DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

22 JUNE

2004

Tuesday, 22 June 2004

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

Privilege
Statement by Speaker

MR SPEAKER: Members, on 27 May 2004 Mrs Burke gave written notice of a possible breach of privilege concerning the lack of an answer to a question on notice by the Minister for Planning. Mrs Burke believed that, by refusing to answer the question, the minister was holding the Assembly in contempt and that this was therefore a matter of privilege. I present a copy of Mrs Burke's letter for the information of members.

Under the provisions of standing order 71 I must determine, as soon as practicable, whether or not the matter merits precedence over other business. If, in my opinion, the matter does merit precedence I must inform the Assembly of the decision and the member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee appointed by the Assembly for that purpose.

If, in my opinion, the matter does not merit precedence I must inform the member in writing and may also inform the Assembly of the decision. I am not required to judge whether there has been a breach of privilege or a contempt of the Assembly; I can only judge whether the matter merits precedence. I have considered the matter and have concluded that the matter does not merit precedence. I wrote to Mrs Burke on 3 June 2004 informing her of my decision.

Estimates 2004-2005—Select Committee
Report

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

> That order of the day No. 1, Assembly business, relating to the Select Committee on Estimates 2004-2005 — Presentation of report, pursuant to order of the Assembly of 1 April 2004, be postponed until a later hour this day.

Community Services and Social Equity—Standing Committee
Report 6

MR HARGREAVES (10.33): I present report 6 of the Standing Committee on Community Services and Social Equity entitled *The Forgotten Victims of Crime, Families of Offenders and The Silent Sentence*. I move:

> That the report be noted.

The restorative justice model of addressing antisocial behaviour is the model currently endorsed around the world. This model replaces two other models. The first is the

warehousing model of corrections. This is where society sent an offender to prison to take them out of society altogether. All too often the societal view was that prisoners were sent to prison for punishment and not as punishment.

The rehabilitative model recognised that the deprivation of liberty was the punishment; that there was no need for additional punishment and that the accent was on rehabilitating the offender so that he or she would not reoffend. This model ceased its application once the rehabilitated prisoner left the prison gates. Unfortunately, because the model did not address the holistic environment of the prisoner, recidivism was not affected. The result is that about 60 per cent of prisoners—more in some parts of the country—come back into the system. The restorative justice model has three prongs. The first is the rehabilitation of the offender in a corrective services institution; the second is the restoration of the rehabilitated offender back into the community; and the third is the restoration of the community for the damage done to it from the crime.

We often forget that the family unit is an integral part of any community. Our attention to the restoration of the community must involve the restoration of the offender's family as part of that community restoration. Only too often society pays attention to the rehabilitation of the offender through behavioural change programs within a corrective services institution and through such organisations as prisoners aid. It pays attention to the rehabilitation of the victim, through the courts, by participation in sentencing options, through victims of crime assistance schemes and through voluntary organisations such as the Victims of Crime Assistance League, or VOCAL.

In some instances society addresses the injured community by having offenders do some type of community service such as working in the community, either as part of a prison program, as a probation condition or as a community service order. However, little attention is paid to the plight of families affected by the incarceration of one of their members. It is often the case that an offender's family is the last to know about a crime committed by the offender. That is very often the case with white collar crime, paedophilia and cyber crime.

Families in Australia's non-indigenous communities usually include the partner, children and parents of the offender, but can include the cousins, aunts, uncles and grandparents. But for indigenous people the meaning of "family" has a much wider definition. For the immediate family an incarceration can mean dire consequences—from destitution, horrendous feelings of shame and stigmatisation and bullying of children at school to feelings of grief and loss.

Within the ACT, as with other jurisdictions, there are some support services for these families, but nothing really cohesively presented to the families. It is difficult for people to find their way around the myriad processes and procedures in the courts and prisons. The despair people feel is enhanced by this confusion. There are few services to assist a person dealing with psychological pain, to assist a parent in explaining to a child what has happened, or to just listen to the outpouring of confusion and grief.

The Legislative Assembly's Standing Committee on Community Services and Social Equity has provided a report addressing this issue and suggesting ways the ACT community can assist these silent and forgotten victims of crime. The report, covering 42

recommendations, has brought together evidence from people in the support agencies, families of offenders and experiences from interstate—both positive and negative.

In Western Australia the government funds a non-government agency, Outcare, to provide family specific programs adjacent to but not part of six of its prisons. This service is the first port of call a visitor can make when visiting a prisoner. It also provides ongoing support to the families and to the kids in particular, to ensure that the family unit is kept intact and is as healthy a unit as possible.

I digress briefly. When somebody visits a prisoner for the first time it is a pretty horrendous experience, as you may imagine. One of the ladies we spoke to said that, when she came out from the first visit, all she wanted to do was sit down and cry. The facility just outside the prison provided the opportunity for that lady to sit down and cry, have a cup of tea, regather her dignity and move on. When she came the next time she was a little bit stronger for the experience.

Imagine, if you will, a person leaving the Goulburn visitors centre. It is cold inside and there is nothing outside. My heart goes out to those women—and they are predominantly women. In South Australia children can stay with their mothers inside, up to a certain age. This is because it is judged to be in the interests of the child. Significantly, the South Australian government feels that the best interests of the child should transcend the need for the community to punish an offender.

There is an opportunity for the ACT to bring together experiences like those in Western Australia and South Australia, to identify shortcomings in our own attitudes and services, and develop a holistic support system to assist these victims. What is needed is an attitudinal change by the community to include these families, rather than excluding them. The community needs to develop a show bag of services to assist the families and the community needs to fully embrace the principles of restorative justice; the community needs to abandon the concept of warehousing prisoners and exacting revenge on offenders' families.

I digress a little further. It is just not so that criminals come from criminal families in every case, but that is the community's attitude and that is what we must attack. Some of the changes can happen overnight and some will require generational change. The report suggests some changes immediately, such as the development of the Outcare model as in Western Australia, the development of CD based information for children of offenders, the provision of better assisted transport to prisons in New South Wales such as Goulburn and Junee, more family-friendly visit facilities at Belconnen Remand Centre and Quamby, and a folding into the development of policies for the new prison services which assist the families.

The community attitude towards the families of offenders can only be changed when informed discussion takes place. The report seeks to start the public debate on this serious issue. It is essential to understand that the focus is on the families, not on the prisoners. Society currently addresses many of the issues around support services for victims, such as the victims of crime assistance scheme. It addresses many of the issues around rehabilitation of the prisoner but it does not address any of the problems families encounter.

Think of the woman whose partner is arrested by police for crimes of misbehaviour with children. How confused must she be? How emotionally destroyed must she be? How can she tell the children? How does she put food on the table if he is the breadwinner? How does she pay the rent? When the media expose the name of the offender, how do the children cope at school? Who will help that family? Who will make sure that the family does not disintegrate?

When the offender has completed his sentence, who prepares the partner for the emotional and physical issues around the re-establishment of a domestic relationship? Who prepares a young child for the re-entry of a parent into the household? In some cases a child has matured into a young adult during the period of incarceration and the emotional upheaval is immense. Society needs a cultural change; it needs an attitudinal change. Now is the time for the ACT to lead the country; now is the time to lead attitudinal change. We must act now because the need is now and will only increase when our prison comes online.

I have not tabled extracts of the minutes for this report, as this is the first report of two for this inquiry. When the second report is tabled—and it will address issues surrounding Quamby—that will conclude this inquiry and the extracts of minutes will then be tabled. I commend the report to the Assembly.

MS DUNDAS (10.43): I rise to thank members of the community for participating in this investigation, members of the Assembly and, of course, the chair for his participation in looking at this issue. I believe we have put forward a report that should not be seen as groundbreaking in what we are discussing, but it is groundbreaking in the fact that this is something that is rarely discussed.

We are looking at the families of offenders and what they experience when part of their family goes through the criminal justice system. We often focus on what happens to prisoners and the people who are arrested; and we often focus on what happens to the victims of crime; but families are often left out of the loop. This report brings forward that discussion. I hope it generates debate and movement so we do support the families who, on their own, have committed no crime yet are punished by this society, by the community, and forced to live in quite difficult situations.

The committee, as the chair has detailed, went into a lot of detail in focusing on what is happening currently in the ACT, the support that is available, if any, and also what is happening around Australia. As the chair has done, I commend this report to the Assembly in looking at the Outcare model in Western Australia and how we could possibly use that model here in the ACT to establish a specific support service to help families in their time of most need, when one of their own is incarcerated.

Besides the Outcare model and how it would work if a prison is established in the ACT, this report goes into a great deal of detail about recommendations and things that need to be done now. We have prisoners today who have been taken away from families in the ACT. They are residing at the Belconnen Remand Centre, at Symonston, in Quamby and in jails throughout New South Wales. Their families and children remain here in the ACT and they need support. This is the core of the report.

I urge the government to pick up the recommendations in the report and implement them as soon as they possibly can so that these children and families do not have to suffer any more. There are some very simple processes that can be changed in relation to what happens when families visit at the remand centre, or at Symonston.

I draw members' attention to the discussions on pages 81 to 82 about the strip searching of visitors. When somebody goes in to visit a family member, if they are suspected of having drugs they are strip searched. Children can be strip searched. This is a very traumatic thing for a family or child to go through. They have done nothing wrong. A study has shown that in Western Australia most strip searches found no contraband. The strip searches did not provide what the people who were conducting them thought they would provide.

There is another way to deal with this. Through strip searches they are trying to address the problem of the entrance of drugs into the prison system and the delivery of contraband services to prisoners, but that does not mean that the family should be punished if something is going wrong.

The prisoners are already incarcerated; they are being held because they have committed a crime. Prison wardens and the justice system have control over these people. They can search them after the visit is over and remove any contraband at that point. We do not have to punish the families; we do not have to deny these visits; we do not have to put children through incredibly traumatic situations.

We have found in other studies, and through this study, that children pick up behaviour quite quickly. If an attitude is foist upon them that they are below society, that they are undertaking criminal activity because their parents have undertaken criminal activity, then they will learn that behaviour. We need to help break the cycle of crime. That means not treating the families of people involved in crime as criminals.

One of the major things we touch on in this report is how we support children when a primary caregiver or parent is incarcerated. At the moment, it is not standard practice when the police arrest somebody—or for the courts—to ask whether or not they have children and, if so, how those children will be cared for. That is a major failing. We should be asking automatically, "If we are going to deny your liberty, who is this going to impact on? What support services need to be in place so your children are fed tonight?" Those are basic questions which need to be asked.

I commend recommendation 17 to members and urge them to read through the discussion there, so that we are supporting children, ensuring that their lives remain as stable as possible and that they get support when a primary caregiver is incarcerated. I also draw members' attention to chapter 10, where we look at some big-picture issues. Here we put forward some discussion about why people are being incarcerated in the first place.

Why are mothers, fathers, brothers and sisters being taken away? What are we doing with our diversionary programs? What are we doing with our non-custodial sentencing options? How are we helping offenders who need substance abuse detox and rehabilitation to achieve that so they can get out of the cycle of criminal behaviour?

These issues are just as important because they, more than anything, will keep families together—if we can help prevent crime being committed in the first place.

The report is a very worthy one. As I said, it brings forth the discussion that needs to be had—a discussion that has been too silent in past years about what happens to families when somebody commits a crime. While we talk a lot about families and children in this report, the support they can access and how they need to access that support, I also urge the government to consider those situations where the crime has meant that the family no longer wishes to see that person. We still have a family in crisis. We still have a family who may be without their main money earner. They may not be able or willing to access services that are annexed to the prison, or services provided specifically for families working to support prisoners.

There needs to be understanding and support available for all the different options. Each family situation is going to be different and we need a very broad and flexible approach to ensure that those who need support are able to access that support—and that that support is there in a very accessible and cohesive way.

I look forward to the next part of this report which will have greater focus on Quamby. There is some discussion in this report about Quamby, and there is work to be done on all of those issues. I commend this report to the Assembly and to the government. I impress upon the government, yet again, that there are some things in this report that can happen now; that we do not have to wait for the designing and building of a prison in the ACT. We need to be looking after the families of prisoners in the territory today.

MRS CROSS (10.52): I echo the sentiments of my committee colleagues, Mr Hargreaves and Ms Dundas. One of the things I have noticed, after being in this role for the past two and a half years, is that my opinions on restorative justice have changed. The more I have heard of what goes on in the system and the adverse effects on the families of those who have been incarcerated, the greater understanding it has brought to me—and that is the basis of the content of this report.

I think it is important that, when we give people responsibility, there is accountability to the community. I think it is also important that we educate the community on the stigma that is enforced on the children, wives and husbands of those who are incarcerated and the difficulties they experience when their loved ones are incarcerated.

I think most of the other areas of this report have been covered. We have an extensive program on the agenda today. I would like to thank the secretary of our committee, Jane Carmody, for the excellent work she has done in putting this report together. It is not easy for Jane to have to deal with four very strong personalities with four very distinct opinions. I think she does that in a very eloquent and diplomatic fashion. I commend the report to the Assembly and I seriously hope the government takes on the committee's recommendations.

MR CORNWELL (10.54): As the fourth member of the committee, I would like to remind Assembly members that this is not only a comprehensive report, it is also a unanimous one. I believe it puts forward, in 42 recommendations, some very practical approaches to this difficulty about the families of offenders. I also think it is a very fair report. We are not suggesting that people who are in prison should not be there but we

are saying that, if we are going to have fairness in our justice system, then we should not also punish the families and relatives of the people who the law has decided need to be locked up for a period of time.

I think that is an eminently sensible and fair way to address this problem. I believe we have identified a number of problem areas. I refer to the difficulties we found during our visits to various prisons around the country, such as the difficulty of transport for people visiting prisons. Many prisons these days are not located in large cities and, if they are in large cities, they are generally on the outskirts. This can create a massive problem for people who wish to visit their relatives and their loved ones. Therefore it is necessary that some form of public transport be provided.

It is it not just a matter of looking at our ACT prison. We must also remember that there are prisons in the surrounding area where it is possible that some of our ACT people are incarcerated. That is certainly the situation at the moment. Prisoners can be in, say, Junee, Cooma or even Goulburn. The question of some form of public transport being made available should be addressed now. We do not necessarily need a bus running every half hour, but we do need some form of transport to allow people to attend the prisons during visiting hours.

The question of children in prisons may seem fairly radical. We had the experience in Western Australia of talking with a young mother who had her child with her. I do not know if that was in a low security prison—perhaps the woman was in for a white-collar crime—and it was not important. The fact is that I cannot see anything wrong with having a child, of pre-school age probably, with their mother. That would be beneficial to all concerned—not only the child, but also for the peace of mind of the mother—and I am sure it would do a good deal towards the mother's rehabilitation.

We have made a few other perhaps groundbreaking recommendations. One of them was that we do not strip search visitors to prisons. At 7.44 we refer to the experience in Western Australia of the strip searching of visitors. Over a nine-month period in 2002, as a result of 77 strip searches and 26 searches using drug dogs, conducted on visitors, no contraband was found.

When we make this recommendation we are not suggesting for a moment that it will be open slather for visitors. They will still have to go through the various security forms, metal detectors and suchlike. The argument we are putting forward is that, if the authorities retain the right to strip search a prisoner after they have had a visitor, then surely the responsibility is being applied where it should be applied. Of course, if contraband is found, then I guess a suitable punishment can be applied and the visitors may find themselves in difficulty. But we do not believe that strip searching visitors, in a general sense, is a necessary step.

We have in effect rethought some of the rules and regulations that apply to people visiting prisons, and indeed for some of the people who are incarcerated. May I say that we may be having a few more people incarcerated now that this government has finally got its act together on periodic detention statistics. I notice that some 18 offenders have had their periodic detention cancelled.

MR SPEAKER: Relevance, Mr Cornwell?

MR CORNWELL: It is relevant, Mr Speaker, because I have no doubt that some of these people will require visitors to visit them in a prison somewhere in this area, just as people will ultimately be visiting them here in the ACT prison.

I do support this report. I think it is appropriate that these 42 recommendations have been brought down by this committee. I would remind members of the committee's name—and that is "community services and social equity". I believe that, in this report, we have lived up to the committee's requirement to develop and support social equity in this territory.

MR SMYTH (Leader of the Opposition) (11.02): I will make a few comments about the report. I welcome the report and I welcome what Mr Hargreaves said in his closing speech. He said, "Now is the time for the ACT to lead the country." Indeed it is. I congratulate the members of the committee on the 42 recommendations. I think they shine a light on the direction the government should be taking in establishing a corrections system here in the ACT.

I just want to remind the government that in their ACT Labor policy—*Labor's ACTION Plan for ACT Corrections*—it said:

> Labor will review the support services to families of incarcerated people and develop an action plan to provide that support.

I think it is important to read the next paragraph as well. It says:

> Labor will review post release support programs to test the efficacy of existing programs and to identify barriers to successful restoration and opportunities to combat recidivism.

I think the committee has picked, in the 42 recommendations, a large number of things that could be done to honour those commitments of the government. There is the rub, I guess. This is a committee of the Assembly doing the work of the government—because the government has truly ignored corrections in this term.

In recommendations 1, 6, 8 and 10 the committee recommends the establishment of programs and pilot projects, and review of those pilot projects, so we can get a handle on what is happening—particularly the effect on families—and design a system that minimises the impact on families and increases the chances of people being successfully rehabilitated in the community. That is fabulous. Recommendation 14 is important. It reads:

> The Committee recommends that the Government include parent education programs in the core set of programs available to inmates in the new ACT prison.

I think we all acknowledge that some people have difficulty in their parenting skills—perhaps they were not raised in families that were conducive to good parenting. We have to take the opportunities when they are presented to ensure that that happens. The report goes on to recommendation 19, which reads:

> The Committee recommends that the Government ensure the new ACT prison has a visiting centre designed to accommodate the needs of child visitors including access to toilet facilities in the visiting room.

The report goes on to recommendation 21, which talks about the design of the prison—to have adequate shelter outside the prison and a sufficiently large reception area. Recommendations 27 and 28 talk about future regulations for the correctional facilities and the way in which they are run. They run onto a number of other recommendations about setting the attitude so that people are therefore reformed.

You are put in prison as a punishment. You are not to be punished in prison; you are there to be reformed. There are a number of strong recommendations that truly look at how that happens. I say, "Well done!" to the committee, because it is quite clear that the government does not intend to do this work. The government, in *Labor's ACTION Plan for ACT Corrections,* said the following:

> Labor believes that work must be concluded on prison programs before we decide on the prison design and we must decide on design before we decide on the site.

It would seem that the government has broken that commitment—not only broken it; they have got it totally arse about—because they certainly did not do any of the work they promised they would do. We seem to have had a site selected willy-nilly. We are now seemingly fitting a prison to that site, and we have no word from the government whatsoever on what work they have done on designing programs.

This committee report certainly fills a vacuum that the minister for corrections has left in this place. It is also about the law, the regulations, that will govern—this is noted in a couple of the recommendations—the way the prison is run. How we achieve reform is very important—and again we wait for the government. I want to read something from a debate on 10 December last year when the Chief Minister was going on about my bill. He says:

> It's the view of the government that if Mr Smyth wishes to pursue some of the initiatives or ideas that he's pursuing through this bill, it would be much better done when the government introduces its major, modern new sentencing legislation. As I say, this will be done in a couple of months time…

Just remember that this was a debate in December last year.

MR SPEAKER: Order! A moment ago I heard you use the words "arse about". That is unparliamentary. Would you withdraw that?

MR SMYTH: I am sorry, Mr Speaker. I did not realise I said that. I withdraw it—my apologies! The Chief Minister said, "As I say, this will done in a couple of months time." That was in December. A couple of months is normally two months, which would make it January or February, or maybe March—and here we are in June. I see from the program that was released after the cabinet meeting that there are no corrections reform bills that the government will bring forward, apparently, in this sitting. I am not sure when this Assembly will get the chance to look at the government's bill. It is a shame

because the bill has been languishing—my bill has been waiting for seven months now; maybe I will just bring it on. But we have not seen the government's reform package.

We have promises, as we always do from the Chief Minister. I quote again. He said, "As I say, this will be done in a couple of months' time." It is now seven months time. We have got a report from a committee—a very good report—that really does look at leading the country. The chair and his members are to be congratulated on this. We are not getting the leadership from the Chief Minister that would allow corrections reform to go ahead in this place. Maybe the Chief Minister will come down and tell us when he intends to table his bill or what his definition of "a couple of months time is"—or maybe he just forgot.

MS TUCKER (11.08): I would like to make a brief comment to remind members that the health committee produced a report on the provision of clean injecting equipment for people who are incarcerated, in remand centres, prisons or youth detention centres. I think the work of the health committee links very clearly to the work of this committee.

If you are concerned about the families of people who are incarcerated, you obviously want to make sure that they do not come out of prison with HIV/AIDS or hepatitis. I note that in the report there is a recommendation that deals with preventative health care for people while they are in the care of the state. I want to remind members that there has been a full report produced on that very important aspect of the health of people who are in prison, remand centres or juvenile detention centres.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (11.09): Very briefly, I would like to congratulate the members of the committee for their report—in particular Mr Hargreaves, who happened to be our spokesman for corrections in the framing of our policy. His contribution to this report is obvious.

MR HARGREAVES (11.09): I do not wish to close the debate. I seek leave to speak again because I missed out on thanking a few people.

Leave granted.

MR HARGREAVES: I apologise to members for not doing this originally. I wish to express for the record my appreciation to the witnesses who came before the committee. It was a very difficult thing for them to do, and some of them wore their hearts on their sleeves. I want to thank the interstate agencies, who received us warmly and were quite open in the way in which they revealed their systems—warts and all—particularly the people at Goulburn. It was not a pleasant exercise for the committee to undergo.

The families of prisoners also need a special mention in the *Hansard*. They opened the eyes of our committee quite significantly. I want to thank the prisoners we spoke to, who gave us their contributions and, of course, prison officials. Notably, I want to thank the Outcare workers in Western Australia for opening the eyes of the committee to the way in which we could do things.

I want to record my appreciation to my colleagues in particular. Some of the members on the committee had a change of view in the course of the inquiry. Indeed, as Mr Cornwell

quite rightly said, we have a unanimous report and I think that is to the credit of the members. I would like to record our appreciation of the committee secretary, Jane Carmody, who I thought did a brilliant job in producing the report. Her liaison with the people involved was done sympathetically, empathetically and very professionally—and the report before you is the result. I want to thank Mr Smyth for being the despicable political opportunist that he has been this morning.

Mr Stefaniak: Mr Speaker, I wish to raise a point of order on the word "despicable".

MR SPEAKER: Order! Relevance, please.

MR HARGREAVES: There was no need for Mr Smyth to get up and slag off at policies. There was no need for Mr Smyth to denigrate what the purpose of this report is all about. This report is not a criticism of the ACT government, and it is not a criticism of previous ACT governments. I could criticise this lot because I spent three years fighting them over the idea of whether or not you build a prison and then work the programs into it. I spent three years doing that; but this report is not about criticising ACT governments.

Almost all the jurisdictions in the country are behind in this regard. Almost all of them ignore the plight of the families. This report is an invitation to the ACT Legislative Assembly to get behind this cultural change. I would sincerely hope that we do not turn this into a political football; that we just show these people that we have their concerns at heart and get on with it.

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

Estimates 2004-2005—Select Committee
Report

MR STEFANIAK (11.13): Mr Speaker, pursuant to order, I present the following report:

> Estimates 2004-2005—Select Committee—Report—*Appropriation Bill 2004-2005*, dated 22 June 2004, together with a copy of the extracts of the relevant minutes of the proceedings.

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

Leave granted.

MR STEFANIAK: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR STEFANIAK: I move:

> That the report be noted.

Firstly, I wish to thank a few people, which I think it is appropriate to do on this occasion. The report is lengthy. It is a report that was compiled in a short period after a lot of work. Also, it is now 11.15 am on the day that the committee was meant to bring it in. I commend my colleagues on the committee and, especially, the committee staff for bringing this report to the Assembly under considerable difficulties.

I thank my colleagues—Karin MacDonald, the Deputy Chair; Ros Dundas; Vicki Dunne; and John Hargreaves. I particularly thank Siobhan Leyne and the hardworking people in the committee office and the various secretaries who assisted us. Three or more of those people were sick for lengthy periods over the last couple of weeks and it is great credit to them especially that this report was still brought down in a timely fashion. I pay particular tribute to their dedication, despite very great difficulties as a result of people being laid ill.

Mr Speaker, there are 57 recommendations in this report. It is somewhat sad to say that some of the recommendations you would have seen before. It is pleasing to say on a similar note that there has been some improvement in the more technical aspects of this report. The committee, as it has done in the past, advertised in both the *Canberra Times* and the *Chronicle*. It also wrote to people who had an interest in turning up at the hearings during April and May. The committee heard from members of the public, receiving eight submissions and hearing from a number of individuals at its meeting on 17 May.

The committee had some problems with timetabling. I note that in November of last year the secretariat arranged with the ministers' offices to ensure that time would be set aside for the estimates process and a blocked-out period was put in the calendar for the following year, which is something that needs to continue. Despite that and despite the fact that we had set aside days for recall, there were considerable problems, especially in relation to the Chief Minister, in terms of attendance at the committee. Some of those blocked-out days in the Chief Minister's diary actually had appointments in them.

I would certainly urge all ministers in future to ensure that those days are free. That just makes it so much easier in terms of getting people to attend. Recommendation 1 is that all ministers ensure that they are available for the full scheduled estimates period, including the recall days. Conversely, the committee does thank two ministers, Mr Wood and Mr Corbell, for making themselves available at short notice, which is something that I think all ministers should do.

I turn to a number of general issues in relation to this process. We noticed a number of basic typographical errors in the budget papers. Hence, recommendation 3 is that treasury ensure that the budget papers are edited. That is pretty basic and just should happen.

The committee made some recommendations in relation to the time it takes to handle these matters. For example, education should be allocated a full day. That is something that has occurred in the past. We note that from time to time during estimates periods there will be issues of very great public importance and interest—for example, the Vardon report came down. We make comments in relation to that later.

Time should be made available for future committees to hold night sittings, where needed. Again, that has occurred in the past and I think that it is something that will need to occur in future when necessary. We have made recommendations in that regard and they are quite important.

We made a number of other technical recommendations. For example, we made recommendations in relation to the use of the term "initiative". All governments tend to like to highlight initiatives. We feel that a government should use the term "initiative" only when it refers to new money or new programs and that it should not be applied to enhancements of any existing programs. Clearly, that is an inappropriate way of using that terminology.

Similarly, we want the government to have a good look at performance measures. In fact, the Treasurer is quoted in the report as saying that performance measures were, generally speaking, crap. The ministers and the head of the Chief Minister's Department agreed, basically, that the performance measures were unsatisfactory. We think it is essential that the government undertake a review of performance measures to ensure that they are meaningful, that they allow for comparison over time, that they are consistent with measures in ownership agreements and annual reports, that they take into account the needs for triple bottom line reporting, and that they adequately address effectiveness and efficiency. I hope that the government will take that on board.

The report generally was pretty close to being unanimous, but there were a number of issues on which members did disagree. Usually, we managed to work things out and the recommendations were ones of the majority, but there were four instances where there was some disagreement. Mrs Dunne and I felt differently in relation to the women's budget statement. We commend the government for having it and we made a recommendation in relation to it, but we feel, given that the government has gone down that path, that it would be sensible as well to have specific initiatives that benefit men included in future budgets along the same lines as the women's budget statement. Our colleagues did not necessarily agree with that, but I think that that would be a quite sensible idea.

The community, as I said, provided some very useful comments. For example, the Limousine Industry Association appeared before us and we made a recommendation along the lines of that of another committee there. I commend that to the government.

There is a lot of angst concerning this budget, as referred to in several sections of this report, in relation to the amount of money this government is spending in the non-government sector. As well as the P&C group for the government schools, we had the Independent Education Union and the Catholic Education Office before us. The non-government sector was particularly concerned that its share of funding increases was only three per cent of the total funding for new schools in the budget, even though it accounted for over 39 per cent of the total ACT school population. The minister pointed out that the budget had increased by 6.6 per cent, or about $35 million, for 43 non-government schools but, quite clearly, there was considerable angst and a fair bit of discussion and questioning in relation to the non-government school sector.

The Council on the Ageing noted that there were a number of positive initiatives in the budget, but they were very concerned about three issues: the time taken between the approval of places for residential care at the Commonwealth level and those places becoming operational at the territory level; housing and accommodation generally for older people and the fact that it is simply not keeping up with the ageing of our population; and work force planning in terms of the work force providing services to older people and an ageing workplace.

A number of concerns in relation to the Auditor-General's Office generated a recommendation. The committee heard that staff turnover in that office was about 25 to 30 per cent and that 50 per cent of the staff had less than two years experience. The committee recommended that the government ensure that next year's budget provides additional funding for that office commensurate with the need to increase the office's capacity to review performance statements. I commend that recommendation to the government.

The committee was curious about the use by the Treasurer of the term "economic cycle". On exploring the issue at the hearings, the Treasurer was not able to give a clear definition of what it meant, so the committee has recommended that he desist from doing so if he does not know what it actually means. It is really quite pointless to do that.

I turn to the responsibility of the territory parent. During the hearings of the estimates committee, the Vardon report was brought down. The committee had a considerable number of concerns in relation to issues around that report. As a result of a letter I wrote to Commissioner Vardon after the hearing, she sent a further letter to us which we were able to consider. That letter arrived only in the last few days. A key issues for us was why there was simply no recommendations in the *Territory as parent* report for action to be taken against any departmental officers who held the delegation of territory parent.

The *Territory as parent* report states that the report made no recommendations about individuals and that was not the role of the commissioner. The minister was asked about that and she stated that she thought that it was a decision that the commissioner had come to and that she was not aware that the commissioner did not see her role as one of making recommendations about individuals. The minister also stated that the commissioner had not been inhibited by the government in terms of her capacity to make findings critical of individuals and that the government had had to work out what course of action to take regarding the chief executive who had been stood aside.

As a result of the minister's response, the committee wrote to the commissioner seeking an explanation as to why she did not believe that it was her role to make recommendations about individuals and, as I have indicated, she wrote back. The commissioner informed us that the terms of reference for the review did not require her to make recommendations of that kind and the act did not provide for the commissioner to make recommendations on, or to determine, employment-related outcomes for individuals. She also noted that it would not be fair for one entity—namely, the commissioner—to conduct a review and investigation and then recommend outcomes for individuals. A copy of that letter is attached to the report.

The committee clarified with the minister that, although there had been considerable staffing changes, the chief executive had remained the same since 1996 and, by law, that position carried the responsibility of territory parent, regardless of whether some of the functions were delegated to other persons. We question the assertion by the minister that the report actually exonerates any individuals. The commissioner's statement in the report and her response to the committee do not allow the reader to draw any conclusions about the lack of recommendations concerning individuals.

The committee is deeply concerned that the issues of responsibility and accountability, as distinct from blame, still have not been addressed. We were concerned that the *Territory as parent* report appears to be a solely administrative document and does not look at the responsibilities of office holders pursuant to the act. We believe that it is important for there to be a significant response to addressing the system problems within family services, but it is equally important that that response be very thoughtful and well planned.

The minister stated that she could not possibly have implemented a report of this size in a week, but then she indicated that she wanted to do it very quickly. The committee is concerned that the desire to move on or to be seen to be fixing the problem might be dominating the task at hand and might lead to an inadequate response to the very serious issues that need to be addressed.

The committee noted that a second report that will be part of the review's terms of reference will be completed in mid-July. It will be an audit and case review report and was characterised by the commissioner in her letter to the committee as a report on the core business of the Child Protection Agency. The committee is concerned that the government will be rushing to implement the recommendations of the *Territory as parent* report and will now be asking the Assembly to consider amendments to the budget, despite the fact that the review process has not been completed as a result of that audit, and before these budgetary changes have been scrutinised.

Whilst we recognise that immediate action is needed to address primary concerns raised in the *Territory as parent* report, there is also a need to ensure that the longer term solutions actually address the major problems at hand. Accordingly, we came up with a number of recommendations. Firstly, recommendation 17 recommends that the government consider that audit and case review before it finalises implementation plans and before it brings to the Assembly amendments to the budget or, if needed, a second appropriation bill.

Because we had grave concerns in relation to people who had been negligent in their duties, we also made a recommendation that the Chief Minister direct the Commissioner for Public Administration, at the conclusion of the review of child protection in the ACT, to report to relevant ministers and the Chief Minister those officers who had been found to have breached statutory obligations or been otherwise negligent and recommend appropriate disciplinary action. I commend that recommendation to the government.

I turn briefly to an issue raised in relation to the fence at Quamby. I note that work was meant to start in January, but still had not started at the time we had the officials before us, although we were told that it would occur.

The construction of a dragway came up as an issue. At the hearings we found that the government had narrowed the site for it down to two blocks, blocks 51 and 52 at Majura. In relation to the identification of a dragway site, the committee recommended that the government, as a matter of priority, progress negotiations—that is, negotiations with the Commonwealth relating to one block, not the other one—and inform the Assembly of its progress. Lots of people in the community are very concerned that, whilst there is money in the budget, nothing is happening there.

Interesting little things cropped up from time to time, such as the reference to the WorkCover van. Members can read about that on page 38 of the report. There were issues around litigation, legal advice and the workers compensation supplementation fund. Our recommendations there are pretty basic but absolutely essential. We have stressed the need for departments and ministers to comply with the Financial Management Act and the Government Procurement Act and immediately advise the Assembly of any breaches in that regard. (*Extension of time granted.)* Again, I commend the recommendation on that to the government. Members can read the guts of it on page 39. Again, there were some worrying aspects there and the government should be quite mindful of that.

Mr Speaker, a number of issues were raised in relation to public housing and we made recommendations in that regard. The committee noted that work has been done to improve energy efficiency, but feels that there needs to be increased focus on it. It is painfully obvious that any improvement in energy efficiency not only will make the properties better, but also greatly assist the tenants, especially the people on low incomes, by providing a few savings, which they most desperately need. Accordingly, we want the government to develop and implement a plan for addressing energy and water efficiency issues in relation to public housing that include both short-term and long-term goals.

Similarly, we want better performance measures. Indeed, as I said earlier, many of the performance measures were somewhat meaningless. The committee stressed the need for performance measures for government housing and recommended that the minister consider including performance measures in the areas which members can see in the report under recommendation 26. Again, I commend that to the government.

In the hearings on the urban services portfolio there was considerable discussion and some disagreement by the committee in relation to the Gungahlin Drive extension. We were told that the total cost of building the full road in today's dollars would be $120 million. We were told also that an additional premium of $8 million to $9 million will be incurred in 10 years when the full road is due to be built, which would make the cost around $130 million.

There is certainly a degree of confusion in the community about the cost of building the road and upgrading the Glenloch interchange. We sought confirmation in relation to that and we were assured that the amount of $71 million includes the upgrading of the interchange. Two members of the committee—namely, Mrs Dunne and I—felt that the government should proceed immediately with the full four-lane construction of the Gungahlin Drive extension, as that would save a considerable amount of money and ensure that Gungahlin residents would have a good service 24 hours a day.

If you are going to do something, you might as well do it properly. In fact, I wonder whether it is only going to cost that much extra when it finally comes to doing four lanes. I suspect that the cost will blow out even further, which is all the more reason to do it now. The chief executive of the Department of Urban Services told the committee:

> …a two-lane road would provide an extraordinarily good service to people in that part of Canberra for something like 22 hours a day. It will slow down at peak periods…

Again, why not do it properly now? We know that it is going to need four lanes. Let's do that now. Accordingly, Mrs Dunne and I did not agree that there should be just two lanes and we have put in the report our recommendation, which I commend to the Assembly, that there should be four lanes.

We had some discussion in relation to Gungahlin and, indeed, other town centres and recommended that the government develop plans to establish departmental offices in town centres. Mr Speaker, as I said earlier, we discussed the limousine industry and made a recommendation in that regard, recommendation 31. I commend the recommendation to the government.

Turning to the environment portfolio, which my colleague Mrs Dunne and others probably will talk about more than I, there were a number of recommendations. I stress again the need for meaningful targets. In recommendation 35, we say that the minister should ensure that, where environmental programs have targets, they are reported on in a meaningful manner that allows for comparison over time.

In relation to justice and community safety, I commend to members recommendation 38, which refers to reporting requirements for watchdog agencies. Again, other committees have commented on that. We discussed with the Office of the Community Advocate its concerns about the failure of family services to comply with its statutory obligations to ministers and other relevant persons. We note that the Standing Committee on Community Services and Social Equity, in its report on the 2002-03 annual and financial reports, recommended that the government amend the annual report directions to provide for agencies with an external scrutiny function to have a specific section on issues of significant concern regarding the performance of other agencies, as outlined in certain paragraphs of that report. We endorse that and we recommend that the government implement recommendation 2 of that committee's report.

There was some discussion, as one would expect, on the construction of a prison and significant discussion in relation to police. We were concerned about the low level of experience within policing, with approximately 62 per cent of the officers having less than five years experience. We note that, like other industries, the police have a challenge with an ageing work force and recruitment is needed to deal with this issue. That contributes to the police force having a high percentage of officers with less than five years experience.

The committee was also concerned about police numbers in the ACT. Whilst the committee had varying views there, it was concerned about that. The committee recommended that the government explore strategies to increase police numbers. I think

that that should be done as a matter urgency and I think we need considerably more police than the government has provided for in its budget. We also made a recommendation in relation to the new policing agreement.

In terms of health—I will close on this topic—there were considerable problems in relation to RILU. We had great concerns about the existing RILU service being moved to ward 12B. We were very concerned that providing rehabilitation in a hospital setting may prolong or create a sickness syndrome, that moving individuals into the community too early may affect their long-term rehabilitation outcomes, and that rehabilitation may be compromised in an environment that does not mimic homelike conditions, with steps, narrow corridors, and kitchen and laundry facilities.

The committee made a number of recommendations in that regard. We recommended that Minister for Health ensure that any proposed changes to RILU will not compromise outcomes for the rehabilitation of patients in any way and that, if that cannot be done, the minister not proceed with the changes. The committee also recommended that he not proceed with the proposed changes to the rehabilitation and independent living unit without informing the Assembly. I understand that Mr Hargreaves and Ms MacDonald disagreed with those two recommendations, but we think it is crucially important that RILU not be changed. We also recommended that the government review the overtime performed by nurses in ACT hospitals. There were a number of questions and there are some real concerns in the nursing community in relation to that.

In relation to the sale of tobacco to minors, Mrs Dunne and I were concerned about entrapment and the infringement of rights and would prefer that the government consider the use of other ways of catching people who are selling tobacco to underage people. Mr Speaker, I conclude with that and thank members for their attention.

MS MacDONALD (11.36): Mr Speaker, I will attempt to be brief. I start by saying that this is the third estimates process that I have been through and I found it to be probably the most pleasant so far. I would like to thank the chair of the committee, Mr Stefaniak, for having a fairly easygoing attitude to the process. We were there to do a job and did not need to make it unnecessarily cumbersome or difficult. I commend Mr Stefaniak for that.

There were very few areas in which Mr Hargreaves and I had issues with the final report. I will speak to those, except for the issue of the Vardon report—the *Territory as parent* report—that came down and the government's response to it. I will merely say that my argument was that reference to that report should not have been included in the estimates committee's report because I do not believe that it relates to the budget estimates. Obviously, a number of people do not agree with me on that point.

The first issue that I want to raise, Mr Speaker, relates to recommendation 13 and the preceding paragraph, 5.15, about the home buyers concession scheme. I did argue the point in the committee about the wording of that paragraph and it was changed slightly, I am reasonably pleased to say. The report says:

> …the Committee is of the opinion that such schemes in future should be implemented immediately to avoid a scenario such as a slump in the housing market.

First home buyers make up approximately three per cent of the market. This scheme for first home buyers is to be implemented in July of this year, in a couple of weeks. The period between the budget coming down in May and this scheme for first home buyers coming into effect in July is three months. The suggestion in the committee report that, because three per cent of the home buyers are going to wait for three months, they are going to cause a massive slump in the housing market is really quite laughable, Mr Speaker. I should have said at the time that I had an issue with that. I did raise it with the committee but I did not have anything put in the report. I apologise to the Assembly for not having my point made in the report itself, but I do think that it is quite laughable and I am quite sure that the Treasurer will deal with it as he sees appropriate.

The next issue that I want to talk about, Mr Speaker, is dealt with paragraphs 5.17 and 5.18 and recommendation 14. It concerns the use of the term "economic cycle". The committee recommends that the government resist using the term "economic cycle" without providing a clear definition of the term. Mr Speaker, the Treasurer was asked for a definition and he gave a definition. I reckon that Mr Smyth and some members of the committee did not understand the definition. Just because people on the committee do not understand economic terminology does not mean that it cannot be used.

I turn to recommendations 44 and 45, concerning the rehabilitation and independent living unit. Members will note that paragraph 11.11 states that two members of the committee, Mr Hargreaves and Ms MacDonald, disagreed with recommendations 44 and 45. It is up to Minister Corbell to speak about this matter in detail, but I have issues with saying that RILU should not be relocated unless it is proven that it does not compromise the outcomes for rehabilitation patients. Obviously, the health department and the Minister for Health need to find compromises at times. While it may not be the ideal situation in everybody's opinion, it is certainly a job that the Minister for Health is required to do and it is not up to the Assembly to micromanage the issue of health.

I had issues with this recommendation, as did Mr Hargreaves. I do not know whether Mr Hargreaves will be talking about this issue any further. There is a follow-up recommendation about informing the Assembly if RILU is to be moved. Mr Hargreaves pointed out, quite accurately, that this Assembly is coming to the end of its life and in all probability we will not actually be here to be reported to, so it is a bit of a ridiculous notion to put that in a recommendation.

The last recommendation that I want to talk about, Mr Speaker, is the best one, that is, recommendation 57, which states that the committee recommends that the Appropriation Bill 2004-2005 be passed. I am pleased that this recommendation went in without any stipulations being put on it, without any add-ons, without the addition of a clause saying that, before the bill can be passed, the government needs to take out something or that something does not fit in the general plan or scheme for the world of some members. I am very happy that the report recommends that the bill be passed.

Mr Speaker, it looks like I am going to be relatively brief today, having said that I would be—

Mr Hargreaves: You always are.

MS MacDONALD: No, not always. In conclusion, I thank the entire committee secretariat for the hard work that they put into getting the report done and sitting through the endless days of hearings. I know that the ministers get to escape on other than the limited number of days that they are before the committee and that the members of the committee have a bit of a break in between every so often, but the committee secretariat members do not have that luxury. They often have to listen to extremely tedious information. It as all very important, but it is often less than scintillating and edifying information that they are listening to. I do appreciate the efforts that the entire committee secretariat have put in and I commend the report to the Assembly.

MRS DUNNE (11.44): Mr Speaker, the Select Committee on Estimates for the Appropriation Bill 2004-2005 sat in hearings for 92 hours earlier this year.

Ms MacDonald: Didn't you have anything better to do with your time than to add it up?

MRS DUNNE: I did do the calculation in a quiet moment, yes, because it pays testament, Mr Speaker, to the amount of work and the seriousness with which members take this process. It is an important process and it is a very arduous process for five people to scrutinise a whole budget. I do not think that there is any estimates process in another parliament where one committee gets to scrutinise an entire budget. There are pluses and minuses with that. It is a lot of work, Mr Speaker, but it also important work and we probably do it better than most places because we have a better overview of what is going on.

It is interesting that from time to time you end up with initiatives coming from a variety of departments that do much the same thing. This year the initiative was one relating to fitness and young people. Childhood obesity is an important issue, but from time to time members of the committee expressed concern about the department of health, the Bureau of Sport and Recreation through the Chief Minister's Department, and the department of education all having activities in this area. Our concern, because we got to see the whole lot, was that there may be overlaps and we may not be getting the most bang for our buck. Although we did spend 92 hours in hearings and then extra time in deliberation and writing reports, I think it is a job well worth doing, but I have made a note for myself that I hope not to have to do it next year, having done it for three years in a row.

Mr Hargreaves: Hear, hear!

MRS DUNNE: Mr Hargreaves agrees. Do you mean that you do not want me to be on the estimates committee or that you do not want to be on the estimates committee?

Mr Speaker, there are a few issues that I need to draw to the attention of the Assembly. Mr Stefaniak touched on the willingness of ministers to appear before the committee. I commend those ministers who went out of their way to facilitate the proceedings of the committee. We had some upheaval in the middle of the process because of the calling of a special sitting. The day set aside for the special sitting was determined at the request of the government, which did mess up the estimates process somewhat. So it was somewhat disconcerting to find that the Chief Minister, as the Attorney-General, did make some ructions about coming back on what was previously scheduled as a recall day. We had

very limited time with the Attorney-General because he had appointments in his diary for that day although he had been asked not to.

In addition, there were matters raised with Mr Stanhope in his capacity as Minister for Environment. When they were raised and he undertook to take some issues on notice, it was foreshadowed that the committee might recall him. Despite personal representations from the chairman of the committee to the Minister for Environment, that recall was never able to take place. The committee finds this unacceptable. Mr Speaker, it is simply not good enough that the most senior minister in this place holds the estimates process in contempt, because it is a matter of leading by example. If the Chief Minister, wearing one of his hats, thinks that it is not important to present himself for recall, that sends a message to his other ministers that perhaps they can get away with it and, quite frankly, that is not good enough.

One of the issues relating to the budget that I think we need to look at is the use of cash reserves. There are a number of projected capital works projects in the budget which will be paid for out of cash reserves. Speaking personally and not just from the views expressed by the committee at paragraphs 2.9 to 2.12, I think that it is important that we look very seriously at how we pay for capital works because they have a long life and there are problems with this generation paying cash for something which could be spread over the life of the whole capital work and be spread across a number of generations.

The budget papers themselves speak about funding capital expenditure by way of debt which is consistent with the principles of intergenerational equity. However, while the budget papers talk about it, when we are actually funding items of capital nature in the budget there is no provision for borrowing; it is all done from cash surpluses, which are nice to have but we should not be running them down too easily.

Mr Stefaniak has spoken about performance measures, which have become a recurring theme of the estimates committees of this Assembly and of previous assemblies. The performance measures in the budget are simply not good enough. The Treasurer was candid enough to say that they were crap. While we were encouraged to see that the chief executive of CMD has taken on the role of looking at performance measures, he has to be rigorous. Quite frankly, I do not want to have to see another recommendation like recommendation 7 in an estimates report, because recommendation 7 of this estimates report is very similar to recommendations in the previous two estimates committee reports. It is time for this government and any subsequent government to take notice of the fact that performance measures in budgets need to be meaningful and actually tell us something about the way the public service is performing and the way the government is performing. That is what they are there for. At the moment, they are meaningless.

There were issues in relation to projected revenue from the car parking levy. The car parking levy was touted and then put on the backburner because it was too difficult politically, but a year down the track from the first mooting of a car parking levy there is no idea exactly how this car parking levy would be implemented, how much it would cost per space, et cetera, and I think it is time that the government took the community into its confidence and actually spoke at some length about the car parking levy.

There are a number of other issues I would like to consider, mostly environment issues, because they have not yet been touched on. The committee has made a recommendation

that the government establish an integrated catchment management system. At the moment, Mr Speaker, we do not have an integrated approach to catchment management; we have dire issues with the catchments inside the ACT and the catchments situated outside the ACT that return us water. At the moment, catchment management on an integrated approach is really handled by, from time to time, a meeting or a nod and a wink between Mr Stanhope as the Minister for Environment and as Chief Minister with the New South Wales Premier. Really, a bit of an understanding between Mr Stanhope and Mr Carr is no substitute for catchment management.

The ACT government has foreshadowed that it will be reviewing its greenhouse strategy with a view to lowering the greenhouse targets. This committee recommends that the government not downgrade its greenhouse targets. It is a very difficult process that we are involved in, but it is also vitally important, Mr Speaker, and this is not the time for us to lose our nerve. The Liberal government set up very rigorous greenhouse targets, there is no denying that, but because they are rigorous does not mean that we should just put them into the too-hard basket. There are many things in this budget that come into the too-hard budget.

The energise your home program, as I have spoken about before, is a good enough program, but we are concerned that it does not go very far. It is about people who own their homes privately and does not really take account of renters. The committee has made recommendations about the audit program under the energise your home program and suggested to the government that it consider combining the water audit program that is also in the budget with the energy audit program to see whether you can get more bang for your buck. This is already done through the COOOL communities project, where both energy and water audits are done. I think that you may end up with a better result. This is not to criticise the initiative itself, but I think that it could be better thought through.

Another issue which is in the too-hard basket, Mr Speaker, is the government's approach to biowaste. *(Extension of time granted.)* This government has been gunna do something about biowaste through its life and at the last estimates hearings the minister said that he was going to go off on a fact-finding tour and hoped to make some recommendations soon so that we could start to tackle the problem of biowaste. The minister did go on his fact-finding tour, but the message that has come from the minister and the officials is that it is too difficult.

Mr Speaker, I am not persuaded by the argument. Yes, it is expensive, but it is important work and we cannot afford to continue to put it in the too-hard basket. I have to question this government's commitment to the no waste by 2010 strategy because there is no enthusiasm in this government for actually implementing initiatives that would give it a kick along. We have done, in a sense, the easy bits and we are now up to the intractable bits. That means you have to redouble your efforts, not halve your efforts, which is what is happening here.

But there are some areas of the no waste strategy where we are still not making the grade. One of those is in allowing for recycling in multiunit developments. Many people who live in multiunit developments do not have the capacity to recycle on site. As multiunit developments are an increasing trend in our cities, as more and more people are living in flats, units, townhouses and multiunit developments, it is something that we

need to concentrate on. The committee has recommended that all applications for approval of multiunit developments include recycling collection as part of the initiative.

There are other issues in relation to the environment that need to be touched on. The committee heard evidence about the $10 million international arboretum which is proposed in this budget, with a small amount of money being spent this year and most of the money being spent next year. While concern was expressed about the quantum of the money, the committee did not want to make recommendations. Mr Stefaniak and I were of the view that perhaps the government should reconsider spending that amount of money at this stage on an international arboretum, especially when you look at it from the point of view of $10 million being provided for a small area of land, 100 hectares, close to town for replanting, whereas $5.5 million has been put in the budget for replanting thousands of acres of burnt forest land and nature park land west of the Murrumbidgee. I do question whether we are getting value for money out of the $10 million. We think that at this stage the $10 million may be better spent in other areas in relation to the city environment.

There are many initiatives that need to be addressed. We have made recommendations about the tenure and basis on which the Commissioner for the Environment works. Mr Stefaniak has touched on the need for ACT Housing to take a lead in energy and water efficiency in public housing, which is a vital issue that has barely received lip-service from this government. We are concerned about the lack of information coming out of the planning authorities on issues in relation to working collaboratively with the community and with the Planning and Development Forum on housing affordability and how the government might implement the 100 affordable dwellings per year proposal. There is no information about how that will be implemented. Also, the committee recommended that the government revert to the former means of addressing information in the land release program.

