheet, intentionally inflicting grievous bodily harm, sexual assault in the first and second degree, sexual intercourse with a young person under 10, armed robbery and aggravated robbery.

I would reiterate the points I made in relation to that. I would also note, for the benefit of members, that clauses 3 and 4 of my amendments simply supply new examples which are necessary if my amendments to the schedule of offences, schedule 2, part 2.1, were to be accepted. In that event you would need these new examples. The examples are consistent with the amendments to move those other offences into offences where there is a presumption against bail. Further to what I said earlier, I have indicated why it is important for those offences to be moved in there. They are the offences that the Law Reform Commission would expect to have a presumption against bail.

I agree with about 90 per cent of what Mr Stanhope said in his speech to close debate in principle. He talked of the right of the community to live in safety and security and the right of victims to live in safety and security. Thankfully, murder is not a terribly prevalent offence in this territory. Thank God for that. We do, however, have a number of other very serious offences, particularly nasty offences, some of which, thankfully, are also not particularly prevalent. However, there are others which are perhaps a little more prevalent—offences such as armed robbery.

Twenty to 25 years ago you would have been lucky—or unlucky—to have about two or three a year. I suppose that is lucky now. Sometimes you can get three or four armed robbery offences a week. Those are particularly nasty offences which cause a lot of angst in our community and make people very scared and fearful for their safety and security. They are the sorts of offences which are often committed by people who have been given bail. As I said earlier, the Law Reform Commission—a learned body of a cross-section of the legal fraternity—after much deliberation came up with their recommendations. In our view, the Chief Minister's bill has not gone far enough. My amendments give effect to the Law Reform Commission's recommendations.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for community Affairs (9.05): The government will not be supporting these amendments. I hear what Mr Stefaniak says about the Law Reform Commission's recommendations and the extent to which the opposition believes that the government has ignored them. I think it is fair to say that what the opposition does not say is that the commission envisaged the subtle application of a presumption against bail, different from how the current presumptions against bail work. The commission suggested a lower test to overcome the presumption against bail by simply working through the normal criteria and placing the onus on the defence to argue that bail would be appropriate.

The government's bill incorporates the spirit of the Law Reform Commission's recommendations but takes it a step further by creating a means for the judiciary to assess bail for people charged with serious offences without any statutory bias. As I have argued in the Assembly before, the government has taken a disciplined approach to this. The government is conscious of the appropriate division between the legislature and the courts. The role of the legislature is to make laws for peace, order and good government; its role is not to be a substitute for the courts. The government and the legislature should not prejudge or adjudicate criminal cases in place of the courts. As I said, I believe it is our responsibility to govern for all. In drafting these provisions the government has taken into account that range of rights—the rights of the community, the rights of victims and the rights of those accused of crimes—on equal terms.

MS TUCKER (9.07): The Greens obviously will not be supporting Mr Stefaniak's amendments. I am glad to see that the government is not supporting the amendments either. Mr Stanhope was just saying that there would be a capacity for the courts to make decisions about bail on those other crimes. So there seems to be a confidence in the courts on the part of the government on those crimes, but not on murder or the other ones they have prescribed.

I wanted to make a couple of comments about the whole notion of presumption of innocence in this part of the debate. The notion that the presumption of innocence has not somehow been removed, because a person can later be found innocent, totally misses the point. The point is that, if I am accused of something I am innocent of and I am imprisoned for a period of time, I have been punished. I am an innocent person but the presumption of innocence has been removed from me while I have been incarcerated. We had this discussion on the federal ASIO legislation.

If you follow the logic of Mr Stanhope's presentation, the federal government can keep someone incarcerated for as long as they like. After a while, when the interrogation has finally finished and it is found that the person is innocent, it is fine. We have not removed the presumption of innocence at all. They may have been found innocent but the point is that, in the meantime, their life has been ruined. That is the whole point of concern about depriving people of their liberty before they have been found guilty of anything. It is my belief that in our country, unless there are very good reasons, people are presumed innocent and therefore not punished.

MS DUNDAS (9.09): I have already expressed quite strongly the Democrats' view that it is essential that we safeguard the legal right to be presumed innocent until proven guilty. This is why we are opposed not only to what the government is trying to do tonight but also to what Mr Stefaniak is trying to do. His amendments go even further than those of the government in eroding the rights of accused people. Since I do not support the presumption against bail for murder I cannot support the presumption being extended to sexual assault, armed robbery, aggravated burglary, intention or infliction of GBH, drug offences and the rest of the list that Mr Stefaniak has put forward. The financial cost of incarcerating all these extra accused people does not even bear contemplating, let alone the social cost of incarcerating so many people, many of whom will be found innocent but will then find it quite hard to put their lives back together.

Mr Stefaniak's attempts to create a presumption against bail for any person accused of offending whilst awaiting trial is actually even more regressive. I believe the intention is to prevent repeat offenders from continuing to offend whilst awaiting trial. However, until the court has determined the guilt of an accused, we cannot assume that the accused is in fact a repeat offender because it has not been proven that they committed the first crime. So this amendment is also not one I can support. My major concern is with Mr Stefaniak's amendment to clause 18 which would remove the requirement of a court to consider the best interests of a child offender. Children can be seen as only partly responsible for crimes they commit. Some responsibility needs to be taken in relation to guardians and the community as a whole, which has almost invariably failed to nurture and protect that child so that they have ended up in the criminal justice system.

We have been discussing the rights of children for a very long time in this place but obviously not long enough. There are points about how people—young people in particular—understand the laws of the world around them. The fact that people have understandings such as those is something that, as a community, we continually grapple with. So I am very disappointed to see this amendment from Mr Stefaniak. I do not think there is anything in Mr Stefaniak's amendments that I could support even just a little bit.

MR STEFANIAK (9.12): I do not want to delay debate so, at this stage, I will exercise my right to speak twice on these amendments. I thank members for their comments, although I do not agree with them. I note that these amendments are lost. I do not intend calling divisions until we get to my amendment to schedule 2.1.

In relation to some other points that were raised, it was either Ms Tucker or Ms Dundas, or both, who made comment about leaving it all to the judges and magistrates because they will invariably make the right decision. Judges and magistrates are only human, as they often accept. I might say that some of the persons who wanted these improvements made are judges and magistrates. There is both a judge and a magistrate on the Law Reform Commission—Ken Crispin and Elizabeth Campbell.

The amendments I made to section 9A of the Bail Act in 2001 have been transferred to new section 9D. Those amendments came about because the courts were experiencing problems with the 1992 act. Comments and suggestions were made by then Chief Justice Jeffrey Miles, a man I have a lot of respect for and whom I have appeared in front of on many occasions. He indicated quite clearly that the law was not good enough and that the courts needed assistance. Another person I have a lot of time for, have known for many years and have also appeared in front of is Ron Cahill—a man I admire greatly and like a lot—had those same concerns. Both of those gentlemen made suggestions to further improve section 9A, which led to further amendments tidy up that clause, which were passed by this Assembly in August 2001. So I do not think it is right to say that judges and magistrates are left entirely to their own devices. Often many judges and magistrates do not particularly want that and they appreciate the value of the legislature imposing sensible laws.

I hear what the Attorney says in relation to the three areas of the Human Rights Act he rattled off, and he may well be right; there could conceivably be other areas which might lead to declarations of incompatibility. I am not going to revisit the debate in that regard but the Human Rights Act, apart from being something the Attorney finds very exciting,

I think will open up a Pandora's box in all sorts of ways if people do not realise. I suppose that is for another day, and I make no further comment there. Although I note that these amendments are going to go down, I commend them to the Assembly. I think they are amendments that the community would expect. To an extent, they would ensure the safety and security of the community, better than perhaps just going along the path the Attorney has taken in reversing the presumption for murder only.

Amendments negatived.

Clause 5, as amended, agreed to.

Clauses 6 to 17, by leave, taken together and agreed to.

Clause 18.

MR STEFANIAK (9.15): I move amendment No 5 circulated in my name *[see schedule 6 at page 1188]*. *I* note that Ms Dundas has said she is not going to accept any of my amendments and I do not think the Attorney is going to either. Again I hear what they say and, although I do not have the numbers here, this is an important amendment. It is it not a case of saying children are all that different. The Law Reform Commission—all these very experienced judges, magistrates and legal practitioners—have come up with the recommendation that, as previously mentioned, it does not seem appropriate to require that bail decisions be based upon the best interests of accused persons, even if they are juveniles. In this area my amendment still includes any other conditions that the court or authorised officer considers appropriate, having regard to the principles in the Children and Young People Act 1999 section 68. That act deals with a number of areas which look after the best interests of the child. It contemplates the relevant considerations but does not give a primacy to what we have at present, which now drops back to a primary consideration of the young person automatically getting bail.

Quite clearly there are situations where young people who, for the very best of reasons—in the interests of the safety and security of the public, victims, witnesses and perhaps even themselves—are best remanded in custody. I do not think—I agree with the Law Reform Commission—that there should be an open slather granting of bail to young people. There should be restrictive provisions that make it difficult, where a judge or magistrate feels that a young person should be remanded in custody, to feel: the law is really against me there and I cannot actually do it.

Whilst the government has pulled back a bit from having that as a paramount consideration—it is now just a primary consideration—I think it is still far over and above what the Law Reform Commission has said at page 69 of its report. Hence my amendment there, which would give effect to what the Law Reform Commission recommended after much deliberation, much research and much consultation. If people have regard for consultation and the views of people who are effectively experts, then they should support my amendment. But of course I can read the numbers and it is plain that this is not going to be supported.

Amendment negatived.

Clause 18 agreed to.

Clauses 19 to 29, by leave, taken together and agreed to.

Clause 30.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.19): I seek leave to move amendments Nos 4 and 5 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 4 and 5 circulated in my name together *[see schedule 5 at page 1186]*. *T*hese are amendments to clause 30 which it was felt, upon reflection, were too open to interpretation. This clause addresses the powers of magistrates and judges to review bail decisions. The intent of the clause is to allow magistrates or judges to review bail decisions if circumstances change, or evidence changes. The amendments will clarify the sections contemplating magistrates reviewing their own or other magistrates' decisions and judges reviewing their own or other judges' decisions.

MR STEFANIAK (9.21): I hear what the Attorney is saying. The convenience of it is that, quite often, the magistrate who makes the initial decision might not be available when the need comes up. I suppose that is one of the reasons behind this. However, having practised extensively in the jurisdiction, I think it is preferable for the same magistrate who deals with the matter to have that matter come back before him or her if there is going to be a review of the decision. The magistrate is well aware of the facts and is in a much better position than a magistrate who has no idea of what has gone on before. In fact, I have seen—not travesties of justice—some unfortunate decisions being made quickly where a breach of recognizance, a variation for bail, or whatever, has come before a completely different magistrate who simply cannot be aware of what has really happened before. Often you do not get the best decision-making in that situation. I have seen that in a number of instances in the past. I think it is always preferable if the person who has initially had the carriage of the matter can continue to have that matter before them. So I rather liked what was there before.

I suppose that, if the Attorney can assure me that the amendments are there for practical reasons, of the same magistrate physically not always being available, then with some reluctance the opposition would accept this amendment, although what is there now is actually not a bad thing if it is feasible. It is always far better for someone to go back before the same judicial officer who has some knowledge of the matter, rather than someone who is coming in completely cold.

Amendments agreed to.

Clause 30, as amended, agreed to.

Proposed new clause 30A.

MR STANHOPE (Chief Minister, Attorney-General, Minister for the Environment and Minister for Community Affairs) (9.23): I move amendment No 6 circulated in my name

which inserts a new clause 30A *[see schedule 5 at page 1186]*. *T*his amendment introduces a new clause 30A to the Bail Amendment Bill. The clause will amend the Bail Act 1992 to make it clear that the section contemplates a fresh application for bail.

Proposed new Clause 30A agreed to.

Clause 31.

MR STANHOPE (Chief Minister, Attorney-General, Minister for the Environment and Minister for Community Affairs) (9.24): I move amendment No 7 circulated in my name *[see schedule 5 at page 1186]*. *I* spoke to this earlier. Government amendment No 7 amends clause 31 of the Bail Amendment Act to clarify that the section means that a judge can review a decision made by any judge, rather than just a decision made by the judge himself or herself.

Amendment agreed to.

Clause 31, as amended, agreed to.

Clauses 32 to 41 taken together and agreed to.

Clause 42.

MR STEFANIAK (9.25): I move amendment No, 6 circulated in my name *[see schedule 6 at page 1188]*. This amendment deals with offences in the category of no presumption either way. It is to an extent conditional on my amendment to offences where there is presumption against bail. Apart from some of the ones left there from the Chief Minister's bill, I have included some additional categories. The ones left there are manslaughter, industrial manslaughter and wounding. Recklessly inflicting grievous bodily harm is included, and assault with intent to commit certain indictable offences, kidnapping, sexual intercourse without consent, robbery, and burglary are added.

These are serious offences which I think are worthy of being in the category of no presumption one way or the other. However, having been told already that none of you people are going to agree to this—a very silly decision by you all—it is it not going to succeed. I reiterate the points I have made in the in-principle debate in relation to these offences. It would be quite logical to slot them into this category if my amendments to the presumption against bail category were to be accepted. So I commend the amendments to the Assembly, but I can read numbers.

Amendment negatived.

Clause 42 agreed to.

Clause 43.

MR STEFANIAK (9.27): Again, I think that is consequential so I am not going to say any more on that.

Clause 43 agreed to.

Proposed new clause 44.

MR STEFANIAK (9.27): New clause 44 refers to offences to which a presumption against bail applies. Apart from what the Chief Minister has done in relation to murder, I would add the offences of intentionally inflicting grievous bodily harm, sexual assault in the first degree and second degree, sexual intercourse with a young person under 10, armed robbery and aggravated burglary. It also adds the supply, manufacture, et cetera of the most serious drugs. I reiterate all the perfectly sane, sensible, logical arguments on behalf of the community that I made earlier. I formally move amendment No. 8 standing in my name *[see schedule 6 at page 1189]*. *I* commend the amendment to the Assembly. You will also see offences against the Drugs of Dependence Act and offences against the Customs Act. Those are the offences in relation to possession, supply and manufacture of serious drugs. Those are the offences where, in recommendation 8 of the Law Reform Commission's report No 19, the commission felt there should be a presumption against bail. These amendments will give effect to the Law Reform Commission's recommendations.

Question put:

> That **Mr Stefaniak's** amendment No 8 be agreed to.

The Assembly voted—

Ayes 5		Noes 8	
Mr Cornwell	Mr Stefaniak	Mr Berry	Ms MacDonald
Mrs Cross		Mr Corbell	Mr Stanhope
Mr Pratt		Ms Dundas	Ms Tucker
Mr Smyth		Mr Hargreaves	Mr Wood

Question so resolved in the negative.

Amendment negatived.

Schedule 1.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.33): I move amendment No 8 circulated in my name *[see schedule 5 at page 1187]*. Amendment No 8 updates the definition of "offence" in light of the government's amendment to specify that punitive orders are contemplated by the Bail Act 1992. The amendment replaces the reference to periodic detention orders with a reference to all punitive orders mentioned in government amendment 3.

Amendment agreed to.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.34): Just before the conclusion of this debate, there are a couple of things I would like to say. This has been a very significant piece of law reform on bail. It is a difficult area, an area that arouses significant community debate but there is a view within the community that a balance needs to be achieved by governments and by legislators on the availability of bail. There are a number of issues around the presumption of innocence, such as human rights and compensation for those detained or remanded and subsequently found innocent as the offence hasn't been proved, that do raise some very real and significant issues around civil liberties.

I want to repeat the government's position. We take very seriously the need to protect the liberties of individuals to the greatest extent; we take very seriously the importance of the presumption of innocence; we take very seriously issues around the fundamental role and place of human rights in this community, as evidenced by our commitment to the Bill of Rights and the Human Rights Act; and we acknowledge how difficult the debate is. I think each of us is aware of some very high profile and public instances of members of the community who feel not only a sense of real injustice but also quite confronted in their personal lives and in their capacity to lead a life in which they feel safe and secure as a result of decisions that are made, particularly in relation to—

MR SPEAKER: Mr Stanhope, we are in some difficulty. The debate is about whether or not we agree with the title.

MR STANHOPE: Right. In conclusion, on the issue of bail it is important that we ensure that we have the balance right. I am aware of the difficulty that members of the Assembly have in coming to that decision. The government took some comfort from Ms Tucker's position on the Bail (Serious Offences) Amendment Bill 2003, which Mr Stefaniak introduced last October, which was defeated by the Assembly. Ms Tucker indicated the struggle that she experienced with issues around bail. She stated:

> I have some sympathy for at least considering the part of the bill—

that is, Mr Stefaniak's bill—

> creating a presumption against bail for the offence of murder. This comes from the Law Reform Commission's recommendations.

As she says, she did have significant sympathy for the presumption against bail.

MR SPEAKER: I call this debate to order. The debate should be around the title.

Ms Tucker: I don't remember talking about the title then.

MR STANHOPE: She then touched on other aspects of the debate—the need for balance, the position of victims in the community and the assumption that we need to ensure that victims are a significant part of the debate around the availability of bail.

Ms Tucker: Mr Speaker, Mr Stanhope called a technical point of order for me to vote. You have pointed out that he is out of order. Come on!

MR STANHOPE: Are you feeling a bit uncomfortable, Kerrie?

Ms Tucker: No.

Title agreed to.

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

Ayes 11		Noes 2
Mr Berry	Mr Pratt	Ms Dundas
Mr Corbell	Mr Smyth	Ms Tucker
Mr Cornwell	Mr Stanhope	
Mrs Cross	Mr Stefaniak	
Mr Hargreaves	Mr Wood	
Ms MacDonald		

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Bill 2003

Debate resumed from 11 December 2003, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (9.41): The opposition will be supporting the Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Bill 2003 which implements phase 3 of the criminal code. It inserts a new chapter 3 that codifies our law on theft, fraud, blackmail, forgery, bribery and a number of other offences, rationalises our statute book adds a couple of new offences and continues the work in corporate criminal responsibility, which I will speak about later. As I indicated, this bill codifies and, to an extent, simplifies a very difficult area of the law—an area that causes a lot of practitioners and the courts themselves some concerns, an area that has become more and more difficult as society has become more and more sophisticated and we have had more and more sophisticated dishonesty crimes, especially crimes of fraud. They are difficult matters to prove, especially in complex areas for juries to get their heads around, difficult matters to prosecute and relatively difficult matters to defend. Having done quite a few of them myself, I can certainly attest to that.

I have talked to a number of people about this particular bill. The DPP is very keen to see it in as it simplifies matters considerably. Several of his officers, who I spoke to, are also very keen to see it in and see it in quickly. Interestingly, the head of Legal Aid is quite comfortable with this particular bill as well, which is good to see.

I have a concern with the criminal code, which is meant to be national. It is a process which took about 10 years before anything was done. In this jurisdiction, I might have introduced part 1 and it is good to see that the government is continuing. It seems now that only the Commonwealth is well advanced on us. The ACT is faithfully going down the line of introducing a code and the other states are somewhat lagging behind.

That is something I would like the Attorney to take that up with his colleagues at SCAG. I am going off to a meeting fairly soon with the shadow attorneys and the Commonwealth Attorney. I will be mentioning to my colleagues that the national criminal code is worth supporting. Crime knows no boundaries and it is absolutely essential that we have similar—or, ideally, identical—laws nationally in this area. I would also like to see a national sentencing code. Some of the other states are dragging the chain on this matter, and that is a problem.

I have been told to shut up by my Whip. Thank you, Vicki. I am not going to regurgitate the things that I basically agree with in the Attorneys' speech. Suffice to say that there are a few new features here. There is an interesting offence of payola not only in the traditional sense of public officials but also in a commercial sense. I think that is very sensible. The government does not include the offence of stealing cars. There is no offence of carjacking, which I think I had in a bill which was dismissed in this Assembly late last year and which does apply in a number of other jurisdictions. I do not know if that is an oversight. I commend its inclusion to the government. When I reintroduce my bill, as amended, later on it will include that offence, obviously redrafted, to conform with this new code. All in all, the code is supported by all the relevant agencies. It is timely and I think it will enhance the operation of the criminal law in this most important area, the area of fraud and related offences in the ACT jurisdiction.

MS DUNDAS (9.45): Today we are debating chapter 3 of the criminal code. This gives us a chance to reflect more generally on criminal law, how we deal with crime and even why we believe certain things are crimes. We have addressed before the process of developing the criminal code and the goal of harmonising criminal law across Australia, so I will not spend much time treading that familiar path. I refer members to my earlier comments, when the Assembly passed chapter 2 of the criminal code, for the Democrats' stance on the criminal code more generally.

However, I note that chapter 3 deals with theft, fraud, bribery and similar offences and that the penalties of these offences are in line with those that currently exist in the Crimes Act. This piece of legislation is not about creating new offences or penalties for crimes; it is about setting out the legal principles that our courts should follow in enforcing these laws, including how these offences are constructed, the definitions and elements of each crime and the operation of some parts of the common law with regard to these offences.

