DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

30 MARCH

2004

Tuesday, 30 March 2004

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The Assembly met at 10.30 am.

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

Death of Brian I'Anson

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

> That this Assembly expresses its deep regret at the death of Brian I'Anson, a passionate campaigner for the disadvantaged, particularly the mentally ill, and tenders its profound sympathy to his family, friends and colleagues in their bereavement.

Brian I'Anson died unexpectedly 10 days ago—on 20 March. He will be sadly missed by his wife, Jill Clapin, his children Mark and Sharon, and his stepchildren Garth, Megan and Barrie. The loss of Brian I'Anson also will be felt by the Canberra community as a whole.

At the thanksgiving service held on Friday, Brian's friends and family spoke about the man they knew, a man who cared deeply for the dignity of the human person. He was passionate about issues of justice and was not afraid to speak out when he perceived injustice. Overall, Brian I'Anson was known for his quiet tenacity in pursuing and achieving better outcomes for the disadvantaged. His contributions to mental health in the ACT were remarkable and he has left a lasting legacy.

Brian I'Anson had a long and distinguished career with the Commonwealth public service and he was active in the trade union movement. In the early 1970s, he served as president of the Administrative and Clerical Officers Association, which later became the Community and Public Sector Union. Brian was a member of the Australian Labor Party for a time during the formative years of the establishment of the ACT branch of the party. It was in that capacity that I first met him.

Brian was an active member of many community associations and societies, including the Australian-Chinese and the Australian-Vietnamese associations. In 1976, his profound belief in social justice led Brian to establish the Barton Cooperative Housing Society, to provide low-cost housing for disadvantaged members of our community.

In 1983, Brian became actively involved with an issue that was very close to his heart when he became a founding member of the Mental Health Resource community service. He was also a founding member of the ACT Association for Mental Health, which later became the ACT Mental Health Foundation. He served as president of that organisation from 1990 to 1997.

The ACT Mental Health Foundation has become one of the most significant community mental health services in Canberra. Brian had a very strong and very positive influence on the foundation, which now provides a range of services in support of its clients. But Brian's contributions to mental health in the ACT were not limited to one organisation. In 1993, he was a founding member of Mental Illness Education Australia, which was established to combat the stigma associated with mental illness.

From 1988 to 1989 he was a board member of the Northside Community Service and from 1997 to 1999 he was a member of the ACT Mental Health Advisory Committee. He also contributed significantly to a number of mental health organisations at the national level and he attended and contributed to most of the biennial meetings of the World Mental Health Congress from 1991 to 2003.

Brian was a committed advocate for mental health and for the disadvantaged members of the Canberra community. His work has had a real and positive impact on mental health in the ACT and his family and friends should take pride in the fact that Brian has done a great deal of good for the community.

Brian's friends said that his soul knew no bitterness. From the tragedy of the death of his son, the first mental health respite facility in the ACT was established. The Warren I'Anson Respite House, one of the most tangible legacies of Warren and Brian I'Anson, is still managed by the ACT Mental Health Foundation and it is rarely empty.

Brian was a great and compassionate member of the Canberra community, our community, and he will be sorely missed.

MR SMYTH (Leader of the Opposition): On behalf of the Canberra Liberals, I offer our sympathies to Brian's family and, I think, to the community for the loss of a man who must be considered a truly great Canberran. I think that his greatest attribute was his ability to take personal tragedies, of which he had a number in his life, and turn them into something fantastic for the community. The things that I will remember most of Brian I'Anson were his lack of bitterness and his ability to say, "Okay, something terrible happened to me, but I am not going to be a victim of it. I am actually going to benefit from it personally in some way, whatever that might be, and I will ensure that my community benefits from it as well."

It was from those tragedies—the loss of his wife in 1991 and the death of his son in 1995—that we actually saw leadership grow, that we saw a forward thinker, that we saw a groundbreaker and that we saw a man with great courage who was not afraid to tackle an issue which, even as late as 1995, was not receiving the recognition that it needed. In becoming an advocate for those with mental health difficulties, I think that Brian was saying, "This is something that we as a community need to be aware of and I am not going to go away until you have all become aware of it." In Canberra at least, he certainly did achieve that.

He provided a lifetime of service to the community. I understand that you had some dealings with him, Mr Speaker, at the Merit Protection Review Agency. Other people knew him from his days in the Commonwealth public service. It was back in 1984 that he helped to found the Mental Health Foundation. He set up the Barton Cooperative

Housing Society for those in need of housing, an advocacy role that showed that what we had in Brian I'Anson was an individual who was interested in his community and who turned his interest into action. I think that it was this sort of action that actually built the community, that built what we talk about here often as social capital. He was a man who was out there weaving the fabric of social capital and at the time of his passing he left Canberra a much better place for his being here.

To Jill and the children, I wish you well. You have our sympathies. It is sad to lose a loved one, but Brian's passing will not be the end of his time with us. I think that his memory will be with us for a very long time because he was a man who put his personal stamp on Canberra and Canberra is a better place for his having been here. On behalf of the Canberra Liberals, I offer our sympathies and we, too, will rise to remember a great Canberran.

MR CORBELL (Minister for Health and Minister for Planning): I rise to support this condolence motion today for Brian I'Anson. As the Chief Minister said, Brian I'Anson's death has left us all the poorer. Brian I'Anson will be particularly remembered for his significant contribution to the development of community health services in the ACT. His authority to speak on community health issues came from personal experience and from 30 years of contributing to the sector. He advocated hope for people with serious mental illness and this hope translated into community housing, stigma reduction and employment projects.

Brian I'Anson's contribution at the national and international level also enriched the provision of local community mental health services. Two highly regarded mental health services, Mental Illness Education ACT and the ACT Mental Health Foundation, provide a lasting inheritance from Brian I'Anson's participation in our community.

He contributed significantly to mental health policy development in the territory directly through his membership of the ACT Mental Health Advisory Group, which investigated mental health issues and reported directly to the minister for health of the day. He was known as a quietly spoken and deeply spiritual man who lived his faith through action in the community.

I join the Chief Minister and members in expressing condolences to the family and friends of Brian I'Anson.

MS TUCKER: I join members in this condolence motion for Brian I'Anson. As members have said, he was a man who was dedicated to social justice in Canberra. He was a powerful force for good in our community. I knew him, not through his union work, but through his work in our community for people with mental illness. I saw him as a particularly successful person in terms of his capacity to raise awareness about mental illness in our community and to achieve results, focusing particularly on stigma, accommodation and employment, as members have said.

He was one of the people who were instrumental in setting up Mental Illness Education Australia and then Mental Illness Education ACT, which was extremely important because there is still a huge issue around stigma in our society for people who have mental illness and mental illness education is one of the really positive ways of

challenging that stigma, although I would say that I think that there is a lot more work to be done. I know that he said that as well.

As people have said, he was involved in the 1970s in getting housing for people who were marginalised in our community and that work was further progressed in terms of getting accommodation for people with mental illness and the respite facility that he got after the tragic loss of his son. As has also been said here today, one of the things that people always commented about was his capacity to love and respond with love and care, not with anger and hatred, in the face of tragedy.

I know that many people associated with him after the tragic death of his son were very impressed and in awe of the fact that, even though he obviously was being torn apart inside, he always had a calm, gentle and caring composure. That is a very special quality to have. He will be missed. I extend the sympathy of the Greens to his family and loved ones.

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): I wish to share with other members in expressing condolences to the family. Brian I'Anson was one of the first people I met when I came to Canberra—of course, it was through Labor Party politics—and he was immediately impressive. He was a unique character, as we have heard today, not someone you would commonly find in the political realm.

I heard Brian described at the funeral service—I think accurately—as pure of heart. That resonates with what we have heard other speakers say today. Not for him the intrigue and the clamour that may sometimes be associated with political parties. In fact, he was a great lesson on how you may achieve a vast amount without noise, without making a big fuss. He set out to achieve things in his determined way because he had a great sense of strategy. He was not outspoken in the sense that we tend to think of it, but he was absolutely determined as he quietly worked through the many issues that he faced.

My particular involvement with him beyond Labor Party politics was in housing issues and disability issues. I know how sound his considered advice was. He achieved a great deal by his integrity, by his determination and by his constant activity. You have heard today the results of all that. Brian I'Anson was a fine citizen of Canberra and the world and a fine person. He will be missed, but he will be very well and long remembered.

MS DUNDAS: The Democrats add their support to this condolence motion for Brian I'Anson. He did have a very strong reputation as a tireless advocate for the rights and needs of people with mental illnesses and he was a carer who became an activist due to tragic circumstances. As has been mentioned, his son's death at the hands of the police followed a number of other police shootings of mentally ill people elsewhere in Australia and encouraged Brian to become passionate about working to fix our mental health system so that consumers would get the support they needed and violent incidents could be avoided in the future. I think that we need to reflect on the number of tragedies that still occur and the amount of violence still, unfortunately, perpetrated through the mental health systems and what we need to be doing to address that.

Brian was able to move from activism on police policy and practice to lobbying on mental health services more generally. He had a strong interest in prevention strategies and advocated the separation of mental health funding into prevention and treatment streams. He worked to end discrimination against people living with a mental illness. He was a representative and a member of so many boards and committees as a tireless advocate of those suffering from mental illness.

We will miss his passion and his work, but I know that there are many out there who will continue to work on the legacy that he has left behind and improve on the work that has been done with the ACT mental health system over the last 10 years.

Question resolved in the affirmative, members standing in their places.

Leave of absence to member

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

> That leave of absence be given to Mrs Cross for today, 30 March 2004.

Privileges 2004—Select Committee
Report

MS TUCKER (10.47): I present the following report:

> Privileges 2004—Select Committee—Report—*Report on whether the actions of the Chair of the Standing Committee on Planning and Environment with regard to the distribution of a flyer in her name at the Belconnen Markets did constitute a contempt of the Assembly*, dated 19 March 2004, together with copies of the relevant minutes of proceedings.

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

Leave granted.

MS TUCKER: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS TUCKER: I move:

> That the report be noted.

This reference occurred on 10 February 2004 and the committee had the task of looking at whether the production of the flyer by the chair of the Standing Committee on Planning and Environment did constitute a contempt. The committee, having determined that the words of Mrs Dunne's flyer were unambiguous, then moved on to determine whether the tests of contempt applied in this case.

The particular assignment of the committee was to resolve whether Mrs Dunne's conduct amounted to an improper interference with the free exercise by the Standing Committee on Planning and Environment of its authority or functions or with the free performance by a member of his or her duties as a member under the Parliamentary Privileges Act. To do so, the privileges committee studied the speeches made by members of the planning committee in referring this matter and obtained evidence from all members of that committee as well as information from the staff.

The members of the planning committee, other than the chair, Mrs Dunne, felt that the committee had to take some action so that the inquiry could be continued unimpeded by perceptions of bias and committee members were concerned that the community would believe that the investigations of their committee had a predetermined outcome. Mrs Dunne indicated to the privileges committee that she thought the flyer could be seen by some as implying that it was an official statement which could have carried the implication that the committee might have already made up its mind, but Mrs Dunne felt that the matter hung substantially on the question of intent.

The privileges committee looked particularly at this question and the evidence and did conclude that, although Mrs Dunne may have confused her role as an individual representative from Ginninderra and the chair of the committee, the intent clearly was to produce a particular outcome for her committee's inquiry, that intent clearly determined by the words of the pamphlet or the brochure, and the recommendations of the committee reflect this conclusion.

Basically, the committee did find that the production of this brochure was in contempt. We did not recommend that any further action be taken because we were of the view that the whole process of a contempt inquiry is in itself an action, a penalty. It is a public examination of the performance of the member and a finding of contempt itself is obviously something that can be regarded as undesirable for any member. We believe that this process in itself was adequate to deal with the matter.

But the committee certainly was of the view that it was a wake-up call for everyone in this place, that it is very important for members to understand and distinguish between their roles as members and their roles on committees. We have recommended that there be some form of continuing professional development in parliamentary procedures and conventions and that it be introduced for members in addition to the new members seminar.

The recommendation is for continuing professional development for all members, in fact, because the pressure of the work here can mean that not enough time is taken by members to understand the conventions and procedures of parliament. While we have occasional opportunities through Commonwealth Parliamentary Association work, on the whole it just does not happen. That does not apply just to new members. For example, members who have been in government and who then go into opposition and who have never really experienced committee work would be equally vulnerable to these misunderstandings. So it is really important that we do have support for members and their staff to understand these conventions.

MS MacDONALD (10.53): I will be brief. I rise to add my support to the committee's report. It was a unanimous decision that the actions taken by Mrs Dunne in regard to the flyer distributed in her name about bringing Aldi to the Belconnen Markets was indeed a contempt of the Assembly. I believe that the second recommendation, that is, that there should be ongoing professional development in parliamentary procedures and conventions for all members, is an important one.

I was rather alarmed at the fact that Mrs Dunne, after the flyer had been distributed in her name and she had stood aside from the planning and environment committee while that inquiry continued and action was taken to correct any perceived bias being put out in the community by the leaflet about Aldi being at the markets and while the privileges committee was still in train, chose to put out a press release entitled "Dunne 'vindicated' by Belconnen Markets report" when the report came down on Aldi and the markets.

The committee looked at the press release put out by Mrs Dunne and put up on the website of the Liberal Party and, while we did not determine that it was not necessarily a contempt, we did have a lengthy discussion about the press release and we believed that it did not help the issue. I suppose my concern in particular in relation to this press release was that I would have thought that if I were in a similar situation to Mrs Dunne—we have all been known to make mistakes and the Aldi at the markets flyer could be considered to be a mistake—I would be circumspect about my future actions.

I was concerned that Mrs Dunne did not seem to have such circumspection concerning the privileges inquiry then taking place. If she had put out a press release with a different title when the planning and environment committee decided to agree to Aldi going to the markets, it may not have been a problem, but the use of the word "vindicated" in the title seemed to us to fly in the face of what the privileges committee was considering at the time.

As to the fact that Mrs Dunne mentioned that she had stood aside from the inquiry following concerns about the pamphlet issuing an invitation to market shoppers, et cetera, I agree with what Ms Tucker has said about this privileges inquiry being a wake-up call for all members of the Assembly. Since I have been on this committee, I have been considering my actions as a chair more closely and being more circumspect about my responsibilities as both a chair and a member of a committee. I hope that Mrs Dunne has learned from the fact that she has been found in contempt of the Assembly through this action.

As I said, I was alarmed to see the press release that Mrs Dunne put out, but she did do that the weekend before she came and spoke to us. I would like to think that Mrs Dunne, having appeared before the privileges committee, would, if she had had her time over, have been a little bit more circumspect about the press release that she put out. I do not have any more to add.

MR CORNWELL (10.58): I, as the third member of the committee, rise to support the committee's recommendations. The first point I would make is that there but for the grace of God go any of us. The situation the committee was faced with was that the case was not a clear case. As we developed in subsequent recommendations, there was difficulty in deciding intent in this regard. I believe that we have made the right decision

in recommending as we have in terms of the question of contempt of the Assembly, of the privileges associated with the parliament.

I might add that we have borrowed matters in that our own privileges standards have been borrowed from the House of Representatives, which was a matter that was examined very carefully by the committee. But the question of privilege is the thing that had to be examined and the question came down to whether there was intent. It is quite obvious that that was not clear and could not be. I think that we have acknowledged that by saying that there was a contempt, but no further action should be taken. Mrs Dunne felt that she was doing the right thing but we, on the other hand, believe that privilege had been breached.

I still believe that we had a line ball situation there and, in defence of Mrs Dunne, she subsequently admitted to making a mistake and joined with the committee in trying to undo any harm that might—I stress the word "might"—have been done. She also, of course, stood down from the inquiry.

I think that the point that the committee made in paragraph 3.10 is important. The paragraph reads:

> In the debate on 10 February 2004, the Chair, Mrs Dunne, admitted her "mistake' and went on to say that "there was no intention to in any way interfere with the proceedings of the Planning and Environment Committee and there is no intention to interfere with the workings of the Assembly".

That was a perfectly reasonable, legitimate position. Mrs Dunne did not believe that she was doing the wrong thing. It all comes down to the very point that the chair and Ms MacDonald have made that there is an extremely grey area in this whole question that all members need to be aware of, that is, the conflict between being a representative of the community and holding a position of some authority within the Assembly.

I would hope, obviously along with the other members of the committee, that the recommendations of the privileges committee will be followed through, particularly recommendation 2, which reads:

> The committee accordingly recommends that some form of continuing professional development in parliamentary procedures and conventions be introduced for Members additional to the new Members seminar.

It could perhaps be incorporated in the new members seminar, Mr Speaker. I would remind members, as if I have to, that in October of this year they will be facing an election and new members will be coming in here. It is important that those members, as well as existing members, be educated in this very grey area between responsibilities to their electorates and responsibilities to committees and how easy it is to overstep the mark, even by accident.

I repeat: there for the grace of God go any of us. It is possible that all of us could have fallen into that error. I therefore believe that the committee has come down sensibly in making the recommendations it has. I do not believe that the matter needs to be pursued any further, except in relation to recommendation 2, which, of course, would involve all members of what I trust will be the new Assembly from October this year.

I do regard this recommendation as important. The point was made that even members who have been here for some time but have only been in government would be capable of requiring education in these quite grey areas. Therefore, along with my colleagues on the privileges committee, I am happy to commend the report to the Assembly.

Motion (by **Mr Hargreaves**) put:

> That the debate be adjourned.

The Assembly voted—

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

Question so resolved in the negative.

MR HARGREAVES (11.09): I think that was a bit odd. I had merely intended to adjourn the debate. If there had been some indication from members on the other side that they wanted to continue the debate, I would not have moved that adjournment motion until later.

MR SPEAKER: You are reflecting on a vote.

MR HARGREAVES: Mr Speaker, I merely wanted to clear the record to make sure that people did not think that we were trying to be contemptuous of the rights of other members.

I note that the report suggests that a contempt has been found. I note also that it recommends that there be some form of continuing professional development. I support that particular part of the report. I think that it is necessary for new members to be educated on the pitfalls of being a member. I have mentioned that on a number of occasions in the past. Mr Cornwell and I have had conversations about the need to have this form of education in the induction program. So I think that that is a very sensible recommendation.

I have a little bit of difficulty with the second half of the first one. Mr Speaker, I do not see how you can find that there has been a contempt of the Assembly and then recommend that no action be taken. I am sorry, I do not accept the argument that there was a mistake. Paragraph 3.10 says that there was a mistake. I do not cop that argument.

We have to realise the context in which this "mistake" was made. Firstly, the member who made it was not a new member in the sense that the tenure was a couple of months old. That is not the case at all. We are talking about a mistake being made by the chair of a committee two-thirds of the way through the member's term of office. We are talking about a person who, in addition to being chair of a committee, was a staffer in this place for a considerable length of time.

This staffer was an adviser to senior members of the government of the day and, as senior members of the government, they were not unaware of the protocols of this place, the conventions of this place. The situation would not have been the same if, for example, Ms Dundas had done so two months after being elected. The position here is completely different.

In my view, Mr Cornwell misrepresented what is said in this report. He talked about there being grey areas and the committee not being clear about intent. The committee did not say that at all, Mr Speaker. Paragraph 5.1 reads:

> The committee is of the view that the distribution of the leaflet was "likely to amount to an improper interference with the free exercise by…a committee of its authority or functions"; that this interference was serious; and that there was a clear intent shown by the Chair…through the wording of the leaflet, to create this interference…

There is nothing grey about that. There is nothing unclear about that. It is crystal clear.

Mr Cornwell said that we have a lineball situation here in terms of the responsibilities of a member in his or her capacity as a local representative, as a committee member and as a shadow minister. I do not accept that there is a lack of clarity with that; I do not accept that one bit. I particularly do not accept it with respect to people who have had employment in this place for five years or so.

In fact, if members do not understand their role as a member of a committee, let alone the chair of a committee, the propriety which has to go with that membership, their role as a local member and the conflicts which may exist between those roles and a shadow portfolio, those members ought to seriously consider the roles that they take on. It would seem to me to be blindingly obvious that, if a person is shadow minister for planning and the chair of a planning committee, every single day of his or her life in this Assembly that person ought to be on guard against a possible conflict.

The flyer actually talked about Mrs Dunne being the chair of the planning committee and the chair has been saying in the media ad nauseam that she is the shadow planning spokesman. Mrs Cross said that she could not believe that the chair could be that silly, to paraphrase her. I do not believe it, either. I do not believe that Mrs Dunne would be so naive; I seriously do not.

I turn to the committee's recommendation that no further action be taken. I am not quite so sure about that. For example, I would have been happy to have seen in there a recommendation that the member consider her position with regard to her shadow portfolio and the role of the committee she chairs. Mr Cornwell and the committee both said that Mrs Dunne's standing down from the committee fixed that problem. It certainly fixed it for that inquiry. I have said in this place that it was the honourable thing to do and I applaud it.

But that is not the end of the story. That is only the end of the story with respect to that specific inquiry, not about the parliamentary integrity of committee work. Parliamentary integrity was put at serious risk here and my concerns about that in bringing it to the attention of a committee have been sustained. If anybody has been vindicated,

Mr Speaker, I have, because the committee found that a contempt did exist, the committee found that intent did exist and the committee found that the issue was serious, notwithstanding Mrs Dunne's actions in standing down from that inquiry.

I agree with Mr Cornwell that there are lessons here for the people coming after us. I do agree that such education should be an integral part of the induction course for new members and I do agree with the point made by, I think, Ms Tucker that perhaps people who come into this place and go directly into the ministry—for example, the Leader of the Opposition—should, whence they go to the opposition benches, also be able to access this sort of training.

But my response to Ms Tucker is that, at the end of the day, they have to want to do it. Nobody can compel anybody to go on these courses. People who work in this place as staff members often think, sometimes quite rightly so, that they know more about parliamentary procedures than members. I would concur with that in lots of cases. In fact, I would suggest that that was the case with Mrs Dunne.

I thank the committee for its report, I thank the committee for the reception I received when I appeared before it, and I thank the committee for its recommendations, although I was a little disappointed not to have received some guidance about where to go from here, other than to put in an induction program.

MRS DUNNE (11.18): I thank the members of the privileges committee for their report, although I think that the members' interpretation of my actions is slightly at variance with my own belief in what those actions constituted. I suppose really what it boils down to is that there is disagreement about the intent, but the conclusion in the report was an understandable conclusion for the committee to come to.

I thank the committee for its report. I apologise again to members for the thoughtlessness of this action and apologise to members for the amount of effort that they have had to put into addressing this matter. I hope that we can all put it down to experience. I will learn from it and I hope that other members will.

Debate (on motion by **Ms Dundas**) adjourned to the next sitting.

Community Services and Social Equity—Standing Committee
Report 5

MR HARGREAVES (11.20): I present the following report:

> Community Services and Social Equity—Standing Committee—Report 5—"*No longer just a number"—Youth services provided at the Adolescent Day Unit*, dated 25 March 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR HARGREAVES: I move:

That the report be authorised for publication.

Question resolved in the affirmative.

MR HARGREAVES: I move:

That the report be noted.

Mr Speaker, today I am tabling the report of the Standing Committee on Community Services and Social Equity on its inquiry into the youth services provided at the Adolescent Day Unit. I am not going to go into the report in significant detail. I will leave that to other members, because I know how much detailed reading members do undertake of these sorts of reports.

However, in tabling the report, there are two key things I want to tell the Assembly. The first is that, unlike just about every other committee report that is tabled, this report says that the government is doing something pretty good. What we have in the Adolescent Day Unit, the ADU, is a best practice model of alternative education for young people with mild mental health and emotional difficulties.

The committee's message to the Assembly and the government is simple: let them keep on doing it, leave the program alone, and investigate whether we ought to have another program like it. Having remarked about how this report is novel in actually telling a good news story, I want to explain a little further why the ADU works and why it is such a good program.

The reason the ADU works is that it treats the young people who need to access its services as real human beings. As the title of our report says, these young people are no longer just a number. This a program that walks the walk and talks the talk. Decades of research, quite apart from common sense, tell us that if we give young people a respectful and nurturing environment they will grow and overcome many of their current difficulties. The evidence of the results for the ADU speaks for itself.

For example, 98 per cent of the personal goals set by ADU students were achieved in the last financial year, against a target of 80 per cent. The young people also spoke for themselves and told this committee very clearly that this program worked for them, often when nothing else had.

Given that everyone recognises that it is a successful program, you may wonder, Mr Speaker, why, in effect, the committee has bothered to come out and defend the program. The answer is simple. This program runs on the philosophy that addressing the young person's broader psychosocial needs first will result in educational outcomes following soon after. We have seen clearly that this does, in fact, occur.

There is a competing philosophy, however. That is that somehow we are doing these young people a disfavour unless we focus first on their education, with a smaller and

secondary focus on addressing their psychosocial needs. This philosophy is largely that of the educational inclusion movement.

The message from the committee to this Assembly is that we need to be very careful about getting caught up in advancing the philosophy of inclusion in a particular instance when there is no evidence to support it. One academic commented on inclusivity as follows:

> It sounds innovative. It sounds democratic. But this is not a perfect world. Screws drop out; things go wrong; promises are not fulfilled. Budgets are cut, and good intentions end up as empty promises. The Inclusion Movement is an innovative and exciting idea to be explored; it should not be a cult to be followed.

In closing, let me reiterate that inclusion should not be a cult to be followed. The ADU is doing a fantastic job, so let's use some common sense and see whether we ought to have another program like it so that more young people can benefit from its approach.

Digressing a little, one of the success stories of the ADU is its size or lack thereof. It actually allows these marginalised young people to have their psychosocial needs addressed and prepares them for reintegration into mainstream education. If, for example, the department decided in its wisdom to double the size of the ADU, it would halve the effectiveness of that unit. In this case, size really does matter.

The committee felt that perhaps there should be another unit of similar size to this one located elsewhere in Canberra—for example on the north side or in the city—but would leave that to the department to determine on a needs basis. It is quite clear that there is a need in Tuggeranong and it is being satisfied by the Adolescent Day Unit.

The committee was very clear in the report about the contest of philosophy. I draw the attention of members to the section of the report in which we talk about that contest of philosophy. Really, it is a contest of the primacy of the philosophy, a contest of the primacy of what we treat first.

One philosophy espoused by an academic was that the kids need to be in mainstream education and then we can address their issues in the context of being involved in mainstream education—in other words, the educational imperative has primacy. The Adolescent Day Unit, on the other hand, believes that the psychosocial needs of the young people need to be addressed and then prepare them for reintegration. That means that the psychosocial needs have primacy.

In the contest as to which of the two philosophies is correct and whether education should have primacy over psychosocial needs, the committee found that primacy should be given to the psychosocial needs because the main aim there was to prepare the young person for reintegration into the mainstream system. The beauty of the system is that it works well.

Finally, I wish to convey the committee's appreciation to those people who discussed the issue of the ADU with us, to the young people who revealed their lives, to the staff and to the young man, whose name escapes me at the moment, who went into that unit with psychosocial problems and numeracy and literacy issues and demonstrated to us through

an exercise he did on a computer that he had come on in leaps and bounds, whereas he would have been floundering in a school. I express my appreciation to that young fellow.

The committee also thanks the witnesses who appeared before the inquiry for their frankness and their commitment to our young people. That there were different views does not denigrate from the commitment by any involved in the welfare of these marginalised young people. Mr Speaker, I want to underscore that. Just because people have different views on how we should tackle a problem is not reason for us to say that they are less concerned about the young people. In fact, the commonality is that they need to provide services for the young people and they are just competing on how to go about it.

I thank my colleagues for their input, their wisdom and their obvious commitment to young people and I thank the committee's secretary, Jane Carmody, for her assistance and support. I commend this report to the Assembly and recommend its contents to the government.

MS DUNDAS (11.29): One of the important things to note about this report of the Standing Committee on Community Services and Social Equity is that it is another report that focuses on the welfare of young people and it is of another inquiry that went out and spoke to young people themselves. We have seen a number of reports tabled over the term of this Assembly that have included reference to the voices of young people.

I think that it is very important that the Assembly continue to follow this trend. It meant that the committee was actually able to hear from the people directly affected by the discussions we were having. We were able to hear straight from them how the programs at the ADU were supporting them and how they were coping in their environment.

Talking to the young people at the unit was one of the most productive things the committee could have done in relation to an inquiry into the Adolescent Day Unit. Over a number of years, I think over the last four years, there have been at least four specific inquiries that have focused on the Adolescent Day Unit. They have been literature reviews for discussions about good models for alternative education—Mr Hargreaves has touched on some of those points—but not all of them actually spent the time to sit down and work with the young people about the issues affecting them and why they found the ADU to be a place that was working for them.

I think we have to keep in mind that we do need to focus on what is currently happening to work with and support young people who are not fitting into mainstream education—which services they are able to access and how they are helping them not only to get an education but also to gain the social skills they need to be part of the wider community.

As is noted in the report, the core goal of the ADU is to support young people who are at risk of not completing their formal school education, but these young people are at risk socially in terms of poor psychosocial skills and have a consequent lack of capacity to engage successfully with the wider community. It is not so much a learning difficulty that they have—it is a social difficulty—and we need to address their issues slightly differently from the way that we would do so for another group of students.

The key focus of the inquiry was on this social risk and how to support young people who are experiencing this risk. We found that the ADU was providing a very positive service in helping young people improve their education and improve their social skills, to the point where we have recommended that the government investigate establishing another ADU-type facility on the north side of Canberra so that more students will be able to access the good work being done in these types of programs.

We heard that the ADU cannot keep a waiting list because of the way that it operates and that it continually has referrals being made to it that it has to knock back. I think that it is of major concern that there is so much demand, that there are so many young people who are at great risk of failing in their education, and we are not able to assist them in the best way possible.

As was said in evidence by the Youth Coalition of the ACT, if something isn't broke you don't need to go and fix it. I think that the ADU does have a good setting for youth services in terms of the links it is able to make with the rest of the youth sector and the rest of the community. I think that it is well placed there. The core of its submission was that the work that is being done is being done in that youth sector role with the support of youth workers to address those social issues as much as to bring in that educational support. We do have a diverse range of young people in the ACT, as there is a diverse range of young people across the world. We need to work to target their individual needs in the best way possible so that they all have the same opportunities.

I commend this report to the Assembly and to the government. I hope that it will be another report that draws the government's attention to young people at risk and the work that is being done to support those young people at risk, how that support needs to continue and, in fact, how that support needs to grow so that more young people can be provided with the best that we can give them to help them on the path to being great contributors to the community.

MR CORNWELL (11.35): I rise as a member of the committee to commend the report. My comments will be brief. I do support the recommendations. I hope that the government will investigate them carefully, particularly investigate whether a similar program could be established on the north side of Canberra.

I would refer members to paragraph 3.2, which notes various performance targets. However, I am not quite as starry eyed as other members of the committee. I do not believe that the ADU is the be-all and end-all for everybody. I do take the point that, as is quoted in chapter 3, everybody agrees that what is going on there is really good. I have no arguments with that. I think that that is a good thing. Nevertheless, I do not think that it is the be-all and end-all.

But that is no reason to say that the ADU should not be continued as a discrete program. Clearly, a number of programs are needed in this area—one size does not fit all. I believe that the ADU is fulfilling an important role. I hope that there will be no tampering with it by the government. This report is virtually saying, "Leave it alone and let it get on with what it's doing." Lastly, I repeat, take a look at whether one should be established on the north side of Canberra as well.

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

Legal Affairs—Standing Committee
Scrutiny report 46

MR STEFANIAK: Mr Speaker, I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 46, dated 24 March 2004, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny Report 46 contains the committee's comments on three bills, four pieces of subordinate legislation and nine government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Human Cloning and Embryo Research Bill 2003

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

> That this bill be agreed to in principle.

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

> That order of the day No 1, executive business, be discharged from the notice paper.

Question resolved in the affirmative.

Human Cloning (Prohibition) Bill 2004

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

Title read by Clerk.

MR CORBELL (Minister for Health and Minister for Planning) (11.39): I move:

> That this bill be agreed to in principle.

I am pleased to introduce the Human Cloning (Prohibition) Bill 2004. This bill and the Human Embryo (Research) Bill 2004 form the ACT component of the nationally consistent scheme to prohibit human cloning and regulate research involving excess human embryos agreed to at the Council of Australia Governments meeting on 5 April 2002.

The COAG decision was informed by close analysis of the central ethical, social, legal and moral issues that are relevant to this matter. The Commonwealth Prohibition of Cloning Act 2002 and the Research Involving Human Embryos Act 2002 provide the framework for the national scheme and were assented to on 19 December 2002.

The ACT government and other states and territories were involved in the extensive consultation process undertaken on the Commonwealth legislation. This bill is consistent with the Commonwealth legislation. A single Commonwealth bill covering human cloning and embryo research was presented to the House of Representatives, then split during debate and passed as two acts.

This bill makes it an offence, with a maximum prison term of 15 years, for a person to create a human embryo clone. It also prohibits a range of other unacceptable practices, including the development of an embryo outside the body for more than 14 days and the mixing of human and animal gametes to produce hybrid embryos.

Developing embryos for purposes other than for their use in an assisted reproductive technology—ART—treatment program and commercial trading in human reproductive material are similarly considered to be unsafe and unethical and are also proposed to be prohibited under this bill.

I commend the Human Cloning (Prohibition) Bill 2004 to the Assembly.

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

Human Embryo (Research) Bill 2004

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

Title read by Clerk.

MR CORBELL (Minister for Health and Minister for Planning) (11.42): I move:

> That this bill be agreed to in principle.

I am pleased to introduce the Human Embryo (Research) Bill 2004. This bill and the Human Cloning (Prohibition) Bill 2004 form the ACT component of the nationally consistent scheme to prohibit human cloning and regulate research involving excess human embryos agreed to at the Council of Australian Governments meeting on 5 April 2002.

The bill is consistent with the Commonwealth legislation. A single Commonwealth bill covering human cloning and embryo research was presented to the House of Representatives, then split during debate and passed as two acts. The Human Embryo (Research) Bill 2004 supports the establishment of a comprehensive national regulatory system to govern the use of excess assisted reproductive technology embryos.

Under the scheme, researchers and scientists proposing to undertake work on excess assisted reproductive technology embryos will be required to meet strict criteria and

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

The Human Embryo (Research) Bill 2004 establishes an appropriate balance between a need to enable potential lifesaving research and the imposition of the oversight and sanctions necessary to ensure ethical research practice. I commend the bill to the Assembly.

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

Education Bill 2003

Debate resumed from 27 November 2003, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR PRATT (11.44): I rise to commend, hesitantly, the government and the minister for education, Ms Gallagher, for formulating and presenting the Education Bill 2003, a bill that I am sure we all realise is one that affects the whole Canberra community. My hesitance in congratulating the government is reflected in the number of amendments that I will be proposing today. I realise that I will have a chance to speak later on each of the amendments that I will be proposing, but I will take this opportunity to outline these amendments to represent my comments on the Education Bill as a whole.

The amendments were formulated in consultation with stakeholders from Catholic, non-Catholic and independent school associations and union and P&C associations. While we may not agree with all of the comments put forward by each of the stakeholders, we have certainly found strengths in every single group's arguments. We have endeavoured therefore to take on board those strong points and will seek to amend the bill accordingly.

Mr Speaker, the amendments proposed today by the Liberal opposition include: an addition that corporal punishment does not include the use of reasonable physical force to prevent physical injury to a person—self-defence or defending another person who may be in danger of physical injury; an addition stating that schools should be safe learning environments for students—also reflected in the non-government schools sector; an addition about the responsibility of schools for assisting in the character development of students—also reflected in the non-government schools sector; and an addition about principals also being responsible for assisting in the character development of students.