I have to touch briefly on the dissenting comments made by Mr Stefaniak and me in relation to the Gungahlin Drive extension. We, as Liberal members, consider that it is most important. We made a commitment to build a four-lane road into and out of Gungahlin and have always been disappointed with the two-lane approach put forward by this government. In estimates, the clear evidence of the officials was that the road will work really well except for two hours a day, but those two hours a day are the vital times when people are leaving Gungahlin in the morning to go to work and coming back in the afternoon. By the admission of the officers, we will reach congestion very quickly, which is something that we cannot support. Therefore, we want a four-lane road.

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

MS DUNDAS (12.00): Mr Speaker, as members have already noted, this report covers a wide range of issues, as did the estimates investigations as we looked at the main appropriation bill for 2004-05. I would like to touch on some key issues to which I think attention should be drawn in the context of this report. I will start by looking at the budget papers themselves.

Other members have talked about performance measures and those kinds of issues, but with the presentation of the budget papers we were provided with a supplementary budget paper, budget paper No 5, that the committee agreed was a quite interesting

document in relation to a framework for future budget presentations, talking about triple bottom line reporting and sustainability in terms of how our budgets are going to work and looking at emerging international accounting standards and the government's strategic planning processes.

Members of the committee were quite interested in the paper put forth, but were quite concerned that, even though we were told quite clearly that it was a consultation document, there was no framework for consultation in terms of the ideas expressed in the supplementary budget paper. We think that that is a great shame, especially as we only have 12 months before the next budget is due. So we urge the government to put forth a consultation mechanism, some kind of way of progressing the discussion that they have indicated they want to have in relation to the supplementary budget paper.

I turn to the issues to which I would like to draw the Assembly's attention. We discussed Totalcare and how the devolution of the Totalcare businesses is actually going. Through the estimates committee we learnt that the original proposal that was put to this Assembly about how Totalcare businesses will be transferred to the Department or Urban Services or health is not actually being followed. It looks like the fleet service, which was meant to be the first function to go to the Department of Urban Services, not be moved to the Department of Urban Services and that there are particular problems there.

That highlights the fact that this Assembly needs to be kept informed of what is happening with the devolution of Totalcare. It does have economic impacts not only in terms of the provision of extra money in the budget, but also in terms of keeping track of where those business units are going. The Assembly does need to be kept informed on that and I hope that the government will look favourably upon the recommendation on that.

We discussed the Stadiums Authority, an issue that I thought was quite interesting. The statement of intent of the Stadiums Authority clearly states that there are maintenance issues that need to be addressed at the stadium; that, whilst it complied with the building code when it was redeveloped in 1999, it no longer complies with current building codes and there are particular issues that need to be addressed there; and that the maintenance budget is relatively low compared with the expected long-term maintenance budget needed for this building complex. So, in terms of ensuring safety is maintained at the stadium, we recommended that the government increase funding to the Stadiums Authority so that it can meet its ongoing repair program and keep the stadium as safe as possible.

We also discussed a range of issues in relation to the education portfolio. Whilst we have had a discussion about a number of them before, I would like to highlight the statement from the minister that there would be no productivity savings targeted at CIT in the 2004-05 financial year. That, whilst a very small statement, was a very important one. For far too long, the Canberra Institute of Technology has been working to productivity savings and has seen its budget diminish in real terms. This impacts on the development of TAFE in the territory. Whilst substantial funds—$9.5 million over four years—are to be allocated to vocational education and training, it is not clear that this money will be going through to the Canberra Institute of Technology. We need to support that

organisation. That means not only ensuring that it is not being asked to find productivity savings, but also that its funding and abilities are supported by this government.

There was some discussion about how issues that spanned portfolio area were actually being addressed. Mrs Dunne has already highlighted concerns raised in relation to childhood obesity, where there are three different programs from three different departments targeted at this area. Also, there are issues in relation to students with disabilities and the relationship between the Department of Education and Training and Therapy ACT in the disability area. Concerns were raised in relation to aged care, especially the provision of new aged care places in terms of what was happening through planning and what was happening in the Chief Minister's Department.

Concerns were raised about the child and family centres which are being looked after by the Chief Minister's Department and which are a key part of the social plan put down by the government. The chief executive of the Chief Minister's Department could not explain how these child and family centres were going to relate to other centres, specifically family centres, that have been established in the same areas. There appears to be inadequate communication between and across departments about how new initiatives are going to be implemented and how they relate to ongoing programs. That is something that needs to be addressed so that we are getting efficiency but also the best that we can for the limited resources that we have, that we are not doubling up.

We discussed at length the *Territory as parent* report. I would like to note that I thought it was particularly relevant to the budget, because we were told that we would be seeing amendments to the 2004-05 appropriation bill as a result of the *Territory as parent* report. The estimates committee was not provided with a copy of those amendments, the Assembly still has not seen those amendments, and there will be no scrutiny of those amendments. I think that is quite disappointing. I would have liked the estimates committee to have been able to examine the figures being put forward there.

To the extent that we did discuss the implementation of the *Territory as parent* recommendations, the committee agreed that we cannot finalise what it is that we are going to do in relation to the *Territory as parent* report because the report itself has not yet been completed. We are still waiting for the audit and case review, which the commissioner has noted is a report on the core business of the Child Protection Agency. It is one that I would think would be key to helping the government, the Assembly and the community decide how to move forward in relation to child protection services in the territory.

The committee recognises that immediate action is needed to address the primary concerns raised by the *Territory as parent* report. However, there is also a need to ensure that long-term solutions actually address the major problems at hand, that we will not rush in to fix a problem and end up making the problem worse. I hope that we will see that amendment as soon as possible, that we will see the audit and case review as soon as possible, and that we will have time to consider them both fully before being asked to vote on the appropriation bill.

There was also some discussion about the women's budget statement. Serious concerns were raised that the women's budget statement was quite subjective in that it listed almost all of the initiatives included in the budget as benefiting women. That almost left

the statement as useless in that it did not actually concentrate on initiatives, programs and policy areas aimed specifically at improving the status of women in the ACT and working to help women. We should not just have an arbitrary list of budget initiatives. The committee recommended that any women's budget statement actually focus on initiatives and programs that are specifically aimed at supporting women. We do need to have a full debate about gender auditing in the ACT. It is disappointing that this women's budget statement did not progress that.

I would like to put strongly on the record that my view is contrary to that of Mr Stefaniak and Mrs Dunne in relation to the need for a specific men's budget statement. I do not think that one is needed. Women do suffer disadvantage in our community and continue to suffer disadvantage in our community, and we do need a specific statement that looks at how we are working to address that disadvantage whilst still providing that support to women. Men are still the majority of workers, still the majority of politicians, and still hold the majority of leading positions in the ACT and control over these kinds of issues. That is why we need to continue to be vigilant in the work that we are doing in relation to addressing that disadvantage and inequality.

The committee did recommend that the Appropriation Bill 2004-2005 be passed, but we are concerned at the likelihood of supplementary bills in the very near future. (*Extension of time granted.)* The sitting days left for this Assembly are limited and this budget is expected to be passed next week, but we are already hearing that supplementary appropriation bills will be needed to move forward some of the initiatives contained in this budget and some of the other programs that the government is keen to progress, which would limit the time available to this Assembly to provide proper scrutiny over those appropriations and requests for other funding. It is of concern that the government did not have its act together enough to provide amendments to this appropriation bill or to include those things that it expects to be supplementary in this appropriation bill so that they could be considered fully without being rushed through in the limited time left for this Assembly.

MR HARGREAVES (12.11): I thank Mrs Burke for allowing me to speak as the final member of the committee. Mr Speaker, I am not going to go through too much of the report. Other members have gone through the parts of the report that turn them on and, no doubt, the shadow ministers also will get a real buzz out of having a crack at it as well. I wish them all the best in the world.

Mr Speaker, I want to touch on two things—the cash reserves and the process. The budget papers are saying that it is okay to borrow when there will be a flow of future benefits or, of course, reduced expenditure. In other words, it is okay to borrow so long as you can service the debt. But that does not mean that you have to do it. It does not mean that you must borrow in those circumstances. If you have a surplus cash capacity, borrowing can be unnecessary; in fact, quite often undesirable.

I will give a couple of examples, Mr Speaker. You would not ordinarily borrow money for a basic community service obligation infrastructure, such as a suburban street; you would not do it. On the other hand, you might, to give the example that was thrown to me from the front bench, borrow for a tollway; you could borrow for that. You could borrow for a dam or a prison. Those things are, in a sense, realisable assets. But you would not go too far down that track if you did not have the capacity to repay the loan.

For those caught up in the credit card mentality, the temptation is to go for ever larger projects. For example, one of the things that came out of the committee was getting a move on with the Supreme Court and some of the other larger things. You can get a move on them all right if you stick them on a credit card. Buying a Supreme Court on a Mastercard would be a good one. Whilst you have a building as an asset, you probably could; but you would have to take that into consideration in the context of everything else that you had borrowed and make sure that have sufficient money coming through your revenue streams to repay that debt. I do not have the confidence that those opposite have that fiscal control, but time will tell.

Some comments were made by my colleagues about performance measures. Some members of the gallery will recall that over successive budgets in this place, for years and years, I had a bit to do with trying to bamboozle members of this place, and I was quite successful in my time, too. That was because I gave performance measures which were absolutely meaningless. Mr Speaker, we are talking here about exhorting the government of the day to have meaningful effectiveness measures. The committee talked about that. It is really important that we have effectiveness measures. I would rather see an effectiveness measure than an efficiency one, but a combination of the two would be even better.

If you are talking about the performance measures of a doctor's surgery, it is a fat lot of good having a really efficient doctor's surgery in which patients are going through at a rate of knots if they all die when they get out the door. You want to know whether the doctor is actually curing people, lessening their disability, or whatever. So you need to know how effective that particular visit is in that regard. I would exhort agencies to look at the effectiveness measures and test them.

With that need to go qualitative measures as well as quantitative ones. All too often quantitative measures are nothing short of a workload indicator. I do not need convincing that members of our public service work their backsides off, that they work really hard and set a fine example to the Commonwealth public service. But we do not need to be told that in the budget papers or the annual reports. We need to know whether they are effective; that is what we really need to know. I think that was lacking a bit in these budget papers. Members picked that up and describe it in various ways.

I would like to make the point that an examination of the *Hansard* will reveal that there were 92 sitting hours, or thereabouts, but essentially the critique of the budget was taken up by members of the committee. Most members had little marks in their books, but the visits that we received from shadow ministers, with notable exception, I have to say, were pretty ordinary. The actual amount of work done by the shadow ministry was pretty ordinary. In fact, I might go so far as to say that they did not lay a glove on any of the ministers, let alone bring a tear to their eye. Mr Speaker, I do hope that they have learnt a lesson out of this and that in their next term in opposition they will build on it, be a little bit more forensic and do a little bit more hard work.

Mrs Burke: Just like you did.

MR HARGREAVES: I remind that serial interjector across the corridor, that lady who cannot hold her tongue—Mrs Burke, do you have that tongue registered with the

domestic animals people?—that I did say, "With notable exception." If you feel that you fit into that bag, good on you. If you do not feel that you fit into that bag, if the cap fits it is not my problem.

Mr Speaker, I think it is incumbent upon the committee to express its appreciation, as indeed it has done in the minutes, to the committee secretariat for the extraordinary amount of work that it did in assisting the committee. Each of the committee secretaries took their turn and were brilliant. I would like to single out Siobhan Leyne and Jane Carmody for putting the report together. It is very difficult to knit together a committee report when three members are present. When you try to do it with five members and have the occasional visit from a shadow minister, it is very difficult. I applaud them for their efforts.

I express my appreciation to the officials that appeared before the committee. It is never an easy thing to do that, particularly if you turn up, sit there all day and are then not needed and go away. I thank them for their patience and I thank them for their work. Also, I thank them for the briefings that they have given to their ministers. I thank the ministers for their time. The encounter this time was not as acrimonious as it was in previous times, and I think that credit for that is due to the ministers and to the membership of the committee to a degree.

I thank the community organisations that went to the trouble of putting their view forward. I think that it is important to do that. Part of the estimates process is supposed to be about community engagement. I know that it is very difficult to involve the community in any sort of political engagement other than belting the bejesus out of people like ourselves, but I thank them very much, Mr Speaker.

MRS BURKE (12.19): That was a valiant effort by Mr Hargreaves to try to gag me or something; I am not sure. My colleagues have made comments, and will do, about other parts of the estimates committee's report. I want to focus particularly on one of the sections relevant to me, the *Territory as parent* report. I was rather surprised to hear Ms MacDonald say that it should not have been included in the estimates process as it did not relate to the estimates. I have to say that that was rather an absurd comment, especially given that the government is seeking to bring amendments to the budget to this Assembly. I find that quite a strange thing to say.

I would bring to the attention of members that the committee did ask why there were no recommendations in the *Territory as parent* report for action to be taken against departmental officers who held the delegation of territory parent. Much has been said of it going backwards and forwards and I am concerned that there were no recommendations on that as well. I think that the issue of delegation is clearly set out. I am still working my way through the extensive report here on the matters of delegation.

Of course, it does refer to accountability and the integrity of positions. The minister said in her comments that she did not see the commissioner's role as one of making recommendations around individuals. She went on to say that the commissioner could have made individual findings against people. Mr Speaker, I did suggest at the very beginning that the terms of reference were too narrow. This comment obviously would support that.

In light of the minister's response, the committee wrote to the commissioner, as the report says on page 31, seeking an explanation as to why she did not believe that it was her role to make recommendations about individuals. It seems that there was tick-tacking backwards and forwards and she passed the buck to the government when she said that the terms of reference for the review did not require her to make recommendations of this kind. It seems to me, Mr Speaker, that we have had a bit of duckshoving and copping out. I am wondering why the government was not more thorough and precise in laying down the terms of reference in the beginning if Ms Gallagher is concerned that no individual recommendations or findings were made against people.

The commissioner noted, according to the report we have before us, that it was her view that it would not be fair for one entity, the commissioner, to conduct a review and investigation and then recommend on outcomes for individuals. I have to ask: why not? Surely one would go with the other and surely that is her. I have always had underlying challenges with the Commissioner for Public Administration conducting this report, given that she was a former employee of the department. I have a problem with the fact that the culture of somebody who did an excellent job whilst working for the department would remain with that person for quite some time afterward. I think that there is a culture thing there and I am concerned that those recommendations were not made as a result of the commissioner's previous associations with the department. That is something only she can answer.

The committee was deeply concerned about the issues of responsibility and accountability, as distinct from blame. I think that it was a really good point that the committee made. It is not about the blame game, witch-hunting or whatever. It is not about personalities. It is all about the integrity of the positions—not only positions held in this place as ministers, as members or as shadow ministers, but also positions held as departmental officials.

Another issue that the committee has brought forward is the second report of Commissioner Vardon, namely, the report on the audit and case review. According to page 32 of the estimates committee's report on the appropriation bill, the report will be completed in mid-July 2004. It seems to me that there is a little contradiction here. At the beginning of the *Territory as parent* report, on page ix under the section about acknowledgments, it is said that the audit and case review team will continue until the end of May, when a report on the outcome of the audit will be presented to the Chief Minister.

I have been asking where that report is at. Has there been a request for an extension of time to complete this report? Why have we not seen it before now? I will be following that matter closely. I am wondering and asking now why we do not have that report before us today. In recommendation 17 the committee recommended that the government consider the audit and case review before finalising implementation plans and before bringing to the Assembly amendments to the budget or, if needed, a second appropriate bill. Obviously, it is a matter for the estimates committee; it clearly was an issue that needed to be brought before the estimates committee and questioned. Paragraph 6.40 of the report reads:

> In light of the confusion regarding the expected outcomes of the first report of the review, the Committee believes the identification of individuals who have been negligent in their duties should be made a clear instruction to the Commissioner. The Committee accepts that on receipt of a report by the Commissioner, it is the role of Ministers to ensure that appropriate disciplinary action is taken.

Here we have it, Mr Speaker: the minister condones her officials breaking the law and being found negligent. In fact, she rewards their poor performance by moving them sideways. There is a bit of ducking and weaving and of smokescreens and mirrors going on here, if you ask me. Again, it is disappointing that we are not seeing anything clear come out of that, although recommendation 18 is quite clear in this regard. It states:

> The committee recommends that the Chief Minister direct the Commissioner for Public Administration, at the conclusion of the review of child protection in the ACT, to:
>
> > report to relevant ministers and the Chief Minister those officers who have been found to have breached statutory obligations or been otherwise negligent; and
> >
> > recommend appropriate disciplinary action.

Mr Speaker, I will continue to seek to unravel what I see to be weaving in and out. My whole aim will be to get to the bottom of what is going on here. I note that there are 57 recommendations in the report, some of which are very good. It will take me time to digest them, as it will other members. Obviously, the last thing that we want to be doing is to be holding anything up. I would just flag those comments with members today.

Sitting suspended from 12.27 to 2.30 pm.

Questions without notice

Nurses—enterprise agreement

MR SMYTH: My question is directed to the health minister, Mr Corbell, and is in regard to the nurses' EBA. I have been contacted by worried nurses regarding their EBA and the heavy-handed approached taken by you as part of these negotiations. My understanding is that the nurses are agreeable to the actual salary increase component of the core template, but are deeply concerned that issues regarding staff workloads have not been addressed. When they asked when these issues would be addressed, they were told by your officials, "We'll do that later."

Minister, why will you not finalise the whole agreement with nurses, rather than just the salary components of the core template, to assure them that the agreements that they are signing up to will benefit them in the long run?

MR CORBELL: The government is interested in finalising all aspects of the agreement as soon as possible. As part of that, the government has outlined its willingness to pay back pay on the basis of a new agreement that is reached prior to that agreement, as long as that agreement is reached before the 26th of this month, at least in principle. We are yet to get that agreement from the nurses union.

In addition, Mr Smyth should be aware that the nurses union pay claim on the table is for 20 per cent—20 per cent across the board; that is the union's pay claim—so I am not quite sure to whom you have been speaking, Mr Smyth. But I can assure you that the nurses union's pay claim is 20 per cent across the board. That is not something that the government can accede to.

But the government has put in place a very generous offer—an offer that means that nurses receive some of the best rates of pay in the country. Enrolled nurses and registered nurses level one will be the best paid nurses in the country if they accept this agreement. Registered nurses levels two, three, four and five will be amongst the best paid in the country, with a differential of only a couple of hundred dollars over the period of a three-year agreement.

These pay outcomes, as offered by the government, are considerably better than the pay outcomes that have been offered by other jurisdictions and agreed to by the relevant branch of the ANF in those jurisdictions, particularly in Victoria, South Australia and Tasmania, where the nurses unions—

Mr Smyth: Mr Speaker, I rise on a point of order. The focus of the question was not the pay increases, which the minister seems to want to spruik about; the question is about the other things that impact on the workers—their conditions and what they are signing up to.

MR SPEAKER: It is not a point of order. The minister is responding to the question, Mr Smyth. We have been through this before.

Mr Smyth: I agree. We do not want to talk about the pay; he wants to talk about the pay. It is the actual conditions. He is not addressing the substance of the question, which is about the conditions. The relevance is the point of order.

MR CORBELL: I know that Mr Smyth is very unhappy talking about pay conditions. But you have only to look at his government's and his party's legacy: a nought per cent pay increase was the outcome of the agreement as it affected 1999-2000. Zero—a big fat zero—from the Liberal Party when it came to the previous offer that they had on the table for the nursing workforce. And what did they deliver in 2000-01? In 2000-01 they delivered the very generous pay increase of one per cent!

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

MR CORBELL: Thank you, Mr Speaker. In other jurisdictions the Australian Nursing Federation has accepted pay increases that are significantly less than that offered by the ACT government in its most recent offer.

Of course, the other conditions are matters for negotiation. I can assure the Assembly that the ACT government negotiating team is dealing with all conditions and terms of employment in the pay off. It is not just about the rates of pay; it is about conditions of employment as well. We are working through workload issues, better retainment issues, and issues to do with professional development. Quite frankly, any suggestion that we are not is simply wrong.

This is a comprehensive negotiation and the government has put forward what we believe is an extremely competitive offer. The government has made four adjustments to its offer in response to requests from the ANF and also in response to issues that have emerged as a result of pay increases being offered and accepted in other jurisdictions. So the government has demonstrated its willingness to compromise and be sensible in its approach on these issues.

Regrettably, we still have not reached agreement. But I hope that the nurses union will demonstrate its willingness to reach agreement on those outstanding issues so that nurses can receive the significant pay increases and conditions of employment changes that they so rightly deserve.

MR SMYTH: Mr Speaker, I have a supplementary question. Minister, why will you not withdraw your threatening letter sent to nurses warning them that their back pay will not be paid if they do not sign up to the EBA by 25 June?

MR CORBELL: It is simply part of the negotiating process that the government puts on the table what it believes are fair and reasonable conditions. The negotiations have now been ongoing since late November last year—over six months—and this is a reasonable period in which to finalise the agreement. The back pay offer is made on that basis.

Phillip oval

MRS CROSS: Mr Speaker, my question is to the Planning Minister, Mr Corbell, and is in regard to the sale of Phillip oval. Minister, did you or your office coerce, bully, apply pressure to or attempt to influence ACTAFL in any way to sell Phillip oval to the government, a sale that was at a price well below market value?

MR CORBELL: Mr Speaker, no. My government, I or my office was not involved in any way, or bullied or coerced ACTAFL. I have to correct Mrs Cross on another point. ACTAFL has not sold their lease to the government; ACTAFL has surrendered it, with compensation for improvements which have been assessed by an independent valuer. The government is not obliged, in a surrender situation, to pay the market value for the site. It is not a sale; it is a surrender, with compensation for improvements that have been made by ACTAFL. That assessment of improvements was done by an independent valuer, and that is the amount of compensation which the territory has offered to ACTAFL.

Mr Quinlan: They still have Manuka.

MR CORBELL: As my colleague Mr Quinlan points out, they continue, of course, to have access to Manuka as well as to Phillip oval itself for the purposes of Australian football league activities.

MR SPEAKER: A supplementary question, Mrs Cross?

MRS CROSS: Yes, Mr Speaker. Minister, what actions on your behalf were taken to ensure that ACTAFL surrendered the land to the government at a price that was considerably lower than other offers?

MR CORBELL: Mrs Cross's question presumes that ACTAFL had something to sell. The reality is that ACTAFL did not have anything to sell and cannot sell their land because they are custodians of a concessional lease, a lease granted at a massive discount by the community for the purposes of community facility activity. They do not hold a right to trade in the land arbitrarily, nor to sell it to a third party without the permission of the territory. The reason for that, of course, is that it is a concessional lease.

Mrs Cross: On a point of order: relevance. The minister is not answering the question that has been put to him; he is simply going off on a tangent. I ask him to stick to the point. The supplementary was: what actions on your behalf were taken to ensure that ACTAFL—and I'll use your words, minister—"surrender the land to the government" at a price that was considerably lower than other offers? Refrain from the waffle.

MR CORBELL: On the point of order, Mr Speaker: that is actually not the question Mrs Cross asked me. Mrs Cross's supplementary asked me why weren't they allowed to sell it to somebody else. Mr Speaker, I am responding to the question.

MR SPEAKER: Proceed, minister.

MR CORBELL: Thank you, Mr Speaker. The land is not something that ACTAFL can trade in. ACTAFL is entitled to seek my permission to transfer the site to another lessee. You have got to remember that the site can only be transferred—

Mrs Cross: No-one listens to you, Ted. Make it yours.

Mr Quinlan: You're talking nonsense, absolute rot.

MR SPEAKER: Order! Mr Corbell has the floor.

MR CORBELL: If I can try to explain the situation to members: a concessional lease can only be transferred to another person—

Mr Smyth: Tell us about the duress.

Mrs Burke: He can't.

Mr Hargreaves: Name them.

MR CORBELL: I don't think members are interested in the answer, Mr Speaker, so I will conclude my answer.

Gungahlin Drive extension

MS MacDONALD: My question is to the Minister for Urban Services, Mr Wood. Minister, can you indicate if there is a way through this new difficulty with the Gungahlin Drive extension? Can the work on the Gungahlin Drive extension continue in order to allow this important road to be built?

MR WOOD: It is certainly a frustration that there is a continuing delay of roadworks through legal processes, with—for me at least—surprising outcomes in the courts. That is a continuing frustration. The government's actions previously, challenged yesterday, have been based on longstanding processes that have been absolutely accepted over a long period of time.

Nevertheless, we accept the rulings in the court—not the decision of the court so much—as a temporary injunction, and we will seek to work through it. This morning I signed new authorisations, which specifically exclude what is now a 900-metre strip of land in Canberra Nature Park that is the subject of the latest legal challenge. My authorisations will allow preliminary work to take place on the other eight-ninths of the route, and this should allow work to resume almost immediately.

A short time ago, government lawyers went back to the court to inform the court of our new authorisations and give an assurance that the government will comply with the terms of the injunction.

MS MacDONALD: Mr Speaker, I have a supplementary question. Minister, can you inform the Assembly if the demonstrations are endangering lives?

Mrs Dunne: Mr Speaker, I rise on a point of order. I seek your ruling on whether the supplementary question relates directly to the original question. The original question was about the GDE and the court injunctions; the supplementary seems to be about protestors.

Mr Wood: It's about work on Gungahlin drive.

MS MacDONALD: Mr Speaker, I was asking if the demonstrations against the Gungahlin Drive extension are endangering lives.

Mr Cornwell: Point of order, Mr Speaker. That is asking for an expression of opinion.

Mr Wood: No, it's not—clearly not.

Mr Hargreaves: It's a fact.

MR SPEAKER: No, I think it is asking for a statement of fact in relation to a matter. The question was in relation to the injunctions earlier, and the injunctions were not related to protesters. So the point that Mrs Dunne has raised is correct.

Mr Wood: If the Assembly does not want to hear these things, so be it.

Water—use in toilets

MS TUCKER: My question is to Jon Stanhope as Chief Minister and Minister for Environment and it regards water use. Minister, as you may be aware, single flush toilets are extremely wasteful and, according to the master plumbers, converting single flush toilets to three and six-litre dual flush toilets can save around 11,000 litres per annum per person, based on five flushes a day. You may not be aware that there are single flush

toilets in Parliament House. In a quiet time, the Parliament House building can accommodate 3,000 people and in sitting weeks up to 5,000. Taking the more conservative number of 3,000, that means that, if the single flush toilets were replaced with three to six-litre dual flush toilets, there would be 33 million litres of water saved.

Will you write to the secretary to the Department of Parliamentary Services expressing grave concern about this flagrant waste of water and asking that there be an immediate conversion to dual flush toilets in Parliament House, so that the department takes responsibility for its water use and does not impose a totally unnecessary burden on the ACT?

MR STANHOPE: Thank you, Ms Tucker, for the question. Certainly, the government has identified through the water strategy, which has been released and which we are now actively implementing, the role that sewerage and water used within the house plays in the overall consumption of water by the community. Certainly, we acknowledge and recognise, as everyone who has thought about the subject does, the part that can be played by converting single flush toilets to dual flush toilets, converting our traditional shower heads to AAA-rated shower heads, and the other work that we can do in our homes and gardens.

I think it needs to be said that, while I do not dispute the case that you make in relation to Parliament House, it is almost certainly the case that five times as much water as is used within Parliament House is used in the grounds of Parliament House to irrigate the very extensive gardens that are very much part and parcel of the federal Parliament House.

The point is taken, however, and we, as the ACT government, would hope that, over time, within those buildings for which we are responsible, we can convert the plumbing to a water efficient standard and that we can make all of those same adjustments ourselves in relation to ACT government-controlled buildings. It is the case that, here in the ACT, with the Commonwealth as the major landlord or the major employer, there is a very significant role for the Commonwealth to play in both the retrofitting and outfitting of buildings that it occupies, as well as the way in which it uses water outside of its buildings.

There is an issue that we are now beginning to pursue, of course, in relation to what we require as fuel and water efficient standards and ratings in all of our buildings. I have just recently asked the head of the Chief Minister's Department to institute a process in relation to all future leasings by the ACT government, so that we impose standards in relation to the utilisation of power, the standard of fittings and the extent to which water saving is a feature of any building that we occupy. Regarding our own responsibility as a government, an employer and a hirer of buildings, we will insist that we only rent or lease buildings of a certain standard.

I am more than happy to write to the Prime Minister and ask him to join in partnership with the ACT government in the implementation of the water strategy.

MS TUCKER: When you write regarding the toilets in Parliament House, would you also inquire as to the measures that are being taken to ensure the least water usage in other Commonwealth buildings in Canberra?

MR STANHOPE: I am more than happy to do that. As I say, I think that, in the ACT government, a real importance has been placed on the implementation of the water strategy and ensuring that we enter into partnerships with all organisations, buildings and individuals within the community. Certainly, water and water consumption are issues for the community. To date, it has to be said that the community has responded magnificently, particularly in relation to the imposition of water restrictions. I have no doubt that, through the implementation of the water strategy, which was significantly funded in both the third appropriation and the budget that will be debated next week, we will progressively and incrementally, as a community, come to grips with a whole range of issues in relation to water.

I acknowledge, as we all do, that it is the number one issue on the national agenda and on individual agendas. It is a matter of great sensitivity here in the ACT as a result of the issues we faced through the damage to our catchment from the bushfire. The fact that we are now in a drought the likes of which may never have been seen in the ACT—in the last five months we have had less than 100 millimetres of rain against an average for that period of almost 300 millimetres—means that there is a heightened sensitivity, indeed a level of anxiety within the community around the security of our water supply. I think that, at this stage, it is appropriate that we be alert but I do not wish the community to be unduly alarmed about the supply of water.

Certainly, we all acknowledge how important water is. That is why this government has responded with the alacrity, the strength and the vigour that it has in relation to every aspect of water supply and the development of a strategy. It was with great pleasure that I visited the water treatment plant work that is being done on Mt Stromlo, a direct response to issues in relation to water and a fantastic project at both Stromlo and Googong, which will ensure that future water supply can be guaranteed, so long as the water is there, of course.

Actew is working on a detailed assessment of options for securing the water supply into the future but we have developed and are in the process of implementing a detailed, very consultative and extremely well-received water strategy, "Think water, act water". It has been significantly funded in both the third appropriation and this budget. It is important that we work as a community, and that all agencies and both governments do work together in relation to the implementation of that strategy. It is vitally important.

Ms Tucker, in relation to your request that I write to the Prime Minister and upbraid him about the federal Parliament House, I am not aware that we have dual flush toilets in the Legislative Assembly.

Mrs Dunne: We do.

Ms Tucker: Yes, we do.

MR STANHOPE: Not throughout the building. I do not where I am. I am always concerned—

Members interjecting—

MR SPEAKER: Order, order! Chief Minister, resume your seat. A question has been asked of the Chief Minister and it is quite inappropriate for members to heckle and hector while the minister is answering the question.

MR STANHOPE: Thank you, Mr Speaker. I have to say that the ACT government is a major employer. It employs, altogether, around 15,000 people in the ACT. I am particularly conscious that I am being asked to write to the head of another government, on behalf of this Assembly, essentially upbraiding him about his commitment to dual flush toilets, when I know that we, as a government and as a jurisdiction, would have to say, "There are no dual flush toilets being utilised by the ACT administration but we want you to get your house in order."

I am happy to work in partnership with the Prime Minister and with the federal government. However, I am a bit suspicious and a bit cynical about motions that are just a holier-than-thou thumping of the breast in relation to what you do, but not really all that concerned about what we do and about getting our own house in order.

Housing—Fraser Court

MRS BURKE: My question is to the minister for housing, Mr Wood. Firstly, can the minister please inform the Assembly of the number of tenders submitted to the department with regard to the refurbishment of Fraser Court? Secondly, in light of the tender process, can the minister inform the Assembly when work is likely to start, given that Fraser Court is in urgent need of repair and the fact that I raised personally with the minister, before he went overseas, my concern that Fraser Court is only around 40 per cent occupied and, as television footage and *Canberra Times* photos show today, is now a place subject to illicit drug use and systematic vandalism.

MR WOOD: I spoke with Mrs Burke a fortnight or so ago about this matter, when we met in my office with people from Fraser Court. My memory tells me that there were two tenders for this work. As I indicated then to Mrs Burke, both tenders were far too high. They were well beyond what our people have estimated would be the cost and I can tell you that we do not intend to proceed with either of those tenders. We will go back into the marketplace to see what better tender we can draw. We are simply not prepared to spend what we see to be money well in excess of what the work would cost.

I am well aware of the continuing problem at Fraser Court. As much as anybody else I want to see the building refurbished. Unfortunately, I inherited the building from other people, in the state it is now in. If the former government had done a bit of work on it, maybe we would not be in this circumstance. Like a lot of housing issues, it has been left to me to fix and I will work through it. I understand the importance to the people in Fraser Court of getting the leaks in the building and everything fixed. Indeed, there are people on the waiting lists who could well do with the units that are currently vacant.

MRS BURKE: Mr Speaker, I have a supplementary question. I thank the minister for his answer. I understand—maybe to help you out, minister—you were saying the tenders were both over $4 million. With Fraser Court at around only 40 per cent occupied, the waiting lists for government housing growing daily, and Northbourne flats out of action

and so on; when are you going to make a decision on the tender? Is that process now in train?

MR WOOD: I think this is a repetition of what I said before. I have indicated that we are not prepared to accept either tender.

MRS BURKE: Have you retendered?

MR WOOD: No. We are about to do that.

Apples—fire blight

MRS DUNNE: Mr Speaker, my question is to the Minister for Environment, Mr Stanhope. Minister, I have been approached by the Fire Blight Action Committee concerning their activities to draw attention to the spread of fire blight. What steps has the ACT government taken to guard against an outbreak of fire blight in the ACT?

MR STANHOPE: I will take the question on notice, Mr Speaker.

MRS DUNNE: I ask a supplementary question. I presume from that that the minister does not know what fire blight is.

MR SPEAKER: You cannot presume anything, Mrs Dunne.

MRS DUNNE: I would ask him, when he takes this question—

MR SPEAKER: All you can presume is that he has taken it on notice.

MRS DUNNE: When he takes the question on notice, will he also inform us what representations he or any other arm of the ACT government has made to Biosecurity Australia to ensure that the ACT apple industry is protected from the risk of importing fire blight on apples from New Zealand?

MR SPEAKER: I call the Minister for Environment. I think I can predict what the answer is going to be.

MR STANHOPE: I will take that on notice, Mr Speaker.

Child protection

MS DUNDAS: My question is to the minister for children, youth and family services. On 2 June, the OCA indicated that they had ongoing concerns about two children in the ACT. They indicated that the concerns came from the lack of information provided in reports under section 162(2) of the Children and Young People Act and that the lack of information provided had led to the OCA's not being able to come to the conclusion that the children were safe. Minister, do you have a response to the concerns raised by the OCA? Can you confirm that all children subject to section 162 reports are safe?

MS GALLAGHER: Ms Dundas, the title of the portfolio is children, youth and family support. I have read *Hansard* in relation to the comments made by staff of the Office of

the Community Advocate who appeared with the Chief Minister on that day. My understanding of the comments is that they had concerns about two children and that those concerns were related to information that may or may not have been included in the information that they had been given. The staff of the OCA went on to say that because they were aware of these children and knew them they understood their situation.

I was not there, but my recollection of *Hansard* is that that had led them to believe that the children were not unsafe, but the point that the witnesses were making was that it should not be down to them because they know the children; that it would alleviate their concerns, if they had any, if they were able, as they should be, to make those decisions from the information provided to them. That, of course, is something that has been articulated in the Vardon report in relation to the inadequate reporting of data in some cases.

I have not had representations from the OCA about those two children, but I do not necessarily believe that they would come to me because, under the act, it would be more appropriate that they go to the chief executive holding the delegations under that act. I have seen some correspondence from the OCA which, while careful with the language, confirms that, on the analysis that they have done and to the extent that it can be said that children are safe, they do not in those cases they have looked at in relation to section 162 (2), as far as they can work out from the information there—the email I saw from them did have caveats to it—have any further concerns; or any concerns that they had have been addressed by children, youth and family support.

MS DUNDAS: Minister, you indicated that you would expect the OCA to raise concerns specifically with the chief executive as the holder of that power and responsibility for the children.

MR SPEAKER: Come to the question, please.

MS DUNDAS: At what stage or where in the process would you expect the Office of the Community Advocate to raise concerns about individual children with you as the minister, not just about missing reports and the administrative problems? Is there any point at which you would expect the Office of the Community Advocate to contact you about children?

MS GALLAGHER: That is a difficult one because I am not the person with parental responsibility for these children, but when I met with the Office of the Community Advocate in January or February, whilst they were receiving the first lot of section 162(2) reports, I did say to the Community Advocate that, if she had any immediate concerns about children, I would like to know about them and that the department should know about them as well so that we could have immediate action taken to address any concerns she had.

I had one conversation with her about some children she was concerned about. She and her staff went out to investigate the files personally the following workday and the feedback was that she was satisfied as much as she could be through this process. Again, inadequate record keeping and concerns had led her to be concerned about those children, but that was the only situation at that point. Under the legislation, it is more

appropriate that the OCA and the chief executive of children, youth and family support have those dealings directly but, because of the nature of some of the history we have had in the past six months, I feel that if she were having trouble or had any concerns about how the department was dealing with that information she would feel comfortable about coming to me and letting me know about it.

Child protection

MR CORNWELL: My question is also to the minister for youth and family services, Ms Gallagher. I refer you to comments in response to a question, Minister, from me in March when you were either in a quandary or musing publicly:

> I have asked myself the question: what led to my being given the briefing on the 11th? When we look back we find that there was a period of activity in the days leading up to the 11th that, it appears, prompted the department to put in place meetings with people, documents, guidelines, as you say, director's instructions and, in the final instance, a briefing to me.
>
> I have some questions: if the department knew about this on the 8th, why wasn't I told about it; why wasn't I told on the 10th when they met with the Community Advocate; why wasn't I even given the courtesy of a call prior to my tabling the government's response, saying, "Hey, we are about to send you a fax. This relates to the tabling of your response and you might want to hold off on it"? I have some questions on all of these things that did not happen.

On 1 April—that might be significant—I asked you whether you had put these questions to your department. You responded that you were waiting for the outcome of the Vardon report. I seem to remember a similar excuse being used in relation to McLeod. Minister, we now have the Vardon report which is silent on these issues.

Have you asked these questions of your department since the Vardon report was delivered? If so, what did they tell you and did you demand these answers before you reinstated Ms Hinton as head of the department?

MS GALLAGHER: Again, the portfolio is Children, Youth and Family Support now, Mr Cornwell; not youth and family services. Thank you for reading out of *Hansard*. I recall making those comments. I repeated them when I was questioned on this in the estimates hearing actually about conversations that I may have had. Yes, I have had a conversation with the chief executive about the events that led up to my being briefed, and I'm satisfied with her response to my question.

In relation to the last bit of your question: I had the conversation with her after she was reinstated.

MR CORNWELL: A supplementary question: why should we, Minister, take comfort in your assurances that this will not happen again when no sanctions have been taken against senior bureaucrats or, indeed, ministers who have failed the community in this matter?

MS GALLAGHER: I wonder whether Mr Cornwell has actually read the report, because the report makes it clear that certainly Minister Corbell, I and Mr Stefaniak,

when he was the minister, have not been found to have failed in our responsibilities at all through this process. There is comment on that in Vardon. It might be interesting for you to re-read that.

I am quite surprised at the opposition simply wanting a witch-hunt; they didn't want scapegoats initially because they wanted ministers' heads but, when it was clear that ministers hadn't done anything improper, then it was someone else's head that had to go.

I have been through this at length at the Estimates Committee. I extended this opportunity to the shadow minister at the time: if you can read Vardon and find one single person whose head should have been on the chopping block for this situation, then I would be interested to hear how you came to that decision. Not one comment back. If you read that report—

Mrs Burke: They didn't break the law; they weren't negligent.

MS GALLAGHER: It is not simply breaking the law; there is a whole range of reasons that led up to the failure to meet statutory obligation 162(2). The opposition is just sitting here wanting a head to roll. That's about the only thing they can get out of this. They can't cope with the fact that this government is fixing it and this government is putting in resources to ensure that this is an adequately resourced area of government. We are actually supporting staff; we are improving the service; and we will not stop until we have the best child protection system in the country. All you can worry about is who should be sacked because of this awful situation.

If there were to be anyone sacked, there is a whole range of people who should have been sacked because of this, including every minister who had responsibilities—including the Chief Minister, the Treasurer and the minister for youth and family services in the previous government—that led to the situation of this portfolio area being so underresourced that it could not meet an obligation—one of its 71 obligations, that is, 162(2).

Bushfires—warnings

MR PRATT: Mr Speaker, my question is to the Minister for Police and Emergency Services and the Minister for Urban Services, Mr Wood. On 10 January 2003, Alan Thompson spoke to Mike Castle about the concerns raised by the head of ACT Forests that NSW was not doing enough to control the McIntyres Hut fire. He saw the dangers of that fire getting into the Uriarra pine forest with a north-west wind and, if that happened, it was unlikely that it would stop before it reached Canberra. Mr Thompson spoke to Mr Castle to pass on his serious concerns about this fire. At the time, Mr Castle was on his way to brief you about the serious threat facing the ACT from the fires.

I ask the minister: what did Mr Castle advise you when he gave you a special briefing on 10 January 2003 about the fires? When did Mr Thompson advise you, Minister, of the serious concerns that he and Mr Bartlett held about the potential impact of the McIntyres Hut fire on the ACT's pine forests, and probably on urban Canberra?

MR WOOD: Mr Speaker, in all that period, from the day after the fires were ignited until, of course, that fateful Saturday, I went across to the Emergency Services Bureau

every morning and listened to all the briefings and had conversations and briefings in between times from various people, including Mike Castle. The matters you raise are primarily a matter for the coroner, who has been most diligent and most thorough.

I can say that during that time I, along with others, became concerned about the fires—the McIntyres and others. As minister for forests, as part of DUS, it was of concern to me that the forests might be at threat. As to particular times and dates and what was said on particular days, I will leave that to the coroners court.

MR PRATT: Mr Speaker, I ask a supplementary question. Minister, will you be giving evidence before the coroners inquest to elaborate on the issue you have just raised or are you using it as a smokescreen to avoid accountability to this Assembly?

MR WOOD: I think the question has been well answered over the period.

Mr Smyth: On a point of order, Mr Speaker. It was a specific question that has been avoided. Standing order 118 says that answers shall be concise and confined to the subject matter. That is a new question. The minister has not answered it and he should.

Mr Hargreaves: If it is a new question, it is not a supplementary.

MR SPEAKER: Order, members! Order!

Mr Wood: You sat me down before.

Mr Hargreaves: It is not a supplementary.

MR SPEAKER: Order! It is up to ministers how they answer questions. The minister has responded as is his right to do so.

Mr Smyth: Except under standing order 118 answers shall be concise and confined to the subject matter of the question. You, of course, Mr Speaker, would have ruled it out of order if it had been answered before because, as you well know, 117 (h) says a question fully answered cannot be renewed. Having not ruled it out of order, it must be answerable and he should do so.

Mr Hargreaves: On the point of order, Mr Speaker: Mr Smyth said that it was a new question, and you should rule that out of order.

MR SPEAKER: There was a supplementary question asked of the minister which went to the issue of whether or not the minister's approach was a smokescreen. The minister responded, I think, concisely. I think it passes the concise test. So far as the subject matter is concerned, my recollection of his response was that he would leave it to the coroner. I cannot require the minister to go further than that.

Mr Smyth: Except, Mr Speaker, the start of the supplementary was "Will you be giving evidence before the coroner?" He has not answered that part of the supplementary question and you should direct him to do so.

MR SPEAKER: As you know, Mr Smyth, it is up to ministers how they respond to questions in this place, provided that they conform with the standing orders—

Mrs Burke: They just sit on their hands like they do with everything else.

MR SPEAKER: Order, members! I am trying to deal with this matter. It is up to the minister, as I said earlier, to respond to the question how he wishes and it is up to the Assembly to receive it in whatever mood strikes the Assembly.

Mr Smyth: Thank you for that guidance, Mr Speaker. Can you tell us which part of 118, which is the standing order that relates to the answering of questions, it conforms to? Was it 118 (a) or 118 (b)?

MR SPEAKER: Mr Smyth, is that your question for today?

Mr Smyth: I have already had a question but I am happy to have a second question, Mr Speaker.

MR SPEAKER: Well, you don't get one.

Mr Smyth: On the point of order, Mr Speaker—

MR SPEAKER: You don't get one. You don't get a question then.

Mr Smyth: Is 118 (a) used to answer his question—

MR SPEAKER: Mr Smyth, you don't get a question of me. If you want to raise a point of order, you just get up and raise one and I will rule on it.

Mr Smyth: Mr Speaker, this is a continuation of the point of order that the minister has not answered the first part of the supplementary. I am simply asking whether it is under 118 (a) or 118 (b).

Mr Hargreaves: You have ruled on it.

MR SPEAKER: I can manage this. You have no point of order. Resume your seat.

Policing—Manuka

MR STEFANIAK: My question is to the Minister for Police and Emergency Services. Minister, I understand that there used to be a regular police patrol of nightspots in the Manuka and Kingston areas on Friday and Saturday nights, keeping a close eye on pubs and nightclubs in the area in case of trouble. I understand that this patrol no longer occurs, because of a shortage of sworn police officers.

In the early morning of Saturday 12 June, a man died after an altercation in licensed premises in Kingston. Because police no longer patrol the area, it took a long time for them to arrive after being called by the licensee. Minister, why have you stopped the regular patrol of Manuka and Kingston on Friday and Saturday nights, given that it was a

noticeable deterrent and allowed police to sort out incidents before they became too serious?

MR WOOD: Mr Speaker, I have not stopped anything. The police are responsible for their operational matters. The question you ask, though, is a serious one. I was aware that there was a regular patrol, but I am not aware that it has ceased. There are certainly regular patrols covering the city quite effectively. I will seek a response from the AFP on this particular issue and get back to you.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Minister, on that basis will you undertake to reinstate the patrol? If you are not going to have the patrol reinstated, would you please give the Assembly reasons why not?

MR WOOD: Mr Stefaniak has been police minister in the past and he understands that these are operational matters for the police. If he thought I was butting into the way police made their arrangements, he would be standing up there criticising me. I will seek an explanation but I point out that I do not make those decisions.

Ministerial study trip

MR HARGREAVES: My question is to the minister for housing, Mr Wood. Minister, there has been some media comment about your ministerial visit to the United Kingdom. That comment included a remark that you could have learnt everything from the internet. Is that the case?

MR WOOD: I was surprised, when I came back, to read something about that. Anybody who has been on such a visit has always come back full of information that is just not available except through face-to-face contact. Indeed, when I went away, I had a folder full of internet material as background briefing to the various places I visited. Any material on any of the places that was available—I had it.

The question—since I have been sat down before today—is about use of the internet or personal, face-to-face stuff, and I will stick to that question. There is a whole lot more I could say.

Mr Stanhope: And should say.

MR WOOD: The main purpose of the visit was to explore housing and disability issues.

Mr Stanhope: There are a few things I'd be saying.

MR WOOD: As a good example, I will indicate what happened on one day.

Mrs Burke: What's your problem, Jon?

Mr Stanhope: You—and your dishonesty. How was your trip to America?

Mrs Burke: I rise on a point of order, Mr Speaker. Could you ask the Chief Minister to withdraw the last comment he just made about me?

Ms MacDonald: Oh, diddums!

MR SPEAKER: I think you should withdraw that.

Mr Stanhope: I withdraw it, Mr Speaker.

MR WOOD: On Monday last week I went from Leeds to Sunderland—not a place on any tourist route, I might say. But it does have a world-renowned glass centre. In light of the fact that we are doing the same here, it was a must see. The various lessons did not come off the internet—none of them. So I will get a bit detailed. We arrived at the station, but there was no public transport to this centre, so we had to get a cab. There is a message for us here. We have got a good transport system to our glass centre, and I am sure it will only get better. Access is obviously a thing of utmost importance.

On arrival at the centre we were met by the acting director and the maintenance manager, who discussed issues around the building. They were very open and frank. They told us all the problems of the building—not on the internet. We had to talk to them about it, and we found out about those things. We went through the place, and we learnt, point to point, the issues they faced, which were precisely the sorts of issues we faced. For example, we want visitors to go through; they want visitors to go through. They discovered that communicating with visitors in a noisy environment was a problem; we will have to think about how we communicate with a lot of noise going on.

There are issues of pollution. Work safety issues were very significant. Issues about informing the public were very significant. None of those were on the internet. Another issue was viability—a key issue for us. We worked through a business plan very methodically. We must be careful to avoid the problem they had: good visitor numbers in the first year and then decline afterwards—something that we never found out on the internet. By personal contact, we found all these things.

I learnt a great deal about issues related to and problems in setting up the centre—things we have avoided because of the thorough steps we have taken. There are issues of tenancy. They lost tenants; we are relying on tenants. That is very important. More than that, we discovered that the acting director was also a director of the Sunderland Housing Association. Wow! We went there to talk about housing. We gathered that information and went on.

We also discovered that the university—that has a close connection with this—is about to develop an autism program. And guess what? I had gone there to talk about autism. I would not have found that on the net. All these things are the benefit of face-to-face contact.

MR HARGREAVES: Mr Speaker, I have a supplementary question. Minister, do you have any advice to any member about the benefit of studying elsewhere versus limiting yourself to the internet?

MR WOOD: I do have advice to someone, and that is to do another backflip. I say to Mrs Burke: I heard you stand up in your place here and extol the virtues of a trip to Silicon Valley. I say this in a very friendly way: I think Mrs Burke will be re-elected—

after all, there is not much competition amongst the Liberals in Molonglo. But if you do come back, you have done one backflip, so do another backflip. When you have the opportunity to see things in Australia or overseas, take that opportunity and do not stick to any decision that you can get it all from the internet.

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

Supplementary answers to question without notice
Gungahlin Drive extension

MR WOOD: Relevant to an earlier question—which is relevant, Mrs Dunne—I indicated before with respect of Gungahlin Drive that officers were going to the court. They have been there and they have been through there. It was pretty quick. Officers have met with Justice Madgwick and he has offered no objection to work recommencing. So they can recommence tomorrow, with the exception of some 900 metres of forest.

Answers to questions on notice
Question Nos 1481, 1482, 1506, 1555

MR CORNWELL: Mr Speaker, under standing order 118A I request an explanation from the following ministers concerning unanswered questions: the Minister for Health, question No 1481; the Minister for Planning, question No 1482; Chief Minister, question No 1506; and Chief Minister, question No 1555.

MR STANHOPE: I am afraid I am not aware of those questions. I will certainly make inquires of my officials and answer them forthwith, Mr Cornwell.

MR CORBELL: I will need to check what those questions are about, Mr Speaker. I cannot recall them from the question number but I will endeavour to provide the answer as soon as possible to Mr Cornwell.

Statement by Speaker

MR SPEAKER: Members, during the course of question time Mr Smyth raised a point of order in relation to the answering of questions. I might refer members to the entry under the heading "Content of answers" at page 539 of *House of Representatives Practice*. I won't read it to you but I merely recommend that you look at it.