I think we need to take a step back and look at the whole concept of laws that protect individual property. It is very true that our economic system is based upon the granting of property rights to material goods and even many abstract assets, such as intellectual property. Property rights are the most basic requirement of a market economy, and that is the economic system that we have inherited. It will continue to be the system in some form that we will have for some time to come. But I wish to make the comment that the

laws that protect property should not be elevated to the extent that they begin to erode the rights of human beings.

We had part of this debate last week and Mr Stefaniak sought to introduce a right to own property into the Human Rights Act. The reason I did not agree with that amendment was that the right of possessions and material goods should not be raised above the rights of human beings. I will take, for example, the situation that used to exist in the Northern territory, specifically the imprisonment of children under mandatory sentencing laws for the theft of a packet of biscuits. I note that these laws have now been overturned under the new government, but I think they illustrate the point that laws that protect property can swing so far that they badly affect the rights of people, even children. Equally, I would be very disturbed if laws in the criminal code were used to imprison somebody who stole food because they were starving or because they stole blankets because they were freezing. There may be circumstances where taking something without permission is justifiable and property rights are not absolute. For example, I note that chapter 2 of the criminal code contains provisions for a defence against crime in the case of emergency. So, if something is stolen for the use of an emergency, that may be a reasonable defence.

I think it is also appropriate for us to consider whom these laws will affect. It is well known that laws are disproportionately used against young people in our society, especially laws relating to theft. They will be disproportionately used against Aboriginal people in our community and against people living in poverty. For these reasons, we have to look at other methods to prevent crime rather than simply sending people to prison. Law and order has been the theme of today and there has been some chest beating about who is tougher on crime and who will fix law and order problems. In the end, we have to hope that crime just does not occur. The aim of government should be to reduce and prevent crime, not simply punishment.

To prevent crime, we need to look at the causes of crime. One of the biggest causes for the offences we are talking about today in this criminal code amendment of theft, fraud, bribery and related offences is addiction. Drug addiction is a huge cause of property crime. I think we are increasingly realising that gambling addictions may also be the cause of many crimes. Only by looking at the causes of addiction and the treatment of addiction will we be able to reduce a large proportion of property theft. I think we always need to keep in mind that there is a lot more to dealing with property crime than just courts and sentences. We should be keeping that in perspective while we debate the criminal code today.

I note that the bill contains two schedules. Schedule 1 deals with consequential amendments to section 2.5 of the code, which deals with corporate criminal responsibility. Schedule 1 contains measures that set out the transfer of criminal responsibility between people and their representatives for the purpose of a large number of acts. I note that these sections simply replace existing legislation that already has the transfer of fault elements between a principal and their agents and that these amendments do not affect the operation of the existing law, so they are not perhaps as radical as they first appear on reading the bill before us. I recognise that both the government and the opposition are happy with these changes, so I will not waste the Assembly's time by bringing forth amendments in the detail stage.

As I noted during the debate on the Dangerous Substances Bill, these clauses represent a significant diminution of the requirement to prove that a person possessed a fault element for a crime for which they can be convicted. I continue to find this extremely troubling. I am aware that the intention is to ensure that people cannot divest themselves of responsibility by employing others to commit crimes for them. But I do think it needs to be more carefully examined. On the other hand, we continue to have debates about the importance of fault elements and we have considered this issue before in the context of strict liability offences. So I continue to be concerned by these provisions and will keep watching carefully to see if they are continually inserted into other pieces of legislation.

Finally, I wish to note that there is no urgency in implementing the criminal code. I note that other states have slowed their consideration of new chapters, so there is no need for us to charge ahead if the rest of the country is not close behind. If all jurisdictions do not implement the code, its usefulness here in the ACT is diminished. I understand that the government's desire to debate this bill quickly came about because of the urgency of the laws and the fact that new legislation was being drafted that depended upon it. I am not convinced that this is a great reason to push through this bill. It could be argued that it is a questionable practice to assume that a bill will pass the Assembly and hence draft other legislation that depends on that process.

There are a number of concerns about the legislation we are debating tonight. I understand that it does have the support of the government and the opposition, but we are not happy that the legislation is going to go through. We would have liked more time to work through the issues, but we have raised these issues here in the debate and hopefully they will be considered in the future. I reiterate our concern that there is no need to rush this legislation through.

MS TUCKER (9.53): I will speak very briefly on the Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Bill 2003 because I have not had the chance to go through this legislation in the way that I would have liked. I sought some advice from the Law Society but they were not able to offer any assistance. I have also had a person off sick in my office. Clearly, we have the numbers to pass the legislation.

I will make a couple of comments on the whole process of the criminal code project. It is often put that a particular proposal for the ACT echoes a provision that the Commonwealth has adopted, and that seemed to be a good thing. Simply because something is being done by the Commonwealth or by other jurisdictions in Australia is not in itself proof that it is a desirable course of action. As legislators we must accept responsibility for all the laws we pass. It is conceivable that we do take a different position on some matters of law.

A general comment I would like to make is that the criminal code project has seen some shift in penalties. To some extent the variety of offences has been compressed, leading to less graduation of seriousness in several offences. We have also seen an increase in the proportion of strict liability offences, so I do find that a closer scrutiny of more arcane aspects of this project is desirable in this instance. However, I simply say that we have not done the work in the detail that we would have liked.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for Environment) (9.54): As I explained in my presentation speech last year on the Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Bill 2003, the bill will implement phase 3 of the criminal code project by reforming the law of the ACT on theft, fraud, blackmail, forgery, bribery and other related matters. The bill will also significantly rationalise and reduce the ACT statute book by repealing numerous offences in other legislation that will be made redundant by the new codified offences in the bill. Further, the bill will continue to work at the previous phase of the criminal code project by applying the corporate criminal responsibility provisions of the code to all ACT offences. At present they only apply to offences commenced after 1 January 2003.

It is not my intention to repeat all the many improvements that the bill will make to the state of the law in the ACT. These are well summarised in the presentation speech I delivered last year. However, to assist the Assembly with the breadth of the reforms in the bill I will highlight some of the more significant points. In addition to generally modernising and making the law that it covers easy to understand, the bill will also introduce new offences to the ACT on conspiracy to defraud, and payola. It will eliminate many of the complexities in the law of theft, fraud and forgery and will clarify the way in which blackmail applies where the victim is a corporation or government. It will extend the law on robbery and burglary to close some technical gaps that perpetrators can exploit and will simplify the traditionally complex offence of receiving by removing categories that are more properly dealt with by the offences on complicity and accessory after the fact. It will rationalise and standardise the offences that protect the public purse and will extend the bribery and corruption offences to apply to both public sector officials and private sector agents.

The government has a few brief amendments to move to the bill which I will address more fully in due course. At the moment, the most minor consequential amendments to other acts will substitute references to offences in the Crimes Act with references to the replacement offences in the criminal code. The more notable amendment arises from the Scrutiny of Bills report No 44 and concerns subclause 377(4) of the bill. That provision allows the minister to make a direction about how forfeited goods would be dealt with. The committee suggested that the minister's direction should be a disallowable instrument. The government agrees and thanks the committee for its comments on the issue.

Finally, the government will move to amend schedule 1 of the bill by including an additional amendment to the Land (Planning and Environment) Act in the same terms as the other amendments in the schedule. I commend this particular significant piece of law reform to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for Environment) (9.58): Mr Speaker, I seek leave to move amendments Nos 1 to 5 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 1 to 5 *[see schedule 7 at page 1190]*. I first table a supplementary explanatory statement. I will speak to the five amendments that I have just moved. Amendment 1 is a minor technical amendment and will commence when the Bail Amendment Bill is enacted and comes into force. The amendment will not affect the commencement of other provisions of the bill. Amendment 2 is a proposed new clause 377(4). Clause 377 sets out the rules for dealing with goods that have been forfeited in connection with an offence of unlawfully possessing stolen property under clause 324 of the bill. Primarily goods must be sold and the proceeds paid to the Confiscated Asset Trust Fund under the Confiscation of Criminal Assets Act 2003. However, subclause 377(4) provides that the minister may direct that the goods be dealt with otherwise. This amendment provides that the minister's direction is a disallowable instrument. Amendment 3 proposes a proposed new section 286 of the Land (Planning and Environment) Act. Schedule 1 of the bill amends a number of acts with corporate criminal responsibility provisions that will be made redundant by the full commencement of part 2.5 of the criminal code.

Most of the sections being amended deal with both corporate criminal responsibility and criminal responsibility of natural persons; therefore, in most cases the schedule substitutes revised sections that remove the corporate criminal responsibility component but leave the principal/agent components to continue to operate. This amendment will make a similar change to section 286 of the Land (Planning and Environment) Act. Amendment 4 is proposed new part 3.1A of the Bail Act. The Bail Amendment Bill will amend the Bail Act. Proposed new sections 9D and 9G of the Bail Amendment Bill contain examples that refer to offences in the Crimes Act. These amendments will substitute the references in the Bail Amendment Bill to the Crimes Act provisions with reference to the corresponding criminal code provisions.

Amendment 5 is a proposed new part 3.4 of the Victims of Crime (Financial Assistance) Act 1983. Section 3 of the Victims of Crime (Financial Assistance) Act specifies the violent crimes for which financial assistance is available under the act. This amendment will remove references to the Crimes Act offences of robbery and armed robbery and substitute references to the corresponding criminal code provisions of robbery and aggravated robbery, which will be replaced in the Crimes Act robbery offences.

MS DUNDAS (10.00): I will speak briefly to a few of these amendments, particularly to amendment 3. This amendment stemmed from a question from my office about why the Land (Planning and Environment) Act was not included in schedule 1 of the Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Bill 2003. I was disturbed to learn from the appearance of this amendment that the omission was just a mistake. I have spoken about what this particular provision does in my in-principle speech and I continue to register my discomfort about the transfer of fault elements being done by this method.

I am also incredibly uncomfortable about the fact that, once again, my office is picking up very simple mistakes in government legislation. I am proud of the work that my office is doing, but it does not give me much confidence in the government's standard of drafting. The Assembly passes a great deal of machinery legislation and there is a general belief that the technical drafting is correct, comprehensive and thoroughly checked. It does not assist the government's argument if we continue to see these minor mistakes coming through, especially when the government wants us to deal with legislation quickly. I think it is just more evidence that we need the time to work through these amendments and to work through these pieces of legislation.

Amendments agreed to.

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

Crimes Amendment Bill 2004 (No 2)

Debate resumed from 2 March 2004, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (10.02): The opposition will be supporting the Crimes Amendment Bill 2004 (No 2). But before I get into that, let me take up a point raised by Ms Dundas, quite properly, just before we concluded the last bill, the Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Bill 2003. In this particular bill, the Scrutiny of Bills Committee pointed out that the explanatory statement didn't match up with the clauses. I appreciate and support the need for urgency with this piece of legislation, and I commend the government for bringing it on. There was a little sloppiness there, but in this instance the Scrutiny of Bills Committee picked that up. What Ms Dundas says has a lot going for it.

Again, there were some issues with the Crimes amendment Bill 2004 (No 2). It is a very important bill because it deals with a very vexed area. This bill does a couple of things. Firstly, it introduces a system that will ensure that people who may have been quite mentally healthy and functioning normally at the time the offence was allegedly committed can be held criminally responsible for offences allegedly committed. If they develop mental health problems later, they will not be able to escape justice and effectively get off scot-free. That is particularly important when we look at serious crimes. It probably does not matter terribly much if you are talking about things like a PCA or crimes that are at the lower end of the scale. But for serious matters—murder, armed robbery and rape—the community should be absolutely appalled to think that someone can escape justice through deficiencies in fitness to plead laws.

In a very high profile case recently—the case of King—a number of these issues were raised. A number of people have certainly complained to me and to the Attorney and there has been a lot of media interest in the matter. But that is not the only case. There are a number of other cases potentially—perhaps there are others—where these same issues are very important. These issues may well see someone who is quite sane commit a very serious offence—say an armed robbery or murder—but then develop problems. They would be able to use and abuse the system and effectively not be able to be charged

and have their matter proceed to trial. Within a matter of even months, they could, miraculously, suddenly be deemed to be quite fit to be released into the community and would never be able to be brought to book for very serious matters. The victims have suffered angst, drama, trauma and hurt as a result of their criminal activities.

This is a very important bill. A lot of other things need to be done with issues such as fitness to plead and mental health and how that relates to the criminal law, but that is a debate for another day. A lot more work needs to be done there because mental health issues do affect quite a number—a growing number—of people in the criminal justice system. It is utterly essential that justice is done, the community is protected and the rights not only of the person committing the offence but also of the victim, society and the justice system are given due weight too.

This bill goes down that path. The issue of whether you were sane when you committed an offence and whether you should be brought to book is something that I think I have made comments on in the recent past. It is also an issue which the DPP is very keen to see sorted out and fixed up. I am very pleased to see that this government has done that very promptly. I commend it for that.

New South Wales, Tasmania and Western Australia allow for a person to be tried on indictment for the original crime if they become fit to plead at a subsequent time. The bill removes the bar to prosecution for serious offences only—serious offences being anything that has a maximum term of imprisonment of five years or more—and that is fine. To ensure that the principles relating to double jeopardy are not infringed, the bill provides that if a person who was not fit to plead is later convicted on indictment of the original charge any time spent in custody while unfit to plead would be taken into account when any penalty is ultimately imposed. That is fair enough. In the UK, Canada, and New Zealand, a person detained following a finding of unfitness to plead may be tried when they become fit. It should be noted that all these jurisdictions also have human rights legislation, although when our little doozey of an act gets interpreted by the courts again, anything can happen. The Attorney makes that point, which is an important point to make with this type of legislation.

The amendments not only provide for flexibility but also deal with another matter where courts actually do not always get it right. Judges are human and make mistakes. There was a mistake it seems made fairly recently by our very own Supreme Court which recently ruled that the words in section 317 of the Crimes Act meant that "the prosecution was required to prove all of the essential elements of an offence, including the mental elements of an offence, though defences such as mental impairment or diminished responsibility couldn't be raised". The court in that instance rejected the submission made that the phrase "committed the acts which constituted the offence charged" referred only to the physical elements of the offence. Quite clearly, it was not intended that all of the elements of the offence, including the mental elements, would need to be established. If this were the case, the phrase "committed the offence" would have sufficed in section 317 of the Crimes Act.

This bill amends provisions to clarify that on a special hearing—the Supreme Court dealt with a special hearing—the court is to decide whether the accused committed the physical elements of the offence charged only—in other words, did the accused physically murder the victim or did the offender physically rob the bank? The

prosecution is not required to prove the mental elements of the offence, nor should it, nor was that ever intended, but it seems that, because of this court decision, a big problem has been created. So the Attorney has inserted the term "engage in conduct". This term is derived from the existing definition under the Criminal Code 2002 and includes only the physical elements of the offence, which I thought quite clearly was all that was intended, but it seems the court went off on a tangent; hence, this particular amendment is being made.

The opposition is very happy to support this bill. I think it is a step in the right direction. A number of people—people who have been badly traumatised by serious crimes which had mental health and fitness to plead elements raised—who are victims in our community will be very happy to see it introduced. This bill is a welcome addition to the statute book. It is certainly something the DPP and I have been keen to see over the last few months. This should not be the end of the matter. A lot more work needs to be done in this area to ensure that justice is done. This bill is a very good step in the right direction and is welcomed.

MS TUCKER (10.11): The Crimes Amendment Bill 2004 (No 2) is intended to fix up a few problems identified in recent cases around the way that someone accused of a criminal offence may be excused from standing trial owing to mental illness. This is a difficult issue. We need to balance very carefully the fair and just treatment of people with a mental illness as well as the interest of fair and just investigation and accountability for criminal actions, particularly for things such as murder.

A special hearing system already exists, although it is generally agreed that there are some problems with it. In fact, I understand that a review is being conducted around fitness to plead and is expected to report soon. You have to question, then, making a law in such an ad hoc way, the difficulties posed by recent high profile cases notwithstanding. Of course there are some very big problems with the way we treat people with mental illnesses in the criminal justice system. The Mental Health Tribunal seems to be struggling with the information that it does or does not get from mental health services, the courts and advocacy groups are concerned that detaining people suffering from a mental illness in the remand centre is not appropriate, while releasing some people into the community may prove to be a danger to themselves and to others.

As the government is trying to move towards restorative justice, the issue of mental illness must be integrated into the process. There is at present a departmental committee into mental health looking precisely at how to deal with people with mental health problems who are caught up in the criminal justice system. In the meantime, however, we seem to be dealing with things on a case-by-case basis.

This bill proposes several changes. The first the Greens can accept—that is, that a special hearing should not mean that, if the mental illness passes and particularly in the situation that there was not a mental problem at the time of the offence, the prosecution cannot be brought back on. It seems unreasonable on a number of grounds for someone who may have committed a crime to be free from prosecution because at a later date they suffered an episode of mental illness that found them unfit to plead. Clearly, for victims of the crime and for society at large, we all ought to be held accountable for our actions insofar as we are responsible for them.

Also, there is a perverse discrimination at play. If we argue that, because a person is at some time unfit to plead they are forever unfit to be held accountable for their actions, it is, in effect, a presumption that mental illness is a permanent and unalterable state. Those of us who live with mental illnesses in our lives or with our friends or families can testify that nothing is as cut and dried as that and that one can certainly be healthy and capable at some times yet not at others. Consequently, we support the review provisions of the bill which amend the Mental Health (Treatment and Care) Act so as to provide for abuse of people found temporarily unfit to plead, and also in the case of more serious alleged offences for people found unfit to plead more generally.

I note, however, that there are provisions in other jurisdictions for some statute of limitation to apply in these less temporary conditions. I understand that the general approach is one that the maximum sentence for the alleged crime is a guide for the appropriate statute of limitations. It is unfortunate that there is no such provision in this bill. As it was only introduced last week and we are debating it now, I have not had the time in my office to explore the issue in more detail and put forward an amendment myself. Consequently, I can only flag that this seems to be an oversight in a fairly rushed bill. There are other details I would like to examine more carefully, but time in this case prevents me. Indeed, the scrutiny of bills committee also made the point that it was hampered by the little time it had to examine the proposal.

Some issues were raised in the scrutiny of bills report which the government addressed in an undated letter by referring to a revised explanatory statement which is not on the website. There is an issue of rights that the scrutiny of bills committee did not refer to which I will address and there are a number of clauses in the bill that I will oppose as a consequence. If this bill is passed, magistrates will not be able to consider the mental element of an alleged crime at a special hearing. However, the verdict of such a hearing could either be an acquittal or a non-acquittal, and so the accused person finds himself before a court in a condition in which they are not only not fit to plead but also not entitled to invoke the mental component of their action in their defence.

It is certainly conceivable that someone could be charged with the serious crime of injury or manslaughter but is unable to argue self-defence. If arson were the charge—the accused person was perhaps living without electricity and accidentally knocked over a candle—they would presumably still be found to have engaged in the conduct required for the offence. By taking the view that the mental element cannot be considered, the accused is denied a legitimate defence. I understand that there might be some complexities about providing a defence for someone who is unfit to plead and that a guardian would need to somehow be appointed. These are questions about how they ought to run a defence but none of that is more complex than other issues of law and mental illness and is not insurmountable.

So it does seem that this bill is limited and dangerous in some of its implications, that it certainly would appear to infringe on the rights of people suffering from mental illness and that such limitations are merely a consequence of too much haste, driven perhaps by an unusual decision or two in the courts.

MS DUNDAS (10.16): I would like to start by commenting that I am incredibly unhappy that this bill is being rushed through the Assembly. I have not heard any good reason

why the bill had to be introduced last week and debated this week, not really giving members of this Assembly, the scrutiny of bills committee or even the community time to consider the ramifications of what it is the government is asking us to do.

I am particularly disappointed in light of the fact that a review of the operation of legislation concerning fitness to plead is actually currently underway, with a discussion paper due to be released this year. The only reason I can think of for this haste is the outrage whipped up by the media about those ACT residents accused of murder who are currently under the jurisdiction of the mental health system, and the fact that the Court of Appeal is soon to hand down its decision about whether judges or magistrates presiding should consider the mental element of a crime during special hearings.

This bill makes it clear that the government is not going to let a period of mental illness prevent an accused person facing trial. This law would actually make the decision of the Court of Appeal on special hearings irrelevant. I have conducted what stakeholder consultation I could in the time available. I have been able to determine that I will not be opposing the bill, but I will oppose specific clauses relating to what judges need to consider in a special hearing which, in the short time that we have had, I have found could actually result in a serious injustice to the accused.

I expect the original system was devised in recognition of the fact that the person who emerges at the end of a long period of mental illness is usually a very different person to the one who existed before the illness. Mental illness usually leaves very profound scars and makes a person much more susceptible to future damage from stressful events. The stress of a trial may well trigger a relapse into illness.

In this bill we are talking about people who have been continuously ill for a year or longer; we are not talking about brief or transient cases of depression or anxiety. However, I am willing not to oppose this bill in principle because I am sympathetic to the feelings of victims and the families of victims who are often angry and disappointed if an accused person who was of sound mental health when he or she committed the crime escapes punishment for their wrongdoing because they subsequently develop a temporary mental illness.