There is a requirement that the chief executive include in the annual report details about the number of complaints received and those investigated for government schools. The next one is about changing the review period of government school effectiveness from five years to four years. The next amendments are that the community have input to the review of the operation of government schools; that this review, in appropriate and general form, be made available to the members of the Legislative Assembly; and that secular school education in government schools shall include the study of different

religions as distinct from education in a particular religion. The next addition is about the flexibility of the class structure of schools, giving schools the option where deemed appropriate to separate boys and girls classes in core curriculum subjects, in line with the Canberra Liberals recently launched boys education policy.

The next amendment is about the addition of a new section covering the responsibilities and rights of teachers and giving principals the authority to hire and fire teachers, which include, firstly, laying down some general principles about what the community should expect from all of its teachers, including suitable role model requirements, the ability of all teachers to lead their students beyond the duties of straight subject teaching, and the duty of all teachers to reach out to all of their students through effective pastoral care; secondly, the basic requirement that all teachers will seek to develop themselves, with departmental support; thirdly, the need for all principals to lead and nurture their teachers to get the best out of their teachers; fourthly, the need for the chief executive to establish career pathways for principals and teachers; and, fifthly, the need for the chief executive to ensure that adequate support is provided to those schools where performances are suffering. The next amendment requires the chief executive to report to the police and other relevant authorities any acts of serious misbehaviour which involve criminal acts and other breaches of the law.

Mr Speaker, the aim of these amendments is to lay out what should be a level playing field. Let's seek conformity across the entire ACT education system, through all schooling sectors, to ensure that the standards are achieved from one end of the spectrum to the other.

Looking at the non-government schools sector, Mr Speaker, one addition is that teacher, parent and student participation in all aspects of school education should be consistent with each school's founding principles and ethos. This covers government, non-government and Catholic schools and home education. The next amendment proposes that financial and other assistance in relation to children attending non-government schools by way of per capita grants calculated at 25 per cent of the average per capita cost to the territory of educating children at government schools be paid out of public money appropriated by the Assembly. Mr Speaker, I stress that this model has been adapted and taken from the New South Wales Education Act 1990.

The next amendments propose the addition of the word "appropriate" when revealing information to parents about the operation of a school and its educational programs; allowing schools to seek expressions of interest in registrations for additional schooling years at the school before requiring the school to register the interest of extending its years of schooling with the minister for education, to make sure that we can ensure the viability of the extension of schooling years for a school; and the addition of a member of the non-government schools education council from the organisation representing ACT independent schools.

The next ones are about the addition of a requirement for an inspector/authorised person to notify the principal of a non-government school prior to their intended entry to the school and inform them of the reason for entry; the establishment of a non-government schools liaison officer in the Department of Education, Youth and Family Services—let's broaden the department and make it more inclusive of all of our sectors—and the

removal of the term "government" to allow the minister to grant scholarships, et cetera, to students of all schools, not just government schools.

Mr Speaker, the Canberra Liberals believe that these amendments will fill the gaps left open by the present form of the Education Bill 2003. In addition, as I was saying earlier, they will level the playing field in terms of benefits given to government schools that are not given to non-government schools. They will also make the Department of Education, Youth and Family Services more accountable for the state of the education system in the ACT. That means the entire education system—the government and non-government sectors.

The Liberal opposition believes, as we have said a number of times, that the ACT minister for education must be the minister for education across all sectors of the ACT, for all teachers and all students. Therefore, we believe it is imperative that the Education Bill enshrine principles that reflect that essential need.

We believe that this bill is reasonably sound. It is a development of the bill that the previous government commenced. Despite some hiccups last year with what appeared to be some social engineering of that draft bill which we at that time thought entirely unacceptable, the bill as it now stands will not damage education. It will benefit education and it will be acceptable. However, it is not creative and it does not push the current boundaries. Opportunities are being missed here to further develop education, to lock into place principles of excellence that go to the heart of effective and accountable education. That is why I will be moving amendments today to take this bill to a higher level of excellence. We believe that the government has fallen well short of enshrining very important principles relative to the core of education capability—our principals and teachers, who are the drivers of ACT education.

I implore the government and I implore the crossbenchers to ensure today that this bill enhances our teaching capability. I implore members of this place to support our amendments enshrining principles of teacher and principal responsibility, of standards of performance and leadership, of benchmarks embracing pastoral care of our students and the inculcation of values which are all, surely, as important as enshrining principles of academic excellence.

The Liberal opposition stands for an education system, embracing the best of both the government and non-government school sectors, which is diverse and which offers Canberra families choice. We stand for a system that provides for an effective, safe and academically excellent government sector which is caring of its students and promotes character development and a government sector which imparts values of respect and tolerance, particularly respect for teachers. Clearly, it is our belief that, while the ACT education system does not suffer to the same degree the problems seen in other jurisdictions, these problems do exist here and there is no excuse for that. A lot can be done to make the ACT education system that much better, to put a firewall in our system against the cancer that exists in other jurisdictions. The Education Bill should enshrine the principles underpinning the system that we want, that the community wants and that families are calling for.

It goes without saying that the Liberal opposition requires that the standards that we seek to insert into the government schools sector of this bill will conform with standards in the

non-government sector and vice versa. We want to see a two-way flow. We seek uniformity of standards across the entire ACT education system. I am confident that the non-government sector will be able to conform with the government sector without compromising the individuality which is a characteristic of the non-government sector.

Finally, Mr Speaker, we believe in a strong, diverse education system which offers choice. We would like to see individuality in our schools, including within the government sector, and offer families this choice. All schools must be given the opportunity to grow. We therefore seek to build mechanisms into the bill supporting growth in every school and in all of our various education sectors.

Against this requirement, we also seek to have departmental mechanisms in place to support those schools which are doing it tough in both the government and the non-government sectors. We do not believe that the bill reflects that. We want to see the bill enshrining mechanisms which give guidance to the department and make sure that it can go out and support those schools doing it tough, be they Catholic systemic or government sector schools.

In conclusion, it is our desire today to add value to this bill. We think that this bill is an adequate bill. We think that this bill will certainly benefit education. We think that this bill has come a long way in the last couple of years. We do seek to add value to the bill because we think that the most important things that the ACT community expects of its education system are transparency, accountability and high standards.

We think that the community also requires that the education system do more than just teach students in accordance with the curriculum. We believe that the community wants an education system which ensures that the schools and the department backing up those schools will reach out to the students and undertake character development of them, impart values to make those students good citizens, and pick up those students who are falling by the wayside. We do not think that the bill has enough principles in there to make sure that those requirements are met.

I will detail the amendments to the bill later. I would ask the government and the crossbenchers to take on board what we are suggesting and support those amendments to add value to this bill.

MS TUCKER (11.59): It needs to be said at the outset that this bill is the outcome of significant developmental work spanning a number of years, several incarnations and two governments. There has been extensive consultation between a range of interested parties, including key stakeholder groups such as the P&C, the Independent Schools Association, the Australian Education Union and HENCAST, the home educators network.

The bill provides a coherent framework in which the responsibility of the territory to ensure a high-quality education of all school-age children is spelt out, with specific sections addressing the principles, procedures and accountability mechanisms as they apply to all government and non-government schools and home educators.

We have before us the result of considerable painstaking work by government officers and stakeholder representatives. Given that, I do think that, unless we have fundamental

problems with the scope and content of this bill, it makes sense to be cautious with any amendments proposed, so I am not inclined to support many of the amendments that Mr Pratt will be proposing as several of them, if implemented, would cast teacher responsibility in a new light, while others would essentially set curriculum, which I would argue is outside the scope of this bill. I will put more detailed arguments as the amendments are debated.

Some issues have been raised over the past couple of weeks that do warrant a closer focus, one of which is the general area of teacher qualification, appraisal, professional development and support. While I am aware that the conditions of employment for teachers in government schools require them to be professionally qualified, there is no such requirement for teachers at non-government schools, so I would be interested in looking at similar requirements for all schools.

I do think that it would make sense to look at what kind of support teachers should be able to expect from the school or system that employs them and how we can be sure that we keep and develop our best teachers and lose the worst ones, but I do not think that adding a clause saying that everyone has to do professional development is an answer to anything. That is a new project that would require extensive consultation with teachers themselves, with the school systems and with educationalists. I do not think that it is something that we can tack onto this bill. It is a project that government could take on now, with perhaps a report and an implementation plan next year.

Another equally important matter with a similar scope and probably needing a similar timeframe is teaching itself. The discussion of pedagogy—the art or profession of teaching—is coming back into fashion. It seems to me that, having had the Connors report to look at funding issues primarily concerned with school funding, it is time to invest in the ideas of teaching.

If there is to be a new executive for the education department, which is a possibility, or perhaps a relaunch for the existing leadership, I would suggest that we need to use the event as an opportunity to make a renewed commitment to high quality, innovative and creative teaching practice. That way, particularly in the government school sector, we would be sending a message that we do value and appreciate teaching and that the best teachers could look to a successful and satisfying career in the ACT. I think that is an important signal we need to send.

I am of the view that this bill delivers a good outcome for the people of the ACT, particularly the young people of the ACT. I would like to acknowledge that the project has involved a lot of work from officers of the department and from teacher, parent and school bodies of all hues.

MR STEFANIAK (12.03): I think there are probably a few members who will want to speak on this important piece of legislation. There are a number of amendments that Mr Pratt will be moving later on but, as he indicated, the opposition is supporting this bill. I was just trying to think exactly when the process started to get this bill to this stage, because it is a revamp of a bill which I think I introduced in the last Assembly. I think that process started probably in about 1999.

The bill did not get finalised in the last Assembly and there has obviously been further consultation in relation to it. Its genesis, however, is terribly important. It is to have one bill that covers our whole education system, because whoever is minister for education is minister for all education in the ACT: government education, non-government education and even those who home school, and there is provision for that in this bill.

The bill replaces the Schools Authority Act 1976. I think that act needed revising. Times have certainly moved on since we had the Schools Authority, which finished effectively when we got self-government. Of course the Education Act goes all the way back to 1937 and has its genesis in the New South Wales act of the nineteenth century; so there are some fairly elderly acts there in need of a major re-write, and this bill a culmination of that.

It will be interesting to see how the bill actually pans out in practice. There were a lot of very valid concerns raised by a number of people in the whole consultation process. There were valid worries that I recall the department had in relation to some of the issues raised by various stakeholders, and there are some grave difficulties in terms of exactly how those issues have been resolved.

Any act of parliament is a living document and there may well be need from time to time for this document, despite the fact that it has been probably close on five years from go to whoa, to be amended from time to time as we see exactly how these new provisions work out.

I was quickly flipping through the document prior to speaking on it. The vexed question of voluntary contributions, which was a very difficult issue, I see is now dealt with in the bill itself. But that alone is a very vexed issue. Government education is free in the territory, and it always has been. It has been since we have had our own Schools Authority Act 1976, which was when the ACT effectively—legally—took over from what applied before. That was the New South Wales department of education—the government system I went through here.

Even then education was free and meant to be free. But I can recall paying, I think in 1967, a $16 voluntary contribution—I don't know how voluntary it was—for books and things like that at Narrabundah school. The fact that schools need a contribution to assist them is a vexed issue. I think it is right and proper that people do make a contribution if they can.

I am not sure what the figures are right now in terms of voluntary contributions, but certainly in the late 1990s it was anything up to about $4 million of basically the total budget right across the territory, a not insignificant amount. And there are some vexed questions in relation to that and in relation to subject levies. It is interesting to see in clause 27 that that has actually been effectively codified by putting it into legislation. We will wait to see whether there are any problems arising from that down the track.

That is just an example, and I raise it because I think it is a good example of a very vexed issue and a very real issue in terms of somewhat competing principles. They do not have to be competing but they often are seen to be competing in terms of government schooling.

There other issues that need to be considered. A minor issue for some people, but nevertheless an issue that raised a fair bit of interest and possibly angst sometimes, is religious education in government schools. I recall getting notes from some concerned parents saying, "We actually don't want our kid to be influenced, we don't want our school to conduct religious education during normal school hours." Other parents were adamant that they wanted that option.

It was an issue of great concern to a number of parents in our school body, and schools adopted a very different approach. Again in clause 29 that appears to have been codified fairly well from what I can see. There may be some issues that will arise over time. However, it is something that now has been codified in this new act.

I too look forward to seeing what happens in the detail stage. I think there are probably a few parts of this bill that I would not have put forward had I been minister, but there has been huge consultation in relation to the bill. It is going to pass through the Assembly today, and fundamentally it is a needed piece of legislation because it consolidates and changes one very old act and one act that really has been supplanted by events. I think that is very important.

My thanks go out as a member of this Assembly and as a former minister for education to all the various groups, the stakeholders, who put in a lot of work on this legislation. I know the longstanding departmental officials who are sitting here today—possibly not so much the new acting CEO of education, who has only been there a short time, but no doubt he has done a fair bit in relation to this in recent months—have put in a lot of work over many years.

Jerry Cullen, who raises his head over there, is certainly one of them. Many people in the department have done a huge amount of work over many years, as have persons in the non-government sector. A huge amount of effort has been made by school boards, P&Cs and others in relation to this piece of legislation.

I look forward with interest to see how it will all pan out. I indicate to the minister that any bill, of course, is a living document. It needs to change with the times. This legislation is the result of a need to change with the times and a need to consolidate two old acts. I look forward to the debate at the detail stage.

MS DUNDAS (12.10): I rise on behalf of the ACT Democrats to lend our support to the work being done on the Education Bill today and to the core of the proposal before us, which is to overhaul the education laws in the ACT. This is quite a radical overhaul as we join South Australia in being the only jurisdictions that combine all of their schools education legislation in one place. We will have easily accessible, in one law, the rights and responsibilities for students, parents and schools.

We also enshrine in law a commitment to every child receiving a higher quality education, a commitment to innovation and to diversity in education. In the one place we have the requirements for government schools, non-government schools and home education, and for the first time home educators are being properly regulated. They will have to be registered and demonstrate that they meet the minimum requirements for addressing their children's educational needs.

This bill replaces acts that were written over 100 years ago and it is the result of a lengthy and thorough consultation process; so it is a pleasure to be able to vote on legislation that has had such extensive consultation with stakeholders in the community and through this Assembly. It contrasts with a number of bills that have been brought before the Assembly, specifically in the last 12 months, that have been seemingly rushed through.

Education is fundamental to our society. In a rapidly changing world, the skills taught and the way in which we are taught, even when I was at school not that long ago, are completely different from the needs that we require now. Our educational needs change and continue to change; so we need teaching methods that teach adaptation, that teach about coping with change. They need to be able to teach children to learn, because education is a life-long process.

It is in our schooling years that for most of us our future is mapped out. It is where we spend all of our time from the ages around 5 to at least 16, our developmental years. It is important that we get it right. The skills we learn in school and the interests we develop shape people for the rest of their lives. Therefore, the legislation governing our education must allow for new ideas and policies. It must be inclusive and rewarding.

I believe that this bill before us today, to a large extent, sets the framework for this to be achieved. The education system is not the same as it was last century and even the century before that, and it will not be the same in centuries to come. I think it is therefore appropriate that we have legislation that reflects this and that is able to adapt to these changes. However, that being said, I do have some significant concerns with the bill and I will be moving a number of amendments to address those concerns.

I think it needs to be made as unambiguous as possible that children have the right to receive a high quality education. Currently the bill before us includes the qualifier of "as far as practicable". Quite rightly, a number of parents have raised concerns about that, that it will be their children who will be caught out under that "as far as practicable" clause.

This is a concern that is being raised specifically by parents of children with disabilities or with severe behavioural problems. They have raised a number of questions about why that qualifier is there. Does that mean that children who fit into that too-hard basket will just be moved aside because "as far as practicable" the work has been done?

I think we need to remove that qualifier and to have an education system that works for all students to have that high quality education to make their educational outcomes as best as they can be. The bill does deal with what happens when students are suspended and what happens when they are continually suspended both in government and non-government schools. This is where another concern has been raised. It comes specifically from parents of children with disabilities or severe behavioural problems. They continually see, as teachers get more and more frustrated, their students being just suspended, sent out of the classroom.

I have an amendment to make sure that students who have been suspended for seven days or more in one term actually receive counselling and support so that we can address

the problems that are causing that continual suspension and help to reintegrate them into the school community.

I will be seeking to make non-government schools as committed to accountability as their government counterparts. One of the interesting issues with the legislation that I can remember from reading through it is the actual principles for government schools and non-government schools and what they are committed to.

I understand that these principles were developed in consultation with the stakeholders, the unions and the teachers from each of those areas. But when you read the provisions side by side it appears that government and non-government schools are committed to producing two distinct classes of students. I have an amendment that I think addresses what is an unintentional mistake to make sure that our students across the ACT are getting the same principles out of their education, that we are not building two separate classes when we do not need to.

Mr Speaker, I will address those amendments in greater detail at the detail stage, but again I put on the table the support that the Democrats have for this consolidation of the education legislation and the ideas underpinning what is trying to be achieved. However, we do need to make sure that no students miss out, that no young people are disadvantaged in education for whatever reason—due to a disability or due to social or economic status. We need to make sure that all our students are included and accessing that right to a high quality education.

I think that, with amendments, this legislation will result in putting more confidence out there in the community that our children are receiving high quality education and that, no matter what school they attend, the whole of the ACT education system is working in the best interests of all our students.

MRS BURKE (12.17): I want to make a few comments before we get deeper into the debate. I want to underpin and support some of the things that Mr Pratt has been talking about this morning. From my perspective I believe that it is fundamentally crucial that we have an education system that truly reflects society today. I believe what Mr Pratt is proposing will cover some of those things that perhaps have been not fully covered in the government's proposal that is before us today. I hope that we can work together in this place to look through the raft of amendments before us not only from my colleague Mr Pratt but also from Ms Tucker and from the Democrats, through Ms Dundas.

The formative years of school—I talk about those years in vocational education training and higher education—are very important. It is very important that we get the core principles right at the beginning. I think that we have moved to a time when we really need to reflect better some of the things that society is faced with today. We are working on very old legislation and I commend the government and all the people who have worked hard on this to date. But I hope, as I say, that we can have some cooperation and conciliation in coming out with a bill that will be worthy of the input of all, not just of part.

It is disappointing that the government perhaps has not quite come up to the mark in terms of benchmarking principles, which really need to go to the heart of accountability and standards. We talk so much about rights today. We talk little about responsibilities

and accountabilities. We really need to ramp those up wherever we can. We need to get to the very heart of those issues.

As I said, there will be many amendments brought forward and we will debate those individually. I think that we need to enshrine principles of diversity and choice in both sectors. This is not about focusing on one or the other. It is about schooling for all. The ACT Liberal opposition is standing here today talking about the whole, not just part. We need to have a bill that better reflects that.

We need to be pursuing excellence. As I said, diversity and choice are crucial in, for example, boys' education, elite performance classes, and timeout classes with difficult and at risk students. We have heard some mention today about the Adolescent Day Unit and the vital role that it plays. Schooling is taking on a very different shape to what it was when I was at school and when perhaps others in this place were at school. So we need to better reflect that. Vocational education training curriculum, pre-vocational subjects and flexible and creative curricula are huge areas that we need to further develop and keep working on. This is a good step forward.

I am certainly hoping that some of the Liberal opposition's amendments, put forward through Mr Pratt, will be considered and not rejected out of hand or pushed to one side. I urge members to look very carefully at some of the things that are perhaps reflected in amendments by other members too.

Some of the points that are important to the Liberal opposition are to build in principles which will demand greater transparency and accountability for schools. We do live in an age where people's expectations have been raised. We have very much raised the bar. People believe—quite rightly so—that they are entitled to be able to see what is actually happening with their students. People want to be able to see where their tax dollars are being used and the effectiveness of that.

I did talk about pursuing excellence. We need to be continually raising standards by giving principals and head teachers the right to recruit their teachers and to let them go. Schools are very much run now like businesses. Each of them has that capacity be a self-contained unit whilst spinning out into the community. But I think that head teachers and principals really need better control over what they have at the moment. They know the needs within their school. They know the demands placed upon them better than anyone else. If they are not in the position to be able to make those decisions it becomes very hard to operate like a business. It is like employing somebody for a business, for example, at arm's length.

When we talk about rights, we should remember the rights of the community are far more important. When we talk about teachers or principals not having the right to recruit and let go of teachers as they need to, we need to be very sure about our reasons, about why we are doing that—that we are not just politically motivated.

I will conclude at that point, Mr Speaker. I am looking forward to the debate on this bill, and again reiterate that we all need to be mature in this place. Just because something wasn't "our" idea, we should be open to the suggestions and ideas of other members in this place.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (12.23), in reply: I thank members for their contribution to the debate. The Education Bill 2003 will provide a strong foundation for contemporary education in the ACT. The bill will strengthen the educational provisions for ACT children giving effect to every child's right to a high quality education, to a parent's rights to be included in all aspects of their child's education and for choice in education for their children.

The new Education Bill not only replaces existing legislation that in some of its provisions date back to the nineteenth century, but it goes further in providing for reforms that will support flexible, responsive, student-centred education by schools that are accessible and accountable. The bill has been shaped by the responses to the exposure draft published in 2002 and by the recommendations of the Connors inquiry into education funding in the ACT.

Submissions were made by many individuals and all major stakeholders in government and non-government schooling and home education. Following this strong and constructive community response to the exposure draft and extensive consultations with groups the government has substantially reformed the bill. The government's contribution to the legislation has been very significant, not least in opening the bill to further input from the community.

The legislation now meets community expectations and provides an enduring foundation for maintaining the high standards of education for our children. The general principles articulated in the new bill set the direction and purpose of the legislation to facilitate educational achievement and commitment to learning for all children, recognise their individual needs and potential, and promote an innovative and flexible approach to teaching and learning.

The bill requires educators to recognise the needs of all children and the special needs of children at risk or with a disability. There are five major themes underlying the reformed bill. These themes are outlined in the principles of the bill and reflected in its provisions for compulsory education, the operation of government schools and the regulation of non-government schools and home education.

The principles of the bill are as follows: care support—the provisions of the bill promote care and support for students. Outdated truancy provisions are replaced by procedures to assist parents in encouraging their children to attend school and complete their education. In relation to flexibility and diversity, the bill facilities diversity and flexibility. Schools are able to use courses run by alternative providers but subject to their meeting satisfactory standards. This provision recognises and regulates the existing practice of schools supplementing their curriculum with special studies in, for example, language or music as well as in an increasing range of specialist vocational courses.

On the issue of excellence in achievement, the legislation recognises that it is the responsibility of parents and government to provide a high quality education for children. Harnessing the partnership between the home community and educational providers will provide students with the basis for achieving excellence.

On the issues of information and participation, the bill requires schools to report to parents and provide information on the school, its educational programs and its general operations. The expectation embodied in the bill is that schools will develop procedures to include parents in all aspects of school education and that they will be encouraged to support and participate in the life of the school.

All schools are subject to review of their performance and are accountable to the community and government. The bill requires monitoring and review processes to be in place for government and non-government schools. Home educators are also expected to review and report on the educational activities they provide for their children.

Mr Speaker, I now explain the major parts of the bill. The proposed law is organised into seven chapters with a schedule that contains the consequential changes to other legislation and a dictionary of terms used in the bill. Chapter 1 is a general chapter that contains standard preliminary items that name the act, provide for its commencement, and state the role of the dictionary and notes in the legislation.

The most important parts of this chapter are the principles and objectives. The principles have been substantially amended to affirm the positive themes I mentioned earlier, and place the emphasis on high quality education for all children in an open and accountable school education. The prohibition of corporal punishment in all schools is confirmed in the new bill.

Chapter 2 deals with school enrolments and attendance, retains the current compulsory school age from 6 to 15 years, and provides for student enrolment and attendance. As I noted when I presented the bill to the Assembly in November, there is an argument for raising the minimum school leaving age to 16 and I plan to have discussions on this matter with education and youth interest groups to determine the benefits and disadvantages to the community in doing this.

This chapter of the bill also carries forward and updates provisions regarding employment of children under the school leaving age and exemption certificates, and it requires the establishment of procedures for reporting the transfer of students between schools in the ACT.

Chapter 3 provides for the establishment, administration and governance of government schools and includes principles that will guide the implementation of the legislation. The chapter affirms that government schooling is based on equity, that schools provide a broad and balanced secular education, and that government schools are free and open to everyone. It introduces new provisions to allow greater flexibility in the provision of schooling and provides assurances that a school owned and operated by the territory will not be closed or amalgamated before adequate consultation with affected school communities has been undertaken.

The bill will make it a legal requirement for the effectiveness of each government school and the government school system as a whole to be regularly reviewed and to provide reports. The legislation sets out the responsibilities of principals in the provision of information to parents. Provisions on school boards are enhanced by giving them responsibility for establishing the strategic directions and priorities for the school.

Boards will also be required to state how voluntary contributions have been or will be spent and to detail how funds being held in reserve will be spent. There are new provisions relating to suspensions, exclusions and transfers that safeguard the right of children and parents to a fair hearing, information and the opportunity for continued education during suspension or exclusion periods.

Mr Speaker, the new provisions balance the need to ensure that all government schools maintain an environment that supports effective teaching and learning free from disruption with the rights of individual students, their safety and wellbeing. With this legislation, the government introduces new and upgraded consultation mechanisms for the government sector. The Government School Education Council is afforded a legislative basis.

The council will have powers to advise the minister on any aspects of the ACT government school system and, when asked by the minister, to inquire into any aspect of the ACT government school system. Membership of the Government School Education Council will include people with experience and expertise in business and commerce, public policy, early childhood care, education and special needs of young people as well as people representing students, principals, school boards, teachers and parents of children at government schools and pre-schools. Advice from the council will be public and is required to be tabled in this Assembly. The minister is required to consult the council to assist in formulating budgetary proposals for government schools.

Mr Speaker, the fourth chapter introduces provisions for non-government schools. It includes principles that recognise parent choice and the diversity of school education in the ACT. The principles for this chapter were developed from the recommendations of the School Legislation Review Committee in close consultation with the non-government school community.

The bill recognises that the non-government school sector consists of schools representing a range of different educational and religious philosophies, that the variety of schools in this sector reflects the diversity of the community in the ACT and the preferences of parents for a particular style of education for their children. Responding to issues raised by the Ministerial Advisory Committee on Non-government Schooling, others in the non-government school sector and the recommendations of the Connors inquiry into education funding in the ACT, the conditions of registration have been clarified and strengthened.

The government has also adopted the recommendation of the Connors inquiry to establish procedures considering an application for a new school and the extension of the educational level of an existing school. There will be an open process where the minister will take account of comments on the proposal by people affected by it, considering evidence of demand, community support and financial capacity. This is an essential measure in the ACT, where there is expected to be at best no increase in numbers of school-aged children in the foreseeable future and where any new school will unavoidably impact on existing schools.

With substantial public investment in all schools, it is necessary to plan carefully the creation of new schools. The non-government school education council will have similar

functions to the Government School Education Council. The non-government school education council will comprise members drawn from the non-government school sector and the broader community, with an independent chairperson. Suspension and exclusion provisions similar to those applying to government schools have also been introduced for non-government schools.

Chapter 5 addresses home education and has been modified in response to submissions on the exposure draft. Principles have been added to the chapter that recognise parents' right to choose an appropriate education environment for their children and the commitment of home educators in providing a broad range of opportunities to foster each child's development. Inappropriate inspection provisions have been removed but the bill retains powers to monitor home education consistent with the obligation of government and parents to ensure all children receive a high quality education.

Chapter 6 contains provisions in support of the principal part of the bill. Mr Speaker, I would like to draw the attention of the Assembly to three provisions in this part of the bill. First, this legislation details the decisions that may be reviewed either internally or externally by reference to the Administrative Appeals Tribunal. These include suspension and exclusion decisions in government schools, as well as the decisions relating to the registration of non-government schools and home education.

Chapter 7 contains the provisions for the transfer of the assets and liabilities of the Schools Authority to the territory. It also includes the necessary safeguards and continuity for institutions that were created under legislation that will be repealed by this bill.

Chapter 8 contains the provisions for the repeal of the legislation that the bill will replace. It also enables the recognition of specialist education providers. This innovation gives legal recognition to satisfactory providers who offer courses that contribute to school education including at years 11 and 12. In the latter case it will enable the Board of Senior Secondary Studies to assess and accredit courses that may be suitable for year 12 certification.

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

Sitting suspended from 12.34 to 2.30 pm.

Questions without notice

Bushfires—coroner's inquest

MR SMYTH: My question is to the Attorney-General. Last week the coroner's inquest into the 2003 bushfires was adjourned until Monday week to allow senior bushfire and emergency services managers to seek legal representation. In adjourning the inquiry, Coroner Doogan was highly critical of your government's decision to have one counsel representing the government, its agencies and its employees, despite her having warned of the obvious problems of conflict of interest at the directions hearing in June last year. She said:

> I am concerned and I am rather displeased that again the progress of this inquiry has to be disrupted due to something which from the start…has been, at least to me and certainly to counsel assisting me, very blatantly obvious and that this is the need for some witnesses who were to be called and who are to be called before this inquiry to be represented and to be separately represented.

As a consequence of the delays caused by your decision to have one counsel representing the ACT government, the coroner's inquest may not meet its target of reporting before the 2004-05 bushfire season and some of the witnesses who gave evidence without the benefit of independent counsel may have had their interests compromised.

Why did you decide to have one counsel represent all of the ACT government, its agencies and employees when Coroner Doogan was warning of a "blatantly obvious" conflict of interest in June last year?

MR STANHOPE: I thank Mr Smyth for the question. The issue of the legal representation provided to those appearing before the inquest currently being undertaken is very important. The decision taken by the department of justice, certainly in consultation with me, was that the legal team, led by senior counsel, Mr Johnson, would represent the interests of the territory.

It was the view of the department of justice—it was the advice provided to me; advice that I accepted—that the interests of public officials and public servants appearing before the inquiry were not indivisible from the interests of the territory. It was not a view taken by either me or the department of justice at that time that there was a necessary divide between the interests of the territory, as a separate entity, and the interests of individual members of the ACT public service. That is not a conclusion that we drew at that time.

As the inquiry has unfolded and as a result of statements made by the coroner—I will have to check this—reflected by counsel assisting the coroner, about some issues of divergence between the interests of the territory and those of individual members of the ACT public service or the public sector giving evidence, the territory moved to provide separate representation, in the first instance for Mr Peter Lucas-Smith and Mr Mike Castle.

It is fair to say that the territory, and I as the minister, did not anticipate the nature and the form that the inquiry has taken. But, as it has unfolded, and having regard to the comments made by the coroner a week ago, the territory has now moved to ensure that those members of the ACT public service invited to give evidence who believe that they require legal counsel will be represented—not necessarily just for the purposes of legal assistance or representing their legal interests but perhaps for other support as a result of appearing before the coroner. In some circumstances, the experience of many public servants appearing has been less than pleasant. The nature of the questioning is vigorous to say the least. Perhaps some who have appeared have not been particularly well equipped through experience to face this.

There is a range of issues around the representation of public servants before the coronial inquest. We—I and my department of advisers—have met and discussed this at length. Over the last day or so we have agreed to a framework to ensure that ACT public

servants who feel that they should be separately represented will be represented, and we have put those steps in place.

MR SMYTH: I have a supplementary question. Minister, you have just said that you have moved to ensure that ACT public servants will receive separate representation. Why have you denied funding for separate representation to a volunteer who had a significant operational role during the bushfires?

MR STANHOPE: I am not aware that we have done that. Indeed, just yesterday I raised the issue of representation of volunteers in discussions I had with the acting chief executive officer of the department of justice. The position we have taken is that we will seek to support and ensure that all witnesses before the inquest are supported. I am referring to public sector employees and those that were involved in fighting the fire and meeting the interests of the territory through their volunteer activity. That covers all members of volunteer brigades.

I raised that issue—the position and circumstance of volunteers—just yesterday with the acting chief executive of the department of justice. The advice I received was that volunteers would not be treated differently from members of the public service. There is a question here though, of course—

Mr Smyth: They were told yesterday they couldn't.

MR STANHOPE: I am surprised to hear Mr Smyth's claim that volunteers were being denied legal representation. Having said that, there is a question about whether it is appropriate that every single person that stumps up and says, "I would like a barrister" should automatically be afforded a barrister. I understand that about 50 representations or approaches have now been made to the territory's legal team, the department of justice or to the Emergency Services Bureau. There is the prospect of 50 separate barristers.

As a result of the comments made by the coroner last week there is some anxiety. I am being very open and honest about this. There are heightened levels of anxiety amongst some prospective witnesses as a result of perceptions of the way the inquiry is being conducted and the effect of some of the examination and cross-examination on some witnesses and on their reputations. There is still a significant number of public servants and public sector witnesses to be called and examined.

It is through those joint issues of levels of justifiable and understandable anxiety amongst public servants and others and the comments made about the desirability of separate representation that have lead, I understand, to approximately 50 approaches being made for separate representation. I am willing to fund that representation. But there is an issue of the effect on the inquiry of 50 different barristers—let alone the cost; we are talking about three or four million dollars. Let us ignore the cost. The cost of the inquiry put to me is about $7 million. We can find another three or four million dollars. But a coronial inquiry with 50 separate barristers representing 50 separate witnesses is unworkable.

The Leader of the Opposition expresses concern at the inquiry not being completed before the next bushfire season. I can tell you that, with that sort of arrangement, it will not be finished for a couple of years. It would simply be unworkable. We are trying to apply some rational basis to the need for separate representation.

Mr Smyth: And you decide.

MR STANHOPE: Somebody has to decide. I cannot just say, "The coroner said everybody who feels they need separate representation should have it. Right, just do it for everybody who rings up and says, 'Look, I'd like my own barrister'" and then approve a barrister. I understand that between 40 and 50 people have now made an approach about the need for or level of representation. That is unreasonable; it is unworkable and untenable, particularly in a circumstance where we can pursue other options to ensure that they are appropriately represented and supported.

Mental health

MR HARGREAVES: Can the Minister for Health inform the Assembly whether the government has made an assessment of the opposition's financial commitments on mental health?

MR CORBELL: Yes, the government has made an assessment of the opposition's unrealistic promises in relation to mental health in a policy that the opposition released yesterday. The government has done so to ensure that there is a strong understanding within the government and, indeed, the broader community of the financial impact of these commitments. There is nothing worse than making a promise that you cannot deliver on. Unfortunately, that is exactly what the Liberal Party has done.

The opposition has made a promise to reduce the average caseworker workload to 12 patients per case manager. That is an admirable aim. Unfortunately, they have not got any money to achieve that. Let me highlight the facts. Currently, ACT Health employs 70 case managers. To facilitate a reduction in the case load to an average of 12 would require—wait for it—an extra 120 case workers. Currently, ACT Mental Health has 6,291 clients, of whom just over 2,000 are case managed. That would be a 171 per cent increase in the work force and the cost would be an additional $9.4 million per annum, or $36 million over four years. The Liberal Party have committed only $20 million over four years. Already, on the first commitment, the budget has gone right out the window—there goes the money—and they could not deliver on their commitment.

Already, we are in the red to the tune of many millions of dollars, but let us not let reality interfere with the opposition's perception of public policy on these issues. The opposition has also promised to set up and run a forensic mental health facility as part of the prison project. This is an interesting policy direction from the opposition. The reason for that is that earlier this year the opposition's spokesperson on health advocated that this sort of facility should be part of the hospital. I quote him from *Hansard*:

> There are facilities. The key is the case load. We—

that is, the Liberal Party—

> would establish a time-out facility and make sure there is a forensic unit as part of the hospital.