Papers

Mr Speaker presented the following papers:

> Auditor-General Act—Auditor-General's Report—No 1 2004—*Administration of Policing Services*, dated 26 May 2004.
>
> Study trips—
>
> > Report by Mrs Vicki Dunne, MLA—International Association of Public Transport 55th World Congress, Madrid, 4-9 May 2003—Inspection of public transport facilities, Caen and Rouen, 12-14 May 2003.

Report by Mr Brendan Smyth, MLA—Lecture by Richard Florida—Rise of the Creative Class—Sydney, 18 March 2004.

Report by Mrs Jacqui Burke, MLA—Meeting with Senator Kay Patterson and State and Territory Shadow Ministers, Treasury Place, Melbourne, 19 March 2004.

Report by Ms Roslyn Dundas, MLA—IBC Open Source Forum 2004, Sydney, 26 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:

Michael Harris, dated 28 May 2004.
Peter Dunn, dated 13 May 2004.
John Meyer, dated 30 April 2004.
Michael Chisnall, dated 6 February 2004.
Joanne Howard, dated 2 June 2004.

Short term contracts:

Mike Zissler, dated 7 May 2004.
George Tomlins, dated 6 May 2004.
Gordon Davidson, dated 7 June 2004.
John Thwaite, dated 19 May 2004.
Stephen Ryan, dated 28 May 2004.
Diane Spooner, dated 5 April 2004.
Ademola Bojuwoye, dated 5 May 2004.

Schedule D variations:

Tim Keady, dated 29 April 2004.
George Tomlins, dated 23 April and 29 April 2004.
Peter Gordon, dated 5 May 2004.
Andrew Rice, dated 29 April and 30 April 2004.
Julie McKinnon, dated 29 April 2004.
Julie McKinnon, dated 27 April and 3 June 2004.
Hamish McNulty, dated 27 May 2004.
Brett Phillips, dated 23 April 2004.
Mark Kwiatkowski, dated 5 May and 6 May 2004.
Geoff Keogh, dated 5 May and 6 May 2004.
Tony Gill, dated 27 May 2004.
Mandy Hillson, dated 10 May 2004.

Frances Brown, dated 10 May 2004.
Peter Johns, dated 17 April 2004.
Susan Hall, dated 14 May and 17 May 2004.
Bernard Sheville, dated 6 May 2004.
Lynette Allan, dated 4 May 2004.
Lynette Allan, dated 18 May 2004.

Copies of contracts have been circulated. I ask for leave to make a statement in relation to the contracts.

Leave granted.

Mr Speaker, I have presented another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 4 May 2004.

Today I present five long-term contracts, seven short-term contracts and 18 contract variations. The details will be circulated to members.

Papers

Mr Stanhope presented the following papers:

Remuneration Tribunal Act, pursuant to section 12—Determinations, together with statements for:

Commissioner for Public Administration—Working hours—Determination No 143, dated 23 April 2004.
Members of the ACT Legislative Assembly—Determination No 144, dated 29 April 2004.
Chief Executives and Executives—Determination No 145, dated 27 April 2004.
Full-time Holders of Public Office—Determination No 146, dated 27 April 2004.
Part-time Holder of Public Office—Commissioner for Public Administration—Determination No 147, dated 23 April 2004.
Part-time Holders of Public Office—Commissioner for Surveys—Determination No 148, dated 23 April 2004.
Part-time Holders of Public Office—ACT Administrative Appeals Tribunal—Determination No 149, dated 23 April 2004.
Part-time Holders of Public Office—Consumer and Trader Tribunal—Determination No 150, dated 23 April 2004.
Full-time Holder of Public Office—President of the Administrative Appeals Tribunal—Determination No 151, dated 27 April 2004.

Public Accounts—Standing Committee
Report 9—government response

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

> Public Accounts—Standing Committee—Report 9—Review of Auditor-General's Report No 9 of 2003—Annual Management Report for the year ended 30 June 2003—Government response.

This response was presented to the Assembly on 4 March 2004. I ask for leave to make a statement.

Leave granted.

MR STANHOPE: Mr Speaker, I am pleased to present the government's response to report 9 of the Standing Committee on Public Accounts on its review of Auditor-General's report 9—*Annual Management Report for the year ended 30 June 2003*.

The committee makes four recommendations, three of which warrant a response by the government. The committee recommends that amendments to sections 34 and 19 of the Auditor-General Act, as proposed by the former Auditor-General, be included in the government's amendments to the act. I understand that this recommendation arose from material provided to the committee by the Audit Office. Unfortunately, the committee seems to have drawn the wrong conclusions from that material.

The committee suggests that the material provided by the Audit Office reflected the government's response. That is not correct. While the Audit Office was provided with certain material during the development of amendments to the act, that material did not represent a final government position and merely reflected proposed positions on particular matters. The committee itself acknowledges that the source documents were only drafts.

However, the fact that the source documents were only drafts did not deter the committee from making a recommendation on this matter. This is particularly disappointing, given that the committee does not appear to have sought or obtained any alternative views.

The final government position was, in fact, to support the former Auditor-General's suggested amendment to section 34. Members will note that the relevant amendment is included in the Auditor-General Amendment Bill 2004 that was tabled in the May sittings.

In relation to section 19 of the act, the committee considers that the government should adopt the particular amendments suggested by the Auditor-General. It should be noted that the bill currently before the Assembly does include amendments to section 19 suggested by the Auditor-General. However, one particular amendment, the one identified in the committee's report, is not included.

The former Auditor-General considered that, under section 19 of the act, the Auditor-General is legally forbidden from including certain sensitive information in a report to the Assembly. He asked that the section be amended to give the Auditor-General discretion to include sensitive information if the Auditor-General considers that the public interest would be best served by the information being generally available.

However, the level of discretion sought by the former Auditor-General is in fact already provided under the legislation. The effect of the section is that the Auditor-General must not include sensitive information in a report if, in his opinion, it would to be contrary to the public interest. Therefore, if the Auditor-General does not believe it to be contrary to the public interest, such information could be included in a report to the Assembly. On this basis, the discretion sought by the former Auditor-General is already provided under the act and no amendment is necessary.

Turning to the other committee recommendations, the committee recommends that the Audit Office incorporates section 12 (2) of the Auditor-General Act into performance audits, and where this is not done, include reasons why within the report. This is a curious recommendation. Section 12 (2) of the Auditor-General Act states:

> In the conduct of a performance audit, the auditor-general shall, where appropriate, take into account environmental issues relative to the operations being reviewed or examined, having regard to the principles of ecologically sustainable development.

Therefore, where appropriate, the Auditor-General is already required to incorporate that section into performance audits. The inclusion of reasons in the report where this is not done is a matter for the Audit Office.

The committee also recommends that the Audit Office resources be increased to take account of the aforementioned recommendation. The government does not agree with that recommendation. As I have stated, consideration of environmental issues in a performance audit is an existing requirement under the legislation. The government does not consider that the office's resources should be increased to fulfil an existing requirement.

Mr Speaker, I commend the government response to the Assembly.

Administrative arrangements
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—
>
> > Australian Capital Territory (Self-Government) Appointment of Ministers Notice 2004 (No 1)—Notifiable Instrument NI2004-157 (S2, dated 26 May 2004).
> >
> > Administrative Arrangements 2004 (No 3)—Notifiable Instrument NI2004-163 (S3, dated 28 May 2004).

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: Mr Speaker, in the follow-up to the Vardon report and the government's subsequent announcement of a major overhaul of the ACT's child protection system, revised administrative arrangement orders were notified and gazetted on 26 May 2004 to create a new children, youth and family support agency. The arrangements also changed the associated legislative, administrative and ministerial responsibilities for the new unit and retitled the education department as the Department of Education and Training.

In line with this, Ms Gallagher's appointment as Minister for Education, Youth and Family Services was changed to that of Minister for Children, Youth and Family Support and Minister for Education and Training. By making these changes, the government took another important step in ensuring better protection of vulnerable children from abuse and neglect in the ACT.

Additionally, eight new laws recently passed by the Assembly were added, namely the Annual Reports (Government Agencies) Act, the Human Rights Act, the Human Cloning and Embryo Research Act, the Architects Act, the Building Act, the Construction Occupations (Licensing) Act, the Education Act, and the Dangerous Substances Act.

A further amendment to the arrangements was notified and gazetted on 28 May 2004, principally to add the new Gungahlin Drive Extension Authorisation Act, which was passed by this Assembly last month. An editorial amendment was also made to the title of the new Office for Children, Youth and Family Support.

Review of the Safety of Children in the Care of the ACT and of ACT Child Protection Management

Report and government response

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:

> The Territory as Parent—Review of the Safety of Children in the Care of the ACT and of ACT Child Protection Management—
>
> > Report prepared by Cheryl Vardon, Public Service Commissioner, dated 14 May 2004.
> > Government response, dated 25 May 2004.

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

Leave granted.

MR STANHOPE: Mr Speaker, I am pleased to table the report *The Territory as Parent: Review of the Safety of Children in Care in the ACT and of ACT Child Protection Management* and the government response to the report. On 21 January 2004 I announced the terms of reference for the review. The Commissioner for Public Administration, Ms Cheryl Vardon, conducted the review under section 21 of the Public Sector Management Act 1994.

The terms of reference for the review required an investigation into the failure of the Department of Education, Youth and Family Services to fulfil statutory obligations under section 162 of the Children and Young People Act 1999, and an audit of files relating to children and young people in care. The review team also looked at departmental practices and policies, governance, and resources. The review team consulted widely. They involved children and young people in care, parents, foster carers, support agencies, child protection workers and advocates.

Ms Vardon presented her report to government on 17 May 2004. The report provides greater detail and clarity about children and young people in care in the ACT, particularly indigenous children and young people, than previously known.

It is evident there have been systemic and administrative problems. Contributing factors include growing workloads, mandatory reporting, new legislation, changes to service arrangements and staff changes.

The report focused on four main areas for reform:

- accountability and governance frameworks;
- workloads and staffing;
- service and sector development; and
- early intervention.

The ACT is not alone. Other jurisdictions have faced similar challenges in providing quality care and protection services for children and young people.

The government embraced in its response to the report the reforms which the Commissioner for Public Administration presented. Most recommendations were supported. The government response, which was released on 25 May 2004, outlines a commitment to change and strategies needed to be put in place. Our focus is on providing care and support for children and young people in care, assurance for our community about services, and a commitment to resourcing the care and protection system. Further consultation is required to successfully implement these reforms.

What is important is that together we can put in place a new way forward for children and young people in care in the ACT. The Vardon report provides the direction for dealing more effectively with the prevention of child abuse and neglect and for new policies, procedures and practices.

As a community we must recognise the need to protect children and young people in care and the government has made a commitment to implement reform. Accountability for this reform is required and checks and balances are necessary.

An implementation team, led by the chief executive of the Chief Minister's Department and comprising non-government and government representatives, is developing an

implementation strategy for government. The Office for Children, Youth and Family Support is a key part of the renewed government focus.

Since the review was announced in January this year the government has moved forward. The Canberra social plan was released in February. The release of the ACT children's plan on 15 June by the minister, Ms Gallagher, provides a clear direction for children and their families in the ACT.

It is clear that further resources are needed to complete these reforms. The government has committed $68 million so far this year for widespread reform. While increased funding is important, strengthening child protection in the ACT will require comprehensive reform over a longer period. The Vardon report provides compelling reminders for parents, and the territory as parent, about the responsibilities for raising children and young people.

A further report on the audit of files of those children and young people in care who were the subject of a report of concern will be released in July 2004. This report will reinforce our responsibilities.

The way forward is challenging. The government accepts and embraces these challenges. Our commitment to reform will focus on the needs of children and young people at risk in our community.

Mr Speaker, before concluding my remarks, I need to commend the way in which the minister, Ms Katy Gallagher, has from the outset handled and driven this very significant reform process. I commend the minister for her attention to this matter and I commend the Vardon report to the Assembly. I move:

> That the Assembly takes note of the papers.

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

Environment Protection Authority
Report and statement by minister

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

> Review of the *Environmental Protection Act 1997* and the Role of the Environment Protection Authority—Final report, dated June 2004

I ask for leave to make a statement.

Leave granted.

MR STANHOPE: Mr Speaker, it is my pleasure today to bring to the Assembly the final report of the review of the Environment Protection Act and the role of the Environment Protection Authority. The review shows that the Environment Protection

Act has been operating well and the authority has successfully implemented the aims of the act. Broadly, those aims were to:

- establish a general environmental duty;
- provide a certain, transparent decision-making process for regulating polluting activities;
- integrate environment protection issues into the planning process.

There are high levels of compliance with the act in the territory.

However, this success does not mean that we can rest on our laurels. A detailed consideration of the operations of the authority and the mechanics of the act have shown that improvements can be made.

In general terms, the proposal in the report concern the following matters:

- the need for greater effort to be put into education to raise awareness of environmental issues, the act and the role of the authority;
- adjustments to the compliance and enforcement mechanisms in the act to reflect a more coherent and comprehensive strategy for protecting the environment from pollution; and
- adjustments in the ways a wide range of matters are regulated by the act, including noise and hazardous waste.

The government has given a commitment to consider options for the independence of the Environment Protection Authority. This report shows that we have considered that issue and have come to the conclusion that there is no need to change the current arrangements.

The report also meets the requirement in the act to conduct a review of its operation at the end of five years of operation. The proposals in this report represent a significant set of steps to clarify the focus of the act and improve both administration and environmental outcomes. My government recognises that the people of Canberra have more to contribute to resolving many of the important issues raised, and so will be consulting further to achieve the best possible outcomes from this review.

The review has provided an opportunity for the people of the ACT to have a say about how the act is working and how things can be improved. It was gratifying to see the extent of community interest in the review, as shown by the number of people who attended public workshops and provided written submissions.

The people of the territory have always taken a great deal of interest in our environment and are justifiably proud of it. It is therefore not surprising to see a strong level of interest in ensuring its protection.

My government remains committed to protecting and enhancing our natural environment. We will continue to work to raise the profile of environment protection issues and the role of the Environment Protection Authority in our community. We have a responsibility as the national capital to demonstrate leadership in environmental policy. We are certainly privileged, Mr Speaker, to live in an urban environment surrounded by high quality bushland and we must continue to strive to ensure this legacy remains for future generations.

I commend the report to the Assembly.

Financial Management Act—transfer of appropriations
Papers and statement by minister

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

> Financial Management Act—
>
> > Pursuant to section 14—Instrument directing a transfer of funds from the Chief Minister's Department to the Department of Education Youth and Family Services, including a statement of reasons, dated 20 May and 22 May 2004.
> >
> > Pursuant to section 16—Instrument directing a transfer of responsibilities for Children's, Youth and Family Services from the Department of Education, Youth and Family Services to the Office of Children, Youth and Family Support, including a statement of reasons, dated 25 May 2004.

I seek leave to make a brief statement.

Leave granted.

MR QUINLAN: Mr Speaker, as required by the Financial Management Act 1996, I have tabled two instruments for variation of appropriations. The first instrument is issued under section 16 of the act. A detailed statement for reasons for transfer of responsibility of the functions between departments is also being tabled.

Transfers under the Financial Management Act allow for changes to appropriations throughout the year within the appropriation limit passed by the Assembly. The instrument relates to the 2003-04 financial year and provides for administration arrangement variations which occurred between the Department of Education, Youth and Family Services and the newly established Office for Child, Youth and Family Support.

The second instrument tabled is issued under section 14 of the Financial Management Act. This instrument relates to the 2003-04 financial year and transfers the open access centres program funding from the Chief Minister's Department to the Department of Education, Youth and Family Services.

Mr Speaker, I commend the papers to the Assembly.

Independent Competition and Regulatory Commission
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:

> Independent Competition and Regulatory Commission—Report 9 of 2004—Final report—Review of contestable electricity infrastructure works, dated 28 April 2004.

I ask for leave to make a statement.

Leave granted.

MR QUINLAN: Mr Speaker, the government is committed to the protection of ACT consumers and to the provision of reliable and robust electricity services to all Canberrans. In July 2003 I issued a reference under section 15 of the Independent Competition and Regulatory Commission Act for the ICRC to determine whether there was "a net benefit to the community as a whole" in introducing competition to the provision of electricity distribution infrastructure works in greenfield developments.

These works, which involve the design and construction of electricity cabling and substation infrastructure in new suburbs, have been undertaken by the licensed distributor provider ActewAGL and its contractors. The ICRC completed its investigations and produced a report on 28 April 2004. In summary, the ICRC is recommending a phased introduction to contestability of work to be undertaken by providers other than the licensed distributor.

While the report adequately addresses the theoretical basis of increased competition, I am concerned that it goes beyond its terms of reference and this obscured the original question referred to it. I have asked my department to review the report and available data to determine whether or not there is a net public benefit in introducing competition into the greenfield electricity infrastructure market and to advise me further on this important matter. With the consent of the Assembly, I hereby table the ICRC report. I will shortly advise the Assembly of my decision on this report's recommendations.

Paper

Mr Quinlan presented the following paper:

> Australian Capital Tourism Corporation Act, pursuant to subsection 28 (3)—Australian Capital Tourism Corporation—Quarterly report—January to March 2004.

Planning and Environment—Standing Committee
Report 24—government response

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): Mr Speaker, for the information of members, I present the following paper:

> Planning and Environment—Standing Committee—Report 24—Inquiry into the Road Transport (Public Passenger Services) Amendment Bill 2003—Government response, dated June 2004.

I ask for leave to make a statement.

Leave granted.

MR WOOD: Mr Speaker, I have presented for the information of members the government's response to the Standing Committee on Planning and Environment report No 24. The Road Transport (Public Passenger Services) Amendment Bill 2003, which I will refer to as "the bill", was introduced into the Assembly in February 2003. It gave effect to the government's taxi and hire car reform program announced in December 2002.

The main features of the legislation were:

- the introduction of an accreditation scheme for hire car operations;

- regulating powers to provide for categories of restricted hire cars—"wedding and school formal" and "tourist services";

- the deletion of provisions allowing the minister to determine the maximum number of taxi and hire car licences; and

- regulating powers for the staged release of additional taxi and hire car licences by auction.

The objective of the legislation was to create a stable and controlled licence release program based on specific formulae. That would ensure that additional licences are released only in response to demand, but at a rate that would not impact significantly on licence values in any year.

During the debate on the bill, the legislation was referred to the Standing Committee on Planning and Environment for consideration. It is pleasing to see that the committee has reached the same conclusion as the government that the current restrictions on the number of taxi and hire car licences cannot be justified on public benefit grounds and should be removed.

The committee has recommended that the removal of licence quota restrictions be facilitated through a government buyback of hire care licences and an off-budget buyback scheme for taxi licences.

Mr Speaker, the government will offer to buy back hire car licences and will made additional hire car licences available on a lease basis. Hire cars are a small element of the transport sector and one where no real changes have occurred for many years. Therefore, direct government intervention is clearly warranted. The price that will be offered will

provide reasonable compensation to existing licence owners, while also being affordable for the government and hence the community. Funds for this buyback will be provided as soon as possible and no later than 1 July 2005.

The government gave careful consideration to the issue of taxi licences and to the committee's support of an off-budget buyback scheme. However, in light of the government's earlier investigations of this approach and the failure of other jurisdictions, in particular Western Australia, to be able to make it work, we see no value in going down this fruitless path once again.

Therefore, the government will proceed with its legislation which proposes the release of taxi licences by auction using a formula-based approach. Under this approach, 10 licences will be auctioned as soon as possible to address growing demands for taxi services.

The government will also implement an accreditation regime for hire cars similar to that that exists for the bus and taxi industries. The proposed accreditation regime has the full support of the committee and of the hire car industry.

The government has considered all the other recommendations of the committee and has agreed to adopt many. However, some recommendations have not been agreed, including the proposal that the wheelchair accessible taxi fleet—the WAT fleet—be transferred to the ACTION Authority. This proposal does not have the support of the ACTION Authority board, nor is the government prepared to compulsorily transfer the WAT services to operate under a particular network, whether or not that network is government owned. This is consistent with statements the government has made since coming to office, that the creation of a second network is something for the market, not for the government, to determine.

That is not to say that we are fully satisfied with the service that WATs are providing to the disabled community. Service standards have improved, particularly since the introduction of the new lift fee and closer cooperation from Canberra Cabs, and it is clear that many WAT drivers and operators take their responsibilities seriously. However, some do not, and the government is now working with the network to significantly improve the effort of all WAT drivers and operators, and both the network and the government will apply substantial sanctions and penalties if satisfactory improvement is not forthcoming.

As noted in the standing committee's report, it is now over eight years since the ACT agreed to review taxi and hire car legislation. Two major independent reviews and an Assembly committee review have preceded the standing committee's inquiry. The delay in coming to an agreement about the appropriate reform path has not only created a great deal of uncertainty for the industry and resulted in less choice and higher prices for consumers, it has also caused the Commonwealth to withhold over $1 million in competition policy payments.

The government will move as quickly as possible to complete the reform program to bring certainty and viability to the industry and provide benefits to the community. I seek the Assembly's cooperation in the passage of the amended Road Transport (Public Passenger Services) Amendment Bill 2003 when it is next presented.

Mr Speaker, I commend the government response to the Assembly and move:

That the Assembly takes note of the paper.

MRS DUNNE (3.52): I welcome at last the minister's response to the planning and environment committee's report on the Road Transport (Public Passenger Services) Amendment Bill. The response, which many in the community have been sweating on for a long time, is late. It is a mixed bag.

I think that while ever this government and this Assembly do not address the real issues of deregulation, this matter will never go away. The minister has said in this place, and elsewhere, that with the introduction of this legislation deregulation issues are dead. I beg to differ, because while ever we do not address comprehensively the issues covered by this legislation in a way that fully deregulates the market, these issues will not be dead.

We had discussion in the recently completed estimates process and elsewhere about the competition payments forgone because of our failure to address the issues relating to the taxi industry. I welcome the announcement by the government that they will buy back hire car licences, as recommended by the committee. However, at first blush, Mr Speaker, I think it is unreasonable that the people involved in the industry may have to wait over a year for that to come to fruition. I think it is unacceptable that people who are having a great deal of trouble driving a business in this climate—and many people could sell a licence plate if there was someone out there to buy it—may to have to wait until 1 July 2005 to see the colour of this government's money.

I make the point, Mr Speaker, that we have to consider what will happen after the election. This government response, in a sense, will not be worth a cracker after 16 October, because we have no guarantee who will be the minister for transport. We know that Mr Wood will not be the Minister for Urban Services. We have to seriously question the commitment of this government to actually address the needs of the people in the industry.

The buyback for the hire car industry is a very modest sum—the buyback for the taxi industry is a entirely different kettle of fish—and if this government cannot find the money between now and the election to come good with that it will be really very much a case of cocking a snook at people who are doing it very tough in this community. I want to see very soon and long before the election comes around not just a commitment to 1 July 2005 but a commitment to buy it out at a fair price in accordance with the advice of the planning and environment committee.

Question resolved in the affirmative.

Independent Competition and Regulatory Commission
Paper and statement by minister

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): Mr Speaker, for the information of members, I present the following paper:

Independent Competition and Regulatory Commission—Report No 11 of 2004—Final report—Determination of taxi fares for period 1 July 2004 to 30 June 2007, dated May 2004.

I seek leave to make a short statement.

Leave granted.

MR WOOD: Mr Speaker, I have presented the Independent Competition and Regulatory Commission's report *Determination of taxi fares for the period 1 July 2004 to 30 June 2007*, pursuant to the ICRC Act 1997. The commission was asked to provide a price direction with a maximum amount for taxi fares. The terms of reference for the investigation are set out in the appendix of the report.

The report includes the commission's pricing direction for taxi fares—that is, that maximum taxi fares are to be increased by 3.16 per cent from July 2004. In the current determination, the commission has used a revised approach and implemented a taxi cost composite index, TCCI. The commission believes the TCCI is easy to understand, significantly streamlines the fare revision process, and provides better incentives for cost control than the weighted cost index previously used.

The government thanks the commission for its report, which I have tabled.

Heritage Bill 2004
Corrigendum

Mr Wood presented the following paper:

Heritage Bill 2004—Revised explanatory statement.

Paper

Mr Corbell presented the following papers, which were circulated when the Assembly was not sitting:

Calvary Public Hospital—Information Bulletins—Patient Activity Data—External Distribution—
April 2004.
May 2004.

The Canberra Hospital—Information Bulletins—Patient Activity Data—
April 2004.
May 2004.

Territory plan—variation No 223
Papers and statement by minister

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

> Land (Planning and Environment) Act, pursuant to section 29—Approval of Variation No 223 to the Territory Plan—Block 8 Section 55 Greenway (Lakeside Leisure Centre) and Block 13 Section 46 Greenway (enclosed sportsgrounds—Tuggeranong)—Public land overlay (Ph)—Sport and recreation reserve, dated 8 June 2004, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

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

Leave granted.

MR CORBELL: Draft variation No 223 proposes to amend the territory plan map by adding a sport and recreation reserve-public land (Ph) area specific policy overlay to block 8 section 55 and block 13 section 46 of Greenway. The variation was released for public comment on 30 January this year, with comments closing on 12 March this year. No written submissions were received during that period. No revisions were made to the variation as a result of the consultation process.

In its report No 30 of May this year the Standing Committee on Planning and Environment made two recommendations in relation to the draft variation. The committee's first recommendation was that, in the development of proposals for future draft variations to the territory plan, ACTPLA should ensure that substantive evidence to justify the change to the land use policy is provided.

The ACT Planning and Land Authority is mindful of the need to clearly and concisely explain to the community and the Legislative Assembly the reasons behind all proposed variations of the territory plan. In light of the committee's recommendation, the authority will ensure that the justification for any variation to the territory plan involving a change of land use is commensurate with the significance of the underlying planning principles and policies.

The committee's second recommendation was that it endorses variation 223 as a variation to the territory plan.

Planning and Environment—Standing Committee
Report 27—government response

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

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

I ask for leave to make a statement.

Leave granted.

MR CORBELL: Report 27 of the Standing Committee on Planning and Environment responds to a petition presented by Ms Roslyn Dundas MLA on 21 October 2003 from 1,661 residents to the Assembly "requesting that the Assembly pass legislation allowing

Aldi supermarket to build a supermarket next to the Belconnen Markets". Their request was then referred to the Standing Committee on Planning and Environment by the Assembly. I circulated the government's response to the committee's recommendations out of session in mid-June 2004.

The essential issue identified is what is the appropriate location of a cut-price supermarket—is it the markets area, in the Jamison group centre or in the town centre core? The recommendations in the committee's report are ambiguous and open to various interpretations. They cannot be interpreted as providing clear support for the proposal contained in the petition presented to the Assembly by Ms Dundas.

The government believes that, on balance, given that retail expenditure is finite, the Jamison group centre and the Belconnen town centre core are better locations for a cut-price supermarket than the Belconnen markets area.

Jamison centre is preferable as its primary function is to meet the grocery shopping needs of residents. The Jamison group centre has been the subject of a recent centre master plan and variation to the territory plan to facilitate implementation of the master plan's recommendations. There are potential sites within the newly defined retail core precinct that could potentially accommodate an additional supermarket of the size proposed by Aldi. An additional supermarket in this location would reinforce the centre's role and assist in revitalisation. The public spaces in the centre have also been the subject of significant recent public investment as part of the government's precinct management program. This investment could be jeopardised if the centre continues to decline.

A location in the Belconnen town centre core is preferable, as it provides opportunities to combine with a greater variety of shopping and other trips and is a location comparatively well served by public transport. The Belconnen town centre has also been the subject of a master planning exercise that was completed in 2001. This master plan has been used as a basis for recent proposed future land releases and also for planned capital works.

While the master plan acknowledged the important role of the markets, it did not recommend or canvass the concept of establishing a supermarket in that precinct. The master plan did foreshadow the possible development of a joint emergency services facility at the Winchester complex adjacent to the markets. The development of the facility would reduce the parking available to accommodate demands from the markets—demands that would be increased by the development of a supermarket.

The markets location, while offering a convenience to consumers to obtain groceries with purchases of fresh fruit, has the potential to reduce the effective functioning of the Jamison group centre. The other issue associated with the market site is that it was acquired by direct grant for the purposes of an organic produce market. It should be developed for that purpose.

The committee's call for greater flexibility in land use controls is acknowledged. A review of the ACT's planning and development system has been foreshadowed and, subject to funding, it will take place over the next two years.

Mr Speaker, it should be noted, however, that the original proposal to introduce more flexibility in group centre land use policies through variation to the territory plan No 158 was not supported at the time by the former Assembly Standing Committee on Planning and Urban Services. While variation 158, which was ultimately approved by government and accepted by the Assembly, did make provision for some additional flexibility, the concept of generally allowing supermarkets to be developed outside of the defined retail core of the centres was one of the main issues raised and clearly not supported by the then Assembly committee.

Papers

Mr Wood presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)
Legislation Act, pursuant to section 64—

Agents Act—Attorney-General (Determination of Fees and Charges for 2003/2004) Amendment 2004 (No 1)—Disallowable Instrument DI2004-72 (without explanatory statement) (LR, 25 May 2004).

Building Act—Building (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-101 (without explanatory statement) (LR, 10 June 2004).

Commissioner for the Environment Act—Commissioner for the Environment Appointment 2004 (No 2)—Disallowable Instrument DI2004-75 (LR, 27 May 2004).

Community Title Act—Community Title (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-100 (without explanatory statement) (LR, 10 June 2004).

Dangerous Substances (Explosives) Regulations—Dangerous Substances (Fireworks Default Classification Criteria) Determination 2004 (No 1)—Disallowable Instrument DI2004-89 (LR, 3 June 2004).

Electricity Safety Act—Electricity Safety (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-99 (without explanatory statement) (LR, 10 June 2004).

Gungahlin Drive Extension Authorisation Act—

Gungahlin Drive Extension Authorisation to grant licence (for the *Nature Conservation Act 1980,* Section 24) 2004 (No 1)—Disallowable Instrument DI2004-80 (LR, 2 June 2004).

Gungahlin Drive Extension Authorisation to grant licence (for the *Nature Conservation Act 1980,* sections 26 and 39) 2004 (No 1)—Disallowable Instrument DI2004-81 (LR, 2 June 2004).

Gungahlin Drive Extension Authorisation to grant a licence (for the *Nature Conservation Act 1980,* Section 42) 2004 (No 1)—Disallowable Instrument DI2004-82 (LR, 2 June 2004).

Gungahlin Drive Extension Authorisation to grant an authority (for the *Nature Conservation Act 1980,* Section 43 (5) (b)) 2004 (No 1)—Disallowable Instrument DI2004-83 (LR, 2 June 2004).

Gungahlin Drive Extension Authorisation to grant a consent (for the *Nature Conservation Act 1980,* section 56 (1), (2) and (3)) 2004 (No 1)—Disallowable Instrument DI2004-84 (LR, 2 June 2004).

Health Act—

Health Regulations 2004—Subordinate Law SL2004-14 (LR, 13 May 2004).

Health (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-90 (LR, 7 June 2004).

Land (Planning and Environment) Act—

Land (Planning and Environment) (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-86 (LR, 7 June 2004).

Land (Planning and Environment) (Fees) Determination 2004 (No 2)—Disallowable Instrument DI2004-95 (without explanatory statement) (LR, 10 June 2004).

Mental Health (Treatment and Care) Act—Mental Health (Treatment and Care) Mental Health Official Visitor Appointment 2004 (No 1)—Disallowable Instrument DI2004-92 (LR, 10 June 2004).

Plumbers, Drainers and Gasfitters Board Act—Plumbers, Drainers and Gasfitters Board (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-98 (without explanatory statement) (LR, 10 June 2004).

Public Place Names Act—

Public Place Names (Aranda) Determination 2004 (No 1)—Disallowable Instrument DI2004-69 (LR, 20 May 2004).

Public Place Names (Harrison) Determination 2004 (No 1)—Disallowable Instrument DI2004-79 (LR, 3 June 2004).

Public Place Names (O'Malley) Determination 2004 (No 1)—Disallowable Instrument DI2004-85 (LR, 7 June 2004).

Public Place Names (City) Determination 2004 (No 1)—Disallowable Instrument DI2004-87 (LR, 7 June 2004).

Public Place Names (Greenway) Determination 2004 (No 1)—Disallowable Instrument DI2004-88 (LR, 10 June 2004).

Road Transport (Dimensions and Mass) Act—

Road Transport (Dimensions and Mass) Oversize Vehicles Exemption Notice 2004—Disallowable Instrument DI2004-73 (LR, 27 May 2004).

Road Transport (Dimensions and Mass) B-Double Exemption Notice 2004—Disallowable Instrument DI2004-74 (LR, 27 May 2004).

Road Transport (General) Act—

Road Transport (General) (Vehicle Registration and Related Fees) Determination 2004 (No 2)—Disallowable Instrument DI2004-70 (LR, 20 May 2004).

Road Transport (General) (Driver Licences and Related Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-71 (LR, 20 May 2004).

Road Transport (General) Act and Road Transport (Safety and Traffic Management) Act—Road Transport Legislation (Australian Road Rules) Amendment Regulations 2004 (No 1)—Subordinate Law SL2004-16 (LR, 24 May 2004).

Supreme Court Act—Supreme Court Amendment Rules 2004 (No 3)—Subordinate Law SL2004-15 (LR, 20 May 2004).

Taxation Administration Act—

Taxation Administration (Amounts payable—Home Buyer Concession Scheme) Determination 2004 (No 3)—Disallowable Instrument DI2004-76 (LR, 31 May 2004).

Taxation Administration (Objection Fees) Determination 2004 (No 2)—Disallowable Instrument DI2004-77 (LR, 31 May 2004).

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2004 (No 4)—Disallowable Instrument DI2004-78 (LR, 31 May 2004).

Taxation Administration (Payroll Tax) Special Arrangements Approval 2004 (No 1)—Disallowable Instrument DI2004-91 (LR, 7 June 2004).

Water and Sewerage Act—Water and Sewerage (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-94 (without explanatory statement) (LR, 10 June 2004).

Public hospital system
Discussion of matter of public importance

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

The state of the public hospital system in the ACT.

MR SMYTH (Leader of the Opposition) (4.05): Mr Speaker, the discussion of the matter of public importance, the state of the public hospital system in the ACT, is something that I'm sure will be of interest to all members. And it's important because, unless it has escaped somebody's attention, the public hospital system in the ACT is in strife.

The most recent startling revelation, Mr Speaker, has been around the incidence of bypass. I note that the health minister uses the word "bypass". In other places they use the phrase "code red". Bypass or code red occurs when a hospital is no longer able to accept new patients into its emergency department, and ambulances and patients are diverted to different hospitals. The use of the word by the minister is important. "Code red" sounds dramatic; "bypass", I guess, sounds benign. The minister has suggested that bypass, that is, code red, is a normal, everyday thing. Well, it didn't use to be until he became the minister, and it's not acceptable to us to accept bypass as a normal, everyday thing, Mr Speaker.

Indeed, Mr Speaker, I'm sure when you were the minister for health, bypass was a rare occurrence, as opposed to the 37 bypasses in last seven months. Indeed, just last Friday, when Canberra Hospital was on bypass, code red, the minister passed it off as the hospital having a busy day. Well, hospitals have busy days every day; and to suggest that this so-called busy day was anything other than that, I think, is to ignore the problem at the root of the hospital system. This so-called busy day was actually then the 38th time one or other of Canberra's public hospitals was on bypass in the last seven months—38 times, Mr Speaker—essentially once a week.

Yet the minister suggests that not only is this normal but that it is better than the national average. Well, I'd be intrigued to see what the national average is and I'm amused that the minister is so accepting that we can do something that's better than national average but something that's unacceptable in the first place. Unfortunately, Mr Speaker, despite the minister's glib assurances, the fact that our hospitals are so frequently on bypass is an indication of deep problems, and it's short-sighted in the extreme for the minister to ignore these indications. Bypass is not normal, nor should it ever be considered so.

Mr Speaker, this is a new phenomenon—this degree of bypass and this regular occurrence of bypass—and it has only started since this minister got the portfolio. I've spoken to a couple of former health ministers. Mrs Carnell thought that, in her term as health minister, it was perhaps five or six times, in her three or so years, that the hospital had gone onto bypass. Indeed, as a member of the last ministry and checking with the

then minister, Mr Moore, he could only think of one or two occasions when the hospital previously went on bypass. Perhaps you could enlighten us, Mr Speaker, on how many times we had bypass when you were the health minister. So it is not normal; it is not acceptable; and it is not excusable.

It is often said, Mr Speaker, that the eyes of our hospital system are its emergency department. Well, the emergency department is very ill and the prognosis for the rest of the hospital system is not good. The cause of bypass, we are told, apart from busy days, is bed block. So what is bed block? Bed block is when the bed needed by someone admitted through the ED is occupied by someone else, say, someone recovering from surgery or, as is more usual, a nursing-home-type patient.

Mr Speaker, at any one time, 20 to 30 beds in our two public hospitals are occupied by nursing-home-type patients, and they shouldn't be there. They shouldn't be there, for a number of reasons: one, the care regime is different and inappropriate; and, two, it is far more expensive, something like $950 a day for an acute bed versus $150 a day or thereabouts for someone who should be more suitably placed into a nursing home. They should be somewhere else—a nursing home, a step-down facility, for example.

Plans for a step-down facility have been around for some time; indeed, I think they were first announced as early as 2001. But under this government, Mr Speaker, nothing has happened. As we found out in the estimates when we quizzed the minister on this, not only is the step-down facility that was due to be completed this year not going to be completed this year; it will not be completed until early 2006—almost five years after the concept was first mooted. And even now the, as it's called, sub-non-acute facility, a project started by the previous government, has not gotten anywhere. After all this time the latest advice from the minister is that the plans are almost complete.

Mr Speaker, that facility itself will have doubled in cost and will not open until 2006. And I think that's an optimistic goal, given this government's glacial approach to projects. To give him some credit, there is now some money from the federal government involved—and it will be larger—but it still doesn't excuse the glacial approach and the careless approach from this minister in not taking his responsibility seriously to deliver on his capital works. Mr Speaker, the point is that any relief to bed block that the sub-acute facility would offer is now not going to happen till 2006.

If they're not going to go to the sub-acute facility, where else might they go? Well, they may have found a bed in a nursing home facility, if any had been approved or constructed by this government. I think it's quite ironic that the man who runs the hospital system is the man who is causing it the most grief, the Minister for Planning, by not ensuring that approvals for aged-care facilities are processed quickly. And I don't think anybody's asking for any special favours here, Mr Speaker; it's just that they're taking years—in the case of the Calvary facility, almost three years—and that, in anybody's language, is unacceptable.

Mr Speaker, it needs to be noted that not just the Canberra Hospital is involved in bypass. Calvary too has been on bypass approximately 15 times in the last 7 months. I must say that things have come to a pretty poor point when even the secondary hospital in the system has to bypass to your tertiary hospital. To give them credit, Calvary, I will grant you, has been coping somewhat better overall. For example, Calvary, for May at

least, has managed to reduce its waiting list for elective surgery; Calvary managed to reduce its list by some 76 patients. But it's a shame, Mr Speaker, that any gains made by Calvary in elective surgery are then wiped out by the Canberra Hospital. Canberra Hospital's waiting list for May blew out by 105.

I'll be interested in the excuses that the minister makes this time. I've got his press release. It's got the numbers—and what is the old adage "lies, damn lies and statistics"?—and says that 746 people were admitted for surgery at Canberra Hospital, an increase of 172 from April's figure. Makes it sound good, Mr Speaker! Well, let's look at this government's ability to manage the hospital lists. The total hospital waiting list continues to trend upwards, rising to 4,489 people for the month of May. In the past 4½ years, Mr Speaker, only one month, January this year, recorded a higher total. It is the second highest total in the last 4½ years.

The total number of overdue patients increased again, to 1,709 Canberrans; that is, 38.1 per cent of all patients waiting are now overdue. The highest average was 42.7 in February this year, Mr Speaker. It's interesting because under the previous government the average was 28.6 per cent of patients were overdue per month. So what we've got is a list that's growing and an overdue time factor that is also increasing way beyond what the previous government had. Indeed, the waiting list is 20 per cent higher than what was left to this current government.

The third, and interesting, statistic, Mr Speaker, is the average monthly number of patients overdue in terms of this government. It is now 1,566 Canberrans—1,566 individuals every month overdue. During the previous government the monthly average was 1,092. So, Mr Speaker, have no doubt this system is in crisis—and that's through the good part of the year, that's through summer and through autumn.

Where are we heading for now? We're heading for winter. And we must be concerned that the hospital system is in such a state when we're heading into winter. We've got the ski season, with the likelihood of serious injuries in the snowfields. They inevitably end up in the Canberra Hospital. And it's not just the snowfields; it's the increased traffic. The traffic hazard of driving in dark, cold, frosty and often raining or snowing conditions leads to other injuries on the roads coming to and from the snowfields. We've got the onset of the cold and flu season. We've already seen the impact of that on the emergency department, with a number of wards being closed in recent weeks.

An additional source of injuries this year, Mr Speaker, will be the rock-hard ovals and playing fields that are now common place throughout Canberra. The continued drought conditions have turned many of the local ovals into what can only be described as concrete dust bowls. I would not be surprised, Mr Speaker, if this year's football season did not see a dramatic increase in broken bones as a result of those conditions. It's already been highlighted on the national news—on channel 10, I think it was, about two weeks ago on a Saturday afternoon—when they were discussing this complaint already occurring around the nation; and it's been highlighted in a couple of articles in the *Canberra Times*.

All of these factors will come to bear on the hospitals—the same hospitals that have been unable to cope on 30 other occasions in the last seven months on busy days now face a rapid influx of cases ranging from severe road trauma to broken bones to influenza.

How many times will the hospital go on bypass this winter? Mr Speaker, we've been lucky so far. We've not had a situation where both Calvary and the Canberra Hospital have been on bypass at the same time. However, given the conditions that we are heading into, it is surely a possibility.

What would happen, Mr Speaker, if both hospitals were on bypass at the same time? Perhaps the minister can address that in his speech on this MPI, but I think the fact that we've already had patients left not just on hospital gurneys in corridors and in storerooms but in ambulances is an indication that that's where the patients may well end up. Given this minister's lackadaisical attitude to bypass, perhaps he's not concerned about that possibility. If bypass is as benign as he suggested, then surely it's not a problem if both hospitals were on bypass. Of course he won't say that, Mr Speaker. He won't say that because it would be a disaster if both hospitals were on bypass at the same time. Where would the patients go? Queanbeyan? Goulburn? Cooma perhaps? Or do we continue to send them to Sydney as we occasionally do?

Both hospitals on bypass would be a disaster. One hospital on bypass is a serious issue. To put it in perspective, Mr Speaker, if just one Sydney hospital goes on bypass it's front-page news; it's splattered all over the place. In Canberra, if one or two of our hospitals go on bypass, apparently it's just a busy day, according to the minister.

Mr Speaker, the problems in our public hospital system run deep. The emergency departments are not coping. I think we need to praise the staff; they deserve all the praise that we can give them. It's not a problem that they're creating; it's a problem that this government is creating in the hospital system that we now have. Not only do we have hospitals on bypass; we now have patients routinely waiting on trolleys in corridors and elective surgery cancelled under this government.

Mr Speaker, reading between the lines: I would suggest that it has happened at least twice in recent times that we probably have had both hospitals on bypass because we've had patients having to wait outside in ambulances—and I'm happy for the minister to correct me on that—but if there was room and both hospitals weren't on bypass, why were the patients waiting in ambulances?

It's not just the emergency department, Mr Speaker. Elective surgery is completely out of control. In May, a month that is traditionally a good one for elective surgery, the waiting list still went up by another 29 patients. We've got nurses leaving in droves, and the government has dubious plans for rehabilitation services if it goes ahead and closes RILU.

I just want to address some more information about the waiting lists in May. Mr Speaker, what the minister didn't tell the public in his press release is that the number of patients treated in May this year, 746—that number is in the press release, but he doesn't go on to say—was the lowest result for the month of May in five years. For all their reforms, for all their money that they've put into it, for all the banter about how good things are, the month of May this year was the lowest result for the month of May in five years. The average for May over that period is 800 patients treated. The best that this minister could achieve was 746.

Mr Speaker, the average number of patients treated each month under the current government is now 658—658 patients a month. Under the previous government the average was 704. It's dropped by 6½ per cent. For all the reform and all the extra money that this government has thrown into the hospital system, what they've done is made it worse; and appreciably so.

Mr Speaker, this minister is not addressing hospital waiting lists, even though he said it was his No 1 priority. But worse than that: we're not even keeping up with what was done under the previous government. Under the last Liberal budget, 2001-02, the outcome for the year was 14,168 cost-weighted separations; that is, 14,168 cost-weighted separations was the measure. Last year, in 2002-03, it was 12,265; and this year to date it's only 10,856. The hospital system is in strife, Mr Speaker.

MR SPEAKER: The member's time has expired.

MR CORBELL (Minister for Health and Minister for Planning) (4.21): Mr Speaker, the ACT community has access to one of the finest public hospital systems in the world. Public hospitals provide over 60,000 inpatient episodes in a year, and well over 200,000 outpatient episodes. This year, our emergency departments will treat almost 100,000 people. Everyone who uses Canberra's public hospitals can be assured that they will have access to high-quality care, using the latest procedures, pharmaceuticals and equipment. Yes, Mr Speaker, there are pressure points in our public hospitals. But overall our community continues to receive high-quality public hospital services that are second to none in Australia.

Highlighting issues where we can improve systems is always welcome. However, Mr Smyth continues to scaremonger and create confusion within the community about the level of access to public hospital care. No-one in need of emergency care is turned away from our public hospitals, despite what Mr Smyth says. No-one in need of urgent elective surgery is made to wait too long for that surgery, despite what Mr Smyth says. Yes, there are ongoing issues with elective surgery and emergency department services. But the government is working hard to fix it. Yes, there are issues with bed numbers in ACT public hospitals, but we are actively working to significantly improve that situation.

Let's start with elective surgery. I've explained this to Mr Smyth so many times already, but he seems to refuse to listen. The previous ACT government funded additional elective surgery with time-limited funds provided by the Commonwealth as part of an incentive for signing up early to the previous Australian health care agreement. These funds ran out in the 2001-02 financial year. The government that Mr Smyth was part of did not make an allowance for the continuation of this additional funding in its last budget. ACT Labor was left with the problem—a problem that we've fixed.

Some facts to prove this, Mr Speaker: Labor is on track to provide more public elective surgery procedures this year than in any other year on record. We will more than meet our promise of an additional 600 elective surgery operations, and the elective surgery initiatives announced over the last two ACT Labor budgets will provide almost $20 million extra in additional elective procedures over the next four years. That's almost 4,000 more operations than would have been available with the health budget left to us by Mr Smyth and his colleagues.

I'm not saying, Mr Speaker, that everything's been fixed. There are still too many people who have been waiting beyond standard timeframes for elective surgery. But the community can have confidence that the Stanhope government is working hard to address these issues. I repeat: no-one in need of urgent public elective surgery is made to wait too long for surgery, and we are now moving to improve the situation for those with less serious needs. And it's not just a case of simply throwing money at the problem. In providing additional resources, we are targeting those specialities and those patients who have been waiting the longest, and we are starting to see results, Mr Speaker.

The number of long-wait patients is starting to fall in the ACT. Additional funds have been made available this year for extra joint replacement and cataract surgery at the Calvary Hospital. The people of the ACT can be confident, Mr Speaker, that we will continue to look for ways to further improve access to this important service.

I'd like now to turn to the issue of emergency departments. The increase in the number of long-wait emergency department admissions is of concern to the government. So too is the level of access block or bed block, as it's called; that is, the time taken to get out of the ED into a bed in a ward. All people classified as triage category 1, that is, in need of resuscitation, receive attention immediately, contrary to what Mr Smyth claims. The increase in waiting times for other categories is due to the considerable increase in demand for more urgent ED attention over 2003-04.

But we still rate the best in Australia in meeting emergency department waiting times. The only national data currently available refers to the 2001-02 financial year. This shows the ACT as having the lowest ED waiting times in the nation. Without stealing anyone's thunder, more up-to-date information that will be available shortly will reinforce this position.

The number of people arriving at our emergency departments and classified as category 2 patients has almost doubled over the 2003-4 financial year. However, I can say that preliminary information for May 2004 shows some definite improvement in category 2 waiting times—back to benchmark performance. Obviously we need to wait for final data and also get a few more months of data in before we can say the problem has been fixed, but there are very positive signs.

Yes, our hospitals do operate a load-sharing or bypass system when necessary and emergency departments are very, very busy places. But no-one with a life-threatening situation is ever kept waiting due to load-sharing conditions. And the hospitals are never moved to load sharing at the same time. It does not happen, Mr Smyth, contrary to your assertion. And no-one with a life-threatening situation is ever kept waiting due to load sharing, and they never will. Load sharing between the hospitals' emergency departments is a normal and appropriate response for emergency departments when faced with peak workloads.

What would Mr Smyth rather, that people wait because there are no beds at Canberra but there are beds at Calvary? No, we send them to where there is capacity. Sometimes our emergency departments get more attendances than they can cope with. It makes sense, Mr Speaker, that in these times people are diverted to services where they can be more adequately cared for. Would Mr Smyth prefer that we have our ambulances circling our

EDs, waiting for the call to come in? I think we need to maintain some perspective about this issue, important though it is.

Mr Speaker, over the 11 months to 31 May 2004 our EDs were in load-sharing mode for a total time of about five days, with an average bypass time of about four hours at any one time; that is, five days out of 336 days or about 1.5 per cent of the time. That, Mr Speaker, is not a system in crisis. Does Mr Smyth really believe that we should fund our EDs so that they never have to go on bypass just because for 1.5 per cent of the time they are too busy to meet the needs of everyone who turns up for care? I repeat: load sharing does not mean that people with life-threatening conditions are turned away or receive less timely or effective care.

It's worth making the point, Mr Speaker, that even when a hospital is on bypass, if you are category 1 you are admitted and you are treated at that hospital on bypass. That's something that Mr Smyth never tells the media. Too many people, though, still wait too long in emergency departments before getting access to a bed in a ward.

Over the 1990s it became increasingly difficult to open additional beds due to a reduction in the availability of qualified staff. This has been mitigated to a degree by an increase in same-day activity, which has helped reduce the demand for hospital beds. Many things that used to require long hospital stays can now be completed in much less time or even outside a hospital environment. However, we have to make sure the balance is right, and the government is doing this.

In the 2004-05 budget the government provided $2 million to ease the access block in our emergency departments by providing more beds in other parts of the hospital. Observation units at the Canberra Hospital and Calvary Public Hospital will provide 17 beds for longer-term care for people who need more than ED care but may not need an admission to an inpatient ward. Four more inpatient medical beds will be provided at Calvary Public Hospital to cater for the considerable increase in medical services demand experienced during 2003-04.

Further, the establishment of a transitional care service in collaboration with the Commonwealth will provide a more appropriate environment for people currently in our hospitals waiting for residential care services. This will free up 25 additional inpatient beds. The sub-acute facility will soon be a reality. This facility will also free up inpatient beds by providing a more appropriate environment for rehabilitation than an acute care service can provide. And this, Mr Speaker, will free up a further 60 inpatient beds.