I harbour some concerns that there is no time limit on the period that can elapse between the commission of an offence and the DPP's bringing the case for trial. Theoretically, an 80-year-old person could be held responsible for a crime they committed when they were 10 or 12 years old. That crime could be something at the level of a property crime and we could have somebody being tried for a property crime or a minor assault quite a number of years after the crime actually took place. In practice, I do not think that the DPP would do that but I think it raises a couple of points, a couple of concerns about this piece of legislation, in that the five-year threshold for crimes actually means that we will be catching things like burglary and other offences that are not necessarily as serious as other crimes, and do not necessarily have an easily identifiable victim.

A better way of doing it would have been to list the crimes—perhaps those crimes for which we said we would remove the presumption of bail because we consider them to be more serious—as opposed to setting this—

Mr Stefaniak: You would still need to establish the facts.

MS DUNDAS: You would have been sentenced to five years or more. I do not think that that is the best way of doing this. But, as I said, if the main goal is to avoid an outcome that offends a victim or victim's family, it would have been more appropriate to single out those violent crimes rather than just throwing in all offences where a maximum term of imprisonment is five years or longer. If this bill is successful, we will have a situation where offences will include a range of property crimes where there is not an obvious victim, as I discussed when we debated the Criminal Code.

The arguments have not been put about why this needs to be rushed through the Assembly. I state again that I would have liked more than a week to consider the real implications of what we are doing here, and I will be opposing those clauses which relate to matters a judge may consider at a special hearing of the person who has been assessed by the Mental Health Tribunal as unfit to instruct the legal representative. I will talk more about that in the detail stage.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.22): The government introduced the Crimes Amendment Bill to clarify the law to rectify a deficiency recently identified which is that our legislation currently makes no real distinction between people entitled to an acquittal on the grounds of mental impairment and people who may have been quite mentally healthy and functioning normally at the time the offence was allegedly committed but are found unfit to plead when required to stand trial. This bill is simply about clarification and the introduction of a new system that will ensure that people who may have been quite mentally healthy and functioning normally at the time the offence was allegedly committed can be held criminally responsible for offences allegedly committed. The bill addresses difficulties relating to fitness to plead in criminal trials and a special hearing process established under the Crimes Act 1900 and the Mental Health Treatment and Care Act 1994. I think we all want a community here in the ACT where people who ought to be held responsible for their actions can be and will be.

Firstly, I would like to briefly address the matters raised in Scrutiny Report 45. I am pleased to see that the committee is of the view that the provisions of the bill appear not to trespass unduly, if at all, on the rights of the accused in respect of whom an issue about the consequences of a mental illness or dysfunction are raised. I appreciate the urgency that has been attached to this bill. I acknowledge the comments that have been made in relation to that, but I can and do indicate that the Discrimination Commissioner was consulted as part of the process of getting the bill to the Assembly today and had no comments to make on its content.

I have tabled a revised explanatory statement that addresses a number of the issues raised by the committee, particularly those relating to numbering and explanations. I make it clear now that it is the intention of the government for this bill to apply to all special hearings that take place after its commencement, regardless of when the offence was alleged to have been committed and regardless of when the accused was found unfit to plead.

The intention of the bill is not to codify or attempt to articulate the defences and the circumstances in which they can or cannot be raised in a special hearing. The bill is partly about providing clarification, which the Court of Appeal indicated the legislature

could provide, about what needed to be established at a special hearing. That is why the bill is silent on defences and it acknowledges that point.

It was not intended that all the elements of the offence, including the mental elements, would need to be established. The bill amends provisions to clarify that in a special hearing the court is to decide whether the accused committed the physical elements of the offence charged only. The prosecution is not required to prove the mental elements of the offence. This was the intended interpretation of the words and is consistent with the introduction of a safeguard to ensure that a person is not detained without some opportunity for testing the allegations, as was the case prior to 1994.

Fitness to plead issues are principally about whether a person's mental processes are disordered or impaired to the extent that the person is unable to receive a fair trial. The relevant considerations include whether the person is able to: understand the nature of the charge; understand that the proceedings are an inquiry as to whether the person committed the offence; follow the course of the proceedings; understand the substantial effect of any evidence that may be given in support of the prosecution; or give instructions to his or her legal representative. This assessment is made at the time of the trial or other legal proceedings. That is the relevant time for the assessment.

Without the amendments proposed in this bill, a person could be charged with a serious offence, found unfit to plead at the time of trial, subjected to a special hearing, subject to a non acquittal, detained and referred to the tribunal. After a very short period of time, the person may become well again and could be released straight back into the community. This person would not be able to be tried for the crime for which they were charged. Further, the courts have no further involvement with the management of a person once they have been referred to the tribunal. As I said previously, in cases involving acts of serious violence, for a person to be released after relatively short periods in custody would offend the community's sense of justice, as well as be a source of legitimate complaint by victims.

This bill addresses these inequalities by introducing a system that balances the safety of the community and the interests of justice with the needs and position of the offender. Firstly, the person must have been charged with a serious offence, being an offence punishable by a maximum of five years' imprisonment or more. Secondly, they must have been subject to a non acquittal at a special hearing, after having been found unfit to plead and, finally, they must have had an order made by either of the courts pursuant to the relevant Crimes Act sections.

Once this has occurred, a review process of their status as unfit to plead will be activated and will continue until the person is found fit to plead or the Director of Public Prosecutions has notified the tribunal in writing that he does not intend to take further proceedings against the person in relation to the offence. If and when a person is found fit to plead, he or she could then face an ordinary criminal trial in which he or she could be found guilty, convicted and be sentenced in the ordinary course of things, having regard to any time the person may have spent in detention or custody. This is, in my view, an appropriate balance between the public interest and that of the offender. Offenders will be liable to be held criminally responsible for crimes they committed whilst mentally healthy, when and if they recover from the mental dysfunction or illness that has subsequently developed and prevented their trial.

The bill also provides for a range of other minor and technical matters that improve the current system, which are outlined in the bill's explanatory statement. As I have previously indicated, this bill addresses only those amendments identified as requiring urgent attention. There have been a number of criminal cases in the past 12 months that have highlighted some of the difficulties being experienced in the current system with the interaction between the criminal justice and the mental health systems.

These issues are complex and pose a significant challenge for the justice system. You will recall that, late last year, I announced a detailed review of the operation of legislation concerning fitness to plead and the interaction between the Crimes Act 1900 and the Mental Health Treatment and Care Act 1994. When I announced that review, I also announced that I had instructed the department to proceed with the preparation of these amendments. I announced that the government would, as a first order issue, introduce these amendments. I made the announcement last year, on 7 November that the bill would be debated today and would be introduced as a matter of urgency.

That review is progressing well and a detailed discussion paper will be released for broad community consultation later this year. This bill is the first step in the right direction to addressing the interaction between the mental health and justice systems. It upholds the legal principles that underpin our legal system and it expresses community expectations by providing greater clarity and removing ambiguity. It asserts the primacy of the law and the need for justice to be seen to be done. I would like to see this bill passed through the Assembly today so it can commence operation without further delay. I commend it to all members and I take the opportunity to table a revised explanatory statement.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Clauses 5 to 7, leave, taken together.

MS TUCKER (10.30): I will be opposing clause 5 and also clauses 6, 7, 9, 10, 12 and 13 but I am not going to go through and keep everyone here even later. I just want to put on the record that—and I have already explained it—it rules out any defence for an accused person which is predicated on a mental factor. I made the argument during the in principle stage that it is, in my view, a diminution of rights which could be overcome without taking away the underlying purpose of this bill.

MS DUNDAS (10.31): I also oppose clause 5. I understand that judges and magistrates are currently uncertain as to whether there are sufficient physical elements of an offence to be established for a non acquittal to be returned or whether they should be considering the mental element of defence, be that criminal intent or a state of mind for grounds of defence such as self-defence. The government's amendment to this clause makes it very clear that a judge should only look at the physical element. Concerns have been expressed to me that this could result in injustice to an accused because in some

instances a case for self-defence could be made out even though the accused is not fit to plead or instruct their lawyer.

I think it would be an unnecessary stress on an accused person for a charge to be hanging indefinitely over their head if they would be able to make out a defence if they were well. I do have concerns about what we are being asked to do in terms of matters a judge should consider at a special hearing of a person who has been assessed by the Mental Health Tribunal as unfit to instruct a legal representative and I cannot support these clauses. I reiterate the point that we have not had a lot of time to consider this very complex piece of legislation. Although I respect the concerns of the community which have caused this piece of legislation to be brought forward, and I can see what the government is trying to achieve with it, I would have liked more time to consider the detail of it so that we do not end up with a situation that goes one step too far.

Clauses 5 to 7 agreed to.

Clause 8 agreed to.

Clauses 9 and 10, by leave, taken together and agreed to.

Clause 11 agreed to.

Clauses 12 and 13, by leave, taken together and agreed to.

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

Adjournment

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

> That the Assembly do now adjourn.

Hellenic Club

MR SMYTH (Leader of the Opposition) (10.34): Mr Speaker I rise in the house tonight to bring to the attention of members the fact that the last week of February saw the 25th anniversary of the Hellenic Club of Canberra. It is the 25th anniversary of the building; the club itself was formed a few years before that.

The club had a week of activities, which started on 21 February with a dinner for the Pallconian Society of the ACT—the Pallaconians are the Spartans of olden days—which was a well-attended function, as most of them are at the Hellenic Club. That heralded a whole week of activities. On Tuesday the 24th there was a foundation members evening which about 900 people attended. They dusted off and brought out the original president and he certainly enjoyed himself with a birthday cake. They were able to honour about 20 of the foundation members who had done five or ten years service in a position on the board of the club. Everybody was very appreciative of those individuals, some of whom had done even more than that; some had done several years as president or treasurer or as a member of one of the committees. They also acknowledged several subcommittees.

The night itself was a very joyous occasion for the committee. There was a brief history of the good times and the bad times—I think we are all aware that sometimes clubs that we belong to get into the doldrums. They related one incident from the mid-eighties when the club found itself in deep financial trouble. They called together the members who could make it and, on the strength of personal cheques and guarantees given by individuals that night, they were able to bring the club out of the doldrums and put it back on a very strong financial footing; they rescued their club.

The interesting thing is that the Hellenic Club has got something like 50,000 members here in the ACT, which is not bad for a community. I think they said there are about 4000 native born Greek people or their offspring living in the ACT so for a relatively small community it is not a bad effort to have enticed so many of the rest of Canberra to come and join the club. As we all know, the club has grown over the years. It is certainly the biggest Greek club in the country and most of them claim that it may well be the biggest Hellenic club in the entire world. Nobody there who had been in another country was able to dispute that.

The solidarity of the Greek community in the ACT is that they have actually come together as one community; they do not divide up into the provinces or cities of Greece as has happened in other cities of Australia and indeed around the world. So for a city that is celebrating 91 years of existence at the weekend, a club that has survived for 25 of those years is probably not a bad effort. The strength of the club is that the whole focus, I believe, is on the way they look after their youth and they encourage their youth to be part of the club. They also have a succession strategy where there are a number of board members under 30, some are in their 40s and some in their 50s. They have made a concerted effort to ensure that the management of the club is passed on, that the heritage of Greeks in Canberra is maintained and that the club actually is a real member of the community. They are very well known for their generosity and for supporting sport, the arts and culture.

I would like to say to members that it was a fabulous evening. A number of messages were read out, including from the Prime Minister, the federal Leader of the Opposition and from local politicians. Everybody was very accepting of the support that the community had given them and are looking forward to the next 25 years, and 50 years beyond that. To the Hellenic Club of Canberra: well done on your 25th anniversary.

Oxfam Walk Against Want

MS DUNDAS (10.38): I rise to draw the attention of the house to the fact that Sunday 21 March is the Oxfam annual Walk Against Want. The Walk Against Want was first held in 1967 to symbolise the long walk undertaken daily by women in developing countries to fetch water. This year the walk will be five kilometres around Lake Burley Griffin over the two bridges. There will be a festival after the walk with many local bands performing, including some entertainment from fire throwers, and there will even be massages offered. Over the years hundreds of thousands of people, almost four generations of Australians, have participated in the Walk Against Want and in the process they have raised several million dollars for Oxfam's Community Aid Abroad emergency and long-term development work in poor countries around the world.

Oxfam Community Aid Abroad channels its funds directly to community organisations which then work directly with the communities most at need. They then continue to work closely with these organisations so that accountability is assured and we can actually then see the results of the programs that are being funded by the money raised by people participating in the Walk Against Want.

Twenty dollars raised through the Walk Against Want can pay for seeds to plant fields of mung beans for four East Timorese families; $100 raised can pay for a one-day workshop with East Timorese men and women to address gender based violence; $10 raised will actually provide basic literacy and numeracy training for one person in the remote Afar region of Ethiopia; $10 will establish one private tree reserve for one farmer contributing towards reforestation and environmental rehabilitation in the Oromiyan region of Ethiopia. This region has experienced deforestation, over-grazing, soil erosion and frequent droughts. Seventy dollars raised will provide for one traditional birth attendant and the basic health training and birthing equipment needed to supervise safe deliveries in the remote Afar region of Ethiopia; $40 raised can pay for the monthly allowance of a South African HIV peer educator who uses song and theatre to help educate communities, especially young people, about preventing and dealing with HIV/AIDS. South Africa currently has the highest number of people living with HIV/AIDS in the world. As little as $150 raised can pay for a primary school teacher in Laos to attend school training for 12 months. Such training helps teachers to improve their skills and increase student retention rates. It enhances the work satisfaction of teachers.

So there are many good things that Oxfam is doing, including providing soccer balls for community sports groups in the Solomon Islands so that young man can be involved in soccer and participate in tournaments rather than join militant gangs. Money also helps the indigenous community here in Australia so that youth at risk can participate in cultural reclamation camps and help them restore self worth and pride in their identity.

There is a lot being done by Oxfam Community Aid Abroad and I urge all members, and all members of the community, to go out and support the Walk Against Want, join in the 38th annual Walk Against Want and then see the money go to some really good causes in helping people around the world.

Carlaminda Court, Florey

MR CORNWELL (10.42): It is particularly appropriate that the Chief Minister is here this evening in his capacity as minister for the ageing because I want to refer to something which my colleague Mr Stefaniak mentioned a couple of nights ago, that is, the ongoing problems for people living in Carlaminda Court in Worrell Place in Florey and the difficulties they are having with some of their neighbours. Despite the very helpful efforts of the police, intimidation continues by way of abuse and firework throwing, which I understood to be illegal at this time. These events appear to be regarded by ACT Housing as acceptable behaviour by its tenants.

Chief Minister, I wrote to your colleague Mr Wood, as Minister for Housing, on 26 February about this and I made mention that earlier in that week you had made a major statement about elder abuse, in which you mentioned that you had established the Office

for Ageing and the Elder Abuse Prevention Implementation Taskforce. The ACT government contract for provision of services to older people now contains a requirement that they adhere to specific principles to ensure that the autonomous rights, dignity, and welfare of older people are upheld. There is also a requirement that mandatory police checks be incorporated in government contracts related to services for older people.

It appears that any or all of the above have been breached by ACT Housing and therefore constitute a charge of elder abuse in respect of tenants of Carlaminda Court by their neighbours across the road. I mention this tonight in the adjournment because I am still awaiting a response from Mr Wood, Minister for Housing, to advise me what action ACT Housing proposes to take against their tenancy-breaching residents who to date have appeared to ignore anti-firework laws and, indeed, AVOs that have been taken out against them. I am awaiting Mr Wood's response with interest. If I am not satisfied, be assured, Chief Minister, that I will be writing to you laying a claim of elder abuse against ACT Housing.

ACT Housing
Lions Youth of the Year

MR STEFANIAK (10.45): I am interested that Mr Cornwell mentioned that particular matter because in an adjournment debate last week I spoke about the same problem, that is, the house opposite Carlaminda Court, which had been freshly painted and renovated and which, when I saw it a couple of weeks ago, had had the fence and gate kicked in and the gutters hanging off. Mr Cornwell is quite right about the elder abuse there; I think it is an untenable situation. I would expect that the people at number 8, who are causing so much harm and victimisation of the elderly, indeed some frail elderly people as well, should not remain in that particular place.

I am concerned also at the attitude taken regarding complaints raised in relation to certain officers at ACT Housing in Belconnen, who seem to do nothing in relation to the problem. In fact there are certainly concerns in relation to one particular officer who has basically tried to pretend that the problem does not exist and has caused a lot of angst to two or three elderly people and residents of that particular place. There are some real issues there that need to be resolved as a matter of urgency. You can talk about human rights, but the only rights being exercised there are the rights of those poor elderly people to be victimised and the rights of the people across the road to do exactly what they like regardless of the law, AVOs, and everything else.

On a much nicer note: tonight I have rather sadly had to come back to do my duty here in the Assembly because I have been involved during the last week in helping judge a Lions contest for three fine year 12 students, one from Queanbeyan High School, one from Merici and one from Radford, who are competing to go forward as the regional Lions youth of the year. I was highly impressed with the calibre of the three year 12 students, one male and two females. They are particularly impressive young people.

Unfortunately I had to miss out on judging the speeches and the impromptu speech, which was the last 15 per cent of their assessment, although I participated in the other 85 per cent. I look forward to seeing who is going to win; it will be very hard to pick. I compliment the Lions, especially the Belconnen Lions Club, on hosting that particular

event. They do a wonderful job in our community. It is so good to see these impressive young people perform so capably at this particular contest.

Finally, I would like to thank a number of people who were involved in making the lot of a wonderful 10-year-old—or 11-year-old, as he is now—so much better. He is the son of an old friend of mine from way back, John Hillier. I used to coach John, his mother taught me at Narrabundah High School and John formed the ACT Veterans, which kept me playing rugby, stupidly, for a lot longer than I should have. He, unfortunately, has two disabled children. The elder, Lee, is wheelchair bound. He is probably lucky to be alive now as he has a severe case of muscular dystrophy. He is a very intelligent young boy. John works and his wife looks after the boys full time. John in fact does two jobs just to make ends meet.

It was great to see much of the Canberra sporting community get behind a "set Lee free" function at the Southern Cross Club. I would like to thank the Southern Cross Club and the donors of various auction items. Tooheys put on very subsidised drinks, which kept the costs down so that the maximum benefit could actually go to young Lee. At last count over $55,000 was raised at the auction to buy a wheelchair accessible vehicle, which will make the lot of the Hillier family, and young Lee especially, so much better. Young Lee got out of the house only twice I think during the school holidays at Christmas time. I would particularly like to commend the efforts of Bill Salter from the Royals Club and Jimmy Roberts, formerly president of ACTSport, who both did a power of work, in Bill's case organising the event and in Jimmy's case helping to organise it and getting all the magnificent sporting items.

Also some prominent Canberra sporting stars greatly assisted. Lucille Bail, Lauren Jackson, Mal Meninga and Robert De Castella were absolutely fantastic in their support of the event. In particular, excellent speeches were made on the night by Robert De Castella, Lucille Bail and Mal Meninga. It was a wonderful effort. There is one little boy who is going to be a lot happier and a big burden has been lifted from his parents as a result of the generosity of the several hundred people who attended. I thank them all.

ABC Radio 2CN

MR PRATT (10.50): Mr Speaker I want to talk briefly tonight about the media. They are an important part of the fabric of Canberra life, they have a fundamental democratic role to play and they have a community service role to play. I never complain about the media even though they do concern me. Either they have commercial interests driving them or they have political interests driving them, but I never complain about them. However, tonight I am going to go against that. I am going to talk about an incident where recently I talked on the ABC morning show with Louise Maher about boys' education. Regardless of what we might think about that subject and what our various positions are, I think I have in common with the other side of the house the experience of having been misrepresented. I hear the Chief Minister talk quite often about it and, Chief Minister, I have suffered the same thing too, so we have common ground here.

I was quite pleased that I could get on to talk about a very important story, that is, the concerns that we have about boys' education, concerns which are broadly felt across the community. We had a very serious story to tell. We are very keen to generate a debate about what we might be able to do here in this community. For about 16 minutes, the

interview went swimmingly: quite nicely, thank you. But, at the end, there was the old sting in the tail and Louise decided to try to trap me and to misrepresent a position because it was sensationalist to do so. My concern is that we want the media to present both sides of the argument seriously, regardless of what our position might be. But we suddenly find ourselves being let down because somebody feels like being sensationalist or scoring a political point. I am going to talk to Radio 2CN and I am going to tell them that they have deeply disappointed me and a lot of other people who wanted to see that story get out there but who, in fact, saw the story hijacked and then later misrepresented on the news. I would like to see 2CN lift its game to ensure that they get that service back to the community.

Dementia sufferers

MRS BURKE: (10.53) This week, and over the past few weeks and months, we have heard about the issue of aged care. It has certainly been in the spotlight, so I think that it is really good tonight that we can talk about some good positive news with regard to facilities in the ACT for people with dementia and their carers. It is also really good to highlight a clear commitment by the Australian federal government to supporting older ACT residents and their families. I read from a media release put out by Ms Julie Bishop MP, Minister for Ageing. She says:

> ACT residents with dementia and their carers will benefit from the launch of two new facilities...The Australian Government provided more than $1.1 million in capital and recurrent funding for the two initiatives.
>
> The first project provides an innovative model for dementia residents at the Upper Jindalee Nursing Home, and an associated outreach program. A new 12-bed residential unit will cater for clients with dementia and challenging behaviour, using a new structured program of staff supervision and support to provide sustained and effective care. The outreach program will be delivered to eight clients in each of two other ACT nursing homes, Amity at Aranda and Morling Lodge in Red Hill.