That is what he said only a couple of months ago, yet yesterday he came out and said that it is going to be at the prison. But how are they going to pay for it at the prison? They have said, "We'll just take the money out of the prison budget." I am sorry; all that money is for building a prison; it is not for building a forensic care facility, let alone the national forensic health principles which recommend that specialist inpatient forensic mental health services should be located beyond the geographic boundary of a prison and run independently of correctional services. That is national best practice, but Mr Smyth just wants to make it part of the prison. There we have it: national best practice for mental health directly contradicts the opposition's policy.

Mr Smyth: The flush is rising.

MR CORBELL: I know that Mr Smyth is uncomfortable about it, but there is more, Mr Smyth. Let's go to the recurrent cost and capital cost of such a facility. The capital required for an eight-bed forensic facility is uncosted in the opposition's policy. There is no costing whatsoever. Let's look at the most recent experience in Australia and try to work it out from there. The most recent experience in Australia is to be drawn from Tasmania, where a 35-bed facility cost the state government $15 million in capital alone to build. Where are your costings, Mr Smyth? Also, the recurrent cost of running a similar facility in the ACT, based on the Tasmanian experience, would be somewhere between $6.5 million and $7 million per year. Already, we are up around $50 million.

Finally, the opposition has promised a time-out facility at an estimated cost of $2 million, but they did not put any money in their policy to staff it. It is just like the new medium-security facility of Brian Hennessy; it is that all over again. You should not make promises that you cannot deliver on.

MR SPEAKER: Order! The minister's time has expired. Do you have a supplementary question, Mr Hargreaves?

MR HARGREAVES: Yes, thank you, Mr Speaker. There was a bit of noise and I wonder whether the minister can confirm for me whether he said that three of the opposition's policies were for $100 million but funding of only $20 million was announced. Also, could the minister indicate how the opposition's approach compares with the Stanhope government's funding of its commitments to mental health?

MR SPEAKER: Order! The minister is not responsible for the opposition's policy.

MR CORBELL: The government has undertaken a very significant reform of mental health services since coming to office. Of course, it is worth repeating in this place, although Mr Smyth likes to avoid it, that when we came to office the level of expenditure in the ACT stood at $67 per head of population.

Mr Smyth: Say that again.

MR CORBELL: It was $67. We have close to doubled that—to $117 per head of population. We are having to catch up on the failure of the Liberal Party to properly fund mental health resources. It is interesting, Mr Speaker, that Mr Smyth thinks that we need some mental health nursing scholarships. We agree with him, which is why we funded

them in our last budget. The sum of $300,000 went into that. Mr Smyth, in comparison, is proposing only $100,000. Does that mean that he would cut the number of scholarships? Is that part of his policy? Once again, the policy is policy on the run. There is nothing worse in such a delicate and serious area as mental health than to grandstand on policy initiatives that you cannot pay for. These are polices you cannot pay for. You have blown the budget and it is nothing but deception to say to the Canberra community that you are going to fix mental health when you have not put in the money to back your actions.

Gungahlin Drive extension

MS TUCKER: My question is to the Minister for Environment and is in regards to the environmental impact analysis of the proposed Gungahlin Drive extension. Can the minister tell the Assembly, firstly, how the Flora and Fauna Committee, the Natural Resources Management Committee and the scientists who are currently using parts of the proposed GDE route for their internationally recognised research were asked to contribute to the environmental impact assessment of this freeway; and, secondly, how have they been consulted on those issues since the final decision to proceed with the road on its eastern alignment was made? If they were asked to consult, can the minister table their response by close of business today?

MR STANHOPE: I thank Ms Tucker for the question. This is an issue that I have been grappling with today. Just yesterday, surprise, surprise, I received a letter—and I have a feeling that Ms Tucker received a copy of the same letter—from those two organisations suggesting that they were concerned that they had had no opportunity to be involved in consultation over the Gungahlin Drive extension. I find that claim by those committees to be absolutely staggering. This debate has been alive for seven years. It is a debate that everybody in the Canberra community knows about; it is a debate in which every organisation in Canberra with an interest, or who could have been bothered, had an opportunity to become involved. If the Flora and Fauna Committee and the Natural Resources Committee and, indeed, the interim Namadgi Board—if you have the same letter that I have—wanted to make representations or submissions or to be involved in the debate around the development and construction of the Gungahlin Drive extension they had every opportunity, just as did every other Canberran.

I find it a bit rich and extremely disappointing that, in the week after construction of the Gungahlin Drive extension was scheduled to commence and, indeed, did commence, three consulting bodies, established by the government, decide to make representations to me about their non-involvement in the decision making or consultation in relation to the Gungahlin Drive extension. There was a preliminary assessment process initiated by the previous government in 1997. I cannot believe that those organisations or those individuals did not have an opportunity to participate in the preliminary assessment process arranged by the previous government. Since then, my government has been involved in two preliminary assessment processes in relation to the Gungahlin Drive extension.

Let's just deal with the semantics here. The so-called environment impact assessment is, under our system, incorporated within the preliminary assessment. That is what it is: it is an environmental impact assessment under another name. We are playing games here with terminology, and so are these organisations. They had every opportunity. There

have been three PAs on this route, three separate environmental impact assessments, and everybody has had an opportunity to participate. For three environmental bodies to write to me, after the event, after construction has commenced, and cry that they had no opportunity or capacity to be involved, is just a little rich, particularly when I had put this matter to my department. I asked Environment ACT if these bodies ever consulted—and, surprise, surprise. So, it will be to the enduring embarrassment of Rosemary Purdy, Ian Fraser and Geoff Butler—people for whom I have had, up until today, enormous respect—that I can report that they were personally briefed in June 2002 by David Shorthouse and Maxine Cooper on every aspect of the environmental implications of the Gungahlin Drive extension. That was a personal, detailed briefing by Environment ACT, Maxine Cooper and David Shorthouse—the most knowledgeable people in the ACT government service in relation to this issue—on the Gungahlin Drive extension and its implications for O'Connor and Bruce ridges. And they did nothing. I have to say to Ian Fraser, Geoff Butler and Rosemary Purdy, "Don't come to me whingeing about the fact that you didn't get an opportunity to participate in this process when you were personally briefed and did nothing."

MS TUCKER: I take that to be a 'no'. You never actually asked for input. My supplementary question is: given the recent evidence of the presence of an extremely endangered plant species, *Swainsona recta*, the recent listing of the varied sittella and ongoing evidence of the potential danger to echidnas from this freeway, will you now take responsibility for diversity in the ACT and stop all work on the road and commission a full EIS, which is not the same, for your information, as a PA?

MR STANHOPE: This road is going ahead. The answer to your question is no.

State of the Environment report

MRS DUNNE: My question is to the Minister for Environment, Mr Stanhope. Minister, the Commissioner for the Environment, Dr Joe Baker, a very senior and highly respected scientist, was scheduled to release his State of the Environment report today. I understand that it would have been Dr Baker's last act as commissioner, as he is retiring tomorrow. The media launch was scheduled for 2.30—which was 25 minutes ago—in O'Malley. However, at the eleventh hour, the opposition was informed that the commissioner had cancelled his media launch.

Minister, have you nobbled the launch because you are planning to get rid of Dr Baker and have the report sanitised by his successor, or are you hoping to bury it completely until after the election?

MR STANHOPE: By jeez, that is an offensive question! It is almost as offensive as the letter I got from those three committees yesterday.

Mr Smyth: How dare people criticise the Chief Minister!

MR STANHOPE: It is not a question of criticising me. There are some pretty rich accusations levelled that are completely without foundation.

No, that is not the case at all. I think, as everyone understands, that Dr Baker is a most esteemed Australian. It has been a privilege to work with him. The ACT has been

privileged to have a person of Dr Baker's eminence as the Commissioner for the Environment for the last 10 years. We owe him an enormous debt for his contribution to ACT environmental reporting—not just in the ACT but also nationally. He has done an absolutely outstanding job.

I have no desire or intention to get rid of Dr Baker; nor have I got rid of him. Dr Baker advised the government over a year ago that he would not be seeking an extension of his appointment beyond the end of last year. Towards the end of last year he advised me that he had not completed his State of the Environment report and asked if I would grant him a three-month extension. I granted him the extension in the terms that he sought. The extension that I granted at his request, in the terms that he requested, concludes on Wednesday this week.

He has completed his report and has provided it to the government. He provided it to the government when I was overseas. I have not seen the report; I have not read the report. I think it only appropriate that, before its public distribution, it be tabled in this place. I think it is only reasonable that, before it is tabled and released, I have an opportunity to at least be briefed on it. I do not think that is unreasonable.

I will try my best to achieve that before Thursday; I will try my best to table it. But it would be bizarre in the extreme if a report provided to me as the minister were unilaterally released by the person working on behalf of the government statutorily to provide it. It is the government's report—it is not Dr Baker's report—and it is appropriate that the government release it at a time of some convenience to the government. It is unreasonable to expect that I, having neither read the report nor been briefed on it, would say, "It's alright. Go for your life." That would simply be inappropriate and unacceptable.

MRS DUNNE: Mr Speaker, I have a supplementary question. Minister, what is so special about this report that you need to read it? What horrors are contained in the State of the Environment report that you feel the need to censor it?

MR SMYTH: I have absolute no idea what is in this report. I would like to know what is in it before I table it.

Belconnen bus interchange

MS DUNDAS: My question is to the Minister for Planning, Mr Corbell. Minister, the Belconnen arts and cultural facilities study options paper that was released earlier this month makes the following comment about the Belconnen bus interchange:

> Investigation into the latest planning has confirmed that the interchange will remain at the current site. However, it will be substantially reconfigured and brought down to street level.

Minister, can you confirm that this is the future of the Belconnen bus interchange?

MR CORBELL: I am not aware of the detail of that study. I will need to understand exactly in what context that statement was made. Certainly, my understanding, and the

government's policy intention, is to see the relocation of the Belconnen bus interchange, following the extension of Cowan Street, to the western side of Belconnen Mall.

MS DUNDAS: Minister, with that policy intention in mind and a completely contrary statement being released in an arts and cultural facilities statement, when will the community be informed about the future of the Belconnen bus interchange?

MR CORBELL: I think if Ms Dundas checks her own records and, indeed, any public statements made by me she would be aware that as early as the middle of last year I was indicating the government's intention to re-locate the bus interchange as a passenger and arrival lounge to the west of Belconnen Mall. The report that Ms Dundas is referring to, I have a suspicion—I will need to check—has been prepared by consultants to the Belconnen Community Council, and that is something I will need to clarify. But the government's policy position has not changed and we have made clear on a number of occasions our intention to relocate the bus arrival and departure facilities to the western side of Belconnen Mall.

Bushfires—declaration of a state of emergency

MR PRATT: My question is to the Minister for Police and Emergency Services, Mr Wood. The coroner's inquest has heard that the secretary of the emergency management committee prepared a draft state of emergency declaration on Thursday, 16 January 2003 or the morning of Friday, 17 January 2003 for signature by the Chief Minister because it was likely that he may have to sign such a document declaring a state of emergency. Minister, what information about the likely impact of the bushfires prompted the preparation of this document?

MR WOOD: These matters are being exhaustively—I repeat, exhaustively—examined in the coroner's inquiry and that is where I think those questions should be asked. I am sure that they are being asked; there are so many of them.

MR PRATT: I have a supplementary question. Minister, given all of that, why wasn't the community warned that there was a reasonable chance that the impact of the bushfires would cause a state of emergency to be called on that weekend?

MR WOOD: That is a question that is around the place and it is being addressed in the coroner's inquiry.

Bushfires—cabinet briefings

MR STEFANIAK: My question is also to Mr Wood as Minister for Police and Emergency Services. Mr Wood, your colleague Mr Stanhope, in response to a question from me on 10 March, advised that you organised a special cabinet briefing on the bushfires on 16 January 2003. Minister, when did you make the decision that the bushfires were a serious threat to Canberra suburbs warranting a special cabinet meeting? What information about this threat prompted your decision to ask for such a meeting to be held?

MR WOOD: I am not going to go into details on this sort of question; I will give a general answer. In conversations with senior officers we determined that it would be appropriate to brief cabinet, and that is what happened.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Minister, when did you speak to Mr Stanhope about the need to convene this meeting, and what was his response?

MR WOOD: The formalities were such that it was obviously agreed, wasn't it?

Child protection

MRS BURKE: My question is to the Minister for Education, Youth and Family Services. On WIN news on Friday, 26 March and in today's *Canberra Times* it was announced that the Vardon inquiry concerning your department's flouting of the Children and Young People Act 1999 has had its deadline extended for several weeks until 7 May. Today's *Canberra Times* quotes Commissioner Vardon as saying, "There have been delays in accessing necessary information on children from departmental systems." Minister, why have there been delays in your department providing information to this inquiry, resulting in its being delayed for three weeks; and why have you failed in your responsibility to ensure that information is provided in a timely manner?

MS GALLAGHER: Commissioner Vardon contacted my office on, I think, Thursday evening and spoke to a member of my staff indicating that she would be seeking, through the Chief Minister, an extension of three weeks for her inquiry. She gave a number of reasons for this, one of which concerned the department's formal submission to her inquiry, which, I believe, was handed to her on 17 March. It is quite a substantial document. The Community Advocate's submission to the inquiry was handed in on, I believe, 19 March, two days later. So some very important submissions to the inquiry took some time to get to her.

As you are aware, I am briefed on this inquiry and on what is happening in child protection in the ACT several times a week. I know that you will not like this answer, but I can tell you that I have not failed in any duty to ensure that the department hands information over in a timely fashion. Part of what the inquiry is looking at is the systems that led to this failure to meet statutory obligations. I believe that some of the information at which the commissioner is looking and which, I suspect, will be subject to some findings, is views about the adequacy of systems in place to recall information that the commissioner needed. We have had, and you are aware of the pressure on child protection staff, up to 11 senior staff from the family services section of the department working with the commissioner on this as a special audit team. That in itself has presented challenges to family services in other areas, as you can imagine, while we go through a recruitment process. In the time that they have been responding to the commissioner, not only this submission, the department has also responded to all of the her formal requests for information, which total 55 questions in all. There is one matter outstanding, going back to correspondence concerning matters raised in 1996, but at the same time we are dealing with the whole range of day-to-day responsibilities of family

services. This has all had to be balanced within existing resources. It has placed enormous pressure on the department, as you know.

Our primary concern at the moment is, of course, to meet the needs of those emergency and crisis situations of which, I understand from information that I have been given, which I request on a weekly basis, there were 98 reports to family services last week alone. On top of this, we have had senior staff taken out of the department to put submissions together and work on the audit. The audit of those files is currently under way and that has impacted on the delay for the commissioner as well, but a very comprehensive submission was provided by the department. The department is working very closely with the commissioner. The commissioner was aware, in my understanding, that the submission was going to be delayed because of those pressures on family services and it is merely one reason why her report is going to be delayed. There is no unwillingness on the part of the department to work with the commissioner and there is certainly no unwillingness on my part. We are doing everything that we can to meet her request. It turns out that the inquiry is a little more comprehensive and the issues require a bit more of the commissioner's attention and that has resulted in the three-week delay.

MRS BURKE: I thank the minister for that answer. Given that response and given early comments that you have made, Minister, why did you not understand that this inquiry would take so long, given the advice that you have had that your department had been breaking the law for a considerable time?

MS GALLAGHER: We announced the inquiry without the full information about what had led to the breakdown and what it meant. I could not be provided with information about the number of children concerned, the number of reports concerned or the nature of the allegations concerned. All I knew was that it had been going on for some time and that the department was working backwards to look at a certain period of time—initially the six months prior to December last year. The commissioner's scope is wider than that and, as it has turned out, other issues have arisen. Public interest in the inquiry is substantial and there have been a number of submissions. It was the government's desire to have this report as quickly as possible so that we could move on and put in place measures to ensure that we had the best child protection system in the ACT. If the commissioner now tells the Chief Minister and me that she needs three weeks longer to report on that and to provide that information to us, then that is out of our hands. She needs three more weeks. We set the 16th and she was working to the 16th. She called my office on Thursday and wrote to the Chief Minister on Friday saying that she needed three weeks longer. There is no conspiracy in it. She just needs a bit longer to write the report.

Betty Searle House

MS MacDONALD: My question is to the minister for housing, Mr Wood. Today, I was very pleased to launch Betty Searle House, or Betty's place, a project that I know is very close to the minister's heart. Minister, could you please explain to the Assembly the significance of Betty Searle House and why we are all so pleased to see it open?

MR WOOD: This project has a long history. I give credit to the originators of that proposal, but it was not going anywhere until we got into government and got it moving. I explained at the launch a little while ago that I had a longer attachment to it than

anybody else because when I came to Canberra I found myself living over the road—not from Betty Searle House but what was then a disability house—and I know that area quite well.

The house, as you explained at the launch, will accommodate up to eight women and has spare room for overnight guests, so it is not confining people without access to their families. It is very important to maintain links with family members. The building has been named in honour of Betty Searle, a quite prominent Canberran.

A significant factor of the opening is that it represents another milestone in the addressing of elder abuse in the community. The Stanhope government has been very proactive in implementing its response to elder abuse. Coincidentally, I was the chair of the Assembly committee that looked at this issue several years ago. Were you a part of that committee, Mr Cornwell? No, you were not. We provided a report and the response to that report was brought down by the Stanhope government. Mr Stanhope, in announcing his response, saw to it that over $400,000 would be allocated over four years to implement systems and services to protect vulnerable older Canberrans.

The women coming into this place generally have low support needs but may need assistance and information to re-establish themselves. Havelock Housing, a well-known body in this town, and another well-known body, Toora Women, have been jointly appointed as tenancy and service providers. They will do the management and assist the women coming into the place with services best able to meet their needs. The aim of the program is long-term affordable, safe, secure housing for older women. Given the work that has gone into it and the calibre of the people running it, I know that it is going to be very successful.

Bushfires—destruction of fences

MR CORNWELL: My question is to the Minister for Environment, Mr Stanhope. Minister, members of the opposition have received a copy of a letter sent by the executive director of Environment ACT on 19 March 2004 to ACT rural lessees about the repair of fences separating their property from government managed land—fences that were damaged or destroyed in the January 2003 bushfires.

Rural lessees are dissatisfied with this offer because (1) it has taken so long, (2) it refers to costs "being apportioned" between the government and the lessees—but it does not say on what basis—and (3) it makes even this unsatisfactory arrangement conditional on lessees accepting sole responsibility for the future maintenance of the fences, a responsibility formerly shared with your department.

In other jurisdictions, where farmers share boundaries with government land, such as in national parks, governments share these costs—as good neighbours generally do. Indeed, in New South Wales, Parks and Wildlife provided materials for the repair, and the Premier's department funded labour from disaster relief. By April of last year, landholders in New South Wales were in a position to repair fences. ACT lessees are still waiting—14 months after the fires.

Given that the lessees did not burn the fences in the first place, why is your government making such a niggardly offer to rural lessees, when your colleague Bob Carr simply got

in and had the fences repaired in New South Wales? Why have lessees had to wait so long for this matter to be even poorly resolved?

MR STANHOPE: I thank Mr Cornwell for the question. It has been a difficult and complex issue, much more complex than one would have thought at first blush—made complex by the array of leases that apply to rural leases throughout the ACT. As members will be aware, under the previous government there was a decision to move rural leases in certain circumstances to 99-year tenures.

At that stage, on the basis of that decision—and a rolling basis as the lease is converted to 99 years—leases were redrafted, recrafted and redrawn to take account of their change of tenure. It is generally accepted that there will be some sharing of responsibility for fences between neighbours. In relation to the government nature reserves and the road reserves, the ACT government has a responsibility. But all internal fences—and this is consistent throughout Australia, despite some preamble in Mr Cornwell's question—are the responsibility of the leaseholder. Mr Cornwell is suggesting that the ACT should have accepted, without question, responsibility for repairing every single fence, irrespective of ownership of that fence.

Mrs Dunne: I rise on a point of order. Under standing order 118A, the Chief Minister is wandering off the topic. We are not talking about internal fences; we are talking about boundary fences between government leases and—

MR SPEAKER: Resume your seat, Mrs Dunne. There is no point of order. The Chief Minister is sticking to the subject matter of the question.

MR STANHOPE: I must say that it was not clear to me, and I apologise. In relation to shared fences, to only boundary fences—that is, fences between leasehold land and territory land—the territory has accepted its full responsibility.

MR CORNWELL: I have a supplementary question. Why are you making rural lessees take sole responsibility for future repairs to shared boundaries between their properties and ACT government land? I quote:

> Upon completion of the repair work fencing that is not already your responsibility and property is to become your and any subsequent owner's responsibility and property.

Are you making provision for the next fire?

MR STANHOPE: Mr Cornwell's question misunderstands the basis of ownership of fencing on leasehold land. There has been considerable taxpayer funded repair to rural fences—we are talking about 3½ to four million dollars worth of fencing paid for by the ACT ratepayer to rural leaseholders.

We are talking about up to $4 million worth of contribution by the ACT ratepayer to rural fences—a very significant contribution and expenditure by the government on behalf of the ratepayers to rural lessees for the repair and replacement of burnt fences. This is a very significant contribution that goes to the repair and replacement of fences

which, on any interpretation, the government did not have a legal obligation to meet or pay for.

The government has been enormously generous in its contribution to rural fences. We are seeking to regularise the position concerning rural fences and rural leases as a result of a mishmash developed over the years in relation to leases and the conditions in leases relating to fencing.

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

Supplementary answers to questions without notice

Belconnen bus interchange

MR CORBELL: At question time today, Ms Dundas asked me about the consultant's review of social and cultural activity in Belconnen. I can advise members that the statement in that draft report is incorrect and the government still proposes to locate the new Belconnen bus interchange facilities to the west of the Belconnen Mall. I trust that will be corrected in the final copy of the report.

Condoms in schools

MS GALLAGHER: Last sitting week, Ms Dundas asked me a question about the availability of condoms in schools and whether condoms were being handed out by

schools. The commitment given by the government was that having condom vending machines in schools would remain a decision for the school community. At the moment, there are no condom vending machines in any government college or high school. Some have had them in the past, but they are no longer utilised, and condoms are not being distributed to students by teaching staff.

Condoms are given to students by approved health education agencies, such as Sexual Health and Family Planning ACT, the AIDS Action Council and Directions ACT, in the context of safe sex education programs. Agencies also visit school campuses on a regular basis at facilities such as the Bay at Canberra College or attend one-off health fairs. In rare cases, if a student is judged by student welfare staff to be highly at risk from unsafe sexual practices, they will aim to protect the student and remind the student of safe sex measures and may provide the student with a condom, if appropriate.

Answers to questions on notice

Summernats

MS TUCKER: Under standing order 118A, I seek an explanation regarding a question I asked of Mr Stanhope on Wednesday, 11 February concerning Summernats. Mr Stanhope said that he would take it on notice, but he has failed to make a response.

MR STANHOPE: I regret the delay in answering the question, which I may have taken on notice, and I will have it addressed immediately.

Volunteer bushfire fighters

MR SMYTH: Mr Wood took on notice a question from me concerning indemnity for volunteer bushfire fighters in the lead-up to the last fire season. He said that he would seek further information. I do not believe that I have received it as yet.

MR WOOD: I will check, but I thought I said in the response I gave that if you had any more questions, follow it up. I will take a look at what was said. I am not sure whether there is any more to be said in answer to the question, but I will take a look.

Question No 1267

MR PRATT: Mr Speaker, under standing order 118A, I too seek an explanation in relation to an outstanding question to Mr Wood as Minister for Urban Services in relation to bushfire fuel reduction—Question No 1267.

Mr Wood: It is a very detailed one; too detailed, I think.

MR SPEAKER: I call Mr Wood.

MR WOOD: I will get back to you on it. The answer is on the way.

Mrs Dunne: Mr Speaker, I seek your direction. I thought that under standing order 118A ministers had to give an explanation as to why answers to questions were late, rather than saying, "I will get on to it and get back to you."

MR SPEAKER: Order! You should take a look at standing order 118A, especially paragraph (c), even paragraph (b).

Mrs Dunne: You can ask for an explanation, but you never get an explanation. The minister's response is always, "I'll look into it." A minister never comes back into this place and gives an explanation.

MR SPEAKER: I do not want to debate the issue with you, Mrs Dunne, but it is open to you to move a motion without notice, if that is your wish, at the conclusion of the explanation—or lack of it, I expect.

Mrs Dunne: In that case, Mr Speaker, I move that the ministers who were asked for explanations today as to why questions have not been answered give an explanation. I give them until the close of business tomorrow.

MR SPEAKER: You will have to seek leave to do that.

Mrs Dunne: I seek leave.

MR SPEAKER: You can move such a motion. In the case of the question to which I think you are referring—a question Mr Pratt asked of Mr Wood—Mr Pratt would have to move the motion.

Mr Wood: Mr Speaker, to shorten the process, I did say from my seat, I believe, that my memory tells me that it is a very complicated, long and detailed question and it will take some time to answer. There are a great number of questions and there are occasions when a question is such that it would be either long to answer or, in fact, too long to be able to give a response. That is my suggestion to satisfy Mrs Dunne of what the question is about. Next time, I will stand up in my seat and give that explanation.

MR SPEAKER: That would be good. Is there any further business arising out of that? No.

Paper

Mr Speaker presented the following paper:

> School crossings in the ACT—Resolution of the Assembly of 11 February 2004—Copy of letter from Mr Wood (Minister for Urban Services), dated 15 March 2004.

Executive contracts
Papers 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 papers:

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long-term contracts:
John Leahy.
Bruce Kelly, dated 18 December 2002.
Diane Kargas, dated 27 February 2004.
Short-term contracts:
Peter Gordon, dated 23 February 2004.
Brett Phillips, dated 17 February 2004.
John Paget, dated 25 February 2004.
Ron Shaw, dated 18 February 2004.
Schedule D variations:
Michael Harris, dated 5 March 2004.
Tim Keady, dated 1 March and 3 March 2004.
Tim Keady, dated 1 March 2004.
Julie McKinnon, dated 1 March 2004.
Gordon Davidson, dated 19 February 2004.
Tony Gill, dated 19 February and 24 February 2004.
Graeme Dowell, dated 24 November and 25 November 2003.
Joanne Howard, dated 12 March 2004.

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

Leave granted.

MR STANHOPE: Mr Speaker, these documents have been tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 9 March 2004. Today, I have presented three long-term contracts, four short-term contracts and seven contract variations. The details of the contracts will be circulated to members.

Ministerial visit to the USA
Paper 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 paper:

> ACT Government Ministerial Delegation to USA—4 November to 17 November 2004—Report.

I ask for leave to make a statement.

Leave granted.

MR QUINLAN: Last year, I led a delegation to the United States. The purpose of the trip was to support eight ACT businesses that were attending the ANZATech showcase in Silicon Valley, to partner with US economic development agencies to develop strategic partnerships and export channels to the US, and to meet with US officers of Canberra-based companies.

I was accompanied throughout the trip by my chief of staff, Mr House, and the director of BusinessACT, Mr Keogh. In addition, Ms Jacqui Burke, the shadow minister for

housing and community services, attended the ANZATech showcase and Mr David Malloch, chair of the Business Canberra Board, joined the delegation for the ANZATech showcase and the activities in Washington.

Undoubtedly, the highlight of the trip was the attendance at the ANZATech conference and showcase in Palo Alto, California. ANZATech is the only US conference that exclusively showcases Australian and New Zealand technology to the US market. Of the 43 companies participating in ANZATech, eight were from the ACT—a very significant representation. The companies represented were: Micro Forte, WetPC Pty Ltd, TASKey, @lacrity, GPSports, HATRIX, Traxsoftware and Random Computing.

The showcase was attended by a range of US executives, venture capitalists and business development consultants. The success of the showcase and the importance of the ACT government's participation are best reflected in the following testimonial from Tim Oxley of @lacrity.

> Attending ANZATech 2003 was a very valuable business exercise. The event proved its worth by opening up the possibilities available in the world's largest ICT market and having financial support and Ministerial representation from the ACT Government made the Canberra team stand out from a very good pack.

While the results of such events take a while to deliver, all companies have reported good leads as a result of participating in ANZATech. Attendees at ANZATech were so impressed by what they learned about each other and the opportunities providing by networking together that they have set up their own networking group, the Palo Alto Club.

At a recent meeting of the Palo Alto Club I attended, TASKey, @lacrity, Traxsoftware, GPSports and Random Computing reported that they were establishing partnerships in the USA, HATRIX reported that it had developed a number of contacts in California that it was pursuing, and WetPC reported that it is close to finalising a deal with the Chicago Board of Trade. Undoubtedly, many of these leads will develop further and result in export outcomes for these businesses. There can be no understating of the importance of the ACT government's commitment to work with these companies to get them into the US market.

I also took the opportunity while in the USA to meet with a number of business development organisations. Of particular interest were Larta, UCSD CONNECT and the Greater Washington Initiative, all of which are collaborative partnerships where the private sector takes a leading role in economic development. I will briefly outline the role of each of these bodies.

Larta, formerly known as the Los Angeles Regional Technology Alliance, runs a large range of commercialisation training programs for high technology start-ups and, through its own investment bank, Fidelys, has generated over $US1.5 billion over the last 10 years for start-up technology companies. As a result of this contact, Mr Rohit Shukla, the president and CEO of Larta and a finalist in the Ernst and Young US entrepreneur of the year award in 2002, has agreed to be one of the international keynote speakers at Focus on Business 2004 in Canberra.

UCSD CONNECT is regarded as the US's most successful regional program linking high technology and life science entrepreneurs with the resources they need for success—technology, money, markets, management, partners and support services. As a result of this contact, Mr Greg Horowitt, acting director of UCSD CONNECT, has also agreed to be one of the international keynote speakers at Focus on Business 2004.

The Greater Washington Initiative provides assistance for companies around the globe to identify strategic partners and venture capital contacts, to meet the public and private sector leaders, to arrange site tours and to obtain demographic and real estate information about the greater Washington area and its partner jurisdictions.

Whilst I have invited the Greater Washington Initiative to participate in Focus on Business, at this stage it is still contemplating its level of involvement. Whatever the outcome of this invitation, we will continue to work with the Greater Washington Initiative to develop the Washington relationship and give Canberra companies an export channel into the US government procurement market. Already a number of ACT companies have been given introductions to Washington through our relationship with the Greater Washington Initiative.

In summary, the trip provided an opportunity to support local innovative companies, to establish links with economic development organisations and to further develop the role of the Canberra partnership as a joint business/government body to drive economic development in the ACT.

I might add while I am on my feet that we are all aware that the Chief Minister returned recently from a trip to China to cement relations there and went on to London, where a memorandum of understanding was signed with the London Development Authority. I am sure that you will hear more on that when he reports on that trip.

I can report that last week I receive a delegation from the Beijing Consultative Council, which is interested in developing exchanges between Canberra and the regions of Beijing on planning, development, traffic management, et cetera. I can also report that I intend to lead an ACT contingent to Biotech 2004 in San Francisco in June and do expect positive results from that.

I have to say that I was a bit disappointed with the *Canberra Times*, not so much for reporting Mr Smith's utterings about what this government might not have done for business, because he is what he is, but for reporting them verbatim, given that the reporter concerned has been associated with some of the public activities in relation to business development and knows a whole lot better than was contained in that article. At least the reporter did me the justice of reporting that within a day or so.

This government will continue to foster business in a practical way. It will go beyond a trip to South Africa to attend the rugby. We will actually do the positive things and put ACT companies in touch with opportunities across the globe as best we can.

MRS BURKE: Mr Speaker, I seek leave to make a statement on the USA trip.

Leave granted.

MRS BURKE: Mr Speaker, I am pleased to have the opportunity to thank the Minister for Economic Development, Business and Tourism, Mr Quinlan, for allowing me to join his delegation to North America and to be a part of the second ANZATech—Australia-New Zealand-America Technology—conference, which, as the minister has said, was held in Palo Alto, otherwise known as Silicon Valley. I also would like to thank the shadow minister for business and tourism, Mr Smyth, for the timing of his wedding and honeymoon. I am particularly grateful for the opportunity presented to attend in his stead.

I was pleased and very proud to be a part of the delegation, as I know personally many of the businesses that took part. I was honoured to be present to support eight dynamic and innovative businesses from the ACT which went through the very nerve-wracking process of having to stand up in front of people and demonstrate their wares in a very limited amount of time.

This mission gave businesses a very real and genuine opportunity to display their wares in North America with a view to establishing strategic alliances and joint ventures and provided an opportunity for them to secure venture capital or angel funding. It was an excellent initiative. It was instigated in the first instance, I have to say, by Mr Greg Wood, manager of the trade start program for Australian Business Ltd. Greg was inspired by the Austrade IT roadshow in 2002 and took his idea to the government and BusinessACT, which obviously accepted it.

This mission shows the determination that business organisations have to ensure that the very best opportunities are sourced by business for business. I can only applaud the proactive approach by Australian Business Ltd, which worked very closely with the Austrade regional trade commissioner, Mr Brent Juratowich, to ensure this mission was a success.

I also commend the work of BusinessACT, under the leadership of Greg Keogh and his team of Karyn Chittick, Michelle Fulton, Annette Wrightston and Kasia Dzielenska, who worked like Trojans to ensure the arrangements for the trip were first class. Indeed, I think everyone on that trip will attest to that. They are to be commended for their efforts and I thank them personally.

Whilst we may hear from time to time about the success and progress of some businesses in the ACT, I do not believe that currently we give enough recognition to the very valuable contribution that they make to the ACT economy. So I would at this time, with members' indulgence, like to take the opportunity to mention again those businesses—the minister has mentioned them briefly—which, with the support of the ACT government, support for which it is widely noted in the report they were very grateful, and with the energy and commitment to coaching by ABL and the support of BusinessACT, will continue to grow and reap the rewards of this trip.

Micro Forte was founded in 1985 with the purpose of developing world class, AAA computer games. This company has just gone from strength to strength under the strong leadership of John De Margheriti. WetPC Pty Ltd involves the commercialisation of a highly innovative and intuitive interface technology which was originally developed for an underwater computer at the Australian Institute of Marine Science, an Australian

government public sector science agency. Peter Moran and Bruce McDonald did the company proud.

TASKey Pty Ltd is a management and IT company that develops and provides innovative management methods and software tools to apply and sustain those methods. Dr Neil Miller and Bob Quodling certainly did their company proud, too. Random Computing Services has been based in the national capital since 1991. Random is one of Australia's oldest and most experienced Lotus/Domino software specialists, with great success in government.

HATRIX Pty Ltd develops medication management systems and decision support software for the healthcare market. @lacrity Technologies has developed a closed loop environment for wireless communication system, or CLEW. Using the internet and mobile devices, it enables time critical information to be sent simultaneously to multiple recipients and for those recipients to respond and complete a business transaction.

GPSports develops performance evaluation technology based around GPS and heart rate capture for the sports, fitness and health markets. Traxsoftware, under the leadership of Bill Barker and Scott Cargill, provides maintenance software solutions and specialises in designing, developing and deploying leading edge management systems through handheld wireless technology.

Mr Speaker, you can see that we have some incredible companies in Canberra. I will continue to encourage the government to support and underpin their efforts. It is sometimes not easy to do business in a jurisdiction such as Canberra. Certainly, the American market is quite difficult for people to get into, so I applaud the efforts of the Minister for Economic Development, Business and Tourism in his work over there. I would like to quote Adrian Faccioni from GPSports Systems. He said:

> ANZATech for GPSports was an opportunity to show our company and technology to a new and currently untapped market on the West Coast of the United States. It also helped us streamline our marketing and sales pitches for future investment rounds as well as developing stronger relationships with the other local companies whom attended. Thoroughly enjoyable and definitely worth the time and effort.