ACT Health is working with the New South Wales Southern Area Health Service in the development of services within the region. As part of this development, the new Queanbeyan Hospital will increase the number of inpatient beds in the region and reduce some of the flows from across the border into ACT hospitals. Under this proposal, a further 30 beds will be added to the capacity of the region's hospitals. Also an after-hours primary care service is in its final stages of development, which will reduce the number of lower acuity patient presentations in our emergency departments.

So to recap, Mr Speaker: there is an issue about access to inpatient beds. We are implementing, as I have outlined, a whole range of issues that will significantly improve the situation both in the short and longer terms. By 2007 the ACT community will have

access to more than 130 additional hospital places. And this process is starting now, with additional medical and observation unit beds funded for 2004-05. All of this is only the start.

There are issues in our hospital system, and the ACT government is fixing them. But at all times the people of the ACT and the region can be assured that their public hospital systems will continue to provide high-quality care and that all in need of urgent care get that care when they need it, no matter what the politicking is from those on the other side of this place.

MRS DUNNE (4.32): Mr Speaker, the Minister for Health began his speech by saying that the ACT has the finest public hospital system in the country. If that's so—and from time to time I've had cause to visit other public hospitals and to some extent that's true—we don't rest on our laurels. We don't rest on our laurels, Mr Speaker, and say because our system is less worse than anybody else's we should be satisfied.

Should we be satisfied, Mr Speaker, when our hospital goes on bypass? Should we be satisfied, Mr Speaker, when our maternity ward goes on bypass? I think it didn't happen in your time; I know it didn't happen in Mr Moore's or Mrs Carnell's time. Just imagine it, Mr Speaker: "Just cross your legs, dear, and keep breathing and we'll take you somewhere else." An absolutely preposterous situation when, in the national capital, the major maternity ward goes on bypass! This is a disgrace, and it is no defence to say, "We're not as badly off as they are elsewhere."

I did have the misfortune, I suppose, Mr Speaker, last year when I had to go to Sydney for some private reasons, of being smitten with an onset of a medical condition. I did a comparison of emergency rooms across Sydney on that weekend. I visited Liverpool Hospital's emergency room and St Vincent's Hospital's emergency room. They're not pretty sights, Mr Speaker, I can assure you. But Canberra Hospital or Calvary Hospital on a Saturday night is just as fraught and is just as nasty a place to be. We have a responsibility to the people of the ACT to have better and not to just say, "Well, you could be worse off; you could be at Liverpool Hospital."

Mr Speaker, this government walks around puffing out its chest and says, "We've spent more money on this; we've done this; we've done that," but the clear message is that what you get under this government is lots of money spent and nothing to show for the results. When things get too close to the bone, you have this Minister for Health stand up here and twist, bob and weave and make assertions about what members on this side have said, which are not the case. Mr Corbell claimed, when he stood up here, that Mr Smyth had claimed that when we were on bypass category 1 patients did not receive services. No-one in the opposition has ever said that. It is untrue. Mr Corbell needs to correct the record. He made representations that we were saying that category 1 surgery patients were not receiving treatment when they needed it. The opposition has never said that, Mr Speaker.

Let us address the issues as they are. Let us not try to shift the goalposts. What's happening here is that we have an under-performing minister who is under pressure. This is an under-performing minister, and what we have seen over the time of his stewardship of this department, the department of health, and this public hospital is a disgrace.

I would like to go back to the points made by Mr Smyth about how badly we are doing in relation to elective surgery. Before we go to the substantive point, Mr Corbell likes to say we are having more operations than we've had in the past. Mr Speaker, the technical term is cost-weighted separation. A cost-weighted separation is quite different from an operation. I could go into theatre and have two or three procedures done at once. That's one cost-weighted separation or two or three cost-weighted separations, but it might be four or five procedures, and they will all be called an operation. Let's keep our classifications right. Let's not let Mr Corbell get away with talking about operations when what we're talking about is cost-weighted separations. Let's look at the figures.

In 2001-2002, the Liberal Party's last budget, there were 14,168 cost-weighted separations in the ACT. In the 2002-2003 budget, that had fallen to 12,268. That is a shame. It is a searing indictment of the Stanhope government and the successive ministers for health. In 2003-2004, to 31 March, they had had 10,856 cost-weighted separations. The budget estimate for this year is 14,475. So we're proposing that we will turn around an impossible figure. I believe, Mr Speaker, that this minister cannot achieve what he says in the budget estimates. Why would we suddenly get so good at it when we've been pathetic at it for the past two or three years?

Let's look at the number of people on the elective surgery waiting list. 76 per cent of category 2 vascular surgery patients at TCH are overdue. 64 per cent of plastic surgery patients at TCH are overdue. They're not people getting nips and tucks and facelifts, Mr Speaker; that's not elective surgery; these are people who are there for good medical reasons, who need to have elective surgery, and 64 per cent of them are overdue. 62 per cent of category 2 paediatric patients, 62 per cent of our children on the waiting list in category 2, are overdue. 64 per cent of category 2 neurology patients at TCH are overdue. 100 per cent of plastic surgery patients at Calvary are overdue. These are people with burns, Mr Speaker, who need skin grafts. These are not people who are looking for a nip and a tuck and a facelift. 100 per cent of oral surgery patients at Calvary are overdue, and 100 per cent of category 2 ear, nose and throat patients at Calvary are overdue. This is what's happening now, today, in our hospitals. This is a searing indictment of a minister who's failed and who has failed the people of Canberra through a public hospital system which has failed.

We have huge overdue lists at Calvary Hospital, Mr Speaker, because the budget funding for Calvary Hospital has fallen so much in this financial year that Calvary was forced to close down its operating theatres for 14 weeks this financial year, which is more than a quarter of the time that it should be operating. We've seen that funding for surgery at Calvary Hospital has fallen from $25.8 million in 2001-02 to $22.4 million last year. This current year it is up to $28.7 million, but it is still below the level it was when the Liberals left government.

This minister keeps saying he's spending more—and in places he is spending more—but it's certainly not being spent at Calvary. The people of Belconnen and the people of Gungahlin are losing out here, with 14 weeks of surgery closure at Calvary. 100 per cent of ear, nose and throat patients at Calvary are not being treated.

Of course, Mr Speaker, you can't get most orthopaedic work done in the ACT, especially hips and knees, because we've run out replacement joints and we can't do that, unless

it's an absolute emergency, until next year. I suppose I've got a little bit of current experience with orthopaedics—and I take my hat off to the orthopaedic surgeons in this town because they are working under extreme circumstances; I've had hugely good service from the orthopaedic department in my own case of a family member who had broken an arm—but I have great concern that on a Saturday morning my daughter was re-admitted to have her arm reset, came in at 7 o'clock and wasn't done till 1.00 pm. That's just the way things go.

Earlier in the day, I was told, "You can't go home, Mrs Dunne, until the doctor has seen you." At 7 o'clock that night I thought, "I'll ask to see whether he's inadvertently gone home and forgotten to see me before he went home. "No, Mrs Dunne, I'm sorry; he's still in surgery." He came to see me at 9.30 that night. He spent 5 minutes with me and 5 minutes with the lady and the child in the next bed. He sent me home with my daughter, and he went back into surgery. He had been operating from 7 o'clock on a Saturday morning. This is because there aren't enough orthopaedic surgeons in this town. That's why we've got 100 per cent overdue at Calvary Hospital; it's why you can't get a hip replacement in this town unless you are absolutely and utterly in extremes.

This is the public hospital system that Mr Corbell is lording over and saying that we have the finest public hospital system in Australia. If it's the finest public hospital system, Mr Speaker, it's just not good enough and it's time that Mr Corbell did better for the people who elected him, for the people who pay him a high salary, and it's time that he stopped dissembling and actually admitted that things are wrong, took people into his confidence and started to fix the problem.

MS DUNDAS (4.42): I would like to focus this debate, where we are talking about the issue of public hospitals and the public hospital system in the ACT, specifically on Calvary Hospital. Calvary Hospital provides both public and private services to the north side of Canberra as well as Canberra and the region more generally; it plays a teaching role—a role as a teaching hospital for the ANU and the University of Canberra—and it has the vital role of the delivery of network health services in the territory.

Mrs Dunne has already raised some issues in relation to how surgery has not been able to be performed at Calvary, but I'd like to raise concerns. I guess there are concerns coming through that resources and funding for Calvary are actually being overlooked or ignored in favour of the Canberra Hospital. This is of quite concern, because we do have two hospitals currently operating in the ACT, and they both need to be resourced to deliver services for the population of the ACT. We can't start valuing one public hospital over another public hospital. I do think that this is going to become the attitude of this government. Calvary is not a competitor with Canberra Hospital but a complementer. It spreads the public health net to the ever-growing northern suburbs and, for the last 25 years, has provided distinguished service in terms of health care.

In the budget consultation period—I understand, from what they have told me—Calvary understood that their 25-year-old intensive care unit would be upgraded but they found when the budget was actually released that that money had disappeared. I think it says a lot about this government's commitment to health, when we are talking about the funding for a small number of extra beds at Canberra Hospital, that we are not actually funding the refurbishment of a larger number of beds on the north side. The intensive

care unit at Calvary Hospital is in dire need of an upgrade. It needs to be able to expand; it doesn't have enough space to fit in the number of beds that it would like in emergency, with all of the machines that it needs to keep people alive while they're in emergency. That is a quite ridiculous situation to be in, and it's quite disappointing to see. But even when Calvary thought they would get this money in this budget it wasn't there. Both hospitals provide important services and both need to be supported.

We've had discussion this afternoon about bypass and load sharing, about the public hospital system as it does work across the two hospitals, but I believe that this government, the ministry, is focusing more on the Canberra Hospital at the expense of the Calvary Hospital when we should be focusing on both. The public health system is not just confined to TCH. The residents of Belconnen and Gungahlin deserve a public health system of high standard. In funding public hospital services we cannot afford to favour one hospital over another.

In responding to the opposition leader's claims that we need a major overhaul of the public health systems, Mr Corbell has been ready to sing the praises of TCH but seemed to forget to mention the public health services that are provided at Calvary, and I think that is a sad reflection on where this government is heading. We do need to focus on both our hospitals. Yes, we can talk about bypass and load sharing and the stress that both our hospitals are feeling, but if both hospitals are able to strengthen the services that they deliver they can complement each other. When the emergency situation arises that bypass is needed, that load sharing is required, we know that we are getting top-quality service at both hospitals.

Mrs Dunne has spoken about personal experience. My Democrat colleague Senator Andrew Bartlett has recently, and unfortunately for him, been able to visit both Canberra and Calvary hospitals because of injuries he sustained on the sporting field. I'm happy to report that he said both hospitals were of excellent quality. I think that is a ringing endorsement of the system we have, but we cannot afford to improve one hospital at the neglect of another and we cannot afford to ignore the hospital system and the state that it is in. We do need to be doing more to improve the health of Canberrans and improve the hospital system that we have to support them when they need it.

MS TUCKER (4.48): Economic, medical and demographic changes are putting pressures on health-care systems across the developing world. In Australia this is complicated by our split federal system. It's worth noting that the Australian Health Reform Alliance put a plan on the table based on a Canadian model which would combine state and Commonwealth health funding to be managed by a trust. The alliance includes representatives of the Australian Consumers Association, Australian Council of Social Service, Australian Health Promotion Association, Australian Health Care Association, Australian Nursing Federation, Australian Salaried Medical Officers Federation, Catholic Health Australia, Centre for Clinical Governance Research in Health, Centre for Health Promotion Evaluation, Committee of Deans of Australian Medical Schools, Committee of Presidents of Medical Colleges, Doctors Reform Society of Australia, Effective Health Care Network, Health Issues Centre, Health Professional Council of Australia, National Aboriginal Community Controlled Health Organisation, National Council on Intellectual Disability, National Public Hospitals Clinicians Taskforce, National Rural Health Alliance, New South Wales Nurses Association, Public Health Association of Australia and the Royal Australasian College of Physicians.

Clearly, according to this group of people, it's obvious there is a concern across the health sector that the Commonwealth-state split in health-care funding and responsibilities is not the best arrangement. Recent research commissioned by the Bracks Victorian government seems to be putting the same view.

Particular issues we face here in Canberra include the shortage of bulk-billing GPs and out-of-hours primary health care. I think it's also inarguable—and it comes across in any conversations with health professionals—that the reduction of access to primary health care is obviously a factor in hospital overload. It's a tragedy of course because it means that the human cost of that neglect and deficit is considerable and is putting pressures on hospitals, resulting in the consequent costs and political debate such as we're having today. So I think it's really important, in any discussion about hospitals, that you recognise that prevention and primary health care have to be seen within this context.

I think it's unfortunate that we abandoned the community health centre model that flourished in the 1970s and early eighties. Such a model, of course, was made particularly difficult to manage, because, again, of the Commonwealth-state funding split.

There are also problems related to that split in regard to aged care. In very many ways, older people nowadays spend more time and money in hospital and on medical and life support. That is partly because prognosis and medical intervention are better, people survive various conditions and diseases and lead healthier and longer lives. It's also true that, the more individuated lives that people lead in our society, they generally require more professional or community support and can depend less on informal family networks.

The point I'm making is that a system which makes the transition from home to supported accommodation to hospital and back again unwieldy or expensive does not meet our needs. We are all aware of the stories of older people in hospital, when they should be looked after in some kind of step-down facility, and a shortage of beds because there is nowhere more appropriate for such patients. We need to better integrate these services. Partly, the problem again lies in the cost-shifting pressures that exist between Commonwealth and states and territories. Partly the problem comes from lagging behind in our planning of facilities and services.

The other end of the journey, of course, is maternity services. We do embrace the medicalised model which, for healthy women, results in a less satisfactory, less healthy and more resource-intensive birthing experience than midwife-based care. We've obviously had a full report into that issue in the Legislative Assembly recently.

I was disappointed to see Calvary Hospital come out so strongly against the recommendations in our report. They seem to be taking this as some threat to them. In fact, it was actually a sensible look at the realities for a jurisdiction of the size that we are and at the need to look at inefficiencies and problems that can come from duplication which is not necessary. The unanimous view of the committee was that we needed to take a more holistic approach to providing maternity services to women in the ACT, and the Calvary Hospital, as I said, seemed to interpret this as a threat to their independence.

While we are talking about hospitals in the ACT, I will point out that the committee did express various concerns about several issues raised regarding treatment offered at Calvary Public Hospital, namely, the alleged refusal to perform tubal ligation, the inability of the emergency department to dispense emergency contraception and the general feeling amongst staff that they are unable to promote family planning methods. We did raise these issues with Calvary Hospital, and the response from Calvary stated that Calvary's policies and procedures reflect the code of ethical standards for Catholic health and aged-care services. Copies of brochures given to post-natal women were also provided to the committee. We were concerned at the response from Calvary Health Care, as it was clear that patients seeking public services were having a particular religious ethos imposed on them, both through services provided or not provided, as the case may be, and the omission of balanced information on contraceptive care.

One other point I would raise in this MPI is the question of nurses. There are many other factors affecting the operation of a public hospital. Nurses are obviously important in this conversation, as is the current industrial tension in the context of an EBA. It seems one can sense an ACT election on the horizon when the nurses EBA is up for negotiation. My office enjoyed a few calls today from nurses who are particularly upset with the letter from the minister that they reported as an ultimatum. "Accept the EBA by the end of this week or forfeit your back-pay that would've accrued since April." I'm not sure if they are exactly the details.

The nurses appear to be meeting at present to determine their response, but those nurses who rang my office were particularly incensed that the EBA process had not been concluded and that the offer was substantial in regards to nurses at the top of the range, around 23 per cent, but only half of that for those at the other end. It was put to us that the real shortage is at the entry level and that this offer is both inadequate and, given the ultimatum, unfair. I understand they're talking about industrial action now.

There are real issues across our society when it comes to valuing and holding onto people who work in human services: the status of nurses, carers, disability workers, community sector workers and teachers is not rising but is falling; the consequences for the kind of society that we have, particularly when you consider the impact on individuals who cannot afford private health and education, their own personal carers and so on. The solution is both local, providing support for locally-based and community-based services, and national, with a real attempt to resolve the issues thrown up by the Commonwealth-state model.

MS MacDONALD (4.55): I rise to reaffirm Mr Corbell's comments about the ACT public hospital system. The people of the ACT can be proud of the level of care and the quality of services provided by our hospitals. ACT Labor accepts that there is still work that needs to be done but we're doing something about it.

On achieving office, ACT Labor had to immediately inject almost $9 million into the hospital system just to keep it going. In our first budget, we provided almost $12 million to increase the salaries of our health professionals who were poorly neglected under the previous government. We restructured the health portfolio so that it could plan and implement services in a strategic manner that met the needs of the entire community.

Over the last three years, we've funded our hospitals to meet the growth in demand for services such as interventional cardiology, cancer services, renal services and emergency department care. We've funded increases in the cost of technology.

Hospitals are resource intensive, and new drugs and implants can be a major drain on budgets. Over the last two years we have put in additional funds to meet these growing costs. We've funded additional registrars to reduce the pressure on our young doctors and to improve the level of and access to care at our hospitals. Our investment in our public hospitals has been accelerated in the 2004-2005 budget. We will fund an additional three intensive-care beds at the Canberra Hospital at a cost of almost $12 million over the next four years. These will provide much-needed additional capacity for our hospitals and recognise the continued evolution of the Canberra Hospital into a major national teaching and trauma centre.

The establishment of the ANU medical school will further enhance this reputation but, more importantly, it will provide a vibrant learning community that will ensure that the people of the ACT have access to the latest and best that the medical field has to offer. The $17 million provided over the next four years for additional general surgeons will improve rosters and increase access to general surgery services. This investment in improving this vital workforce area is a sign of our commitment to improving hospital services.

All of us would be aware of the concerns faced by people who are dealing with cancer. The last thing you need at that time is to be told that you need to wait for services. It is welcoming to note that, during a time of worldwide shortages, the ACT has been able to increase the number of radiation therapists from 21.5 to 23, which includes a clinical educator for the supervision of trainee radiotherapists. We have also established three positions for trainee radiotherapists to complete their professional development year. This is against the background of a national and international shortage of radiation therapists and radiation oncologists and is the result of concerted efforts by the Canberra Hospital to attract and retain radiation oncology staff. Waiting time for oncology patients in all categories is dropping.

We have tripled the number of breast-care nurses in the ACT that provide valuable support and follow-up after surgery. Since providing a single breast-care nurse position with Commonwealth funding three years ago, the ACT now funds three positions from its own budget—another success story with real impacts on the lives of many Canberrans.

The 2004-2005 budget provides $3 million over the next four years to increase the allied health work force at our public hospitals. Allied health staff provide valuable after-care that is essential for the full recovery of most people who attend our hospitals. This funding will increase the access to these services, which will result in better health and lifestyle outcomes for our public hospital patients.

I could go on. I won't go over the additional resources that we're putting into elective surgery and additional capacity that the minister has already noted. But I can understand why Mr Smyth is having trouble trying to keep up with the initiatives that ACT Labor has funded for our public health system.

Mr Deputy Speaker, you should wait because there is more. Sometimes significant improvements can be made by changing the way things are done rather than by spending more money. The type and nature of hospital services are changing dramatically. The integration of services across the continuum of care has blurred the barrier between hospital and community-based services.

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.

MS MacDONALD: In more and more areas people are benefiting from improved health outcomes by the tailoring of health care to meet their needs at each stage of their illness. The government is currently establishing care streams in cancer and in age care and rehabilitation. These streams will each operate under a single clinical director and will provide a consolidated and coordinated approach to patient care. The streams will link hospital-based services with those in the community to maximise health outcomes.

The establishment of an ACT stroke unit at the Canberra Hospital later this year is also another example of the ACT moving to match best practice in hospital care. The stroke unit will provide a rapid response service to enable intervention within the first hour after a stroke; the most important time of damage is to be minimised—and, Mr Deputy Speaker, I know that from having witnessed my own grandmother go through several strokes, one right in front of me—as well as developing rehabilitation plans for post-stroke recovery.

Unfortunately, demand for some hospital services continues to grow rapidly. The Labor government is funding this growth while also funding improvements in early intervention and prevention as a means of moderating this growth. One example of this is in renal dialysis. The demand for these services is growing well above the demand for other services. Over the last two years there has been an average growth of about 10 per cent per year. This growth will be difficult to sustain at this level. While ACT Labor has funded the growth in these services, it is also funding initiatives to assist in early intervention and prevention of renal disease. Better diabetes education, improved education for general practitioners and better identification of early warning signs will assist in reducing the impact of renal disease on hundreds of lives.

The increase in demand for interventional cardiology services has also been funded by ACT Labor. These services save lives. But the government is also investing in healthy living and eating campaigns as a way to minimise the level of demand for this care. It's not that we don't want to provide these services; it's just that it's much better if you don't need to provide them in the first place.

Our hospitals are major hives of activity, Mr Deputy Speaker. Over a single year our hospitals will provide more inpatient, outpatient and emergency services than there are people in the ACT. There are issues that need addressing, but ACT Labor has proven that we are the best team for tackling these issues and that we are tackling the issues.

MR DEPUTY SPEAKER: You have one minute.

MR STEFANIAK (5.03): It's probably all I need, Mr Deputy Speaker. I think that last comment by Ms MacDonald says it all—"the best team to take on these issues". I don't think I've ever seen the hospital in such a bad situation. I've never heard nurses who've been there for 35 years or more stating, "I have never seen it this bad." I've never seen or heard so many doctors, not having been particularly involved in the portfolio in my time in this Assembly, actually saying to me, "We have never seen it so bad." It is a real worry.

It was mentioned earlier about people just going in for basic things in the emergency department. Five, six years ago it would take you two hours; now it takes you six hours. An 85-year-old woman spent 3¾ days before her arm was actually fixed up and attended to.

It's not that the staff aren't trying. I speak to a number of nurses who do double shifts. The minister and the officials say, "It's only about 3 or 4 per cent of the total number of nurses who are doing those shifts." It may be, but it's in specific areas. You've got people in those areas who are there for 14, 15 or 16 hours simply because—

MR DEPUTY SPEAKER: Order! The time for the discussion has expired.

Legal Affairs—Standing Committee
Scrutiny report 50

MR STEFANIAK: I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 50, dated 15 June 2004, together with the relevant minutes of proceedings.

I seek leave to make a statement.

Leave granted.

MR STEFANIAK: Scrutiny report 50 contains the committee's comments on seven bills and two government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

I hope members now have a response from Mr Stanhope in relation to the JACS bill. If you do not, I have a copy here that I could table so that members could have a copy. I ask for leave to table it.

Leave granted.

MR STEFANIAK: I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 50—Response from Mr Stanhope (Attorney-General), dated 22 June 2004, in relation to comments made in the Report regarding the Justice and Community Safety Legislation Amendment Bill 2004.

MR STEFANIAK: If that can be photocopied and given to members, it might be handy for the debate later on. Thanks Mr Deputy Speaker.

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 lost track of Mr Stefaniak's second comment there but I seek leave to make a comment about the scrutiny of bills report.

Leave granted.

MR WOOD: I think it is appropriate at this time that I make a comment that I could, of course, make during the debate on the bill. However, let's do it ahead of that so people are well aware of the government's response, which has been circulated.

The scrutiny of bills committee commented on the two different clauses in the bill seeking compensation. Indeed, the process for seeking compensation for loss suffered in a declared emergency, under clause 167, does differ from the process in all other cases, as provided for in clause 197. The difference finds its source in the Emergency Management Act 1999, which introduced a right to reasonable compensation for damages sustained as a result of a declared emergency. The right to compensation has, of course, been continued in this bill.

The right to compensation has been included for declared emergencies as, in a declared emergency, the territory controller has been given significant powers to control the situation. These powers are broader than the powers conferred on the chief officers and are not restricted to use that directly protects life, property and the environment. As the powers given to the territory controller are so broad, it is considered appropriate here, as it has been in a number of other jurisdictions, for example Queensland, South Australia and the Northern Territory to give people a direct right to compensation.

With these greater powers comes a heavier burden of responsibility on the territory to compensate, even when a person may have contributed to his or her own losses. As members would be aware, the right to compensation differs substantially from the ability to claim compensation. As I said, the right has only being available following a declaration of a state of emergency. It has never been applied as a general rule, as there may be circumstances in which compensation is not appropriate. For example, payment of compensation may not be appropriate when the damage would have occurred regardless of the exercise of powers by an emergency service, or when the person suffers damage partially as a result of a commission of crime.

The current Emergency Management Act provides an avenue for direct appeal to the AAT about the minister's decision on compensation owing to a declared emergency. While the AAT is an appropriate tribunal to review administrative decisions, the courts more appropriately consider decisions about the level of compensation. The courts are better able to consider other matters that may be relevant in determining the level of compensation that is reasonable in the circumstances. For example, a court may reduce the damages available to someone whose car is damaged by the fire brigade in accessing a fire hydrant or fire escape, where the damage is as a result of a person parking the car illegally in front of a hydrant or escape.

This sort of case would raise issues such as contributory negligence and whether it is reasonable in the circumstances for the person to be fully compensated. These are not appropriate matters for the AAT to consider. For compensation matters considered by the courts, the Civil Law (Wrongs) Act 2002 provides procedures for early resolution of claims and to assist in the settlement of cases before they go to court.

Mr Speaker, following the presentation of Mr Stefaniak's report, that is my indication of the government's response to the report.

Revenue Legislation Amendment Bill 2004 (No 2)

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

Title read by Clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.10): I move:

> That this bill be agreed to in principle.

The Revenue Legislation Amendment Bill 2004 (No 2) is an omnibus bill. It amends the Rates Act 2004 to allow the Commissioner for ACT Revenue to disclose the unimproved value of every rateable parcel of property in the ACT to the public.

This bill also amends the Taxation Administration Act 1999 so that the release of this information is not restricted to particular people. Each year the Commissioner for ACT Revenue is required to redetermine the unimproved value of each rateable parcel of land, record the particulars and provide written notice to the owner. This record is stored in the ACT Revenue Office in a schedule that lists each suburb, section and block and the unimproved value.

The release of the information contained in this schedule was not previously governed by the Taxation Administration Act and it has been a longstanding practice for the schedule to be placed in government shopfronts. This allows ratepayers to compare their unimproved value with that of neighbouring or similar properties, and thereby support a case for objecting to the newly advised unimproved value.

From 1 July 2004, the Rates Act will be administered under the Taxation Administration Act. This act has secrecy provisions preventing the disclosure of any information that may identify taxpayers or disclose information about their personal affairs. Although the schedule does not contain names and addresses, it may indirectly provide enough information to identify individuals.

Mr Speaker, for an objection to an assessment based on valuation to be valid, the grounds must be stated fully and in detail. That detail may be a comparison with unimproved values of other blocks and the only source of this information is the schedule. Not being able to access the schedule will greatly reduce the taxpayer's chance of successful objection. Therefore legislation amendments are necessary to allow

unimproved value information to be disclosed to the public. Mr Speaker, I commend the Revenue Legislation Amendment Bill 2004 (No 2) to the Assembly.

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

Emergencies Bill 2004

Debate resumed from 14 May 2004, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MR PRATT (5.13): Mr Deputy Speaker, the opposition supports the Emergencies Bill 2004. We will expedite the passage of this bill today through our role here. After all, there is little time left to allow mobilisation of the ACT's emergency management system after this bill has been introduced. There is little time between now and the coming fire season.

Be that as it may, the bill is quite a good bill. It is certainly a vast improvement on what the ACT governments have had successively for some time. I do congratulate the professionals who have advised the government and I congratulate the emergencies community for their contributions to both the drafting of the bill and to the general debate and discussions on the bill and the emergency management system. Clearly, the management system needed to be shaken up. I think now that the morale of the emergency services workers and senior officers must improve with the passage of this bill and I think that is a very, very good outcome, but it has been a long time coming.

The consultation process and the development of ideas, plans and finally the legislation have been a welcome change to what was the case beforehand. The consultation has been wide and it has been transparent. However, the time allowed to examine the legislation per se has been pitifully small: only five weeks for what is a very complex and detailed piece of legislation—and it needs to be complex and detailed—that, by its very nature, is expected to define—let's not be pithy about this—life and death issues and the very important roles and responsibilities of people from the most senior levels, from the minister down to the volunteer. In many cases, these roles also involve life and death issues.

I have therefore been quite dissatisfied with the amount of time left to examine such an important piece of legislation, including a timeframe for examination that ran concurrently with the budget and the consequential estimates program, at the busiest time of the year for everybody, including emergency workers, professional officers and MLAs. That was the time we have had in which to examine what is a very important bill.

As I say, Mr Deputy Speaker, it is quite a good bill but I must comment on the fragmented nature of some of its components. I do appreciate the difficulty of tying down the various principles that underpin the emergency management system and why, therefore, some of those components will be fragmented across the bill. That cannot be helped. However, sometimes you have to go chasing around to put together the pieces to determine what are going to be very important pieces of governance. I guess that sentiment is behind the amendments that we are moving today: knowing that these

elements are going to be fragmented, we have prepared amendments that regroup some of those principles and reinforce the statements about them.

Let's have a look at what has happened since 2002, in the time coming up to the tabling of this legislation. Finally, we are at the point where we have this quite useful instrument about to be introduced, which I am confident will better protect the community. For nearly two and a half years now, we have seen the Labor government being inactive and ineffective when dealing with preparations and operations in the ACT's emergency services. The December 2001 fires were a significant wake-up call for the Labor government and any government on these benches. They were a serious wake-up call, as well, to the Emergency Services Bureau.

The December 2001 fires were so significant that the Emergency Services Bureau came up with 102 recommendations, and the coroner at the time came up with a raft of recommendations, for future safety and emergency management. How many of these recommendations were implemented by the recommended date? How many of these recommendations, which may have expedited the preparation of this legislation, were taken on board or taken seriously? Very few, Mr Deputy Speaker.

The Labor government ignored the recommendations of its own Emergency Services Bureau in the period leading up to the bushfire disaster in January 2003. For example, recommendation 92 of the 102 recommendations stated, "Develop program of public education that looks at issues from the debriefs and can be addressed by: 'How can the public be better educated in emergency management matters and their responsibilities?'"

Recommendation 92 was given low priority by the Labor government and, in addition, was given no deadline, which therefore left it wide open to never being addressed, and it wasn't addressed for quite some time. If it had been addressed before January 2003, perhaps some of the circumstances of January 2003 may have been mitigated. That reflects a pattern of behaviour of this government with respect to its responsibility to have inquiring minds and to reform and rectify major weaknesses in the systems of good governance. It passed over numerous opportunities to develop and table this legislation.

The government failed to improve the processes of communication between the Emergency Services Bureau and the public prior to the January 2003 bushfires. Let's talk about that: warnings and communications to the community. I am very pleased to see here today that the new legislation addresses this vital and I really think the most important of all issues, of all of the lessons arising out of the January 2003 disaster: warnings and communications to the community.

However, it does not address this issue comprehensively and I have therefore brought amendments into this place tonight to strengthen this fundamental issue. I now understand that the government may adopt an amendment related to this. I am very keen to have a look at that and I would welcome it.

Returning to the issue of the litany of inaction, I refer to the May 2003 audit report into the Emergency Services Bureau. The state of the emergency services in the ACT was addressed in the Auditor-General's report on the Emergency Services Bureau, which gravely questioned the fitness of the bureau. Page 8 of that report stated that the

operating structure of the Emergency Services Bureau was dysfunctional. That was a pretty important statement made in May 2003.

The inactive and the ineffective Labor government also ignored that comment, just as it ignored all of those recommendations coming out of the emergency of December 2001. It by and large dismissed the Attorney-General's report and therefore, I would maintain, missed another early vital opportunity to enact urgent and vital reforms, and to perhaps design and table this legislation much earlier than this.

What about the McLeod inquiry? We now know from the very useful work done by the new emergency services authority, and the very useful work done by the men and women of the emergency services, including the volunteers of those services, that significant elements of the McLeod inquiry, including significant recommendations, have been quite rightly shunted to one side. Mr McLeod's report, by and large, while of some use to the community in identifying some of what went wrong and some of what needed to be done to rectify the weaknesses in the system arising from the emergency management system in January 2003, was a frightful waste of time and money. It was valuable time lost, and time that was needed to urgently come to grips with fixing the emergency management system. Perhaps it was time that might have been better spent developing and tabling this legislation earlier.

The coroner's inquest, on a weekly basis, starkly demonstrates the significant inadequacies of McLeod and the opportunities that were lost because the government did not act in a more urgent and inquiring way in 2003 to identify what needed to be rectified.

We are here today, 17 months later, and before us we do have now a useful piece of legislation. However, we had to sail through another highly dangerous bushfire season—and I am talking about the season just gone—smack in the middle of the worst period of drought the ACT has seen in decades, before finally we got this useful instrument on the table. That is not a reflection on the people who have drafted it. That is not a reflection on the men and women of the services who have gone around to consult, made suggestions and changed models. That is a reflection on the inactive government we have seen in all of this, the lack of leadership by government to urgently come to grips with this legislation here and now, and get it moving.

Now we are three and a half to four months out from the next bushfire season, in 2004-05, and now the government is going to be asking the new authority to mobilise in short order as a consequence of the passing of this legislation. It does not only have to organise, retrain and put in place new training regimes, but it must also enact new regulations relevant to bushfire hazard management in the next three and a half months. In that time, the government and its authority is going to have to have time to inform and educate the community before the upcoming bushfire season starts.

The government has been a bit tardy and a bit unfair, and the people are going to have to jump through hoops and kick backsides to get these things moving. I would remind this place that we, the opposition, introduced legislation in November 2003 that I wish the government had stolen. I wish they had taken it on board and rebadged it then—adapted it, adopted it and then rebadged it—so we could have got this process moving much earlier.

Let me turn to a number of issues in the bill that I want to talk about—first, the community communications and information plan. I am somewhat disappointed and a little concerned that the bill does not properly tie down and clarify the responsibilities and the mechanism for the establishment of the government's warning and community communication strategy. It is quite pleasing to see, though, the responsibilities and roles of both the minister and the authority with regard to providing warnings, launching the states of alert and emergency and providing updated reports to the community.

This is a vast improvement and yes, the legislation has addressed community communications but not to the extent that I think it should. The legislation does not lay down the framework of the community communications plan in detail—I am not talking about drilling down into the regulations—but the legislation is the place where we should see at least the outline of the concept locked in place. It should also describe the obligations of others in the community, particularly the media. It does not specify the essential tasks mandated for key government agencies and the sorts of tasks that we would like to request of the media and other authorities over which the government does not necessarily have control.

Why not enshrine those vital functions in our legislation so that we can show the community what we are on about? I cannot understand, given that warning the community in January 2003 was fundamentally a failure, why the legislation has not gone much further in comprehensively detailing the principles underlying the need for warning and community communications. To that end, we will move substantial amendments to rectify what we believe is a gap in the legislation.

I am going to eat some humble pie here. We have received significant feedback from members of the emergency community about the need to clarify the boundaries of responsibility between the areas of operation of both fire services. I did acknowledge at the time that there had been an extensive amount of work undertaken by the drafters to really sharpen this and they have done a good job. I had submitted a group of amendments that I had prepared in respect to this and now I have taken those out. I must, Minister, thank the government and its departments for a late meeting to get to grips with this issue.

I do congratulate the professionals and the drafters for going to great lengths to much more sharply define the division of responsibility between the two fire services, and to remove the dangerous ambiguities that have bedevilled some responses in the past, and may have caused unnecessary confusion during some of the emergency responses. There are questions around that and we are all going to have to monitor that. There are technical concerns that we will certainly monitor from this side of the house, but I think it is a pretty good plan. I must also thank the crossbenchers and their staff for joining in last night in coming to grips with these issues at such a late hour.

Bushfire risk analysis, clause 72: we think that, while some quite good principles have been laid down, this area needs to be sharpened as well—the responsibilities and roles of chief officers relevant to bushfire risk analysis. We think that risk analysis is so important that we need to pull those four or five jigsaw pieces out of the different parts of the legislation, regroup them and quickly describe what those functions involve and who is responsible for analysing risk here and who is responsible for it there.

The other issue I would like to raise is compliance and auditing of the bushfire hazard management targets. We think, again, that the responsibilities and the time lines in respect of the compliance that has to be achieved and the auditing of bushfire hazard targets, have to be strengthened. We also think that the making of the strategic bushfire management plan by the minister might in some cases require some clearance in the Assembly under clause 75, when there may be differences of opinion about what constitutes a very important bushfire hazard target and what does not, particularly if there is a difference of opinion between stakeholders on what those targets should be.

Disaster plans: we are very concerned that, under clause 147, the emergency plan does not adequately detail the requirement for developing disaster plans to meet the credible threats that this community does face. Again, clause 147 is very useful. The entire chapter relevant to the ACT emergency plan is well written and it is going to work well, but I think we can add value to that by whacking in these disaster plans. *(Extension of time granted.)*

I know, by instinct and through discussion with the authority and with many of the senior officers in the emergency services, that they will probably write the disaster plans—certainly the people we have now in service will. However, the completion of these plans, as part of an otherwise useful chapter on emergency planning, is so important as to warrant benchmarking in the legislation. To that end, we want to see the legislation benchmark the sorts of plans that should be written as subsets of the emergency plan. We have another 12 or so amendments that are aimed at making important improvements but I will speak to those when I move them later.

In conclusion, this is a good and very useful bill and we welcome its passage today and its implementation as soon as possible. It is, however, somewhat disappointing that it has taken 17 months to get to this point to finalise the debate. This was a consequence, I believe, of vital time wasted and some indecision. Warnings to the community, community information, responsibilities with respect to planning needs, compliance, auditing and disaster plan designations are the areas of weakness that the opposition believes should be addressed and about which it will therefore move amendments.

However, Mr Deputy Speaker, it is pleasing that at least the legislation will provide much clearer direction, much clearer benchmarks and reforms for organisations that were once thought to be cumbersome. With a few amendments, it will also provide clearer guidance to, and inspire greater confidence in, the community and, most importantly, the men and women of the emergency services. I commend the bill to the house.

MR HARGREAVES (5.35): Mr Deputy Speaker, Mr Pratt talked about a couple of issues: the government being inactive, ineffective and indecisive. I find there is some inconsistency in that, when those opposite criticise the government for picking up so quickly on the recommendations of the McLeod report. In my view, you cannot have it both ways. You can criticise the government for acting quickly, perhaps, but certainly not for being indecisive.

Mr Pratt talked about the government being inactive and ineffective. While he also qualified his remarks later on by saying they were not directed at the front-line workers and all that sort of stuff, I have to say that the emergency response was nothing short of

heroic and brilliant. I did not find it inactive and I did not find it ineffective. I can recall being involved, prior to coming to this place, in the development of evacuation plans and evacuation and recovery centres. The plans that were put into place were instantly developed by people in the Children's, Youth and Family Services Bureau, as it then was. The process was guided and directed through training programs mentored by the Emergency Services Bureau through the Winchester Centre. I attended some of those; so I reject this notion of inactivity and ineffectiveness.

I think it is important to put these things into perspective, however. This government came to office in October 2001. The first bushfire of any note in recent times was at Christmas 2001, if my memory serves me correctly; so the response to that bushfire occurred under regimes set up by those opposite. This government had ministers whose chairs were not warm at that stage; so to try to say that this government is responsible for both bushfires is stretching the point a bit.

In the Fourth Assembly there was an attempt by those opposite, under the guiding hand of now Senator Humphries, to reform the emergency services structure. That meant, though, for those who were here at the time, the collapsing of all acts into one service. It meant the introduction of what was essentially the Canadian armed service model. It destroyed the military model, which must by its nature be service-specific, and that brought about a revolt from all elements of the emergency services and all but destroyed morale. There was no consultation with front-line fighters at all—well, nothing of any note. I say this as a result of my experience as the shadow minister for emergency services in that Assembly. I made it my job to talk to many of those people who were being trained to protect us.

The difference here is that the restructure is based on a consultative model. It recognises and respects individual service cultures and creates a cooperative service model designed to provide immediate, professional and appropriate response to disasters. However, I caution those involved in the consultation model not to forget the unique attitude to the service of volunteers in both the SES and bushfire service. They have a different perspective and it would be a mistake to fail to include them in the consultation process—that would be terrible—but also not to listen to them and hear them. If something is going to fall over, if the cooperation of the volunteers is not there, you will have trouble. If it is there, you will be sailing.

In reflecting on the criticism that I had of the service in those days, from administrative systems to consultation, I remember that I had no criticism at all of the professional ability involved in the front-line firefighting. I had nothing but absolute respect for them and I have to say that that respect has not diminished in the least. In fact, it has increased 600 or 700 feet as a result of the effort that was made during the 2003 fires.

Regarding Mr Pratt's comment that, in a mere three and a half months' time, we will be asking the Emergency Services Authority to mobilise, I have every confidence that they can and will respond, and will safeguard our community. When the Minister for Police and Emergency Services presented the Emergencies Bill 2004 in this Assembly on 14 May 2004, he evoked some of the salient lessons of January 2003 and spoke of the need to proceed as quickly as possible to put in place a new system for the management of emergencies in the ACT. Minister Wood did not linger on recollection of those sad

times, urging members to recognise the value of this opportunity to improve on what we have by using what we have learnt.

Not only does this bill give substantial effect to the recommendations of the McLeod report, it also builds on our knowledge of emergency management in other jurisdictions. It has already attracted interstate interest as a potential model for the consolidation of all emergency management legislation within jurisdictions. The government has taken up the challenge presented by recent events and the recommendations of the McLeod report, and produced what I believed to be an exemplary piece of legislation.

I must say that this is in no small way attributable to the open and frank debate on the subject of emergency management both within and outside this Assembly, and to the willingness of all members of the Assembly to engage in discussion about the draft legislation. I echo Mr Pratt's appreciation to all members of this house for their cooperation in producing what has evolved.

I know that all members are now aware of the fundamental elements of this bill, such as the creation of a statutory authority headed by a commissioner; the broadened objectives of the new authority, acknowledging responsibility to the environment and to the community; the separation of the Rural Fire Service and the State Emergency Service; the regeneration of the Bushfire Council as a core advisory body; and the comprehensive consolidation of existing emergency management legislation.

At this point, I would like to return the attention of members to some of the significant innovations presented by this bill that may not have been strongly emphasised throughout discussion of the proposed new arrangements. The bill provides for the establishment of community fire units, whose role will be to protect homes and property in the event of fire in their local areas. The employment status of members of the fire brigade will change upon the signing of a certified agreement so that they, together with all employed staff of the authority, will be employed under the Public Sector Management Act 1994. This move represents a great leap of faith by our firefighters who have, until now, been employed under their own statute. It is symbolic of the will shown by all involved that they embrace those important changes.

The bill makes express provision for the territory's capacity to scale up in emergencies. The authority or the territory controller will have the ability to obtain and direct resources from outside the territory, or to direct territory resources to incidents outside the territory.

There is a clear obligation upon agencies and government land managers to work together to ensure that land management and hazard reduction standards are maintained. The authority will conduct audits of the bushfire preparedness and capability of land-managing agencies. The inclusion of a bushfire abatement zone around more fire-prone parts of the city will apply new planning and management rules to the urban edge and its surrounds so that the possibility of large-scale harm to our physical assets and our people is minimised.

Compliance and enforcement provisions have been significantly simplified and strengthened in this bill. The old provisions of the Bushfire Act 1936 have been overhauled and reproduced in simple form in the bill, which will now apply some

penalties outside the bushfire season. Higher penalties will be incurred for unlawful activities in the bushfire season.

This bill presents a comprehensive revision of all of the existing legislation for emergency management. It modernises, simplifies and clarifies the planning and management of functions for each of the four emergency services. It draws those services under a much more cohesive and strategically focused management structure. The new authority is designed to be a strong and unified emergency management agency.

I have observed, with some satisfaction and comfort, that the Emergency Services Bureau, under the guidance of the commissioner designate, has already made significant progress in its transformation into such an organisation. As Minister Wood said when presenting this bill, we cannot wait for another fire season to pass before moving to reform emergency management. I therefore urge all members of this Assembly to support this legislation today.

MS TUCKER (5.46): The Greens support this bill. It's the result of reflection on what was and was not working in our emergency services, that is, the urban fire brigade, ambulance, rural fire service and volunteer emergency service. Last year's terrible fires showed us some stark problems in the structure established under the previous government. Many recommendations of reports over the last decade had not been implemented. This included, importantly, community education and preparation on the urban edge to build recognition and preparedness that we live in a bushfire-prone land.

There were also longstanding issues such as the urban fire service's training budget, which was reduced massively from the time of amalgamation of management into the former Emergency Services Bureau. There was also the ongoing unmet need for communications upgrade. This is just to name a couple of points.

The McLeod report began the process of identifying problems and remodelling. I and other MLAs in the Canberra community heard from members of the services, particularly fire, urban and rural, about what they saw as fundamental problems in the structure proposed by McLeod.

I am very pleased to be able to say that the new commissioner for emergency services, Peter Dunn, whom the government appointed late last year, has done a great job of working with all of the interested groups and people to mould the new authority in a way that will, we sincerely hope, mean that the individual services will have the support and autonomy they need for their regular work and, in times of emergency, whether bushfire, major accidents, health crises, will work together smoothly and effectively.

The bill is structured to set the key principles of operation for the ESA and the key responsibilities to establish advisory groups with the key views and expertise represented and to require the development of emergency services plans. The objects set out at clause 3 are to protect and preserve life, property and the environment; to provide for effective emergency management; to provide for the effective and cohesive management by the Emergency Services Authority of the state emergency service, the ambulance service, the fire brigade and the rural fire service; and to recognise the value to the community of all emergency service members, including volunteer members.

The structure is kept simple. Much of the detail of the work flows from the higher level principles and responsibilities. This also is intended to underlie a sense of responsibility and ownership rather than a culture of following tick-lists of required jobs. This approach follows through to more detailed requirements such as the shift towards assessing and requiring particular standards of cover at different locations in the rural area and urban edge. This focuses on the result rather than how to get there, which allows the many factors to be taken into account.

Another of the glaring problems, the failure of successive governments to implement recommendations about community preparation and responsibility, is addressed in part by the expansion of the bushfire fuel management plan to a strategic bushfire management plan. This includes the full range of factors and is another example of the approach of focusing on the desired result, setting the principles and information sources in place to ensure the method of achieving the result takes into account all important factors and up-to-date views and evidence.

Clearly this is a large bill and I'm not going to go over again all the changes made. I will, however, note a couple of points. The problem of transition of responsibilities between rural and urban has been dealt with by use of a new bushfire abatement zone and setting the urban brigade the responsibility of making sure that planning is done for that zone in collaboration with the rural fire service. However, the rural fire service is responsible for responding to fires in that zone. Ninety-five per cent of fires begin in that zone, so it is an important responsibility and means that the rural fire services have experience built in that area for the less frequent occasions when fire fighting requires work in the more remote rural areas.

Communication of the developing potential for the fire emergency was one of the big failures in January last year. I think we've all heard from people who did not know that the fire was even threatening the suburbs until they saw flames. Massive efforts were made at the last minute but this of course is not enough. The bill establishes a state of alert, responsibility for community education and the process for progressing from a state of alert to a state of emergency.

Strong powers are conferred on the territory controller and the chief officers of emergency services to deal with declared emergencies. These are limited by a caveat at clause 148 that division 7.3.1, concerning declared emergencies, does not authorise the taking of measures directed at ending an industrial dispute or dealing with a riot or other civil disturbance. This protects us from possible abuse of these powers in the future. Emergencies represent situations when lives may be at risk.

The scrutiny of bills report pointed out the questions that should be considered when looking at extraordinary powers to control liberty and I think it's clear that this is a situation that falls within the definition of human rights. The powers are circumscribed by the existence of the emergency. The power to remove someone from one place to another is given by clause 166. This may include detention—however, detention only for the purpose of the removal, not a general detention. The controller is permitted to use any necessary and reasonable force in doing so. However, it is permitted only for the purpose of removing a person who is obstructing or threatening to obstruct response or recovery operations in a declared state of emergency.

We have to come back again to the fact that emergencies require urgent action, possibly in order to save lives. The territory controller is required to believe on reasonable grounds that the person is obstructing or intends to obstruct. I believe that this is a necessary power and is well enough defined and limited. Thus it meets the definition of human rights in that, as the minister pointed out in the response to the scrutiny of bills report, few rights are absolute and limits may be placed on rights within defined boundaries and with the aim of balancing competing interests. He then goes on to discuss what is a reasonable limit.

The scrutiny report also discussed the right to compensation issue. Carried over from the Emergency Management Act 1999 is a right to compensation for damages directly resulting from acts of omissions of the territory controller in exercising emergency powers for a declared state of emergency. The decision on the entitlement and amount of compensation is made by the minister. This decision is no longer appealable to the AAT. It is now to the courts that you must turn for a review. This change bears some consideration.

The government gives as its reasons the fact that the task of the reviewing body is likely to include decisions on an appropriate amount of compensation and that the courts are better suited to make those assessments than the AAT. The difficulty with changing from the AAT to the courts as a review body is the higher cost involved in going to court. However, it's also true that the new procedures under the Civil Law (Wrongs) Act make it much more likely that the claim will be resolved before getting to court. On balance, I'm okay with this change.

I have expressed in the past some concerns about the new planning concepts in the non-urban study where we see the same areas labelled as bushfire abatement and as wildlife corridors. It will require careful attention to meet both objectives.

I believe that this bill establishes the principles and the input to give us the best chance of doing so. In urban areas where this remains an issue, such as the north Gungahlin suburbs, decisions should be made to separate the zones. The nature reserve should not be required to be the bushfire buffer for the suburbs.

As I alluded to earlier, Mr Dunn's commitment to working with all of the interested parties to redevelop the emergency services system is a model of democracy and consultation in action, important both because it has re-engaged people who were very unhappy and angry and because, as a result of this committed, energetic, flexible work, the system will be stronger.

I have raised my concerns many times about some of the extreme responses to the fire, which meant there was political pressure to effectively slash and burn. This is of concern not only because it risks loss of ecological diversity but also because various studies of fire ecology have shown it is unlikely to reduce fire risk. There are ways to address both fire-risk reduction and the protection of environmental, ecological and biodiversity values. Indeed, it's essential to our future that we do find that way, not only on the fire risk but also in many other areas of life. My concerns and those of fire ecologists and environmentalists have been integrated into this bill.

The objectives of the bill recognise that protection of our natural environment is one of the aims for emergency services. The objectives flow through to the planning bodies, the Bushfire Council, which has the function of advising the authority and the minister on matters relating to bush fires. It includes a person to represent the community's interest in the environment. The government will be moving an amendment to this that flows from discussions I've had with Mr Dunn and formed by people with relevant experience of the community. I will speak in more detail on this in the detail stage.

The authority must consult with the council in preparation of the strategic bushfire management plan. The membership of the council is composed, at clause 129, of people with particular skills and contacts or viewpoints to represent, and the minister "must try to ensure" that people to fill these roles are appointed. I understand the reasons for this set-up and believe that the language is strong enough and that it's only in the case that there is genuinely no-one suitable that the minister would not fill the vacancies.