It is interesting to note that these programs have been modelled on a Swedish model, which talks about a better approach to caring for people with dementia in our community. I think grateful thanks should be given publicly tonight for Jindalee Nursing Home because they have been really helpful in being able to establish the program out there. An eminent person in the area of dementia, Dr Mike Bird, will be doing the assessment. It is all about staff attitude to approaching people with dementia, communication strategies and really trying to understand the how, why, what and where of people with dementia. The press release goes on:

> At the same time, people with dementia who remain in the community, and those who care for them, will benefit from a new cottage-style respite centre at Gloria McKerrow House in Deakin. The Australian Government provided more than $360,000 for The Cottage, run by Carers ACT.

Who do a marvellous job, I might say.

> It will offer respite services 4 days a week until 8 pm, including over the weekend and outside the operating hours of most community-based respite services.

Again, this is an excellent commitment by the federal government. Providing carers with a well-deserved break through respite care is one way we can assist them while ensuring that their loved ones continue to receive the high-quality care they need. Both of these services will enhance the quality of life of those receiving care and their carers. It is important to note, too, that the Australian government has delivered around $2 million this year for services to support carers in the ACT. I would hope that, with all this money that we have in the territory, we are going to hear some really good news stories about respite care, not just in aged care but right across the board including those people with children with autism and Asperger's syndrome who are really suffering and struggling at this time.

Aged care accommodation

MRS DUNNE (10.56): To round out what has been a bit of an aged care fortnight, I would like to bring to the house's attention some concerns raised with constituents of mine, in particular the Belconnen Community Council, about the sale of land in Belconnen for bulky goods retailing and other commercial uses. I would like to share with the Assembly some extracts from correspondence that I have received in relation to this. There is a block of land opposite the Belconnen Markets—block 11 section 32, but they are about to change the name of it—near the Winchester Centre, which is up for sale next week.

This block of land was raised with me some time ago as an area that would be potentially a great site for aged care accommodation. The Belconnen Community Council raised with me, and I note that they have raised it with others, the possibility of its being put in the mix of potential aged care sites. I notice that the Belconnen Community Council wrote to the Chief Minister earlier this year and pointed to this, among others, as being a very important site that was worth further consideration. In the email to the Chief Minister, they made the following preliminary comments about the suitability of this site. They did mention others. They said:

> It is a negligible distance from shopping facilities, both market and more, cinemas and the likely new bus interchange with a very short distance to the library, senior citizens clubs, other clubs and the Belconnen Community Service and the Belconnen Community Centre. It is an elevated site with good views.

The Chief Minister emailed back to the Belconnen Community Council in response to this email. He talks about the usual things that the government talks about, that they are trying to identify sites for aged care housing, which is a key feature of the government's recently announced Building for our Ageing Community Strategy; and he says that ACTPLA is investigating the potential of sites throughout Canberra to cater for the needs of the ageing population. The Chief Minister also says, "I have forwarded the sites that you have suggested to ACTPLA for their consideration. The sites have merit." Later, in another email on 28 January, the Chief Minister says:

> There's a whole of government working group including the Land Development Agency and the Planning and Land Authority working with the newly-appointed case manager to advance this program. The three blocks that you

> have nominated will be included in a list of potential sites for further evaluation and planning assessment.

That was on 28 January. The block is now up for sale and I notice from the sale documents that are out and about that the lease development conditions seem to have been developed in a very short period of time after that date. The lease development conditions were developed by a private consultant, signed off by the private consultant on 16 February and signed off by the Land Authority on 18 February, which is a remarkably fast time for land allocation in this town at the moment.

I know that many members of the community have approached the government and I know that the ACT Council on the Ageing have looked at that site in particular and have agreed with the assessment of the Belconnen Community Council that it is an important site. I know that Ms Dundas has raised issues about the significant trees that would be cut down if we put a two-hectare bulky goods retailing site on the site. It might be that this is the time for the government to reconsider whether this is an appropriate time to sell this block of land.

It is on Lathlain Street, which will eventually be open to Belconnen Way and will be a significant entrance to Belconnen. One wonders whether bulky goods retailing is the right thing for that site. The Belconnen Community Council and many constituents in Belconnen are concerned about whether we are actually passing up a golden opportunity and if we wanted to save as many of the trees as possible it would be much easier to build aged persons accommodation around the trees than bulky goods retailing. I commend the Chief Minister for some of his actions and I hope that we see a satisfactory outcome for the benefit of all the community.

Question resolved in the affirmative.

The Assembly adjourned at 11.01 pm until Tuesday, 30 March 2003, at 10.30 am.

Schedules of amendments

Schedule 1

Construction Occupations (Licensing) Bill 2003

Amendments moved by Mrs Dunne

1

Clause 2
Page 2, line 4—

omit clause 2, substitute

2 Commencement

This Act commences on 1 January 2005.

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

2
Clause 99 (3)
Page 58, line 13—

omit

may

substitute

must

3
Clause 101 (1)
Page 59, line 3—

omit clause 101 (1), substitute

(1) The Minister may appoint a person, other than a public servant, as the Australian Capital Territory Construction Occupations Registrar (the ***registrar***).

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

4
Clause 101 (2)
Page 59, line 7—

omit

chief executive

substitute

Minister

7
Schedule 1
Schedule 2 to regulations
Page 120—

omit

Schedule 2

Construction Occupations (Licensing) Bill 2003

Amendments moved by the Minister for Planning

1
Proposed new clause 31 (2A)
Page 16, line 3—

insert

(2A) Subsection (2) does not apply to a failure of a nominee of a corporation or partnership (the ***nominee's firm***) if—

(a) the nominee had given the nominee's firm a mandatory requirement in relation to the matter that made up the failure; and

(b) the nominee had given the registrar a copy of the mandatory requirement; and

(c) the failure would not have happened if the mandatory requirement had been complied with.

2
Clause 31 (4)
Page 16, line 10—

omit

3

Clause 34 (1), note
Page 17, line 22—

omit the note, substitute

Note 1 If deciding under this section whether it may be appropriate to make a rectification order, the registrar must consider the considerations mentioned in s 35A.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

4
Clause 35 (1), proposed new notes
Page 18, line 15—

insert

Note 1 If deciding under this section whether it is appropriate to make a rectification order, the registrar must consider the considerations mentioned in s 35A.

Note 2 See s 146 for the extended meaning in this section of a ***contravention*** of this Act.

5
Proposed new clause 35A
Page 18, line 30—

insert

35A Considerations for deciding under s 34 and s 35

(1) In deciding whether it is, or may be, appropriate to make a rectification order in relation to an entity that is contravening, or has or may have contravened, this Act, the registrar must consider the following:

(a) any injury, loss or damage caused, or that could have been caused, by the contravention;

(b) if a rectification order is proposed—how the proposed order may affect people affected by the contravention.

Examples of effect of contravention, including injury, loss and damage

1 reduction in safety, reliability, durability, soundness, functionality, accessibility, serviceability, service life, usability, usefulness, amenity, aesthetic quality, value or efficiency of thing affected by contravention

2 adverse affect on health of user of thing affected by contravention

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) The registrar may consider anything else that is relevant.

6
Clause 36 (1) (c)
Page 19, line 9—

omit clause 36 (1) (c), substitute

(c) is not satisfied that—

(i) it is appropriate to make a rectification order in relation to the entity, because of the relationship between the entity and the land owner; and

(ii) the act that caused the contravention happened, or ended, more than 10 years before the day the Territory proposes to authorise someone under this section.

Note See s 146 for the extended meaning in this section of a ***contravention*** of this Act.

7
Clause 42 (1), penalty
Page 24, line 9—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

8
Clause 53 (1), proposed new note
Page 30, line 24—

insert

Note See s 146 for the extended meaning in this section of a ***contravention*** of this Act.

9
Clause 59 (3) (a)
Page 34, line 6—

omit clause 59 (3) (a), substitute

(a) must take into account—

(i) any response given to the registrar in accordance with the disciplinary notice; and

(ii) the considerations under section 60A.

10
Clause 60 (1), proposed new note
Page 35, line 10—

insert

Note If deciding what disciplinary action to take under this section, the registrar must consider the considerations mentioned in s 60A.

11
Proposed new clause 60A
Page 35, line 15—

insert

60A Considerations for deciding what disciplinary action to take

(1) In deciding what disciplinary action to take in relation to the person under section 60, the registrar must consider the following:

(a) the degree of responsibility of the person for the act or omission that made up the disciplinary ground;

(b) any injury, loss or damage caused, or that could have been caused, by the act or omission that made up the disciplinary ground;

(c) the number of people detrimentally affected by the doing of something, or not doing something, that made up the disciplinary ground;

(d) how any proposed disciplinary action will affect people detrimentally affected by something that made up the disciplinary ground;

(e) the extent to which it is necessary to discourage the person and others from doing something, or not doing something, that made up the disciplinary ground;

(f) whether, and the extent to which, it is necessary to protect the public from the person;

(g) the desirability of making the person responsible for the consequences of the person's actions or omissions;

(h) the desirability of maintaining public confidence in the regulatory system set up by this Act;

(i) the person's regard, or disregard, for public safety and protection of the environment when doing something, or not doing something, that made up the disciplinary ground.

(2) The registrar may consider anything else that is relevant.

12
Clause 69 (1), proposed new note
Page 39, line 4—

insert

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

13
Clause 78 (3), note
Page 43, line 23—

omit the note, substitute

Note 1 The Legislation Act, s 170 and s 171 deal with the application of the privilege against selfincrimination and client legal privilege.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

14
Clause 79 (1), penalty
Page 45, line 7—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

15
Clause 82 (1), penalty
Page 47, line 9—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

16
Proposed new clause 140A
Page 80, line 20—

insert

140A Former licensee in s 53 (3)

(1) In section 53 (3):

former licensee includes a person who was registered or licensed, or who held a permit, under—

(a) the repealed Act; or

(b) an operational Act, as in force at any time before the commencement of this Act; or

(c) the *Building Act 1972*, as in force at anytime before the commencement of this Act; or

(d) the *Plumbers, Drainers and Gasfitters Board Act 1982*, as in force at anytime before the commencement of this Act.

(2) Also, for section 53 (3), a reference to ***while licensed***, in relation to a former licensee who was registered or held a permit, is taken to be a reference to when the licensee was registered or held the permit.

17
Clause 146
Page 83, line 5—

omit

or section 36 (Rectification order inappropriate)

substitute

, section 36 (Rectification order inappropriate) or section 53 (Disciplinary grounds)

18
Proposed new clause 146A
Page 83, line 13—

insert

146A Meaning of *demerit disciplinary ground* for pt 8

(1) In part 8 (Demerit points system):

demerit disciplinary ground does not include a disciplinary ground if the disciplinary incident for the demerit disciplinary ground happened more than 3 years before the day this section commenced.

(2) In this section:

disciplinary incident—see section 87 (Definitions for pt 8).

19
Schedule 1
Regulation 30 (1), proposed new note
Page 103, line 6—

insert

Note If deciding whether to endorse a licence under this regulation, the registrar must consider the considerations in reg 31A.

20
Schedule 1
Regulation 31 (1), proposed new note
Page 103, line 13—

insert

Note If deciding whether to endorse a licence under this regulation, the registrar must consider the considerations in reg 31A.

21
Schedule 1
Proposed new regulation 31A
Page 103, line 21—

insert

31A Considerations for endorsing under reg 30 and reg 31

(1) In deciding whether to endorse a person's licence under regulation 30 or regulation 31, the registrar must consider the following:

(a) the person's physical ability or skill;

(b) the person's qualifications, training and knowledge;

(c) the extent, quality, relevance and recency of the person's experience doing similar work to, or work that is equally complex as, the work to be allowed by the proposed endorsement;

(d) whether any disciplinary action has ever been taken in relation to the person;

(e) whether the person has incurred any demerit points that have not been deleted from the register.

(2) The registrar may consider anything else that is relevant.

22
Schedule 1
Schedule 1 to regulations
Part 1.1, item 5, column 3
Page 113—

omit

class 10a

substitute

class 10

23
Schedule 1
Dictionary to regulations, definitions of *AS 3000* and *AS 3017*
Page 201, line 22—

omit the definitions, substitute

AS 3000 means Australian/New Zealand Standard 3000 (Wiring Rules), as in force from time to time.

AS 3017 means Australian/New Zealand Standard 3017 (Electrical Installations—Testing and Inspection Guidelines), as in force from time to time.

Schedule 3

Construction Occupations (Licensing) Bill 2003

Amendments moved by Ms Dundas

1
Clause 80 (1), penalty
Page 45, line 16—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

2
Clause 80 (2), penalty
Page 45, line 23—

omit the penalty, substitute

Maximum penalty: 50 penalty units.

Schedule 4

Construction Occupations (Licensing) Bill 2003

Amendments moved by Ms Tucker

1
Clause 110
Page 63, line 18—

omit clause 110, substitute

110 Annual report by registrar

(1) The registrar is a public authority for the *Annual Reports (Government Agencies) Act 2004*.

(2) A report prepared by the registrar under the *Annual Report (Government Agencies) Act 2004* for a financial year must include the details prescribed under the regulations.

2
Schedule 1
Proposed new regulation 43 (1A)
Page 108, line 15—

insert

(1A) The registrar's report to the Minister about complaints for a financial year must include the following information:

(a) the total number of complaints made in the year;

(b) the number of complaints made about former licensees;

(c) the number of complaints made about current licensees;

(d) a description of the kinds of complaints made about licensees and former licensees in each construction occupation.

Schedule 5

Bail Amendment Bill 2003

Amendments moved by the Attorney-General

1
Clause 5
Proposed new section 8 (1) (e)
Page 4, line 21

omit

2
Clause 5
Proposed new section 8 (5)
Page 5, line 12

omit

3
Clause 5
Proposed new section 8A
Page 5, line 14—

insert

8A Entitlement to bail—breaches of certain orders

(1) This section applies to a person who is arrested for, or in another way brought before the court in relation to, a breach of—

(a) a recognisance; or

(b) a community service order; or

(c) a home detention order; or

(d) a periodic detention order.

(2) The person has the same entitlement to be granted bail in relation to the breach of the order as the person has under this part in relation to the offence to which the order relates.

Examples

1 Martin has been found guilty of armed robbery and sentenced to periodic detention. He has breached the periodic detention order and is before the court on an application to cancel the order. There is no presumption in relation to bail because the offence of armed robbery is an offence to which division 2.2 (Presumption for bail) does not apply.

2 Joe has been found guilty of threatening to kill. Joe had, 3 years before, been found guilty of an offence involving violence. After serving part of his sentence of imprisonment for the offence of threatening to kill, he was released on entering into a recognisance. He has breached the recognisance and is before the court on an application to cancel the order for his release. There is no presumption in relation to bail because, section 9B (b) applies to make the offence of threatening to kill an offence to which division 2.2 (Presumption for bail) does not apply.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) In this section:

community service order—see the *Crimes Act 1900*, section 407.

***home detention order*—see the** *Rehabilitation of Offenders (Interim)* Act 2001, dictionary.

periodic detention order means an order under the *Periodic Detention Act 1995*, section 4 (Power to order periodic detention).

4
Clause 30
Proposed new section 42 (1)
Page 26, line 24

omit

may

insert

may, on application under this division,

5
Clause 30
Proposed new section 42 (2)
Page 27, line 1—

omit

a decision made by the magistrate

insert

the decision

6
Proposed new clause 30A
Page 27, line 7—

insert

30A Power of Supreme Court to review Section 43 (1)

omit

may

insert

may, on application under this division,

7
Clause 31
Proposed new section 43 (1A)
Page 27, line 11—

omit

a judge may review a decision made by the judge

insert

the court may review the decision

8
Schedule 1
Amendment 1.8
Proposed new dictionary, definition of *offence*, paragraph (b) (ii)
Page 38, line 19

omit paragraph (b) (ii), substitute

(ii) breach of a recognisance or an order mentioned in section 8A (1).

Schedule 6

Bail Amendment Bill 2003

Amendments moved by Mr Stefaniak

1

Clause 5
Proposed new section 9C heading
Page 7, line 11

omit proposed new section 9C heading, substitute

9C Presumption against bail—murder and certain other offences

2
Clause 5
Proposed new section 9C (1)
Page 7, line 12

omit proposed new section 9C (1), substitute

(1) This section applies to a person accused of an offence mentioned in schedule 2 (Offences to which presumption against bail applies).

3
Clause 5
Proposed new section 9D (1), example
Page 8, line 13

omit everything after

charged with

substitute

culpable driving of a motor vehicle the day after being served with the summons (punishable by 5 years imprisonment under the *Crimes Act 1900*, section 29, and so also a serious offence for this section). At the time of the alleged culpable driving, the charge of taking a vehicle without authority was still pending. This section will apply to any decision about the grant of bail to Claude in relation to the culpable driving charge.

4
Clause 5
Proposed new section 9G (3), example 1
Page 12, line 13

omit everything before

Section 9D applies

substitute

Damien is before the court charged with the offence of taking a vehicle without authority. He has earlier been charged with having taken a vehicle without authority.

5
Clause 18
Proposed new section 26 (1) (b)
Page 20, line 1

omit proposed new section 26 (1) (b), substitute

(b) any other conditions that the court or authorised officer considers appropriate having regard to the principles in the *Children and Young People Act 1999*, section 68.

6
Clause 42
Proposed new schedule 1, parts 1.1, 1.2 and 1.3
Page 32, line 7—

omit proposed new schedule 1, parts 1.1, 1.2 and 1.3, substitute

Part 1.1 Offences against Crimes Act 1900

column 1 item	column 2 provision	column 3 description of offence
1	15	manslaughter
2	49C	industrial manslaughter (employer offence)
3	49D	industrial manslaughter (senior officer offence)
4	20	recklessly inflicting grievous bodily harm
5	21	wounding
6	22	assault with intent to commit certain indictable offences
7	38	kidnapping
8	54	sexual intercourse without consent
9	91	robbery
10	93	burglary

8
Proposed new clause 44
Page 33, last line—

insert

44 New schedule 2

insert

Schedule 2 Offences to which presumption against bail applies

(see s 9C (1))

Part 2.1 Offences against Crimes Act 1900

column 1 item	column 2 provision	column 3 description of offence
1	12	murder
2	19	intentionally inflicting grievous bodily harm
3	51	sexual assault in the first degree
4	52	sexual assault in the second degree
5	55 (1)	sexual intercourse with young person under 10 years old
6	92	armed robbery
7	94	aggravated burglary

Part 2.2 Offences against Drugs of Dependence Act 1989

column 1 item	column 2 provision	column 3 description of offence
1	161	manufacture of drug of dependence or prohibited substance
2	162 (3)	cultivation, or participation in cultivation of, prohibited plants for sale or supply
3	163	wholesale selling of prohibited substance or drug of dependence
4	164	sale, supply etc of prohibited substance or drug of dependence

Part 2.3 Offences against *Customs Act 1901* (Cwlth)

column 1 item	column 2 provision	column 3 description of offence
1	231 (1)	assembly for unlawful purposes
2	233AC	master allowing use of ship for smuggling etc narcotic goods
3	233B	special provisions about narcotic goods

Schedule 7

Criminal Code (Theft, Fraud, Bribery And Related Offences) Amendment Bill 2003

Amendments moved by the Attorney-General

1
Clause 2
Page 2, line 4—

omit clause 2, substitute

2 Commencement

(1) This Act (other than schedule 3, part 3.1A) commences on the 14th day after its notification day.

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

(2) Schedule 3, part 3.1A (Bail Act 1992) commences immediately after the commencement of the *Bail Amendment Act 2004*, section 5.

2
Clause 5
Proposed new section 377 (4)
Page 68, line 18—

omit proposed new section 377 (4), substitute

(4) However, the Minister may, in writing, direct that, in a particular case, forfeited goods be dealt with in accordance with the direction (including in accordance with a law stated in the direction).

(4A) The direction is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

3
Schedule 1
Proposed new part 1.26A
Page 108, line 25—

Insert

Part 1.26A Land (Planning and Environment) Act 1991

[1.30A] Section 286

substitute

286 Acts and omissions of representatives

(1) In this section:

person means an individual.

Note See the Criminal Code, pt 2.5 for provisions about corporate criminal responsibility.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(2) This section applies to a prosecution for any offence against this Act.

(3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—

(a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(4) An act done or omitted to be done on behalf of a person by a representative of the person within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.