Businesses do not give up their time easily; they have to stick at what they do. I think it was an investment for them. Whilst many of them said to me how appreciative they were of the money given to them to help them and subsidise them on this trip, they gave an awful lot of time and commitment to it, too. In terms of networking and the Palo Alto Club that has been mentioned, males often need a kick-start in this area, but it has been very positive from the feedback I have been getting from that. Again I applaud the government, BusinessACT and Australian Business Ltd for a great trip and hope to see more of it in the future.

Papers

Mr Corbell presented the following paper:

> Calvary Public Hospital—Information Bulletin—Patient Activity Data—External Distribution—February 2004.

The Canberra Hospital—Information Bulletin—Patient Activity Data—February 2004.

Mr Wood presented the following papers:

Petition—out of order

Pursuant to standing order 83A—Petition which does not confirm with the standing and temporary orders—

Karralika alcohol and drug rehabilitation facilities—Redevelopment—Mr Corbell (86 citizens).

Subordinate Legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Electricity Safety Act—Electricity Safety (Electrical Licensing Board) Appointment 2004 (No 1)—Disallowable Instrument DI2004-29 (LR, 18 March 2004).

Gaming Machine Act—Gaming Machine (Social Impact Assessments) Guidelines 2004 (No 1)—Disallowable Instrument DI2004-30 (LR, 18 March 2004).

Public Place Names Act—Public Place Names (Fadden and Gowrie) Determination 2004 (No 1)—Disallowable Instrument DI2004-31 (LR, 18 March 2004).

Public Sector Management Act—Public Sector Management Amendment Standard 2004 (No 2)—Disallowable Instrument DI2004-28 (LR, 16 March 2004).

Environmental impact statements
Discussion of matter of public importance

MR SPEAKER: I have received letters from Ms Dundas, Mrs Dunne, Ms MacDonald and Ms Tucker proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79 I have determined that the matter proposed by Ms Tucker be submitted to the Assembly, namely:

The importance of producing full, up to date, environmental impact statements for all major capital works.

MS TUCKER (3.44): I raise this matter of public importance today because I am very concerned about what is happening with the Gungahlin Drive extension. I raise it in response to further evidence that the environmental consequences of pushing the GDE freeway through important nature parks in Canberra have not been properly considered. This is a matter of public importance because it represents the fundamental failure of this government to take the environment seriously in transport planning. I raise it as a general

matter because the GDE is but a terrible example of a failure to take seriously the responsibility to, at the very least, know what we are doing to our environment when we undertake major capital works. A full environmental impact assessment is important whatever the decision about construction for capital works.

It is clear in the GDE process that the government's statements about commitment to protecting biodiversity are nothing but rhetoric. The commitments made in the spatial plan, the social plan, the Canberra plan and also, I would argue, through the Human Rights Act are not worth the paper they are written on. Obviously the driving force for transport policy is not thoughtful consideration of the evidence and it is not an understanding of the scientific reality of endangered species and the continual degradation of the ecological health of our region, it is politics and votes; it is about winning the next election. While this is what I have come to expect from Liberal governments in this territory, I have to say it is extremely disappointing to realise that there really is little difference between the policies of the two major parties in this regard.

As someone who has been involved in this issue since 1989 I can say that, in evaluating the environmental and social implications, the process has consistently been sloppy and inadequate. Whether it was the superficial Maunsell PA process, the committee inquiry of the last Assembly, the politicking of the NCA, the current government's failure to even ask expert groups such as the Flora and Fauna Committee, the Natural Resource Management Committee or the Office of Sustainability for advice, the consistent thread has been no care or diligence.

Once again the scientific community is speaking out against this lack of care and I would like to acknowledge the work of Roslyn Beeby and the *Canberra Times* in informing the broader community about the issues. However the sad reality is that, despite this public debate, it appears as though the government hopes it can just ram its way through the science and informed comment for its own political ends. It will ram its way through the endangered species and the research potential our biodiversity currently offers.

As one letter writer to the *Canberra Times* said: what's the problem? People can go to the Brindabellas if they like the bush. Maybe that is the line the government takes. When you think of it, we could extend that logic and just say let's have no constraints on development at all, and we could all end up going to Kakadu. This Labor government will have the distinction of being not only the first government to set up an office of sustainability but also the first since self-government to take a precious nature park for development, disregarding its responsibility to ensure a proper environmental impact assessment.

According to the document *Save The Ridge*, received under FOI, we know that in 1997 ACT Environment made it clear that the PA process failed to properly regard the impact of the road on declared endangered communities and threatened species. We also know that the road is opposed by highly respected scientists including Professor Cockburn, who has been doing important ecological research on Black Mountain since 1986, with findings published in the international journal, *Nature*. The site of this research will be bulldozed by this government, severely limiting future scope.

ANU botanist Dr Rod Peakall, who is using Black Mountain to study orchid pollination—also research with international recognition—is opposing this road. It is indeed ironic that on one hand this government wants to promote Canberra as a research centre but with the other it rips out the sources of research. As Professor Cockburn said in the *Canberra Times*, there has been no attention to environmental or scientific values. Black Mountain is one of the greatest scientific laboratories in the world. ANU Plant Ecologist Jake Gillan also said that the road would destroy important remnant bushland.

The ACT should be leading Australia in management and conservation of remnant bushland and Canberra should be justly proud of its epithet "the bush capital", because there is bugger-all remnant bush left in Australia. Dr Paul Sattler, in his report to the federal government, has warned that there has been a massive contraction in the geographical range of native mammals; that bird species are declining; and that a further wave of extinctions is likely unless habitat is preserved. The Wentworth Group of Concerned Scientists also listed clearing of native vegetation as the most significant and persistent threat to biodiversity.

As we know from debates on other ecologically disastrous decisions of the government, such as East O'Malley, Dr Hugh Possingham has stressed the need to include urban development in land clearing controls. Statements and reassurances that we can do both—put houses, people, domestic animals and cars into precious ecological areas without there being any serious impact—just do not stand up to scientific scrutiny. Such statements are no more than political spin, and the scientists are saying so.

We know that clearing of vegetation is reducing bird populations, particularly woodland species. We know that freeways cause road kill. We know that Black Mountain is important for woodland birds and that the freeway will go through a focal point for some important species that are, according to Professor Cockburn, already in a bit of trouble—the sittellas, the speckled warblers and the button quail. Black Mountain is the major hot spot for button quail in the ACT. On the flora of the area, Dr Dean Rouse has identified more than 60 native orchid species on Black Mountain, half of which will be destroyed by the freeway.

Another illustration of the importance of up-to-date studies is the news that three specimens of an endangered plant were found just last summer on Black Mountain. The small purple pea or mountain Swainson pea—scientific name *Swainsona recta*—is listed as an endangered species on national lists. In New South Wales and the ACT it is listed as endangered under section 21 of the Nature Conservation Act 1980 and is a 'special protection status species' under schedule 6 of the same act. The action plan for the small purple pea notes that the existing populations are very small, cover a small area and are isolated from each other and therefore very vulnerable. A single event could wipe out a large proportion of the surviving species. Well done, Labor.

Small populations of the small purple pea are known to exist at Kambah, Mount Taylor, Long Gully Road and along the Tralee-Williamsdale railway easement. The largest of the populations is only 94 plants on Mount Taylor, and that is over a small area. Kambah has between eight and 14 plants and the Long Gully site has one plant. There are site specific management plans in place for each of these places. This reflects the serious nature of the threat to the ongoing existence of the plant. In 1939 a small population was

recorded on Black Mountain, but this latest discovery is the first since then. It is possible that other specimens may exist in the area. Because of the plant's habitat it is difficult to identify, except in the flowering season. So you would think that the discovery of a new population or resurgent population of the small purple pea would attract the attention of the Flora and Fauna Committee, and that management of the area would be a priority.

It is to be regretted that Mr Stanhope chooses to personally attack people of the calibre of those he mentioned in question time today. These people have scientific expertise and have been donating their time and expertise to the ACT for a number of years. The fact that they are now choosing to make public comments is not to be condemned and attacked by the Chief Minister, but should be welcomed. The fact that they were given a briefing does not in any way remove the responsibility of the government to have proactively sought advice from those groups, established to advise them on this important issue. I include the Office of Sustainability in that requirement as well.

I heard Mr Stanhope say that a PA was an EIS, and I saw Mrs Dunne shake her head. I think it was Mr Stanhope who launched the Environmental Defender's Office ACT *Environmental Law Handbook*. It is a pity he did not read it. For his information, I will point out that in the ACT there is a sequential system at EIA: a preliminary assessment—PA; a public environment report—PER; an environmental impact assessment—EIS; and an inquiry. If the minister decides a proposal is of sufficient significance or that the PA has not adequately addressed the impact and therefore requires further impact assessment, he or she can direct that either a PER or an EIS can be prepared. I will not read the rest because I do not have time in an MPI, but I suggest the Chief Minister reads it and that other members read it too.

It is really important that in this issue the Minister for Environment, as he has done in other matters—and I give him credit for that—shows courage and leadership. Of course there will be cries of "Backdown!" and other predictable political responses, but the reality will be that he has shown a respect for science, a valuing of biodiversity and a commitment to ensuring a sustainable future for Canberra. The question of whether an EIS is done on a particular piece of major capital works is largely up to the minister, as I have pointed out. Under the Land (Planning and Environment) Act the minister may direct that an assessment "be made of the proposal if, in the opinion of the relevant Minister based on reasonable grounds, the environmental impact of the proposal would be of sufficient significance". This can only be done within the prescribed time after the PA has been submitted.

This is where we run into the up-to-date problem. A PA was completed in 1997 but that was before the current route was known, and it obviously missed extremely important facts about the environmental impact. We have just found another extremely vulnerable species, as I have explained, but that is clearly not significant to this government.

Under a PA an EIS requires the proponent to address possible alternatives to the proposal. In our case study this would include the alternative transport options for Gungahlin. For example, the scope of the EIS in this case could include looking at the effects of expanding existing roads, or converting Northbourne Avenue to make transit lanes, light rail links and so on. It should include up-to-date analyses of population predictions and the commuting and other travel changes since Horse Park Drive was extended and the bus services increased.

An EIS is an essential tool in understanding what we are doing. It is clear that the government has missed this point in this whole sorry saga of misguided attempts to solve Gungahlin's commuter congestion with this new road through our nature park. As I said, the Canberra plan, social plan and spatial plan all make a commitment to preserving the biodiversity of the ACT and region, yet these commitments obviously have no relevance with regard to the GDE. The Office of Sustainability is apparently not relevant in this issue either. The Human Rights Act and the social rights as listed in the social plan are also relevant because it is recognised that all rights are indivisible and interrelated. It is therefore recognised that rights to health and life are clearly related to rights to a healthy environment.

In conclusion, I think there is still an opportunity for this government to show real credibility on this issue and to make the credible commitments in those plans actually mean something. Be prepared to take another look at this whole proposal to put a freeway through ecologically important areas; talk to the scientists in this city—I asked that in question time but Mr Stanhope chose not to answer that part of the question at all—get formal briefings from the Flora and Fauna Committee, the Natural Resources Management Committee and the Office of Sustainability; actually do the work and take a decision that will benefit Canberra into the future that the government can be proud of rather than ashamed of.

MR CORBELL (Minister for Health and Minister for Planning) (3.57): Major capital works in the ACT are subject to the same stringent requirements under the Land (Planning and Environment) Act 1991 as other major developments in the ACT. Where these works fall within the proposals listed in appendix 2 of the Territory plan, a mandatory preliminary assessment—PA—is required to be undertaken. Major capital works include major utility installations such as the Gungaderra Trunk Sewer in Gungahlin, treatment plants such as the Mt Stromlo water treatment plant and new major roads including the William Hovell Drive extension, the Fairbairn Avenue upgrade and the Gungahlin Drive extension.

All of these major capital works have been subject to the environmental impact assessment process in 2002-03 as required under part 4 of the land act. The first level of impact assessment in the ACT is always a PA. The purpose of the PA is to provide an initial evaluation of impacts and determine if further assessment of the proposal is required. A PA provides the information, including community comments, necessary to determine whether further impact assessment is required. If, in the minister's opinion, the environmental impact of the proposal is of sufficient significance he or she may direct the proponent to undertake further impact assessment in the form of a public environment report or an environmental impact statement.

Using the rigorous process applied to the GDE as an example it can be quite clearly seen that the requirements of the land act provide a robust framework to ensure that any environmental impacts are identified and adequately addressed. For Ms Tucker's information, a draft preliminary assessment or PA for the western alignment of the Gungahlin Drive extension was submitted to the then Planning and Land Management Group in October 2002. While the submission of a draft PA is not a requirement under the land act, most proponents choose to submit a draft document which is then circulated to relevant government agencies for comment. This process assists the proponent in

addressing any shortcomings that may exist in the draft PA before lodging it as a final document. Extensive comments from agencies were provided to enable finalisation of the PA—I think it is this process that Ms Tucker alludes to as a failure of process—which was then submitted to PALM in November 2002.

The final PA included a detailed assessment and consisted of three volumes, two of which were detailed technical reports and reports on consultation. The PA was then advertised for public comment during December 2002 and early January 2003. A copy of the PA was also provided to the Conservation Council as required under part 4 of the land act. Over 100 public submissions were received and considered as part of PALM's evaluation of the PA. The Chief Planner, as a delegate of the minister, determined that the PA adequately identified the range of possible environmental impacts and that no further assessments in the form of a public environment report or EIS were required. However, in evaluating the PA, PALM recommended that further actions or investigations should be undertaken at a later detailed planning stage of the proposal.

On 16 January 2003 the government announced it would commence design development and costings for the GDE to be built to the east of the Australian Institute of Sport. As members would be aware, this was not the government's preferred option but was forced on the government by the actions of the Commonwealth agency, the National Capital Authority. The revised eastern alignment has been subject to previous assessments: the preliminary assessment for the John Dedman Parkway, a four-volume document prepared in October 1997 and the preliminary assessment for the western alignment of the GDE undertaken in 2002-03.

Extra studies on landscape, flora and fauna and archaeology for a portion of the route informed design development. The revised eastern alignment of the GDE has an alignment to the east of the Australian Institute of Sport that is not significantly different from the alignment which was assessed in the John Dedman PA in 1997. The remainder of the proposed road follows the route assessed in the PA for the western alignment of the GDE. In accordance with schedule 2 of the Territory plan a further PA is not required, as the current proposal has been the subject of previous assessments that meet the requirements of the land act.

In the government's view the time has come to put a full stop at the end of this debate and move on to build this important piece of public infrastructure. The GDE will provide the residents of Gungahlin with a level of accessibility that the rest of Canberra takes for granted. While there are inevitably conflicts between different values when undertaking a project of this type I am confident, as is the government, that an appropriate level of environmental impact assessment has been undertaken and that all necessary statutory steps have been taken and will continue to be followed. It is interesting that this is also the view of the opposition spokesperson on this matter.

I think it is really important in this debate to understand that Ms Tucker's perspective is that this road should not be built. She can go on all she likes about where she believes processes have failed or fallen down but, at the end of the day, the Greens have an in-principle objection to this road being built, regardless of the process that has been followed. Even if we were able to satisfy Ms Tucker to the degree she asks, she would still object in principle to the construction of this piece of infrastructure. The question

that this Assembly has to ask itself today in this debate is whether that is a reasonable assertion for her to make.

Ms Tucker has a philosophical view about the provision of road infrastructure. That is fine—I understand the Greens' position—but does she have the right to say that there has been a failure in process and a failure in examination and investigation, simply because she disagrees with the substantive outcome? You can have a sensible, reasonable and detailed investigation of all these issues and come up with a finding which does not necessarily agree with Ms Tucker's view of the world. That is what has occurred and I think it is rich to criticise the process when you are losing the debate. She should make the argument on the substance of why the road is not appropriate. We have heard those debates from Ms Tucker in the past. There is no reason why she cannot do it again and debate the substance, the in-principle matter. But I believe that to debate it on the matter of process when the process clearly is, and has been, extensive is unreasonable.

I think it is worth drawing to members' attention exactly what studies took place. The 2002 preliminary assessment—which, despite its name, was a very detailed investigation—looked at all the impacts of the western alignment from the Glenloch interchange to the area adjacent to the AIS. In 2002, not 1997, it looked at the impacts on Aranda, Black Mountain, Bruce Ridge and adjacent to Kaleen, near the Kaleen grasslands. That work was done in 2002 and it was done in a very detailed way.

The 1997 PA looked at the route for the eastern alignment from the Barton Highway to Belconnen Way, and that included the route to the east of the AIS—behind the AIS. Further studies were undertaken specifically in the area between Ginninderra Drive and Bruce East and Belconnen Way in 2003—last year. So to suggest that there has not been adequate investigation of these issues is unreasonable. That suggestion has been proposed by Ms Tucker only because she has an in-principle objection to the road. I accept that that is her position. I do not agree with it and the government does not agree with it, but that is not the same as saying there has been some failure of process. There has not been any failure of process.

I was interested to read the comments of some of the scientists in the paper on the weekend. I have to ask the question: where have these people been for the past seven years? There has been an Assembly inquiry into this matter and there have been two preliminary assessments. They were publicly advertised and submissions were received. It is not as though no-one knew about it. People made over 100 submissions to both PAs.

So where have these people been? I think it is simply the case that they do not agree with the road. That is fine: they are entitled to not agree with the road but they are not entitled to question the process which, in the government's view and in the view of any reasonable person, is, to say the least, comprehensive. As I outlined in my earlier comments those processes do not apply simply to projects such as the Gungahlin Drive extension, they also apply to other major pieces of infrastructure in the city.

The government's position on this matter is a reasonable, detailed and comprehensive one. It is not a decision taken lightly or without angst. No-one likes—I do not like—building a road in that location; it is not our preferred outcome; but as a government we have accepted that a road needs to be built. I again challenge members in this place who are opposed to this road to demonstrate how they believe construction of the road can be

deferred indefinitely or cancelled. No-one in this place has been able to rebut the fact that the construction of the Gungahlin Drive extension is predicated on 20 per cent of all journeys coming out of Gungahlin, when it is completed, by public transport. It is not premised upon the existing level of public transport utilisation, which is about four to 5 per cent in Gungahlin, it is premised on a fourfold increase in public transport utilisation to 20 per cent.

In all the discussions I have had, for as long as I have been in this place, no-one has been able to demonstrate to me that, even with 20 per cent public transport usage for journeys in and out of Gungahlin, this road is not justified. That is the basis on which it is justified; that is the basis on which the analysis for its provision has occurred. Do not criticise the process when you are unhappy with the outcome. The process in this case has been adequate, thorough and comprehensive. Stick to the argument, which is reasonable, even if you do not agree with it and think that the road is not required. That is a matter of principle, which I am prepared to accept in a debate, but it is not reasonable to criticise a process that has been more than adequate, comprehensive and detailed and that was undertaken over an extensive period.

MRS DUNNE (4.09): This matter of public importance is about the necessity for environmental impact statements for all major capital works. It seems, however, that the matter of public importance has been side-tracked or used as an excuse to talk about Gungahlin Drive. I would like to talk about environmental impact statements for major capital works but I might also digress on to Gungahlin Drive.

It is unusual for me to say this but, when the Chief Minister answered a question in question time today, he was right—I agreed with him; it is an unusual thing, so it should be marked—that really, to all intents and purposes, every time we conduct a preliminary assessment in the ACT, we conduct an environmental impact statement. It has been the practice over the years since the application of part 4 of the land act, because there is a sliding scale of environmental assessments, to obviate the need for ramping up to the next level, for people who prepare preliminary assessments to effectively prepare what would be recognised as an environmental impact statement in any other jurisdiction. So it is essentially 'a rose by any other name'. The quality and the quantity of information that needs to be provided in a preliminary assessment in the ACT is comparable with that required by an environmental impact statement in any other jurisdiction.

It is misleading for opponents of Gungahlin Drive to say that because we have not ramped it up to the third level we have not conducted an environmental impact statement, when the information and the rigour required for a preliminary assessment is comparable, not necessarily by law but by practice—by convention in this place—in this jurisdiction. This is something people need to understand about the operation of the land act. It may not be convenient for opponents of a particular piece of public works, or even private works, to recognise that this is the case but, to all intents and purposes, as the Chief Minister and the Minister for Planning have said today, a preliminary assessment equates to an environmental impact statement.

By way of information, I think that only once has any major development in the ACT progressed beyond the preliminary assessment phase to a public environment review. That was the McKellar soccer club back in 1996, from memory. That is the only time we have moved off what looks like the bottom rung. That is because of the rigour and the

level of documentation which is required under a preliminary assessment. So, in the ACT, the preliminary assessment is equivalent to an environmental impact statement. You may not like it, but that is what it is all about.

I think this is really about a proxy argument, as Mr Corbell has said—gosh, I am agreeing with the government again—because opponents of a particular piece of capital works have not got the answer they like. It is time people in the ACT were honest about what is happening. This is a proxy argument for something else. If you do not like the road, say that you do not like the road but do not criticise the mountains of work done. There have been two preliminary assessments. Ms Tucker should have taken time—I hope she has—to look at the documentation that went with the latest preliminary assessment. I did not take it all with me. I asked if I could have a copy of the preliminary assessment, picked up a copy and was told that that was volume 1 of about six volumes. It was a lever arch file like this.

Mr Wood: Yes. This is the small one.

MRS DUNNE: There were a couple of small versions and there were about four big, fat lever arch files which covered a range of things.

Ms Tucker: That equals quality, does it?

MRS DUNNE: No, it is not necessarily the "never mind the quality, feel the length" argument; it is an indication of the amount of work done and the issues covered. You really do need to familiarise yourself at least with the table of contents of those documents before you start to criticise them.

Mr Speaker, as I have said, this is really a proxy argument about Gungahlin Drive. No-one really has a particular objection to the operation of part 4 of the land act, they object to Gungahlin Drive being built. I think it is time that the opponents of Gungahlin Drive got over it. I am sorry; it seems to be a minority view. The people of Gungahlin are desperate for this piece of infrastructure and it needs to be built. If it is delayed through all the tricks of the trade in the legal system it will be a shame on the people who have done it because they are depriving the people of Gungahlin of essential infrastructure.

MS DUNDAS (4.15): I would like to thank Ms Tucker for proposing this matter of public importance. I will start by talking specifically about environmental impact statements before getting on to where this debate has gone, and that is to the Gungahlin Drive extension. The Land (Planning and Environment) Act sets out the framework for a range of environmental assessments in the territory. There are provisions to include as part of the preliminary assessment environmental assessments of varying quality. Then there are statutory mechanisms by which a minister can order either a public environment report or an environmental impact statement.

It is my understanding that a public environment report is generally used to gauge further public consultation on the possible environmental effects of a proposed development but does not necessarily inquire into additional environmental effects. An EIS is a much more inquisitive tool which allows a full assessment of the long-term impacts of a development on the environment. However, I note that in both cases there is the ability for the environment minister to limit the terms of reference of an EIS.

Ms Tucker has used the word 'full' in relation to environmental impact statements in the illustration of today's matter of public importance. I think that means we need to further examine the land act in relation to EISs in order to ensure that they are allowed to cover the full scope of the inquiry into the environmental effects of a development. An EIS allows an investigation and provides an understanding about how to address the issues raised. It might not say: this is the only solution, you cannot do anything but build this project here and now and it will have environmental impacts; it might also then propose solutions to address the concerns raised in the environmental impact statement.

The assessment done in November 2002 for the Gungahlin Drive extension in relation to the western alignment proposed some solutions to deal with populations of species of animals which would be impacted on by the route and how those key concerns could possibly be addressed, such as under-road paths and other solutions. So there is scope to work out solutions to the issues raised by an EIS. It will not automatically mean that the project is stopped.

I think it is unfortunate that governments have rarely invoked the land act to provide for a full and frank EIS. From my recollection, an EIS has been carried out only twice by an ACT government—in relation to new suburbs in West Belconnen when those areas were included in the Territory plan in the early 1990s. The fact that ministers so rarely use the EIS provisions in the land act should lead us to severely question their restriction to executive uses. Perhaps we should allow the Assembly or some independent authority the power to trigger them, rather than leave it up to an unwilling government.

Turning to the question of Gungahlin Drive and to answer some criticism put forward by the Minister for Planning, the ACT Democrats have always supported provision of a proper environmental impact statement into the construction of this road. We went to the last election supporting the western option for the Gungahlin Drive extension and were adamant in our opposition to the eastern option. Unlike the ACT Labor Party, we are sticking to our promises. It has been fascinating to watch how quickly Labor has changed its stance from when it was in opposition and to see that their policy on Gungahlin Drive is now exactly the same as that of the Liberals. Minister, the Democrats support a road but not this road. I thought that was what the ALP was elected on back in 2001. The current Minister for Planning put his opposition to the eastern alignment when he was opposing variation to Territory plan No 138. I quote what he said:

> Labor believes that the western alignment is the most appropriate alignment for the Gungahlin Drive Extension—

And that it—

> —has been identified as far back as 1991 as the best possible route.

It continues:

> It is the route which has the least possible impact on the cultural, recreational and environmental amenity of the O'Connor and Bruce Ridge area. This is, of course, in stark contrast to the Government's flawed eastern alignment.

In the minister's own words he is now proceeding with a flawed alignment. Or perhaps we should take the word of the Chief Minister who, in the first week of the Fifth Assembly, stated:

> Of all the issues that were part and parcel of the election campaign, there was one which was stark and clear: The Labor Party's position in relation to Gungahlin Drive. … We said to the electorate, "If you elect a Labor government, we will proceed to construct a road along the western route." … We stood up and said, "A vote for Labor is a vote for the western route."

It is quite clear that the Labor Party did not keep its promise. They have let the people of the ACT down, which has led to the present situation of so much concern and confusion in the community. I presume that the western route was a non-core promise. With all the work being done now to work through legal cases and work over the issues that have been thrown up by the community, it is disappointing to see that, when the NCA and the Institute of Sport stamped up and down at the last minute, the government just rolled over and did not pursue any of the options before them. The AIS can come into the debate at the very last stage and make the government sit up and listen but, if some scientists come into the debate at a very late stage, the government ignores them.

Mr Corbell has frequently been quoted as promising to conduct an environmental impact statement on the GDE. He said this at a meeting of the Save the Ridge Group, but we have not seen this commitment kept. The minister raised a lot of questions about: don't oppose the process just because you don't like the outcome; the process in itself is fine.

When I look back at the Labor election platform on environmental impact assessments that went to the last election I see that the government promised it would consult with the Environmental Defender's Office to assess if an EIS or a public inquiry was warranted to scrutinise development proposals. I ask the Minister for Environment if this has been done. Was this done when the government retreated from the election promise to build GDE on the western alignment? What did the Environmental Defender's Office say, or is this in fact another Labor Party promise that has just been thrown out the window?

The Labor Party platform also states that the Labor Party will establish standards and enforce a code of practice for all aspects of environmental impact assessment. Where is this code? As soon as the government came to office all its promises about environmental assessments were abandoned. When the process is completely different from the one that was promised, of course people have the right to raise questions. What more can we do?

Finally, I would like to address the inclusion of up-to-date information in an environmental impact statement. The information that has been relied on in previous environmental assessments on the eastern option is now many years old. In addition, the impact on some species has not been explored in any depth. There has been a lot of concern raised by some members of the community recently about animal species, specifically the echidna, and how their environment is being targeted by the road.

Echidnas were looked at in the environmental assessment of November 2002 in the western alignment and there were some questions raised about the amount of land needed for echidna populations to thrive. The government noted these concerns and were

looking to work for a solution when the road was to be built on the western alignment. Now that they have been forced to roll over and build the road on the eastern alignment, they no longer care about the work that was done in relation to the western alignment.

It has been a very disappointing outcome, with the government refusing to listen to any of the concerns being raised about the eastern alignment of the Gungahlin Drive extension and refusing to do the work to address concerns, as they did for Aranda residents about the impact on their homes, and come up with the solutions. That is one of the most disappointing aspects. When a government is elected on such promises as: a vote for Labor is a vote for a western alignment; a vote for Labor is a vote for a code of practice on environmental impact assessments; and a vote for Labor is about consultation to see whether or not we need environmental impact statements, it is most disappointing to see that these things have not happened.

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) (4.25): Environmental impact assessments are undertaken to ensure that environmental, social and economic considerations associated with a proposed development are fully integrated into the process or, where trade-offs are necessary, these are made explicit. The outcomes of these assessments are typically presented in a consolidated form that are called different things in different places and have different levels.

In the ACT most environmental impact assessments are presented in the form of a preliminary assessment—a PA; while 'statement of environmental effect' and 'environment impact statement' are commonly used terms in other jurisdictions. The ACT government supports such processes and responds in detail to the requirements. Here, as elsewhere, particularly since the 1970s, the development of the environmental impact assessment process is driven by a growing concern at the increasing impact, in terms of both intensity and extent, that development is having on the physical and social environment. Many governments felt that there was not appropriate weight being placed on the environment when development was sanctioned. In addition, there was a concern that planning systems could not cope with the complex and interrelated nature of the impact on the environment from development.

As we have seen here, the environmental impact assessment provides a mechanism to assess the environmental, cultural, economic, social and health impacts related to significant development proposals. It is a process of investigation and evaluation that supports an informed understanding of the effects of an action or series of actions on the environment, and the conclusions drawn are then used to inform planning and decision-making. An environmental impact assessment is a process to inform decision-makers of the environmental impacts of the activity. It is not a decision in itself.

A primary focus of any development should be to minimise environmental degradation. An environmental impact assessment process is designed to help do this in two ways: an environmental impact assessment is the first step in ensuring that planners and decision-makers have good information about the environmental and social consequences likely to occur from a specific proposal. The second step is making sure that due weight is given to that information and that consequent decisions lead to an integrated outcome in terms of the environmental and developmental imperatives.

These two steps are typically guided by formal legislative and policy arrangements that also incorporate provisions for community participation. It may be unfortunate but sometimes the end result of a well-informed decision might still be some environmental degradation. However, the assessment process would have identified how best this could be minimised. Even if this were not on the site of the project in question, offsets are sometimes used. I will give an example. Ms Tucker said that this was the first proposal since self-government to take some nature park land. That is true but it is not a vast amount; it is not even a large amount in relative terms.

Thousands of hectares of land have been placed in protection since self-government—I think it would add up to thousands of hectares. I have not heard that in recent arguments. My memory tells me that at Mulligan's Flat something like 800 hectares, mostly for proposed residential development, was put into nature park and the Jerrabomberra/Symonston development, which the former government did, was largely reserved from residential development. There is a grassy woodland strategy about to be launched whereby hundreds of hectares are to be kept out of Gungahlin—at Gooroo—and protected from residential development. All this is at substantial financial cost, if you were to consider that factor, but nowhere do I hear these points being accepted in broader debate.

All governments in the territory—let me give credit—have followed a strong environmental policy and I think we can see the results here. This road has been on the drawing board for something like 40 years. When the Y-plan was first drawn in by the old National Capital Development Commission, in the 1960s, the route for the Gungahlin Drive was roughly drawn. It has been considered since the first days of this government, with the GET study, and there have been significant changes. Mr Humphries, I think it was, announced that the route closer to Dryandra Street would not be pursued—that was a route that would have inflicted more damage. So the best possible attention has been paid to environmental impact.

The least possible impact is planned for this road as it is now organised. It is simply the least damaging way to proceed. From some of the comments Ms Tucker made and from some of the comments I have read in the press, one would think that Black Mountain was to be bulldozed. We are taking a strip off adjacent to Caswell Drive, but we are not taking the whole darn mountain down, as you might think as you read the paper.

If we look beyond simply environmental issues, this road is needed to meet the social needs of the people of Gungahlin and, indeed, more widely, the needs of all Canberrans. Why should they not have the facilities that other places have? In all the circumstances, this road is necessary. It has long been coming and every opportunity has been made. I called for some idea of the number of submissions or the number of studies, which I was well aware of, I might say—Mrs Dunne mentioned these—and I could get only a small sample, because there are more than I could bring in here.

Mrs Dunne: Half a hundredweight.

MR WOOD: Yes. Beyond the printed stuff, the background material is even more voluminous. This government—and I have to say the former government—have been fully committed. While we differed over a particular part of the route, we have both been

fully committed to ensuring that the program for the development of Gungahlin Drive comprehensively addresses environmental issues so that the outcomes are integrated, sustainable and in the public interest. The environmental impact process, by way of a preliminary assessment, is an important tool for achieving that. A vast amount of work has gone into this. There have been many public meetings and many submissions have been received. The work has been done; it is now time to build the road.

MR SPEAKER: This discussion is concluded.

Education Bill 2003

Debate resumed.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.34): Several issues have arisen since the initial presentation of the Education Bill 2003 into the Assembly in November 2003. The government is proposing a series of amendments to the bill to address these issues. The first proposed government amendment is designed to minimise disadvantage to schools that are already operating in the ACT and that have satisfied the notification period under section 22(1) of the Education Act 1937 for the commencement of additional educational levels. This amendment will provide that where a school is already operating and has provided notice of an intention to operate the school at additional educational levels prior to the date the Education Bill 2003 was presented in the Assembly on 27 November 2003, it will have been considered to have satisfied the notification period and criteria for in-principle approval until all the proposed educational levels have commenced operation. This amendment does not apply to proposed educational providers that are yet to commence operating in ACT schools.

The bill prescribes that those proposed providers that are provisionally registered under the Education Act 1937 prior to the commencement date of the new act will be taken to be provisionally registered under the new act. The strength of the proposed amendment is that existing schools are not disadvantaged by the implementation of new legislation. It is expected that this amendment will be supported by stakeholders in non-government education as it provides a mechanism for all schools that have commenced operating to reach their intended educational levels without having to provide further notification to the department and satisfy the criteria for in-principle approval.

The second proposed amendment is designed to limit the chief executive's curriculum responsibilities and to provide greater clarity and accountability. Currently, the provisions state that the chief executive must decide the curriculum requirements for government schools. The amendment proposes that the bill be amended to read, "The chief executive must decide the curriculum requirements for children attending government schools other than in years 11 and 12." This will ensure that the chief executive retains the power to decide the curriculum requirements for children attending government schools from pre-school to year 10 and that the Board of Senior Secondary Studies retains the power to approve courses for years 11 and 12. This will also apply to non-government schools.

There are three technical issues that have arisen: the addition of a transitional regulation-making power, which will provide flexibility in dealing with the unforeseen situations;

the need to make a consequential amendment to the Board of Senior Secondary Studies Act 1997 to ensure consistency with terms used in other parts of the bill; and the requirement to amend terminology in schedule 2 of the Education Bill to remove inaccuracy of language.

The Education Bill 2003 will underpin schooling in the ACT. It facilitates diversity, choice, innovation and flexibility in the delivery of school education; protects the right of all children to a high quality education; and places an obligation on providers, whether government, non-government or home-educating parents, to ensure all children receive an education that will prepare them to participate fully in the world that awaits them.

In conclusion, I thank members for their support and cooperative efforts over recent years and months when working on the bill, acknowledge the stakeholders in the government and non-government sectors and thank them for their work and assistance on the bill and also acknowledge the enormous effort of staff within the Department of Education, Youth and Family Services to bring this work to conclusion. I particularly thank Gerry Cullen, whose retirement is dependent on the passage of the bill, Marty Alsford and Parliamentary Counsel who have worked tirelessly to get this bill to where it is today. It has been a long journey. It is a fantastic day for education in the ACT to see the passing of the in-principle stage of this legislation. I look forward to the detail stage of debate.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.39): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to those amendments *[see schedule 1 at page 1371]*. This amendment is to have the date of commencement of the act of 1 January 2005. This date will enable the legislation to take effect at the start of a school year and therefore avoid any uncertainty that might arise if it were to commence during the year.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 6, by leave, taken together and agreed to.

Clause 7.