The council is intended to work by considering proposals, each member in consultation with their constituencies. The wording of, for example, the person to represent the interest of the community is important. It is a responsibility to consider how the community will be best served by whatever is before the council. This, in my view, is a much better expression of a community representative than we often see.

The emergency management committee similarly includes, in addition to the heads of the relevant services, a person to represent the community's interests; a person to represent environmental interests, including conservation; and a specialist in recovery from emergencies.

I think I'll leave it there and go into it more in the detail stage later. But I would like to thank everyone concerned again, including members of the community and the services, for working to develop a much better system.

MS DUNDAS (5.57): The ACT Democrats will be supporting the Emergencies Bill 2004. As we have discussed many times in this Assembly, the emergency response leading up to and during the 2003 bushfires had a number of shortcomings. Some of these have been identified by the McLeod inquiry, and other reports have investigated these fires. The coronial inquiry will expose many more issues when its investigation comes to a conclusion.

Needless to say, since the aftermath of the bushfires there have been numerous calls for reform, especially of emergency services in the ACT, so that the courageous men and women who put their lives on the line during emergencies can receive the support they need from the management and administrative structures into the future and that our resources are utilised in the best possible way when we are dealing with emergency situations.

So this bill creates a new managerial authority for emergency services in the territory that will report directly to the responsible minister and retains separate units for the four distinct services but combines them into a single management structure headed by the Emergency Services Commissioner. This will allow greater cooperation, interoperability

and co-ordination between the services, allowing a more cohesive emergency response in the future.

The form and responsibilities of the new management structure have been subject to extensive consultation with stakeholders, and my understanding is that the new structure results from a broad consensus on most issues. I think the process, in terms of extensive consultation and bringing this legislation together and working with all parties, has been extremely admirable and the hard work of Peter Dunn and his assisting officers should be recognised by this Assembly.

This bill departs somewhat from the models proposed in the McLeod report, and I believe this is a sensible departure as detailed discussions with stakeholder groups revealed that there were major concerns in relation to what McLeod was proposing. I'm glad that the government has retreated from its previous stance on implementing all of the McLeod suggestions in full. I believe the government was too hasty to be seen to be doing something rather than actually ensuring that the best was being done as they rushed to accept McLeod; so I'm glad that we've moved away from that rush to be seen to be doing something and are now actually doing something sensible.

The intention of the McLeod recommendations was to ensure a closer working relationship between emergency services, but it did that by taking away their uniqueness and devaluing their individual skills; so the structure proposed by the bill before us actually allows greater cooperation between the fire services and all services whilst retaining their distinct identities. We are addressing the concerns that have been raised by McLeod, but there is a different solution before us.

The bill departs from a board structure and puts in place a single Emergency Services Commissioner who is responsible for the operation of the authority. The four emergency services retain separate units within that authority, each having a chief officer who will be responsible for that particular service. The bill specifically requires certain qualifications for the chief officers of those services so that we can be sure the management of the services actually do have on-the-ground experience in dealing with emergencies and would be aware of the actual challenges throughout the system and the challenges of doing the on-the-ground work.

A particular feature of this bill that I am delighted to see is the statutory responsibility for community education and accident prevention programs within each of the emergency services units, with an overarching co-ordination of this to be managed by the authority. The bushfires have alerted us to the fact that our communal knowledge of emergency procedures was inadequate, and this new statutory role will help enhance the awareness of emergency measures throughout the territory. I think this is particularly important because we have in this debate focused on the emergency that surrounded the bushfires of January 2003 and there has been some discussion about the need to have the community prepared for the next bushfire season.

It is the nature of emergencies—that they can happen at any time and can take any form—and we need to be, I think, raising community awareness about the diversity of emergencies that can strike the ACT at any time. I think that the community has become more aware of the dangers associated with bushfires and there has been a greater focus on making sure that our town is bushfire ready, but there are other situations that we

should be working on and dealing with, such as accident prevention. I hope that, with the passing of this bill, each of those four emergency services units actually focuses on this community education awareness program and we start making the community more aware of fires that can happen in the home and what happens in other emergency situations; not just what happens when there is the possibility of a large fire hitting the city.

I'm also particularly pleased to see that the objects of the bill include reference to protecting not only life and property but also the environment. There was a lot of nonsense spouted after the bushfires that biodiversity management had somehow interfered with bushfire prevention. This bill clearly demonstrates that those two objectives need not be in conflict and it is clearly not in the interests of forests or wildlife to be regularly razed by a bushfire.

Finally, Mr Deputy Speaker, I want to recognise the fact that emergency services in the ACT only function effectively with the special effort of volunteers. The bushfires taught us the importance of our emergency volunteers and their bravery in preventing even greater harm that could have befallen Canberra in both the 2003 fires and the 2001 fires.

I want to make it clear that this bill is not, as I understand it, designed to derogate any recognition or responsibility from these crucial volunteers. This bill gives important recognition to the dependence of our emergency services on the goodwill and selflessness of volunteers and we must continue to value their time and their dedication.

This is a bill worth supporting and I am glad, as I have said, to see that it is focused on retaining the things that are good about our current emergency services systems, just working to improve them, and that we will have better communication structures into the future, better community awareness structures into the future, but we will retain the dedication, the knowledge and the desire to protect this city that make our emergency services one of the best.

MR SMYTH (Leader of the Opposition) (6.04): Mr Deputy Speaker, the opportunity to speak to this bill is welcome because the bill has been a long time coming. That is not a criticism of Commissioner Dunn and the process that he conducted; it is a criticism of the government and the glacial approach that they take to most of their activities.

I was curious to hear Mr Hargreaves's approach to this bill that "it gives effect to the McLeod recommendations". Mr Hargreaves, no, it does not. You need to look at page 208 of McLeod to know that the McLeod report is now seen for what it was—something that, in its recommendations that we would have a single-service emergency services authority, was absolutely unworkable and unsuitable to ACT conditions. So, Mr Hargreaves, sorry, you're wrong. You need to read page 208. You also need to read page 210 where McLeod actually suggests:

> Both the Tasmanian Fire Service and the Country Fire Authority in Victoria are examples of the successful merger of bush and urban fire services; they would be good models to follow.

Mr Hargreaves, if you had actually bothered to take the time to read this bill and had gone to clause 3.2 and chapter 4, you would see that, instead of having a single officer in

control, as suggested by McLeod, we end up with a number of senior officers. We have the chief officers and their functions quite clearly outlined. Then, under chapter 4, we actually have a number of services, the emergency services, all individually outlined. This is an absolute contradiction, and quite correctly so, of the McLeod recommendation that this government, in its haste to be seen to be doing something after the emergencies of last year, accepted holus-bolus without any thought or any consultation.

Well done to the commissioner for actually getting out there and conducting some serious analysis of what was required and which would keep all of the players in the tent. I think the model that the government was so happy to accept and say that they would implement was going to lead to serious divisions. I expect it would have led to a serious loss of volunteer power and expertise as well.

The good thing about what has finally come forward, even though it has taken some time, is that it does follow very much strongly on the model that Mr Pratt put forward last September and, indeed, is based on the model that I had the pleasure to sketch up on a board at a volunteer brigades association meeting at about the same time.

Right from the start, when the McLeod report came out, people were concerned that it did not take into account the needs and the unique nature of the city/state that is Canberra. So what we've got, I think, is a much better response and something that will give us greater clarity of how it will work.

I hear the scoffing from those opposite. Perhaps, Mr Corbell, you should look at page 208. All it's got is: "Chief Executive Officer", "Operational Management", separate "Ambulance Operations", then "Community Education and Prevention". If you can find that in this bill, Mr Corbell, then you're fooling yourselves.

So the process that we follow, albeit somewhat slowly—and again it's not a criticism of the commissioner—has been a good process. Well done, particularly to you, commissioner, in terms of the follow-up of suggestions; the consultation with the troops on the ground, whether they be ES, bushfire, ambulance, or police; the updating of the community; and, I think, the constant interaction with the politicians where you've been able to come back and actually talk to the politicians and tell us where the bill is going and how you were going to address the concerns raised.

The program that saw people as senior as the head of the fire brigade coming out to the community councils, indeed facing the rigours of the Tuggeranong Community Council just last month, I think, shows a commitment to getting it right. In that regard, congratulations again; it's done the rounds.

Part of the scepticism that I think existed in some of the brigades, particularly the ES and the bushfire brigades, has been addressed and I think the troops on the ground are particularly pleased that Commissioner Dunn was doing the rounds, was talking the talk, and actually walking the walk. He's delivered what he promised.

What we now have to do, as members of the legislature, is actually pass it so that it can be gotten out there and made to work. There isn't a great deal of time between now and 1 July, and that's a shame because I think some more time to get the set-up ready would have been useful for the commissioner. Well, that's said and done.

Out on the ground—I can talk perhaps for the rural fire service and the ES boys and girls, ladies and gentlemen, volunteers—the ones that I've spoken to are willing to give this a 100 per cent try to make it work; they'll do their part because they think the commissioner and other officers have actually listened to them. There is some dubiousness about how it will actually work, but the feel I get is that people are actually willing to give this a go. And that's a really good sign because it's coming up from the grass roots. Whether you talk to new volunteers, volunteers with extensive experience, office holders inside the brigades, the feel I get is that people are happy with this and are willing to give it a go. They do understand that new systems like this, new set-ups like this, will take some time to bed down and we may need to come back.

I understand the government has foreshadowed there may be some amendments some time in the future. But I think, given the goodwill that exists because of the process that's been followed, this has a very real chance of bedding down quickly and effectively.

I guess in any emergency, whether you want to take it from one extreme, the military, to the other, emergency services, it all comes down to your command and control structures. I think this is where the bill is very different from what McLeod was recommending, and I think it's better for that reason. If you go to parts 5.1 and 5.2, what we have is a division between the rural and the urban. In 5.2 we actually have outlined what the fire response and the control will be.

You can't draw a line on any map and categorically say, "That's all rural; that's all urban." It doesn't work that way. The very nature of the bush capital, with a number of satellite cities surrounded by patches of bush—it necessarily will not fall within the defining line as to what's urban and what's rural, what is in the city and what isn't—makes it difficult.

Part 5.2, the fire response and the control mechanism, to my mind, is actually at the heart of this bill. And it's at the heart of the bill because it's not an exclusion process; it's actually a process that allows the officers in control to respond appropriately and gives them guidance on how that will work. It's quite simple; there are areas in this territory where the most appropriate response will be a light unit from a volunteer bushfire brigade because it's at the top of the hill and there are no urban fire units responsible. That having been said, that light unit at the top of a hill may well be within sight of homes.

This is the transition and this is what part 5.2, I believe, really talks about. It's about how we respond to fires and how we control that transition. It's that transition, I think, that caused us the most grief in January last year and it's that transition which will be at the heart of making sure it doesn't happen again.

So the appropriate response to a small grassfire on the top of a hill at the bottom of Tuggeranong might be a light unit from Southern or Guises Creek. Depending on what's available, it might come down the road from Jerrabomberra. If that fire is put out and the emergency passes, then there's no further response. But should that fire grow and move to within, I'll call it, a dangerous distance from the back of houses, the response will be upgraded. And this is where the smooth transition must occur that will include our urban fire fighters.

The urban brigades do have some rural capability in terms of pumpers and light units and they may well be the first unit to respond, and that would be appropriate. It might be a volunteer unit; it might be both. But what we have is this transition, this slow or, in some cases, quick upgrading of what is happening on the ground so that we have responses appropriate to the emergencies as they evolve.

When we look at how we've defined in 5.1 what is a built-up area, what is a rural area, what is the city area and then the fire response and control, what we've now got is the appropriate mechanism to ensure that we have this transition either up the chain or down the chain, as emergencies pass, to ensure that Canberra is protected in all of its essence—whether it's protecting a farmhouse out in Tidbinbilla Valley or whether it's protecting a person's home in Kambah.

So I look forward to operating under this—and I'm sure Mr Corbell will look forward to operating under it—new law when it's passed later today. I simply close by saying that the opposition has a number of amendments. I don't believe they detract from the bill at all; I think they enhance the bill and its operation. It will be interesting to see which get up. I know the government has a few amendments to those amendments.

We're very pleased to be debating this bill today. We are pleased that it doesn't reflect the McLeod model. We are a bit disappointed that it has taken this long but note the amount of work that went into it and, with that comment, in no way reflect on any of the individuals that actually helped put this bill together. Mr Speaker, the opposition will be supporting this Emergency Services Bill 2004 and look forward to its coming into operation on 1 July this year.

MR CORBELL (Minister for Health and Minister for Planning) (6.15): Mr Deputy Speaker, this bill represents one of the most significant changes to the governance and operational organisation of our emergency services since self-government. It is fitting that it is done in the context of the disaster of January 2003 and demonstrates, I believe, the willingness of the government, the Assembly and the community to learn from the experiences of January 2003 and ensure that we have a more robust structure that can respond to such incidents more effectively into the future.

It is a pity that Mr Smyth chose to take a few cheap shots in his contribution to the debate this evening. For example, Mr Smyth suggested that this was a bit like Mr Pratt's bill. Actually, far from it, Mr Deputy Speaker! Indeed, Mr Pratt's bill had the worst level of governance you could possibly imagine, with four separate boards each running their own service, with the confused accountability arrangements that would arise as a result.

Unlike this bill, which ensures that governance, accountability and command are clear, Mr Pratt's bill would have created a more confused situation than ever. In addition, Mr Pratt's bill also confused the issues of effective governance of the organisation and I think that also would have created a worse situation than before.

Of course it's worth making the point, if Mr Smyth wants to play politics on this issue, that the structure that responded to both the 2001 and 2003 bushfire emergencies was the structure that he and his government put in place. I think no more needs to be said on that particular matter.

Mr Wood: How did he respond in 1999?

MR CORBELL: I think that was when Mr Smyth was minister for emergency services. Mr Deputy Speaker, I think no more needs to be said on that matter.

What's really important in this legislation is that, whilst there has been a very strong emphasis on fire emergency, it's equally important that members consider it in the context of emergencies overall. Ms Dundas, I think, has alluded to that point. Other members have chosen, I think, to focus too heavily on fire issues. Whilst there certainly is considerable reform in relation to organisational structure and control as it relates to fire response, it equally is a very important reform in the context of the management of emergencies in the territory overall.

Who is to say that the next emergency that we face may not be a flood? Or it may be a windstorm event. It could be any variety of events, which means that we have to have the effective governance arrangements in place to respond to it. And that is what this bill delivers; it is not just a bill that responds to the lessons particularly arising out of the two bushfire emergencies but responds to ensure we have effective governance and operational response in place for all emergencies.

Mr Smyth also made the point that he thinks a consultation process has been great but it is taking too long. Well, that's a bit like having a cake and trying to eat it too because really the issue is: if you want to get it right, you have to take the time to talk to people. And that is exactly what has occurred in this case. What we are talking about is the most fundamental reform of governance arrangements for emergency services in the ACT since self-government. It has been achieved in a way which, despite our jousting this evening, has reached a high level of consensus amongst everyone involved and has brought on board all the different emergency services, volunteers and paid officers. It has brought on board the community. It has brought on board all members of this place.

That is a significant achievement, but it is only an achievement that could have occurred with the time to do it, and that is exactly what the government and the minister have done. They have supported the commissioner and his staff in doing the work to get the agreement, to get this piece of legislation, on the table. This is a significant reform, one that I think will be long standing and one which will stand the ACT in good stead as we seek to learn the lessons of the past and prepare ourselves for the inevitable emergency which will occur in the future.

MR STEFANIAK (6.21): Mr Deputy Speaker, I actually congratulate everyone involved in finally getting this bill before the Assembly. I note with some amusement, I suppose, some of the comments made by Mr Corbell.

The government has had a considerable amount of time, and I seem to recall that this bill is not all that dissimilar to and indeed follows the same thrust as a bill which Mr Pratt introduced into this Assembly in September 2003. So I do not quite accept what Mr Corbell says there. I think that, if Mr Pratt, with his limited resources, could do that, then certainly the government has taken some time. But we are used to that with this government.

Something like this is absolutely essential. There was a wake-up call in December 2001, in terms of the bushfires anyway. That really was not heeded and then we had the tragic events of January 2003, which have at least, I suppose, sadly been a catalyst to a restructure of the emergency services organisation. We are seeing now, through the coronial inquest, some of the very obvious problems that occurred in some part because the previous organisation was not all that good, all that it could be. Indeed, improvements very clearly needed to be made.

My committee, the legal affairs committee, had the benefit of the briefing—and I thank the minister for that—very recently when Major General Dunn and his assistants came along and took us though the features of this new bill. I think the features of this new bill are indeed logical, as I heard someone say when I was following this in the anteroom.

Mrs Cross: A military man, what do you expect?

MR STEFANIAK: Well, it does help, Mrs Cross; it certainly does help, especially an army man. If you want something done, you cannot really go past an experienced soldier for getting organisations right, especially in this sort of area. I'm sure Mr Pratt would agree with that.

Mr Pratt: Go, the regiment.

MR STEFANIAK: Well done, yes. Quite so, Mrs Cross. Certainly he was ably assisted by a large number of other persons in the organisation as well—a very capable team, as I said. We have had the benefit of that. I see my old friend David Prince smiling there. It was a very creative presentation too, Mr Prince, as some of my colleagues said when we were there only a week or so ago—it was not even a week ago—about the briefing you gave us.

I think in the past one of the problems in anything like this has been that people have not listened to experts, people who have actually got their feet on the ground, practical people who know what they're doing. I speak of people like Val Jeffery. I know Val has probably had run-ins with all sorts of people in this place over many years, but let's not forget the fact that, because of him, Tharwa basically did not burn. And there are other people around, the experts like that, the people who really know what they are doing who, I certainly hope—it might have been a point I made when we were having the briefing—need to be utilised in any structure. I see in this particular structure there is provision for people such as that to actually continue to give assistance and give advice.

It is all very well to have a structure but also you need to have flexibility, which is one of the great principles of military matters as well—flexibility actually to ensure that those on the ground, those in a hot spot, be it in a fire or be it in some other emergency, have the necessary discretionary ability and power to actually take immediate steps to save life and limb and respond as they see fit to a situation. And that has been one of the main criticisms, I think, made of some of the previous structures—the fact that it was difficult getting messages up and down the chain of command, apart from just technical issues such as bad communications, et cetera.

But there were some real problems too regarding just literally a sensible chain of command and a sensible delegation of people on the spot to ensure that if a situation arises which needs an immediate response, an immediate decision and a quick decision, that actually can be done. That's certainly something any good structure needs and it is certainly something that I was taught to do in the Australian Army. Anyone who has had anything to do with the services would know that it is absolutely essential to have faith in subordinates, to have faith in the people there on the ground to ensure that they actually can respond.

If that had happened we might actually have been saved a number of deaths and certainly the property destruction of the past from fires. I can think of other measures too. I can recall the Canberra floods back in 1971. That was an emergency. Seven people drowned in this flash flood that came streaming down through Woden. I think it was very close to my birthday; I was just turning 19; I was drinking at the Wello. A couple of my mates were going to go back to Woden actually. I suggested they probably should not that night; it was absolutely pouring rain.

I also remember a very young constable, a good friend of mine, Sergeant Geoff Brown, who took matters into hand and commandeered the help of a few people—and I think he might have been assisted by several other police. He actually went into the raging torrents streaming down through Woden in the stormwater drains there and saved the lives of about six or seven people.

I can remember the fairly quick decisions made by a Sergeant Bob Burridge, whom I had the honour of serving with in the reserve when he was Captain Burridge, who similarly saved several people and won the Queen's Medal for bravery, as I think did Geoff Brown, for the 1976 floods in Queanbeyan. It was not an ACT situation but, again, it was an instance of a man on the spot making a quick decision and acting without any interference from above which actually saved lives. So I am pleased to see that there is a reasonable structure in place for this in this particular bill. I think it is certainly overdue that we have a bill like this.

Coming back to fires: one thing I think that this new act will enable better than it has in the past is for groups such as this, bodies such as this, to have a say in ensuring that preventative measures are taken. For too long, for too many years, we shut up our national parks; we allowed trails to be overgrown; we probably paid far too much attention to the so-called environmental aspects rather than the preventative aspects, the ability of the emergency services people to do their job to ensure that they were able to get to these trouble spots and that they in fact did have the power to do that.

I note, in the briefing we received, there is still room for conservation experts, et cetera, to be involved. I adopt a word of caution. I would not let them perhaps necessarily get too involved. I think we have—I was going to say "been badly burnt"—seen some significant problems regarding work that should have been done, which could have prevented this and which would have made it easier for our emergency services to respond to get out there in the mountains, out there in the fire trails. It did not happen, and I certainly hope a structure like this is going to assist there. But I think we need to be ever vigilant there.

There is not much point artificially trying to protect your environment by closing up a national park when you have a fire like we had which destroyed so much of the environment which simply will not be replaced for another 100 years. It is basically common sense, and a little bit of prevention ultimately saves the very thing a lot of extreme environmentalists are trying to protect anyway.

I make those points. I welcome the bill. I thank the minister and the officials for the briefing. I look forward to its operation and I look forward to hearing very good things from both Mr Corbell and Mr Smyth, who will be actually working as volunteers, about this bill. I certainly hope to continue to hear some good things from other members of the community such as people like Val Jeffery who no doubt will be far happier with a structure like this in regard to some of the problems he has highlighted in the past which have not been listened to by governments.

MR DEPUTY SPEAKER: I understand you seek leave to speak again briefly, Mr Smyth.

Mr Smyth: For one minute, Mr Deputy Speaker.

Leave granted.

MR SMYTH: I wish to draw to the attention of members that clause 45 of the bill, called "Constitution of the fire brigade", says:

> The fire brigade consists of—
>
> (a) the chief officer (fire brigade)

We have with us the individual who will be the chief officer of the ACT fire brigade on 2 July, when this will come into operation, David Prince. I understand it was announced today that he has been elevated to that position. I congratulate him on that.

Sitting suspended from 6.30 to 8.00 pm

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) (8.01), in reply: Mr Speaker, when I presented this bill on 14 May I did so with confidence that it would attract considerable interest and debate. That is not to say that there had not already been a great deal of examination of the issue of emergency management. It has certainly occupied our minds constantly since January 2003. The much more focused discussion around the structure and content of this legislation has also been lively and members of this Assembly have already been consulted extensively on the background of this legislation.

The commissioner designate and his team have briefed the Standing Committee on Legal Affairs on the bill, and the commissioner has also been in discussion with members of this Assembly. I repeat my observation of 14 May that the level of consultation in this process has been extraordinary. I want to thank the members of the Assembly who

contributed to it. They have contributed to it again tonight, and I will make some comments about that.

Both Mr Pratt and Mr Smyth were a bit critical of the period since this bill was first tabled—I think it has been five weeks—but I point out that members have been kept in the loop. It is not as though this bill was dumped in front of you and you were completely unaware of what was going on. When the bill came down, you had already willingly been much a part of the consultation process. Indeed, I think five weeks is quite a good time.

We indulge ourselves in this place somewhat, and we should learn from the practices of other parliaments. In this place we sometimes require very extensive periods to think about things. That is not a luxury that most other parliaments around this country have. There was comment that we should have done this earlier. Mr Corbell pointed out that the legislation only came into effect in 1999, for heaven's sake. We had our first fire in December 2001. I just do not think there is any justification for making that claim.

We are very happy to get support but I suppose we must expect that, in getting that support, there will be a few barbs thrown. I am not going to argue too much tonight because I am happy with the comments I have been receiving. Another comment made was that the legislation does not give the new authority much time to mobilise and get ready for the fire service. I think Mr Pratt said that, and Mr Smyth might also have made some comment about it. That is not right. The Emergency Services Bureau—soon to be the Emergency Services Authority—is already working the way the bill intends, and has been operating that way for a while.

In the Namadgi fires a few weeks ago it was all operated under that process. As you would expect, the officers have not just been sitting and waiting for this legislation to come through so they can then jump into action and get organised on it. That has been much of the process to date. That process has been helped, I emphasise, by a 26 per cent increase in spending. That is a most significant increase in spending in anybody's budget—and that level of expenditure is certainly helping them to get organised.

Mr Pratt has proposed a number of amendments and, following the round table and the discussions, has modified some of those. We will support the main one he is concerned about—the community and information plan. He has proposed amendment No 18, which is about disaster plans. We will support that with our amendment. We will also support the second part of that—clause 147B, "Community and information plan"—in its entirety, except that we will remove several words that we think are a bit unnecessary. Members have seen that in the amendment I have circulated.

We will support two of Mr Pratt's other amendments, because we can see that they are effective but, for the most part, I do not think the other amendments are necessary. They are not the sorts of things you would put into a bill. Indeed, from all the advice I have, some of the amendments make things a bit uncertain and do not clarify them at all. I am happy to cooperate with Mr Pratt as far as I can, but I think he will be satisfied that the major concern about which he spoke will be accommodated.

Ms Tucker mentioned the amendment we are moving, which is in keeping with what she was considering as she went through the various parts of the bill. Ms Tucker made a

number of comments. Certainly the government—and I think all of Canberra—has learnt from the fires of 2001 and 2003. One point Ms Tucker mentioned was the state of alert. That is an eminently sensible thing, and we do not really need to have it in the legislation. We can call a state of alert and say, "Hang on out there! Pay attention to what's going on around you!" But it is now written into the legislation, and it is a sensible idea.

Ms Dundas repeated some of the comments she made in estimates about following the McLeod recommendations. That was a point Mr Smyth also made, and I think that has been discussed. We are only too happy to do the very best we can. If we can improve on what McLeod said, we certainly will do so.

I described the content of the bill in some detail when I presented it, so I will not labour the detail again. I will note some points to be remembered about the intent underlying the bill. Under the legislation the authority will focus more directly on keeping our community more informed and ready, should an emergency arise.

While the four services will retain their individual identity and ethos, which is a very important aspect—I know that was something the opposition was keen about—there is a clear direction to operate and manage in a cohesive environment. This is reflected in consolidated provisions for staffing of services, the powers and functions of service chiefs, and for consolidated guidelines and procedures.

There is strong recognition in this bill of the valuable role of our volunteers. They were given clear ownership of their role in emergency response and afforded clear protection from liability and personal loss while performing their duties.

There has been subsequent discussion on a range of important innovations proposed by this legislation. I thank members for their comments. I certainly share their support for all the officers who have worked so assiduously to bring this legislation into being so it can be presented tonight. I think it is a very good basis on which to seek your support of this bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 9, by leave, taken together and agreed to.

Proposed new clause 9A.

MR PRATT (8.10): I move amendment No 1 circulated in my name, which inserts a new clause 9A *[see schedule 2 at page 2441]*.

The purpose of my first amendment is this: it is necessary for the authority to take control or command when a level of emergency response develops to a certain complexity or involves a number of services, and where the incident controller and his or her chief officer believe that the situation has escalated beyond the incident controller's

control. This situation, I believe, can occur before we have reached that state of alert where you would more normally see perhaps a multi-service deployment or a joint service deployment.

It is very important that the fine line between the chief officers of the services operating independently and the time at which the authority steps in to exercise control are delineated, otherwise we may have the independence and the delegations of those chief officers destroyed or at least deteriorated or, at the other end of the spectrum, we may have the situation of the authority not stepping up to coordinate and control when necessary.

Section 9 (4) (a) clearly states that the function of the authority is "to seek to give the emergency services a strong, cohesive, strategic and operational direction". That is an excellent instrument within the act, but I would like to see a statement made here describing the circumstances in which the authority might step in to help coordinate joint service activities. That is the purpose of the amendment.

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) (8.13): As I do not think the amendment is necessary, we will not be supporting it. I do not think it adds any clarity to the bill; in fact, I think it will build uncertainty into the relationship between the authority and the chief officers.

Currently under the bill the authority is responsible for the overall strategic direction and management of the emergency services. This means that, for small incidents, the authority will monitor and coordinate support operations in support of the relevant chief officer. For large incidents the authority can take a larger role.

The amendment also introduces a new concept of "initial response", and that is not defined. The bill also provides specifically for the issuing of authority guidelines that can further enunciate the relationship of the authority and the chief officer for major emergencies if deemed necessary. In those circumstances, the amendment is simply not needed and would not really help in understanding the situation at such a time. We will be opposing the amendment.

MS TUCKER (8.14): The Greens will not be supporting this amendment either. The argument against this amendment is similar to what I will be saying about a number of Mr Pratt's amendments today—that the amendment seeks to add extra detail and, by doing that, risks undermining the effectiveness of the bill and the system it has enshrined.

As I described in the in principle stage, this bill operates by setting broad results based responsibilities and carefully crafting the involvement of all relevant parties. Mr Pratt's amendments are problematic because they are overprescribing a responsibility. It is already clear in sections 12, 9 (4) (h), 9 (4) (j) and 19 that the emergency management authority has overall responsibility for the effective functioning of the services. This amendment, apart from picking up only one aspect of that responsibility, introduces the new term "initial response". I would be very cautious about that at this late stage. As long as we have this structure of the bill and it works, we do not need that detail. In fact, that level of detail could undermine the bill.

In constructing the bill and the authority, there has been overriding concern to ensure that the commissioner does not have too much direct involvement. Control, standards, protocols and training are the clear responsibility of the chief officers of each unit. The commissioner's responsibility is to make sure that their objectives are sensible and that the work is done, not how it is done.

MS DUNDAS (8.16): I can understand where Mr Pratt is coming from in making this amendment but I am not sure if the amendment achieves the outcome he is looking for. This amendment mandates that the authority must become involved in each and every emergency situation that any of the emergency services deal with, and coordinate specific response to such an emergency. This could be the case whether it is a simple ambulance call-out, a small grass fire or a much larger emergency situation. The entire authority must get involved in managing quite minor situations as well as larger ones.

I understand that the intention here is to reinforce the coordinating role of the central authority; however, I am satisfied that the provision in section 12, in relation to the issuing of guidelines as well as the operation of a coordinating role, expressed in subsection 9 (4) of the bill, is adequate to ensure the outcome we are all hoping to achieve.

Proposed new clause 9A negatived.

Clauses 10 to 25, by leave, taken together and agreed to.

Clause 26.

MR PRATT (8.18): I move amendment No 2 circulated in my name *[see schedule 2 at page 2441]*.

In respect of the objective and aim of this amendment, we believe it is necessary to ensure that a person, who may have done the right thing by responding in good spirit to an emergency before the services have arrived or assisted when asked to do so by the arriving service or services, is clearly advised when their services are no longer required, and therefore when the territory is no longer responsible to provide protection for them.

There are two issues here: firstly, protection for the individual. If they are volunteering and are accepted, they must behave as casual volunteers according to the definition of "casual volunteers". Secondly, we want to try to define the line whereby, when a casual volunteer is no longer required, they are told so. The directing emergency officer on the spot knows that; the casual volunteer knows that; and the territory ceases to have any responsibility for them beyond that point.

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) (8.19): I remind Mr Pratt that we will be supporting some of his amendments. On somewhat the same grounds, we will not be supporting this one. In seeking to be specific you can be too specific, thereby creating trouble.

It really is not necessary; it does not clarify the bill; and in fact it builds uncertainty into the relationship between the people in charge of activities and casual volunteers. The government agrees that casual volunteers should have an expectation that they will be advised when their services are not needed. Of course in the command situation that applies, that would happen.

However, this amendment goes further by requiring the person in charge to formally terminate the role of the volunteer. That may not always be possible but, under this amendment, the person in charge would be held responsible in all cases for the volunteer. I think that would discourage people in charge from accepting the services of casual volunteers. Mr Pratt has great confidence in the way this bill has been done. I think he needs to extend that confidence to the way operations will be conducted on the ground. I think this only creates a bit of confusion and doubt in people's minds about just what should be happening.

MS DUNDAS (8.21): I again appreciate that Mr Pratt is trying to provide some clarity on the role of volunteers; however, this is not best achieved by mandating that the person in charge specifically release every casual volunteer they accept on each and every occasion. This may place an undue burden on the person in charge to supervise and watch the activities of every volunteer; it might discourage emergency services from utilising the services of casual volunteers; and it may create additional liability issues for emergency services. There is a whole raft of issues that could arise if the Assembly were to support this amendment. I think the concerns Mr Pratt is trying to address here will be addressed in the way the Emergency Services Authority operates.

MS TUCKER (8.22): The Greens will not be supporting this amendment either. It seeks to make clear the handover of responsibility between casual volunteers—the people who turn up to deal with emergency situations before the service arrives—and the service. To do so would create a statutory responsibility for the person in charge of the activity to oversight any people volunteering in this way and make assessments of whether the work is too dangerous for the particular volunteers.

It is an interesting amendment. Had we more time to consider it, we would possibly have supported it. However, given the government's concern—and indeed the commissioner's concern—that it creates an overly high responsibility for detailed instruction and supervision for the person in charge of an emergency response operation, and that it in fact raises the level of prescription of responsibilities, I am not prepared to support it today. I am not sure enough that there is a problem to address, and I am not sure enough that this solution does not create more problems. Volunteers are already covered, but with this amendment the liability would shift.

Amendment negatived.

Clause 26 agreed to.

Clause 27 agreed to.

Clause 28.

MR PRATT (8.23): I seek leave to move amendment Nos 3 and 4 circulated in my name together.

Leave granted.

MR PRATT: I move amendments Nos 3 and 4 circulated in my name together *[see schedule 2 at page 2441]*.

It is important that chief officers accept responsibility for other services and agencies, and I know they will. I know the people we are talking about, and I know what their professional attitudes are. I believe this is an issue that ought to be enshrined in legislation. The bill clearly spells out that a chief officer has management responsibility. It is also important that other agencies placed under the control of a chief officer, or a chief officer's delegate, in the field know that they will be well looked after.

As we saw during January 2003, our men and women are the most important asset in the ACT's emergency management system. I just do not see that the duty of care exercised by the chief officer, or his or her delegate in the field, over attached units from other services is spelt out in the legislation.

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) (8.26): The government has no problem with the sentiment expressed. To take Mr Pratt's point that he did not see where it is covered in respect of amendment No 3, his views are already covered in clause 35 (1) of the bill. It says:

> The chief officer of an emergency service may, in the exercise of the chief officer's functions, give directions to emergency service members or any entity acting for the service.

Mr Pratt's amendment blurs the delineation of responsibilities between the four services by providing that the chief officer in charge of an incident assumes management responsibility for another service. It is the same with amendment No 4. As bills are prepared we try to avoid repetition, in case there is conflict—and I think that might have happened here. The aspects Mr Pratt is concerned about are covered in the legislation. Let us not confuse it by putting something just a little bit different somewhere else in the legislation.

MS DUNDAS (8.27): This is one of a raft of amendments that seeks to do the same thing for each chief officer—to stipulate that the chief officer of an emergency service must manage another service placed under their control during an emergency. I understand that Mr Pratt wishes to enhance the interoperability and control between the services; however, I think the amendment may confuse the lines of accountability between services in an emergency situation. I agree with the minister that the issues Mr Pratt raises are in part dealt with by section 37, which states:

> The chief officer of an emergency service must ensure that members of the service are available to take part in joint operational activities.

The issue will be further dealt with by guidelines. It is clear that there will be on-the-ground lines of accountability and control by the incident controller, who will be responsible for the direction of all emergency services at that location. I think that is the key point we are trying to address here. These amendments would confuse lines of accountability and responsibility when the goal is interoperability, which is addressed through other sections of this bill. I will not be supporting this amendment.

MS TUCKER (8.28): The Greens will not be supporting this amendment either. We regard it as unnecessary, in that it is already clear that, when members of another agency are under the direction of another agency, that chief officer is in control. It is not necessary to say that the chief officer is responsible for general management and control of the other service as a whole. There is an important difference, which this amendment would blur, between managing people in an emergency or incident and managing the service or entity. This amendment would therefore blur the delineation between the separate services—something we are all keen to avoid.

Mr Pratt's fourth amendment inserts a new section 28 (3) (d), providing for cooperation and exchange of information with other services and interstate organisations. In our view, this would also result in an overly detailed restatement of provisions already in the bill.

MR PRATT (8.29): I knew Mr Wood would refer to section 35 (1). I would just like the crossbenchers to take this comment on board—and perhaps they will change their minds. My definition of "control of another entity" is not simply giving direction; it is also "taking care of, duty of care, and taking responsibility for the welfare of those people".

Section 35 (1) states that, "The chief officer of an emergency service may, in the exercise of the chief officer's functions, give directions to…". That subsection does not encapsulate the full definition of "control". The purpose of this amendment is to try to broaden that responsibility so the chief officers do not simply give directions to whomever walks past; they take control of an entity attached to them; which means looking after the welfare of the volunteers as well as giving operational directions.

Amendments negatived.

Clause 28 agreed to.

Clause 29.

MR PRATT: On the basis of amendment No 3 failing to get up, I will cancel out amendments 5, 7 and 9. Amendments 3, 5, 7 and 9 are exactly the same. They express the same responsibility for each of the service chiefs.

MR SPEAKER: Are you telling us that you are going to proceed with amendment No 10?

MR PRATT (8.31): I have been asked to speak to amendment No 5. I will cancel amendments 5, 7 and 9 and proceed with amendment No 6. One part of amendment No 6 reflects a principle expressed in failed amendment No 4, but it also deals with another

sub-element under clause 29 (3) (h). I will talk to that component only, if I may. I move amendment No 6 circulated in my name *[see schedule 2 at page 2441]*.

I assume that clause 29 (3) (g) will not get up because it reflects failed amendment No 4. However, I will speak to the second component of that, which is 29 (3) (g)—the need to fully explain the responsibilities of chief officers regarding the preparation of risk analysis.

I believe there is a need to screw down the functions of risk analysis to delineate who is responsible to carry out risk analysis in each of the areas of responsibility. I do not think that is clearly dealt with in other parts of the legislation. I took the opportunity because I thought that perhaps it should be written in here. Risk analysis is a vitally important function. We must be very careful to ensure that the people who are responsible to carry that out, and in the areas in which they are responsible to carry it out, know exactly what those directional guidelines are.

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) (8.35): The government will be opposing those amendments. The proposed new section 29 (3) (g) is the same as the amendment of clause 28 (3) (d) and is opposed for the same reason. I thought there was a logic in it—that, if Mr Pratt did not proceed with one, he would not proceed with the other.

A new section 29 (3) (h) is consequential on Mr Pratt's amendment 13 down the track, which provides that the chief officers of the rural fire service and the fire brigade must assist in preparing specific parts of the strategic bushfire management plan. Of course, the strategic management plan will be drafted with the assistance of the chief officers. However, this amendment gives prominence to the chief officers of only two services and fails to recognise the essential contribution provided by land management services, rural lessees and other members of the authority.

I think, unintentionally no doubt, the amendment is also contrary to the cooperative management approach espoused through the bill. It also introduces a new concept to "bushfire risk analysis" which is not defined. That issue is well covered throughout the bill.

MR PRATT (8.36): The minister has said that, by defining the roles of the chief officers in terms of the risk analysis, we somehow remove the responsibility of land managers and land owners—and presumably the minister also meant departmental CEOs. That would not be the case. The fire service chief officers would be conducting analyses and checks, including looking at the work other people do. If they are the chief officers of our two prime fire services, they are extremely high in the chain of command of the planning process.

While you must expect departmental heads, land managers and land owners to make their contributions to the draft strategic bushfire management plan, you would also expect that the two senior fire authorities reporting to the authority head himself—the commissioner—would want to have a pretty important role to play. That is why it is written in here that risk analysis is a role that ought to be clearly defined and enshrined in the legislation.

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) (8.38): It is not clearly defined; it is one of the issues. As I followed Mr Pratt's comments, I did not understand if the second part of his comments were the same as the first part. We have not removed other agencies from it. The point I make is that, being precise in legislation, Mr Pratt has not incorporated it. It is not essential in this part to do that, but there is no removal of it. It is all a very cooperative effort around being prepared for bushfires. No, Mr Pratt, I just cannot agree with what you are saying there.

Question put:

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

The Assembly voted—

Ayes 6		Noes 9	
Mrs Burke	Mr Stefaniak	Mr Berry	Mr Quinlan
Mr Cornwell		Mr Corbell	Mr Stanhope
Mrs Cross		Ms Dundas	Ms Tucker
Mrs Dunne		Ms Gallagher	Mr Wood
Mr Pratt		Ms MacDonald	

Question so resolved in the negative.

Amendment negatived.

Clause 29 agreed to.

Clause 30.

MR PRATT (8.43): I will not proceed with amendment No 7 and I will not be proceeding with amendment No 8 because that is of the same calibre as a previous amendment.

Clause 30 agreed to.

Clause 31.

MR PRATT (8.44): I will not be proceeding with amendments Nos 9 or 10.

Clause 31 agreed to.

Clauses 32 to 51, by leave, taken together and agreed to.

Clause 52.

MR PRATT (8.45): I move amendment No 11 circulated in my name *[see schedule 2 at page 2441]*.

This amendment is self-explanatory. I believe that, as part of the preventative management process, where it is practicable and within the limitations of time and resources, where the emergency services can assist landowners with identifying, assessing and reducing bushfire fuel hazards, we should try and do that. It is granted that you cannot mandate for that but, in the spirit of this legislation and in the spirit of how we approach emergency management, I believe it should be enshrined in the legislation.

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) (8.46): On the advice I have, the government will not be supporting this amendment. Of course, services should assist land managers where possible. However, including this requirements in statute, effectively Mr Pratt transfers to the rural fire service responsibility for assessing and reducing all bushfire hazards across the territory. That is the impact of the amendment.

You may not read it that way, but I am advised that that is the impact of the amendment and that it is therefore contrary to a lot of the things in this bill. It is essential that landowners and managers recognise and manage their responsibilities in reducing fire hazards. That said, it is anticipated that all parts of the authority will assist the community wherever appropriate.

MS DUNDAS (8.47): This amendment, along with some of Mr Pratt's other amendments, again shows that his intentions are worthy, but these amendments create other problems that I believe mean they should be opposed. Mr Pratt's amendment would not only encourage emergency services to assist land managers with their bushfire planning but also create a statutory responsibility for them to be involved in that process and do the work. It does not matter that they say, "to the extent practicable having regard to time and resources"—it does make it a statutory responsibility.

This could reduce the amount of effort land managers put into preparing for bushfires, because there would be an obligation on fire services to do it for them. I would say that would be an unintended consequence of this, but one that nobody should support. The management of bushfire prevention on private property is the responsibility, in the first instance, of the property owner. This amendment could have the effect of changing that responsibility, and hence should not be supported.

MS TUCKER (8.48): The Greens will not be supporting this amendment. The overall responsibilities of the chief officer of the rural fire service, as listed at section 30, include operational planning, fire response, community awareness about fire prevention and preparedness and control. As part of fulfilling this role, it seems pretty clear that they would need to be aware of bushfire fuel hazards in their area. It is also fairly clear that to fulfil these responsibilities they would help landowners to understand their responsibilities.

However, pulling this one detail out of the range of responsibilities of the chief officer and the service does not add to the effectiveness. Indeed, by picking out one detail for specification and not others, it could be read to imply a particular prioritisation of work. This is not how the act is structured. The outcomes are the focus. I think we have to

leave it up to the brigades and the chief officers to decide how best to achieve that in their areas.

MR PRATT (8.49): I take issue with a couple of points raised. Firstly, the minister insists that this amendment will make the chief officer of the rural fire service totally responsible for the cleaning up of the mess on a land manager's patch. That is illogical and it is a ridiculous statement to make. Looking at the detail of the amendment, we are talking about "to the extent practicable". If we are asking the service to the extent practicable to provide advice and assistance, it means exactly that. Providing advice and assistance does not mean doing it for them. So I take issue with the minister and I ask the crossbenchers to see the logicality of my point.

I reject Ms Dundas's concern that this negates the responsibility of landowners, for the reason I just outlined. If, to the extent you possibly can, you are providing assistance and advice, you are not replacing or negating the land manager's responsibility; you are giving him or her a "leg up". That is the point. I would ask members to reconsider that, please.

Amendment negatived.

Clause 52 agreed to.

Clauses 53 to 62, by leave, taken together and agreed to.

Clause 63.

MR PRATT (8.51): I move amendment No 12 circulated in my name *[see schedule 2 at page 2441]*.

Regardless of the defeat of the previous amendment relating to casual volunteers, I am going to have a crack at this. I think it is important that we look at recognising the work done by somebody who initially responds to an emergency. While we have the "good Samaritan" clause in the legislation, which very well addresses the needs of the good Samaritan who attends to somebody who is sick, that section and the three subsections under it, as far as I can determine, relate to the personal assistance provided to somebody who is either injured, sick or requires a hand.

I would like to see that section expanded to also incorporate the good Samaritan who responds to a physical threat and mitigates that threat—the person who either secures something or neutralises something. I do not think we have recognised that in this legislation. I commend this amendment to broaden it out a bit and add a fourth element to the good Samaritan clause.

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) (8.53): The government will be supporting this amendment. This amendment clarifies the position of a person who acts in the case of an emergency before the arrival of any emergency service. I am very happy to agree with this amendment.

MRS CROSS (8.53): I will also be supporting this amendment of Mr Pratt—it has merit. I compliment Mr Pratt for putting a lot of thought into his couple of dozen amendments.

MS DUNDAS (8.54): We will also be supporting this amendment. As Mr Pratt has indicated, it recognises that a person may do other acts that protect property or the environment before an emergency service arrives, and that that person should also be exempt from any form of penalty. While it is unlikely that the offence provisions would be used against someone in a particular situation, as they are generally working to prevent people setting up their own private emergency services, it is a useful clarification and we support its being included.

MS TUCKER (8.54): This amendment is to add to the good Samaritan clauses in the legislation at section 63 (3). Section 63 is primarily concerned with making it an offence to set up an approved emergency service—Service with a capital "S". Subsection 63 (3) makes it clear that it is not an offence to offer services—services with a lower case "s"—to assist where needed.

The existing definitions in section 63 (3) relate to provision of aid in relation to a person. Mr Pratt's amendment relates to other forms of volunteer action to reduce, or attempt to reduce, the effects of an emergency before the arrival of an emergency service—actions such as people helping to bucket water onto fires around the police training centre during last year's fires. It was not direct assistance to any particular person but it was certainly in response to the emergency. I have already heard the government's view on this and, as I understand it, neither the commissioner nor the government have a problem with it. We cannot see a problem with it either and we are happy to support it.

Amendment agreed to.

Clause 63, as amended, agreed to.

Clauses 64 to 71, be leave, taken together and agreed to.

Clause 72.

MR PRATT (8.56): I seek leave to move amendment Nos 13 and 14 circulated in my name together.

Leave granted.

MR PRATT: I move amendments Nos 13 and 14 circulated in my name together *[see schedule 2 at page 2441]*.

While there are statements at sections 29 and 30 respectively for the chief officers of the two fire services regarding responsibilities for operational planning, I believe it is necessary to ensure the importance of their roles and to define the respective responsibilities of their roles in the preparation of the strategic bushfire management plan. That is the aim of this amendment.

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) (8.57): The government opposes amendments Nos 13 and 14, I think for good reasons. Amendment No 13 is of the same type as amendments Nos 6 and 8—the ones Mr Pratt withdrew. It provides that the chief officers of the rural fire service and the fire brigade must assist in preparing specific parts of the strategic bushfire management plan. This amendment is contrary to the cooperative management approach espoused throughout the bill. I know that is not Mr Pratt's intention, but that is the impact of his amendment.

We also oppose amendment 14, which would require the authority to conduct annual audits of compliance with the strategic bushfire management plan. Of course the authority intends to audit compliance with that plan. I think Mr Pratt has seen that plan, and it is a massive document. The amount of land area in the ACT is enormous. The authority does not have the resources—nor is it appropriate—to carry out an audit of all that land every year. It will be constantly monitored and worked on, but to audit it every year is not practicable and nor, I say, is it necessary, so long as we keep our eye on it, keep monitoring it and bringing it up to date—and that is what is going to happen.

The authority will certainly audit the land that represents the highest risk first. The authority may audit high-risk areas weekly or monthly, whereas low-risk areas may be audited much less regularly. I just do not think that the second part, in particular, is practicable. It really would be diverting resources to something that is not in every case essential.

MS TUCKER (8.59): Speaking to amendments Nos 13 and 14, we will not be supporting either of them. I believe that amendment No 13 misunderstands the complexity of input that will be needed to create the strategic bushfire management plan. Mr Pratt's argument is that this step of assistance should be specifically required. However, given that these officers are already responsible for operational planning, fire response and community awareness about fire prevention and preparedness in their respective areas, it is difficult to imagine how an adequate plan could be prepared without accessing their expertise. That is how the overall responsibilities and results nature of the bill works.

The other problem with specifying just the input of these people is that, once you list some types of input, it sets up a clear implication that the other input that you would want for an adequate plan is less important. In amendment No 14, I understand Mr Pratt's concern to ensure that we know where the plans are being implemented, given the failure to implement a range of plans and recommendations over the years, but this amendment is not necessary. It would create an obligation for a large amount of work of questionable value.

Under section 73 the authority can establish a bushfire management plan committee, to "monitor the scope and effectiveness of the plan". That is, to assess the implementation and, more importantly, the effectiveness of the implementation. In section 103 inspectors are given powers to enter land to check compliance with the plan. The commissioner has explained, in response to this amendment, that it will be almost impossible to completely audit the plan in its entirety every year. Instead they will assess areas of highest risk

more frequently and others less so. Reviews of the plan are required in two different cycles—two years and 10 years.

MS DUNDAS (9.01): Amendment No 13 would mandate that the chief officers of the fire brigade and the rural fire service must prepare risk analysis, and these analyses would then fit into the strategic bushfire plan. I believe that in reality, as the bill stands, the strategic bushfire management plan would be compiled by the authority with input from a wide variety of sources, including government department experts as well as operational emergency services units such as the rural fire service unit.

To mandate that risks should only be determined by the chief fire officers would place all the burden and the authority onto one source, which actually goes against the intention of this bill of a general multi-disciplinary approach taken across all four services. So that is why I cannot support this amendment. I think the plan has been provided and is being overseen by the Emergency Services Authority. By putting it down to the chief fire officers, we run the risk of not actually getting what we are trying to achieve.

I will now turn to amendment 14. As the minister has outlined, to require the authority to conduct every year an audit of the entirety of the bushfire hazard management targets places a heavy administrative burden on the authority, which does not have the capability to audit every single property in the territory ever year. I will not be supporting the amendment on those grounds. But I do join with Mr Pratt in advocating that audits be conducted regularly and that there be an ongoing communication between the authority and the Assembly on how our bushfire fuel management is going.

I understands the concerns, Mr Pratt, but I think it is important that we do not put onerous administrative responsibility on an authority that is trying to deal with emergency situations.

MRS CROSS (9.03): Mr Speaker, I will also, regrettably, not be supporting Mr Pratt's amendments 13 and 14, although I understand the sentiment behind both of them. I think the bill should not be burdened with additional detail—detail that more properly should be contained in specific operational documentation. The scope and level of detail in this bill as it stands are appropriate to its purpose.

It is important that we all accept that this bill has been developed with the benefit of the input of very considerable practical operational experience. I know that its preparation has been thorough and careful. Indeed, I must pay tribute to Peter Dunn and his team for probably one of the most comprehensive pieces of legislation that has come across my desk in a very long time.