(5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

(6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

4
Schedule 3
Proposed new part 3.1A
Page 170, line 3—

before part 3.1, insert

Part 3.1A Bail Act 1992

[3.1A] Section 9D (1), example

substitute

Example

Claude is served with a summons to attend the Magistrates Court to answer a charge that he has committed the offence of taking a motor vehicle without consent (punishable by 5 years imprisonment under the Criminal Code, section 318 (1), and so a serious offence for this section). Before the court date, Claude is arrested and charged with having committed an aggravated robbery the day after being served with the summons (punishable by 25 years imprisonment under the Criminal Code, section 310, and so also a serious offence for this section). At the time of the alleged aggravated robbery, the charge of taking a motor vehicle without consent was still pending. This section will apply to any decision about the grant of bail to Claude in relation to the aggravated robbery charge

[3.1B] Section 9G (3), example 1

omit

armed robbery

substitute

aggravated robbery

[3.1C] Schedule 1, part 1.1, items about armed robbery and aggravated burglary

omit

[3.1D] Schedule 1, new part 1.1A

insert

Part 1.1A Offences against Criminal Code

column 1 item	column 2 provision	column 3 description of offence
1	310	aggravated robbery
2	312	aggravated burglary

[3.1E] Schedule 1

renumber parts when Act next republished under Legislation Act

5
Schedule 3
Proposed new part 3.4
Page 173, line 6—

insert

Part 3.4 Victims of Crime (Financial Assistance) Act 1983

[3.16] Section 3

omit

A ***violent crime***

substitute

(1) A ***violent crime***

[3.17] Section 3, table

omit

91, 92	robbery offences

[3.18] New section 3 (2)

insert

(2) An offence against the Criminal Code, section 309 (Robbery) or section 310 (Aggravated robbery) is also a ***violent crime***.

Answers to questions

Speed camera vans
(Question No 1232)

Mr Cornwell asked the Minister for Urban Services, upon notice:

Further to a report in the *Canberra Times* on Sunday 1 February 2004 regarding the provision of security guards deployed to patrol mobile speed camera vans across the ACT due to acts of aggression directed towards speed-camera operators by motorists:

(1) How many acts of aggression, threats, assaults or other inappropriate behaviour against mobile speed-camera operators and/or equipment were reported in (a) 2001-02, (b) 2002-03 and (c) 2003-04 to date;

(2) How many charges have been laid against individuals responsible for such acts in each of the years listed at (1) above;

(3) How many security guards are currently deployed in the ACT to protect mobile speed-camera operators and equipment on a (a) daily, (b) weekly and (c) monthly basis;

(4) From what date did it become necessary for security guards to be deployed for such purposes;

(5) Who is financially responsible for the provision of security guards to protect speed-camera vans and operators and what is the cost to the ACT. Government for this service;

(6) What action is the ACT Government taking to educate motorists against this kind of unacceptable, illegal and dangerous behaviour.

Mr Wood: The answer to the member's questions are as follows:

(1) The number of acts of aggression, threats, assaults or other inappropriate behaviour against mobile speed-camera operators and/or equipment were reported as:

Year	Number
2001 - 2002 (27 Feb 2002 – 30 June 2002)	10
2002 - 2003	64
2003 – 2004 (up to 31 January 2004)	22

(2) No charges have been laid relating to the acts of aggression, threats, assaults or other inappropriate behaviour against mobile speed camera operators and/or equipment.

(3) The number of security guards currently deployed is one to each speed camera van on Thursday, Friday and Saturday evenings between 1900 and 2400. There are normally two vans.

(4) The date from which it was decided to deploy security guards for such purposes was 1 March 2003.

(5) The Traffic Camera Office is 'financially responsible' for the provision of security guards to protect speed camera vans and operators. The cost of this service is $865 a week.

(6) The merits of speed cameras have been well publicised to reduce public anxiety against cameras. Last year the Australian College of Road Safety held a public seminar which canvassed the issue of threats against camera operators.

Public service—airline travel (Question No 1252)

Mr Smyth asked the Minister for Economic Development, Business and Tourism, upon notice, on 11 February 2004:

In relation to airline travel in the ACT Public Service and ACT Government:

(1) How many airline flights each month did officers in your department or associated agencies undertake on official business between 1 July 2003 and 31 January 2004;

(2) How many of these flights were on (a) Qantas, (b) Rex Airlines and (c) Virgin Blue services;

(3) How many airline flights did officers in your departments or associated agencies undertake on official business between Canberra and Sydney or vice versa between 1 July 2003 and 31 January 2004;

(4) How many of these flights were on (a) Qantas, (b) Rex Airlines or (c) an airline other than Qantas or Rex.

Mr Quinlan: The answer to the member's question, in relation to the Office of Business and Tourism and Australian Capital Tourism, is as follows:

(1) Airline flights undertaken by month between 1 July 2003 and 31 January 2004 were:

July 2003	15 return trips comprising 36 flights (legs) in total
August 2003	16 return trips comprising 37 flights (legs) in total
September 2003	16 return trips comprising 34 flights (legs) in total
October 2003	7 return trips comprising 14 flights (legs) in total
November 2003	15 return trips comprising 49 flights (legs) in total
December 2003	19 return trips comprising 38 flights (legs) in total
January 2004	7 return trips comprising 14 flights (legs) in total

(2) Of these 95 return trips, the number of flights taken on Qantas, Rex Airlines and Virgin Blue services were:

July 2003	35 flights (legs) on Qantas, 1 on Rex Airlines (Hazelton)
August 2003	33 flights (legs) on Qantas, 4 on Rex Airlines (Hazelton)
September 2003	32 flights (legs) on Qantas, 2 on Rex Airlines (Hazelton)
October 2003	9 flights (legs) on Qantas, 5 on Rex Airlines (Hazelton)
November 2003	34 flights (legs) on Qantas
December 2003	28 flights (legs) on Qantas, 10 on Rex Airlines (Hazelton)
January 2004	12 flights (legs) on Qantas, 2 on Rex Airlines (Hazelton)

No flights were taken on Virgin Blue during this period.

(3) Of these 95 return trips, the number of flights undertaken between Canberra and Sydney or vice versa were:

July 2003	3 flights (legs)
August 2003	19 flights (legs)
September 2003	10 flights (legs)
October 2003	8 flights (legs)
November 2003	15 flights (legs)
December 2003	26 flights (legs)
January 2004	4 flights (legs)

(4) Of the flights listed at (3), the number undertaken on Qantas, Rex Airlines and airlines other than Qantas or Rex were:

July 2003	2 flights (legs) on Qantas, 1 on Rex Airlines (Hazelton)
August 2003	15 flights (legs) on Qantas, 4 on Rex Airlines (Hazelton)
September 2003	8 flights (legs) on Qantas, 2 on Rex Airlines (Hazelton)
October 2003	3 flights (legs) on Qantas, 5 on Rex Airlines (Hazelton)
November 2003	15 flights (legs) on Qantas
December 2003	16 flights (legs) on Qantas, 10 on Rex Airlines (Hazelton)
January 2004	2 flights (legs) on Qantas, 2 on Rex Airlines (Hazelton)

Emergency services—communications upgrade (Question No 1256)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on Wednesday, 11 February 2004:

In relation to the upgrade of the emergency services communications system:

(1) What work has been completed on the upgrade of the emergency services communications system in the A.C.T.;

(2) As at 31 January how much of the $312,000 allocated to this project had been expended;

(3) What has been delivered for the money expended to date;

(4) How does the Government anticipate to spend $23.668m on this project by June 2007 when only $312,000 has been allocated this financial year.

Mr Wood: The answer to the member's question is as follows:

(1) The work to date has been to scope the project and recruit a project team. It was never anticipated that the actual procurement of the new capability could commence before the financial year 2004/05.

(2) As at 31 January 2004 expenditure was $6,350. Progress has been slower than anticipated due to the concurrent demands on the Emergency Services Bureau (ESB) staff arising from the McLeod Inquiry and the Coroner's Inquiry. Project staff have been recruited and expenditure will now accelerate rapidly.

(3) The expenditure to date on this project has provided for the identification of the users needs as well as the preparation of a statement of the deliverables expected from the project team. It has also allowed for work to begin on gathering lessons learned from other jurisdictions in their implementation of similar projects.

(4) The $312,000 available in Financial Year 2003/04 is to be spent on completing the creation of the project office, including the recruitment of additional staff, conducting a capability gap analysis and planning the project. The balance of $23.356m will be spent on the procurement and sustainment of new capabilities over Financial Years 2004/05, 2005/06 and 2006/07 in accordance with the budget allocation and ESB does not currently foresee any difficulty in achieving this.

SouthCare helicopter base (Question No 1272)

Mr Smyth asked the Attorney-General, upon notice, on 12 February 2004:

In relation to air space above the Southcare helicopter base at Hume:

(1) What are the regulations regarding air space for the Snowy Hydro Southcare helicopter above its base in Hume;

(2) Are there any regulations that prevent the construction of structures anywhere under that air space;

(3) If so, what are those regulations and what are the implications of the proposed prison site at Hume on air space for the Snowy Hydro Southcare helicopter;

(4) Are there any other aircraft that utilize land near or around the proposed prison site;

(5) If so, what implications does the proposed site have on the owners of those aircraft.

Mr Stanhope: The answer to the member's question is as follows:

(1) The Southcare site lies within the controlled airspace around Canberra International Airport and helicopter movements to and from the site are subject to the general rules and procedures detailed in the Air Services Australia *Aeronautical Information Publication ENR 1*.

(2) The helicopter landing site (HLS) has been designed taking account of the *Guidelines for the Establishment and Use of Helicopter Landing Sites* published by the Civil Aviation Safety Authority.

The primary operational criteria for HLS, in terms of clearances, are that the approach and departure paths should extend outwards from the edge of the final approach and takeoff (FATO) area as specified in the guidelines and they should have an obstacle-free gradient of 7.5 degrees (or 1:8 vertical to horizontal) measured from the edge of the FATO to a height of 500 feet above the landing and lift-off area level.

This path may be curved left or right to avoid obstacles or take advantage of a more advantageous approach or departure path.

Thus there should be no structures greater than 19 metres in height at a distance of approximately 200 metres from the FATO. The location of buildings and structures associated with the ACT prison is such that no building will be closer than about 500 metres from the Southcare HLS.

(3) The established operational arrangements for Southcare involve take off to the north west and to track north on the western side of the Monaro Highway. This practice is in place to avoid over flight of the Philmanda Park equestrian facility and to avoid the radio masts at HMAS Harman.

The proposed prison site has no implications on the operation of Southcare or on fire patrol and fire fighting aircraft that will be stationed at the base from time to time.

(4) Fire patrol and fire fighting aircraft will be stationed at the Southcare base from time to time and they will operate in a similar manner to Southcare and avoid over flight of the prison. Apart from model aircraft operating at a site west of the Monaro Highway and more than half a kilometre north of the proposed prison site, I have not been advised of any other aircraft regularly operating at low levels in the vicinity of the proposed site.

(5) I am advised that it is not expected that there will be any effects on the operation of model aircraft.

The proposal to locate the prison at the nominated site will be subject to preparation of, and consideration of, a Preliminary Assessment under the *Land (Planning and Environment) Act 1991* and the concerns of, and effects on, adjacent lessees and land managers will be taken into account in this process.

SouthCare helicopter base (Question No 1273)

Mr Smyth asked the Minister for Police and Emergency Services, upon notice, on 12 February 2004:

In relation to air space above the Southcare helicopter base at Hume:

(1) What are the regulations regarding air space for the Snowy Hydro Southcare helicopter above its base in Hume;

(2) Are there any regulations that prevent the construction of structures anywhere under that air space;

(3) If so, what are those regulations and what are the implications of the proposed prison site at Hume on air space for the Snowy Hydro Southcare helicopter;

(4) Are there any other aircraft that utilize land near or around the proposed prison site;

(5) If so, what implications does the proposed site have on the owners of those aircraft.

Mr Wood: The answer to the member's question is as follows:

The same question was also asked of the Attorney General. As the matter falls within the responsibility of the Attorney General, I refer the member to the Attorney General's reply to Question on Notice No. 1272.

SouthCare helicopter base (Question No 1274)

Mr Smyth asked the Minister for Planning, upon notice:

In relation to air space above the Southcare helicopter base at Hume:

(1) What are the regulations regarding air space for the Snowy Hydro Southcare helicopter above its base in Hume;

(2) Are there any regulations that prevent the construction of structures anywhere under that air space;

(3) If so, what are those regulations and what are the implications of the proposed prison site at Hume on air space for the Snowy Hydro Southcare helicopter;

(4) Are there any other aircraft that utilize land near or around the proposed prison.

(5) If so, what implications does the proposed site have on the owners of those aircraft.

Mr Corbell: The answer to the member's question is as follows:

The same question was also asked of the Attorney General. As the matter falls within the responsibility of the Attorney General, I refer the Member to the Attorney General's reply to Question on Notice No. 1272.

School based management (Question No 1278)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 12 February 2004:

In relation to school based management:

(1) What is the total sum of funds currently in school bank accounts under school based management;

(2) What is the figure for each school.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) The total balance of school bank accounts at the end of the school year December 2003 was $17.3m.

(2) Attachment 1 provides the list of individual school balances as at 31 December 2003.

	Dec-03 School balances
SECONDARY COLLEGES	
Canberra College	565,172
Copland	379,314
Dickson	884,850
Erindale	491,588
Hawker	200,209
Lake Ginninderra	481,979
Lake Tuggeranong	444,233
Narrabundah	680,899
TOTAL COLLEGES	4,128,245
HIGH SCHOOLS	
Alfred Deakin	334,573
Belconnen	265,000
Calwell	163,482
Campbell	318,747
Canberra	190,581
Caroline Chisholm	358,181
Ginninderra District	59,427
Kaleen	143,540
Kambah	55,662
Lanyon	175,208
Lyneham	281,541
Melba	147,656
Melrose	442,535
Stromlo	250,340
TOTAL HIGH SCHOOLS	3,186,475
COMBINED SCHOOLS	
Co-operative School	78,497
Gold Creek School	210,206
Telopea Park	438,462
Wanniassa	150,078
TOTAL COMBINED SCHOOLS	877,242
EDUCATION CENTRES	
Birrigai	230,000
School Band Program	94,234
TOTAL EDUCATION CENTRES	324,234

SPECIAL SCHOOLS	
Black Mountain School	191,604
Cranleigh School	131,279
Malkara School	77,301
The Woden School	251,031
TOTAL SPECIAL SCHOOL	651,216

PRIMARY SCHOOLS	
Ainslie Primary	192,641
Amaroo Primary	207,330
Aranda Primary	103,606
Arawang Primary	89,170
Bonython Primary	206,088
Calwell Primary	84,858
Campbell Primary	116,446
Chapman Primary	171,435
Charles Conder Primary	128,065
Charnwood Primary	84,163
Chisholm Primary	103,631
Cook Primary	100,758
Curtin Primary	33,350
Duffy Primary	113,392
Evatt Primary	100,559
Fadden Primary	171,212
Farrer Primary	42,448
Florey Primary	140,854
Flynn Primary	96,589
Forrest Primary	86,087
Fraser Primary	68,318
Garran Primary	134,799
Gilmore Primary	77,289
Giralang Primary	179,803
Gordon Primary	61,636
Gowrie Primary	52,980
Hall Primary	106,044
Hawker Primary	86,006
Higgins Primary	78,360
Holt Primary	169,126
Hughes Primary	74,547
Isabella Plains Primary	25,563

Jervis Bay Primary	113,179
Kaleen Primary	238,049
Latham Primary	133,475
Lyneham Primary	110,099
Lyons Primary	104,275
Macgregor Primary	182,717
Macquarie Primary	99,172
Majura Primary	56,552
Maribyrnong Primary	73,737
Mawson Primary	213,471
Melrose Primary	77,769
Miles Franklin Primary	63,060
Monash Primary	140,479
Mt Neighbour Primary	97,451
Mt Rogers Community School	142,140
Narrabundah Primary	153,169
Ngunnawal Primary	234,126
North Ainslie Primary	182,091
Palmerston Primary	125,227
Red Hill Primary	139,924
Richardson Primary	60,684
Rivett Primary	87,465
Southern Cross Primary	145,347
Taylor Primary	112,327
Tharwa Primary	53,236
Theodore Primary	219,710
Torrens Primary	243,877
Turner Primary	120,239
Urambi Primary	130,522
Village Creek Primary	99,855
Wanniassa Hills Primary	143,933
Weetangera Primary	169,439
Weston Primary	198,740
Yarralumla Primary	180,668
TOTAL PRIMARY SCHOOLS	8,133,356
GRAND TOTAL	17,300,768

Lower Molonglo Water Quality Control Centre (Question No 1283)

Mrs Dunne asked the Treasurer, upon notice:

(1) When was the Lower Molonglo Water Quality Control Centre completed;

(2) What was the projected population that would be served by the plant at the time of completion;

(3) Has the population projection to be served by the plant been revised since completion;

(4) If it was revised, (a) why was it changed and (b) what is the current population projection;

(5) What factors have caused any changes to projections.

Mr Quinlan: The answer to the member's question is as follows:

(1) May 1978.

(2) 269,000.

(3) Yes.

(4) a) ACTEW has advised me that the capacity of the Lower Molonglo Water Quality Control Centre is kept under regular review, based on current per capita flow data and actual plant process performance. The initial population capacity estimate of 269,000 was based on an anticipated inflow of 354 litres per capita per day. In 1992 the plant was reassessed as part of the Environmental and Process Audit. Based on inflows of 300 litres per capita per day, the plant was estimated to have a capacity sufficient to serve a population of 363,000 by 2002. A more recent study in 2002 indicates an actual inflow of 289 litres per capita per day.

b) I am advised that based on the 2002 revision, the current population capacity is approximately 377,000.

(5) ACTEW advises me that reduced per capita flow is likely due to more efficient consumption practices. These practices include greater community awareness, use of more efficient appliances, and regulatory changes such as the requirement for dual flush cisterns in new homes.

Water rates concessions (Question No 1284)

Mr Cornwell asked the Treasurer, upon notice:

In relation to the Independent Competition and Regulatory Commission pricing direction for A.C.T. water price increases, does the Government have any proposals for concessions to large families.

Mr Quinlan: The answer to the member's question is as follows:

(1) The Government is sympathetic to the financial circumstances of large families, particularly in terms of providing essential services such as water. In the reference issued to the Independent Competition and Regulatory Commission to investigate water and wastewater pricing, I specifically requested the Commission to consider the impacts on consumers, including disadvantaged consumers, low income earners and large households, and the adequacy of the current concession program. The Commission will release its final report on 31 March 2004. The Government will take the Commission's recommendations into consideration in reviewing the concessions program.

ActewAGL—*Little Johnny Howard* statue (Question No 1285)

Mr Cornwell asked the Treasurer, upon notice:

(1) Who sanctioned or approved the placement of the Little Johnny Howard statue outside ActewAGL premises in Civic and why;

(2) What criteria does ActewAGL have for placing such structures on display;

(3) Is ActewAGL prepared to accept other political artistic efforts for public display, including anti-Labor items;

(4) Which charities will obtain funds from such activities;

(5) Given that ActewAGL is currently the sole suppliers of retail electricity and gas in the A.C.T., does it have a right to be so politically partisan;

(6) In view of the large number of non-Labor voters in the A.C.T., is this action in the best taste given that ActewAGL has a monopoly over utilities supplies.

Mr Quinlan: The answer to the member's question is as follows:

(1) ACTEW informs me that a private citizen, acting for the artist, advised ActewAGL that the statue would be positioned outside its premises and it would need to make a donation to charity to have it removed. ActewAGL did not take this as a serious threat and the CEO of ActewAGL, Mr John Mackay, subsequently agreed to make a donation of $2,000 to Koomarri.

(2) ACTEW informs me that ActewAGL does not normally put such structures on display and, therefore, has no criteria for doing so.

(3) I understand that Mr Mackay made a public apology in the Canberra Times because of the many calls and letters, both for and against, that this statue generated. ACTEW advises that it is, therefore, most unlikely that he will do this again.

(4) See the answer to question 1 above.

(5) ActewAGL is not the sole supplier of retail electricity and gas in the ACT. Further, ACTEW informs me that Mr Mackay does not believe that he wittingly engaged in an act that was politically partisan.

(6) ActewAGL does not have a monopoly over utility supplies. Mr Mackay has publicly apologised in the Canberra Times to those who might have been offended by the statue.

Housing—rents
(Question No 1286)

Mr Cornwell asked the Minister for Disability, Housing and Community Services, upon notice:

(1) How many A.C.T. Housing tenants pay full market rent;

(2) What is meant by full market rent;

(3) Is this rent adjusted; if so, how and when;

(4) If this rent is not adjusted, why not.

Mr Wood: The answer to the member's question is as follows:

(1) As at 8 March 2004 1,663 tenants pay market rent.

(2) Market rent is defined in Section 15 (1) of the Housing Assistance Act 1987. It states that it is the rent that would be payable if the property were let by a willing landlord to a willing tenant-
(a) who had dealt with each other at arm's length; and
(b) each of whom had acted knowledgeably, prudently and without compulsion.

(3) Market rent is adjusted annually as required by Section 15 (3) of the Housing Assistance Act.

(4) Rent is not adjusted if the annual valuation confirms the current market rent.