MS DUNDAS (4.40): I move amendment No 1 circulated in my name *[see schedule 2 at page 1375]*. This amendment is about making the right to education as unambiguous as

possible. The amendment seeks to remove the words "as far as practicable" in this clause so that the clause would then read:

> (1) Everyone involved in the administration of this Act, or in the education of children of school age in the ACT, is to apply the principle that every child has a right to receive a high-quality education.

Under the current system people seeking an education have the right to be provided with an education, but this bill today just simply gives them the right to education as opposed to the right to be provided with an education. It is a small and subtle difference, which has raised concerns among parents, specifically parents of students with disabilities or behavioural problems. Many parents, at great personal and financial cost, have already fought long and hard through the courts to make sure their children are able to be educated within our school system. They do not want to see these efforts undone by a qualifier that then has to be retested through the courts. As I said previously, a good education system is one that is inclusive. While the words "as far as practicable" remain in the bill, a spectre remains over the head of every child who is slightly different, a child with a disability or who is otherwise difficult to teach. There is no guarantee that "as far as practicable" will not mean something different under a different education minister or a different government. That is why I think it is important that these words are removed.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.42): The government will not be supporting this amendment. In saying that, it certainly is not to compromise the principle that every child has a right to receive a high quality education. What it does is reflect the fact that you cannot legislate and take into account the needs of every child and every situation that schools and systems may be presented with. This is a term that is aligned with the term "reasonable adjustment" used in the DDA standards as they apply to education. I and the Tasmanian minister were the only state and territory ministers to endorse this at last year's MCEETYA meeting.

"As far as practicable" takes into account the financial capacity of schools and systems and provides a defence for those schools which might not have the financial capacity to accommodate needs for curriculum access and some physical modifications. It in no way compromises the right of a child to have a high quality education, but it does seek to provide some leeway in situations where you simply cannot foresee or meet the needs of every child at times. It is not to compromise that right at all.

MS TUCKER (4.43): The Greens will be supporting this amendment. It is about a basic principle, which is that everyone has the right to have quality education. In practice, we would get such an education only as far as practicable, but that is not the principle; it is the outcome. It might be argued that people could take action against the school for not delivering a high quality education to someone with a serious disability or behavioural problem. However, in the first case the principle does not apply to each class of school being obliged to provide such an education. Secondly, the specifics of children with disabilities are dealt with at clause 7(3)(b), which specifies that unjustifiable hardship cannot be imposed on the school in providing that education.

MR PRATT (4.44): The opposition will be supporting Ms Dundas's amendment. We think that "as far as practicable" provides for too loose an arrangement. We would much

rather see a very concise statement, ensuring that every child is given a chance to be supported by the department and gets the best possible education.

Amendment agreed to.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.45): I seek leave to move amendments Nos 2 and 3 circulated in my name together.

Leave granted.

MS GALLAGHER: I move amendments Nos 2 and 3 circulated in my name *[see schedule 1 at page 1371]*. These amendments simply seek to include "home education" after the words "school education" in paragraphs 2(a) and (b) to recognise the validity of home education and satisfy HENCAST's request.

Amendments agreed to.

MS TUCKER (4.46): I move amendment No 1 circulated in my name *[see schedule 4 at page 1382]*. I am moving this amendment as a generic acknowledgement of the value of values in the general principles of the education we aim to deliver. I would have thought that no-one could disagree with the aim to "promote respect for and tolerance of others" whatever the educational system or philosophy one is working with. The enlistment of the territory's teachers into working with parents to develop character was suggested by the P&C in response to opposition spokesman Steve Pratt's proposal. While that is too vague a direction and could lead us up all sorts of disturbing alleys, "respect for and tolerance of others" is something that surely can be encouraged in legislation.

MS DUNDAS (4.47): The Democrats are happy to support this amendment. It will encourage within our schools the promotion of respect for and tolerance of others. It is a very important principle to include. It is a move to make the ACT more of a world leader in its commitment to teaching and encouraging tolerance, something that is vitally important and quite necessary in the current climate.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.47): The government is happy to support this amendment. I think it is a very positive amendment to this section.

Amendment agreed to.

MR PRATT (4.48): I move amendment No 1 circulated in my name *[see schedule 3 at page 1376]*. This amendment provides for acts of self-defence when appropriate and reasonable physical force is used only to prevent physical injury to a person. This allows teachers and people involved in the education of children of school age in the ACT to defend themselves or others against physical injury. This is an issue that has been raised by stakeholders and represents the concerns of teachers. The aim of this amendment is not to allow people to strike children but to allow teachers or those involved in education to intervene in a situation between two children or, where another child is being beaten, to exercise reasonable restraint—I stress the word "restraint"—of a child who may be

assaulting another. If we do not have such a provision in place, I would be concerned that injury may be caused to another child without any appropriate prevention being taken.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.50): The government will not be supporting this amendment to insert a note clarifying that corporal punishment does not include the application of what appears to be self-defence. Corporal punishment is defined in the dictionary section of the bill as "physical force applied to punish or correct, and includes any action designed or likely to cause physical pain or discomfort taken to punish or correct". To have that in there does not serve any purpose at all.

MS TUCKER (4.50): The Greens will not be supporting this amendment. We do not think this note is necessary. Corporal punishment is defined in the dictionary as "physical force designed or likely to cause pain and taken to punish or correct". I do not believe that, in that context, appropriate and reasonable physical force to prevent physical injury could be taken to be corporal punishment.

MS DUNDAS (4.50): The Democrats feel that this amendment is not necessary as self-defence is already defined by law. It is not conceivable that corporal punishment can be confused with the legal defence of self-defence. We will not be supporting the amendment.

Amendment negatived.

Clause 7, as amended, agreed to.

Clauses 8 to 17, by leave, taken together and agreed to.

Clause 18.

MR PRATT (4.51): I seek leave to move amendments Nos 2 and 3 circulated in my name together.

Leave granted.

MR PRATT: I move amendments Nos 2 and 3 circulated in my name together *[see schedule 3 at page 1376]*. These amendments add a principle to government schools that they provide a safe learning environment for students. This should be a basic principle that all education systems, government and non-government, adhere to and do as much as practical to ensure that schools and classrooms are safe learning environments. I believe the department has a duty of care to ensure the best possible learning and teaching conditions in schools. This fundamental issue deserves to be enshrined as a principle. While the ACT education system contains a much safer environment than elsewhere in the country, we all in this place know that the standard is deteriorating—not necessarily through any fault of our schools or the department—and that that deterioration conforms with national trends. This deterioration does not have to occur.

Further, these amendments add another element of commitment for the government school system to assist parents in the character development of their children, including

the teaching of values and respect for and tolerance of others, of the law, the environment and property. The Liberal opposition believes that this should be one of the foundations of building an effective and responsible education system. While many schools instinctively carry out something like this commitment, some do not. We believe that this is because it is not legislated as a benchmark requirement.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (4.53): The government is prepared to support amendment No 2. I think it is covered off in other laws implicit in the work the government does and detailed in the ACT government schools plan. It is more appropriately placed in the guidelines, but it is certainly not something that I will die in a ditch over.

The government will not be supporting amendment No 3. Again, the requirement is implicit in legislation, in clauses 18(d)(iii)(iv) and (vi), in the amendment of Ms Tucker that we have just agreed to. I think it is probably an attack on values education in schools and is something that the government rejects wholeheartedly. It is aligning with Dr Nelson's attack on values education in schools. The government will not be supporting the amendment.

MS TUCKER (4.55): Speaking to Mr Pratt's amendment No 2, I will not be supporting the suite of amendments that require government schools to provide a safe learning environment. That is because, as I understand it, it is already a requirement for schools to provide a safe learning environment through the well-established principle of duty of care. Specifying a safe learning environment in another way may just establish the grounds for unreasonable civil cases or calls for more rigorous policing of schools if an unfortunate event occurred. In response, the P&C propose to expand the safe environment aim to encompass staff and volunteers, although they are covered, as I understand it, under workers comp and OH&S requirements.

I will be opposing Mr Pratt's amendment No 3 and similar amendments. As I argued in support of my amendment to the general principles, I do think there is on many occasions a partnership between parents and teachers, but their view is not always or necessarily the same. I think that our education systems have a responsibility to the children rather than by necessity to the parents. To charge teachers with assisting parents on character development blurs the edges of those different responsibilities. You would have to wonder what character some parents might want for their children. If I were a teacher, I would have no clear sense of what was likely to pass for assistance in character development in my work as a teacher.

MS DUNDAS (4.56): Again, the Democrats find these amendments unnecessary. Making sure that schools provide a safe learning environment is something that almost goes without saying. There are guidelines in place to make sure that that becomes a reality and there are duty of care responsibilities for running our schools. All schools should be safe learning environments, but I am concerned that this amendment could be used in more sinister ways to justify somewhat draconian anti young people policies that might encourage police onto student campuses. We should be working to avoid these police activities as much as possible.

As to amendment No 3, I think it is a tad too prescriptive to have principles for government schools. We have identified the need to promote respect and tolerance for others in the overarching principles of the act. The amendment is a little more refined: it talks about "assisting parents in the character development of all students" without defining the characters we are trying to develop and the values we should be imparting. I think it is something that is better left explored through the curriculum. Clause 18(d)(vii) talks about "teacher, student and parent participation in all aspects of school education" and should facilitate what Mr Pratt is trying to achieve. As I said, we find these amendments overly prescriptive and unnecessary.

MRS DUNNE (4.58): The Liberal opposition is proposing these amendments. There are similar bits in the overarching principles and objects of the act—and, as Ms Dundas and others have said, they are in the guidelines—but the act is the fundamental document. When you want to find out what the ACT government or the ACT Assembly thinks about how education should be conducted in the ACT, you do not go to some guideline that might or might not be on a web page or might or might not be easily accessible, you go to the act. This is really about building partnerships across the sectors, across government and non-government schools, between parents and teachers, principals and pupils, and with people who are associated in more tangential ways with the education system. To find crossbenchers baulking at the notion and saying that it is unnecessary to say that government should provide a safe learning environment for students somehow beggars belief. As Mr Pratt has said—

Ms Tucker: You weren't listening, obviously.

MRS DUNNE: I was listening, Ms Tucker. As Mr Pratt has said, generally speaking safety in the ACT is considerably higher than it is in other parts of Australia. But that does not mean that we do not need to be vigilant to ensure that this is happening. A cursory glance at almost any news magazine programs—

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.

MRS DUNNE: Just this morning, at a cursory glance of some of the news magazine programs on television, the issue of safety in schools came up in two separate stories on two separate occasions. They were not ACT related issues, but it is indicative of a decline in this area. It is incumbent upon us as legislators to hold safety up in a high place as being one of the essentials of a good education system. People cannot learn if they are not in a safe environment. People cannot teach if they are not in a safe environment. If you do not inculcate and nurture that environment, it may deteriorate over time. This amendment highlights safety, fairly much upfront, as being one of the things that we should be aiming for. Without it, amongst other things, we will not have a good education system for our children.

Amendment No 3 talks of "assisting parents in character development of all students, including in relation to values and respect for and tolerance of others". I ask you, Mr Speaker: why are we suddenly afraid of tolerance of others? This is a principle upon which government schools should operate. From my experience, government schools in

the ACT do operate on this value on a day-to-day basis. I have nothing but praise for government schools that I have dealt with in the ACT for the way in which they inculcate these values and for the way they communicate with parents when there are breakdowns in these values. From my experience, for the most part government schools do a great job. But that does not mean that we should not be highlighting values as an important element, like safety. If you cannot participate in your education in a way that ensures that your values are respected and people are tolerant of you, if you cannot go into a school expecting that to happen, it means that your capacity to learn will be undermined. This is really about ensuring that we have the best possible education system. I commend Mr Pratt's amendments to the house.

MR PRATT (5.03): Mr Speaker, I seek leave to speak again.

Leave granted.

MR PRATT: I want to pick up on a couple of comments made by crossbenchers on my amendment No 2. It is commonsense to provide a safe learning environment. But I do not know whether any crossbencher or anybody in this place is able to show me where we have that principle enshrined. I know that it is clearly written in policy and other guideline documents around the place that certain steps will be taken to ensure that kids learn safely and that teachers teach in a safe place. What I am saying, though, is that I believe that those principles need to be placed in the bill. It is important for that to be included in the bill as an enshrined principle. I thank the government for supporting my amendment.

I turn now to my amendment No 3. The first point I make is that, while Ms Tucker's previously discussed amendment was laudable—it is to "promote respect for and tolerance of others" and I agree with it in principle—I still do not think it covered enough ground. I put it to you that my proposed amendment No 3 is more embracing. The question of character development and the issue relating to values are matters which the community is talking about and families are asking for. Why we would not want to put a statement into the bill about values and character development is absolutely beyond my comprehension.

Ms Dundas says that the amendment is "a tad too prescriptive". I put it to you, Ms Dundas, that these are issues that the community is asking to be enshrined in legislation and imposed by our schools. I think it is very important that they are included. I implore you to support this amendment.

Question put:

> That **Mr Pratt's** amendments Nos 2 and 3 be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendments negatived.

MS DUNDAS (5.10): Mr Speaker, I move amendment No 2 circulated in my name *[see schedule 2 at page 1375]*. This seems like a small amendment in that it is inserting the words "independent and" into clause 18(d)(vi) in principles for government schools. It is quite important in encouraging students to become independent and effective local and global citizens. The reason why I am moving this amendment is that when you read the bill as whole and look at the principles for government schools, non-government schools and for home education, in some ways they are quite diverse and distinct. There is no reason for such large discrepancies. Some discrepancies are necessary, such as the commitment to spiritual development in the non-government school sector. Other clauses unintentionally seek to produce two classes of students: one of followers from government schools and one of leaders from non-government schools.

The principles for non-government schools include that the non-government school sector is committed to preparing students for their full participation in all aspects of democratic society. That is a lofty goal to achieve. It is about encouraging students to understand their rights and their responsibilities as citizens. Government schools were just preparing students to be effective citizens, not necessarily taking on leadership roles within the democracy. Becoming independent and effective local and global citizens brings this principle in line with the home education principle and I think makes sure that government schools are encouraging students to be the best that they can, which is a very important and fundamental principle.

If the Assembly is willing to support the insertion of the words "independent and" into the amendment, it will allow us to tackle some of the discrepancies that do not need to be there between government and non-government schools, to put students from both sectors on equal footing and to support students, no matter what school they go to, to be the best they possibly can within the community.

I understand that it is quite hard to change these principles drastically as they were developed in consultation with the stakeholders. Stakeholders did put a lot of time into making sure that their words reflected what they thought was best for their schools, but looking at them in concert with the bill, I think there are some discrepancies that need to be addressed. I hope the Assembly can see the merit in this proposal.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.13): The government is happy to support this amendment. We are also very supportive of preparing students to be

independent and effective local and global citizens. We see no reason why it should not be in the act.

MS TUCKER (5.13): The Greens are happy to support this amendment. It picks up the commitment to preparing students to be independent. I understand that it was first put forward by home-educated students for the home education section of the bill. It is a very good goal and it would be good for all students.

Amendment agreed to.

Clause 18, as amended, agreed to.

Clause 19 agreed to.

Clause 20.

MS TUCKER (5.14): I move amendment No 2 circulated in my name *[see schedule 4 at page 1382]*. This amendment signposts six months as a minimum consultation period for a school and department in regard to a possible closure. It can be argued that the legislation describes a process that would, by necessity, take considerably longer. However, there remains community level concern and mistrust on issues such as this. The Greens are moving this amendment in order to reassure those people that, no matter the intention of government, there will be a reasonable time in which to address the possibility.

MS DUNDAS (5.14): The Democrats will be supporting this amendment, as it prescribes a minimum period of consultation when the government is moving to close or amalgamate schools. I think it would be a very brief consultation period for such a major project if it were less than six months but, given the political history of school closures in the ACT and the fears that are out there in the community, I think this amendment, which prescribes at least a six-month period of consultation, moves to address community fears and will hopefully mean that, when these decisions are taken, they are taken in conjunction with the community.

MR PRATT (5.15): The Liberals also think that six months is probably a better time frame to ensure that full consultation occurs across the community as well as amongst the community supporting families.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.15): The government is happy to support this amendment too. We have had extremely lengthy consultations on this clause of the bill. It took a long time to get the words for paragraphs 5(a) and (b) together and the support of education stakeholders. There is a lot of angst about the closures of schools and the processes that governments might use to look at the closure or amalgamations of schools. The government's belief is that, following paragraphs 5(a) and (b), it would take a period of at least six months or longer. Because of that, we are more than happy to support the inclusion.

Amendment agreed to.

Clause 20, as amended, agreed to.

Clause 21.

MR PRATT (5.17): I seek leave to move amendments Nos 4 to 6 circulated in my name together.

Leave granted.

MR PRATT: Mr Deputy Speaker, I move amendments Nos 4 to 6 circulated in my name *[see schedule 3 at page 1376]*. The amendment to proposed new clause 21(1A) provides:

> (1A) In particular, the chief executive must ensure that—
>
> (a) every effort is taken to create safe teaching conditions in all government schools; and

This follows on from my earlier amendment. This will include that human resources, training and support be made available to teachers when deemed appropriate to assist teachers to successfully provide students with a safe and beneficial learning environment. For example, this means that appropriate assistance may be given to teachers who have disruptive, badly behaved or violent students in their classes and where these few students may detract from the education of other students in the class. The amendment continues:

> (b) each principal of a government school has a bursar and deputy principal to assist them in adequately supervising teachers and providing an efficient teaching and learning environment.

This would also free the principal up to proactively run the school and supervise staff, whereas now, in some cases, principals are caught up in administrative work and reactive operations of the school and are unable to proactively lead or supervise for the benefit of both teachers and students. To lift standards in teaching we need principals who can lead and mentor to raise those standards. The chief executive must create conditions in schools to allow principals to do this. Amendment No 5 to proposed new clause 21(4)(ba) complements amendment No 3 and, again, gives the principal the responsibility of "contributing to the character development of all students". This replicates one of the proposed additional principles of the Education Bill as a responsibility of the principal. We think that it is necessary for teacher responsibilities to be broadened and their skills expanded and that they be given the wherewithal to be able to do this. The principal is responsible for driving that.

As to amendment No 6 to proposed new clause 21A, it is the view of the Liberal opposition that the Education Bill in its current form does not adequately cover the requirement, responsibility and rights of teachers and principals. The amendment addresses these issues. It states:

> **Obligations of teachers and principals**

Principals and teachers must deliver to students, parents and the community—

Basic expectations that should be met by principals and teachers are as follows:

(a) professional behaviour, including being a responsible role model for students; and
(b) assistance in the character development of all students, including in relation to values and respect for and tolerance of others; and
(c) the successful completion of annual personal and professional development programs; and
(d) assistance in the pastoral care of students, where appropriate and possible; and
(e) a neutral political position in all aspects of their professional behaviour.

That is when teaching and making decisions that relate to the teaching of students. In addition, the amendment to proposed new clause 21B, delegates responsibility, if approved by the school board and the chief executive, of staff recruitment and dismissal to the principal of that particular school. The principal of the school would know best whether their teachers are performing, meeting agreed outcomes and meeting the expectations of students, parents and the community. This principle goes to the heart of good schooling. We believe it is important that principals are given the funding controls for teacher and staff expenditure.

I point out to my colleagues here today that, on radio national this morning, we heard the federal Minister for Education, Science and Training, Dr Nelson, congratulating the Victorian Labor Minister for Education and Training for trialling a concept in his state of a principal being able to hire and fire his teachers. The Labor state government in South Australia is also running a trial because it is very interested in the concept of principals being able to hire and fire their own teachers. It is beginning to see that the concept may be worth while. A school principal who is so empowered would be able to lift education standards. The Liberal opposition believes it is time that these decisions were given back to the principals.

Finally, the amendment to proposed new clause 21C addresses the need for regular and effective development and appraisal of teachers. It states:

(1) The chief executive must ensure that—

(a) each principal and teacher employed at a government school—
(ii) undertakes at least 1 personal development program and 1 professional development program each year; and
(b) a program for the career progression of teachers is developed and implemented and that the program is reviewed yearly.

(2) The chief executive must also ensure that a mentoring program is established for the following teachers employed at a government school:
(a) a teacher who is in his or her 1st year of employment as a teacher;
(b) a teacher who is employed after an extended break from teaching.

… … …

(4) Further, the chief executive must establish a comprehensive annual performance assessment and feedback system for principals and teachers of government schools.

As I said earlier today in my main speech on this debate, we believe that great value can be added to this bill by including a section or a series of statements relative to the points I have covered now. The responsibilities of principals and teachers, the responsibilities of the chief executive to those principals and teachers and the creation of conditions where teachers can undertake personal development will embrace further skills to reach out beyond simply curriculum teaching and empower principals to recruit their own teachers and dismiss as required. We believe that the Education Bill needs to embrace not only those statements but also the statements that have been made here today.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.24): The government will be opposing all of these amendments. There is a part of me that wishes the opposition spokesperson on education could occupy the position of minister for a day and have the AEU unleash themselves on him in respect of these amendments.

Mr Pratt: I don't have to be a minister for that to happen, I can assure you.

MS GALLAGHER: I tell you what, if these amendments were enshrined in law, I would imagine that we would have every teacher on strike tomorrow or the next day, which would have enormous implications on our high quality education system here. In relation to your amendment No 4, the requirement for government schools to create safe teaching conditions is implicit in the ACT government schools plan and covered by existing OH&S legislation. The requirement is more appropriately placed in these guidelines. As the amendment relates to staffing of schools, it will impinge on enterprise bargaining agreement negotiations and impact on the resourcing capacity of the department, which changes over time. Of course, governments of the day may wish to make changes to staffing requirements. It is a largely operational issue and the government already has measures in place to address it. In relation to Liberal amendment No 5, I am not sure how you are going to measure that. Character development is not measurable and is a personal issue for parents.

As to your amendment No 6—resources being paid out of public money appropriated by the Assembly—all employees in government schools are public servants. I am not sure why you mean to have that in the legislation. Obligations of principals and teachers and delegation of staff recruitment are major issues that we talk over at length with the AEU. They do change over time, depending on the enterprise bargaining agreements in place, and really have no place in legislation—not in legislation that you want to see last longer than an EBA anyway.

Interestingly, in your speech in the in-principle stage you said that you would like to see what is in the government system replicated in the non-government system so as to be fair. None of your proposed amendments is in the non-government sector. So I am interested in your argument and how you explained that in the in-principle stage. In relation to amendment No 6, the Public Sector Management Act covers off a lot of what you are concerned about, things such as the ACT public sector code of ethics and, as I

said, enterprise bargaining agreements which, like it or not, we have to negotiate every couple of years, and they change.

MS DUNDAS (5.27): We will not be supporting the three amendments that Mr Pratt has moved. The Democrats are not opposed in principle to his amendment No 4. The way the amendment is worded makes it too inflexible to be put into legislation, does not really take into account the size of the school, how different schools operate and whether legislating for the requirement of a bursar and deputy principal is the best thing to do.

We have already discussed the concerns about character development being legislated for in the Education Bill when we looked at Mr Pratt's first amendment. Perhaps we should look at this in a little more depth. Maybe we should have a discussion about what kind of character Mr Pratt thinks would be achieved by having this in the legislation. If this had been in the legislation 30 years ago, what kinds of characters would we have been building in ACT schools before the Sex Discrimination Act and the equal employment opportunity legislation changed—before there had really been any widespread social change as to how we counted females and males in the community?

For decades, schools told young women that they would not be able to get jobs because it would have been against the law. If it was not against the law, then it would have been inappropriate for them to do so. Times change and character changes and what we expect of our society and our community is continually evolving. I think these limits are a tad too prescriptive and do not really address Mr Pratt's concerns.

Amendment No 6 talks about the obligations we need to put on principals and teachers. I agree that there are some questions to be asked about how teachers can be included in this legislation, but I recognise that it is a quite difficult concept because of the continuing certified agreement negotiations which need to happen, and which impact quite significantly on teachers. I do not think Mr Pratt's amendments will fix the problem of how teachers can be more included in education legislation. That is something we need to look at in the future, with greater discussions with the P&C and the Australian Education Union.

Some of the amendments Mr Pratt has proposed would establish dangerous precedents, specifically those in relation to recruitment powers. They would undermine the mobility policies we have here in the ACT and the oversight of system wide standards and do not protect teachers against so-called bad principals. We are trying to give principals the power to work against and weed out bad teachers, but what is being done to make sure we do not have bad principals? What right of review has been built in? It is all very unclear in the amendments that Mr Pratt has put forward. I think there is a lot more work to be done in relation to teachers, but it is not something that is in the scope of this legislation. I will not be supporting the amendments put forward by Mr Pratt.

MR STEFANIAK (5.31): I rise to support of a couple of points Mr Pratt has raised. I will not speak to the whole plethora of amendments. I think Ms Dundas has got it wrong on amendment No 5—"contributing to the character development of all students". Over time there are some basic concepts of character which are important. Any reasonable person in our community would want our young people to grow up to be useful, productive and decent members of society—people who are honest, who can live in a

reasonably acceptable way in the community and who have values instilled in them to do the right thing by others and not go around belting people or whatever. Being civilised members of society is part and parcel of character. Contributing to the character development of all students is very important.

Character is largely formed in the home, but we do have, and always have had, dysfunctional families. I have known many young people, through the various jobs I have had—as a solicitor, coaching various underage teams, sadly through the courts and the law, and a number of other jobs—who have benefited, quite clearly, from a good teacher or a good series of teachers. A good teacher can make a huge difference to a young person who does not necessarily get the values of a normal civilised society at home because of the dysfunctional nature of the home. These young people have been helped so much by having good teachers and have gone on to lead pretty good productive lives.

Similarly, even kids who might have a fair bit of character development at home will still stop a teacher in the street—I know this has happened because I have spoken to a lot of teachers who have told me that this is so—and say, "Mr X or Mrs X, you really helped me when I was 14. What you said at school made a big impression on me." That is all about character development. One of the most satisfying things of being a teacher is seeing some young person, who might have otherwise gone off the rails and gone down the wrong path, being pulled back because of some input you had. That distinguishes teaching from a lot of other professions where you simply cannot have a huge input. Mr Pratt is absolutely on the right track. I think any reasonable teacher would be happy and proud to contribute to the character development of all students. Yes, values do change from time to time, but I think there are some fundamental values of just basic human decency that flow through everything. I think that that is an excellent addition to have in. I do not think any reasonable teacher would dispute that.

I will speak briefly to the obligations on principals and teachers—proposed new clause 21A. What is wrong with expecting principals and teachers to be professional? It is a profession, a very valuable profession. It is one of the most esteemed professions in our society. We are in a profession here and we are right down there with used car salesmen. But teaching is a very esteemed profession. Being a responsible role model for students is something that any reasonable teacher would certainly hope they were doing and would certainly aspire to.

Again, I reiterate what I said on character development about values, respect and tolerance of others. Reasonable values stand the test of time in any civilised society. The completion of annual personal and professional development programs might be a little time-consuming. Having been an education minister for quite a long time, I know that you worry a little about anything that might be a bit bureaucratic. This amendment is aimed at development—personal development of teachers and personal development programs, something which teachers do commit themselves to and which are part and parcel of EBAs. I do not think that is going to change, so I do not necessarily see that as being particularly onerous.

Another obligation is "assistance in the pastoral care of students". Again, on pastoral care I reiterate what I said about character and about good teachers assisting kids—especially kids from bad dysfunctional backgrounds but generally any kids who might

come from very good backgrounds—that it is important to have a neutral political position in all aspects of their professional behaviour. Kids notice it. There is always concern about certain teachers being too political and influencing their kids that way. Maybe that is true. It is rather silly for teachers to try it.

A teacher I knew—I still see him occasionally; I still like seeing him—was certainly overly political. We called one of the first AEU or Teacher's Federation activists at Narrabundah High "Red Matt". I remember that in year 10 he gave me three out of 10 for a history essay because I took a pro-British position on the Boer War. He certainly rammed down our throats how good the union was and what it was going to do. He was a bit silly because it was probably wasted on 15- and 16-year-olds. I do not think anybody in the class particularly appreciated him for it. He was, however, a very good teacher, a bloke I have seen on a few reunions since then. We laugh about it now. He had his own strong personal views. If anything, it made him look a bit silly I think at the time with the class. It is probably wrong and also rather silly and unnecessary for anyone in that sort of position to try to foist their own personal opinions, be they political or otherwise, on others. What is wrong with adopting a neutral political position?

I will briefly mention the amendment to proposed new clause 21B. When I was education minister and had talks with the union representatives, they themselves said that they did not want duds to stay in the profession. It is particularly difficult, I suppose, to get rid of someone who really is unsuited. I shared a flat in Muswellbrook once with a teacher who turned out to be an alcoholic. They had immense difficulty getting rid of him. I wonder how much easier it is now? I heard what Ms Gallagher had to say about the Public Sector Management Act, but I think a bit more flexibility in the power to recruit and to dismiss staff is very important. I do not think that is something that is necessarily really opposed by principals, board chairs or even necessarily, when it has its druthers, by the union itself because of what they have said to me in the past. That might well be something worth supporting as well. I do not intend to speak any further on the other points my colleague Mr Pratt has raised in this particular series of amendments, but I do wish to make those points in this debate.

MS TUCKER (5.38): The Greens will not be supporting these amendments. As to amendment No 4, my comments on the safe teaching conditions stand. Furthermore, the requirement for the department to provide a bursar and deputy principal would undermine the viability of small schools, which is something the Greens have no interest in doing. Ms Gallagher noted that Mr Pratt did not propose putting the safety and staffing requirement onto non-government schools.

I have already spoken to a similar amendment to Mr Pratt's amendment No 6. This amendment is a grab bag of aspirations, some of which, such as professional development requirements, warrant further, more detailed discussion, and some of which, such as "a neutral political position in all aspects of their political behaviour", simply lay the groundwork for hostility to be directed at teachers for their political persuasion. I would argue that all teachers serve their students well when they are clear about their political persuasion but in no way prejudiced or discriminatory in their work and engagement with students.

There are codes of ethics and behaviour that already exist in regard to the work of teachers. I am particularly disturbed that there are such ill-considered terms as "the

successful completion of annual personal and professional development programs" which could mean anything. If the issue is about attracting and engaging teachers of the best professional and personal quality, then introducing some half-formed requirements in legislation is certainly no way to do it. I am interested to hear again why Mr Pratt has not chosen to propose these requirements for non-government schools. It suggests an agenda looking to control government schools and to impose more onerous requirements on staff of government schools, while freeing up requirements of the non-government sector.

The delegation of hire and fire responsibilities to principals would significantly remake the public education system as it exists at present. I find it very surprising that it appears this was proposed without consultation. There are, undoubtedly, real issues in ensuring that all our kids have access to a high quality education system if the inequalities in our society could be further entrenched and extended through the establishment of such a self-serving and competitive system. I could argue in more detail about the implications of such an initiative, but it is not necessary at this stage. Perhaps the election campaign would be a better venue for that debate. Finally, as I have said, the whole issue of professional development warrants a more comprehensive and thoughtful approach than this at the in-principle stage.

MR PRATT (5.40): I rise again to talk about some of the issues raised. Firstly, I will speak about the question raised by Ms Tucker and by the Minister for Education, Youth and Family Services: that is, the applicability of these principles to the non-government sector. That is a fair question. I referred to it in my main statement.

We have said that we wish to see conformity of standards right across the entire spectrum of the ACT education sector. Where non-government schools do not exercise the sorts of principles that we are talking about now, we would certainly seek to enshrine these standards in the bill and encourage the non-government sector to pick them up.

Ms Gallagher: Here is your opportunity.

MR PRATT: Absolutely. We have said it and we will stick by it. Secondly, the Democrats raised issues of character and values. Character and values do evolve over time, but I think the education system is absolutely flexible enough to adapt to the changing times and to what I consider to be the current benchmarks in society—respect, character and values. In addition, there are, clearly, core elements of character and values that have not changed since Moses—integrity, loyalty, love of community, love of nation, fairness and tolerance, all of which are core issues which are applicable. They were—whenever—and still are. There are fringe elements of character and values which change with time. We are perhaps a much more tolerant society than we were a decade ago. We up the ante and we flex the system to take on board those issues. Do the Democrats seriously believe that character is redundant and that we do not need to enshrine it in our Education Bill?

The last point I would like to make on the three amendments is that it is really sad that the government indicated here today that it is held hostage to the unions. The unions, amongst dozens of stakeholders, have a very important say in the creation of education policy and the representation of the rights of teachers. But should the government's

policy development, the pursuit of education excellence and the creativity to add value to education be held hostage to what the unions are saying or not saying?

Question put:

> That **Mr Pratt's** amendments Nos 4 to 6 be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendments negatived.

Clause 21 agreed to.

Clause 22.

MR PRATT (5.47): I move amendment No 7 circulated in my name *[see schedule 3 at page 1376]*. This amendment seeks to lock in the need for annual reports for the Department of Education, Youth and Family Services to include the details of the number of complaints not only investigated but also received by the department. This improves the transparency of reporting for the department and makes it more accountable to the Assembly and to the public. The aim of this amendment is to measure not only the complaints that were acted upon but also the number of complaints received by the department so that we can determine performance in clearing those issues up. We think the department should take that on board and that it should be enshrined in the bill so that the department can be held more accountable, as all departments must be, to the Assembly for its business of the day.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.49): The government will not be supporting this amendment. Some complaints are withdrawn or resolved at the time they are lodged and all complaints that would require investigation are investigated. Also, section 22(2) obliges the chief executive to investigate all complaints and a report on investigations is therefore also a report on complaints.

MS DUNDAS (5.49): I understand what Mr Pratt is trying to get at with this amendment, but I will not be supporting it. Clause 22 already obliges the chief executive to investigate any complaint about the administration, management and operation of the government schools. We are now talking about how that is reported. If that complaint is seen as frivolous or vexatious, then it is not a requirement of the chief executive to investigate it. What Mr Pratt is trying to achieve is the number of frivolous or vexatious complaints versus the total number of complaints investigated. I think that, because we

are requiring the chief executive to investigate all of the complaints, we do not need to spell it out in clause 22(3), but that does not stop in any way any member of this Assembly seeking that information through the annual reports investigation process.

Amendment negatived.

Clause 22 agreed to.

Clause 23 agreed to.

Clause 24.

MR PRATT (5.51): I move amendment No 8 circulated in my name *[see schedule 3 at page 1376]*. This amendment is simply for the effectiveness of each government school to be reviewed at least once every four years instead of every five years, that is, basically over the term of a government.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.51): The government does not support this amendment. A period of five years is consistent with the time for review for non-government schools and the opposition does not propose to make equivalent changes for non-government schools. However, in the last budget the government funded the school excellence initiative, which requires reviews against schools on a three-year cycle, using the newly developed school improvement framework. So we have got five years there as a maximum. At the moment, we are working on a three-year cycle and it is consistent in legislation with the requirements of non-government schooling.

MS DUNDAS (5.52): I will not be supporting this amendment. As the minister has said, schools are currently reviewed every three years so, in a practical sense, four is how often they have been reviewed. With five years, it states that they must be reviewed at least once within that five-year period, although it can be more often than that. Mr Pratt indicated that he wants our schools reviewed basically over the term of the government, and I think that sets quite a dangerous precedent. Schools should be able to operate independently of whoever is in government and of the electoral cycle. They should operate continuously over that period, providing the best education they can to our schools. So they should be reviewed when it is necessary—I assume it would be necessary at least once every five years. They should not be reviewed to suit the political agenda or the electoral cycle.

MS TUCKER (5.53): The Greens will not be supporting this either. At present the government reviews all schools every three years; the requirement for every five years in the life of the school is probably okay. The argument of tying reviews into the electoral cycle is not convincing, nor is the argument to circulate all individual school reviews to the Assembly, which is Mr Pratt's 10th amendment. The information is on the web, is available to everyone and is circulated to members of the school community. That keeps the focus on the education of kids in the school, rather than using the school review itself for political gain.