The bill should be enacted as soon as possible without further tinkering. I think, after carrying out any necessary finetuning, the sooner that is done the better.

MR PRATT (9.05): Mr Speaker, I would like to pick up on a couple of points. I would ask that these two issues be reconsidered. It has been said that perhaps amendment 13 is seen to be too prescriptive. I would just put it to members again that, for arguments sake, the chief officer of the rural fire service may be responsible for the area west of the Murrumbidgee. We are not saying that he is entirely responsible for carrying out all of the risk analyses for the rural area west of the Murrumbidgee. As I said when we were

discussing this issue earlier, all the land managers and landowners will have a responsibility to do their risk analysis. So there will be a series of risk analysis statements put up by those people responsible. The chief officer of the rural fire service would look at all of those various statements and then make his own overall risk analysis of the area for which he or she is responsible.

So, again I would point out that the chief officer would not be negating the responsibility of others to carry out risk analysis but that person has a very important overview role as a senior officer to make a statement about the area for which he or she is responsible. That is the purpose of the amendments. The same argument applies to the chief officer of the fire brigade in respect of risk analysis inside the abatement zone and the city area, and I will not get into a debate about where those areas are.

Going to amendment No 14, I take on board the point the minister has made that people just do not have the time and resources to carry out a 12-monthly audit of every single bushfire hazard site in an area. And yes, many of those will be audited on a weekly or a monthly basis, particularly as the season gets warmer. But it seems to me that it is necessary to enshrine in the legislation the need for that audit to be carried out. Somebody somewhere has got to make a decision about what are the most important hazards that can be audited at least once every 12 months within the scope of resources, time and manpower. Again, that was the reason for that amendment. I can only seek your indulgence and ask you to reconsider before you go west.

Mr Wood: They would do it month by month, if it were necessary.

Amendments negatived.

Clause 72 agreed to.

Clause 73 agreed to.

Clause 74.

MR PRATT (9.08): I move amendment No 15 circulated in my name *[see schedule 2 at page 2441]*.

We spoke earlier about bushfire hazard reduction targets. I would make the point that I think it is important to enshrine somewhere that hazard reduction targets should be incorporated into the strategic bushfire management plan. If it is done and those targets are listed then this surely would impose a collective discipline on those who are responsible for managing, observing and auditing. That is the reason for the amendment.

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) (9.09): Mr Pratt alluded earlier to a similar amendment that he lost, and on the same grounds he will lose this one. I think the bushfire management plan is a very comprehensive document. It is kept finetuned and it covers more than adequately the aspects that Mr Pratt has in mind.

MS TUCKER (9.10): The Greens will oppose this amendment, which inappropriately pulls out field hazard reduction from many other parts of the management plan. There is enough scrutiny and the responsibilities are clear enough.

Amendment negatived.

Clause 74 agreed to.

Clause 75 agreed to.

Proposed new clause 75A.

MR PRATT (9.10): I move amendment No 16 circulated in my name, which inserts a new clause 75A *[see schedule 2 at page 2441]*.

Mr Speaker, when the minister is going through the process of completing the final draft in respect of "making the strategic bushfire management plan", I would like to see some aspects of the determination of hazard reduction targets run past the Assembly.

The lessons from January 2003 and as far back as 1994 show that here have been periods of preventative planning neglect over successive governments caused by confusion over responsibility for the preparation of hazard reduction planning and the implementation of hazard reduction measures. I think this very serious issue needs to be monitored by the Assembly.

What I am proposing is that, if the hazard reduction target recommendations of the authority and the two fire service chiefs are overruled by the minister of his or her own volition, or as a result of lobbying pressures from other parties, the minister will need to clarify this with the Assembly. I think the Assembly needs to run its ruler over this in terms of the check and balance role that it has.

So, if the minister, after having been lobbied, rejects the priority hazard reduction targets determined by the two fire chiefs and the authority, then I think he or she has an obligation to run it past the Assembly, and that is the purpose of this amendment.

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) (9.13): Well, I do not know that the minister would reject anything. It is not his business to do so. It is his business to keep the Assembly informed and to keep things moving.

Look, hazard reduction is an important issue in the bushfire management plan but I do not think the amendment helps. It would require me or any minister to report to the Assembly on drafts of an instrument which will ultimately come back to the Assembly as a disallowable instrument. It comes to the Assembly in any case. So you would have me reporting and then, a little time later, the draft will come through as a disallowable instrument.

The amendment would also require the minister to report to this place on all amendments, including minor changes—perhaps even just spelling or early drafting concepts. The bushfire management plan is, as we have indicated, capable of being constantly updated. It is not a reasonable proposition that I should have to come into the Assembly and make an announcement every time something happens.

I can understand that you want to know clearly what people are doing but I think what you are asking for only adds to the complexity and is not necessary. The bill already provides for the draft strategic bushfire management plan to be the subject of public consultation, and following that it becomes a disallowable instrument. The additional step that is proposed would add enormous complexity to the preparation of the plan. So we just cannot support the amendment.

MS DUNDAS (9.14): The Democrats will not be supporting this amendment. I believe that, in the first instance, this amendment creates some logistical problems for the Assembly in that every proposal to change the draft plan must be presented despite the fact that the plan is only a draft and despite the fact that the proposals may not be taken up by government. The amendment simply creates a lot of administrative hassle without achieving any conclusive or positive outcomes.

I am concerned that, with the focus of this amendment solely on the issue of fuel reduction, it appears the only issue of bushfire prevention that would be of interest to the Assembly is fuel reduction. I do not believe that is the case. Many other areas of bushfire prevention and other issues deserve equal attention. I think this amendment creates a number of logistical problems and also puts too much focus on one particular area.

MS TUCKER (9.15): While I appreciate the desire to require the minister to clearly identify where the final strategic bushfire management plan differs from the draft, this formulation of words will, I think, create confusion rather than assist members to clearly identify the source of changes. The plan is a disallowable instrument. The draft plan will go out for public consultation and so members will be able to track through to find any differences.

I agree with Mr Pratt that a clear identification of changes and hopefully some explanation would be useful, but the wording "before making the plan" is too cumbersome. It is too late in the day to muck around with amendments to this amendment.

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) (9.16): Mr Speaker, I support what Ms Tucker says. When this matter was being discussed in detail it was suggested to Mr Pratt that we could tidy up this amendment by asking the minister to make available papers so that any ministerial activity in this area would be known. So I might suggest to Mr Pratt that at some stage he bring in legislation to do that. As things stand, the amendment cannot be supported, but there is a point that can be made.

MR PRATT (9.17): Mr Speaker, I thank members for their advice on that. I take Ms Dundas's point. I do not know how the hell I put "bushfire fuel reduction" in the

amendment—it was meant to be much more broad ranging in terms of hazard and other preparations. I also take the minister's point that we might look at doing something about that somewhere down the track. In fact, we will. I will clean that up and we will come back on that issue.

Proposed new clause 75A negatived.

Clauses 76 to 78, by leave, taken together and agreed to.

Clause 79.

MR PRATT (9.18): Mr Speaker, I move amendment No 17 circulated in my name *[see schedule 2 at page 2441]*. This matter has probably been referred to earlier. The strategic preventative measure of the fire authorities looking at assisting, advising and helping land managers and landowners is a really beaut thing. It is so beaut that it should be legislated.

Again, it is not always possible for the authority and the services to render assistance. Time and resources will not allow this to happen and some requests simply will not be able to be met. I know the attitude of the services—instinctively they like to get out there and do these things. But I think the principle of carrying out preventative planning needs to be identified clearly in the legislation.

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) (9.19): Mr Speaker, as we indicated earlier, the government will be opposing this amendment. But we agree with the sentiment, as we did before, that all of the services should assist land managers where possible.

However, I think there is an unintended consequence in what Mr Pratt has suggested. Including this requirement in statute effectively transfers to the rural fire service responsibility for the preparation for bushfire operational plans. It is essential that landowners and managers recognise and manage their responsibility in reducing hazards. That said, of course the rural fire service, and anybody else appropriate, will assist wherever they can. So, although we appreciate the motive behind the amendment, we cannot support it.

Amendment negatived.

Clause 79 agreed to.

Clauses 80 to 128, by leave, taken together and agreed to.

Clause 129.

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

This amendment accommodates one of Ms Tucker's concerns, ensuring that people with relevant skills are part of all this process. It is a clearer definition of what is required and is quite acceptable.

MS TUCKER (9.22): The Greens are very pleased with, and will be supporting, this amendment. It is one that we worked on with the commissioner and members of the community, which I appreciate. The amendment finetunes the definition of the environment representative on the Bushfire Council. As I have said many times, it is essential that we take into account the environmental values and knowledge of ecology and biodiversity when planning most activities—fire prevention even more so, as there are important synergies that should be known and great risks to environmental values if the planning is not done carefully.

My first reaction to the original wording was that it would be better to have a reference to the science of ecology, or even better, fire ecology. However, on discussing it with people from the community with interest and expertise in the environment and in representing the environment in various forums, it came back that this could be a problem in that, firstly, there would be a narrower pool of people to draw from; and, secondly, that some ability to engage with the fire community is essential, perhaps from experience in fire fighting or perhaps from more personal qualities or other experience or knowledge of land management.

It is also important that the representative is able to work with policy, with large documents, planning maps, zoning and so on, as well as being able to connect with expertise and interest in the environment and environmental issues related to fire and fire prevention. Because of the way the council is to work—that is, to function in a representative way and to go out and discuss matters with broader constituencies—it is also not essential to have a scientist as such, although being able to discuss and engage in scientifically-informed discussions will be important. So, in the end, the original wording, which concerns a link to the community of interest, seemed more important.

The amendment seeks to add the words "with relevant skills or experience", which recognises that the position needs to have some skills. It is important the position is filled and that it be effective. At the same time, the description is not so restrictive that this will work against having the position filled. I think it would be very difficult for a minister to argue that the position could not be filled.

MS DUNDAS (9.24): Mr Speaker, I will be supporting this amendment as well. It makes a minor change to the membership of the Bushfire Council to ensure that there is someone on the council with the appropriate skills or experience to represent the community's interest in relation to the environment. This amendment will assist in ensuring the council has greater knowledge of biodiversity and fire ecology issues. I endorse the work that Ms Tucker and the community have done with the Emergency Services Authority in working towards this amendment.

Amendment agreed to.

Clause 129, as amended, agreed to.

Clauses 130 to 147, by leave, taken together and agreed to.

Proposed new clauses 147A and 147B.

MR PRATT (9.25): Mr Speaker, I move amendment No 18 circulated in my name, which inserts new clauses 147A and 147B *[see schedule 2 at 2441]*.

I will first of all address proposed new clause 147A, which deals with disaster plans. I believe it is fundamentally important that the community as a whole risk analyse and plan for emergency preventative and emergency response operations for the most credible of all possible scenarios. The aim of the proposed new clause is to require the services to prepare such disaster plans; require each of the services to carry out operational planning for a full range of credible emergencies; impose important professional discipline on our services to think about all those possibilities, measure the needs and identify the shortfalls against those threats; and provide a basis for educating, informing and, where necessary, warning the community about potential emergency threats.

Proposed new clause 147B refers to the community communication information plan that I spoke about earlier. As I said, a fundamental weakness in the system arising out of the lessons learnt from January 2003 was that of warnings and communications to the community and services. Timely warnings to the community and then providing efficiently timely updates on changing situations are so fundamentally important that we believe this emergency function, too, needs to be enshrined in legislation.

It is hard to fathom that, after the community warning failures of January 2003, the legislation would not include something like that. I am glad to see that the minister has come up with an amendment, which we might want to haggle over or negotiate. That is great because I think that means we will be putting in place something along these lines. I might add that I have seen the minister's amendment for the disaster plan and we might want to talk about that separately. However, I will finish dealing with my amendment first.

If we have a good community communication and information plan in place, surely the community will again have confidence in the way its leadership determines what those threats are and informs them as threats arise. That is the essential importance of having such a community plan—the community gets to know about it, the community is educated about it and the community can have a lot more confidence in the fact that the authorities can look after them in the future. More importantly, the men and women who work in our services will know, with some confidence, that they will be looked after as well.

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) (9.29): Mr Speaker, I seek leave to move amendments 1 and 2 to Mr Pratt's amendment No 18 together.

Leave granted.

MR WOOD: I move amendments 1 and 2 to Mr Pratt's amendment No 18 together *[see schedule 7 at page 2455]*.

I understand from what Mr Pratt has been saying that these two issues are most fundamental to what he has been arguing about in speaking to this bill. I can say to him that we support his amendment, with changes. We do not support it in its current form because the amendment would introduce a new concept of disaster plans to be prepared by each administrative unit and each emergency service.

There was even a provision requiring the CPO, the Chief Police Officer, to prepare disaster plans, and that covers specific types of emergencies that are currently dealt with as sub-plans of the emergency plan. Mr Pratt's amendment is not necessary as the emergency plan encompasses processes for dealing with disasters and is developed by the emergency management committee, which includes representatives of all relevant agencies and a community representative. The amendment, as it stands, would only serve to complicate the bill.

As I have proposed, the government believes it is more appropriate to insert a provision requiring the emergency plan to contain certain critical information. That is why the amendment I propose borrows from Mr Pratt's amendment by specifying that the emergency plan must include plans for emergencies that are reasonably likely to occur in the ACT. Further, the amendment includes a number of Mr Pratt's examples of particular emergencies.

The second government amendment amends Mr Pratt's proposed new clause 147B, which deals with a community communication and information plan. Simply put, my amendment removes the words after "training" in paragraph (ii) of proposed new clause 147B (2) (b). Those words would require a media representative to demonstrate willingness to fully participate in training in order to be selected for something that is not really identified in Mr Pratt's provision. It is also unclear how willingness to fully participate might be established. I think there are many circumstances when you simply could not say, "Did you show a willingness to do our training?" I think that is not a practical way to proceed.

We do not propose to change anything else in Mr Pratt's amendment regarding a community and information plan. That stands up very well indeed. I would encourage Mr Pratt to look sympathetically at the government's amendments in these areas.

MS DUNDAS (9.33): Mr Speaker, I will be supporting the government's amendments to Mr Pratt's amendment and I will be supporting Mr Pratt's amendment, as amended, to the original bill. As the minister has outlined, Mr Pratt uses the words "disaster plans" in his proposed new clause 147A. These words are not used anywhere else in this bill and it is appropriate to use the term "emergency plan" in the new structure.

Mr Pratt's suggestion, however, that the emergency plan contain specific sections that refer to specific emergencies is not unwelcome and may be a useful tool in investigating the ACT emergency response in a variety of situations. I support the minister's amendments to this proposal as they retain the existing elements of the act but also include Mr Pratt's ideas.

The Democrats are also extremely supportive of the idea of the addition of a community communication and information plan, as this process was the subject of much criticism in the aftermath of the 2003 bushfires. The ability of the emergency services to communicate with the public is an essential part of their role and a specific plan would be a useful guide in times of emergency, and I think what Mr Pratt has proposed here is quite commendable.

MS TUCKER (9.34): We will also be supporting Mr Pratt's amendment, if it is amended by the government's amendments. The first part of Mr Pratt's amendment, in the original form, would create a new category of disaster plans, which would be another unnecessary and unintentionally damaging level of detail. The government amendment converts those into examples in the bill rather than being a checklist.

The second part of this amendment is about ensuring that the structures are there to communicate with the community about emergency situations. I support this part of Mr Pratt's amendment, as amended by the government amendment. The government amendment removes the new phrase that Mr Pratt has put in since our discussions last night. As I said in the in-principle stage of the debate, communications is one glaring failure in January last year, so I think it is an improvement to have that expressly included.

MR PRATT (9.35): Mr Speaker, I will support government amendment No 2. That is fine and it cleans up the wording. But I will not support government amendment No 1 because I do not think it allows sufficient flexibility in the intention of my amendment, which is to make sure that other possible scenarios are covered. Plus, I still think it is important to see in this section the responsibilities of officers identified. So, we will not be supporting government amendment No 1 but we will support government amendment No 2.

Amendments (**Mr Wood's**) agreed to

Amendment (**Mr Pratt's**), as amended, agreed to.

Proposed new clauses 147A and 147B, as amended, agreed to.

Clauses 148 to 151, by leave, taken together and agreed to.

Clause 152

MR PRATT (9.37): I move amendment No 19 circulated in my name *[see schedule 2 at 2441]*.

Mr Speaker, in January 2003 there was little in the way of ministerial comment to the public in the hours preceding and in the early hours of the 18 January 2003 disaster. It is fundamentally important that the community receives reassurance and timely information from its leaders in the community's hour of need.

I applaud the government's design of the legislation to significantly improve the provision of timely information but I believe it needs further development, which is the aim of this amendment.

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) (9.38): The government will support this amendment because it is consequent upon the passing of 147B. Yes, the minister may do all that. As a minister, I would not want to intrude on the proper role of officers in also providing information. I think they are the prime source. But it is also appropriate for the minister to get involved, as he did before, bearing in mind that the major carriage is with officers. But in stressing the importance of communication, we picked up that message very strongly and we are happy to support this amendment.

Amendment agreed to.

Clause 152, as amended, agreed to.

Clause 153 to 164, by leave, taken together and agreed to.

Clause 165

MR PRATT (21.39): I move amendment No 20 circulated in my name *[see schedule 2 at 2441]*.

Mr Speaker, the legislation, for very good reason, lays down a directive that emergency units are not allowed to deploy across the border into New South Wales. That is extremely sensible. The requirement not to remove ACT personnel, equipment and assets out of this territory to go perhaps racing off on some sort of wild goose chase somewhere certainly needed to be enshrined in legislation.

However, my concern is that flexibility and initiative, taken in the right spirit and in good faith, could be penalised by this legislation. For instance, one of our emergency units operating close to the border may, after observing that a New South Wales emergency unit was not within cooee of them, move quickly across the border in order to look after their own safety or protect somebody nearby.

So while the legislation is important—and I agree that it is—I just would like to see us qualify it. The aim of this amendment is to qualify the legislation in order to look after the best interests of our people who sometimes have to make decisions in isolation. Maybe they will not be in communication with the territory controller when they want to take care of somebody in close proximity to the border or take evasive action to look after their own safety.

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) (9.41): Mr Speaker, I see what Mr Pratt is getting at but the government and officers have a real problem with this amendment and just cannot support of it. The amendment tampers with a fundamental principle, which is that in a declared emergency,

in a very serious situation, the territory controller has unequivocal control of all emergency service units and should use them and will use them as he sees fit to protect all units and the community.

One of the major thrusts of this legislation is to create emergency services that communicate effectively, and the territory controller would have access to and control of those communications. We have advised you recently that before too long we will be getting a very new communications system that will remove any of the problems that have been experienced in the past.

In a declared emergency we cannot afford to have operational units acting in another jurisdiction without the knowledge of the controller. The safety of people cannot be put at risk in that way. I emphasise the point that I think in the near future communications should not be a problem.

MS DUNDAS (9.43): This amendment will allow territory resources to be deployed outside the territory during a state of emergency without the knowledge or approval of the territory controller. The legislation will not impact on the ability of emergency services to get access to an emergency situation in the ACT by passing through New South Wales or to enter New South Wales to escape a dangerous situation. Those issues are not to do with deployment of resources and they are not prevented from doing so by the existing section 165 of the bill.

It is not the duty of an ACT emergency service to go into New South Wales to help with an emergency without permission of the territory controller, particularly during a state of emergency when all our resources will be needed here. I would envisage that if there were a threatening situation in which it looked like a fire could jump the border—and we know that fires do not stop at borders—the incident controller would communicate with the territory controller in order to get the necessary approval. This is about utilising the clear lines of communication, responsibility and accountability that we are building into the way that we deal with emergency situations here.

I think this amendment clouds the clear lines of authority that we are trying to set up here and, therefore, it is an amendment that I cannot support.

MS TUCKER (9.44): The Greens have a different understanding to that of Mr Pratt of the operation of clause 165. We do not see that it at all prevents a unit at risk from going across the border to take evasive action. Through the development of protocols, et cetera, the issues relating to working across the border will be sorted out in an organised way.

The purpose of this provision is to set the standard for control of ACT resources under ACT control unless they have been expressly deployed. This is to prevent confusions that can arise and have arisen when ACT resources were across the border, unknown to the territory controller.

MR PRATT: Mr Speaker, I would like to make a couple of points. If I remember correctly, clause 165 talks about making sure that units do not deploy across the border. My understanding of the definition of "deploy" is that somebody intentionally carries out an operational manoeuvre or task involving all of the personnel and equipment of a unit. That is what 165 means. You are talking about an intention.

I think the wisdom of 165 is that it makes very clear to all emergency service units in the ACT what they cannot do. I think units will clearly understand that requirement. But there is still a danger that if for the purpose of evasive action they move over the border—not necessarily that they deploy across the border—they will get caught up in this. Surely they would be accountable after the event anyway for whatever purpose they carry out.

I must say, too, that this issue has been raised with me by a number of emergency personnel who feel intrinsically that they should not be penalised if they have to react to something. I think they clearly understand, too, the requirement that they cannot breach the orders of the territory controller and deploy over the border. So I would just seek a clear understanding of that principle.

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) (9.47): The principle is clear that in a declared emergency, a pretty serious situation, controllers must take control. There were circumstances in the 2003 fire when some units—or even more than that—were tempted to do their own thing. So this is entirely justified in all the circumstances.

Question put:

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

The Assembly voted—

Ayes 5		Noes 10	
Mrs Burke		Mr Berry	Ms MacDonald
Mr Cornwell		Mr Corbell	Mr Quinlan
Mrs Dunne		Mrs Cross	Mr Stanhope
Mr Pratt		Ms Dundas	Ms Tucker
Mr Stefaniak		Ms Gallagher	Mr Wood

Question so resolved in the negative.

Amendment negatived.

Clause 165 agreed to

Clauses 166 to 215, by leave, taken together and agreed to.

Schedules 1 to 3, by leave, taken together and agreed to.

Dictionary

MR PRATT (9.53): I move amendment No 21 circulated in my name *[see schedule 2 at page 2441]*.

Mr Speaker, the amendment is consequential and I think it speaks for itself.

Amendment agreed to

Dictionary, as amended, agreed to.

MR SPEAKER: The question now is that the title be agreed to.

MR PRATT (9.53): Mr Speaker, am I allowed to speak at this point?

MR SPEAKER: You can speak to the title.

MR PRATT: I would like to take the opportunity to congratulate the government on putting together a good bill. I would also like to congratulate the Commissioner of the Emergency Services Bureau and the men and women of the services for the collaborative and creative work that has been done in putting together what is now a really good instrument, which is clearly going to benefit the ACT. I would like to take the opportunity to take my hat off to the men and women in the field who have shown themselves to be so diligent and brave in these last couple of years.

Mr Stanhope: Except the ones you want to sack, mate.

MR PRATT: Thank you, Chief Minister, you are such a charming chap, and churlishness is just not part of your nature. I think we will see that our men and women will be better served by this legislation. Thank you, Mr Speaker, and thank you, Chief Minister, for being such a lovely chap.

Title agreed to.

Bill, as amended, agreed to.

Suspension of standing order 76

Motion (by **Mr Wood**) agreed to, with the concurrence of an absolute majority:

> That standing order 76 be suspended for the remainder of the sitting.

Occupational Health and Safety Amendment Bill 2004

Debate resumed from 12 February 2004, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR PRATT (9.55): Mr Speaker, the Occupational Health and Safety Amendment Bill 2004 amends the enforcement and compliance framework for workplace safety in the ACT. On the whole, it is not a sound piece of legislation. I have consulted several major business organisations on the legislation, including the ACT and Region Chamber of Commerce and Industry, the Canberra Business Council, Australian Business Limited and the ACT Master Builders Association.

Everyone in this place read in the media last week about the business community's outrage with this piece of legislation. For example, I will look at the increase in penalties and let's have a look at the first one: "Failure to comply with safety duty—exposing people to substantial risk of serious harm." Under this clause, if an individual is reckless or negligent, the penalty is up to $150,000, five years imprisonment or both, and if a company is reckless or negligent the penalty is up to $750,000, five years imprisonment or both.

The second is "Failure to comply with safety duty—causing serious harm to people." Under this clause, if an individual is reckless or negligent, the penalty is up $200,000, seven years imprisonment or both, and if a company is reckless or negligent the penalty is up to $1 million, seven years imprisonment or both.

Under the current legislation, an individual could face a fine of a maximum of $25,000 for similar breaches. We agree that the current penalties are totally inadequate and there should be reform of the OH&S Act—clearly there has to be—but we question the rapid rise to these maximums and whether absolute liabilities should be in place.

I want to have a look at the increased powers of inspectors that the government's proposed legislation will bring online. First, inspectors may enter premises at any reasonable time and, under many circumstances, no notice is required at all. Second, inspectors can stop or detain your vehicle if they believe that it is used as a workplace or has OH&S material inside, so contractors and builders beware. They may also enter premises with any necessary assistance and force, and they have the power to seize and destroy. They may also obtain search warrants.

Just to make things more complicated, compliance agreements, improvement notices, prohibition notices, enforceable undertakings and injunctions can be issued. All the organisations have come back with the same concerns: the increased penalties mentioned previously and, most importantly, the right of entry provisions for employee organisations that ensure that representatives of organisations with members or potential members in a workplace can enter work premises where there are reasonable grounds to suspect that a contravention of the act has occurred, is occurring or is likely to occur.

Under these provisions, the conditions of entry as stated in the bill are very general and can be used by various organisations as a way inside non-affiliated organisations if they suspect that a contravention of the act is likely to happen. Whether or not one wants to say that that will not necessarily be people's intentions, this legislation provides that sort of opening, therefore we think it is dangerous and divisive.

This is completely unacceptable legislation. The only people who should be allowed right of entry into a workplace under suspicion of contravening the act, for workplace matters, are ACT WorkCover inspectors. Clearly, police in the normal conduct of their duties, with warrants, and others such as health inspectors, food inspectors and other approved professional inspectors, can also gain entry with the right provision. However, these are people who are professional inspectors, who do not belong to any political organisations, and who are qualified and trained to represent the community in scrutinising benchmarks. That is entirely different to providing the same powers and the same provisions to union officials. ACT WorkCover inspectors are not affiliated with

any organisation and they do represent the government in preserving the provisions of the act.

Ms Gallagher: They are affiliated with WorkCover.

MR PRATT: Yes, but professionally they are accountable to you, Minister. That is why they have the powers: because we trust them in terms of their qualifications and their capabilities as safety officers. The Liberal opposition will be putting forward an amendment regarding this if we are unable to defeat the government's bill.

Another concern for the Liberal opposition is the naming and shaming through adverse publicity measures. The published naming and shaming of businesses that have been convicted and found guilty of breaching the act does not allow for the chief executive to make allowances for the degree of a business breach of the act. I think naming and shaming is sometimes appropriate. Clearly, it can be and we have seen some very shameful acts perpetrated by employers. There are some celebrated examples of that.

However, if this is axiomatic, and there is no flexibility in law for the chief executive of WorkCover to look at things on a case-by-case basis, people who may have been temporarily foolish may find themselves losing their livelihoods when perhaps, if they had been given another chance to meet the requirements of ACT WorkCover, they may have been able to bring their industrial practices up to the benchmark. They may never get a change again. The chief executive ought to be able to exercise that discretion, show a bit of leadership and make those sorts of decisions. Unless the minister can show me otherwise, as far as I can see, the act does not allow that provision.

I want to have a look at the proposal to allow unions the right of entry. I have some really important questions to ask about this. Why should it be important to change the workplace landscape to allow union officials the right of entry? What has happened? Which sky fell in to change the circumstances so that this has to happen? Where is the need for this union right of entry? Not always, but in some cases, it can be unfettered right of entry.

Where is the proof that Canberra business owners have been so damned negligent or reckless in their duty of care to either their clients or their workers as to require this? Where are the statistics? Where is the evidence going back over the last five years that shows that there has been an epidemic of delinquent employer behaviour that has brought us to this point when we must step beyond the realm of qualified inspectors and now invite unions, whenever they wish, to seek a right of entry? Where are the statistics proving the government's position, justifying the need for unfettered access of untrained officials from the unions who, in some cases, may barge into a workplace without prior approval or prior notice?

Mr Stanhope: No; that is not what the legislation says.

MR PRATT: What the hell is—

Mr Stanhope: Read the legislation.

Ms Gallagher: They could do it now if they wanted to.

MR PRATT: access without a warrant and, in some cases, without prior notice: what does that mean? That means barge to me, Chief Minister, barge in.

MR SPEAKER: Order! Direct your comments through the chair please.

MR PRATT: What if they seek notice to pressure management to accept access? What is the government's justification for setting up a dangerous and divisive piece of legislation?

Ms MacDonald: Dangerous?

MR PRATT: It is dangerous.

Mr Quinlan: It is divisive!

MR PRATT: It is dangerous. What mushroom do you live under? What is the government's justification for setting up a dangerous and divisive piece of legislation that clearly will have the consequence, unintended or otherwise, of driving a stronger wedge between the union movement and the business community? That is what this will do.

Mr Quinlan: They will be meeting each other all the time.

MR PRATT: Of course it does. You would know very well, Ted, that it will drive a wedge between the movement and the business community. Even worse still, this government legislation could very likely drive a wedge between management and workers in some workplaces and create unnecessary tensions. I am outraged that this government, under the guise of deploying value-adding mechanisms to OH&S, is allowing the unions to have right of entry. What is this? Is this some sort of pay-off, Chief Minister? Is it a pay-off to the unions that we give them this capability?

Mr Stanhope: What for, mate?

Ms Gallagher: Don't get too excited, Steve.

MR PRATT: In the absence of any evidence—evidence you have not presented—that would indicate why we need to broaden the workplace practices in the ACT to give unions unfettered access to the right of entry to workplaces, I cannot see any justification. What about access to business owners who operate from their homes? I gather you might be looking at some protection there and I hope you will make sure that the inner sanctum of the home will not be breached.

Ms Gallagher: You know that, Steve. You have been briefed on that.

MR PRATT: What? The Liberal opposition will also be putting forward an amendment regarding these sorts of issues. The other amendments that the Liberal opposition will be putting forward today are consequential to the amendments we put forward for the Dangerous Substances Bill regarding absolute liability. Going back to the point of penalties, I want to raise this question and I hope the minister answers it. At the moment,

we have penalties that can be applied to an individual or to a corporation, but we do not seem to have anything in between.

I ask the minister to pick up the challenge here: what do you do about the very small business, the microbusiness run by mum and dad? Under this legislation, a business of two, three, four or five people, a microbusiness, is going to wear the same penalties as a corporation. Under maximum penalties, that could be the case. Why would you not consider a third category in the scale of penalties for microbusinesses, to take care of family-owned businesses with a very small number of company members.

The Liberal opposition will not be supporting the Occupational Health and Safety Bill in any way. We did toy with the idea and I said to your staff some time ago that we might consider supporting this bill because there were some good provisions in it. I believe there are some good provisions in the bill, because we agree in principle that OH&S does need to be upgraded: $28,000 as a maximum fine is ludicrous. Workers should be protected and rogue employers should be penalised where the penalties fit, so we were looking forward to supporting the government, not necessarily on the basis of what it has in the bill now, but because the bill goes some way towards upgrading the provisions in the OH&S Act.

However, because the government has determined that it is going to use this vehicle to put in this union right of entry rubbish, we are not going to support a scintilla of this bill. We would rather go back and encourage the government to bring forward other provisions separately under another bill—the good provisions that were drafted in this bill. We will not have a bar of this bill. We will not support union right of entry to the workplace. We would prefer to see the government put its energies into doing something about increasing ACT WorkCover's capability to carry out inspections, to broaden the capability of ACT WorkCover so that it can undertake inspections in the workplace and more preventative and educational activities with business, so that we can prevent safety breaches occurring.

However we will be responsible representatives of the Canberra community and if we fail to defeat the government's bill we will have to consider amendments as a fallback. We will do that if we have to, but in the first instance we will reject this bill and we will see where we go from there.

When this government says that it is business-friendly and that it is creating an atmosphere in which business can thrive, it is whistling Dixie. It does not give a toss about business in the ACT. It does not give a toss about seeing business opportunities grow in the ACT. It is frightening business, and if its representatives had been at that forum last Thursday to see what the Canberra Business Council was saying about this proposed legislation, they would have turned green. The opposition will not be supporting this bill.

MR STEFANIAK (10.13): Mr Deputy Speaker, I was in this place when we had our first occupational health and safety issue. In fact, I think I chaired the select committee in relation to that. That was about introducing an occupational health and safety act and having workplace units. There was a big debate then about how big those units should be: should they be units of 20 employees or units of 10? The majority report of my committee said it should be 20. That is just small fry compared with where we are now.

As Mr Pratt has said, no-one wants to see people injured in the workplace, but I do not think I have seen such draconian, biased and inappropriate legislation for quite some time. This government states that it is business friendly. I do not think I have seen a Labor government in this place—including the first few—that has scared business as much as this one has with the legislation that has gone through this Assembly, ranging from industrial manslaughter to some attempts in relation to long-service leave.

However, even given that we now have two offences of manslaughter and there have been other attempts which have caused business some angst in relation to things like portability of long-service leave, this legislation here—and I am looking at division 4.3A which allows entry to workplaces by authorised representatives—is quite frankly appalling.

It is appalling for a number of reasons. When the Occupational Health and Safety Act systems were set up, we had WorkCover inspectors. I recall that we also used to have a committee that oversaw all of this, comprising unions, three employer representatives and three government officials, including public servants from whatever WorkCover was then. That worked fairly well. We probably had some fairly reasonable situations develop. On balance, too, a lot of injuries may have been avoided in the workplace as the result of the sensible cooperation that developed after 1989, when we put those systems in place.

However, what we have here gets away from having independent government officials who enter the workplace, see what is going on, issue infringement notices and perhaps eventually charge people for breaches. That is fine. That is their job and it is fine for people who are authorised government employees to do that, as it is for an inspector under the environmental laws to enter a premises, or other government officials or police who have the power to enter premises. That is understandable.

However, to have employee representative organisations entering premises and doing the job that professional government employees should be doing is quite frankly absolutely wrong. Little wonder business is scared. I think that the Treasurer might have been rolled on that because he, at least, seems to have a modicum of understanding of what business is about. Business employs 60 per cent of all workers in this town and, if you check the records, Minister, we have a pretty good record in relation to occupational health and safety issues.

Ms Tucker: Mr Deputy Speaker, point of order: Mr Stefaniak is extremely agitated and I would ask him to speak through the chair.

MR STEFANIAK: Point taken, Mr Deputy Speaker.

MR DEPUTY SPEAKER: I uphold the point of order.

MR STEFANIAK: Thank you, Mr Deputy Speaker. I picked Ms Tucker's point of order. Yes, okay I will do it through the chair. For the minister's benefit, 60 per cent of people in the ACT are employed in the private sector. Any employers worth their salt treat their employees well, and generally we have a very good record in the ACT. That does not mean to say that we do not need sensible and strong occupational health and

safety laws. I have always been an advocate of that. I said that in relation to the industrial manslaughter issue. I said there are areas where we probably needed to increase penalties. You can see that in the report before the committee.

There are bits and pieces of this legislation that I do not have a problem with because they include some significant penalties for people who do the wrong thing. However, I think it is absolutely wrong, it is absolutely biased and it sends all the wrong messages to have division 4.3A here and to have authorised representatives, members of the union, able to go onto premises if they suspect, on reasonable grounds, that there might be a contravention of the act.

The members may not even be a part of their organisation but may be simply people who are eligible to become members. Does that mean that they are after new members for the union? What concerns me about that, apart from the fact that it might be just an easy way for them to get more people to join the union, is the actual test that they have to apply. It is a test that has a very low threshold compared with some others. It applies if:

> an authorised representative of an employee organisation suspects on reasonable grounds that—
>
> (a) a contravention of this Act may have happened, may be happening or is likely to happen…

Remember those words "suspects on reasonable grounds". Let's look at the Crimes Act and an organisation whose members are highly trained not only in the law but in upholding the law, doing searches, entering premises and exercising on behalf of society rights including rights of arrest. I am referring to the Australian Federal Police. That organisation and its members, I would submit to this Assembly, are far better trained in these things, and able to use any discretion they have far better than virtually any other government employees in similar situations, or anyone else, simply because of the very detailed nature of their training and all the checks and balances the law imposes on them.

One would think that, if you are giving powers of entry, the group you should give those powers to, which should be able to exercise those powers on reasonable grounds, would be the police because they are better trained to exercise those powers than anyone else. But no. Let's have a look at section 188 of the Crimes Act—police powers of entry—and the clause in this bill, 57B. If Joe Blow or Mary Smith, unionist, wants to go in there, he or she only needs to have a suspicion, on reasonable grounds, that something is amiss. If a police officer wanted to go in there, under section 188:

> A police officer may enter premises, and may take the action that is necessary and reasonable to prevent the commission or repetition of an offence or of a breach of the peace or to protect life or property—
>
> (a) when invited onto the premises by a person who is or is reasonably believed to be a resident…for the purpose of giving assistance to a person on the premises who has suffered, or is in imminent danger of suffering, physical injury at the hands of some other person.

They can go in there if they are invited in by someone who is a resident, who is in imminent danger of suffering or who has suffered injury. They can also go in under a warrant, which they must obtain from a magistrate, or "in circumstances of seriousness and urgency, in accordance with section 190". So, unless the police are going in there because someone is in danger and has invited them in, or the police themselves have a warrant, the circumstances have to be serious and urgent.

What do we have here? All a union official has to do is suspect, on reasonable grounds, that there is a contravention of the act. What does section 190 say about circumstances of seriousness and urgency? It says:

> Entry in emergencies
>
> A police officer may enter premises where the officer believes on reasonable grounds that—
>
> (a) an offence or a breach of the peace is being or is likely to be committed, or a person has suffered physical injury or there is imminent danger of injury to a person or damage to property; and
>
> (b) it is necessary to enter the premises immediately for the purpose of preventing the commission or repetition of an offence or a breach of the peace or to protect life or property.

That is, they can go in there if there is going to be a breach of the peace, if an offence is happening or to prevent the repetition of an offence. This is a much tougher test for police officers—people who are trained better than anyone else in using powers of entry—to apply before they go in and sort out a problem. All the union official has to do, according to this bill, is suspect on reasonable grounds. It is a much weaker, lower standard. I think a lot of people would probably scream if police just had to suspect on reasonable grounds that there might be a contravention of the act. No, the test is far higher for the police.

If you look at other pieces of legislation, you will see that is probably far higher, too, for a lot of other government officials. I mentioned in this place on a number of occasions that we need to be wary about giving untrained or semi-trained officials, be they government officials or anyone else, unfettered or very strong powers of entry, powers that really affect people's human rights. In this bill, this government, and its Greens and Democrats allies, by the look of it, are giving untrained people, union representatives, a power of entry when they merely suspect on reasonable grounds that there is a contravention of the act.

Get real, Minister, really. Little wonder business is upset. Little wonder that business and a lot of reasonable people wonder where on earth are you coming from. You do not need this. This is trampling on people's rights. You made a big noise about the Human Rights Act, and that is all very well, but I have noticed since that has come in—well, since it has been passed, as it does not apply until 1 July—you have conveniently forgotten it whenever you need to, sometimes for good reason. However, this is not a good reason at all. This is trampling on the rights that these employers, and anyone else there, would have in any other situation.

The police could not enter if they suspected something was happening on reasonable grounds. They would have to rely on sections 188 and 190 of the Crimes Act. They would not be able to do it. So, Minister, and your colleagues there, shame on you for doing this. This is unnecessary. I suspect that it is going to do nothing to help with any real breaches of the law that are occurring. You have perfectly good, trained people in WorkCover. You have an occupational health and safety system that has been evolving for 15 years or more now—sometimes with a few hiccups and sometimes with a few things you people have put in that we do not agree with, such as industrial manslaughter—and it has been a system that has operated reasonably effectively. Now you are putting all that in jeopardy.

Now you are really worrying and scaring your horses. Any business has a right to be worried about this. Any right-thinking person would have a right to be worried about this. Any person who may not want to join a union would have a right to be worried about this and about being coerced. I was a labourer once when you had to be a member of the BLF. I remember that one time I was not. Luckily, I was going to another job. I had a bit of fun with a union bloke who came around. The other 15 people on the site, except three who had tickets, disappeared down a drain. I do not know what their circumstances were but they certainly were not members of the union. They were terrified of being forced to join.

I can see how people might be worried about the fact that, although there may not be union members in a workplace, the eligibility of staff to join is a good enough reason for union representatives to go into that workplace. Sorry, I just cannot see the need for this. There is just no justification for it whatsoever. I do not think the government has shown me, Mr Pratt or anyone else why we need this provision, why the WorkCover people cannot do the job and why the extra powers being given, the extra offences and the beefed-up penalties and things that cannot be applied and handled the normal way. By my understanding, they generally do a pretty good job of getting in there and checking out safety breaches.

I have no problem with assisting them a little bit further to do that and having a few additional penalties. I have suggested that and there are no problems there, but do not do it this way. This is unnecessary. It is of the 19th century. It is even of the 1930s, when workers were oppressed and had very few rights. Things have changed since the Second World War, Minister: we live in a very different era now. We live in an era where you, even as a member of a left-wing Labor government, should be trying to get on with business, should be trying to work constructively with people and should be introducing laws including beefed-up health and safety laws where you need to, but not going down this idiotic, narrow, ideological path.

I almost felt like putting in an amendment here that said that authorised representatives could be members of the RMC band, the Eclipse football club and the CWA of Australia ACT branch. That is just as ridiculous as what you have here. I am not going to do that and waste people's time, but get real! I think this legislation should not be passed. Go away, do it again and bring back some sensible legislation without this unnecessary ideological nonsense in it.

MS TUCKER (10.28): The Greens will be supporting this bill. In essence, this bill would put in place a compliance scheme that is somewhat more rigorous than the existing scheme and which provides a wide range of responses, from infringement notices to publication provisions—naming and shaming—to increased penalties at the top end of offences so that they are more in line with penalty provisions across Australia.

This bill is one of the outcomes of a more comprehensive review of the ACT's work and safety legislation that began a couple of years ago. The industrial manslaughter legislation was another component of that process, as was the dangerous substances legislation we passed earlier this year.

This bill has most directly come out of the work of the OH&S Council's compliance committee. It puts into place recommendations of the council's "Enforcement and compliance framework" issues paper, published in August last year. One of the issues in dispute is the increase in penalties for offences at the top end of culpability. It is important to understand that this increase in penalties will simply lift the ACT regime up to the level that applies across Australia, that this legislation provides for a wider range of penalties and enforceable agreements, and that the top end offences are those where criminal recklessness or negligence can be established beyond reasonable doubt.

I am also well aware that the council and its compliance committee was not unanimous on the issue of union right of entry, and it is that policy decision and the details of its implementation that will demand the most detailed debate. I have to say up-front that the Greens believe unions make an important and legitimate contribution to workplace safety. We see occupational health and safety as a basic industrial issue and any evidence that is provided on issues of workplace safety supports the relationship between union protection and safety. Indeed, it has been well established in Australia and internationally that unionised workplaces are, on average, safer work environments than others.

For example, research conducted by Britain's health and safety executive across the British manufacturing sector compared annual accident and incident rates in workplaces in which managers made unilateral safety decisions, in which safety decisions were made in consultation with employees and in which well-resourced, well-trained, well-informed industrial representatives were acting constructively at the workplace level to foster improved safety. Accident rates were highest in the unilateral management decision group—10.9 per 1,000 workers—and lowest in the industrial assistance group—5.3 per 1,000—which outperformed the employee consultation group—7.0 per 1,000—by 24 per cent. The reference for that research is J Edmonds in *High Levels of Health and Safety at Work: Increasing Productivity and Improving Workers' Health and Safety*, 1997, citing Reilly, Paci and Hall in the *British Journal of Industrial Relations*, June 1995.

It is also important to recognise that the work environment has changed considerably over the past years, and that small, fragmented and flexible workplaces are quite common. So the industrial safety structures of the larger workplaces, with elected health and safety representatives, will not apply in most situations.

The independent review of Victoria's OH&S legislation carried out by Chris Maxwell QC, analyses the variable effectiveness of health and safety representatives in that

context. He discusses the advantages of regional or roving health and safety representatives, in essence union members with an OH&S responsibility across a number of sites. He uses examples, both in Europe and in Victoria, which show that the system has real benefits. Clearly, however, it would only work well where the one employer has a number of work sites and the workforce is well enough organised to elect a representative to work across those sites. He also discusses the general difficulty in ensuring that health and safety representatives are appointed in all workplaces.

Mr Maxwell also discusses the New South Wales right of entry experience in some detail. He makes the point that, in New South Wales, the right of entry has been used conservatively. There have only been four instances where employers have applied for revocation of the right of entry authority and only one instance of that being upheld. Only one allegation in those cases has been made that an authorised official had misused that right for other industrial purposes. That would appear to address the fear expressed to us by employer advocates that unions here are likely to frequently misuse the right of entry powers the legislation establishes.

Maxwell quotes examples both at the big end of employment, where employers are on the record as inviting union representatives back on site after their initial contact and contribution, and at the smallest work sites, such as sweatshops, where OH&S legislation can otherwise mean nothing to people unable to speak English and working alone. He also argues that the right of entry will contribute to the momentum of change towards a more collaborative culture of workplace safety.

A more general discussion from Professor David Walters from Cardiff University, first given at the Australian OHS Regulation for the 21st Century conference last year, puts the same arguments in a broader context. He argues that the shift away from much more structured employment, the labour market fracturing and the increase in practices such as outsourcing, subcontracting and employing on a temporary and casual basis, all contribute to a structure of vulnerability that sees workplace injury and death more likely in these diverse settings. In these situations, formal workplace representation is limited and diminishing.

He also identifies the most positive developments across Europe and the UK as being managed through the presence of external union representatives. For those who argue that the role of inspection really should rest with the regulator, as Professor Walters points out, government resources for OH&S enforcement have never been enough.

A recent Canberra example puts this broader debate in context. It concerns the recent tragic death of a worker at the airport who appears to have fallen from the roof of a container. I understand it has been fairly common practice to use the roofs of containers as storage places, despite the fact that the relevant legislation requires a safety barrier at any work site where a fall of more than six feet is possible. The union, after this tragic accident, very promptly faxed out an alert to the construction industry, calling for an end to the practice.

I went driving and saw an example of this on Canberra Avenue, where there was a container used as a storage space for a lot of pipes. I rang the WorkCover commissioner and asked what WorkCover was doing, having noted that the union was taking a very proactive and immediate action in response to this tragedy. WorkCover has said that it

would be doing something and, as I understand it, there is going to be something on the website this week and something in the monthly newsletter.

Overall, I consider that the limit of the powers of authorised representatives is reasonable, particularly given the government's and Democrats' amendments. Representatives cannot require actions or impose penalties, but simply refer matters to WorkCover. They cannot gain entry without reasonable cause. They will need some training before being authorised and can lose that authorisation if they behave unacceptably.

There will be confidentiality requirements in respect of any documents they copy and they will be held accountable for their actions and for any damage that might result from their actions. There will also be an independent review of the act that will have to specifically evaluate the impact and effectiveness of right of entry provisions.

I do understand that people in many small businesses, in particular, are concerned that union right of entry will mean a real disruption to their work and their autonomy in running their businesses. I can only point to New South Wales, and to jurisdictions in other parts of the world, to reassure them that the fear is largely unfounded, and acknowledge that we do need to keep an eye on the implementation of this provision.

I do think, however, that this new approach, based on the establishment of an overarching safety duty, and supported by a wider range of compliance mechanisms, including the right of entry provisions, will give greater responsibility to those larger companies who manage their work by subcontracting smaller businesses. That is not a bad thing. That has to be a good thing for everybody, including the employers, if we remember that, in this city in the last few weeks, we have had a death, and consider the devastation that is created not only for the person who died, but also for everyone involved on that work site, including the employer. Surely it would have been better if we had a situation where someone had gone onto that site and said, "This is not a safe practice." It was such a common practice.

Finally, I understand that the unions have indicated that they are more than happy to sit down with employer groups and agree on a protocol for these activities. Issues such as access to high-security workplaces, for example, clearly do require some negotiation. I understand the government has agreed to hold off the commencement of these provisions until the start of next year and has offered to incorporate the resulting protocol into regulations for the ACT. These are both constructive offers, which I hope to hear the minister put on the record when she closes the debate today.

MS DUNDAS (10.39): Mr Deputy Speaker, the ACT Democrats will be supporting the Occupational Health and Safety Amendment Bill in principle. This bill has generated a large amount of controversy since it was introduced in February. There have been particular concerns expressed by employer organisations about the scope of the changes to OH&S laws and, in particular, about the appropriateness of the proposed right of entry for union representatives.

In response to this, I have spent many hours consulting with both unions and business representatives in relation to this bill, in order to get a balanced view. I agree that there are some issues in the bill as drafted, but I believe that some significant amendments can

alter it so that it provides a fair framework that ensures the proper protection of employees at work.

The ACT Democrats are approaching this bill from a perspective of workplace safety, and all sides of this debate have agreed that workplace safety is both important and could be improved. I believe that this issue should be kept foremost in our minds as we debate this bill. It should be our focus. We are trying to improve workplace safety.

The first point I would like to make is that, through my discussions with various stakeholders, it became clear to me that there is a general belief that WorkCover does not have adequate resources to properly enforce OH&S laws. No matter how often agreement is reached between employers and employees, the centrepiece of any OH&S education and enforcement regime will always be a well-resourced public regulator.

I have raised the issue of WorkCover resourcing previously and the topic was recently pursued through estimates. No amount of new laws and penalties will make up for an under-resourced inspectorate. This is the first issue that the government should be addressing if it wishes to improve workers' safety and I, again, repeat the calls on the government to examine the issue closely and ensure that WorkCover is properly resourced to help make the ACT a safe place to work.

The bill before us does not contain a complete reworking of the Occupational Health and Safety Act, and there are a number of parts of the act that remain unamended, despite clearly being in need of review. During my examination of the bill before us, I realised that the appeal body for decisions under the act is not the AAT, but a body called the Occupational Health and Safety Review Authority. Despite being discussed in the act when it was passed in 1989, the authority has never been convened, so we continue to be in a situation where our appeals mechanism under OH&S law does not function.

While the government assures me that this will be covered in a further review of the act in the second half of this year, it is clear that the Assembly has been presented with a half completed project, and it would have been far better to complete this work and present the Assembly with a full investigation, rather than addressing issues in a piecemeal way. This is one of the reasons that I have an amendment for a complete review of the act in three years time, so that we can do it all at once, altogether, once these changes have been put through.

Although the bill before us only looks at some of the issues within the act, it does cover a range of different issues. It increases a number of the penalties for not complying with occupational health and safety laws. These penalties are the same as those previously inserted in the Dangerous Substances Act and are broadly consistent with those in other jurisdictions.

However, it is interesting to note that when we were debating the dangerous substances legislation, it was stressed that particularly high penalties were necessary because of the specific threats posed by dangerous substances. The minister spent a lot of time talking about terrorism and the need to control various materials. It was in that context that we saw the penalty regime increased for dangerous substances.