Communities @ Work Inc
(Question No 1287)

Mr Cornwell asked the Minister for Disability, Housing and Community Services, upon notice:

(1) What are the details of your Department's support for the Communities @ Work Inc directory for Tuggeranong and Weston Creek regions and, if financial, how much;

(2) Is it intended to produce similar directories for other regions of the A.C.T.; if so, when; if not, why not;

(3) How will this directory be distributed to the community;

(4) How do the community services provided by Communities @ Work Inc differ from your Department's services in the various areas shown upon the letterhead or is the Department planning to vacate these fields;

(5) Would there have been economies of scale to produce this directory for the entire A.C.T.

(6) Was Communities @ Work Inc previously the Tuggeranong Community Council; if so, (a) why was the name changed, (b) what was the cost of the change and (c) who paid for the name change.

Mr Wood: The answer to the member's question is as follows:

(1) The Department of Disability, Housing and Community Services provides funding of $228,800 (GST inclusive) to Communities @Work to undertake community development activities and projects, but no separate funding was provided specifically for the directory.

(2) Some other Regional Community Services, such as Belconnen Community Service, already produce similar directories for their region. It is up to each Regional Community Service to identify and provide the community development activities and projects they consider most relevant for their region.

(3) The directory is an initiative of Communities @ Work and they will be distributing it.

(4) The Department is not planning to vacate any field of current activity. Communities @ Work receives funding from the Department of Disability, Housing and Community Services and other ACT Government Departments and the Australian Government to provide a range of services to the ACT community.

The Department funds community agencies (including Communities @Work) to provide community services over and above the services provided by the Department.

Amongst its funded programs, Communities @ Work provide in home and community based services for people who are elderly or who have a disability, family support and parenting programs, a supported accommodation service for women escaping domestic violence and services for young people.

(5) The government provides funding for an annual ACT wide directory of community services. This directory is known as the Contact Handbook.

There would probably not be beneficial economies of scale if the Tuggeranong and Weston Creek directory was produced for the entire ACT. Possible savings in production costs would be offset by the loss of support provided by local business. The directory provides a useful local map of the social, recreational and support services in the Tuggeranong and Weston Creek regions.

(6) The Tuggeranong Community Council is a different organisation from the Tuggeranong Community Service. The Weston Creek Community Service and the Tuggeranong Community Service have combined to become Communities @ Work.

Housing—private properties (Question No 1288)

Mr Cornwell asked the Minister for Disability, Housing and Community Services, upon notice:

(1) In relation to the renting of 50 private rental properties by ACT Housing, was this initiative advertised to property owners; if so, when and who was invited to apply; if not, why not;

(2) In what suburbs are these houses located;

(3) Will the private owners have any input into the type of tenants to be accommodated, for example families and groups;

(4) Will market rent be charged by the owners, if so will this result in HACT paying more rent than it currently forgoes for its own properties and if so what will the cost difference be;

(5) Are rents payable by ACT Housing to the owners fixed; if so, for how long;

(6) If rent is fixed, how will the private landlord take advantage of the rising rents in the Canberra market;

(7) If the properties are mortgaged, will ACT Housing take over the full mortgage repayments via rent;

(8) What will be the average rent paid to owners;

(9) What rules will apply to eviction and will they be the same rules as those applying in the private rental market;

(10) What arrangements will be made in cases of property damage by tenants and will a bond be required to cover this possibility.

Mr Wood: The answer to the member's question is as follows:

(1) In early February this year an officer of the Department of Disability, Housing and Community Services met with real estate agents at a function organised by the Real Estate Institute of the ACT, to encourage participation in the program. This met with support from the agents. There was a press release on the 9 February 2004 which brought some private inquiries. Properties are being sought on the open rental market.

(2) The properties are located in various suburbs, and due to privacy issues it is not Housing ACT's policy to identify the location of their properties.

(3) The owners will not have input into tenant selection. The properties will be tenanted according to client needs.

(4) Market rent will be charged to Housing ACT by the owners. Market rent is also charged to Housing ACT tenants. Rent foregone in both cases is dependent on clients' incomes.

(5) The rents will be fixed for the first twelve months in accordance with Clause 35 of the Residential Tenancies Act (RTA) Prescribed Terms set out in Schedule 1.

(6) Under the RTA Prescribed Terms, Clause 35 states that the rent may not be increased in the twelve months following the signing of a residential tenancy lease. After that, if the lease is extended, the rent may be reviewed and re-negotiated if appropriate.

(7) Any mortgages are a private arrangement between the owner and the mortgagee, they do not form a part of the contract between Housing ACT and the owner, therefore, Housing ACT will not take over mortgage payments.

(8) The average rent to be paid will depend on property size, location, and market values.

(9) The tenancies, including evictions, will be governed by the RTA in the same way as private rentals.

(10) Property damage, which is identified as a tenant responsibility, will be paid for by the tenant. No bond will be required. Housing ACT will undertake to return the properties to the owner in the condition in which they are received, less fair wear and tear.

Police force—incident reports (Question No 1290)

Mr Cornwell asked the Minister for Police and Emergency Services, upon notice, on 2 March 2004:

(1) Are police officers required to go through 12 screen levels before they can make a report because the reporting is for statistical purposes rather than recording of incidents;

(2) Does it take 45 days to match a fingerprint; if so, why; if not, how long does it take.

Mr Wood: The answer to the member's question is as follows:

(1) There are a number of screens which officers may fill in when entering an incident report on the police computer database; however the exact number will be based on the nature of the incident which in turn affects the data that needs to be entered. While statistics are obtained from the police incident computer database, the system is designed for recording incidents and reports of crime rather than wholly for statistical purposes.

(2) There is no standard length of time taken to match a fingerprint as the time for this task is dependent on a number of variables, including the clarity of the print, which in turn affects the level of processing required to identify the print, the scientific methodology used to analyse fingerprints that ensures the results of the fingerprint analysis or match can be used as legal evidence, and the volume of work and priority for different fingerprint requests.

Residential aged care (Question No 1292)

Mr Cornwell asked the Minister for Health, upon notice:

(1) Are the 71 new service residential care places, located at Calvary (35) and Southern Cross (36), which were allocated to the A.C.T. by the Commonwealth on 10 February 2004, in addition to those already allocated to these bodies; if so, what are the total available places now held by each organisation;

(2) Will the allocation of these new places result in further A.C.T. planning delays to buildings to accommodate these places; if so, why.

Mr Corbell: The answer to the member's question is:

(1) The 71 provisional allocations for Calvary Health Care (35) and Southern Cross Care (36) announced by the Australian Government on 9 February 2004 are in addition to places already held by these bodies. Calvary Health Care now has a total of 100 provisional allocations. Southern Cross Care has a total of 36 provisional allocations.

(2) The lease offer documentation for both the Little Company of Mary (Calvary) and Southern Cross (NSW) Inc (Southern Cross) are in the process of preparation.

Both Calvary and Southern Cross will need to submit Development Applications (DA) for the development of the respective sites. Each DA will be subject to consideration in accordance with the terms and conditions contained in the letter of offer, the Territory Plan and the requirements of the Land (Planning and Environment) Act 1991.

ACTPLA is waiting for a response to issues raised in the pre-application process for Calvary. ACTPLA has contacted the architects for the project, who have advised that they will be finalising their response and discussing with their client prior to further discussion with ACTPLA. Southern Cross Homes (NSW) will also need to complete the necessary requirements of the pre-application process. For both cases the pre-application requirements need to be satisfactorily addressed before a DA can be lodged.

Residential aged care (Question No 1294)

Mr Cornwell asked the Minister for Health, upon notice:

(1) In relation to the 2004 Report on Government Services, Section 12 Aged Care Services, Table 12.2 showing operational high care and low care residential places at 30 June 2003 and that the A.C.T. is shown to have the lowest number of total places (79.4) for any State or Territory per 1000 people aged 70 years and over, is the A.C.T. Government currently undertaking negotiations with the Commonwealth Government to address this problem;

(2) If so, could details of these negotiations be provided;

(3) If such negotiations are not being undertaken, why.

Mr Corbell: The answer to the member's question is:

(1) The Commonwealth Government is responsible for allocating residential aged care places to approved providers.

Under the 2003 National Aged Care Approvals Round, the Commonwealth Government recently announced 121 new residential aged care places for the ACT and 19 new Community Aged Care Packages to allow people to remain in their own homes with support. This brings the total number of provisional aged care places in the ACT to 255.

The ACT Government is now working to ensure that these places are operational as soon as possible. Of the 255 provisional places, it is expected that 87 will be operational and 168 will be under construction by December 2004.

Once all provisional places allocated by the Commonwealth Government to approved providers in the ACT become operational, the ACT will be above the Commonwealth ratio for aged care places.

(2) The Aged Care Act 1997 made provision for the establishment of Aged Care Planning Advisory Committees (ACPAC) in all States and Territories. ACPACs are responsible for negotiation with the Commonwealth Government with regard to residential aged care places. ACT Health is represented on the ACT ACPAC.

ACPACs are required to assist in identifying community needs, ranking the identified needs in priority order, considering the types of care that should be provided in particular regions, and considering the most appropriate proportion of places for the different groups of people.

The end result of the ACPAC contribution to the planning process is advice to the Secretary on the recommended distribution of new residential and community care places by type (nursing home – high level care, hostel – low level care, and community care), by special needs group and by region. The advice includes the rationale supporting the ACPAC's recommendations.

The number of aged care places allocated by the Commonwealth Government is based on a ratio of 100 places per 1,000 people aged over 70. This ratio is applied nationally. The ACT Government has, in collaboration with other States and Territories, raised concerns about the adequacy of the ratio and requested the Commonwealth Government to review it. The Commonwealth Government has not to date been prepared to review the ratio.

(3) N/A.

Bus concessions (Question No 1295)

Mr Cornwell asked the Minister for Planning, upon notice:

(1) Did you state to the Assembly in 2003 that a bus concessions review to extend pensioner off-peak tickets to peak periods was underway; if so, will you make the outcome of this review available to Members of the Assembly;

(2) If not, why not; if so, when will it be available.

Mr Corbell: The answer to the member's question is as follows:

(1) Yes; Yes.

(2) The review will be available after consideration by Government.

Electricity infrastructure tenders (Question No 1296)

Mr Cornwell asked the Treasurer, upon notice:

(1) In relation to full retail contestability and Independent Competition and Regulatory Commission Report No 17 of 2003, when will the ACT Government respond to the report

(2) If the ACT Government does not intend to respond, why not

Mr Quinlan: The answer to the member's question is as follows:

(1) In December 2003 the Independent Competition and Regulatory Commission issued Report No 17 titled *"Review of Contestable Electricity Infrastructure Works"*.

This Report examines the potential public benefits of opening infrastructure construction works to competition. It is not concerned with Full Retail Contestability which involves access by residential consumers to alternate electricity suppliers and which came into effect in July 2003.

(2) Report No 17 is a Draft Report only. It is not the Government's practice to respond to Draft Reports. A final Report will be issued in late March 2004 at which time the Government will consider its position.

Water—exemptions (Question No 1297

Mr Cornwell asked the Treasurer, upon notice:

(1) Further to your response to Question on notice No 1230 concerning water exemptions, why are there 2436 exemptions currently active until the end of Stage 3;

(2) How many of the 2436 exemptions are for residential properties;

(3) What does an exemption allow for a residential property;

(4) Can an estimate be provided of the amount of water used by these Stage 3 exemptions.

Mr Quinlan: The answer to the member's question is as follows:

(1) ACTEW advises that there were 2436 exemptions active during Stage 3 at 30 January 2004 (Q.O.N. 1230) as this was the number of residences and businesses that had applied for exemptions and met ACTEW's guidelines that are set in place for Stage 3 restrictions. Additionally during Stage 3 restrictions, two general exemptions were given to all Canberrans for motor vehicle washing and for the use of sprinklers on Sunday evenings. While 2436 exemptions were active at 30 January 2004, not all were still active by the end of Stage 3, 29 February 2004. Some exemptions had approval dates that expired before this time.

Exemptions are given either for a specific time period or for the entirety of a stage. Exemptions granted for the entire Stage include those for Canberra businesses facing financial hardship due to water restrictions. The types of businesses seeking exemptions include:

- commercial car washing;
- garden maintenance and landscaping;
- pool maintenance and installation;
- roof restoration;
- construction, cleaning and building maintenance; and
- irrigation installation or maintenance.

Individual residential properties may also be granted limited exemptions under any of the above. While it is the individual residence that receives the exemption these are provided to assist Canberra businesses during restrictions.

Reasons for granting exemptions for residences for the entire stage include:

- health;
- disability; and
- compassionate grounds.

(2) ACTEW advises that there were 1583 exemptions for residential properties.

(3) ACTEW advises that residential exemptions are given for a number of reasons including:

- to use automatic sprinklers for health, disability or compassionate reasons;
- to fill or top up swimming pools;
- to clean paved areas for health and safety or maintenance reasons;
- to clean down a building prior to painting or maintenance;
- to run ponds or fountains to maintain fish and bird life;
- to water new turf (except during the summer months);
- to use sprinklers after lawn treatments; and
- to water outside of specific hours or days specified in the water restrictions scheme.

(4) ACTEW advises the amount of water used due to exemptions is not a figure that can be easily estimated. There are many factors that would influence the amount of water used including the size of the property, the type of irrigation system, the duration of use of water under the exemption.

Exemptions can allow controlled water usage, reduce water usage or create a neutral impact on water usage. However it should be noted that exemptions are given under specific written guidelines and provided under strict conditions. Often conditions specify

a limited time period and/or the use of water efficient equipment where possible. The efficient use of water is a common condition to ensure that water is not misused.

In many cases, an exemption is approved to allow a variation in times and/or days from that specified in the water restrictions scheme. Hence, no additional water would be used, as there is no increase in time available.

Typical exemptions include:

- under an industry agreement with lawn and garden maintenance businesses, customers may be granted an exemption to use sprinklers to water in chemicals and fertilisers for a 3-hour period, ie. between 7am-10am or 7pm-10pm. This type of exemption protects business to some degree and assists in continued employment for operators in the industry; and
- exemptions for health, disability etc., to allow sprinkler use are normally for one day per week only. The use of the hand held hose is not allowed in these situations, as the reason for the sprinkler use is that the householder cannot stand outside to hand water. In effect, the householder's potential outdoor use is reduced from 6 hours every second day to one day only.

There are a variety of the types of exemptions (for example, there were 2131 exemptions approved for lawn treatments during Stage 3). The provision of exemptions was a delicate balancing act – conservation, minimising impact on businesses and customer health/disability. These factors were considered at all times.

From ACTEW's point of view, the key thing is that the community had to meet the summer average daily consumption target of 167 Megalitres per day (164ML/day). Despite all the exemptions ACTEW gave, the community actually achieved slightly below the average daily target of 164ML/day. So, allowing exemptions in the way ACTEW did is therefore demonstrably in accord with the requirements of water restrictions.

Residential aged care (Question No 1298)

Mr Cornwell asked the Minister for Health, upon notice:

(1) Further to your response to Question on notice No 4 in relation to facilities for the aged by region, how many public housing aged person units exist in (a) Belconnen, (b) City, (c) Gungahlin, (d) Tuggeranong, (e) Weston Creek and (f) Woden;

(2) What is the (a) waiting list number and (b) expected wait for such accommodation in each of the suburbs listed at (1) above;

(3) How many residential aged care facility beds are currently operational in the A.C.T. in the categories of (a) high care, (b) low care and (c) respite care;

(4) As at the end of February 2004, how many people were on the nursing home waiting list held by the Aged Care Assessment Team (ACAT) in each of the categories of (a) Calvary Hospital, (b) The Canberra Hospital, (c) private hospitals, (d) hospice and (e) community;

(5) Do the waiting list figures at (4) above include clients from Queanbeyan or other parts of NSW; if so, how many people in this situation are represented on this list;

(6) Can an estimate be provided of the total number of people who are on waiting lists for aged care facilities in the A.C.T. and who are not included on the list held by ACAT;

(7) How many dementia specific designated beds are there currently in the A.C.T.;

(8) Is there a dementia specific waiting list held by ACAT at present; if so, how many people are on this list.

Mr Wood: The answer to the member's question is as follows:

(1) The Department of Disability, Housing and Community Services uses the four regions, Belconnen, City, Tuggeranong and Woden as the regional breakup of public housing locations.

For each of the four regions the number of aged persons units is as follows:

Belconnen	258
City	449
Tuggeranong	142
Woden	526

(2) Applicants are to select more than one location, therefore the wait time by region is not an accurate measure.

The number of applicants, time on the waiting list and allocation priority for older persons accommodation is noted in the table below.

Housing Register:

	Aged Applications for Aged Persons Accommodation	Aged Applications not for Aged Persons Accommodation	Average Number of Days on Waiting List	**TOTALS**
Early Allocation Category 1	2	3	274	**5**
Early Allocation Category 2	6	9	625	**15**
Standard Allocation Category 3	80	31	883	**111**
TOTALS	**88**	**43**	**830**	**131**

(3) Information from the ACT Office of the Australian Government Department of Health and Ageing is that, as of December 30, 2003:
(a) There were 643 operational high level residential aged care beds in the ACT;
(b) There were 931 operational low level residential aged care beds in the ACT;

(c) Included in this total of 1574 operational places are 41 for respite care. Respite places are allocated in the form of bed days – one "place" means 365 days. The service can use these days as they see fit. These respite days (places) are allocated in 20 of the 23 aged care facilities in the ACT region.

(4) (a) As at the end of February 2004 there were 7 people in Calvary Hospital who had been assessed by the Aged Care Assessment Team (ACAT) and were awaiting nursing home placement;

(b) As at the end of February 2004 there were 20 people in The Canberra Hospital awaiting nursing home placement;

(c) It is not possible to give accurate figures for people in private hospitals or the community awaiting nursing home placement as there is no centralised waiting list. Private hospitals and residential aged care facilities are private enterprises, keep their own waiting lists and do not report this information to ACT Health;

(d) As at 10 March 2004 there are 2 people in the hospice who have been assessed by ACAT as requiring packages in order to return home with support;

(e) This figure is not known. (See 4(c) above).

(5) There is 1 client from NSW who is awaiting nursing home placement at The Canberra Hospital, and there are no NSW clients awaiting nursing home placement at Calvary Hospital or the hospice.

(6) No. ACT Health does not have access to privately run aged care facilities' waiting lists.

(7) The Australian Government does not allocate places that are specific "dementia care places". There are dementia specific beds/wings/homes operated by the majority of approved providers in the ACT. The places allocated to these services are only described as high or low care places.

(8) There is no dementia specific waiting list.

Alzheimer's Association of the ACT (Question No 1299)

Mr Cornwell asked the Minister for Health, upon notice:

(1) Further to your response to Question on notice No 1061 regarding funding for the Alzheimer's Association of the A.C.T., why have the Alzheimer's Association's previous claims for recurrent funding of up to $350 000 per annum, to enable it to continue to run its charitable operations, been rejected by the Government;

(2) Why is the A.C.T. the only State or Territory Government that does not provide funds for its Alzheimer's Association.

Mr Corbell: The answer to the member's question is:

(1) Alzheimer's Australia ACT has submitted one request for funding to ACT Health. This request received in December 2003 is being considered in the context of the 2004-05 ACT budget.

(2) Alzheimer's Association (ACT) Inc receives $65,000 in funding through the Home and Community Care Program managed by ACT Health.

Applications for growth funding for the HACC program were advertised in February 2003 and Alzheimer's Australia ACT did not seek additional funding through this open tender process. Further growth funding for this program will be advertised in June 2004.

In addition to the ACT funding Alzheimer's Australia ACT also receive over $650,000 from the Australian Government for a range of programs to support people with dementia and Alzheimer's disease.

Aboriginal protest activities (Question No 1300)

Mr Cornwell asked the Minister for Police and Emergency Services, upon notice, on 2 March 2004:

(1) In relation to the lighting of a fire outside the Australian Federal Police headquarters on Friday 9 February 2004 by Aboriginal protestors, was a total fire ban in force in the A.C.T. on that day;

(2) If so, what action is being taken against those who began the fire;

(3) If no such action is being taken (a) why not, (b) why should such bans be respected by A.C.T. residents, (c) is it because the perpetrators are Aboriginal or supporters of Aboriginal people and (d) do we have separate laws for Aboriginal people and others and if so, will the A.C.T. Government promulgate the differences.

Mr Wood: The answer to the member's question is as follows:

(1) There was no demonstration outside Australian Federal Police (AFP) Headquarters on Monday 9 February 2004. I would suggest that the question being raised by the Member refers to the protest activity by members of the Aboriginal community outside AFP Headquarters on Friday 20 February 2004. A Total Fire Ban had been declared pursuant to *s7A of the Bushfire Act 1936* for the Australian Capital Territory for the period midnight Thursday 19 February 2004, until midnight Friday 20 February 2004.

(2) No action is proposed at this point in time.

(3) The demonstration of 20 February 2004 was in response to a call by Aboriginal groups to 'call for support from the ACT Government and wider community in ensuring the death of the young person, TJ Hickey in Redfern on 14 February 2004 was properly investigated and the results made public'. The police examined the situation and assessed that the protest at the AFP Headquarters was an unsanctioned splinter group and that their protest was an attempt to force police into a conflict situation that may have escalated if not managed properly. Albeit not sanctioned by the rally organiser or community leaders, the splinter protest was targeting police-Aboriginal relationships, given the location, with the overarching premise of police exercising unnecessary violence and heavy-handedness against Aboriginal persons. Any overtly aggressive police action would only feed this premise and validate these sentiments. It was an emotive protest as

it centred on the death of a young member of the Aboriginal community in particularly tragic circumstances. There is no doubt emotions were running high and would have escalated in violence should it not have been managed in a sensitive manner.