Amendment negatived.

MS TUCKER (5.54): I move amendment No 3 circulated in my name *[see schedule 4 at page 1382]*. I am, once again, uneasy with the argument that all school reviews need to consult the police. I do not see similar provisions with non-government schools. It suggests that government schools and their students cannot be trusted and are in need of social control or correction. I also reject the notion that all community entities' views need to be taken into account. I can think of several community entities that I would prefer had no voice in our schools. I have proposed an amendment suggested by the P&C that a review must seek "the input of the local community served by the school". That would seem to offer an opportunity for community organisations or interested parties to put their perspective on the record for the benefit of the school review process without distorting the purpose and integrity of the review itself.

MS DUNDAS (5.55): We are happy to support this amendment as moved by Ms Tucker. It is important because schools are important parts of our communities and the community's involvement in the review of a school would be quite vital. Schools provide employment in the area around them and community groups often rely on school facilities for their activities and as a focus for the community. If such groups choose to be involved, their input to a school's review should be able to be heard. So this amendment is quite adequate and it is something we support. I think the wording suggested by Mr Pratt's amendment No 9 is quite concerning and does not really recognise the role that the school provides in the community. That is the core of Ms Tucker's amendment and it is, think, all that needs to be done.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.56): The government is happy to support the amendment moved by Ms Tucker. I think it is a useful addition to that section of the bill and it is certainly better phrased than amendment No 9, which will be moved by Mr Pratt. Giving "entities that provide local community services and the police" a say about reviews in particular schools is concerning. I think that what Mr Pratt is trying to achieve, which is to seek input from the local community served by the school, is actually what Ms Tucker has managed to deliver through her amendment so we will be supporting that and I foreshadow that we will not support amendment No 9 of the opposition.

MR PRATT (5.56): I am going to oppose this amendment because I do not think it goes far enough and I will rest on the laurels of my amendment No 9.

Amendment agreed to.

MR PRATT (5.57): I seek leave to move amendment Nos 9 and 10 circulated in my name together.

Leave granted.

MR PRATT: I move amendment Nos 9 and 10 *[see schedule 3 at page 1376]*. Amendment No 9 seeks to include the views of the local community served by the school, including community services, community organisations and the community police, when the review of the effectiveness of a government school is being undertaken. A school is part of the community and, as such, the community should be involved in the

school's review system. Involving the community surrounding the school will, in our view, encourage a stronger community-school partnership, which, we believe, is vital to the successful running of the schools. I did not mean to sound harsh a moment ago: Ms Tucker's amendment is in fact quite laudable and all I meant by my comment was that it does not go far enough.

I want to see an amendment here that encompasses, more specifically, elements of the community. If we are going to see our communities provide more proactive support to their local schools then they have to feel that they have got that relationship, and being involved in the review process will surely encourage them to become more active in support of their local schools.

I move to my amendment No 10. This amendment simply provides for the report of the review of a government school to be made available to members of the Legislative Assembly. If a department issues a report, it should automatically be made available to members of this place. I believe the Assembly has a vital role to represent the community in assessing across the board the performance, including the relative performances, of our schools. This way the Assembly can more closely monitor whether the department is concentrating both resources and technical support where they are most needed.

This partnering function—department, government and Assembly—ought to be enshrined in legislation as school and departmental performance is surely one of the most important areas in our community and it needs to be monitored in this place.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.59): As I have said already about amendment No 9, I think that the intent of that amendment has already been achieved by the passing of Ms Tucker's amendment. Mr Pratt's amendment restricts some of the organisations that might serve the local community that may wish to participate in the review. It is disturbing that he has singled out two groups—local providers of local community services, whatever that may be, and the police—as being particularly required to be involved in the reviews.

In relation to the availability of reviews to the Legislative Assembly, the reviews are already freely available to members of the public; they are quite often found in the foyers of schools. If Mr Pratt is just trying to cut down his workload and would like all reviews forwarded to him, I would be happy to assist in that regard as they become available. In relation to making comparative assessments and across the board analysis, we do not review every school every year so I am not sure how you would do that sort of analysis, Mr Pratt, and, of course, analysis would differ depending on the schools, the population and the local communities they serve. To do comparative analysis I imagine would be quite difficult, although I do not deny that you might be able to pull it together and form some view on it. If the intent is to have forwarded to your office reviews of schools that may take place, we are happy to assist, but there is absolutely no need for that amendment to this legislation.

MS DUNDAS (6.01): I have already stated my reasons for opposing amendment No 9 as moved by Mr Pratt. I am also opposing amendment No 10. I have not yet been convinced that it is necessary to prescribe that these public documents be delivered to all members

of the Assembly. I am certainly all for making governments more accountable and making sure that information is available. But there is such a thing as too much information and the information not being considered within the right environment. You will be able to access these documents and I am sure that the Department of Education, as the minister has already said, would not refuse a request to see them. You could have said that they should be tabled, which would be a completely different framework. It is up to members to access that information. I think that this is, again, overly prescriptive and does not take into consideration that these documents are already being accessed.

MR PRATT (6.03): I wish to respond to a couple of those comments. When we enshrine these principles in legislation we are not talking about detailing and drilling down to the operational way of how you collect reports or how you compare school performances. What we are saying is, "Let's put in legislation; let's enshrine in the bill, the desire to have this Assembly receive those reports." It may take us time to put a system in place but don't tell me or don't tell the Assembly that we cannot develop in good time a system which goes to the heart of exercising a stronger accountability on our entire school system. Don't tell me we cannot do that and don't tell me we cannot build a framework in this legislation which aims for that objective. What we are saying is that this Assembly should have a stronger role to play in assessing how education is performing in the ACT.

Why should we not be seeking to achieve that objective? Why should the government—and the crossbenchers—reject any initiative undertaken to try to improve the accountability of the ACT education system? That is what the community requires: that the education system be more accountable. This bill ought to enshrine a framework that seeks to have reported to the Assembly the performances of the entire system and schools across the board. Whether it takes one, two or three years to put in place a mechanism for how you would carry that out is beside the point. Let's put the framework in place; let's seek to achieve those sorts of objectives.

Question put:

> That **Mr Pratt's** amendments be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendments negatived.

Clause 24, as amended, agreed to.

Clauses 25 to 27, by leave, taken together and agreed to.

Clause 28.

MR PRATT (6.09): I move amendment No 11 circulated in my name *[see schedule 3 at page 1376]*. Mr Speaker, this amendment makes religious education available in all government schools. The Liberal opposition believes that students should learn about the history of religions and the fundamental foundations and building blocks formed through time of the different religions of this world. We do not mean that specific religious beliefs should be taught to, imposed upon or imparted to students, but that basic religious history should be taught as part of a social science curriculum in government schools and in other schools. This surely is a powerful strategy for teaching tolerance and understanding of other cultures and their sometimes intertwined religions, particularly in these increasingly troubled times.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (6.10): The government will not be supporting this amendment. Again, it is Mr Pratt trying to allege that there are failings in the government system in relation to curriculum, particularly around values education, tolerance, inclusivity and understanding people from different backgrounds, and that is what he is using to justify this amendment. May I say that nothing is further from the truth. Issues surrounding religion are a common component of a wide variety of subjects including literature, language, culture and history. In these, students are taught about the principles of inclusivity, tolerance and respect for all people from all backgrounds. By definition, secular education is education without reference to any specific religion. To require that secular education be defined in the bill as necessarily including the study of religion is simply nonsense. Mr Pratt can continue to go on about the failures of the government system in relation to values. He will not win and he will not win any support for it, so I suggest that he just stop.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (6.11): I would like to contribute on this point in the same vein as the minister has. I noticed just now Mr Pratt's public assertion on the WIN television news that the great failing of this legislation is that it does not address the lack of values within the government school sector in the ACT.

Mr Pratt might simply be echoing the mantra of his federal leader but I think that, having regard to the standing of public education Australia wide and particularly in the ACT, to have the would-be minister for education—the person responsible for marshalling, supporting and nurturing public education in the ACT—publicly advocating, publicly articulating, as the Liberal Party view of public education in the ACT that the public sector, the public schools and teachers within the public sector, do not impart to students within that sector appropriate values is nothing less than shameful. It is a shameful defamation of every teacher and every worker within the public system.

It is a shameful slur on all schools, on all students and the parents who support the public education system and sector in the ACT. It is just simple, and shallow and mindless politics to stand up and bray and berate public education as a system that does not support values of any sort. There is this throwaway line: "The problem with the public sector is there's no values: no values imparted; no values displayed," as if those who support the system either as teachers or other workers, or as parents, are in some way

value-less, or are shells, or do not impart the values or the principles that are important for all of our children, not just those in the public sector. To seek to divide the sector, the community and parents and children on the basis of whether or not one sector, in this case the public sector, is somehow deficient as a result of this nebulous notion of an absence of values within the public sector really is, as I say, nothing short of shameful. Shameful.

MS DUNDAS (6.14): I address the amendment that Mr Pratt has moved seeking to make the study of different religions compulsory within our schools. I will not be supporting the amendment. I support the study of religions in our schools, and the different religions that are part of our community, that are part of our world, but I do not think we should be prescribing curriculum within this piece of legislation. It is a decision that is better left up to the education department and, more specifically, individual schools. Nowhere in this legislation do we prescribe that fractions need to be taught to students in year 5. Nowhere do we prescribe that students must learn business management skills. Nowhere do we prescribe that students must study Shakespeare. These are things for the curriculum and for the curriculum development system.

This Assembly is not made up of education experts. We need to be quite careful in what it is we are prescribing in this legislation. We all have opinions about what it is children in the community should learn and how this should be taught to them. It is all based on our own educational experiences. So we should not be tying this into legislation. It should be something that is part of the curriculum development process and something that schools have a say in. I will not be supporting this particular amendment.

MS TUCKER (6.16): The Greens will also be opposing this amendment. I am not prepared to support legislation that requires all government schools to offer studies in comparative religion. I trust our schools and education system enough to make such decisions autonomously. I am also not of the view that the purpose of this bill is to set curriculum in regard to government schools. I suggest that we wait for the curriculum development project inside the department to bear some fruit before we start weighing in. However, I might be inclined to support such a provision for non-government religious schools, as some contextualising of the value base on which they are built, it could be argued, would be a benefit for their students. Nonetheless, that is not the proposal in front of us.

MR PRATT (6.17): I rise to respond to those interesting comments. Firstly, minister, we will not stop trying to improve education, so you are wasting your breath if you are asking me to stop, as you just did. Minister, I will not stop holding you accountable for the way you exercise your ministry in education, so don't undignify yourself by trying to be bullying in this place. Let's stick to the debate. As for the Chief Minister, he, as he always does, seeks to misrepresent our position. What we have said here today—

MR SPEAKER: Order! Withdraw that.

MR PRATT: Okay, I withdraw that. The Chief Minister has misrepresented our position, as he always does, and what we have said—

Mr Hargreaves: Point of order, Mr Speaker. I think saying that somebody has misrepresented something is unparliamentary.

MR SPEAKER: No, I think I'll allow that, but I made my point.

MR PRATT: Thank you, Mr Speaker. What we have said here today, in this place and in the media, is that we seek to improve the standards of education and the inculcation of values in schools. We have not slagged off the teachers or the education system or whatever the Chief Minister has misrepresented our position on. We have not said that, and what we will always do is seek to add value to the education system to see that these issues are brought up. So the Chief Minister is entirely out of line with that particular attack.

Amendment negatived.

Clause 28 agreed to.

Clause 29 agreed to.

Clause 30.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (6.19): I move amendment No 4 circulated in my name *[see schedule 1 at page 1371]*. This is a very straightforward amendment. It is designed to limit the chief executive's curriculum responsibilities and to provide greater clarity and accountability. Currently, the provisions state that the chief executive must decide the curriculum requirements for government schools. This amendment will ensure that the chief executive retains the power to decide curriculum requirements for children attending government schools—pre-school to year 10—and that the Board of Senior Secondary Studies retains the power to approve courses for years 11 and 12 as they do now and this will also apply to non-government schools.

Amendment agreed to.

Clause 30, as amended, agreed to.

Proposed new clause 30A.

MR PRATT (6.21): I move amendment No 12 circulated in my name which inserts a new clause 30A *[see schedule 3 at page 1376]*.In line with the recent Canberra Liberals' policy announcement on boys' education and our desire for the government to move down that track for the sake of all students, this amendment provides for optional separate classes for boys and girls for the core curriculum subjects of English, mathematics and science. In addition, it also provides for optional classes to be established for particular subjects or in general for disadvantaged students, those who are likely to end their school education early or gifted students. This optional action would only be taken if the chief executive, the school board and the parents of the affected students agree to the action being taken.

MS DUNDAS (6.22): Mr Speaker, I will be opposing this amendment moved by Mr Pratt. I think it is overly prescriptive to have in the legislation and at this point is unnecessary. Prescribing what classes schools may or may not segregate, be that English,

mathematics or science, might actually limit schools that want to also segregate other classes. I, in year 9, partook in a girls-only PE class. That was something set up in my school, to support young women who felt that they were not able to get the full sporting education they needed in the same class as boys.

I am also particularly concerned about part 2 of Mr Pratt's amendment, which refers to a government school being able to, either generally or for a particular educational level or subject, give disadvantaged and gifted students additional education programs. The thing that I am concerned about is the definition of disadvantage that Mr Pratt has put here. He is prescribing that we can support students who are likely to end their school education early or gifted students but we are not prescribing that we need to support students living with disabilities who may also have the need to access additional educational programs.

I believe that schools, at a time, can actually separate male and female students for particular classes, if they so choose, but prescribing it in legislation and prescribing what subjects that might cover is quite unnecessary. Again, I raise the concern that students with disabilities seem to have been completely left out of the Liberals' thinking in relation to this matter.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (6.24): The government will not be supporting this amendment. I think that Mr Pratt's comments are very relevant in that the Education Bill is not going to be a document containing Liberal policy announcements. I suggest, particularly based on the reception those policy announcements have received—they have largely been slammed—that that provides another reason not to have this accepted into the bill through this process.

As Ms Dundas says, a school at the moment can determine the make-up of a class, depending on the needs of the students within that school, and that is done in consultation with the school community and the school board. Again, in light of all the research that has been done around the gender and educational needs of different students, what comes out—and this is something that Mr Pratt just really never accepts—is that the real issue is the quality of the teaching and learning. It is not about boys or girls. Good teaching for boys is good teaching for girls.

Having said that, if single sex classes were determined to be appropriate to a school aside from—as Ms Dundas says—English, maths and science, or incorporating English, maths, and science, that option is currently available to the school community. This bill should not just be used to lodge Liberal policy announcements in the lead-up to the election.

MS TUCKER (6.26): This amendment gives schools the capacity to do what they already can do here in the ACT. The only real purpose in inserting it into this legislation is that it might be an encouragement for those people who like to argue that there needs to be boys-only schools or classes in the interest of an ill-defined notion of equity. The point about what we describe as gifted and talented and disadvantaged students is that they need, as we all do to some extent, individual attention.

Blanket projects such as English for boys, or remedial reading for kids in trouble, are not going to deliver the goods. Interestingly, there is substantial evidence now that music,

media and art programs work very well in extending the purportedly gifted and talented and giving those young people at risk of falling out of the system a renewed enthusiasm for going to school. It is not a question of legislation, then; it is a question of creativity and resources.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Proposed new clause 30A negatived.

Sitting suspended from 6.31 to 8.00 pm

Clauses 31 to 35, by leave, taken together and agreed to.

Clause 36.

MR SPEAKER: The question is that clause 36 be agreed to. Ms Dundas was to do something here, but she is not here to do so.

Mr Pratt: Oh, well, move on.

Clause 36 agreed to.

Proposed new clause 36A.

MR SPEAKER: Proposed new clause 36A, Mr Pratt?

Mr Pratt: Mr Speaker, I would be quite happy to allow Ms Dundas to—

MR SPEAKER: Well, it is a bit late now.

Mr Pratt: Is it?

MR SPEAKER: I do not want to criticise anybody, but you have got to be on the ball with these things because we have a lot of work to get through.

MR PRATT (8.02): Mr Speaker, I move amendment No 13 circulated in my name to insert a new clause 36A *[see schedule 3 at page 1376]*. My amendment 13 requires the

chief executive to report any criminal acts or other breaches of the law by a student or staff member to the police and any other appropriate authorities. We feel that there have been too many breaches of this fundamental requirement by law with respect to some serious criminal issues, for example drug trafficking and serious violence. By violence we are not talking about general physical bullying; although technically classed as assault, we feel this should still be dealt with by the schools and parents without necessarily being referred to the police. However, where bullying is persistent and gets out of control, involving serious assault, the schools must be obliged to call for police assistance and then allow justice to take its course.

We have a real issue with institutes of any kind closing ranks to mask serious crime and being unable or unwilling to draw the distinction between routine institutional disciplinary matters and matters that actually are of a serious criminal nature. We are quite concerned to push this amendment because of the number of issues we have picked up on where in some places there has been persistent bullying, with quite serious assaults and hospitalisation of students. Although these cases have not occurred very often, they have occurred and we just think that action needs to be taken to enshrine the principle in the bill to take care of those matters.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.04): The government will not be supporting this amendment. In speaking to his amendment, Mr Pratt referred to issues of serious assault, whereas the amendment refers to any criminal acts and other contraventions of the law, which is quite a great deal broader than serious assault. Other contraventions of the law in a school, for example, could include traffic and parking issues, littering and a range of other minor infractions. This amendment, if accepted, would also prevent principals from using their discretion in response to less serious criminal acts, such as minor vandalism, in a manner that ensures the best outcomes for the school, and, more importantly, for the student who may have been offending.

Mr Pratt justifies this amendment by saying that he is aware of a number of issues in some places where incidents have occurred and that he has proof of these serious assaults. I am certainly aware of a couple recently. On both those occasions they have been referred to the police. Again, this is a Liberal amendment that will not apply to non-government schools; this requirement is not to be imposed on them. It is yet another attack by the opposition on government schools. Again, the opposition is implying that our schools are somehow overwhelmed by issues of serious assault and criminal acts, which is simply incorrect. The opposition does not even have the capacity to explain the specifics of their amendment. All Mr Pratt said was that there had been a number of issues occurring in some places. He then accepted that there were not very many of them but said there were enough to make the opposition concerned.

This is just a nonsense. By bringing in this law and order aspect, the opposition detracts from the really good work that schools are doing to support students who may be having difficulties in their school environment. Again, the view of the opposition is that none of these things occurs in non-government schools and that therefore there is simply no requirement for this in non-government schools.

MS TUCKER (8.06): The Greens will not be supporting this amendment either. I have to say that I too am really struck by what appears to be a focus on bad kids at

government schools. I am of the view that school responsibilities in regard to young people and the law are well understood and that to bring in any more mandatory reporting, particularly without detailed consultation, would be unhelpful and destructive. I echo the comments of the minister on this.

MS DUNDAS (8.07): The Democrats will not be supporting this amendment either. There is a responsibility on all citizens in our community to report any situation where the law is being broken. To impose this on the education department in an education bill is quite onerous. It takes away the discretion of principals to deal with minor matters, as the minister has already said, and there could be occasions when heavy-handed involvement and referring a matter to the police could be detrimental and not the best solution for the students involved. We should not take away that discretion and we should not prescribe this in legislation.

MR SMYTH (Leader of the opposition) (8.07): I rise just to correct the minister. The minister has stated tonight that none of this applies to the non-government sector.

Ms Gallagher: Well, it doesn't.

MR SMYTH: She is wrong. Mr Pratt assures me—I have just checked with him—that all these amendments apply to both the government and the non-government sectors.

Ms Gallagher: They do not. He has just simply given you bad advice, Mr Smyth, so sit down.

MR SMYTH: Ms Gallagher can interject if she wants. Mr Pratt can get up and speak for himself; but all night I have heard Ms Gallagher trying to create the image that we are trying to divide the sectors when we are not. We are the ones who accept that as minister for education you should be the minister for all students. You are the one who says that you are the minister for government schools—and you are not. What you are doing is abrogating your responsibility by not accepting that you are responsible for all school students equally. What you are doing here is putting up a falsehood. Mr Pratt says that these amendments apply to all of the jurisdiction, to both the government and non-government sectors. Mr Pratt can get up and explain this for himself; he is well able to do so. Since this debate has started you have perpetuated this myth that the provision does not apply to both sectors. All of these amendments apply to the non-government sector as well.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.09): I have sought to resist replying to some of the things that have been said by the Leader of the Opposition. But he is simply incorrect. The part of the bill we are dealing with at the moment relates to government schools—we have not yet reached non-government schools—and the amendment that Mr Pratt has moved to this section of the bill is not the same amendment that he will be moving to the non-government school section of the bill.

He has said tonight that the amendment that he seeks to make to government schools will over time flow into the non-government sector at a later date. I have already questioned that comment. He has an opportunity now to move in the non-government section the amendment he has moved in the government section, and he has chosen not to.

MR STEFANIAK (8.10): As Mr Smyth says, I am sure Mr Pratt can speak for himself. I am sure that, if for some reason this does not apply to the non-government sector, he would be more than happy to ensure it does, because that is quite important. Let us look at the amendment itself. I think it is fairly basic that criminal offences should be reported to the police. The police have very considerable discretions. They are more than capable, Ms Gallagher, of deciding whether in fact to prosecute or not to prosecute. Even if they decide it is worth prosecuting, the DPP has the ultimate say in terms of whether it gets to a court or not. And they too are more than capable of exercising a discretion as to whether or not a matter is serious enough. I can see why Mr Pratt has this in his amendment. And, yes, I can understand a reluctance by schools to take certain incidents further, even if they are criminal. But there are a number of instances where it is important—and right and proper—to ensure that matters are reported to the police. As I have already indicated, the police themselves do have a discretion.

I must say there were a couple of times when I was somewhat concerned that offences were occurring in schools—not just government schools, Ms Gallagher; non-government ones as well—that should have been reported to the police but were not. I think it is very sensible having something like this because it just brings home the need for criminal actions or the contravention of laws to be reported. I do not think anyone is going to be remotely concerned about parking offences or anything like that. We are talking criminal actions, which are somewhat more serious than just basic traffic incidents. Traffic infringements are quite separate from criminal acts, and the types of things we are dealing with effectively would be drug offences and maybe the more serious assaults. Those are the types of things that do, unfortunately, crop up from time to time. Those things, in one form or another, have probably cropped up from time to time since we have had schools in Australia. An amendment like this is quite sensible and I am sure my colleague Mr Pratt has no problems whatsoever if it applies right across the board to the whole sector, government and non-government.

MR PRATT (8.12): There is no way in the world that we would require one sector to abide by the law and the other sector not to. We have said all day in this debate that the principles written into the bill under the government school sector will apply to the non-government school sector. In terms of the way the non-government sector is established to administer itself, where those instruments do not apply, where they do not happen, we expect the ACT education system to get those flowing in.

Ms Gallagher: How do we do that if we do not do it tonight?

MR PRATT: If we need to extend this instrument to formalise that, then that is something that we will perhaps need to look at. But we are going to make sure that there is conformity. We have said all day and all night that we expect conformity of standards across the entire ACT education system.

Ms Gallagher: What you are saying and what you are doing are two completely different things.

MR PRATT: No, no. What I am saying is what we intend to see enshrined in the ACT education system. Minister, it is no good you seeking to divert the debate here tonight and to characterise it as class warfare: one sector versus another sector. Do not get up

and keep driving that wedge simply because you are not happy with what we are trying to do to add value to this bill. This bill falls short. What we are saying is that we want to see it enshrining a broad range of principles.

I take the point that the amendments may need to be extended to make sure that we formalise that link, but we intend—and I will put it on the record right now—to ensure that these principles conform from one end of the spectrum to the other end of the spectrum within the ACT education system.

Amendment negatived.

Clauses 37 to 74, by leave, taken together and agreed to.

Clause 75.

MR PRATT (8.15): I seek leave to move together amendments Nos 14 to 16 circulated in my name.

Leave granted.

MR PRATT: I move amendments Nos 14 to 16 circulated in my name *[see schedule 3 at page 1376]*. These amendments are the same as my previous amendment No 2 but relating to non-government schools, to establish the same principles as government schools, to allow all children to be educated under the same principles.

Amendments negatived.

MS DUNDAS (8.16): I move amendment No 4 circulated in my name *[see schedule 2 at page 1375]*. This amendment works to make non-government schools more accountable. Although clause 80 provides for non-government schools to be accountable, when clause 75 is read in conjunction with clause 18 it appears that government schools are committed to accountability while non-government schools are not. This is to clarify the principles for non-government schools and government schools and make sure that they are consistent.

This amendment strengthens the commitment of non-government schools to be accountable to their school community, whether that is the religious community from which they draw their students or the community that their students are part of. It is a clause that I am just putting here in the principles so that we then have greater parity between the principles of the non-government school sector, which is clause 75, and those of the government school sector, which is clause 18 that I referred to earlier.

MS TUCKER (8.18): The Greens will not be supporting this amendment as I am not clear what implications there would be for a specific school to be accountable to its community and how that would in fact work. The government school principles more generally commit the government school system to "making information available to and being accountable for the operation of government schools". That kind of accountability, while not in the principles here, is a part of other requirements in legislation.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.18): The government will not be supporting this amendment. Parents at non-government schools are required to pay fees for their children. It is, therefore, reasonable that they expect the school to be accountable. Also, the issue of accountability is addressed in clause 80, which allows for a higher level of accountability than the proposed amendment and requirements to consult with parents.

MR PRATT (8.19): I am not sure whether this means accountability to the geographic community or to the school's own support base, so I seek clarification on that. Otherwise, we would certainly like to see conformity in the way that non-government schools relate to their communities and are accountable for their performance. Could Ms Dundas just clarify the issue, please, so that I can make up my mind whether to vote for it or not.

MS DUNDAS (8.19): I am happy to provide that clarification for Mr Pratt. As I said just less than five minutes ago, this amendment moves to strengthen the commitment from non-government schools to be accountable to their school community, whether that is the religious community from which they draw their students or other sectors of the community, the community in which their students are living. I can understand the government's and Greens' concerns about not wanting to provide this amendment here but, as I said, it was done in the interests of parity so that the guiding principles for government and non-government schools could be more in line.

Amendment negatived.

Clause 75 agreed to.

Clause 76 agreed to.

Proposed new clause 76A.

MR PRATT (8.21): I move amendment No 17 circulated in my name to insert a new clause 76A *[see schedule 3 at page 1376]*. This amendment allows the minister for education to provide financial or other assistance to children attending non-government schools. The financial assistance proposed by way of per capita grants is for 25 per cent of the average per capita cost to the ACT government of educating children in government schools. This is not a new concept and I appeal to colleague MLAs to seriously consider this proposal. This principle is enshrined in the New South Wales Education Act 1990, and the wording is similar to the wording in that act and has the same intention. Our amendment drives the need for choice and is based on the fact that 38 per cent of ACT children attend non-government schools. I believe the ACT education system can only become richer by encouraging diversity, and this funding principle seeks to achieve that.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.23): The government will not be supporting this amendment. Funding formulae should not be placed in legislation as they are subject to change by the government of the day in response to a wide range of

factors, including any changes to schools funding on the part of the Commonwealth, as we have seen in recent months.

The funding formula is dependent on the territory's resource capacity and the Australian government's allocation of funds. Of course, as members would be aware, this government has strongly articulated the need for education funding to be based on equity and need, and we stand by that. Those are the paramount considerations in deciding the amount of public money that is available for all schools in the ACT and how that money is distributed. To have a blanket 25 per cent simply would not allow those equity and need decisions to be taken into account. The ACT government are a strong supporter of non-government schools, both financially and in other ways, and we will continue to be so. But the government will not accept an arbitrary figure set into this legislation. Mr Pratt says it is not a new concept. Well, it might not be in New South Wales, but it is certainly a new concept here—and not one that the government will support.

MS TUCKER (8.24): The Greens will not be supporting this amendment either. It is simply an exercise in posturing. If we are to compare government funding per student across systems, we have to compare all government funding rather than simply looking at state or Commonwealth funding. In order to deal with reality, we would also need to consider the level of fees that students contribute and also the level of need of those students. There was an interesting item in the newspaper today that highlighted an analysis that concludes that government schools and government school students are doing quite poorly out of the current funding arrangements—something that this amendment certainly would not address.

MS DUNDAS (8.25): This amendment raises two problems. Firstly, as the minister has already said, it is not appropriate to have funding levels set down in legislation. There may come a time when governments feel that it is no longer necessary to fund non-government schools or they might need to fund them even more than 25 per cent of what is being put through government schools. Setting a mark, not even as a maximum or a minimum, is quite overly prescriptive for legislation.

Secondly, the 25 per cent mark proposed by Mr Pratt is just outrageous. With Commonwealth and ACT government funding, non-government students in the ACT receive more government funding than do government school students. I think the amendment that Mr Pratt proposes would exacerbate the disadvantages that exist between some non-government and government schools and we should not be working to put that into legislation.

MR HARGREAVES (8.26): I thank the cross bench for being so sensible. This makes an enormous amount of sense. You do not put formula in the legislation; you put it in the regulations, in the directions, where it can be changed and be responsive to the values of the day. If you stick it in legislation, you have to come back and argue the point time and time again. That is really stupid and it just delays matters for those people who most need the money.

The other thing I just want to record is that in the lead-up to the 2001 election the opposition was asked to bump it up to 25 per cent by the private schools, by the Catholic schools—and they did nothing. Now they turn around and do this. They have a great big white line right up the road to Damascus—and it just does not wash.

Amendment negatived.

Clauses 77 to 79, by leave, taken together and agreed to.

Clause 80.

MR PRATT (8.27): Mr Speaker, I seek leave to move amendments Nos 18 and 19 circulated in my name together.

Leave granted.

MR PRATT: I move amendments Nos 18 and 19 circulated in my name *[see schedule 3 at page 1376]*. Amendment No 18 seeks to ensure that no confidential information for commercial-in-confidence or financial privacy reasons is included to be made available to parents, staff or students of a non-government school. Amendment No 19 is consequential upon amendment No 18. The opposition believes that subclause (2) is no longer necessary.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.28): The government will not be supporting either of these amendments. Again, the argument from the opposition about trying to create consistency across sectors is interesting when amendment No 18 would weaken the information that a school needs to provide to parents. The clause as it exists now says "information about the school's educational programs and policies, and the operation of the school". I hardly think that implies commercial-in-confidence. To weaken it by substituting "appropriate information" leaves it up to the individual schools to decide what may be appropriate information about the school and its programs to hand on to parents. Again, there are quite extensive requirements on the government system to report in sections 23, 24 and 25 of the act.

I am aware that the Liberals' amendment No 19 did stem from the Association of Independent Schools, who certainly spoke to me about their desire not to be required to consult with parents of students at a school. I could not understand their arguments about that, although they did try to put them to me quite extensively. To omit this clause and take away any responsibility for the school to consult with parents about the operation of the school would again be setting different standards. When we are trying to increase the accountability of non-government schools, the Liberals are trying to weaken it, while running the argument that they are looking for consistency across the sectors.

Mr Pratt can stand up and keep accusing us of something. But what he is saying and the amendments that he has or has not moved simply make those comments extremely questionable. I am certainly prepared to defend myself against the allegation of dividing sectors. What we are trying to do here is to create a system where there are responsibilities in the non-government sector—more responsibilities than they have had in the past. We also want to make sure that the responsibilities in the government sector are at the level they should be at. The Liberals are trying to weaken that and then trying to run the argument that we are trying to divide the sectors. It is simply nonsense.

MR CORNWELL (8.31): It is a long time since I have seen such a superfluous clause in a piece of legislation, because everything in subclauses (1) and (2) already goes on in the non-government sector. Subclause (1) states:

> The principal of a non-government school must make available to parents of students at the school and to the staff and students of the school information about the school's educational program and policies, and the operation of the school.

Well, would one not do so?

Ms Gallagher: Well, why are you opposing it?

MR CORNWELL: I am asking: why is this clause here? It just seems to me to be absurd. Mr Pratt has quite rightly said that subclause (2) is again superfluous to subclause (1):

> The principal of a non-government school must also consult parents of students at the school about the operation of the school, including its educational programs and policies.

Surely it is self-evident that, if you are going to send your child to a school, particularly to a non-government school, and to pay some fees, you would want to establish just what exactly the programs and policies of that school might be. It seems to me that this is a—

Mr Hargreaves: Like Girls' Grammar or Marist, yes.

MR CORNWELL: Mr Hargreaves may interject about some of the Catholic schools, but I would prefer him to get up and debate it.

Mr Hargreaves: I said Girls' Grammar.

MR CORNWELL: I cannot see the point. It just seems to me to be obvious that this is the type of thing that would be done by any non-government school, and the need to put it into legislation is quite superfluous.

MR HARGREAVES (8.33): The reason these sorts of things are in the legislation is that the community out there has no confidence, necessarily, that every single non-government school will be as forthcoming as the ones Mr Cornwell has been associated with. I have very grave doubts about the transparency in some of those schools. In fact, I think some are run by people who would rather people did not know, and so we are going to make sure that they do know.

MR PRATT (8.33): Our aim with amendment No 18 is to substitute the words "appropriate information about the operation of the school and its educational programs" for the words in the bill. The aim of this amendment is not to stop schools providing information to the students' families; indeed, they will be just as open in the two-way process with their students' families as government schools should be.

The amendment is aimed at non-government schools perhaps not providing commercial-in-confidence information. I think the minister is quite wrong. Because schools are

business entities, they will have commercial-in-confidence information. If it is not necessary for the principal to talk about that information, it is culled out. The principal is required to provide appropriate information to families and it perhaps should not involve commercial-in-confidence information. That is the aim of the amendment.

MS DUNDAS (8.34): We will not be supporting these amendments moved by Mr Pratt. I think the argument has got caught up in what Mr Pratt is trying to achieve. He has mentioned that his amendment seeks to prevent the revealing of commercial-in-confidence material to parents of students at non-government schools. No school could actually be forced to reveal commercial-in-confidence material; that is the whole point of the commercial-in-confidence guidelines. We do not have every piece of information put forward. The clause states:

> The principal of a non-government school must make available to parents of students at the school and to the staff and students of the school information about the school's educational programs and policies, and the operation of the school.

It says "information"—not every single document that has ever been written under the sun about how a school is operating today. It just talks about general information. Putting in the word "appropriate" could mean that more things are hidden from parents than are necessary and that more things are hidden from students and the staff than are necessary. There is no need to change subclause (1) and there is no need to remove subclause (2) in relation to the principals of schools consulting with parents about the operation of the school, including educational programs and policies. Consultation should be encouraged within the school community, and that is why that needs to remain.

MS TUCKER (8.36): This is another example where the accountability that is built into this legislation would be weakened if Mr Pratt's amendments were passed. The provision of information on the operation of the school is fairly open ended. Arguing that it only needs to be appropriate information really suggests it may be very little indeed. The number of times "appropriate" has been used as a justification for non-transparent decisions in this Legislative Assembly ought to stand as a warning against its use in this bill.

I notice that the Association of Independent Schools do not want to have to consult, believing it would open them up to undue pressure from a few parents, and have made the point that the ultimate accountability mechanism for non-government schools is for the students to leave. That is an unsatisfactory response to those of us who would like to build accountability into all government funded education systems. The article in today's paper reflecting on research conducted by the Australian School of Government Studies makes this point as well. As we all know, consultation does not need negotiation; at the simplest level, it simply requires listening and response.

Amendments negatived.

Clause 80 agreed to.

Clauses 81 and 82, by leave, taken together and agreed to.

Clause 83.