However, that the penalty regime for the OH&S Act mirrors that of the Dangerous Substances Act tends to discredit the minister's previous claims that such penalties were just to look after dangerous substances. The ACT Democrats do not oppose, in principle, the increased penalties in the bill, but we do raise concern that there is a perception that this will lead to a greater emphasis on enforcement, penalties and litigation.

I wish to make it clear that we are not agreeing to a more punitive approach to OH&S enforcement. I think there is general agreement on a more cooperative approach, with both employers and employees and their representatives working on education and agreement, rather than just punishment. I hope that the provisions for compliance agreements and other more moderate sanctions in this bill will facilitate that more cooperative approach, but it will take movement on both sides of the debate.

I would also like to talk about the use of strict liability offences in this bill. The ACT Democrats continue to be concerned at the government's overuse of strict liability offences, particularly when high penalty levels are set. I reiterate that the original Senate committee inquiry into the model criminal code recommended that strict liability not be used for offences with penalties higher than 60 penalty units, whereas this bill uses them for 100 and 200 penalty unit offences. I reiterate my concern at the displacement of the privilege against self-incrimination in this bill, which I think will be used rarely and is probably unnecessary.

I raised these issues in some detail during the debate on the Dangerous Substances Bill and at that time the Assembly disagreed with me. So, in the interests of time, I will not raise them again, but I place my continuing concern on the record.

I note also that there are special provisions in this bill for dealing with territory entities and the Democrats welcome these provisions. Workplace safety is equally important in public and private sectors, and I would hope that the ACT government is doing its best to ensure that the territory is setting an example by maintaining workplace arrangements of the highest standards. The provisions require that any infringements of OH&S laws be published in annual reports. I know that, with my Assembly colleagues, I will be scrutinising these closely to ensure that workers in the territory are being protected.

As has already been discussed tonight, by far the most contentious aspect of this bill is the proposal to grant the authorised representatives of unions the right of entry to workplaces to inspect them for compliance with OH&S legislation. I wish to make it quite clear, especially to Mr Stefaniak, that union right of entry is not a new concept. Unions have had a right of entry to workplaces on industrial grounds for many years under the federal Workplace Relations Act. I would also like to make it clear that unions and entities are regulated under that federal legislation.

New South Wales also has a union right of entry on OH&S grounds and has had that in place for a number of years. This has so far resulted in only four applications to the New South Wales Industrial Relations Commission for the revocation of authorised status and only one of those complaints was successful. Even though this law has been in place in New South Wales for a number of years, only one person has been found to have abused the law to such an extent that the rights have been removed.

There has also been no noticeable effect on the growth of the New South Wales economy and we have not seen businesses rushing out of New South Wales to find a more friendly OH&S regime elsewhere. The businesses that are threatening to cross the border will be crossing the border into an OH&S regime that is stricter than the one we are proposing here in the territory.

There have been a number of academic works published on the subject of access to workplaces by employee representatives for the purpose of workplace safety, including a number undertaken by the ANU's National Research Centre for OHS Regulation. They cite evidence from Australian and international jurisdictions that demonstrates an improved safety environment in workplaces where there is greater union activity and access.

That being said, I wish to make it clear that I agree with businesses that the original provisions of this bill were unsatisfactory so, over the past few weeks, I have worked with government and other stakeholders to improve the legislation so that we can insert greater safeguards to prevent abuse of the right of entry provisions. I will be moving amendments to ensure that there is a disqualification mechanism, so that any authorised representatives who abuse the right of entry provisions may have their authorisation revoked. This reflects the current situation in New South Wales.

The government is also moving amendments to put greater safeguards on the authorisation process for registered organisations, and to clarify that any documents received by unions may not be used for purposes other than those laid out in this act. I think these amendments address many of the concerns raised by employers and will help to ensure that all parties will use the right of entry provisions fairly and sensibly.

In addition to disqualification provisions, as I have mentioned, I will be moving for a complete review of the legislation after three years of operation, so that the Assembly has the opportunity to identify any shortcomings of the legislation and respond accordingly. The Democrats have taken the position with this bill that we will work to find the best outcome. We have been quite disappointed that some people have taken a very negative approach to this bill and have not been willing to consider amendments to address the concerns that have been raised.

I believe that the majority of concerns that were raised by business are being addressed by the amendments that we are moving and I encourage businesses to look at what we are doing here tonight and see it in the spirit in which it is intended. We are working to address their concerns while maintaining a rigorous OH&S regime.

The minister has indicated that there will be an education campaign over the next six months to ensure that the provisions in this bill are understood fully by businesses and that there is a chance to work through the bill's operation with businesses and unions. Through the Deputy Speaker, Minister, I encourage you to ensure that the micro and small business council is included in this process, because they have raised specific concerns that they were not consulted in the development stages of this bill and I think that is something that needs to be addressed.

In conclusion, I would like to point out that this debate is not about employees versus employers. It is not a debate about unions versus business and we should not see this debate as such. It should not be an us versus them circumstance. There are stereotypes that have been perpetuated tonight that are, quite frankly, inappropriate. We are not taking the view that businesses are evil and out to squash their workers and get every cent out of them. That is not something I believe to be true, in the same way that I do not believe that unions are out to shut businesses down or to distract workplaces from getting the job done.

If members of the opposition want to see how unions have changed over the last 20 years, they should consider that the union that Mr Stefaniak mentioned does not even exist anymore. Unions have been through a major reform process here in Australia and are working to ensure that their members are well represented. They want to work with businesses to ensure that the employees are safe and are getting the best that they can out of their working environment.

We need to dispel these myths; perpetuating them does not help anybody. In my experience, both unions and businesses are, on the whole, committed to improving workplace safety and this bill is not about punishing or penalising those who comply with the law. The vast majority of businesses in the ACT who are doing the right thing by their employees have nothing to fear, because their workplace will be safe and unions will have no need to exercise the provisions of this bill. Unions are directed by their members and if members are finding that they have no problems on their work site, then this bill will not have to be exercised.

I think we really need to move away from some of the myths that have been perpetuated in this debate tonight and focus on the core issue: that we are trying to improve workplace safety for everybody involved in the workplace.

MR SMYTH (Leader of the Opposition) (10.53): Occupational health and safety will only work if we work at it together. The shame about this bill as presented is that it will ultimately set employer against union because it bestows on one group, over another group, rights that it should not have. This legislation is simply wedge legislation that divides rather than unifies the entire workplace in the objective we all have. We all say quite sincerely that we seek to have safer workplaces and not to have a single injury or death in the workplace.

The bill breeds within one group vital to that objective—the employers—a suspicion that, whether or not the speeches that have been made are correct, it has a set against employers. It puts in place enormous fines without any data. No case has been made in the lead-up to this bill, or tonight, for this level of power to go to unions and for this level of fines to be made.

Employer groups have told me that that information was not forthcoming from the government when they sought information about the number and type of injuries. That is curious because I can remember, when I was minister for industrial relations responsible for WorkCover, presenting charts and breakdowns of that information to estimates committees before 2001. It was always available under us. It is important to find out where mistakes and injuries occur because then you can address them.

I want the minister to tell this place, before we shut, the real state of occupational health and safety in the ACT. Where is it against the national average? What is the number of injuries? Where are those injuries occurring? What is the cost of those injuries? What has the government done in its last 2½ years to stop those injuries from occurring? I suspect the answer is very little.

When Mr Berry, the now Speaker and then opposition spokesman, moved his private members bill in March 2001 to give WorkCover inspectors the right to issue on-the-spot fines, we said your legislation was flawed and would not work—and we were right. An on-the-spot fine is yet to be issued successfully by a WorkCover inspector. Why is that? Why is it that almost 2½ years later not a single on-the-spot fine has been issued?

It is because the legislation put forward by Labor then, like the legislation put forward by Labor now, was flawed. They have not done the work properly. I give credit to Ms Dundas because she covered quite well what needs to come and what is still coming. Why is it still coming after 2½ years in office? Because of the glacial pace at which this government works and its lack of commitment to anything.

This bill just reverts to the bad old days—the sort of thing the Cole Royal Commission mentioned. If you make occupational health and safety a political issue, you set it back and put at risk the safety that you seek to guarantee and that workers deserve. And that is what will happen with this report. The Cole Royal Commission report is full of instances where this sort of power was abused.

Going to the statement Ms Dundas made that unions have already got the power to enter, my understanding is that the federal right is simply to address workers who are members of that union about the terms and conditions of their employment. This is a radical change to that power they already have, and it is an understatement and disingenuous at best to say that they have already got the power and therefore it is okay. They do not have this power. Section 57B (1) (b) states:

> (b) the premises are a workplace where members of the organisation (or people who are eligible to be members of the organisation) work.

This is the right of entry to workplaces by an authorised representative. That is the nub of what this legislation is about. It is a trawl through the workplaces of the ACT to bolster the membership of unions. Let me read it again. 57B (1) (b) states:

> (b) the premises are a workplace where members of the organisation (or people who are eligible to be members of the organisation) work.

It is not about contacting the people who are members of the union; it is about contacting the people who are not members of your union and who could be—and, I guess in your view, should be. That is what this is about. This is wedge legislation. It is not about addressing occupational health and safety because the case has not been made; nor has it been addressed by this government over the last 2½ years.

What is the impact of this legislation on WorkCover? My understanding of the act is that, if an authorised representative enters the workplace and comes to the conclusion

that some breach of the act has been made, in two days they have got to report the finding to the occupier, but they also must inform WorkCover. I do not know how many authorised representatives there will be, but if, as the government maintains, this work needs to be done, there will be a mammoth increase in the work referred to WorkCover.

We all know WorkCover is working to its limits at the moment, but from a government that claims to be interested in workers' rights and protecting the workplace there has been no massive infusion of funds for an increase in the number of WorkCover inspectors, for an increase in their level of training or for an increase in their resources or whatever it is they have needed to do their job in the last 2½ years.

First and foremost, perhaps the minister can tell us how WorkCover will cope with any level of increase from what might come out of this bill when she has not increased WorkCover's resources. Second, let's look at this government's lack of attention to occupational health and safety and the role and nature of WorkCover after the last 2½ half years. The minister's excuse will probably be, "I've just taken over the portfolio, and I'm getting used to it." We know that the minister before, Mr Corbell, was not interested in anything except for planning.

We have infringement notices that, three years after they were put in place by Mr Berry, still do not work. We have got training that is to be undertaken for WorkCover inspectors to raise their levels of skill. If there is a recognised need, where are the additional resources to make that occur? There has been the loss of the educational unit that used to operate inside WorkCover. "It's been devolved back to the inspectors, and everybody's an educator now." But unless you have a specialist education unit that can target what it is you want to achieve, we know that will not happen.

The gamekeeper cannot be the poacher; the poacher cannot be the gamekeeper. You cannot do both sides of the fence, and education and inspection enforcement are different sides of the equation. The problem with making sure that the inspectors are the educators is: what role are they appearing in when they get to a premises? With that level of confusion, you do not get what you want, which is a solid, focused, outcomes-driven education program that raises the level of occupational health and safety. That is what we used to do.

We took the data from the database, identified the industries that were causing the most grief, looked at the sorts of injuries that were occurring and came up with concrete strategies for encouragement and assistance to help employers make the workplace more safe. But that unit has gone—disappeared, gone. "We aren't doing education that way any more; we're doing it our way."

I would suggest that, if we have a problem that needs such heavy fines as are outlined in this legislation, the problem stems from the fact that the government got rid of the education unit. They have not been reminding people of what they should be doing—helping them break that cycle if such a cycle exists. But, again, we have not got the data.

No case has been made for this level of activity. If there is a problem, would somebody please define it? I doubt we will get from the minister what the level of the problem is. We need this legislation, but we do not know why we need it. Perhaps we will get some

sort of answer on that, but I doubt that we will. So, we seem to have a lack of data to support the level of the penalty.

We have already got an independent umpire, who is either being sidelined or ignored by the government. People have seen WorkCover grow and change over recent years, and I think people would like to have confidence in WorkCover, but I suspect that this legislation is actually a vote of no confidence in WorkCover by the government. The critical issues for WorkCover, particularly its employees, are resources, access to training and regulations that will make the on-the-spot fines actually work. These have been totally ignored by the government for the last 2½ years.

I think this will lead to a lack of understanding out there about what the role of WorkCover is. We have got a government that we know is not committed to education because we have lost that unit. We have got a series of powers, including an almost unencumbered right to enter. Not even the police have that sort of power. Then we get the answer "We'll scoff at this." How dare he say that!

Ms Gallagher: You don't understand it.

MR SMYTH: "We don't understand it." There you go.

Ms Gallagher: You don't.

MR SMYTH: With their good, glib gloss, they scoff. You are wrong. "We don't understand it." Well, explain what we do not understand. Read the bill! I quote:

> (2) The authorised representative may enter the premises without notice.
>
> (3) The authorised representative must tell the occupier of the premises that the representative is on the premises as soon as reasonably practicable after entering the premises—

But you determine when that is.

> (4) However, the authorised representative need not tell the occupier of the premises that the representative is on the premises if—
>
> (a) to do so would defeat the purpose for which the premises were entered;

The lack of clarity in this, and the broad scope of that! You may scoff, Minister, but this is what the business community is afraid of. These are wide-ranging powers that I do not believe are held by any union organisation around the country at the moment.

We have then got the level of fines. There are substantial fines in this: 1,500 penalty units. There is a fine if you are in a situation where something might have gone wrong; there is a heftier fine if it did go wrong; there is a bigger fine for the body corporate. It is the big stick. We are going to lace this with the biggest sticks we can find. There are a number of problems with this.

The Liberal opposition is committed to occupational health and safety from the point of view of both employer and employee. We have got to work together to make this

happen, but we will vote against this legislation because this is not the way to do it. This is not the way to engender trust on both sides of the equation; this is not the way to get people to work together to make it better for everyone—employee and employer—in the workplace; this is not the way to raise the profile of and equip WorkCover with the tools they need to do the job they are entrusted with, under the statutes that exist and might exist into the future.

That is what you would have been doing over the last two years if you were truly committed to occupational health and safety: instead of ignoring WorkCover, you would have made sure that they had the resources and extra inspectors if required; you would have put in resources to help the current inspectors and new inspectors raise their level of training; and you would have been expanding the education unit, not destroying it.

These are not the hallmarks of a government supposedly committed to occupational health and safety. It is with a great deal of scepticism that the business community has looked at this legislation, and it is with a great deal of scepticism that the opposition looks at it. This brings me back to 57B (1) (b), which says:

> (b) the premises are a workplace where members of the organisation (or people who are eligible to be members of the organisation) work.

The purpose of this legislation is simply to trawl for members for the union movement in the ACT.

MRS BURKE (11.07): I obviously agree with the comments my colleagues have made so far. It is quite clear that this bill is just another attempt by this government to flog the business community and wield the big stick. Let's face it: no sensible and reasonable person would for one moment say that anyone found to be negligent in their duty of care should not be penalised. It is just a pity that this government now seems to be picking and choosing when this rule will apply.

I wonder if the minister is telling us that we have a crisis in regard to injuries in the workplace. Mr Smyth asked, "Where are the figures to bear out the desperate, burning need for this legislation. Where are the details? What has brought this on?" Is this issue really and truly about safety? I think not, Mr Speaker. It is more about control and power, to be quite frank. It is a draconian bill, which takes us backwards and does nothing to foster good relationships between business, employees, unions, WorkCover and the government. If this is not a case of jobs for the boys, I do not know what is.

Reading from the OH&S bill tabling statement by Ms Gallagher, I find some of the language unbelievable: "an enhanced compliance and enforcement framework", "measures in the bill reflect contemporary regulatory requirements in the area of work safety", "The bill is the culmination of the first phase of a comprehensive review of work safety legislation." "The legislation…will…encourage everyone with workplace safety responsibilities to comply with their obligations." How can you possibly stand over employees every minute of the day?

That is why businesses are fearful. I have talked to many, and I was in business myself many years before coming into this place and understand fully the ability to comply with keeping people safe in the workplace. You lot over there have no idea. None of you has

been in business—maybe one—so you really have no idea what you are talking about. You have no idea of the impact this bill will have on the business community. You can sit there, self-righteous, and say, "We've got it all taped. We know exactly what we're doing." But you do not.

What has happened to WorkCover? I would stand here and applaud the efforts of WorkCover. Why have we seen—Mr Smyth alluded to this earlier on—the cutting back of WorkCover? Why have we seen this body being reduced bit by bit? We should be suspicious of the government's intention to table this bill and so downgrade the power of WorkCover. Why is the shift of power happening with WorkCover? Why has the education unit gone from WorkCover? Why all of a sudden are resources being drained from WorkCover and more put into focusing on what the outcome of this bill will be? More power in another direction.

There is comment after comment in here, which I am not going to read. I am just rising to say that it is a ridiculous bill. The notion that you are going to bring the business community with you is ridiculous. As you do with everything, you will just ride roughshod over everybody else. You sit there believing that you will be back in government in October, and you are thinking, "What the heck; it doesn't matter."

Mr Quinlan, it is sad that you have not listened to the business community and, Ms Gallagher, that you have not listened to what people have been saying. You have not heard one thing that they have been saying. You do not care what they say, and you do not care about the case they have put before you. You have not listened to them saying to you that they want safe workplaces. They invite and welcome safety in the workplaces.

Why have other areas not been strengthened, rather than this whole new thing here that just downplays the role of WorkCover? There are so many things in the bill that we have here in terms of rights of entry. Can't you understand why people are afraid? Where the thinking is coming from beggars belief. I really do not understand.

We have here right of entry for representatives of employee organisations. This requires support for both direct and representative union-based participation and workplace safety arrangements. There we have it. It is all about the unions. It is more power to the unions and more control for the government. New provisions for right of entry in the bill will ensure that representatives of organisations with members or potential members in a workplace can enter work premises where there are reasonable grounds to suspect that a contravention of the Occupational Health and Safety Act has happened, is happening, or is likely to happen.

It is the Job theory: the thing we most feared has come upon us, so we will just all rush in anyway just to make sure that it does not happen. It totally flies in the face of all this government has said about being business friendly. Do you really think that is going to make a few people warm to you and to what you are offering them? The tabling statement goes on to say:

> These new provisions will enable employers to work together with their employees to solve problems as they develop, and are essential to the spirit of cooperation in the workplace.

This is absolute crud. This is ridiculous. All this is going to do is set employer against employee, employee against employee and employer against employer. It means that the unions will use unsuspecting workers to promote unionism. Basically, that is all it is, and that is absolutely disgraceful. Some of the penalties that are going to be used as that stick to threaten people with are unbelievable.

I draw your attention to new section 57C. The explanatory statement reads:

> New section 57C permits entry to premises without written notice. However, if an authorised representative does enter without notice, they must tell the occupier they are on the premises as soon as is reasonably practicable to do so—

But in the same sentence, a shifty little word here and there says:

> An authorised representative is not required to advise the occupier that they are on the premises if the occupier had been given written notice, or if doing so would defeat the purpose of entering.

This is draconian. This is ridiculous. The minister and the minister for business must think that all business owners out there are right ratbags. Let's start off from the lowest base first and assume that they are all rotters, and then we will move up. You are obviously agreeing to that, Mr Quinlan. Tell that to the business community of Canberra. It goes on and on.

You may have some problems on your hands when it comes to section 57G—compensation. I would like to see what happens there. Many people have asked, about 57E and the privacy issues in regard to a business operating from home: how are you going to allow the authorised person to walk through the home taking pictures? In the explanatory statement it says that this person can "take measurements, photos, or drawings, and can examine or copy documents relating to occupational health and safety." So, if an office is right the way through the house, you are going to toddle through this person's house to get where you want to get. You will fly in the face of your human rights bill, if you are not careful.

I have probably said enough. I certainly will not be supporting this. Like the human rights bill, we have got this wonderful lot of words, the full implications of which the government has not thought through. Nobody in the business community is against safe practices. I, for one, applaud the efforts of WorkCover and always have done, and I have said it in this place time and over.

This is a draconian step; it is a step backwards. It is not taking us forwards, and it is not going to encourage people to comply. People are going to be fearful. People are going to be worried. Is that what we want? We live in an era of what should be cooperation, conciliation and talking to people, not wielding a stick to make them comply. So, along with my colleagues—I presume—I will not be supporting this bill.

MR CORNWELL (11.16): I will not speak long. I really have a question to the minister, which she may like to answer in due course. I refer to the "Publication by chief executive of convictions et cetera." I do not quite know what the "et cetera" means, and I am concerned about this. Subsection 93C (2) reads:

> (2) The chief executive may publish the following information in relation to the conviction or finding of guilt in a way that the chief executive considers appropriate:
>
> (a) particulars that allow the public to identify the person;
>
> (b) details of the offence;
>
> (c) the decision of the court and the penalty imposed on the person or a representative of the person;
>
> (d) any other information in relation to the offence and the safety of the workplace (if any) where the offence happened that the chief executive considers appropriate to be published.

It does not talk about underage people here, so I am a little bit concerned about anybody running a lemonade stall who may transgress.

Minister, you are quite prepared to bring this name and shame idea into this piece of legislation. My question is: would you do the same with mandatory reporting, or factors of the Vardon report? It appears to me that you are being extremely selective in the legislation in which you choose to impose this draconian information. That is my question. I look forward to your attempting to answer it.

MRS DUNNE (11.18): Like my colleagues, I rise to oppose this pointless piece of legislation. That is not because, as my leader has said, the Liberal opposition is opposed to the notion of cooperative occupational health and safety. Occupational health and safety is in many ways the lifeblood of how we do business, provide employment and undertake our work in this territory and elsewhere.

We all know that occupational health and safety has changed the environment in which we work and that much good work has been done in improving workers' conditions. But we find in this piece of legislation a reflection of an outmoded, 19th century, unions-versus-bosses approach. We are not in the 19th century; we are not in barely industrialised England; we are in Canberra in the 21st century. We are in what we would hope is a creative and clever city where we work cooperatively together and where we find commonality between the aims and objectives of the person who provides the employment and the aims and objectives of the person who does the work, so that we work together for the joint prosperity of the employer and the employee.

Everything involved in this legislation goes against those principles. There is no sense of cooperation or of finding common ground or of working towards this. I would like to reflect upon the impact this legislation would have on the people with whom I deal most in my job as shadow minister for planning: those in the building and development industry.

The building and development industry is in many ways the lifeblood of this community. It contributes billions of dollars every year to the economy of this territory. It gets squeezed every which way through intolerable planning impositions and a whole range of measures designed to extract money from them. After all: "They are just builders and developers and they are rich; we are the Labor party, so we can take money from them."

Then we have the occupational health and safety provisions in this bill with their draconian penalties that would make most people gasp at the enormity of what is in store for corporations. We do not make any distinction between a mum and dad company or a partnership and BHP. You are still up for the same sort of penalty. If you are a corporation, it is the big fine, it is the prison sentence, it is the whole lot, it is there with bells on, it is enormous and it puts one more nail in the coffin of people who want to do business in the ACT.

I am constantly dealing with people who say, "I have money in the bank that I would like to spend, but I can't spend it in this town. I can't get planning approval. Every time I want to buy something, someone comes along to mess it up. The processes of getting any approval in this town take forever." I will dwell on that considerably tomorrow. On top of that, if you are a builder or developer and are spending money in this town, you run the risk of having this whole regime put on top of every other imposition that there is on the building industry in this town.

I suppose it is gall and wormwood to many on the other side, but the building industry is strangely de-unionised. I grew up with people in the building industry. My father worked in the building industry for many years. He was a union member, and most of the people who worked with him were union members at the time. Unless you work on large construction sites, it is less likely these days that you will be a union member. Many of the people working in the building industry are independent subcontractors. I know that the government has considerable concerns about that, but that is the reality of doing business in the building industry in the ACT and across this country today.

I fear that this bill, as Mr Smyth said, is a way of driving a wedge into and attempting to re-unionise an industry that has become largely de-unionised over the years. There are many reasons for that. Perhaps people today do not find unionism as relevant as they did 20, 50 or 80 years ago. The contribution unions have made to improving working conditions over the years is somewhat underestimated today. As things stand today, this is not a very unionised country and this city is particularly un-unionised. I agree wholeheartedly with the sentiments expressed by Mr Smyth: that this bill is aimed not so much at occupational health and safety as at allowing unions to go where they would normally not be able to go to recruit to their dwindling ranks.

This is not how you improve the status and the relationship of unions with employers, of workers with their employers or of contractors with people who take them on. This is not how you do business or occupational health and safety in the 21st century. This is 19th century legislation, and this government should be condemned for its backward-looking approach.

MRS CROSS (11.25): I wish to say upfront that most of this bill considerably improves worker safety and as such should be commended for its general intent. It is, however, an attempt by the government to allow union entry to workplaces, which has made this bill unpalatable for the ACT business community in general and has turned many likely supporters away from it.

This has caused me considerable distress and has confirmed in the eyes of many businesses a feeling that the ACT is increasingly becoming an unfriendly business

environment. I have scores of letters and emails protesting along these lines. This is seen as unacceptable. Why should unions have the right to randomly enter a workplace in the ACT, particularly if that workplace does not have any union members? Unions should not be given authorisation to randomly enter any workplace.

I believe that the government is concerned about worker safety, as we all are. In this case, I would have expected to see an increase in the budget of WorkCover. I would be fully supportive of such an increase. Ideally, every worker should be able to go to work, perform his or her duties and return home safely. No-one in this chamber will dispute this. It is, however, the proposed mechanism by which these worker rights are to be protected and enforced that has caused such division over this matter.

Had the government pursued a path that increased the resources of WorkCover so as to make them more effective in protecting worker safety, everybody would have been happy. Employees would have been happy because workplaces on the whole would have become much safer. Similarly, responsible employers would have been more than happy to support most of this OH&S legislation because responsible employers care about worker safety.

It is the government's intention to allow unions unfettered entry to the workplace that has caused so much worry and, in the process, taken the focus off ways to improve worker safety. It is very unfortunate that this has happened. Responsible businesses, which would in the main have few problems with this raft of OH&S legislation, now feel tremendously threatened by the fact that union reps can enter their workplace at any time and with any frequency.

Further, it is the actions that these union representatives might pursue that have businesses most worried. Businesses are concerned about harassment of themselves and their employees, whilst also registering substantial concern that union representatives might use this entry provision to drum up membership. To me these appear to be valid concerns, concerns that could easily have been avoided if union right of entry to workplaces had not been included and the WorkCover budget had been increased.

It is regrettable that the government has decided to try to push union right of entry down the throats of ACT business. Whilst I am fully supportive of trying to improve worker safety and will thus support most elements of this bill in the detail stage, I must vote against the bill as a whole due to the entirely unnecessary inclusion of the clause allowing for union right of entry. I recommend that other members do likewise.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (11.29), in reply: I think the opposition has set a new low with the tone of the debate tonight on this very important amendment bill to occupational health and safety. Mr Pratt, out of all of them, had the most considered speech. The shadow minister, out of all of the opposition members, had spent the most time looking at this legislation, even though quite a number of incorrect statements were made. Mr Stefaniak merely had a rant and almost a cardiac arrest before he left the chamber; Mrs Burke had her usual 10 minutes of cliche-ridden nonsense; and Mr Cornwell, in a rather unusual twist, tried to liken it to the Vardon report.

Having said that, I do thank members for their contributions. It was interesting to sit through, particularly for members who have spent a long time, with both staff of the Office of Industrial Relations and staff in my office, working through the detail and working through some sensible amendments to this legislation to enable better legislation to be passed tonight. I will get to the comments made in the in-principle stage at the end of my speech. The legislation we are considering today introduces an enhanced compliance and enforcement framework for workplace safety in the ACT. The Occupational Health and Safety Amendment Bill 2004 introduces new provisions to support cooperation and positive compliance in the workplace and strengthen enforcement powers.

When the Stanhope government was elected in 2001, it commenced the major task of building an integrated and robust body of work and safety legislation. The reform of occupational health and safety laws the Assembly is considering tonight represents another significant step towards the delivery of this commitment. It complements the ACT's industrial manslaughter and dangerous substances laws and ensures that the ACT continues to lead the nation in developing modern and progressive safety legislation.

The proposed amendments will introduce a mix of innovative compliance mechanisms, allowing work safety regulators to use voluntary compliance agreements, improvement notices, prohibition notices, enforceable undertakings and court ordered injunctions to ensure compliance with the OH&S Act.

The new provisions generally parallel those contained in the recently enacted Dangerous Substances Act. It is desirable to maintain consistency between the two regimes as far as possible. Consistency will assist work safety inspectors in the proper exercise of their functions and assist employers in understanding their obligations and the consequences of failing to meet these. I ask members to bear this in mind as we proceed to debate the bill.

The bill is a result of the first phase of a comprehensive review of the OH&S Act. The government has been assisted in this review by the Occupational Health and Safety Council. The council is a tripartite body established under the act to provide advice to the government on health and safety in territory workplaces. In 2003 the council provided the government with a report on the compliance and enforcement framework established by the act. The recommendations made by the council form the substance of this bill. Consultation on the bill has continued since it was introduced. Officers from the Office of Industrial Relations and staff from my office have made presentations to and met with business and employer bodies, union representatives and MLAs.

The right of entry provisions proposed for employee organisations have been of particular interest, with some strongly supporting them and others, particularly in the business sector, opposing them. Unfortunately, considerable misinformation has been promulgated about the proposed laws, including farcical statements from the federal minister for small business, Mr Joe Hockey, suggesting that bikie gangs could be registered to enter workplaces and that unions would be able to enter private residences.

I ask members to see these scare tactics for what they are when considering the rationale for the right of entry laws. That said, the government has listened carefully to the views

of all sectors of the community and will be moving amendments to these provisions that take into account many of the issues raised in the consultations.

The compliance and enforcement provisions include higher penalties in terms of imprisonment for serious harm offences; improved compliance measures, such as voluntary compliance agreements; enforceable undertakings; court issued injunctions and improvements to existing prohibition and improvement notice provisions; and new inspector powers necessary to ensure that inspectors are able to effectively investigate compliance and adverse publicity measures.

The bill also repeals the infringement notice scheme established in the act to enable infringement notices to be issued under the Magistrates Court Act. New regulations are being prepared under the Magistrates Court Act, which will commence in conjunction with the OH&S Amendment Act. A parallel infringement notice scheme has been established under the Magistrates Court Act for offences under the Dangerous Substances Act.

The ACT currently has the lowest penalties in Australia for OH&S breaches. The council recommended that the penalties for OH&S breaches should be increased, and the bill implements this recommendation. In relation to the government's moves to increase penalties under the act, I remind you that Mr Stefaniak has already given public support to such a move. In his dissenting statement to the Standing Committee on Legal Affairs on industrial manslaughter, he stated that Queensland had gone about increasing penalties in its OH&S Act. I quote:

> I think the maximum penalty for offences under that Act has been increased to 3 years imprisonment plus fairly substantial fines. New South Wales also has very substantial fines in its Occupational Health and Safety Act. …
>
> I would also recommend a toughening up of Occupational Health and Safety laws in other areas. I think the Queensland model is a reasonable one and also I would suggest the Government should look at what is occurring in New South Wales.

In addition to this, Mr Pratt gave his support for increasing penalties under the OH&S Act. He stated:

> There are strong arguments for strengthening the existing OH&S legislation to deal with possible reckless behaviour of CEOs and boards, business owners and their subordinate supervisors with respect to workplace safety, injury and death.

We support that, and we want to see it in place, but this is not the way to do it. We know that major business groups in the ACT support changes to the OH&S Act in regard to tougher penalties. We know that because we have been talking to them. Under right of entry provisions, consultation and participation are essential to achieving good health and safety outcomes. The Occupational Health and Safety Act is built on the premise that safety in the workplace is enhanced by the involvement of workers and their representative organisations.

Conferring statutory entitlements on representatives and employee organisations to enter workplace premises is recognised in the laws of the Commonwealth under the

Workplace Relations Act; in Victoria under the 2003 outworkers legislation; and in New South Wales under OH&S and industrial relations legislation. This right also derives from international treaty obligations, in particular ILO Convention 155—OH&S—and articles that establish the rights of workers, or their representatives, to inquire into all aspects of OH&S in their work.

I am aware that ACT employer groups are strongly opposed to any right of entry laws. Some employers fear that right of entry is a means for unions to gain entry for the purpose of recruiting members; others see potential for the right to be abused, as an industrial relations weapon. This is not the case. The provisions allow authorised representatives to enter premises only where there are suspected contraventions of the Occupational Health and Safety Act.

In September 2003, the Victorian government commissioned Chris Maxwell QC to review and update its occupational health and safety legislation. In his report of March this year, Mr Maxwell recommended that the Victorian government enact right of entry provisions for union officials. Members may also be aware that the New South Wales government enacted right of entry provisions for union officials in their act in 2000.

In his report, Mr Maxwell investigated the New South Wales experience and found that unions had exercised the right of entry conservatively and effectively. He commented that his inquiries did not reveal any outspoken opposition from New South Wales employer groups. He estimated that 1,000 union officials hold written authority to exercise right of entry under the New South Wales legislation. Since commencement, only four applications for revocation of this authority have been made in accordance with the legislation. Of these, only one application has succeeded. Of the other three applications, one was dismissed and the remaining two were withdrawn. This can only be seen as an indication that the concerns of employers are largely unfounded.

I am also aware that some employer groups have recently expressed concerns in relation to the protection of commercially sensitive information that could be obtained during exercise of the right of entry. The bill makes provisions for claiming compensation for any loss or expense incurred because of the exercise of right of entry. Existing provisions in the OH&S Act offer protection from the misuse of personal or commercial information that could be obtained in the course of investigating a suspected breach of health and safety laws.

At this point, I would like to foreshadow four amendments the government will be proposing to the right of entry provisions during the detail stage. These amendments are largely a result of consultation with the business community and employer representatives.

First, the government proposes to delay commencement of the right of entry provisions until 1 January 2005. This will allow adequate time to educate registered organisations and employers alike of their roles and responsibilities under the provision. It will also allow time for government to develop guidance material that may assist organisations and employers negotiate protocols for exercising the right of entry.

Second, the government proposes to extend the right of entry to employer organisations by allowing all registered organisations, not just employee organisations, to authorise

representatives. This is upon request of the ACT & Region Chamber of Commerce & Industry and is consistent with the right of entry provisions contained in the federal Workplace Relations Act. The government has no problem supporting this request, given the evidence showing that increased participation, representation and consultation improve workplace safety outcomes.

Third, the government proposes that an organisation may only authorise an officer or employee to exercise right of entry if the officer has undertaken OH&S training. This amendment is considered necessary, as it is critical to the integrity, credibility and effectiveness of the right of entry provisions that representatives have sound working knowledge of ACT OH&S law and practice. Confining eligibility to trained officials will enhance the OH&S benefits they will bring to workplaces.

Fourth, the government proposes a registration scheme whereby a registered organisation must notify the chief executive when a representative is authorised to exercise the right of entry and again when a representative ceases to be authorised. This amendment will serve as an additional accountability provision. These proposed amendments will strengthen the effectiveness, accountability and integrity of the right of entry scheme.

I would now like to address the issue of why the Assembly should agree to the right of entry provisions. The right of entry is a key tool for strengthening the representation of workers' health and safety interests. It will increase the involvement of trained officials from workers and employer associations, improve health and safety outcomes in the workplace, prevent injuries and ultimately save lives.

In some workplaces workers, and even health and safety representatives, are apprehensive about reporting health and safety issues to employers for fear of repercussions, such as being blacklisted. Many others do not report, simply because they do not think anything will be done. In some workplaces employees do not know about their protections under OH&S legislation and, without right of entry, may remain unaware.

I would like to stress that right of entry for employer and employee representatives provides many advantages to employers as well. For example, authorised representatives can provide practical and useful information to employers on how to meet their health and safety obligations. This advantage will be further enhanced by the proposed government amendment that will establish a requirement for authorised representatives to have undertaken a course of OH&S training before being authorised.

A case in New South Wales saw a union official enter a workplace where the employer was initially suspicious. The union official pointed out many OH&S failures, some of which were life threatening, and provided constructive advice on how to rectify them. At the conclusion of the visit the employer issued a standing invitation to the union official to be in contact and attend the workplace at any time.

The new provisions will enable employers to work together with their employees to solve problems as they develop, which is essential to the spirit of cooperation in the workplace. These benefits will be strengthened by expanding the right of entry to employer organisations. The right of entry will lead to greater information-sharing awareness and consultation, which means better health and safety outcomes.

The bottom line is that it will save employers money through injury prevention, which may also improve productivity and decrease workers' compensation premiums. I might also note that right of entry does not confer any enforcement powers on authorised representatives, and the authorised representative will be required to give the person in charge of work, or the premises, a report about the outcome of the investigation within two days. Foreshadowing some further amendments the government would like to make to the bill, I note that the authorised representative will also be required to give a copy of this report to the government. It will remain solely in the power of the WorkCover inspector to decide whether any enforcement action is necessary.

Mr Speaker, this bill is part of a broader package of industrial relations, workers compensation and work safety reforms being progressed by the Stanhope government. These reforms have seen the ACT lead the nation in the development of a robust and comprehensive regulatory regime for work and public safety.

Going back to some of the comments made by members in their in-principle speeches, Mr Pratt was concerned about the increased powers of WorkCover inspectors, who would be able to enter premises at any reasonable time without notice. Under the OH&S Act at present, WorkCover inspectors do not have to provide notice to employers before entering the workplace.

In relation to the naming and shaming provisions, Mr Pratt was concerned that this means that employers who inadvertently breach OH&S will not be given a second chance. To say that ignores the bill's provisions to encourage voluntary compliance, compliance agreements and enforceable undertakings. The bill only provides that the chief executive may publish details of convictions. In cases where that is not warranted or in cases of minimal culpability, there is no need to publish.

On the right of entry, Mr Pratt was worried that grounds are too wide—suspected breaches of OH&S being too wide a condition. *[Extension of time granted.]* Unions can already enter workplaces in the ACT under the federal Workplace Relations Act on the grounds of holding discussions with employees, which are much wider grounds than under this bill. We are not aware of any complaints about unions abusing the existing right of entry under the federal legislation. I have outlined the situation in New South Wales.

Again, under the right of entry, in relation to powers for government officials, the entry provisions are much stricter even than for police. The entry provisions reflect existing right of entry powers under federal legislation and New South Wales legislation. It is part of the misleading commentary on this bill to compare union officials, with no enforcement or compliance powers, to police or WorkCover inspectors. Police and WorkCover inspectors exercise enforcement powers, including seizing property, closing down business operations and commencing prosecutions. Union and employer representatives would not have any powers like that under this bill.

People exercising the right of entry have, as I said, no enforcement powers, and it is not designed to address breaches of OH&S legislation that are reckless or negligent. In her speech, Ms Tucker cited international evidence demonstrating that union involvement in the workplace leads to improved safety outcomes. Unions provide information about

OH&S to employees and employers, and this complements the education and information provided by government.

Mr Smyth went on with a whole load of stuff, which I think I covered when I covered comments made by Mr Stefaniak and Mr Pratt. Mr Smyth cited one part of the federal act—unions can only enter workplaces to hold discussions with members—but failed to inform the Assembly that unions have the right to enter for any suspected breach of an industrial award or to inspect time and wages records. Again, the full story was not given.

A lot of work has gone into this legislation. It is good legislation. I accept that there is some fear and apprehension about a certain part of it but, with the government holding off on the commencement of the right of entry provisions until January, there will be enough time to address people's concerns, as we did when we unpicked all the misinformation that was put out about industrial manslaughter.

Mrs Cross asked why we did not increase allocations to WorkCover. For the information of members, there are initiatives in the budget papers to increase support for WorkCover. There are three initiatives there, including providing extra workplace inspectors to the inspectorate sectio. This legislation is merely part of a range of initiatives that the government is putting in place to make sure that ACT workplaces are the safest in Australia and that we have a strong, robust regulatory regime to support employers and employees in the workplace.

In closing I would like to thank the Office of Industrial Relations for their effort in putting this legislation together and in all the discussions that went on. I thank Garrett Purtill and Nick Martin in my office, who spent a lot of time talking members through it. I thank members for their willingness to hold discussions on this legislation and for their cooperation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MS GALLAGHER (11.48): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the amendments *[see schedule 3 at page 2446]*.

As foreshadowed earlier, this government amendment delays the commencement of the right of entry provisions until 1 January 2005. The remainder of the bill will commence 28 days following notification. This amendment is in response to suggestions by employer representatives that additional time is required to roll out an education and information campaign. It will also enable the establishment of working relationships around the new provisions through the preparation of guidance notes.

MS DUNDAS (11.49): Given the amount of intense debate and concerns raised about the right of entry provisions, it is clear that there remains a lack of information flow to the community and that we need to take some time to work through the implications of this legislation. The Democrats support this amendment to delay the commencement of the right of entry provisions until 1 January 2005.

MS TUCKER (11.49): This amendment puts the commencement date of the right of entry provisions back to the start of next year. I trust there will be enough time to establish reasonable protocols between unions and business, and for government to incorporate the provisions into regulations. Issues such as access to high security sites and the wearing of safety equipment by authorised representatives could be addressed in that context. Regulations are disallowable instruments, so there will be extra scrutiny of agreed procedures at this level.

This is clearly a "suck it and see" exercise. It seems it is the will of the Assembly to give the right of entry to authorised representatives of unions or employer organisations. If, despite goodwill and agreed established protocols, these provisions create real problems for businesses but there are no good health and safety outcomes, the act can and would be revisited. I am sure the Liberal Party, whether in government or in opposition, would be keen to do so if the information supported such a response.

It is also worth recalling that this bill is just one stage in an ongoing review of OH&S legislation in the territory. The next step is a review of the scope and structure of the OH&S Act, which would provide an opportunity to revisit some aspects of this scheme if necessary.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 13, by leave, taken together and agreed to.

Clause 14.

MR PRATT (11.51): I seek leave to move amendments Nos 1 to 3 circulated in my name together.

Leave granted.

MR PRATT: I move amendments 1 to 3 *[see schedule 4 at page 2451]*.

Amendment No 1 is consequential to the amendments the Liberal opposition put forth to the dangerous substances bill, changing the absolute liability penalty to "strict liability". We want to see those penalties downgraded. Amendment No 2 is also consequential to the amendments the Liberal opposition put forth to the dangerous substances bill, changing the absolute liability penalty to "strict liability". Amendment No 3 again is consequential to the amendments the Liberal opposition put forth to the dangerous substances bill, changing the absolute liability penalty to "strict liability". We feel that "absolute liability" Does not provide sufficient flexibility for those judging on the

penalties to graduate the offences; whereas, if they are downgraded to "strict liability", that flexibility will exist.

MRS CROSS (11.53): I will not be supporting Mr Pratt's first, second, or third amendments, which seek to make a number of safety duties strict liability offences rather than absolute liability offences. When it comes to safety duties it is important that employers realise they have a basic standard of care for workers and their safety. Mr Pratt's amendments Nos 1 to 3 dilute this responsibility and hence will not receive my support.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (11.53): The government will not be supporting these amendments either. There are three safety offences in the bill and, like those in the dangerous substances act, their construction is fundamental to the integrity of the new OH&S compliance scheme. The general offence of failing to comply with the safety duties set out in proposed section 35C is a strict liability offence.

The specific offences in proposed sections 35D and 35E, which refer to failure to comply with duties, with the result that people are exposed to a substantial risk of serious harm or that serious harm is caused to a person, require conduct which is either reckless or negligent to be proved. Absolute liability applies to the first element of each of these offences but none of the offences are absolute liability offences.

Absolute liability applies solely to the requirement to comply with the safety duty. There is a reason for this. These duties are not discretionary and it is essential that they are not undermined. By applying absolute liability to the requirement to comply with the duty it is not necessary to establish that the defendant was aware that he or she was required to comply with a particular safety duty. This is appropriate because a defendant's lack of knowledge of the law should not be a defence to a prosecution for breaching a health and safety duty.

Mr Pratt would amend these absolute liability elements of the offences to render them strict liability elements. Should this change be made it would mean that a defendant could raise a "mistake of fact" defence. In these circumstances a defendant could simply assert that they did not know they had a duty. This would abrogate the fundamental principle that ignorance of the law is no excuse. If absolute liability were removed, the prosecution would have great difficulty in proving that the defendant was aware of the requirement to comply with the safety duty. Consequently the effectiveness of the regulatory scheme established by the legislation would be severely compromised.

I am troubled that Mr Pratt's proposed amendments are identical to the amendments he proposed during debate on the dangerous substances act, which were rejected by the Assembly. Aside from the fact that we have clearly been unable to convince Mr Pratt that his position regarding the duty based offences will be incorrect if these amendments are passed, this would introduce fundamental differences between the compliance provisions under the OH&S Act and the dangerous substances act.

It is also troubling that report No 45 of the scrutiny of bills committee has again failed to properly assess the application of absolute liability, just as the committee did in its

examination of the dangerous substances bill—report No 43. I wrote to the chair of the Standing Committee on Legal Affairs in response to report No 43 advising that the committee was incorrect in identifying clauses in the dangerous substances bill as absolute liability offences.

Despite my response to that report the committee has repeated the mistake by improperly identifying proposed sections 34D and 34E as absolute liability offences. Absolute liability applies to only one of the elements in the offences contained in proposed sections 35D and 35E. As it does not apply to each offence as a whole, these offences cannot be categorised as absolute liability offences.

The explanatory statement for the Criminal Code Amendment Bill 2003 contains a useful explanation of the effect of providing that absolute liability applies to one element of an offence—usually the existence of a fact or circumstance where the accused's state of mind about that fact or circumstance has no logical bearing on his or her culpability for that offence. The approach taken in this bill is consistent with the comments by the committee in its earlier scrutiny report, No 38 of 2003, which recognises at page 14 that absolute liability may be acceptable where an element is essentially a precondition of an offence and the state of mind of the offender is not relevant. The government will be opposing these amendments.

MS DUNDAS (11.57): I have had to think very carefully about these amendments put forward by Mr Pratt. As members know, I have remained extremely vigilant about the imposition of strict liability and absolute liability offences. This bill has been no exception. However, the issue here is about the safety of workers and in what circumstances an employer has a safety duty towards their workers. Mr Pratt's amendments propose that an offence of not complying with a safety duty should only have strict liability apply to the physical element of being required by law to comply with that safety duty, rather than absolute liability.

While there appears to be a consensus between the government and the opposition, the physical element of being required to comply with a safety duty does not require a mental element, such as knowledge. However, the main difference between strict liability and absolute liability is that the defence of mistake of fact exists for a strict liability offence. A mistake of fact is not simply ignorance of safety duty. I would point out to the government that the explanatory statement states that this is the case with any reading of the criminal code, which states:

> A person is not criminally responsible for an offence that has a physical element for which there is no fault element if:
>
> (a) when carrying out the conduct making up the physical element, the person considered whether or not facts existed, and was under a mistaken but reasonable belief about the facts; and
>
> (b) had the facts existed, the conduct would not have been an offence.

This is very different from ignorance of the law; however, in this case it is necessary to also consider the ramifications of applying strict liability to only this part of the offence. For example, if a person fails to comply with a safety duty and, as a result, serious harm occurs to another person it is sufficient to show that the defendant made a mistake of fact

as to whether they had to comply with the safety duty in order for no conviction to be found. This is a serious decision before the Assembly because a change in the element of these offences may distort the process of justice for a victim under this law.

In considering all this I am not able to support Mr Pratt's amendments, but I would like it to be noted that absolute liability applies to only the first part of each of these offences. Thus, under sections 35D and 35E, the prosecution must still provide proof of criminal recklessness or criminal negligence in order to secure a conviction under these laws. For the general offence under 35C a defendant can still rely on a mistake of fact. If these offences were "absolute liability" in their entirety it would be easier to agree with Mr Pratt but, as they are not, I support them in their current form.

MS TUCKER (12.00): I will be opposing these two amendments. Mr Pratt has picked up on a concern of the scrutiny committee about the implications of offences of absolute liability; however, there has been a dialogue between the committee and the government on this. The fact that "absolute liability" applies only to the part of the offence that establishes that a safety duty exists, rather than other conditions that constitute an offence, appears to be the key point.

I have yet to hear an argument as to why we should not make the existence of a safety duty an "absolute" offence, because it really is something that can be misunderstood, with strict liability applying to whether the person complies or not. More serious offences, of course, have a fault element within them. The point in issue here is the general approach of this legislation to establishing safety duties and the requirement for all employers, managers, clients, manufacturers and so on to take that responsibility on.

MR PRATT (12.01): I reiterate the concern about absolute liability. We are not seeking to undermine the seriousness of the offences by seeking to downgrade that liability; those levels of penalties are still going to be there. We are saying that absolute liability quite often reflects "guilty until proven innocent"—and not even the worst offence should carry that stigma. So I again put that point to members, to ensure that there is a little more flexibility to allow those who are judging those offences to make more reasoned decisions.

Question put:

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

The Assembly voted—

Ayes 5	Noes 10	
Mrs Burke	Mr Berry	Ms MacDonald
Mr Cornwell	Mr Corbell	Mr Quinlan
Mrs Dunne	Mrs Cross	Mr Stanhope
Mr Pratt	Ms Dundas	Ms Tucker
Mr Stefaniak	Ms Gallagher	Mr Wood

Question so resolved in the negative.

Amendments negatived.

Clause 14 agreed to.

Clause 15 agreed to.

Clause 16.

MS GALLAGHER (Minister for Education and Training, Minister for children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.06): I move amendment No 2, circulated in my name *[see schedule 3 at page 2446]*.

This amendment does three things. First, the amendment removes the concept of "employee organisation" and replaces it with "registered organisation". As drafted, the bill currently provides that employee organisations registered under Schedule 1B of the Commonwealth Workplace Relations Act may authorise representatives to exercise right of entry. The effect of the amendment is to allow all registered organisations—not just employee organisations—to authorise representatives. The amendment effectively extends the right of entry to authorised representatives of employer organisations. This is upon the request of the ACT Chamber of Commerce and Industry and is consistent with the right of entry provisions contained in the Workplace Relations Act.

Second, the amendment provides that an organisation may only authorise an officer or employer who has undertaken the training required under the regulations. This is related to the government's 19th amendment, which would amend the Occupational Health and Safety Regulations 1991 to provide that completion of an approved training program for health and safety representatives is required for appointment as an authorised representative. This amendment will improve the right of each of the provisions by ensuring that representatives have a sound working knowledge of ACT OH&S law and practice. Confining eligibility to trained officials will enhance the OH&S benefits they bring to workplaces.

This amendment creates a strict liability offence for a registered organisation which authorises a representative who is not an employee or office holder of the organisation, or who has not completed the required OH&S training. Further, the amendment effectively inserts a notification scheme for representatives authorised to exercise the right of entry. A registered organisation must notify the chief executive when a representative is authorised to exercise the right of entry and again when a representative ceases to be authorised.

Third, the amendment creates an offence when an organisation fails to notify the chief executive of these developments within one week. Like the other offences against this section, these are strict liability offences. Members should note that the defence of mistake of fact is available for strict liability offences.

MS DUNDAS (12.08): I seek leave to move amendments Nos 1 and 2 circulated in my name on the yellow paper together, which amend Ms Gallagher's amendments.