The ceremonial smoking fire at the protest had been ignited using embers from the sacred fire located on the lawns of Old Parliament House, the site of the Aboriginal Tent Embassy. The protest, consequently, had particular sensitivities with regard to Aboriginal cultural issues. The Police Aboriginal Liaison Officer was engaged to negotiate the peaceful extinguishment/control of the ceremonial smoking fire.

To bring down the full force of the law was assessed as likely to have reinforced negative ideas about police/Aboriginal relationships. It would have created a violent confrontation that was neither desired nor necessary.

In this regard the Incident Commander elected to exercise common law discretion not to take overt action and to maintain a considered management approach to the situation that:

1. recognised the protestor group's democratic right to protest;
2. maintained the peace and order; and
3. respected the culture of the protest group.

The ceremonial smoking fire was monitored by police and fire brigade personnel at all times to ensure that it was wholly contained and set in a location that was free of flammable materials that may cause the fire to spread.

(a) The laws of the Australian Capital Territory are there for the conduct of all persons. Common law permits discretion in their enforcement when those laws are viewed in the context of the 'whole-of-circumstance'.

(b) This question has been more fully explored in the answers provided above.

(c) and (d)

Legislation authored by the Australian Parliament, differentiates between Aboriginal and Torres Strait Islanders and persons from a non-Aboriginal background, in much the same way as it acknowledges the cultural intricacies and sensitivities of other cultural groups'. Legislation has been drafted to take into consideration that Aboriginal people come from a different cultural base, and that this cultural base must be acknowledged and respected.

Aged care facilities (Question No 1305)

Mr Cornwell asked the Chief Minister, upon notice, on 2 March 2004:

1. Is the Government looking to develop the O'Connell Education Centre at Griffith and the Joint Emergency Services Centre at Curtin as aged care facilities;

2. If so (a) how many aged care beds will be available at each site(b) how far has planning progressed and (c) who will manage each facility;

3. Have the local communities been consulted; if not, why not;

4. When is a public announcement expected

Mr Stanhope: The answer to the member's question is as follows:

1. The Government is considering options for the future use of the O'Connell Education Centre at Griffith.

Senior Executive Working Group (Question No 1306)

Mr Cornwell asked the Chief Minister, upon notice, on 2 March 2004:

1. Who are the Senior Executive Working Group and what do they do?

2. Do their duties include approving or endorsing land release for aged care facilities; if so, why do approvals take so long and what is the average time for land release for an aged care facility?

Mr Stanhope: The answer to the member's question is as follows:

1. The members of the Senior Executives Working Group are:

Lincoln Hawkins
Deputy Chief Executive Policy
Chief Ministers Department

Martin Hehir
Executive Director,
Housing and Community Services
Department of Disability, Housing and Community Services

Peter Johns
Director
Marketing and Business Analysis
Land Development Agency

Stephen Ryan
Director
Property Branch
Department of Urban Services

Richard Johnston
Director,
Development and Building Branch
ACT Planning and Land Authority

Ian Thompson
Director
Community Policy
ACT Health

Peter Brady
Director
Office for the Ageing
Chief Ministers Department

Khalid Ahmed
Acting Executive Director
Financial and Budgetary Management
Department of Treasury

The group's primary task is overseeing implementation of the "Building for Our Ageing Community" strategy.

2. No

Apprehended violence orders (Question No 1309)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

How many Apprehended Violence Orders have A.C.T. Housing tenants taken out against other A.C.T. Housing tenants during;

(a) 2001-2002,
(b) 2002-2003
(c) 2003-2004

Mr Wood: The answer to the member's question is as follows:

Housing ACT is not able to provide these figures, as we are not generally aware of Apprehended Violence Orders taken out against, or by, Housing ACT Tenants.

Under-age drinking (Question No 1312)

Mr Stefaniak asked the Attorney-General, upon notice, on Tuesday, 2 March 2004:

(1) In relation to underage drinking at Canberra Stadium during this calendar year, (a) how many inspectors, if any, has the Office of Fair Trading tasked to enforce the provisions of the liquor laws and (b) at which events, if any, were Fair Trading Liquor inspectors tasked to enforce the liquor laws;

(2) How many underage persons have been detected at Canberra Stadium in breach of the liquor laws for the period 1 November 2001 to 1 March 2004;

(3) How many of these persons were (a) prosecuted, (b) found guilty of an offence or (c) imposed a penalty and if so, what was the penalty in each case;

(4) What action was taken against those persons not prosecuted;

(5) What action was taken against any accompanying adult who was either supplying alcohol to the young person or permitting the young person to purchase or consume alcohol.

Ms Gallagher: The answer to the member's question is as follows:

(1) (a) The Office of Fair Trading has five inspectors who undertake after hours inspections of licensed premises, including the Canberra Stadium.

(b) The inspectors have a general program of after hours inspections that includes football games associated with the two codes at Canberra Stadium. Inspections have been undertaken at two of the first three Brumbies games this season. It is expected that the majority of the remainder of the Brumbies games will also be the subject of inspections as well as a number of the Raiders games.

(2) 10.

(3) (a) One.
(b) The one person who was prosecuted was found guilty.
(c) The offender was reprimanded by the court.

(4) The remaining nine were cautioned under the provisions of the *Liquor Act 1975*.

(5) An adult who supplied liquor to two minors has been issued with a summons to appear in Court. The matter is still to be heard. The permit holder at the stadium was prosecuted for selling liquor to two minors and was fined $550.00 plus $52.00 court costs.

Medical indemnity fund (Question No 1313)

Mr Smyth asked the Treasurer, upon notice:

(1) Is the Government still proceeding with plans to establish a medical indemnity fund in the A.C.T.;

(2) Further to your response to Question on notice No 891, in which you stated that the terms of reference for this investigation had not been established, have they now been established;

(3) What work, if any, has progressed on the idea to establish a medical indemnity fund in the A.C.T.

Mr Quinlan: The answer to the member's question is as follows:

(1) As a consequence of the "Report to the Prime Minister from the Medical Indemnity Policy Review Panel", released on 10 December 2003, the Government is reconsidering its strategies in respect of cover for doctors' medical indemnity liability.

(2) No, refer (1) above.

(3) None at this time. As per (1) above, the Government is reconsidering its strategies.

Calwell ambulance station
(Question No 1317)

Mr Smyth asked the Minister for Police and Emergency Services, upon notice, on Wednesday, 3 March 2004:

(1) Are there any plans to close or reduce the operations of the Calwell Ambulance Station;

(2) What are the current hours of operation of the Calwell Ambulance Station;

(3) What are the next closest stations to Calwell to the (a) north, (b) east, (c) south and (d) west and at what distance are these stations from the current Calwell station.

Mr Wood: The answer to the member's question is as follows:

(1) There are no plans to close or reduce the operations of the Calwell Ambulance Station.

(2) Ambulance operations are conducted from the Calwell Ambulance Station 24 hours per day 365 days per week.

(3) The closest Ambulance stations to Calwell Ambulance Station are in order of distance/direction:

• Kambah Ambulance Station,	North West	12 kilometres
• Woden Ambulance Station,	North	14 kilometres
• Fyshwick Joint Emergency Services Complex,	North East	18 kilometres

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Sport and Recreation ACT website
(Question No 1324)

Mr Stefaniak asked the Minister for Sport, Racing and Gaming, upon notice, on 3 March 2004:

1. How many of the website surveys that were included in the December Sport and Recreation ACT newsletter were returned to Sport and Recreation ACT?

2. What percentage of respondents said they were satisfied with the information the www.sport.act.gov.au website provides?

3. What were some of the reasons given by those who were not satisfied with the website and what suggestions were made to improve the website?

4. What is Sport and Recreation ACT doing with the feedback respondents have provided on the website?

5. Are there any immediate improvements planned for the website; if so, what improvements will be made?

Mr Quinlan: The answer to the member's question is as follows:

1. The Sport and Recreation ACT website was remodelled and relaunched on 25 March 2003. The site provides for on-line feedback, however a feedback form was also included in the December 2003 quarterly newsletter. To date, two (2) completed forms have been returned.

2. 100 percent.

3. Minor improvements to drop down menus.

4. All feedback about the website is noted and minor improvements made where applicable.

5. No major changes are currently being considered.

Sport—participation levels (Question No 1325)

Mr Stefaniak asked the Minister for Sport, Racing and Gaming, upon notice, on 3 March 2004:

1. When were the most recent participation level figures for organised sport and physical recreation or activity in the ACT released?

2. How many ACT residents participate in organised sport in the Territory?

3. What is this result as a percentage of Canberrans and how does this figure compare to the national average and other States and Territories?

4. What are the top ten organised sports that Canberrans are involved in?

5. How many ACT residents claim to be physically active in the Territory?

6. What is this result as a percentage of Canberrans and how does this figure compare to the national average and other States and Territories?

7. What are the top ten activities undertaken by Canberrans to be physically active?

Mr Quinlan: The answer to the member's question is as follows:

1. The 2002 Australian Bureau of Statistics publication "Participation in sport and physical activity" was released on 8 December 2003. The survey measured participation of those aged 18 years or over in organised sport, non-organised sport and selected physical activities. The publication contains very limited data at individual State/Territory level.

2. 175,900 ACT residents were recorded as participating in sport and physical activities. The publication does not differentiate between organised sport, non-organised sport and other physical activities at State/Territory level.

3. See answer to Question 2.

Participants: sport and physical activities – States and Territories

NSW	Vic	Qld	SA	WA	Tas	NT	ACT	Aust
59.5%	63.0%	61.2%	57.7%	74.9%	60.3%	70.6%	76.1%	62.4

4. The publication does not differentiate between organised sport, non-organised sport and other physical activities however, the top 10 sport and physical activities measured were: walking 34.3%, aerobics/fitness 16.0%, swimming 16.3%, cycling 12.8%, tennis 9.0%, golf 8.9%, running 6.7%, bush walking 6.2%, netball 4.2%, soccer (outdoor) 3.8%.

5. See answer to Question 2.

6. See answer to Question 3.

7. See answer to Question 4.

Canberra Cannons Pty Ltd (Question No 1337)

Mr Smyth asked the Treasurer, upon notice, on 3 March 2004:

1. In relation to the payment of $100,000 from the Treasurer's Advance to the Cannons and further to the reply to Question on Notice No 1103 and to the provision of information under the Freedom of Information Act 1989, was the $100,000 paid to the Canberra Cannons Pty Ltd (Administrator Appointed) (the company) in accordance with clause 4.1 of the Agreement between the company and the Australian Capital Territory (the Territory)?

2. Were the funds provided to the company only used to meet ordinary business expenses as required by clause 6.1?

3. Were any of these funds not used by the company; if so, what amount was not used?

4. Was the Agreement extended beyond the period of 12 months specified in clause 3; if so, what was the extended term?

5. Did the company keep records in accordance with clause 7 of the Agreement of the administration and expenditure of the Territory's funds?

6. Did the company provide monthly reports as required by clause 7.3 of the Agreement?

7. Did the Territory require the company to repay the funds upon the expiry of the Agreement as required by clause 6.2 of the Agreement?

8. Did the company notify the Territory of any action or events as required by clause 8 of the Agreement?

9. Did the Territory require the company to repay the funds in accordance with clause 9 of the Agreement following the placing of the company in liquidation?

10. If the Territory did not act as required by clause 9 of the Agreement, why not?

11. Did a brief prepared on 19 December 2002 advise that the Board is a syndicate of the club's owners, with each party having contributed $50,000 capital and was the Government aware at that time of the status of contributions that were promised by the five members of the syndicate?

12. Why, in response to the request for information in relation to this matter under the Freedom of Information Act 1989 was there no reference to letters from Mr Cal Bruton and Mr E M Senatore?

13. Will you provide copies of the letters identified in paragraph (12); if not, why not?

14. Will you provide a copy of the record of the meeting between Mr Ted Quinlan MLA and Mr E M Senatore that was held on 3 January 2003; if not, why not; if there was no record made of the substance of this meeting, why not?

Mr Quinlan: The answer to the member's question is as follows:

1. Clause 4.1 specified for payments to be made as follows: (a) $35,000 on signing the Agreement, (b) $35,000 on 22 January 2003, and (c) $30,000 on 1 February 2003.

   The following payments were made by EFT: (a) Invoice 0006 for $35,000 on 16 January 2003, (b) Invoice 0007 for $35,000 on 16 January 2003, and (c) Invoice 0008 for $30,000 on 31 January 2003.

2. Documentation provided by Mr Senatore shows payments made on the club's behalf of $255,754.45 during the period that he was the club's Administrator (23 December 2002 to 11 February 2003) including $12,264.78 identified as existing liabilities. Whilst the Assistance Agreement commenced on 7 January 2003, the Government is satisfied that its $100,000 funding was used to meet ordinary business expenses and not existing liabilities as required by the Agreement.

3. N/A

4. No. The club was sold to a Newcastle consortium, Sportsvision International Pty Ltd, on 11 February 2003 thus terminating the Agreement.

5. Yes.

6. Yes.

7. No funds were available to be repaid.

8. Yes. Mr Senatore verbally informed Sport and Recreation ACT on 12 February 2003 that the club had been sold to Sportsvision International Pty Ltd. Mr Senatore provided written notification on 21 February 2003.

9. See answer to Question 7.

10. N/A

11. The brief advised that the Board was a syndicate of the club's owners, with each party having contributed $50,000. The Government was not privy at that time of the status of contributions.

12. The request specified, "a copy of all documents prepared by your department" about the matter. As such, the letter from Mr Bruton and Mr Senatore were outside the scope of the request and not provided.

13. Copies of the letters have been provided.

14. Ministerial or agency staff did not attend the meeting.

ACTION—services to Canberra Stadium (Question No 1339)

Mr Smyth asked the Minister for Planning, upon notice:

(1) In relation to the provision of bus services to home games at Canberra Stadium at which the Raiders Rugby League Club (Raiders) is playing, what is the nature of any arrangement between ACTION and the Raiders for the provision of bus services to and from Canberra Stadium for 2004

(2) If this arrangement takes the form of a formal contract, can you provide the details of this contract

(3) If this arrangement does not take the form of a formal contract, what are the details of the arrangement

(4) If this arrangement is different from that which applied in 2003 and earlier years, (a) what are these differences and (b) why has the arrangement been changed

(5) Does the arrangement with ACTION only deal with services to and from interchanges or does it also include services to and from interchanges and other locations, such as football clubs

(6) If there are services involving both interchanges and other locations, are the arrangements for services involving interchanges different from those relating to other locations

(7) If there are different arrangements noted in part (5), please provide details of any differences that apply to the two types of services

(8) What assessments of the viability of the provision of these bus services has been made by ACTION and what has been the outcome of any such assessments.

Mr Corbell: The answer to the member's question is as follows:

(1) In 2004, ACTION Authority will be providing the regular bus route services to Canberra Stadium via the Route 80 and special shuttle services from bus Interchanges to Canberra Stadium. In addition, ACTION Authority may provide "charter services" if booked by individuals or groups. ACTION Authority provides the additional shuttle services as a community service. There is no formal arrangement in place with the Canberra Raiders for the provision of transport to and from the Canberra Stadium

(2) There is no formal contract.

(3) There is no formal arrangement, but the services are outlined in (1) above.

(4) (a) There are no differences to what is occurring in 2004 to what has occurred in 2003 or previous years.

(b) No arrangements have been changed.

(5) There is no formal arrangement. The decision of providing services to the Canberra Raiders home games is dependent on patronage and revenue.

(6) In 2004, ACTION Authority is providing shuttle services from interchanges to and from the Canberra Raiders home games charging each passenger. It will also provide "whole bus" charter services on demand.

(7) N/A

(8) At the conclusion of the 2003 season the Authority determined that for 2004 it would continue to provide the regular bus route services to Canberra Stadium via the route 80. However, it was also agreed that the Authority would need to review the pricing element of how it ran the special shuttle services from the interchanges to the games as it had made a loss in 2003. A review of special event ticketing is presently underway.

Doctors—elective surgery lists (Question No 1340)

Mr Smyth asked the Minister for Health, upon notice:

(1) How many orthopaedic surgeons have public elective surgery lists in the ACT;

(2) How does this figure compare to the number of orthopaedic surgeons with public elective surgery lists in (a) March 2003 and (b) August 2003, please provide figures;

(3) How many of these orthopaedic surgeons have reached their full-year quotas for the 2003-04 year.

Mr Corbell: The answer to the member's question is:

(1) There are twelve orthopaedic surgeons with public elective surgery lists in the ACT.

(2) There were eleven orthopaedic surgeons with public elective surgery lists in March and August 2003.

(3) Three orthopaedic surgeons have reached their quota for joint replacement surgery at Calvary Hospital. TCH do not allocate orthopaedic quotas and are continuing to perform orthopaedic surgery.

Doctors—elective surgery lists (Question No 1341)

Mr Smyth asked the Minister for Health, upon notice:

(1) How many plastic surgeons have public elective surgery lists in the ACT;

(2) How does the figure compare to the number of plastic surgeons with public elective surgery lists in (a) March 2003 and (b) August 2003, please provide figures;

(3) How many of these plastic surgeons have reached their full-year quotas for the 2003-04 year;

(4) Why was there a large percentage of Category 1 and 2 plastic surgeries overdue in January.

Mr Corbell: The answer to the member's questions is:

1. There are two plastic surgeons that have public elective surgery lists in the ACT.

2. In March 2003 and August 2003 there were two plastic surgeons with public elective surgery lists in the ACT.

3. Plastic surgeons are not allocated quotas for the amount of surgery they perform.

4. There are nil category 1 plastic surgery long waits in January. There are a large percentage of category 2 long waits in January because we have been unable to recruit additional plastic surgeons to the public system.

Psychiatric Unit (Question No 1342)

Mr Smyth asked the Minister for Health, upon notice:

(1) How many seclusion rooms are available at the Psychiatric Unit (PSU);

(2) What has been the occupancy rate of the PSU, per month, for the last 12 months;

(3) On how many occasions, per month, over the last 12 months has the PSU turned away clients;

(4) Where have these clients then be presented for accommodation and treatment;

(5) What has been the cost of alternate accommodation for these clients;

(6) What is the overnight cost per person of accommodating a client in the PSU;

(7) What is the overnight cost per person of accommodating a potential PSU client in a hotel;

(8) How many staff are employed at the PSU and what positions/levels are they employed at;

(9) How many staff are on duty per shift at the PSU.

Mr Corbell: The answer to the member's questions is:

(1) There are two seclusion rooms at PSU

(2)

Month	*No days opened*	*inpt beds available per day*	*Total occupied beds*	*Av No of patient occupied beds per day*	*% occupied*
Mar-03	*31*	*26*	*807*	*26*	*100%*
Apr-03	*30*	*26*	*718*	*24*	*92%*
May-03	*31*	*26*	*719*	*23*	*89%*
Jun-03	*30*	*26*	*718*	*24*	*92%*
Jul-03	*31*	*26*	*800*	*26*	*99%*
Aug-03	*31*	*26*	*791*	*26*	*98%*
Sep-03	*30*	*26*	*777*	*26*	*100%*
Oct-03	*31*	*26*	*790*	*25*	*98%*
Nov-03	*30*	*26*	*777*	*26*	*100%*
Dec-03	*31*	*26*	*735*	*24*	*91%*
Jan-04	*31*	*26*	*722*	*23*	*90%*
Feb-04	*29*	*26*	*661*	*23*	*88%*

(3) PSU does not turn away clients who need admission. Medical staff assess all clients presenting for admission in accordance with sections 9, 38 (2) and 41(1) (d) of the Mental Health (Treatment and Care) Act 1994. If care can be provided in a less restrictive environment, they are referred to the appropriate service.

(4) No clients have presented requiring treatment and care that requires inpatient care that cannot be provided in a less restrictive environment than at PSU in the last 12 months and have been turned away.

(5) No clients who have presented for assessment and required admission have been turned away. Clients who do not require admission are referred to the appropriate service or managed in their own accommodation wherever possible.

(6) The overnight cost per person of accommodating a client in the PSU is $558.92.

(7) This will depend on the hotel.

(8)

Position / Level	Number
Visiting Medical Officer	1.6
Senior Staff Specialist	1
Career Medical Officer	1
Registrar	3
RMO	1
Senior Professional Officer Grade C	1
Professional Officer Level 2	2.65
Professional Officer Level 1	1
Hospital Service Officer Level 4	2.65
Registered Nurse Level 3	1
Registered Nurse Level 2	10.15

Registered Nurse Level 1	18.73
Enrolled Nurse	5.85
Administrative Service Officer Level 4	1
Administrative Service Officer Level 2	1

A casual nursing pool or staff on overtime are utilized as required to meet the required staffing numbers.