MR PRATT (8.38): I move amendment No 20 circulated in my name *[see schedule 3 at page 1376]*. This amendment makes clear that non-government schools are allowed to seek expressions of registration for adding schooling years at the school before requiring the school to register with the minister for education their interest in extending the years of schooling. This ensures that the non-government school can get a clear indication of the viability of extending its schooling years before it begins the process of application.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.39): The government will not be supporting this amendment. The proposed additional clause does not add to the provisions of the bill, as an application for registration means an application in writing. At the same time, this part of the act does not stop a school community forming well in advance of seeking registration for the purpose of planning the future establishment of the school and seeking registration at some future time.

Amendment negatived.

Clause 83 agreed to.

Clause 84 agreed to.

Clause 85.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.40): I move amendment No 5 circulated in my name *[see schedule 1 at page 1371]*. This amendment seeks to insert two new subclauses, 85 (3A) and 85 (3B). The amendment will increase transparency of the process and align the process with other processes in the registration of non-government schools covered at clauses 83, 87 and 89.

Amendment agreed to.

Clause 85, as amended, agreed to.

Clauses 86 to 97, by leave, taken together and agreed to.

Proposed new clause 97A.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.41): I move amendment No 6 circulated in my name *[see schedule 1 at page 1371]*.This amendment seeks to insert a new section "Inspection of panel reports for school registration etc". Again, the proposed amendment will increase transparency of the process by making the panel's report publicly available. It aligns the process with that for government schools whereby school development reports are available to the public.

MS TUCKER (8.41): The Greens will be supporting this amendment. It is another transparency and accountability mechanism that ensures that reports to the minister on matters concerning the registration of non-government schools are accessible, as was

amendment 5 about transparency in terms of the application process to establish a non-government school. Both are important.

Proposed new clause 97A agreed to.

Clauses 98 to 102, by leave, taken together and agreed to.

Clause 103.

MS DUNDAS (8.42): Mr Speaker, I move amendment No 5 circulated in my name *[see schedule 2 at page 1375]*. At the end of the in-detail stage I will move a similar amendment in respect of government schools, if the Assembly is willing to re-commit clause 36. I think it is important that this amendment be applied to both the government and non-government school sectors.

Under the bill that is before us, students who are to be excluded from school have to be given the opportunity to attend counselling. My amendment extends this to students who have been suspended for more than, and not necessarily consecutively, seven days of a term. The intention is to help students in the preventative stage so as to prevent them from reaching a level where they are in danger of being excluded.

I believe we must take every opportunity we can to make sure students are able to stay in school and participate in educational programs. There is great benefit in making sure that counselling is started early when there is a warning sign that maybe something is going wrong, as opposed to waiting until a student is excluded altogether.

I hope that the Assembly can see the merit of these amendments. I think they will provide a lot of support to parents who have raised a number of concerns about the legislation. Continual suspension is a general flag fall that other issues and problems need to be addressed. It would be better to provide early help rather than reach the point where a student is no longer welcome in the school community.

Mr Cornwell: Could I ask for your guidance, Mr Speaker, please?

MR SPEAKER: Yes.

Mr Cornwell: Ms Dundas in her statement said this was an amendment that had been moved for the government sector.

MS DUNDAS: No.

Mr Cornwell: I was not aware that this had been moved in respect of the government sector.

MS DUNDAS: Mr Speaker, can I clarify the situation. I believe that perhaps the member misheard me.

MR SPEAKER: I hope so. Help me.

MS DUNDAS: I said that I would like to move the amendment for the government and non-government sectors. At the moment I have moved it for the non-government sector, as this is the non-government section of the bill. I missed the opportunity to move the amendment to the government section of the bill and I will be seeking the Assembly's support to recommit that clause so I can move the amendment in respect of the government sector.

MR SPEAKER: Okay. The question is that Ms Dundas's amendment No 5 be agreed to.

MR PRATT (8.45): Mr Speaker I move my amendment No 2 to Ms Dundas's amendment No 5 *[see schedule 5 at page 1383]*. I simply seek to tighten Ms Dundas's amendment. I think her amendment is leading in the right direction but, rather than leaving it open for a school to decide whether or not a student who has been expelled for more than seven days needs to undertake counselling, I think any student who has spent that amount of time out of school needs to be counselled. I think that the school and the department should be making sure that a student who has been either randomly seven days or seven days in sequence out of the system ought to be subject to a departmentally-oriented counselling process rather than perhaps another arrangement which might be a little bit too casual. I think we should lock that in as a principle.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.46): The government will not be supporting Mr Pratt's amendment but will be supporting Ms Dundas's amendment. I think Mr Pratt has again possibly unintentionally failed to notice the subtleties in Ms Dundas's amendment, which do not require the department of education to ensure that the child is given reasonable opportunity to attend counselling. As these are students in non-government schools, the responsibility for a child's expulsion or suspension is with that school. Again, Ms Dundas's amendment reflects that. I think it is probably a mere oversight by Mr Pratt.

Again, there are differences in respect of schools being able to force students to undertake counselling, particularly if their parents are not happy that they do so once they are suspended. The words are that the director must ensure that "the child is given reasonable opportunity". I think that goes as far as school communities can go to make sure that someone has the opportunity to attend counselling. I would be very surprised if schools can force students that they have suspended to attend counselling.

MS TUCKER (8.47): Ms Dundas's amendment, which echoes an amendment to an earlier clause which she will move later on, ensures that students suspended for seven days or more in a month can get access to counselling. This is particularly important for students attending non-government schools because they can so much more easily be suspended or excluded.

I was thinking that at a future time an amendment should be moved that would require non-government schools to accept all students in their area, in recognition of the very high level of government funding that they receive. We would need to think through more thoroughly the aspects of the system we would then be setting up. But I think it is worth making the point that, as almost all schools in Australia are essentially government-funded, the time might well come when we need to do away with many of

the divisions between schools and require from all government-funded non-government schools the same degree of accountability and responsibility that the so-called public system is required to take on.

I will not be supporting Mr Pratt's amendment. For the reasons that have been stated, it is quite inappropriate to be forcing a situation like that.

MR PRATT (8.49): Mr Speaker, I understand that amendment 5 conforms with amendment 3 that Ms Dundas did not get up.

Ms Gallagher: They have different wording in them. There are subtle differences about responsibilities.

MR PRATT: Surely the point is that we want our students in all schools, in both sectors, to be well looked after if they are in the process of looking as if they are going to fall by the wayside. We have put this amendment on the table to try to ensure that these kids get counselling.

Any expert in the world will tell you that people who need to be counselled often need to be guided. You cannot just give them the option. If you give people the option, they will not take counselling. I would ask you to seriously consider the aim of our amendment. If we are to pick up and put back into the system a student who has been put out for a serious reason, it is very important that we be proactive and not give that person the opportunity to voluntarily get counselling. I do not think to do otherwise is at all responsible. I take issue with Ms Tucker. Our amendment is not inappropriate. It is a very responsible amendment to try and do something about proactively helping kids who are purely falling by the wayside and in danger of not finishing their education.

MS DUNDAS (8.51): Mr Speaker, I have three amendments that seek to do the same thing. One is for kids in government schools and two are for kids in non-government schools—one for the Catholic system and one for the other students in the non-government systems.

What I am seeking is that the chief executive of the department of education must ensure that children in the government system who are suspended for seven or more days are given reasonable opportunity to attend appropriate counselling. In Catholic systemic schools, the director of the Catholic system is the one who must ensure that the child is given a reasonable opportunity to attend appropriate counselling. In the other non-government schools, it is the principal who wears that responsibility. The three different systems have three different levels of reporting in relation to what happens when children are excluded or suspended from their schools, so my amendments are different to reflect that.

Mr Pratt's amendment removes that difference by putting all the responsibility on the department of education. When a student is excluded or suspended from a Catholic systemic school, the department of education is not necessarily informed. It is the director who is informed.

I should stress the point that the amendments talk about how the person in charge—be that the director, the principal or the chief executive—must ensure that the child is given

a reasonable opportunity to attend appropriate counselling. You cannot force somebody into counselling against their will. They can rock up and then they can leave or they can just sit in a room and not participate. But if people are doing the best they can to ensure that all the opportunities are provided to the young student, that is the best that we can ask them to do.

MR CORNWELL (8.53): The minister said that Mr Pratt did not understand the subtleties of Ms Dundas's amendment. Neither do I. I am puzzled by the words "reasonable opportunity to attend appropriate counselling". It is more than subtle—it is very vague. I simply do not understand. What is appropriate counselling? Going to have a talk to grandma, perhaps? I do not know.

Ms Dundas has confirmed that certain people in the non-government and the government sectors will have the responsibility to ensure that a child is given a "reasonable opportunity to attend appropriate counselling". Do they know necessarily what the appropriate counselling is to be? What is a "reasonable opportunity"? Do you give them another seven days to attend the appropriate counselling? Do you request them to attend within 24 hours? Ms Dundas has already indicated that you cannot force people to attend counselling, so how can you force them or oblige them to attend within any reasonable time or with reasonable opportunity?

I feel that this matter, as set out, is very vague. My colleague Mr Pratt has at least pointed to an organisation, the department of education, which we assume has unfortunately had experience with this type of thing in the past. After all, it was only this morning that a report on the adolescent day unit was tabled. I suppose, Mr Speaker, that this unit is a means of dealing with some of the more difficult students within the formal education system.

So I believe that in this case it is appropriate that we identify the department of education, which at least is in a position to provide appropriate counselling. Presumably a "reasonable opportunity" to attend the counselling can be made available to the child and, of course, to the school, be it non-government or government.

MS TUCKER (8.56): Previous Assembly committees have conducted inquiries into children at risk of not completing education and services for children at risk. I might just answer the questions that Mr Cornwell put. Who would know what was appropriate? He proposes that the department of education would be appropriate. However, the people most likely to have an understanding of what would be appropriate support for a child who is suspended or excluded would in fact be the teachers at the school. The school community would have the best idea about what was appropriate for that individual child.

Mr Cornwell also made the comment, which I think was facetious, that appropriate counselling could mean going to have a talk to granny. I am aware of support that was given to an Aboriginal child by the grandmother. This course was initiated by the school because they understood what was appropriate, they understood the situation for that child and the support that that child needed.

The Assembly committees that held inquiries into children at risk and so on looked at the clearly unsatisfactory situation of kids being suspended from school and basically left

out of the system. This amendment is trying to address the situation, which I am sorry to say does happen, of schools saying, "Oh, phew, this child that no-one can deal with is out of our hair for seven days." That is totally unsatisfactory and, as I have said, that came up in previous committee inquiries. We want to make sure that there is a consciousness about what is happening to a child who is excluded, and that every opportunity is taken to support that child in ways that are appropriate.

I support what Ms Dundas said. My understanding of the evidence is not as Mr Pratt said. It is extremely unlikely that a child who is forced to undergo counselling will benefit. This is not always the case—there can be occasions where someone who is obliged to take counselling can benefit. But, on the whole, this course of action has the opposite effect. It actually alienates the child more. You need a willingness. It is important that appropriate action be taken because you need to find something that the child feels they can work with.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (8.58): Sorry to keep this debate going but I would like to make a couple of points. Mr Cornwell questioned what was meant by the term "appropriate counselling". Mr Pratt is not seeking to amend that term. In fact, he was seeking to include the words "appropriate counselling". So I think there is agreement across the floor that "appropriate counselling" is the right term to use.

Again, "reasonable opportunity" is a term that is consistent with the words used in other clauses of the bill. For example, once the child is suspended, it is provided that they be given "reasonable opportunity" to continue their education. So the drafting of this clause is consistent with other clauses in the bill.

Again, if we agree to Mr Pratt's amendment to undertake appropriate counselling as organised by the department of education, that would require non-government schools, both Catholic and independents, to report to the department of education about any suspensions that they have in their school. That is something that I do not believe they would welcome. I imagine that there would need to be quite extensive consultation with them on this because that sort of information is not forthcoming. I have to say that it is not information that I would object to receiving but I think you need to be a bit careful about what you are doing here.

The responsibility for students and the responsibility to suspend students in those sectors rest with the director in the Catholic system and with the principals in the independent system. Therefore, it is ridiculous to require the department of education to provide counselling; it is also not something that the independent or Catholic systems would welcome.

MR PRATT (9.00): I am not sure about that, Mr Speaker. I do not see why, for example, the Catholic Education Office cannot talk to the department of education and seek assistance if it is beyond their means to deal with a particular problem.

Ms Gallagher: Well, they do in those situations. But you are saying "must" undertake counselling organised by the department. "Must".

MR PRATT: If the department is the best institution equipped to provide a good standard of counselling then it—

MR SPEAKER: Mr Pratt, it has just been drawn to my attention that this is the third time that you have been on your feet. You will need leave to speak.

Mr Pratt: I am sorry, Mr Speaker. I will sit down. Just strike all that from the record.

MR SPEAKER: If you want to speak, you can seek leave to do so.

MR CORNWELL (9.01): I just briefly want to comment. Ms Tucker made a comment about a grandma. That is perfectly appropriate, except, of course, that there is nothing in Mr Pratt's motion that would prevent a grandma getting involved in appropriate counselling, as organised by the department of education. It may very well be that that person is the most appropriate person.

Ms Tucker: And would the department know that?

MR CORNWELL: Yes, but it would obviously be done in consultation. I make the point to the minister that if the non-government sector is not happy about undertaking appropriate counselling organised by the department of education, why should they be happy about accepting Ms Dundas's amendment to the legislation?

Mr Pratt's amendment to **Ms Dundas's** amendment negatived.

Ms Dundas's amendment agreed to.

Clause 103, as amended, agreed to.

Clause 104.

MS DUNDAS (9.02): I move amendment No 6 circulated in my name *[see schedule 2 at page 1375]*. This is the same as, or very similar to, the amendment we have just debated. It inserts this provision in respect of the non-government school sector. To pick up on a point that was made in a previous debate, this is a very similar clause to that which already exists in the legislation for government, Catholic systemic and non-government schools.

A child can only be excluded from school if the child has been given a reasonable opportunity to attend counselling, undertake relevant educational programs or receive other appropriate assistance. A number of things have to happen before a child is excluded from school. These amendments seek to put that requirement into the early stages of the process. A suspension is a flag fall that something is going wrong. We should be working to keep students in schools by picking up problems early as opposed to waiting until students are on the verge of being excluded for good before the counselling is offered.

MR PRATT (9.04): Mr Speaker, I move my amendment No 3 to Ms Dundas's amendment No 6 *[see schedule 5 at page 1383]*. I simply draw the attention of the

Assembly to what I said when I moved my amendment to Ms Dundas's amendment No 5.

Mr Pratt's amendment to **Ms Dundas's** amendment negatived.

Ms Dundas's amendment agreed to.

Clause 104, as amended, agreed to.

Clauses 105 to 107, by leave, taken together and agreed to.

Clause 108.

MR PRATT (9.05): Mr Speaker, I seek leave to move amendments Nos 21 and 22, circulated in my name, together.

Leave granted.

MR PRATT: I move amendments Nos 21 and 22 *[see schedule 3 at page 1376]*. Amendment 21 changes the number of members of the non-government schools education council from six to seven to allow for what is contained in my amendment No 22. Amendment 22 provides for an additional member of the non-government schools education council to be chosen from nominations of the organisation representing ACT independent schools.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.06): The government will not be supporting these amendments. The three-to-one ratio of representation from the Catholic systemic and independent schools to non-Catholic independent schools reflects the distribution of students between those two sectors. Also, the Ministerial Advisory Council on Non-government Schools supported the three-to-one ratio reflected by the membership. In addition, clause 108 (2) (d) provides for one education member chosen from nominations of organisations representing parent associations of non-government schools. There is every expectation that that representation would come from the Independent Schools Association.

MS DUNDAS (9.07): Mr Speaker, I was hoping that, in presenting these amendments, Mr Pratt would have given some more explanation. The legislation before us indicates that there is already room for one education member chosen from nominations of organisations representing non-Catholic independent schools. I am at a loss to understand the difference between non-Catholic independent schools and ACT independent schools. If there is a major difference then I would like to hear it.

I would also like to hear if there is a sector of the community that is missing out. That did not come through. I cannot see why this amendment needs to be supported if independent schools are already being given the opportunity to be represented on the council.

MS TUCKER (9.08): I understand that the ACT Independent Schools Association has asked that it be put on the non-government schools education council, and that is what

these amendments are about. There is, however, a position on the council for one member to be chosen from the non-Catholic independent schools. My understanding is that the Independent Schools Association includes some Catholic schools on the one hand and the Catholic education system on the other. So I do not see that there is a need to include another person on the council to ensure that both groups are represented. Arguably, subclause 2 (b) could simply be amended by taking out the word "non-Catholic". If not, I would say it is quite workable as it is.

Amendments negatived.

Clause 108 agreed to.

Clauses 109 to 120, by leave, taken together and agreed to.

Clause 121.

MR PRATT (9.09): I move amendment No 23 circulated in my name *[see schedule 3 at page 1376]*. Mr Speaker, this amendment requires that the authorised person entering a non-government school for inspection gives the school's principal reasonable notice of their visit; and gives reasons why the authorised person is going to inspect the school. This seems to me a sensible mechanism to have in place. In fact, it goes to the heart of respecting the integrity of any school. I would put the amendment to members for their consideration.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.10): The government will not be supporting this amendment. Clause 121 provides that the inspection powers of the bill are kept to a minimum necessary to ensure compliance.

The issue of the degree of notice for inspections can be better addressed in guidelines rather than in the legislation. However, I would also importantly like to say that proper checks on meeting registration requirements and other necessary compliance with the act could be compromised if notice is required to be given in advance in certain instances. For example, the evidence may disappear once notice is given in respect of particular issues. In some circumstances an unfettered inspection regime needs to be preserved if safety obligations are to be met and school enrolment records are to be properly maintained.

MS TUCKER (9.11): We will not be supporting this amendment. In this bill the powers of an authorised person in regard to the inspection of non-government schools is the same as the powers to inspect government schools. I take it that it is generally agreed that there is, on occasions, a value in making an inspection of the school without notice. If that is a reasonable power in regard to government schools then it ought to also apply to other schools registered with the ACT education department and in receipt of government funding.

Amendment negatived.

Clause 121 agreed to.

Clauses 122 to 124, by leave, taken together and agreed to.

Clause 125.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.12): I move amendment No 7 circulated in my name *[see schedule 1 at page 1371]*. This amendment simply clarifies the part of clause 125 which deals with office hours, changing it from a person may inspect the register of non-governments schools "during the office hours of the office of the chief executive" to "during ordinary business hours at the office of the chief executive". We believe that provides greater clarity for persons who may wish to inspect the register.

Amendment agreed to.

Clause 125, as amended, agreed to.

Proposed new clause 126A.

MR PRATT (9.13): I move amendment No 24, circulated in my name, to insert new clause 126A *[see schedule 3 at page 1376]*. The Liberal opposition believes that to sufficiently provide support to the non-government school sector and assist students of those schools to get the best education they possibly can, the government needs to place a non-government schools liaison officer with the Department of Education, Youth and Family Services. This officer would be the contact point for all inquiries between the government and non-government school sectors and would be able to assist the non-government schools sector and their sub-organisations in the effective operations of their schools within the boundaries of the Education Bill.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.14): The government will not be supporting this amendment. We do not believe it is appropriate to place a legislative requirement on the chief executive regarding staffing in the department.

However, there is already a non-government schools office within the department and, with the additional responsibilities that will be required with the passage of this legislation, I imagine that that section has a strong future within the department. So that work is already there, it has already been done, it has already been used by the non-government schools to facilitate relationships and support the work of non-government schools. So there is no need to have a legislative requirement for that position.

Amendment negatived.

Clause 127 agreed to.

Clause 128.

MS DUNDAS (9.17): Mr Speaker, I move amendment No 7 circulated in my name *[see schedule 2 at page 1375]*. We can now move on to the home education part of the legislation. I note that this is the first time that home education will be so strictly

provided for in legislation. I think that is a very important part of this education bill, which the department and home educators have done a lot of work in developing.

My amendment relates to the definition of home education. The bill presented to us by the minister states that home education means education conducted by one or both of the child's parents, mainly in the child's home. We know that in reality the home education process occurs in quite diverse ways. It frequently involves learning outside the home, whether that be at the shops, at museums or at other facilities, and it also may involve working with other young people who are being home educated. I think the amendment to change the wording of the definition from "mainly in the child's home" to "from a home base" more accurately reflects the situation for home educators at the moment.

MS TUCKER (9.16): As I understand it, the government is supporting this amendment. In discussion with the minister's office on a number of matters, Ms Dundas has picked up on the term "preferred by the home educators". We have not been able to ascertain any problems with our proposed amendments on home education matters, and I am pleased to see that the government is supporting this amendment.

MR PRATT (9.17): The Liberals will be supporting the Democrats' amendment.

Amendment agreed to.

Clause 128, as amended, agreed to.

Clauses 129 and 130, by leave, taken together and agreed to.

Clause 131.

MS TUCKER (9.18): I move amendment No 4 circulated in my name *[see schedule 4 at page 1382]*. This amendment picks up on key concerns expressed by the home education group, HENCAST. They are very supportive of the bill overall but argue that the department ought to be able to assure itself of the quality of education that home educated students enjoy, rather than make its judgement on the basis of accommodation and facilities. This amendment gives a chief executive officer the authority to examine the program, materials and records relating to that education. If the home educators cannot made those materials available as requested then, under clause 134 (1), the registration for home education can be cancelled.

Because the focus is on the educational experience and the quality of the educational work, my amendment No 6 seeks to oppose clauses 139 to 142 under part 5.3, which deals with the inspection of education premises.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.19): The government will be supporting this amendment. I think it is a useful addition to that section to have the requirement that, as a condition of registration for home education, those materials are made available so as to ensure the quality of the education provided in the home setting.

MR PRATT (9.19): The opposition will support that.

MS DUNDAS (9.19): The Democrats are also happy to support this amendment. While at first blush it might seem more onerous, it is actually what home educators are looking for—working with the inspectors to actually highlight what it is they are doing as part of home education.

Amendment agreed to.

Clause 131, as amended, agreed to.

Clauses 132 and 133, by leave, taken together and agreed to.

Clause 134.

MS DUNDAS (9.20): I seek leave to move amendments No 8 and 9, circulated in my name, together.

Leave granted.

MS DUNDAS: I move amendments Nos 8 and 9 *[see schedule 2 at page 1375]*. These important amendments give those in home education the chance to rectify any problems or possible breaches of registration requirements. There is a fear that if registration requirements under this new legislation are too onerous or restrictive, home educators will actually be driven underground and will not participate in the process, and if they have been told that their home education status has been cancelled they then might just disappear and be out of contact with the department.

These amendments try to fix that situation by providing that if there is a breach of registration then the parents or the home educators must be given the opportunity to rectify that problem before the registration is cancelled. It gives them the chance to fix a mistake rather than registration being flagrantly cancelled and having to start the entire process again.

MR PRATT (9.21): Mr Speaker, the opposition thinks that these are quite reasonable amendments and that additional time will allow for a better all-round decision to be made. Therefore, we will support the amendments.

MR CORNWELL (9.22): Mr Speaker, may I ask a question of Ms Dundas, please? In part (b) of proposed new clause 134 (3A), as set out in your amendment No 9, you say, "it is not otherwise in the public interest that the registration be cancelled". Could you explain the reasoning for that, please?

MS DUNDAS (9.22): To address the question raised by Mr Cornwell: the chief executive, if satisfied that the parents have demonstrated that there would be problems with the home education situation being shut down, will not cancel the registration. This is just a catch-all. If there are ongoing problems with the registration of the home educator but the children are still looking to receive education at home and the department is working with them to address registration problems, then it would not do anybody any good if midway through that rectification process the registration was cancelled.

If there is a public interest in terms of the welfare of those young people and work is being done by the department, then the chief executive must not cancel the registration until all the problems have reached the point where they cannot be addressed. Hopefully I have addressed the concerns of the member.

MS TUCKER (9.23): The Greens will support these amendments. Amendment No 8 gives the home educators a month rather than a fortnight to respond to any matters of concern raised by the chief executive. While a fortnight might seem a reasonable time to require a response, if you include possible postage and travel time, it is tight. While 30 days is generous, it is also reasonable.

Amendment No 9 structures into the deregistration process of home education a requirement for the chief executive to pull back from deregistration where the home educator can demonstrate that they have rectified the problem and that they will comply. Such an amendment still leaves the decision in the hands of the chief executive and, in that context, offers a fairly reasonable balance and an encouragement for improved practice.

Amendments agreed to.

Clause 134, as amended, agreed to.

Clause 135.

MS DUNDAS (9.24): I move amendment No 10 circulated in my name *[see schedule 2 at page 1375]*. This amendment, which relates to a certificate of registration for home education, is almost consequential to an amendment which the Assembly has already supported. We have already spoken about home education taking part from a home base as opposed to mainly in the home. In order to make the clause more consistent with the wording that we have already put into the legislation, we are seeking to include in the certificate of registration for home education the address of the home base in which the home education will be carried out.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.26): The government will be supporting Ms Dundas's amendment No 10. It is consequential and includes language used in an amendment which we have just agreed to. So, in light of that, I will not be moving my amendment No 8.

Amendment agreed to.

Clause 135, as amended, agreed to.

Clause 136.

MS TUCKER (9.26): I move amendment No 5 circulated in my name *[see schedule 4 at page 1382]*. This reduces the time required for home educators to reregister from six months ahead of expiry to three months. As one can register for the first time immediately rather than six months ahead of time, and given that when you apply to

reregister, you usually know what you are doing, then three months appears more than long enough. While it could be argued that the Christmas break makes three months too short a time for the department, we should remember that the timeframe is about putting in your paperwork. The department can and does take quite a lot longer to process it on occasions.

Amendment agreed to.

Clause 136, as amended, agreed to.

Clauses 137 and 138, by leave, taken together and agreed to.

Clauses 139 to 142, by leave, taken together.

MS TUCKER (9.28): I will be opposing these clauses.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.28): I am happy to speak here. The government, in light of some amendments made under, I think, section 135, is of the view that these clauses are no longer required. I will not be moving my amendment No 9 and we will be supporting Ms Tucker's opposition to clauses 139 to 142.

Clauses 139 to 142 negatived

Clauses 143 to 152, by leave, taken together and agreed to.

Clause 153.

MR PRATT (9.29): I seek leave to move amendments Nos 25 and 26 circulated in my name together.

Leave granted.

MR PRATT: I move amendments Nos 25 and 26 circulated in my name together *[see schedule 3 at page 1376]*. I would like to brief the house on both of my amendments 25 and 26 at the same time. These amendments allow the work of students or schools in both non-government and government school sectors to be recognised through assistance and rewards. This evens the playing field, so to speak, and allows children not to miss out on these advantages just because they do not attend a particular school or a particular sector.

MS TUCKER (9.30): Mr Pratt makes the point that there is no reason that the minister cannot give a prize or an award to students from a non-government school. On the other hand, it does not make sense for the minister to grant a bursary to a student from a non-government school. Given that the point is that the minister may grant such awards wherever she sees fit, I am inclined to support these amendments.

MR STEFANIAK (9.30): I think that not supporting Mr Pratt's amendments is probably going against the ACT's all new, all-singing, all-dancing Human Rights Act.

Amendments negatived.

Clause 153 agreed to.

Clauses 154 and 155, by leave, taken together and agreed to.

Proposed new clause 155A

MS GALLAGHER (9.32): I move amendment No 10 circulated in my name *[see schedule 1 at page 1371]*, which inserts a new clause 155A. The proposed government amendment is designed to minimise disadvantage to non-government schools that are already operating in the ACT and that have satisfied the notification period under section 22(1) of the Education Act 1937 for the commencement of additional educational levels. The amendment will provide that where a school is already operating and has provided notice of an intention to operate the school at an additional educational level prior to the date the Education Bill was presented to the Assembly on 27 November, they will be considered to have satisfied the notification period and criteria for in-principle approval until all the proposed educational levels have commenced operations. It does not apply to proposed education providers that are yet to commence operating in ACT schools.

Proposed new clause 155A agreed to.

Clauses 156 to 171, by leave, taken together and agreed to.

Proposed new clause 171A.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.34): I move amendment No 11 circulated in my name *[see schedule 1 at page 1371]*. This provides for the insertion of a transitional regulation making power which will facilitate the development of technical transitional arrangements between the current and new legislation to provide some flexibility to deal with unforeseen situations. This is now a standard provision in new ACT legislation. Similar provisions have been included in the Agents Act 2003 and the Charitable Collections Act 2003.

Proposed new clause 171A agreed to.

Clauses 172 to 176, by leave, taken together and agreed to.

Schedule 1 agreed to.

Schedule 2.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.35): I seek leave to move amendments Nos 12 to 19 circulated in my name together.

Leave granted.

MS GALLAGHER: I move amendments Nos 12 to 19 [*see schedule 1 at page 1371]* circulated in my name. These seven amendments make a range of amendments to

Schedule 2. Schedule 2 part 2(1) of the bill deals with consequential amendments to the Board of Senior Secondary Studies Act 1997. It contains criteria for approving specialist education providers. The bill provides for the Board of Senior Secondary Studies to approve education providers to provide a course for a young person enrolled in years 11 to 12 at a government or non-government school at a place other than the school.

It is proposed that the terminology and the consequential amendments in Schedule 2 part 2.1 be amended for consistency with the rest of the Board of Senior Secondary Studies Act 1997. I propose that the reference to "approving a person" be amended to "approving an entity", as that more accurately reflects the structure of special education providers.

On health and safety standards, I propose to amend the criteria for approval of specialist education providers in part 2.1 to read, "The provider will have premises and equipment that comply with any relevant Territory law about health and safety standards." This will make the provision consistent with the language used in relation to the powers of the chief executive to approve education providers for a child enrolled in other than years 11 and 12 at a government school section. The term "facility" more accurately reflects what is operated by the special education providers. That is it.

Amendments agreed to.

Schedule 2, as amended, agreed to.

Dictionary.

MR PRATT (9.37): Mr Speaker, I move amendment No 27 circulated in my name *[see schedule 3 at page 1376]*. This amendment rewords the definition of corporal punishment to adhere to my amendment No 1. Self-defence or protection is not included in the definition of corporal punishment. To finish on a high note tonight, again I would seek to stress here that a lot of education stakeholders who are concerned about teachers' welfare have indicated to us that teachers feel rather concerned about this issue of what constitutes action taken too far and seen as or defined as corporal punishment versus the appropriate restraining action that they may need to take to intervene in a fight between a couple of students, or more for that matter. So this is about the application of appropriate and reasonable physical force only to prevent physical injury to a person. If we do not have this in place we are going to cause teachers to lack confidence as to what action ought to be taken in difficult circumstances. One would not want to see injury occur because action was not taken in time. Unless we clean this up, that is the danger that we face in sorting this out.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (9.30): The government will not be supporting this amendment for the same reasons that we did not support Mr Pratt's amendment No 1. The suggested definition provides for two very different occurrences. Corporal punishment in its normal usage refers to a punishment and not to physical injury that results from self-defence.

Amendment negatived.

Dictionary agreed to.

Title agreed to.

Motion (by **Ms Dundas**) agreed to:

> That clause 36 be reconsidered.

Clause 36—reconsideration.

MS DUNDAS (9.41): Mr Speaker, I move amendment No 3 *[see schedule 2 at page 1375]* circulated in my name. In line with two amendments that we passed to make sure that students suspended for more than seven school days in a term in the Catholic systemic school and non-government school sectors get counselling, this amendment makes sure that students in government schools who are suspended for seven or more days are provided with the opportunity to attend appropriate counselling.

MR PRATT (9.41): Given that Ms Dundas has reopened the batting, I move my amendment to Ms Dundas's amendment No 3 *[see schedule 5 at page 1383]*. By this amendment, again, I seek to strengthen the principle that I think Ms Dundas is pushing. It is a reasonable principle but I think it needs strengthening. Perhaps we do not have to go through this same old argument with the Department of Education, but I do seek to see that where a school requires assistance with a student who has been away for seven days or more, that school and the department undertake to organise that appropriate counselling be undertaken.

Mr Pratt's amendment to **Ms Dundas's** amendment negatived.

Ms Dundas's amendment agreed to.

Clause 36, as amended, agreed to.

Clause 126.

MR SPEAKER: It has been drawn to my attention that we failed to agree to clause 126. I will now put the question that clause 126 be agreed to.

Clause 126 agreed to.

Bill, as amended, agreed to.

Justice and Community Safety Amendment Bill 2003 (No 2)

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

> That this bill be agreed to in principle.

MR STEFANIAK (9.44): The opposition will be supporting this particular amendment bill. It is about the ninth in a series of bills dealing with legislation within the justice and community safety portfolio. I think we might have had the first couple. It makes a number of amendments to portfolio legislation which were not deemed of sufficient note

to warrant additional bills. It makes some amendments in relation to the Agents Act and some changes for consistency with the Consumer and Trader Tribunal Act, which is good. It brings it into line with the scrutiny of bills committee's comments. The appeal period goes, I think, from 20 to 60 days, which makes it consistent with the Consumer and Trader Tribunal Act of 2003.

I am quite pleased to see amendments to the Consumer Credit Act. I think it is very important that people know exactly what they are going to be paying. Before that, you simply knew what the percentage rate was and not what the fees and charges were. It would set a percentage rate but there would still be fees and charges. Now that is all lumped in and, effectively, people will know—not only for longer term credit but also for short-term credit providers—exactly how much they will be up for, and that is a sensible amendment. So we have no dramas with that.

There are a number of other improvements. In the Cooperatives Act, some of the amendments actually follow normal legal practice and also show consistency with national code. There are some further amendments in relation to the Fair Trading Act that simply bring it into line now with the Criminal Code. Sections 180, 182 and 183 simply do not exist anymore. There are further sensible amendments made to the Magistrates Court Act, the Protection Orders Act and the Security Industry Act. Reviewable decisions will go to 60 days for consistency, so the opposition will be supporting it.

MS DUNDAS (9.47): I am also happy to support this piece of legislation. It does correct some minor problems with a number of acts. We are particularly glad to see the drafting error in the Agents Act has been corrected to retain the fault element for some offences. I have previously voiced concerns about the proliferation of strict liability offences in our statute book so it is good to see that personal responsibility is still seen as relevant in some circumstances.

The amendment to the Consumer Credit Act is unobjectionable although I am a little doubtful that the new requirement to notify borrowers of the real cost of their loans will make a difference to the number of loans granted by the high cost lenders that the government intends to target. When someone is desperate and a payday lender is the only one who will lend them the money, they will take the loan no matter how exorbitant the annual interest rate is. The Cooperatives Act 2002 and Cooperatives Regulations changes are fairly minor although I find it curious that the bill has needed more than one patch-up since its original passage. Of course I am happy with the new strict liability offences of failing to lodge changes of particulars of a foreign cooperative but I have trusted the claim put forward by the government that this offence and its ten-unit penalty are in line with other jurisdictions.

I would like however to comment on the fact that the government has seen fit today, on a day that we are debating this bill, to circulate amendments. This bill has been on the notice paper for a substantial amount of time. I believe it was tabled in November 2003. To have the government tabling amendments, or in any way circulating amendments, on the day that the bill is being debated, six months after the original bill was proposed, so that we do not actually have time to work through the amendments is quite ridiculous. In the time that I have had to consider them, I have seen that they are consequential amendments that are there to correct errors that came about because they were

introduced and debated in a different order than was originally anticipated. I have no difficulties with the amendments but they have arrived incredibly late. I hope that the government does not continue this process of taking the Assembly for granted. But, overall, I have no serious concerns with the bill and will be supporting it.

MS TUCKER (9.50): The Greens will be supporting this bill and the government amendments. It seems fairly clear that it is an omnibus bill that plugs the gaps in a number of areas. It corrects a drafting error in the Agents Act and amends the Consumer Credit Act to allow for future amendments to consumer credit regulations. It amends the Cooperatives Act so that the CEO can appoint the registrar and adds an offence where a body fails to lodge particulars. It amends the Cooperatives Regulations to specify the Commonwealth law under which a co-operative may become registered.

It removes sections of the Cooperatives Act made ineffective by the Criminal Code 2002 and corrects a technical error in the Magistrates Court Act. It amends the Protection Orders Act to remove the requirement for orders to be served personally on a respondent when an order is made on a respondent before the court. It removes any inconsistency between the Security Industry and Consumer and Trader Tribunal acts, and finally, by way of amendment, it amends the evidence amendment act to address some unintended consequences of the Sexuality Discrimination Legislation Amendment Act commencing prior to the evidence amendment act itself commencing.

The scrutiny committee raised a concern with having a strict liability offence that applies to a foreign co-operative operating in the act failing to lodge particulars with the registrar. I share the government's view that this information is essential, the penalties modest and the situation facing such a foreign co-operative fairly clear-cut.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.51): The Justice and Community Safety Legislation Amendment Bill 2003, which was introduced on 27 November, is the ninth in a series of bills dealing with legislation within the justice and community safety portfolio. The bill makes a number of substantive as well as technical amendments to the portfolio legislation. The amendments are, and I will summarise them briefly, as follows.

The Agents Act: the amendment removes an inadvertent reference to a strict liability offence from sections 86 and 87 of the act as both sections contain a fault element. It replaces an incorrect reference to the Agents Act 1959 with the correct year of 1968. It amends section 168 to ensure that the process for the review of a decision under the Agents Act accords with the requirements in the Consumer and Trader Tribunal Act.

The Consumer Credit Act, which has been commented on by other members: this amendment expands the regulation making power under the act to enable regulations to be made to require fees and charges under a short-term credit contract to be included in the calculation of interest rate. It inserts a new provision concerning disclosure requirements for short-term credit contracts which will provide greater transparency for consumers concerning the true cost of credit products.

The Consumer Credit Regulations: this is a consequential amendment required to reflect the renumbering of sections in the Consumer Credit Act. The Cooperatives Act amendment will provide the chief executive with the power to appoint a deputy or

assistant registrar as well as a registrar of cooperatives under the act. The Cooperative Regulations 2003 amendment provides that the Commonwealth Aboriginal Councils and Associations Act is a law under which a cooperative may be registered. The Fair Trading Act amendment removes subsection 41(5) of the Fair Trading Act, as the provisions of the subsection are now covered by the Criminal Code.

The Magistrates Court (Civil Jurisdiction) Act amendment clarifies the definition and operation of the debt declaration under the Magistrates Court (Civil Jurisdiction) Act and provides that an order can be made declaring that a specified amount is or is not due and owing by the applicant. The Protection Orders Act amendment will result in greater efficiency in the issuing of protection orders and provides that personal service may be dispensed with where the respondent is present in the court when a protection order is made, varied or revoked. The Security Industry Act amends section 37 to ensure that the process of review of a decision under the Security Industry Act accords with the requirements as set out in the Consumer and Trader Tribunal Act 2003. I foreshadow a government amendment to the bill. The proposed government amendment will amend the Evidence (Miscellaneous Provisions) Amendment Act 2003. I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

Proposed new part 6A.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.54): I move amendment No 1 *[see schedule 6 at page 1384]* circulated in my name which inserts a new part 6A. The government's amendment is to include a new part 6A in the bill, which is intended to amend the Evidence (Miscellaneous) Provisions Amendment Act 2003 to address the fact that the Sexuality Discrimination Legislation Amendment Act 2004 has commenced before the commencement of the Evidence (Miscellaneous) Provisions Amendment Act 2003 rather than after as was earlier anticipated.

Among other things the Sexuality Discrimination Legislation Amendment Act amended the Evidence (Miscellaneous) Provisions Act 1991 to include a new division 4.7—Family Objections. The effect of commencing the 2003 amendment act after the Sexuality Discrimination Legislation Amendment Act 2004 is that new division 4.7 of the Evidence (Miscellaneous) Provisions Act 1991 will be repealed and this was never an intended consequence.

Proposed new part 6A agreed to.

Bill, as a whole, as amended, agreed to.

Financial Management Amendment Bill 2004

Debate resumed from 4 March 2004, on motion by **Mr Quinlan**:

> That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (9.56): Mr Deputy Speaker, the opposition will be supporting this bill. Essentially this bill facilitates the preparation of the financial information by departments following the passage of an appropriation bill subsequent to the annual budget. It is important that we always seek to balance the need for appropriate responsibility, accountability and scrutiny related to financial matters against the requirements that may lead to unnecessarily detailed financial reports having to be prepared. If you have a casual look at the 258 pages that comprise Appropriation Bill 2003-04 (No 3) it shows just how detailed and complex documents dealing with financial matters can get. And that does not include either the presentation speech or the EM.

Mr Deputy Speaker, while the bill before us today does not deal directly with appropriations it does deal with the consequences of passing legislation to appropriate additional funds. So it is easy to imagine the amendments to departmental financial reports that are required once the Assembly has finalised its consideration of the latest appropriation bill. So it is essential that we, as elected members with the responsibility for ensuring proper use is made of public funds, are in the best position to exercise that responsibility.

One of the major dilemmas many of us face, and that many in the community face, is to comprehend the detail contained in the annual budget papers and then to relate that information that is set out in those papers to changes that might be made during the financial year. Allied to this type of analysis is the need for us to understand the way in which government departments and agencies have performed in managing their budgets during the year; so sometimes it can be quite difficult to reach reasonable judgments on performance because of the complexity of the information that is provided.

Mr Deputy Speaker, we believe that this bill achieves the outcome of balancing financial obligations against seeking efficiency in the use of public funds and, therefore, we will support the bill.

MS DUNDAS (9.57): Mr Deputy Speaker, the ACT Democrats will be supporting this bill put forward by the Treasurer today. The Financial Management Act is the primary legislative basis for financial accountability of the government to both the Assembly and the people of the territory. In particular, the act governs the methods by which the budget is prepared and amended.

The bill before us is a relatively simple piece of legislation that changes the way alterations to the budget are disclosed. The ACT government actually has very flexible abilities to alter the budget according to changes to financial circumstances. These include the ability to transfer small amounts both within and between appropriations, altering the budget to reflect transfers of responsibility between departments or changing the budget to reflect changes in Commonwealth/territory funding arrangements.

This bill seeks to treat the notification and amendment of the budget equally for all the different alterations in the FMA and bring them into line with the current reporting arrangements for transfers of functions between departments. It will allow a complete picture to be formed of the budget when a supplementary appropriation bill is tabled. It will allow a complete cross-comparison to be made when considering the budget for a full financial year.

The bill also seeks to delete the current provisions in section 16A(2) from the act altogether. These provisions actually list the amendments that are required to be made to the budget in response to an alteration to the budget. I have been informed through the Treasurer's office that these provisions are to be transferred to the financial management guidelines without any major alteration.

I understand the Treasurer's argument that this level of detail is more appropriate in the subordinate legislative instruments rather than having it in the act. However, I note the removal of these details from the legislation is being done on the understanding that they will be transferred in full to the financial management guidelines. We are not removing these clauses because we believe they should not exist, but we are removing them because we have been given an assurance that they will be simply relocated to a more appropriate place.

I also notice that section 16A was only introduced to the Financial Management Act by the Treasurer last year. Less than 10 months after the section commenced operating, the Treasurer presented a bill to remove it. I also would like the Assembly to know that this is the fifth Financial Management Amendment Bill we have been presented with by the Treasurer and we are awaiting the sixth that should be tabled later this year. This clearly reflects the piecemeal approach determining the financial procedures of government and doesn't appear to be based on a holistic approach to reform. The Assembly has seen this Financial Management Act amended on proposals from the Treasurer, on average, every six months, bit by bit, in a reactive and haphazard fashion.

This act is meant to be the bedrock of financial accountability of government. So it would be better for the government to adopt a more comprehensive approach to reform of the FMA and present the Assembly with a bill that actually works to reform the FMA in a very holistic way, as opposed to filtering out amendments as it sees fit.

As time now stands, it is unlikely that this Treasurer will be able to do this properly in the life of this Assembly, but I hope that whoever takes on the role of Treasurer in the next Assembly is able to see fit to look at how the Financial Management Act is being amended, and in a holistic approach.

This bill, however, is not unreasonable and the Democrats are happy to support it, but hopefully we won't have continual piecemeal reform to such an important part of the ACT's legislation.

MS TUCKER (10.01): This amendment bill ensures that all appropriation variations are reflected in amended budgets and financial statements. It is important that the annual financial statements and budgets for the territory are documents that are easy to understand and complement each other.

Consequently, we need to consider how appropriations are managed in terms of the budget reporting process. The changes proposed in this bill build on an amendment bill from May 2003 that permits the change in budgets when an administrative arrangement order occurs.

Today's amendment extends this to all appropriations so that the Treasurer must amend the budget for the department's financial year to show the effects of the variation and provision of funds. Clearly the government is still working out the best way to manage appropriations and reflect the effects on budgets.

I also note the requirement for the Treasurer to table a statement of amendments made to the Assembly within three sittings days. I also note that the over-prescriptive detail will be removed from the act and moved to the financial management guidelines. This sounds reasonable. I imagine that these guidelines will be presented to the Assembly in the near future in preparation for the budget process.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (10.03), in reply: I thank members, particularly the last three speakers who have actually explained, I think, what the bill is all about; it is purely mechanics. I thought for one magic moment that we were going to get through without a bit of gratuitous carping from the Democrats but no; you've restored my faith.

Let me say that, as far as piecemeal and haphazard go, the Treasury will continue to review the Financial Management Act. It got to be into the state that it was in because it was changed in a piecemeal and haphazard way, mainly by crossbenchers trying to keep the bastards honest. As I have said before in its place, it has been and will probably continue to be a soft target for those that would wish to make a little mark in the place. I think that the only sensible way to handle this is to make sure that we do continue to review that act and we do continue to improve it. If we fall by the wayside and we are not improving it, I am sure you'll let us know.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Spastic Centre

MRS BURKE (10.04): I would just like to bring to the attention of the house the good work that the Spastic Centre of the ACT is currently doing. I had the pleasure and honour of being an MC at the Spastic Centre Mini Models Competition Finals Fashion Parade on Saturday where some littlies from three years to 12 years of age modelled to raise well-needed and well-earned funds for the Spastic Centre.

There are so many great groups out in the community and from time to time it is worth remembering what each group does. I have printed off something from the Spastic Centre website about cerebral palsy and want to remind people that cerebral palsy is a disorder of movement control which results from damage to part of the brain. The term "cerebral palsy" is used when the problem has occurred to the developing brain, usually before birth. There are different types of cerebral palsy and the most common one is spastic cerebral palsy. Spasticity means stiffness or tightness of the muscles. The muscles are stiff because the message to the muscles is sent incorrectly through the damaged part of the brain.

I have said all that because part of the entertainment for the morning was one TJ James, a young guy whom I have known for quite some years and who started off adult life busking around the streets in Canberra. He suffers from cerebral palsy but does not let his disabilities stop him. In fact, on the website it says in the conclusion: "It is important to focus on what the person with cerebral palsy can do and the ways they can maximise their achievements. Their physical appearance may not indicate their intellectual or cognitive abilities." Anybody who has ever heard TJ James playing around the Canberra Centre, in Woden or at various venues around town will certainly know that he does not let his disability halt him.

We also have to say congratulations to the Legs Dance Academy and to Willy Wombat, who were also in attendance on the day. And, of course, these things never happen or come to fruition without the help of sponsors for the day: Victoria's Models and the Commonwealth Bank need to be given a big thankyou for their support. I do not know how much was raised on the day, but I just wanted to say that it was a great pleasure and honour to be involved in it. We need to keep in mind these issues and remember organisations like the Spastic Centre as often as we can in this place.

Mental health

MR SMYTH (Leader of the Opposition) (10.07): We had some mirth and merriment from those opposite today about the Liberals' mental health policy and its funding and I just want to read a paragraph from Mr Corbell's press release headed "Liberals can't pay for their mental health promises". If the opposition is going to query our maths, let us get to the heart of it. Mr Corbell's paragraph goes like this:

> We need to be realistic and that's why the Government has increased mental health funding by $3.4 million in the last two Budgets. This has increased per capita spending from the lowest in Australia when we came to office at $67 per head to $117 per head, which is on par with the national average.

There are about 330,000 Canberrans. If you divide $3.4 million in the last two budgets by 330,000 its about $10.24 per head; let us call it 10 bucks. So, if we start at $67 and it goes up by 10 bucks, according to Mr Corbell that jumps to $117. Clearly, one of these numbers is wrong. Perhaps Mr Corbell has inadvertently misled the house. He might like to come and correct whichever of these numbers is wrong. Was it 67? Did it go up by 10? Is it now 117? For the increase to have gone from 67, as is claimed, to 117—

MR SPEAKER: I think you should withdraw the reference to his having misled the house. You know how serious that is.

MR SMYTH: I withdraw the reference, Mr Speaker. If, as claimed, it has gone from $67 per head to $117 per head in the last two budgets, $117 minus $67 is about $50, and $50 times 330,000 Canberrans is about $16.5 million. So $3.4 million from $16.5 million leaves a missing $13.1 million. Perhaps Mr Corbell might like to come down and correct the record.

Canberra Deakin youth soccer team
Human rights

MR STEFANIAK (10.09): I rise on two points. Firstly, I rise to congratulate the Canberra Deakin youth soccer team. They were the only Canberra team in the national youth soccer competition and they were a particularly impressive team. I can recall their first win, which was during the Miss Croatia ball. And they have kept on winning. The way soccer is played, whichever team are on top at the end of the premiership round are the champions but they still play a final series. They could not actually lose their championship, even with a couple of games in hand. They then went on to win the northern championship, the grand final, by 4-2, with a crowd of about 2,000 people at McKellar oval. It was really quite spectacular and one of the best games of football I have seen for many a year. It was very skilful and they were a very impressive team. They then played the southern nationals. The national competition was divided in two—like a champion of championships round—and last week they won that one 2-1.

I would just like to extend to the Canberra Deakin youth team and everyone involved with them my congratulations for a particularly brilliant season. I certainly hope we see a few going around in the seniors in Canberra, but more likely I think they will probably be snapped up by major clubs around the country, and indeed overseas. Theirs was a particularly impressive performance. I would also like to pay tribute to their coach, Vid, who apparently has an excellent rapport with the players and brings out the best in them. I have met him on a few occasions and he is a very impressive man. I certainly wish him well in his quest for Australian citizenship. He has an Australian wife and I think he would be a wonderful addition to our country. I was happy to do whatever I could to support that.

On another issue, I note that Mr Stanhope put out a press release about his adventure in the UK in relation to human rights and about the various persons he met there who were very much in favour of them and said wonderful things about our own amazing all-singing, all-dancing bill. I would point out to him that that was not surprising given the persons he spoke to. They were all very much proponents of the UK Human Rights Act.

I also point out that I did some study into the UK act and I spoke to a number of Home Office officials in July 2002. I would have to say that not every one spoke of their act in glowing terms. Indeed, at least one particular problem had been identified then and that was in relation to a piece of legislation that the Commons had passed. I think it was a "two strikes and you're in" policy for very serious criminal offences. The judges were starting to interpret that in terms of the UK Human Rights Act and the European conventions to say that, if there were exceptional circumstances, the courts could go behind the very clear interpretation and intention of the House of Commons, which is completely against what the UK act was all about. So there was a bit of judicial activism there, which was causing problems and was adversely commented on by a number of persons involved in this act in the UK. So, whilst Mr Stanhope might have talked to a few persons in the UK who were very much in favour of their act—and one can see why; they were academics and practising lawyers who were involved in the field—I can certainly assure him that not all persons in the UK speak in glowing terms of it.

I am delighted Mr Stanhope got a chance to go in and see No 10—I have only ever driven past it—although I suppose going in there and talking to Cherie Blair was probably like going there in the 1980s and just finding Denis at home. Nevertheless, that must have been quite a highlight of the trip for him. But I do just want to point out that I have spoken to people in the UK who certainly do not feel the same way about the Human Rights Act as the persons he spoke to. The jury is certainly out on that act, and I think perhaps he should talk to a few other people.

Terrorist bombings in Madrid

MRS DUNNE (10.13): Mr Speaker, I rise to mark the tragedy that occurred in Madrid two Thursdays ago and to put on record the views of the Liberal opposition about this terrible event. It was indeed a shocking atrocity and something that all legislators and all people who value democracy should abhor.

As a Hispanophile, I was shaken by the events of the bombings of the Atocha railway station. I was also particularly shocked because I had recently been to those railway stations to see what went on there as I have a particular interest in public transport. But I was also moved, after that event, by the spirit of the Spanish people. I recall watching the news broadcast and the news magazine programs on the Sunday after the event and then discussing it with people afterwards. I do not think any of the people who saw the breathtaking footage of millions of people on the street in Madrid had a dry eye. It was a huge testimony of the spirit of the people of Spain.

I pay tribute to the people of Spain who have made Australia and Canberra their home and to the events organised by and on behalf of the Spanish community: the opening of a condolence book at the Spanish Club and on last Tuesday night a memorial mass in memory of those who died in Madrid. I would like to pay tribute to the people who participated in that event. It was a great bipartisan event. There were many federal parliamentarians there, including Minister Vale and Senators Ridgeway and Harradine, a large cross-section of the diplomatic corps, my colleagues Mr Smyth, Mr Pratt and Mrs Burke, as well as me and a large section of the Spanish community.

The thing about the mass that struck me, and which was echoed a number of times by Father Jones in his sermon and at the end of the service, was the spirit of thanksgiving for the support that the Canberra community had extended to the Spanish community in Canberra and through that to the wider Spanish community across the world who are grieving at this moment. I commend the Spanish community—and particularly Marissa Gonzales, who was the principal organiser of most of the Canberra events—and assure them that they are in our thoughts.

Statements by Chief Minister

MR CORNWELL (10.17): I seem to be standing here and making apologies for the Chief Minister all the time. But I do want to issue apologies to the Canberran of the Year function because once again, in my opinion, the Chief Minister devalued the function by again making his political speech on Iraq, the refugees and the sorry campaign. I do not know which I find most objectionable: his self-righteous attitude or his arrogance in claiming the moral high ground on these matters. Seriously, there is a time and place for these debates. I do not believe, however, that they should take place at citizenship ceremonies, nor functions to announce the Canberran of the year. If the Chief Minister has a view about these matters, I am sure this side of the house would be happy to debate him on the matters in this chamber. Much as we believe that international matters have no real place here in the ACT Assembly, I would be prepared to withdraw my opposition to international debates in this chamber if it would only prevent him from making these statements at inappropriate public functions.

Embassy of Afghanistan
Education

MR PRATT (10.18): Mr Speaker, I have two points that I want to take this opportunity to raise. One is that tomorrow in Canberra there will be the laying of the foundation stone for the new Embassy of Afghanistan. I do not know that we will be able to go to that, because of tomorrow's routine. But, wearing my shadow multicultural hat, in case we cannot get away from here I wish Ambassador Saikal and the community all the best in the establishment of that embassy. Australia is in close co-operation with Afghanistan, providing whatever support we can, and I do hope we can provide a lot more support in the growth of their fledgling democracy. That is the first point.

The second point is that, following on from today's debate, I have a little anecdote that I would like to bring forward. As I was out doorknocking on Thursday afternoon in one of the suburbs in my area of responsibility, in an average side street I came across a young lady and two primary school children in a refurbished guvvy type house, with two fairly basic cars out the front. They were not a particularly well-off family, but certainly the house reflected their pride and their standards and they had been creative in the way they had organised it. They were very close to a large, well-known primary school. I do not want to mention it because it is a primary school that I happen to know is a good one. I like this particular school and they do a lot of good work there.

I was a bit disappointed when she said to me, "No, even though we live 200 metres from this school, we don't go there. I put my kids in the car and go up the hill to another

school." I asked, "Why do you do that?" And she replied, "Well, values. I take my kids to that school because I know that school concentrates on values. When my kids leave me at 9 o'clock in the morning, I have faith that the teachers will continue with what my husband and I are trying to instil in these kids." That reflects an issue that we have discussed and debated here quite often. It is such an important issue and one that comes up regularly out in the field, so to speak. There is a gap that is there to be plugged, and I would always ask the government to take that on board. I thought that was an interesting experience in the field.

Question resolved in the affirmative.

The Assembly adjourned at 10.21 pm.

Schedules of amendments

Schedule 1

Education Bill 2003

Amendments moved by the Minister for Education, Youth and Family Services

1
Clause 2
Page 2, line 5—

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 7 (2) (a)
Page 4, line 9—

omit

school education provides

substitute

school education and home education provide

3
Clause 7 (2) (b)
Page 4, line 11—

after

school education

insert

and home education

4
Clause 30 (1)
Page 18, line 3—

after

schools

insert

(other than in years 11 and 12)

5
Proposed new clause 85 (3A) and (3B)
Page 56, line 16—

insert

(3A) The chief executive must publish notice of the making of the application in a daily newspaper printed and published in the ACT.

(3B) The chief executive must make a copy of the application for provisional registration available for inspection by members of the public at the chief executive's office during ordinary business hours.

6
Proposed new clause 97A
Page 68, line 12—

insert

97A Inspection of panel reports for school registration etc

(1) This section applies to a report to the Minister by a panel under any of the following provisions:

(a) section 86 (Provisional registration);

(b) section 88 (Registration);

(c) section 90 (Registration at additional educational levels);

(d) section 97 (Renewal of registration).

(2) A person may, without charge, inspect a copy of the report during ordinary business hours at the office of the chief executive.

(3) A person may, on payment of the reasonable copying costs, obtain a copy of all or part of the report.

7
Clause 125 (1)
Page 86, line 23—

omit clause 125 (1), substitute

(1) A person may, without charge, inspect the register of non-government schools during ordinary business hours at the office of the chief executive.

10
Proposed new clause 155A
Page 102, line 11—

insert

155A Notices of intention under former education Act to conduct schools at additional educational levels

(1) This section applies in relation to a school if—

(a) before 27 November 2003, a person gave the registrar a notice of intention under the former education Act, section 22 (1) (Provisional registration) in relation to the school; and

(b) the notice related to the conduct of the school at an additional educational level; and

(c) the school was registered under the former education Act, section 23 immediately before the commencement of this section.

(2) For section 89 (1) (a), the proprietor of the school is taken to have in-principle approval under section 84 to apply to operate the school at the additional educational level.

(3) For section 89 (1) (c), and despite section 84 (7), the in-principle approval is taken to lapse on 31 December 2014.

(4) In this section:

former education Act means the *Education Act 1937* (repealed).

registrar—see the former education Act, section 5.

(5) This section expires on 1 January 2015.

11
Proposed new clause 171A
Page 110, line 2—

insert

171A Modification of ch 7's operation

The regulations may modify the operation of this chapter to make provision in relation to any matter that, in the Executive's opinion, is not, or is not adequately, dealt with in this chapter.

12

Schedule 2
Amendment 2.1
Proposed new division 3.3 heading
Page 115, line 7—

omit proposed new division 3.3 heading, substitute

Division 3.3 Specialist education providers

13

Schedule 2
Amendment 2.1
Proposed new section 27A
Page 115, line 8—

omit proposed new section 27A, substitute

27A Approved specialist education providers

(1) The board may approve specialist education providers for this Act.

(2) The board must keep an up-to-date list of approved specialist education providers.

14
Schedule 2
Amendment 2.1
Proposed new section 27B
Page 115, line 13—

omit

The board may approve a person as an education provider

substitute

The board may approve an entity as a specialist education provider

15

Schedule 2
Amendment 2.1
Proposed new section 27B (a)
Page 115, line 15—

omit proposed new section 27B (a), substitute

(a) the provider will have premises and equipment that comply with any relevant Territory laws about health and safety standards;

16

Schedule 2
Amendment 2.1
Proposed new section 27B (d)
Page 115, line 21—

omit

institution

substitute

facility

17

Schedule 2
Amendment 2.1
Proposed new section 27C
Page 116, line 1—

omit proposed new section 27C, substitute

27C Suspension of approval

The board may suspend the approval of a specialist education provider if the board is no longer satisfied, on reasonable grounds, that the provider meets the approved criteria under section 27B.

18
Schedule 2
Amendment 2.1
Proposed new section 27D
Page 116, line 6—

omit

an education provider

substitute

a specialist education provider

19
Schedule 2
Amendment 2.1
Proposed new section 27E (1)
Page 116, line 10—

omit proposed new section 27E (1), substitute

(1) The board must give written notice—

(a) for a decision refusing to approve an application for approval as a specialist education provider under section 27A—to the applicant; and

(b) for a decision suspending or cancelling an approval of a specialist education provider under section 27C or section 27D—to the provider.

Schedule 2

Education Bill 2003

Amendments moved by Ms Dundas

1

Clause 7 (1)
Page 4, line 4—

omit

as far as practicable

2
Clause 18 (d) (vi)
Page 11, line 20—

omit clause 18 (d) (vi), substitute

(vi) preparing students to be independent and effective local and global citizens; and

3
Proposed new clause 36 (8A)
Page 24, line 7—

insert

(8A) If the child is suspended for 7 or more school days in a school term (whether or not consecutive school days), the chief executive must ensure that the child is given a reasonable opportunity to attend appropriate counselling.

4
Proposed new clause 75 (c) (va)
Page 50, line 20—

insert

(va) each school being accountable to the school's community; and

5
Proposed new clause 103 (8A)
Page 74, line 16—

insert

(8A) If the child is suspended for 7 or more school days in a school term (whether or not consecutive school days), the director must ensure that the child is given a reasonable opportunity to attend appropriate counselling.

6
Proposed new clause 104 (7A)
Page 77, line 6—

insert

(7A) If the child is suspended for 7 or more school days in a school term (whether or not consecutive school days), the principal must ensure that the child is given a reasonable opportunity to attend appropriate counselling.

7
Clause 128, definition of home education
Page 89, line 5—

omit

mainly in the child's home

substitute

from a home base

8
Clause 134 (2) (c)
Page 91, line 14—

omit

14 days

substitute

30 days

9
Proposed new clause 134 (3A)
Page 91, line 19—

insert

(3A) However, the chief executive must not cancel the registration if satisfied that—

(a) the parents have demonstrated that the contravention has been rectified and that they will comply with the conditions of the registration; and

(b) it is not otherwise in the public interest that the registration be cancelled.

10
Clause 135 (c)
Page 92, line 5—

omit clause 135 (c), substitute

(c) the address of the home base from which the home education will be carried out; and

---

Schedule 3

Education Bill 2003

Amendments moved by Mr Pratt

1
Clause 7 (4), proposed new note
Page 5, line 20—

insert

Note *Corporal punishment does not include the application of appropriate and reasonable physical force only to prevent physical injury to a person (see dict, def* ***corporal punishment****).*

2
Proposed new clause 18 (ba)
Page 11, line 7—

insert

(ba) government schools provide a safe learning environment for students;

3
Proposed new clause 18 (d) (iiia)
Page 11, line 17—

insert

(iiia) assisting parents in the character development of all students, including in relation to values and respect for and tolerance of others; and

4
Proposed new clause 21 (1A)
Page 14, line 3—

insert

(1A) In particular, the chief executive must ensure that—

(a) every effort is taken to create safe teaching conditions in all government schools; and

(b) each principal of a government school has a bursar and deputy principal to assist them in adequately supervising teachers and providing an efficient teaching and learning environment.

5
Proposed new clause 21 (4) (ba)
Page 14, line 11—

insert

(ba) contributing to the character development of all students; and

6
Proposed new clauses 21 (6), 21A, 21B and 21C
Page 14, line 19—

insert

(6) The resources mentioned in subsection (1A) (b) are to be paid out of public money appropriated by the Legislative Assembly.

21A Obligations of principals and teachers

Principals and teachers must deliver to students, parents and the community—

(a) professional behaviour, including being a responsible role model for students; and

(b) assistance in the character development of all students, including in relation to values and respect for and tolerance of others; and

(c) the successful completion of annual personal and professional development programs; and

(d) assistance in the pastoral care of students, where appropriate and possible; and

(e) a neutral political position in all aspects of their professional behaviour.

21B Delegation of staff recruitment etc to principals

(1) This section applies if the school board of a government school approves the delegation of the prescribed staffing powers in relation to the school and school staff to the school's principal.

(2) The chief executive must delegate the prescribed staffing powers to the principal.

(3) In this section:

prescribed staffing powers means the power to recruit and dismiss staff.

21C Development and appraisal of teachers

(1) The chief executive must ensure that—

(a) each principal and teacher employed at a government school—

(i) is given the opportunity to undertake personal and professional development programs each year; and

(ii) undertakes at least 1 personal development program and 1 professional development program each year; and

(b) a program for the career progression of teachers is developed and implemented and that the program is reviewed yearly.

(2) The chief executive must also ensure that a mentoring program is established for the following teachers employed at a government school:

(a) a teacher who is in his or her 1st year of employment as a teacher;

(b) a teacher who is employed after an extended break from teaching.

(3) The mentoring is to be given by senior teachers.

(4) Further, the chief executive must establish a comprehensive annual performance assessment and feedback system for principals and teachers of government schools.

(5) The cost of operating the programs mentioned in this section is to be paid out of public money appropriated by the Legislative Assembly.

7
Clause 22 (3)
Page 15, line 3—

omit

complaints investigated

substitute

complaints received and the number investigated

8
Clause 24 (1) (a)
Page 15, line 11—

omit

5 years

substitute

4 years

9
Clause 24 (2) (c)
Page 15, line 16—

omit clause 24 (2) (c), substitute

(c) the students at the school; and

(d) the local community served by the school, including local community bodies, entities that provide local community services and the police.

10
Clause 24 (3) (c)
Page 15, line 21—

omit clause 24 (3) (c), substitute

(c) the students at the school; and

(d) the members of the Legislative Assembly.

11
Clause 28 (2)
Page 17, line 9—

omit

may

substitute

must

12
Proposed new clause 30A
Page 18, line 5—

insert

30A Special class arrangements

(1) A government school may, either generally or for a particular educational level, teach the subjects of English, mathematics or science separately to female students and male students.

(2) A government school may, either generally or for a particular educational level or subject, give disadvantaged and gifted students additional educational programs.

(3) However, a government school may take any action mentioned in subsection (1) or (2) only if the chief executive, the school's principal and school board and the parents of the affected students agree to the action being taken.

(4) In this section:

disadvantaged student means a student who the principal believes on reasonable grounds is, because of the student's attitude, behaviour or background, likely to end his or her school education early.

13
Proposed new clause 36A
Page 24, line 12—

insert

36A Offences to be reported to police

The chief executive must report to the police, and any other authorities that the chief executive considers appropriate, any criminal acts and other contraventions of the law by a student or staff member at a government school.

14
Proposed new clause 75 (ba)
Page 50, line 12—

insert

(ba) non-government schools provide a safe learning environment for students;

15
Proposed new clause 75 (c) (ia)
Page 50, line 15—

insert

(ia) assisting parents in the character development of all students, including in relation to values and respect for and tolerance of others; and

16
Clause 75 (c) (iv)
Page 50, line 18—

omit clause 75 (c) (iv), substitute

(iv) teacher, parent and student participation in all aspects of school education, consistent with each school's founding principles and ethos; and

17
Proposed new clause 76A
Page 51, line 7—

insert

76A Financial and other assistance

(1) The Minister may provide financial or other assistance, or both, in relation to children attending non-government schools.

(2) Any financial assistance provided under this section to non-government schools by way of per capita grants is to be calculated so that the average per capita grant for

children attending such schools is 25% of the average per capita cost to the Territory of educating children at government schools (as assessed by the Minister).

(3) Any financial assistance under this section is to be paid out of public money appropriated by the Legislative Assembly.

18
Clause 80 (1)
Page 52, line 5—

omit

information about the school's educational programs and policies, and the operation of the school

substitute

appropriate information about the operation of the school and its educational programs

19
Clause 80 (2)
Page 52, line 7—

omit

20
Proposed new clause 83 (1A)
Page 53, line 23—

insert

(1A) However, a person is not taken to intend to make an application under section 85 or section 89 only because the person seeks registrations of interest from the community for a proposed school or the provision of an additional educational level by a school.

21
Clause 108 (1) (c)
Page 79, line 6—

omit

6

substitute

7

22
Proposed new clause 108 (2) (aa)
Page 79, line 8—

before clause 108 (2) (a), insert

(aa) 1 education member chosen from nominations of the organisation representing ACT independent schools; and

23
Proposed new clause 121 (2)
Page 85, line 4—

insert

(2) However, the authorised person must, before entering the school—

(a) give the school's principal reasonable notice of the proposed entry to the school; and

(b) tell the principal the reason for the proposed entry to the school.

24
Proposed new clause 126A
Page 87, line 5—

insert

126A Non-government schools liaison officer

The chief executive must arrange for a person in the administrative unit under the chief executive's control to exercise the functions of a liaison officer for non-government schools.

25
Clause 153 (1) (a)
Page 100, line 16—

omit clause 153 (1) (a), substitute

(a) the benefit of a student at a school, college or university in the ACT; or

26
Clause 153 (1) (b)
Page 100, line 18—

omit clause 153 (1) (b), substitute

(b) the benefit of a school, college or university in the ACT; or

27
Dictionary, definition of corporal punishment
Page 122, line 7—

omit the definition, substitute

corporal punishment means physical force applied to punish or correct (including any action taken to punish or correct that is designed or likely to cause physical pain or discomfort), but does not include the application of appropriate and reasonable physical force only to prevent physical injury to a person.

Schedule 4

Education Bill 2003

Amendments moved by Ms Tucker

1
Proposed new clause 7 (2) (b) (iiia)
Page 4, line 18—

insert

(iiia) promote respect for and tolerance of others; and

2
Clause 20 (5) (b)
Page 13, line 23—

after

consulted

insert

during a period of at least 6 months

3
Proposed new clause 24 (1A)
Page 15, line 12—

insert

(1A) The chief executive must ensure that a review seeks the input of the local community served by the school.

4
Proposed new clause 131 (c)
Page 90, line 15—

insert

(c) the parents of the child must make available for inspection on request by the chief executive any education programs, materials or other records used for the home education.

5
Clause 136 (4), definition of *prescribed period*, paragraph (a)
Page 92, line 21—

Omit

6 months

substitute

3 months

Schedule 5

Education Bill 2003

Amendments moved by Mr Pratt to Ms Dundas' proposed amendments

1
Proposed new clause 36 (8A)
Page 24, line 7—

omit all after "the child is"

substitute

"to undertake appropriate counselling, as organised by the Department of Education"

2
Proposed new clause 103 (8A)
Page 74, line 16—

omit all after "the child is"

substitute

"to undertake appropriate counselling, as organised by the Department of Education"

3
Proposed new clause 104 (7A)
Page 77, line 6—

omit all after "the child is"

substitute

"to undertake appropriate counselling, as organised by the Department of Education"

Schedule 6

Justice and Community Safety Amendment Bill 2003 (No 2)

Amendment moved by the Attorney-General

1
Proposed new part 6A
Page 11, line 12—

insert

Part 6A Evidence (Miscellaneous Provisions) Amendment Act 2003

19A Section 4 heading

substitute

4 Part 4 heading

19B New section 5 etc

in section 4, before proposed new division 4.1 heading, insert

5 Section 35

omit

6 New divisions 4.1 to 4.6

insert

19C New section 7 heading etc

in section 4, before proposed new part 5 heading, insert

7 New part 5 and dictionary

insert