(9) Staff on duty per shift

Direct Care Staff

	Monday to Friday	*Monday to Friday*	*Saturday, Sunday and Public Holidays*	*Saturday, Sunday and Public Holidays*
	26 beds	*30 beds*	*26 beds*	*30 beds*
Morning Nursing	*6*	*7*	*6*	*7*
Evening Nursing	*6*	*7*	*6*	*7*
Night Nursing	*5*	*5*	*5*	*5*
Discharge Coordinator	*1*	*1*		
Through Shift / Discharge Coordinator - Nursing (8-4)			*1*	*1*
Psychiatric Service Officer (10 hour shift)	*1*	*1*	*1*	*1*

Supervisory and Allied Health Staff (Monday to Friday) – full time unless specified)
Team Leader (SPOC)
Clinical Nurse Consultant (RN Level 3)
Social Worker (PO2)
Welfare Officer (ASO4)
Psychologist (PO2)
Clozapine/Ect Nurse (RN L2)
Occupational Therapist (PO2 [.6FTE])
Occupational Therapist (PO1)
Office Manager (ASO4)
Ward Clerk (ASO2)

Medical Staff (Monday to Friday business hours)
Clinical Director PSU (Senior Staff Specialist) – 1
Visiting Medical Officers (Consultant Psychiatrists) – 1 .6
Career Medical Officers – 1
Registrars – 3
RMO's – 1

Medical Staff (on call all other hours)
Consultant Psychiatrist on call (VMO or SSS) – 1
Psychiatric Registrar on call – 1

Emergency accommodation hotline (Question No 1345)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

(1) In relation to the emergency accommodation hotline's second six months of operation, how many telephone calls were received;

(2) How many of these telephone calls were from (a) males and (b) females;

(3) How many of the callers in categories (a) and (b) above had children that also required accommodation, please indicate separately for each category;

(4) Of those telephone calls, how many people were homeless and required emergency or crisis accommodation;

(5) Who has Lifeline been referring callers to for emergency accommodation provisions;

(6) How much of the $205 000 allocated to this program was expended in the first year and were additional funds expended; if so, how much in additional funds and where did those funds come from;

(7) Is there any time during the last six months that the hotline has not been in operation; if so, when and for how long;

(8) In relation to the Emergency Accommodation Fund (EAF), (a) what is the total of the EAF, (b) have funds been dispensed from the EAF, (c) where did the money in the EAF come from and (d) for what purposes were any funds spent.

Mr Wood: The answer to the member's question is as follows:

(1) The emergency accommodation hotline received 1116 calls in the second six months of operation.

(2) Lifeline maintains strict policies that support the confidentiality of callers to the emergency accommodation hotline. The service does not record the gender of callers or any other information that could identify callers.

(3) The service does not record the gender of callers. Of the calls received, 901 were from or in relation to single people. 198 were from or in relation to family units. A family unit includes couples, single parents with children and couples with children.

There is a discrepancy of 17 in the number of calls received by the emergency accommodation hotline and the number of calls recorded that relate to individuals or family units. This can be explained by the fact that Lifeline does not ask callers any questions about their situation, but they rely on the information offered by callers to collect their data. In some situations, there may not be enough information offered by a caller to record accurate data on their reasons for accessing the telephone hotline.

(4) 901 people/family units identified as needing emergency accommodation. This figure may include people who call more than once on any given day or different member of the

same family unit. Lifeline CEAS collect a range of data, however the Lifeline philosophy of anonymity means that they cannot be identified if they make contact subsequently.

(5) Lifeline has referred callers to the following ACT Supported Accommodation Assistance Program (SAAP) services:
Young People - Belleden Youth Refuge; Canberra Youth Refuge; LASA Youth Centre; Lowana Young Women's Service.
Single Men - Samaritan House; Minosa House.
Women – Caroline Chisholm House; Inanna; Karinya House Home for Mothers and Babies; Toora.

Callers are also referred to crisis accommodation provided through the Emergency Accommodation Fund (EAF), which includes motel accommodation, caravans and cabins and back-packer accommodation.

Lifeline also refers callers to crisis accommodation services in Queanbeyan, Cooma and Goulburn and provides information on longer-term accommodation options and support services within the ACT.

(6) The $205 000 allocated to the CEAS services has been distributed to Lifeline and Anglicare. Lifeline received $80 500 in the first year of operation and expended $73 700. The discrepancy in funds allocated arises from a delay in the service employing staff upon establishment.

Anglicare's first year allocation was $125 000. Reports received from Anglicare to date indicate that they expended all funds.

In September 2003 additional funds were provided to Anglicare CEAS to enhance and expand the service:

- $93 000 (GST inclusive) provided non-recurrently for pre-leasing an additional 6 accommodation sites (funding provided through the Homelessness Initiatives identified in the 2004 budget process). These funds were provided in full in September 2003.
- $5 000 (GST inclusive) provided non-recurrently for expanded administration costs (funding provided through the Homelessness Initiatives identified in the 2004 budget process). These funds were provided in full in September 2003.
- $179 540 (GST inclusive) provided recurrently for expanded service provision and capacity enhancement (funding provided through the Homelessness Initiatives identified in the 2004 budget process) These funds are provided quarterly in-advance and therefore a payment of $44 885 (GST inclusive) was made in September 2003.

(7) The service has never been inoperable, however, there may have been times in the previous six months when callers may have been unable to reach the emergency accommodation line. In the event that a caller to any one of Lifeline's telephone services, including the emergency accommodation line, is identified as a high risk suicide or is engaging in an attempted suicide, then all incoming lines are blocked to enable staff to focus on responding to that person and to call the appropriate emergency services. In these instances, callers attempting to reach the emergency accommodation service receive an engaged signal.

(8) a) The total of the Emergency Accommodation Fund (EAF) for the first year of operation was $63 500.

b) Funds have been allocated from the EAF.

c) Funds provided through the EAF were allocated from the Commonwealth State Housing Agreement (CSHA)

d) Funds made available through the EAF have been used to provide flexible responses to homelessness, including the purchase of crisis accommodation, rental assistance to maintain tenancies and the provision of discretionary funds to respond to client needs.

Housing—indigenous (Question No 1346)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

(1) Further to your reply to Question on notice No 1177 in which you stated that the Steering Committee under the Aboriginal and Torres Strait Islander Trilateral Housing Agreement will now use this information to identify short and long term priorities for Aboriginal and Torres Strait Islander housing in the A.C.T., has the Government received any advice from this Steering Committee regarding priorities for Aboriginal and Torres Strait Islander housing in the A.C.T.;

(2) If so, what advice has been received; if not, will the Government seek such advice from that Committee.

Mr Wood: The answer to the member's question is as follows:

(1) No, the Government has not received advice from this Steering Committee regarding priorities for Aboriginal and Torres Strait Islander housing in the ACT, to date.

(2) The Steering Committee has committed to provide such advice to Government in the form of a finalised Aboriginal and Torres Strait Islander Housing Plan by May 2004.

The Steering Committee met on 15 December 2003 specifically to commence drafting the Plan. Information received through the Mandatory Housing Forums in November 2003 was considered in detail at this planning meeting and I am aware that further drafting has been considered by the Committee at subsequent meetings.

Playground safety (Question No 1347)

Mrs Burke asked the Minister for Urban Services, upon notice:

In relation to:

(1) What advice did the Minister receive from the consultancy undertaken by The Playground People regarding the Playground Safety Program;

(2) Why was this consultancy commissioned;

(3) Which playgrounds will be upgraded as part of the $900 000 to be spent in the current financial year on playground safety;

(4) Will expenditure of that $900 000 and the associated works take place this financial year or will funds need to be rolled over into 2004-05 for works to be completed;

(5) Have all funds from the 2002-03 Budget allocated to playground safety been spent and have all the associated works been completed;

Mr Wood: The answer to the member's question is as follows:

(1) The Minister was not directly advised of the Assessment of Safety Risks and Compliance for Giraffe Swings in the ACT that was completed by The Playground People. This consultancy was undertaken as part of Canberra Urban Parks and Places standard business procedures to assess risk associated with the maintenance of ACT Government playgrounds and related facilities.

(2) The consultancy was commissioned to provide independent professional advice regarding the safety of the three giraffe swings located in ACT district parks.

(3) The following playgrounds have been or are in the process of being upgraded as part of the $900,000 allocated from the 2003/2004 budget:

Package 3
Teague Street, Cook
Plowman Place, Flynn
Alberga Street, Kaleen
Oakover Circuit, Kaleen
Burkitt Street, Page

Package 4
Karney Street, Kambah
Marconi Crescent, Kambah
Maxworthy Street, Kambah
Summerland Circuit, Kambah
Billson Place, Wanniassa
Halfrey Circuit, Wanniassa

Package 5 (currently under construction)
Stangways St, Curtin
Throssell St, Curtin
Rechner Street, Flynn
Mildenhall Street, Fraser
Hogue Pl, Gilmore
Sculptor Street, Giralang
Bishop Street, Melba
Copeland Drive, Melba
Delaney Ct Melba
Lansell Cct, Wanniassa

Package 6 (currently in the design stage)
Nicklin Crescent, Fadden
Fadden Pines (masterplan), Fadden
McGilvray Close, Gordon
Captain Cook Crescent, Griffith
Springbett Street, Kambah

(4) Playgrounds in packages 3, 4 and 5 will be completed in 2003/2004 financial year. Funding for playgrounds in package 6 may need to be rolled over into 2004/2005 financial year.

(5) All of the $500,000 from the 2002/2003 budget has been spent and all of the associated works have been completed.

Deakin shopping centre (Question No 1362)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to the refurbishment of the Deakin Shopping Centre:

(1) What advice did the Minister receive from consultant group Rochford Teller regarding the refurbishment of the Deakin shopping centre?

Mr Wood: The answer to the member's question is as follows:

(1) The Minister did not receive direct advice from the consultants, the Rochford Telfer Group. The Rochford Telfer Group completed a Forward Design Study for the refurbishment of the Deakin Shopping Centre for Canberra Urban Parks and Places as part of the City Management's Business Unit's standard project requirements.

Community fire units (Question No 1365)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on Tuesday, 9 March 2004:

(1) How many community fire units have been established in Canberra and where are they located;

(2) How many residents are part of each unit;

(3) Do all of those units have every piece of equipment that they are entitled to; if not, why not and when will they have the equipment;

(4) As at 21 February had the Kambah community fire unit not received its personal protection kits; if so, has this unit now received its protection kits; if so, when did this unit receive the kits; if not, when will this unit receive the kits;

(5) Were protection kits available in the A.C.T. procurement system for this unit on 21 February or before; if so, why were they not dispatched sooner; if not, why were they not available before this time.

Mr Wood: The answer to the member's question is as follows:

(1) Eight community fire units have been trained and are located in the following areas:

- Simmons Place in Chapman
- Araba Street in Aranda
- Alchin Circuit in Kambah
- Marrakai Street in Hawker
- Dryandra Street in O'Connor
- Wybalena Grove in Cook
- Warragamba Avenue in Duffy
- Munro Street in Curtin

(2) The number of residents trained in each unit is as follows:

- Simmons Place has 27 people trained
- Araba Street has 28 people trained
- Alchin Circuit has 67 people trained
- Marrakai Street has 36 people trained
- Dryandra Street has 30 people trained
- Wybalena Grove has 33 people trained
- Warragamba Avenue has 16 people trained
- Munro Street has 37 people trained

Total: 274 community fire unit volunteers

(3) Initial funding allowed for the purchase of seven trailer units and one fixed box unit and associated firefighting equipment. Six trailers are currently located in the following areas:

- Simmons Place
- Araba Street
- Alchin Circuit
- Marrakai Street
- Dryandra Street
- Wybalena Grove

The trailer unit at Simmons Place will be replaced by a fixed unit by the 20th March. As this was the first fixed unit to be installed the planning application took some time to be developed and to be approved by ACT Planning and Land Authority. Once the fixed unit is installed it will free up a trailer that will go to Munro Street in Curtin.

The remaining trailer is being held back to complete ongoing training and will be placed into service in Warragamba Avenue as funds become available for the purchase of more units. Warragamba Avenue has the lowest fire risk at present due to fuel reduction from the January 18th fires. All units have their full complement of firefighting equipment (hoses, pumps, small gear etc).

Initial funding allowed for the purchase of 14 sets of personal protective equipment for each unit. With a delay of six to eight weeks from time of order to the supply of the clothing, a decision was made to order a range of sizes so it would expedite the implementation of the program. It was found that as community members were trained a

larger proportion of women and smaller sized people were involved than was originally estimated in this pre purchased order. Supplementary funding was sought and was approved on the 19th February. Orders have now been placed to fit out any of the 14 members from each group, who did not receive a uniform initially, and are expected to arrive by 31st March.

(4) As at the 21st February the Kambah unit was issued with all available personal protective gear that was held in stock at that time. The remaining uniforms not available have been ordered with funds made available on the 19th February and are expected to arrive by the end of March, supplier dependant.

(5) All personal protective uniforms for the Kambah unit were not available in the A.C.T. procurement system as at 21st February. As explained in question 3 uniforms were pre purchased on average sizes in order to expedite the introduction of the units into service. Supplementary funding was sought when it was found that certain sizes were not held in stock. A delay in approval of this funding led to the delay in ordering and therefore supply of the uniforms.

Tourism—promotion (Question No 1376)

Mr Smyth asked the Minister for Economic Development, Business and Tourism, upon notice, on 10 March 2004 in relation to tourists visiting the ACT.

What is the Minister for Economic Development, Business and Tourism doing to ensure interstate tourism bodies are not bad mouthing and discouraging tourists to visit the ACT, given he has acknowledged, in the Legislative Assembly on 2 March 2004, that German backpackers told him they were advised by a tourism body in Sydney not to visit Canberra.

Mr Quinlan: The answer to the member's question is as follows:

First of all, I must point out to the Leader of the Opposition that my comment regarding the German backpackers as reported in the Hansard of Tuesday, 2 March 2004 has been incorrectly interpreted. The backpackers were told not to visit Canberra by 'tourism operators in Sydney' and not by an interstate tourism body. The tourism operator I referred to was a concierge in a hotel and his comments demonstrated a lack of awareness of the Canberra tourism product.

We are confident that with the introduction of the new brand for Canberra, we will be able to achieve over time, a fundamental shift in how Australians perceive their capital by creating a positive feeling and an emotional link with their national capital.

In addition to the launch of the new brand for Canberra, Australian Capital Tourism, at the commencement of the last financial year embarked on a comprehensive program to educate and support interstate tourism operators in key target markets. The tourism operators included travel agents, inbound tour operators, regional tourist information centres and transport providers. The program encompassed:

- leveraging the marketing efforts of key industry partners by implementing familiarisation programs
- undertaking targeted consumer and trade show promotions

- undertaking a targeted sales calls program
- working with industry to sell ACT and region packages and experiences, and
- developing a targeted distribution strategy.

In addition, Australian Capital Tourism has forged strong relationships with interstate tourism bodies including Tourism New South Wales and regional tourism bodies such as Capital Country Tourism and Snowy Mountains Tourism to jointly market the region.

Despite comprehensive and extensive efforts by ACTC to market Canberra and the region, it is humanly impossible to 'reach' each and every tourism operator in the country and we have to accept this as a fact of life.

Erindale centre—traffic (Question No 1379)

Mr Smyth asked the Minister for Urban Services, upon notice:

Further to the letter you wrote to me on 2 February regarding the collection of traffic and pedestrian data at the Erindale Group Centre following concerns raised with me about traffic congestion in the area, in which you state that delays had occurred in collecting data, but that the final report together with recommended measures will be available before the end of February 2004, as I have not received any information regarding that final report when will this information be made available.

Mr Wood: The answer to the member's question is as follows:

The investigation was recently completed and I have sent you further details in my letter of 9 March 2004.

Dunlop—shopping centre proposal (Question No 1383)

Mr Pratt asked the Minister for Planning, upon notice:

(1) Are there any future plans to build shops or a shopping centre in the suburb of Dunlop;

(2) If so, when is this development scheduled and where would it be situated.

Mr Corbell: The answer to the member's question is as follows:

(1) Yes

(2) The site is on Lance Hill Avenue (Section 133 Dunlop) and is scheduled to be released at auction in the 2004/05 financial year.

Aged Care Advisory Council (Question No 1384)

Mr Cornwell asked the Minister for Health, upon notice:

(1) Further to the reply to Question on notice No 722 regarding the new Aged Care Advisory Council and its role in relation to the A.C.T. Ministerial Advisory Council on Ageing formed in July 2002, (a) what are the responsibilities and functions of each of these councils, (b) where do those responsibilities and functions differ or crossover and (c) how do the two councils operate in relation to, or support of, each other;

(2) How is the information that is provided to the A.C.T. Government by these two councils brought together to ensure that problems and issues relating to older people are dealt with in a coordinated and comprehensive manner across all ministerial portfolios.

Mr Corbell: The answer to the member's question is:

(1) (a) The role of the Aged Care Advisory Council (ACAC) is to assist the Minister for Health develop policies that provide appropriate health and community care services for older people and their carers in the ACT. The ACAC assists the Minister for Health and ACT Health in the planning and funding of aged health and community care services.

The Ministerial Advisory Council on Ageing (MACA) provides high quality, objective and responsive advice to assist the ACT Government in:

- developing and implementing policies for the advancement of older people in the ACT community;
- meeting the Government's commitment to foster positive ageing and a sense of well-being; and
- ensuring that older Canberrans feel safe and valued, and that they have access to appropriate programs and services.

(b) The ACAC's advice focuses on important health issues for the ACT's older community. The main areas identified by the ACAC include:

- aged care (including residential aged care);
- post hospitalisation; and
- frail older people (including the fragmentation of community services:.

The MACA's advice concentrates on broad positive ageing issues affecting people in three main areas:

- healthy and meaningful ageing;
- transport, accommodation and planning; and
- employment, education and training.

(c) The ACAC and the MACA have established a reciprocal working relationship, with a representative from each council attending meetings for the other. Feedback from the MACA is a standing item on the agenda for ACAC meetings.

(2) Cross representation between the ACAC and the MACA ensures that comprehensive and strategic advice is provided to the ACT Government on a broad range of social and health issues affecting older people in the ACT. As noted above, the ACAC focus on health specific issues while the MACA focus on positive ageing. Reporting from each council draws on input from the other via this cross representation.

Tourism—visitor bed numbers (Question No 1392)

Mr Smyth asked the Minister for Economic Development, Business and Tourism, upon notice, on 11 March 2004 in relation to occupancy rate for visitor bed numbers.

1. What was the occupancy rate for visitor bed numbers for the last quarter;

2. What was the figure for the same quarter last year;

3. What events, if any, have contributed to visitor numbers in the most recent quarter.

Mr Quinlan: The answer to the member's question is as follows:

The information requested by the Leader of the Opposition concerning occupancy rates for visitor bed numbers for the last quarter is contained in Australian Capital Tourism's Quarterly Report for October to December 2003. (See Pages 2-3).

A description of the main events that have contributed to visitor bed numbers in the most recent quarter is contained in pages 4-5 with the other events held during the quarter shown on page 13.

The report was tabled in the Legislative Assembly on 2nd March 2004.

Dog licensing (Question No 1393)

Mr Smyth asked the Minister for Urban Services, upon notice:

In relation to:

1) Why did the Government commission a feasibility study looking at domestic animal services;

2) What advice did the Government receive as part of this $7,000 study undertaken by Fulton Technology.

Mr Wood: The answer to the member's question is as follows:

1) Fulton Technology was requested to undertake a review of the Domestic Animal Services' (DAS) Dog Licensing and Management System database (DOGS) in 2003. The review focused on a 'gap analysis' of DOGS. A 'gap analysis' examines the existing system and the ideal system. The difference (or gap) between the two provides the scope for improvement.

2) The Fulton Technology Gap Analysis highlighted a number of improvements, which would assist in improved DAS operations.

Pets—statistics
(Question No 1396)

Mr Smyth asked the Minister for Urban Services, upon notice:

In relation to

(1) In relation to domestic animal services, how many pets were destroyed in the 2002-03 financial year;

(2) How many pets have been destroyed to date this financial year;

(3) Of those pets destroyed in parts (1) and (2) were any of them registered or were they all unregistered;

(4) How many dogs are registered in the A.C.T.;

(5) What figures or estimates does the Government have on how many pets in the A.C.T. are not registered;

(6) What is the Government doing to ensure more pets are registered in the A.C.T.

Mr Wood: The answer to the member's question is as follows:

(1) 313 dogs were euthanaised by Domestic Animal Services (DAS) in the financial year 2002-2003, consisting of approximately 100 as a result of dog attacks, 40 either surrendered by owners for destruction or deemed unsuitable for sale by DAS staff, with the balance of euthanaised dogs unable to be re-homed.

(2) 185 dogs have been euthanaised by DAS to date this financial year. This represents a 6% reduction for the same period last year.

(3) Dogs euthanaised by DAS included registered dogs.

(4) There are approximately 27,600 registered dogs in the ACT.

(5) No formal figures or studies have recently been conducted. DAS estimates that registered dogs represent about 50% of total dogs (approximately 60,000) in the ACT.

(6) DAS promotes responsible dog ownership that includes dog registration, through:

- Active enforcement
- Attendance at various functions promoting responsible dog ownership
- Educational programmes for primary school children.