Leave granted.

MS DUNDAS: I move amendments Nos 1 and 2 circulated in my name on the yellow piece of paper *[see schedule 6 at page 2453]*.

These particular provisions of the bill have attracted the greatest amount of attention in this debate in relation to union right of entry. I have to say at the outset that this is just a little bit questionable, given the extensive nature of changes throughout this bill, because a number of new provisions in this legislation will have effects on workplaces, particularly workplaces where OH&S compliance is below standard.

The ability for employee representatives to have limited powers of access to a workplace is, I think, one of the lesser problems an employer could face if they were found to be in breach of their OH&S duties. That said, my discussions with a number stakeholders have highlighted some serious flaws in the original proposal, particularly with the lack of restraints on employee representatives in exercising their powers. I welcome the minister's amendments, which provide far more stringent control on the authorisation of representatives, including a set of penalties for failing to use the provisions correctly. I am therefore supporting the minister's amendments.

In addition, I move my amendments to insert new disqualification provisions. The right of entry provisions in this bill are almost identical to the provisions of the New South Wales Occupational Health and Safety Act 2000, which has been in operation for some four years. However, a crucial element missing was a method of removing a representative organisation if they abuse their powers of entry.

As I have mentioned, only four people have been referred to the New South Wales Industrial Relations Commission for disqualification of their authorisation so it appears that, in general, union representatives have been operating within their boundaries. However, the fact that their authorisation can be removed, as I am proposing, is a significant disincentive to the abuse of these provisions. My amendments work to ensure that any authorised representative who has contravened or is likely to contravene the right of entry provisions, or has intentionally hindered or obstructed an employer or employee, or otherwise acted improperly in discharging a function under this section, will be culpable for those contraventions against the act.

This means that there will be an additional mechanism to enforce the right of entry provisions. At this point I would also like to thank the minister and her staff for working through these amendments. The minister's amendments and my amendments to this section took some time to nut out, but I believe they go a momentous way towards addressing the concerns that have been raised and making sure that our legislation works to provide some balance.

I note it is quite possible that the opposition will be opposing the right of entry clauses in their entirety. However, considering some of the research into this topic, which demonstrates that increased union access generally increases safety standards in workplaces, and with the prime goal of improving workplace safety, I see it fit to keep these provisions in the bill, but as they are amended.

MS TUCKER (12.12): I will be supporting both the government's amendments and Ms Dundas's amendments. The government amendment extends the right of entry to

employer organisations registered under the Commonwealth's Workplace Relations Act, and so recognises those employees and employers who have a stake in making workplaces safe.

I am not sure how extensively employer organisations will take up this opportunity to actively involve themselves in the workplace safety of their members. I believe there is a case for employer organisations to take on a workplace safety role in the interest of business development. It also establishes a much stricter framework with regard to authorising representatives, including a training requirement, and a series of offences that registered organisations can commit if they fail to manage the authorisation process appropriately. This amendment, then, is also about governance. I am not sure if the detail of these amendments reflects the pressure of industry and the crossbench, or simply reflect the fact that, when the bill was introduced, it was a work in progress. I will be supporting this amendment.

Ms Dundas's amendments echo arrangements in New South Wales that allow for representatives to be delisted if their behaviour or activities warrant it. While there has been only one example of an authorised representative being delisted in New South Wales over the past three years, it is clearly very important to have such provisions in legislation. I think we are seeing here, through the government's amendment and through these amendments, a shift away from simply giving fairly loose and broad ranging power to unions to a more specific engagement of union and employer association officials in a fairly formal workplace safety partnership with WorkCover.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.14), The government supports the amendments. They insert a disqualification regime for authorised representatives and they ensure greater accountability of registered organisations in relation to the right of entry scheme. As previous speakers have said, similar provisions are contained in the Federal Workplace Relations Act, the New South Wales OH&S Act and the Victorian Outworkers (Improved Protection) Act 2003.

Amendments (**Ms Dundas's**) agreed to.

Amendment (**Ms Gallagher's**) as amended, agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.15): I move amendment No 3 circulated in my name *[see schedule 3 at page 2446]*.

This amendment simply substitutes the words "employee organisation" with the words "registered organisation". This amendment is necessary to extend the right of entry to all organisations registered under the Commonwealth Workplace Relations Act, rather than only registered employee organisations. The amendment is consequential to the government's first amendment.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.16):

I move amendment No 4 circulated in my name *[see schedule 3 at page 2446]*.

This amendment substitutes the words "employee organisation" with the words "registered organisation". As I said previously, it is necessary to extend the right of entry to all organisations registered under the Commonwealth Workplace Relations Act in line with other amendments. The amendment also deletes the words "employees who are" to enable authorised representatives to interview members or eligible members of their organisation, rather than employees who are members. Once again, the amendment is consequential to the government's first amendment and extends the power to interview persons to employer organisations. Members should note that adequate protections are preserved by the proviso that interviews can only be conducted with the person's consent.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.17): I move amendment No 5 circulated in my name *[see schedule 3 at page 2446]*.

This amendment addresses a concern raised by the scrutiny of bills committee in its report on the bill. The amendment rephrases the power to examine and copy documents as a requirement. The effect of the amendment is to ensure that the occupier of a premises is involved when an authorised representative exercise powers to examine and copy documents. This ensures that the occupier has an opportunity to make an effective claim of privilege in relation to certain documents.

The amendment also inserts a note to alert people that, in accordance with section 88 of the OH&S Act, it is an offence for a person, including an authorised representative, to disclose protected information obtained while exercising a function under the act. Protected information includes personal information, trade secrets and information the release of which would have an adverse effect on a person's business affairs.

MS DUNDAS (12.18): This issue has been brought to my attention on a number of occasions, as many stakeholders have expressed concern at the ability of an authorised representative to access documentation held by an employer. This is a very important amendment, to clarify some of the issues that have been raised. Firstly, with these amendments an authorised representative cannot go searching through a workplace in order to find a document. They are only empowered to request the document and be granted access in that way.

Secondly, the amendment inserts a note that draws attention to section 88 of the act, which states that "a document or other evidence cannot be used for any purpose other than the purposes prescribed in this act". I believe that these two provisions clarify that authorised representatives have only limited access to documents and may not use them for any purpose other than those laid out in the OH&S Act. I am happy to support these amendments, and I am glad that the minister has foreseen the importance of having these amendments in the legislation.

MS TUCKER (12.19): The Greens will be supporting this amendment. It includes a note to alert people that it would be an offence if an authorised representative disclosed

protected information obtained while exercising a function under the act. It may be that some people will always be suspicious of union officials engaged in workplace safety inspections; however, the legislation would nonetheless prohibit the use of any documents obtained for OH&S purposes in any other context.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.20): I move amendment No 6 circulated in my name *[see schedule 3 at page 2446]*.

This amendment addresses another concern raised by the scrutiny of bills committee. The amendment substitutes the words "or anyone at the premises" with the words "an employee or anyone else working at the premises". As it now stands, the bill provides an authorised representative with the power to require anyone at a premises to render assistance. This may include people at a premises who have no concern with employment conditions, such as a customer at a shop. The amendment limits that power by requiring assistance to be exercised only by employees or people working on the premises.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.21): I move amendment No 7 circulated in my name *[see schedule 3 at page 2446]*.

This amendment expands subsection (3) to apply to subsection (2) (d). Subsection (3) requires an authorised representative to produce their authorisation when requiring a person to give reasonable assistance. The effect of the amendment is to require an authorised representative to produce their authorisation when requiring the production of documents for examination and copying.

MS DUNDAS (12.21): This is an additional amendment about the production of documents and requires that an authorised representative must produce identification before requesting a document. The amendment ensures that an employee or authorised representative cannot take documents without the knowledge of an employer. I think it is an important amendment and I am happy to support it.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.22): I move amendment No 8 circulated in my name *[see schedule 3 at page 2446]*.

Again, these are consequential on earlier amendments, merely substituting for the words "employee organisation" the words "registered organisation".

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.23): I move amendment No 9 circulated in my name *[see schedule 3 at page 2446]*.

Amendment No 9, like amendment 8, merely substitutes for the words "employee organisation" "registered organisation".

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.23): I move amendment No. 10 circulated in my name *[see schedule 3 at page 2446]*.

This amendment inserts the words "and chief executive" after the word "occupier". The effect of the amendment is to require an authorised representative to provide a copy of a written report following exercise of the right of entry to the chief executive. This function will be delegated to the OH&S commissioner. Currently the representative is only required to give the report to the occupier. This amendment is important, as authorised representatives do not have any enforcement powers under the act and it is left to a WorkCover inspector to decide whether any coercive enforcement is necessary. As such, it is appropriate that the government is made aware of any possible contraventions discovered by a person exercising right of entry under the act.

MR PRATT (12.24): I rise to talk against the clause, and indeed I will be moving to oppose the clause in its entirety. I do not really care what has been done to it in the last 15 minutes. As I stated in my previous speech when we were debating the bill, this amendment to oppose a clause regarding right of entry provisions for employee organisations stems from the concerns raised by several major Canberra business organisations. Under these provisions the conditions of entry as stated in the bill are very general and can be used by various organisations as a way inside non-affiliated organisations if they suspect that a contravention of the act is likely to happen.

There is no doubt that there are responsible unions which have negotiated consultative and civilised arrangements with employers. Good luck to them! But there is plenty of evidence around of some rogue elements that will seek to exploit such opportunities, by using the pretext of suspecting that a contravention of an act is likely to happen, to enter the premises of a business. This is not at all acceptable to the Liberal opposition. The only people who should be allowed right of entry into the workplace, under suspicion of proof or contravention of the act, are ACT WorkCover inspectors. These inspectors are not affiliated with any organisation and they represent the government in preserving the provisions of the act. Therefore, we oppose the clause.

I point out that I do not see anybody proposing that employer groups exercise right of entry to union movement meetings. We talked about registered members of unions having a right of access, but the point is that they are not suitably qualified. People are talking about a three-day course to get people up to speed and then have them registered with ACT WorkCover, but anything short of an ACT WorkCover inspector with a certificate 4 qualification is simply not acceptable. We are talking about making sure that

trained professionals, who know how to access the workplace and determine what needs to be done, are the right people to enter premises.

We therefore oppose the clause in its entirety, as the power for ACT WorkCover inspectors is covered in the new division 5.2 under "general powers of inspectors", and that is good enough. If the government has a problem with that, then they need to spend more money in improving ACT WorkCover's capacity—to make sure they can cover all the inspection requirements across the territory.

Amendment agreed to.

Question put:

> That clause 16, as amended, be agreed to.

The Assembly voted—

Ayes 9		Noes 6	
Mr Berry	Mr Quinlan	Mrs Burke	Mr Stefaniak
Mr Corbell	Mr Stanhope	Mr Cornwell	
Ms Dundas	Ms Tucker	Mrs Cross	
Ms Gallagher	Mr Wood	Mrs Dunne	
Ms MacDonald		Mr Pratt	

Question so resolved in the affirmative.

Clause 16, as amended, agreed to.

Clauses 17 and 18, by leave, taken together and agreed to.

Clause 19.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.31): I move amendment No 11 circulated in my name *[see schedule 3 at page 2446]*.

At present there are two notes following proposed new section 75A (1) of the bill. The first note—"A reference to an Act includes a reference to the statutory instruments including regulations made or in force under the Act"—is correct; however, the second note contradicts the effect of proposed new section 75E, which displaces "the application of the privilege against self-incrimination" for proposed division 6.2. This amendment effectively retains the correct notes and removes the misleading note. The amendment is also necessary to ensure consistency with the Dangerous Substances Act.

MS DUNDAS (12.32): This is a simple technical amendment which I will not be opposing as it makes the intentions of the act clearer. However, I wish to briefly restate my concerns with the provisions in this act that displace the provisions of the Legislation Act that protect the privilege against self-incrimination. I know that there are some protections against the use of any evidence obtained by this method, such as it may not

be used in a prosecution, which at the very least ensures that WorkCover could be seen to be reluctant to use the provisions as it will make it difficult to secure any conviction if necessary. However, displacing the provision may still have several consequences for a person who is forced to confess an offence under these provisions. I have made this argument previously with the Dangerous Substances Bill. I again ask the government to think more carefully before legislating this privilege in the future.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.33): I move amendment No 12 circulated in my name *[see schedule 3 at page 2446]*.

This amendment is required to maintain consistency with the Dangerous Substances Act and is identical to a government amendment agreed to by the Assembly during the debate of that legislation. To reiterate the government's position, it is desirable to maintain consistency between the two regimes as far as possible. This will assist work safety inspectors in the proper exercise of their function and assist employers in understanding their safety obligations and the consequences for failing to meet them.

The Scrutiny of Bills Committee report on the Dangerous Substances Bill suggested that a note should be included after clause 92 of that bill, which deals with the privilege against self-incrimination, to refer to the provisions of the Legislation Act that deal with legal professional privilege. The government agreed that this amendment would improve the bill and the change was made. As proposed new section 75E is identical to clause 92 of the Dangerous Substances Bill the same note about application of section 171 of the Legislation Act should be included, as it was in the Dangerous Substances Act.

Amendment agreed to.

Clause 19, as amended, agreed to.

Clauses 20 to 23, by leave, taken together and agreed to.

Clause 24.

MR PRATT (12.35): I move amendment No 6 circulated in my name *[see schedule 4 at page 2451]*.

This amendment, which is related to amendments Nos 5 and 7, addresses the Liberal opposition's concern with the naming and shaming amendments through adverse publicity measures. The published naming and shaming of businesses which have been convicted and found guilty of breaching the act does not allow for the chief executive to make allowances for the degree of the business's breach of the act. The Liberal opposition believes that it should be considered on a case-by-case basis by the chief executive and the level of contravention of the act—the contravention of the act that we keep hearing about—should be considered when publicising the name and details of the business.

The adverse naming and shaming amendments that the Labor government is proposing have the power to cripple business in Canberra and would, we maintain, have a ripple effect through the economic and social community of Canberra. Businesses that have made only a minor contravention should not be exposed to the same naming and shaming treatment as businesses that have contravened the act to the extreme, resulting in, for example, death or serious injury. Of course, in those cases, businesses should be named, but we should ensure that this does not apply across the board.

I have heard the Minister for Education and Training talking about a graduated approach, but I do not think the legislation enshrines that—it does not lock that principle in place; therefore, the Liberal opposition amendments state that the chief executive must write to the business which has been convicted or found guilty of contravening the act and invite it to make representations to the chief executive about why the information should not be published within 28 days. The chief executive cannot publish anything about this business until after the 28 days have passed and must take into consideration any representations made by this business when making the final decision on whether to publicise adverse information about that business.

The opposition believes that this is a fairer approach to take. It allows the chief executive to examine each contravention on a case-by-case basis and does not undermine the principle that those who deserve to be named because of the severity of an offence are brought to book.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.38): The government will be opposing Mr Pratt's amendments to proposed section 93C of the act. This section enables the chief executive to publish details of convictions or findings of guilt arising from OH&S prosecutions. The provision also imposes restrictions on when a publication by the chief executive can occur. A publication cannot be made till the appeal period has elapsed or, if an appeal is filed during that time, until the appeal has been withdrawn, struck out or the appeal rejected. Criminal convictions and findings of guilt are generally matters of public record. Except in very limited cases, members of the public are entitled to sit and view court proceedings and the outcomes of criminal trials are routinely reported in the media.

Persons that have been convicted or had a finding of guilt made against them are not afforded the opportunity to make representations to newspapers or TV stations prior to them publishing information about court findings—and nor should they. These are matters of public interest and, just like this debate, are reportable and can be documented, thereby ensuring that territory residents are informed about matters affecting our community.

Publication of criminal convictions and findings of guilt by the chief executive serve the same purpose—informing the public. Nevertheless, we have already included adequate safeguards in the proposed section to ensure that rights of individuals are protected. Under the proposed provisions, publication cannot occur until the period for filing an appeal has ended. Furthermore, if an appeal is filed, publication is further prohibited until, as I said, the appeal is withdrawn. If appeals are successful, publication cannot occur; if a re-trial is ordered, publication must not occur until the re-trial is concluded

and the appeal period for the re-trial has ended. Such restrictions are not placed on the media. The media, except in rare circumstances, are entitled to report on convictions straightaway. If the appeal is later successful, the outcome of the appeal will usually be reported. The extra measures of protection included in this section reflect the seriousness of publication of such matters by a government official. No further measures are needed and certainly not the provision that requires the chief executive to invite representations.

MRS CROSS (12.40): I will be supporting Mr Pratt's amendment; in fact, I will speak to amendments 6 to 8, which give a measure of recourse to those who get named and shamed. It ensures that the people or businesses that the chief executive wishes to name and shame are given written notice of the chief executive's intentions and, further, are given 28 days to show cause as to why they should not be named and shamed. This is extremely important as naming and shaming can substantially damage a business. Whilst this is warranted in some instances, it is not always the case. Hence, I will be supporting Mr Pratt's amendments that provide businesses a measure of recourse, allowing them to show why they should not be named and shamed.

MS TUCKER (12.41): I will speak to Mr Pratt's amendments Nos 6, 7 and 8. These amendments address a problem that is dealt with more effectively in the government's next three amendments. The threat of suffering from unreasonable exposure regarding an offence is best addressed by limiting what the chief executive can publish rather than building in a consultation process. With the passage of government amendments, the CEO will be able to publish only information that is already on the public record in regard to offences. Any unreasonable damage can be addressed through action under the Civil Law (Wrongs) Bill.

MS DUNDAS (12.42): I am not convinced that Mr Pratt's amendments are necessary. I think I understand what the intention is, but I note that the Minister for Education and Training is moving amendments in this section to reduce the protection of the chief executive from defamation laws and to reduce the discretion of WorkCover in the content of any advertising. Those amendments are based on amendments that I moved previously to the Dangerous Substances Bill and that were supported by the Assembly. I thank the minister for agreeing to alter them in this piece of legislation as well.

That being said, government agencies already have the same ability to use public notification as a means of conveying public information as anyone else. If they go beyond their mandate, they will still be subject to court action like anyone else. The clauses here restrict the use of the media by the agency by ensuring that they publish only information that has been decided on in a court and then only after any appeals have been heard. With that in mind, I think Mr Pratt's amendments are unnecessary and I will not be supporting them.

Question put:

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

The Assembly voted—

Ayes 6		Noes 9	
Mr Cornwell	Mr Stefaniak	Mr Berry	Mr Quinlan
Mrs Cross		Mr Corbell	Mr Stanhope
Mrs Dunne		Ms Dundas	Ms Tucker
Mr Pratt		Ms Gallagher	Mr Wood
Mr Smyth		Ms MacDonald	

Question so resolved in the negative.

Amendment negatived.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.45): I move amendment No 13 circulated in my name *[see schedule 3 at page 2446]*.

I have said a number of times this evening that a key objective of this bill is to create consistency with the new dangerous substances legislation, particularly in regard to powers and functions of inspectors and the chief executive. Consistency will assist work safety inspectors in the proper exercise of their functions. When this bill was introduced the dangerous substances legislation had not been debated. During consultation on the bill Ms Dundas suggested that the bill would be improved if paragraph 197 (2) (d) were removed, and the government agreed. As the proposed new section 93C is identical to clause 197 of the Dangerous Substances Bill, section 93C (2) (d) should also be removed, along with the examples associated with it.

MS DUNDAS (12.46): I briefly note that this amendment and the minister's next amendments are bringing this bill into line with the changes made to the Dangerous Substances Act. Those changes are based on concerns that we were giving the chief executive of WorkCover an automatic exemption from defamation laws, which I believe is inappropriate. I will be supporting this and the two subsequent amendments.

MS TUCKER (12.46): Government amendments 13, 14, and 15 reflect amendments made to previous government legislation such as the Dangerous Substances Act. We do not accept that the chief executive should be given carte blanche to publish anything they thought fit regarding someone convicted of an offence under this act. While the examples given in the legislation looked innocuous enough, the provisions allowed for a lot more to be done to which the constraints of the Civil Law (Wrongs) Act do not apply. I am pleased that the government has taken the action itself to remove this dimension of the naming and shaming provision.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.48): Mr Speaker, I move amendment No 14 circulated in my name *[see schedule3 at page 2446]*.

Just briefly, the same reasons that I have given for amendment No 13 apply to this amendment and to amendment No 15 which I will be moving shortly.

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.49): I move amendment No 15 circulated in my name *[see schedule 3 at page 2446]*.

Amendment agreed to.

Clause 24, as amended, agreed to.

Proposed new clause 24A.

MS DUNDAS (12.49): Mr Speaker, I move amendment No 1 circulated in my name to insert a new clause 24A *[see schedule 5 at page 2452]*.

I am moving this amendment in recognition of the fact that we are introducing a whole new system of regulation for occupational health and safety in the ACT. Despite the fact that this is an amended piece of legislation, the changes it makes are wide-ranging and will significantly alter the enforcement mechanisms of OH&S in the territory. In addition, we have been informed that the government will be conducting a second round of reforms in the coming months with additional legislation to be tabled next year. With large amounts of changes to the legislation occurring in a piecemeal fashion and also in recognition that there has never been an independent review of the OH&S Act, I think it is sensible to require that the act is given a full review after the changes have settled down.

The new clause that I am proposing in this amendment specifies that the review pay particular attention to the changes as put forward in this bill, with special reference to the right of entry provisions as they appear to be the most contentious in the debate. The review specifically requires consultation with both employer and employee organisations to ensure that both these groups have an opportunity to comment on the act. It will also allow us to examine any data generated over the period of this act when it is in effect and will allow some examination of data of the act. This review clause is modelled on Ms Tucker's previous amendments to the Dangerous Substances Bill. Given these two bills' similarities, it is prudent to require the same degree of scrutiny. I commend this amendment to the Assembly.

MS GALLAGHER (Minister for Education and Training, Minister for children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.51): The government will support Ms Dundas's amendment. There has been considerable debate and discussion around the amendments to the Occupational Health and Safety Act, particularly in relation to right of entry provisions. Given the concerns raised through this debate, the government feels the review provision is justified in order to formally examine the impact and workability of the provisions.

MS TUCKER (12.52): As members have said, this amendment requires an independent review of the act in three years time, with particular focus on the impact and effectiveness of the right of entry requirements. The government's own legislative review will provide an opportunity to reassess the amended act. However, given the contentious nature of some of the features of this bill, it is clearly important that an independent review, which incorporates consultation with key stakeholders, be conducted.

Proposed new clause 24A agreed to.

Clause 25 agreed to.

Clause 26.

MS DUNDAS (12.52): I move amendment No 2, circulated in my name *[see schedule 5 at page 2452]*.

For the information of members, this is a simple consequential amendment to my earlier amendment to insert qualification provisions for authorised representatives. This mechanism is a decision of the chief executive of WorkCover. It is appropriate that this decision be reviewable, as are other decisions of the chief executive. It simply adds decisions in relation to authorised representatives to the list of reviewable decisions into the schedule at the end of this act.

Amendment agreed to.

Clause 26, as amended, agreed to.

Clause 27.

MS GALLAGHER (Minister for Education and Training, Minister for children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.53): I seek leave to move amendments No 16 to 18 circulated in my name together.

Leave granted.

MS GALLAGHER: I move amendments No 16 to 18 circulated in my name together *[see schedule 3 at page 2446]*.

These amendments are consequential to the first government amendments regarding proposed section 57A, definition for division 4.3A re the extension of right of entry to registered organisations.

Amendments agreed to.

Clause 27, as amended, agreed to.

Schedule 1.

MS GALLAGHER (12.54): I move amendment No 19 circulated in my name *[see schedule 3 at page 2446]*.

The amendment is an editorial correction. The amendment corrects the heading in schedule 1, amendment 1.2, new section 4 to read "new sections 4 to 4B".

Amendment agreed to.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.55): I move amendment No 20, circulated in my name *[see schedule 3 at page 2446]*.

Amendment agreed to.

Schedule 1, as amended, agreed to.

Schedule 2.

MR PRATT (12.55): I move amendment No 9 circulated in my name *[see schedule 4 at page 2451]*.

Given that amendment No 4 went down the chute, this amendment is aimed at trying to do something about qualifying those who are going to exercise the right of entry. We are saying that, before people are identified as being registered and having the authority to exercise that right of entry, we want to see them qualified and holding a certificate IV as the minimum requirement. This training is very relevant for workplace inspectors and is awarded after a 380-hour training course. That is quite a lot different to what the government has been proposing thus far. As I said when I opposed clause 16, we feel that this training is imperative for all people if they are to inspect workplaces, and the Chief Minister's office, for all possible breaches of the occupational health and safety guidelines and legislation. We are seeking to enshrine that qualification and commend our amendment No 9 to the Assembly.

MS GALLAGHER (Minister for Education and Training, Minister for children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.57): The government will not be supporting the amendment. This amendment prescribes training to be certificate IV training. The government opposes this amendment on the basis that it limits significantly persons who could be authorised. There are no grounds for requiring authorised representatives to undertake training that is more onerous than that required for health and safety representatives in the workplace, particularly given the significant difference in powers afforded to those positions.

Amendment negatived.

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (12.58): I move amendment No 21 circulated in my name *[see schedule 3 at page 2446]*.

This amendment to the occupational health and safety regulations is consequential to the government's first amendment, particularly the requirement which stipulates that a person must be able to undertake training required under the regulations before he or she can be authorised by a registered organisation to exercise right of entry. The amendment provides that an approved training program for health and safety representatives is required for appointment as an authorised representative. The requirement for an officer to undertake appropriate training before they are eligible to exercise right of entry will ensure the integrity, credibility and effectiveness of the right of entry scheme.

Amendment agreed to.

Schedule 2, as amended, agreed to.

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

Question put:

> That the bill, as amended, be agreed to.

The Assembly having voted—

There being confusion concerning the numbers reported, the Assembly, in accordance with standing order 165, proceeded to another vote—

Ayes, 9		Noes, 6	
Mr Berry	Mr Quinlan	Mr Cornwell	Mr Stefaniak
Mr Corbell	Mr Stanhope	Mrs Cross	
Ms Dundas	Ms Tucker	Mrs Dunne	
Ms Gallagher	Mr Wood	Mr Pratt	
Ms MacDonald		Mr Smyth	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Crimes Legislation Amendment Bill 2004

Debate resumed from 14 May on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR STEFANIAK (1.06): The opposition will be supporting the Crimes Legislation Amendment Bill 2004. It is a result of the government's commitment to implement legislation so that the Commonwealth can ratify the ILO convention concerning prohibition and immediate action for the elimination of the worst forms of child labour. We have to take immediate and effective measures to do so and, accordingly, this bill has been brought in. It extends some issues concerning offences relating to child pornography and possessing child pornography which currently apply only to children

under 16 and young people under 18, which is fine. That does not change the age of consent for sexual intercourse, but it certainly gives a good measure of protection for kids from 16 to 17. It also inserts a revised offence in the Prostitution Act to ensure adequate punishment for those who cause, permit, offer or procure children for prostitution.

I thank the government for the briefing. I note that the penalties certainly seem to be good, solid and adequate. In some instances the penalties are higher than for similar offences in New South Wales. The opposition supports this legislation.

MRS CROSS (1.07): I rise briefly to express my support for this change to the Crimes Act that strengthens child pornography and child prostitution laws. Our children are society's most vulnerable members and need to be protected. There is nothing more sickening in society than abuse and exploitation, particularly the sexual abuse of children. This legislation extends our current laws to protect those between the ages of 16 and 18 from becoming involved in child pornography or child prostitution. Further, it makes it an absolute liability offence to use, offer or procure a child under the age of 12 for a pornographic production or for provision of commercial sexual services. This is a definite step in the right direction. It is one of our primary functions to protect the vulnerable in society and I am glad to see that we are doing that this evening. We are further protecting society's children with this legislation. I thus encourage all members to support the Crimes Legislation Amendment Bill 2004.

MS DUNDAS (1.08): The Democrats will be supporting the Crimes Legislation Amendment Bill 2004 today. The Democrats have long been supporters of ratifying international conventions and protocols on the protection of human rights. The Democrats welcome the Commonwealth's intention to ratify both the International Labour Organisation Convention 182, concerning the prohibition and immediate action for the elimination of the worst forms of child labour, as well as the optional protocol to the International Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. It is a welcome change in the Commonwealth's attitude to international agreements, since the Commonwealth currently continues to refuse to ratify the Kyoto protocol or the optional protocol on the Elimination of All Forms of Discrimination Against Women. It is also disturbing to see the Commonwealth's recent withdrawal from the International Court with respect to law of the sea.

Australia is also a party to the International Convention on the Rights of the Child. Ratifying the optional protocol will continue our protection of the rights of children. However, international conventions, treaties and protocols need to be observed as well as ratified. This means that we must stop practices that violate these conventions, such as the mandatory detention of refugees that is currently practised by the federal government. It is contradictory in the extreme, on the one hand, to ratify treaties protecting the rights of children and then, on the other hand, to flagrantly infringe these rights by the arbitrary detention of children. If the Commonwealth is truly committed to protecting the rights of children it would cease these abhorrent practices immediately.

Here in the ACT, we have agreed to pass the general content of the International Protocol on Civil and Political Rights into law through the Human Rights Act. This bill today is a further commitment by the Assembly to our agreement of recognising

international law. The rights of children are always going to be an important topic for any discussion on human rights. Our own Human Rights Act recognises that "Every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind."

This bill ensures that the ACT complies with the Convention on the Elimination of the Worst Forms of Child Labour, as well as the optional protocol to the Convention on the Rights of the Child. The passing of this bill reinforces the ACT's commitment to international law and the protection of human rights.

MS TUCKER (1.10): I will not speak at length on the Crimes Legislation Amendment Bill 2004. The Greens will be supporting it. It is part of the national system designed to meet our international obligations under the International Labour Organisation's Convention No 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour.

This bill relates to the use of children for prostitution and pornography. It extends the definition of "child" in this situation to those under 18 years. This does not affect the laws about age of consent. The offences relating to children under 12 years incorporate an absolute liability about the age of the child. This is a very serious matter. The maximum penalty is 1,500 penalty units or 15 years imprisonment or both. These are very high penalties. The absolute liability needs to be considered carefully. It is unusual to have no defence available for such a high penalty.

The government points out in its response to the Scrutiny of Bills report that the absolute liability relates to only part of the offence. There is still the fact and intent of the act—that is, whether it was pornography or prostitution, which is not absolute liability. The absolute liability relates to the age of the child involved. Is this reasonable? Should the fact of involving a 12-year-old be something to which there is no answer? Accepting this would indicate that we believe there is no justification whatsoever, that it is not reasonable to make a mistake about the age of a child under 12—the fact of their being under 12 years old, even if the child tries to represent themselves as older.

For offences relating to children between 12 and 18 years old, the age component of the offence is strict liability. Strict liability allows the defence of mistake of fact, which means, according to the scrutiny report, that it is "open to the defendant only if the person considered whether or not facts existed and was under a mistaken but reasonable belief about the facts". Both of these approaches are consistent with the model proposed in chapter 5 of the model criminal code.

These changes would, in the view of the government, make absolutely sure that we meet our obligations under the ILO convention. However, while law changes and strong penalties may be part of the equation, the other part is the culture that does not allow it. Changes to the culture of sexualisation of youth in our society are a more complex matter.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (1.13), in reply: I thank members for their support for this significant piece of legislation, as members have indicated. The Crimes Legislation Amendment Bill 2004 facilitates the capacity of the Commonwealth to ratify

International Labour Organisation Convention 182 concerning the prohibition and immediate action for the elimination of the worst forms of child labour, and also the United Nations optional protocol for the Convention on the Rights of the Child and the sale of children, child prostitution and child pornography.

The passage of the bill today will ensure, as members have indicated, adequate punishment for those who use or otherwise involve children under the age of 18 years in the production of child pornography, the giving of pornographic performances and also for those who trade in and possess child pornography. That adds a very important measure of protection to all children from exploitation for pornographic purposes. It also ensures adequate punishment for those who cause, permit, offer or procure children for prostitution.

I think it is a position that needs no justification, no real expansion. As members have indicated, the penalties are particularly strong, as they should be, and appropriately so. There is an element of absolute liability. As Ms Tucker has just expounded, and other members have indicated, the issue around absolute liability essentially goes to the age of a child that might be used for either prostitution or for pornographic purposes. The legislation is justified and warranted in the context of the need for us to ensure as great a protection as we as a community can possibly provide for our children. I thank members for their support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Death of Mrs Celia Harsdorf
Statement by Speaker

MR SPEAKER: Members, it is with deep regret that I inform the Assembly of the death of Mrs Celia Harsdorf. Celia passed away on 18 May. She joined the Assembly in 1989 and remained at the Assembly until her retirement in March 2004. During her time here she held several key positions with the Chamber Support Office, including programming officer, notice paper officer and minutes legislation officer. She will be sadly missed. I ask all members to signify their respect by rising in their places.

Members having stood in their places—

MR SPEAKER: I thank members.

Adjournment

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

> That the Assembly do now adjourn.

Gungahlin Drive extension

MRS DUNNE (1.16): I rise in this adjournment debate to ask why the Stanhope government has not sought security for costs in the current Gungahlin Drive litigation. Litigation is meant to be fair and it should be fair to both sides. The Save the Ridge organisation is legally entitled to ask the courts to preserve the status quo by injunction while the legal validity of any action is tested. But, equally, the government is answerable for the spending of public moneys and the defence of public interests as laid down in the laws and regulations passed by this Assembly.

Save the Ridge is an incorporated body which means that, although it can make undertakings that it will pay costs, there is no way, without some form of security, that those costs can be recovered if the need arises. The general taxpayer is therefore entitled to ask that, if the courts decide that the works of Gungahlin Drive extension are lawful, then the public interest demands that the taxpayer not be out of pocket for all the costs caused by the delay due to injunctions.

What steps has the government taken to ensure that there is security for all costs incurred by the taxpayer in this litigation? Is the Save the Ridge organisation solvent and able to pay the wasted costs caused by this delay? Has money been paid into the court to guarantee the costs, and therefore not borne by the taxpayer, if Save the Ridge is unsuccessful? Has anything other than undertakings been sought from the Save the Ridge organisation's solicitors as to costs?

It is of some concern to me that it appears that no action has been taken to ensure costs are protected. I ask the question: why should the taxpayer be expected to wear all the costs, no matter what? People are entitled to approach the courts on the basis that they can cause costs to their opponent. People are not entitled to approach the courts on the basis that they can cause costs to their opponents without being answerable for costs themselves. Save the Ridge should not be able to run up costs that it may never be able to meet.

We have heard in estimates that the government cannot meet all the demands upon it for legal aid in serious personal litigation, yet funds are being frittered away here on, I would submit, frivolous matters before the court. If the government would not willingly grant legal aid to an organisation like Save the Ridge, it should not be doing so indirectly by not ensuring that legal costs are met. It is the responsibility of this government not to indirectly subsidise Save the Ridge at the expense of the ACT taxpayer.

Mrs Celia Harsdorf

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (1.19): Just before we close for the day, I would like very much to join in the expression of condolence which you made in relation to the death of Celia Harsdorf. I knew Celia quite well and was always touched and affected by her courtesy and her professionalism. She was always absolutely polite. She was a person with very obvious humanity. She was essentially just a most lovely person. I always enjoyed her company and the quiet conversations I had with her during the time that I knew her here in the Assembly.

Celia served the Assembly particularly well. I simply wish to extend my condolences to her family and to those who would obviously be grieving at her death. I wish to take the opportunity to acknowledge that I knew Celia Harsdorf and found her a most lovely person.

Question resolved in the affirmative.

The Assembly adjourned at 1.20 am (Wednesday).

Schedules of amendments

Schedule 1

Emergencies Bill 2004

Amendments moved by the Minister for Police and Emergency Services

1
Clause 129 (2) (g)
Page 85, line 9—

after

a person

insert

with relevant skills or experience

Schedule 2

Emergencies Bill 2004

Amendments moved by Mr Pratt

1
Proposed new clause 9A
Page 7, line 19—

insert

9A Coordination of certain emergency service operations

(1) In any emergency other than an emergency for which a state of alert or state of emergency has been declared, the authority must support the chief officers of the emergency services by monitoring and coordinating the initial response to the emergency.

(2) The authority must also give strategic direction and leadership to the emergency services in relation to the emergency.

2
Proposed new clause 26 (2A) and (2B)
Page 16, line 18—

insert

(2A) The person in charge of the activity must ask a casual volunteer to stop taking part in the activity if the person—

(a) considers that it is too dangerous for the casual volunteer to take part; or

(b) is satisfied that the casual volunteer is not needed for the activity.

(2B) If a casual volunteer is asked under subsection (2A) to stop taking part in an activity, the volunteer must stop taking part in the activity.

3
Proposed new clause 28 (3) (aa)
Page 18, line 16—

insert

(aa) the general management and control of another emergency service or any other entity placed under the chief officer's control as part of an emergency response operation; and

4
Proposed new clause 28 (3) (d)
Page 18, line 21—

insert

(d) the maintenance of close cooperation, regular exchange of information and regular joint exercises with other emergency services, including, as far as practicable, interstate services, to ensure interoperability between the services.

6
Proposed new clause 29 (3) (g) and (h)
Page 19, line 24—

insert

(g) the maintenance of close cooperation, regular exchange of information and regular joint exercises with other emergency services, including, as far as practicable, interstate services, to ensure interoperability between the services; and

(h) at the request of the authority and in consultation with the chief officer (rural fire service), preparation of a bushfire risk analysis for the city area.

11
Proposed new clause 52 (3) (aa)
Page 31, line 17—

insert

(aa) to the extent practicable having regard to time and resources, to advise and assist land owners and land managers in relation to identifying, assessing and reducing bushfire fuel hazards;

12
Proposed new clause 63 (3) (ca)
Page 37, line 26—

insert

(ca) a person who, acting without expectation of payment or other consideration, does something to reduce, or attempt to reduce, the effects of an emergency before the arrival of an emergency service; or

13
Proposed new clause 72 (2) (c), (d) and (e)
Page 47, line 22—

insert

(c) ask the chief officer (fire brigade) to prepare, in consultation with the chief officer (rural fire service), a bushfire risk analysis for the city area; and

(d) ask the chief officer (rural fire service) to prepare a bushfire risk analysis for areas outside the city area; and

(e) ask the chief officer (rural fire service) to advise and assist the chief officer (fire brigade) in preparing a bushfire risk analysis for the city area.

14
Proposed new clause 72 (5A)
Page 48, line 8—

insert

(5A) The authority must, at least annually, conduct a compliance audit of the bushfire hazard management targets in the strategic bushfire management plan.

15
Proposed new clause 74 (2) (da)
Page 49, line 10—

insert

(da) bushfire hazard reduction targets;

16
Proposed new clause 75A
Page 51, line 7—

insert

75A Report to Assembly about strategic bushfire management plan

Before making the strategic bushfire management plan, the Minister must report to the Legislative Assembly, in writing, about any proposed changes to the draft plan given to the Minister under section 72 in relation to bushfire fuel reduction.

17
Proposed new clause 79 (4A)
Page 53, line 6—

insert

(4A) At the request of the owner, the rural fire service must, to the extent practicable having regard to time and resources, help the owner prepare a draft bushfire operational plan or a draft updated bushfire operational plan.

18
Proposed new clauses 147A and 147B

Page 95, line 19—

insert

147A Disaster plans

(1) The emergency plan must include a disaster plan for—

(a) each of the following emergencies:

(i) terrorist attack;

(ii) flood and storm emergency;

(iv) bushfire emergency, including a disaster plan for a bushfire in each vulnerable suburb, settlement and village;

(v) urban fire emergency;

(b) any other emergency if there is a reasonable possibility of the emergency happening in the ACT (whether or not an emergency of that kind has happened in the ACT or had an effect in the ACT).

Examples

1 a disaster plan for a terrorist attack, including identifying likely targets, community damage, and a plan for recovery and search and rescue

2 chemical and hazardous material incident

3 disease or epidemic emergency

4 aircraft accident

5 hospital emergency or evacuation by ambulance

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) A disaster plan for an emergency must include plans prepared by each of the following:

(a) each administrative unit;

(b) each emergency service.

(3) The chief police officer must, in consultation with the authority, prepare disaster plans relating to its community policing role in the ACT, for inclusion in the emergency plan.

147B Community and information plan

(1) The emergency plan must include a community communication and information plan for communicating information to the community during a declared state of alert or state of emergency.

(2) The community communication and information plan must include—

(a) provisions about when and how reports must be given to the community, and the kinds of reports that must be given; and

Examples

1 incident reports

2 situation reports

(b) provisions to ensure—

(i) that arrangements are made with a number of media organisations to establish adequate and reliable communications; and

(ii) that the media has appropriate training and that a media representative's willingness to fully participate in the training be a condition of selection.

Example

involving the media in regular emergency exercises

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The authority must ensure that information about the community communication and information plan is given to the community.

19
Clause 152
Page 98, line 1—

omit clause 152, substitute

152 Minister to give reports to community during state of emergency

During a state of alert, the Minister must give the community regular situation reports, and other reports, in accordance with the community communication and information plan.

Examples

1 community vulnerability to the effects of the emergency

2 preparation

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

20
Proposed new clause 165 (2) and (3)
Page 103, line 20—

insert

(2) However, an operational unit may go outside the ACT without the approval of the Territory controller to protect life or property from immediate danger.

(3) If an operational unit goes outside the ACT without the approval of the Territory controller—

(a) the person in charge of the unit must tell the Territory controller as soon as possible; and

(b) the operational unit must return to the ACT as soon as the immediate danger to life or property has ended.

21
Dictionary, proposed new definition of *community communication and information plan*
Page 174, line 15—

insert

community communication and information plan means the community communication and information plan mentioned in section 147B.

Schedule 3

Occupational Health and Safety Amendment Bill 2004

Amendments moved by the Minister for Industrial Relations

1
Clause 2
Page 2, line 4—

substitute

2 Commencement

(1) This Act, other than section 16, commences 28 days after its notification day.

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

(2) Section 16 (which inserts new division 4.3A dealing with entry to workplaces by authorised representatives) commences on 1 January 2005.

2
Clause 16
Proposed new section 57A
Page 8, line 10—

omit proposed new section 57A, substitute

57A Definitions for div 4.3A

In this division:

authorised representative means a person authorised under section 57AB (1).

registered organisation means an organisation registered under the *Workplace Relations Act 1996* (Cwlth), schedule 1B.

office, in a registered organisation, means an office of the organisation, or a branch of the organisation, under the *Workplace Relations Act 1996* (Cwlth), schedule 1B, section 9.

57AB Authorised representatives

(1) A registered organisation may, in writing, authorise a person for this division.

(2) However, the registered organisation must not authorise a person unless—

(a) the person—

(i) is an employee of the organisation; or

(ii) holds an office in the organisation; and

(b) the person has completed the training required under the regulations.

(3) A registered organisation commits an offence if—

(a) the organisation authorises a person under subsection (1); and

(b) when authorised—

(i) the person was not an employee of the organisation and did not hold an office in the organisation; or

(ii) the person had not completed the training mentioned in subsection (2) (b).

Maximum penalty: 10 penalty units.

(4) A registered organisation commits an offence if—

(a) the organisation authorises a person under subsection (1); and

(b) the person has not completed the training required under the regulations to continue to be authorised; and

(c) the organisation does not revoke the authorisation.

Maximum penalty: 10 penalty units.

(5) An authorisation under subsection (1) ends if—

(a) the person authorised stops being an employee of the registered organisation that authorised the employee and does not hold an office in the organisation; or

(b) the person authorised stops holding an office in the registered organisation that authorised the person and is not an employee of the organisation.

Note The power to make a statutory instrument (including an authorisation) includes power to amend or repeal the instrument (see Legislation Act, s 46).

(6) A registered organisation commits an offence if—

(a) the organisation authorises a person under subsection (1); and

(b) the organisation does not give the chief executive written notice of the authorisation as soon as practicable after the person is authorised, but not later than 1 week after the day the person is authorised.

Maximum penalty: 5 penalty units.

(7) A registered organisation commits an offence if—

(a) the organisation authorised a person under subsection (1); and

(b) the authorisation ends; and

(c) the organisation does not give the chief executive written notice of the authorisation's end as soon as practicable after the person is authorised, but not later than 1 week after the day the authorisation ends.

Maximum penalty: 5 penalty units.

(8) An offence against this section is a strict liability offence.

3
Clause 16
Proposed new section 57B (1)
Page 8, line 23—

omit

employee organisation

substitute

registered organisation

4

Clause 16
Proposed new section 57E (2) (b)
Page 10, line 15—

omit proposed new section 57E (2) (b), substitute

(b) interview members of the registered organisation (or people who are eligible to be members of the organisation) with their consent;

5
Clause 16
Proposed new section 57E (2) (d)
Page 10, line 21—

omit proposed new section 57E (2) (d), substitute

(d) require the production for inspection of documents relating to occupational health and safety at the premises;

(da) examine and copy, or take extracts from, any document produced as required under paragraph (d);

Note It is an offence for a person (including an authorised representative) to disclose protected information obtained while exercising a function under this Act (see s 88).

6
Clause 16
Proposed new section 57E (2) (e)
Page 10, line 23—

omit

or anyone at the premises,

substitute

an employee or anyone else working at the premises

7
Clause 16
Proposed new section 57E (3)
Page 10, line 27—

after

subsection (2)

insert

(d) or

8
Clause 16
Proposed new section 57G (1)
Page 11, line 16—

omit

employee organisation

substitute

registered organisation

9
Clause 16
Proposed new section 57G (1)
Page 11, line 19—

omit

employee organisation

substitute

organisation

10
Clause 16
Proposed new section 57H (2)
Page 12, line 5—

after

occupier

insert

and chief executive

11
Clause 19
Proposed new section 75A (1), notes
Page 47, line 7—

omit proposed new section 75A (1), notes, substitute

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

12
Clause 19
Proposed new section 75E (3), new note
Page 50, line 6—

insert

Note The Legislation Act, s 171 deals with client legal privilege.

13
Clause 24
Proposed new section 93C (2) (d)
Page 76, line 15—

omit

14
Clause 24
Proposed new section 93C (2), examples of publication for par (d)
Page 76, line 22—

omit

15
Clause 24
Proposed new section 93C (5)
Page 77, line 3—

omit

16
Clause 27
Proposed new dictionary, definition of *employee organisation*
Page 91, line 11—

omit

17
Clause 27
Proposed new dictionary, definition of *office*
Page 92, line 10—

omit

an organisation

substitute

a registered organisation

18
Clause 27
Proposed new dictionary, proposed new definition of *registered organisation*
Page 92, line 18—

insert

registered organisation, for division 4.3A (Entry to workplaces by authorised representatives)—see section 57A.

19
Schedule 1
Amendment 1.2 heading
Page 94, line 9—

omit the heading, substitute

[1.2] New sections 4 to 4B

20
Schedule 1
Amendment 1.2
Proposed new section 4B, note 1
Page 95, line 10—

insert

- s 57AB

Schedule 4

Occupational Health and Safety Amendment Bill 2004

Amendments moved by Mr Pratt

1
Clause 14
Proposed new section 35C (2) and (3)
Page 4, line 23—

omit proposed new section 35C (2) and (3), substitute

(2) An offence against this section is a strict liability offence.

2
Clause 14
Proposed new section 35D (2)
Page 5, line 15—

omit

Absolute

substitute

Strict

3
Clause 14
Proposed new section 35E (2)
Page 6, line 5—

omit

Absolute

substitute

Strict

6
Clause 24
Proposed new section 93C (1A)
Page 76, line 7—

insert

(1A) The chief executive may give the person written notice—

(a) telling the person that the chief executive proposes to publish information under subsection (2) in relation to the conviction or finding of guilt; and

(b) inviting the person to make representations to the chief executive, within 28 days after the day the person receives the notice, about why the information should not be published.

9
Schedule 2
Proposed new amendment 2.1A
Page 100, line 8—

insert

[2.1A] New regulation 3A

insert

3A Training as authorised representative—Act, s 57A, def *authorised representative*, par (b)

Certificate 4 training is prescribed.

Schedule 5

Occupational Health and Safety Amendment Bill 2004

Amendments moved by Ms Dundas

1
Proposed new clause 24A
Page 80, line 8—

insert

24A New section 97A

in part 8, insert

97A Review of Act

(1) The Minister must arrange for a person (the ***reviewer***) to review the operation of this Act as soon as practicable after 30 June 2007.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see Legislation Act, s 104).

(2) The review must include an assessment of—

(a) the operation and effectiveness of the amendments made to this Act by the *Occupational Health and Safety Amendment Act 2004*; and

(b) in particular, the operation and effectiveness of division 4.3A (Entry to workplaces by authorised representatives).

(3) In conducting the review, the reviewer, must consult employee organisations and employer organisations.

(4) The reviewer must not be a public employee employed in an administrative unit that is responsible for the administration of this Act or the *Dangerous Substances Act 2004*.

(5) The reviewer is not subject to direction by the Minister or the chief executive in carrying out the review.

(6) The reviewer must give the Minister a written report of the review before 15 January 2008.

(7) The Minister must present a copy of the report to the Legislative Assembly before the end of the Assembly's 3rd sitting day in 2008.

(8) In this section:

employee organisation means a registered organisation that is an employee organisation.

employer organisation means a registered organisation that is an employer organisation.

registered organisation—see section 57A.

(9) This section expires on 30 June 2008.

2
Clause 26
Schedule 1, part 1.3, proposed new items 1A and 1AA
page 89—

before item 1, insert

1A	disqualifying a person under section 57AC (1)	the person disqualified
1AA	refusing to revoke a disqualification under section 57AC (5)	the person disqualified

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Schedule 6

Occupational Health and Safety Amendment Bill 2004

Amendments moved by Ms Dundas to Ms Gallagher's amendments

1
Amendment 2
Proposed new section 57AB (2) (c)—

insert

(c) the person is not disqualified under section 57AC (1).

2
Amendment 2
Proposed new section 57AC—

insert

57AC Disqualification of authorised representatives

(1) The chief executive may disqualify an authorised representative if the chief executive believes, on reasonable grounds, that the representative—

(a) has contravened this division; or

(b) is likely to contravene this division; or

(c) has, in exercising a function under this division, intentionally hindered or obstructed an employer or employee or otherwise acted improperly.

(2) Before disqualifying an authorised representative under subsection (1), the chief executive must give the representative written notice—

(a) that the chief executive intends to disqualify the representative; and

(b) telling the representative why the chief executive intends to disqualify the representative; and

(c) telling the representative that the representative may, within 14 days after the day the representative is given the notice, give a written response to the chief executive about the matters in the notice.

(3) In deciding whether to disqualify an authorised representative under subsection (1), the chief executive must take into account any response given by the representative within the 14-day period.

(4) If a person is disqualified under subsection (1), the chief executive must, in writing—

(a) tell the person about the disqualification; and

(b) tell a registered organisation about the disqualification if the chief executive knows, or believes, that the person is an employee of, or holds office in, the organisation.

(5) The chief executive may revoke a disqualification under subsection (1) if the chief executive believes, on reasonable grounds, that it is no longer appropriate for the disqualification to remain in force.

(6) The chief executive may take action under subsection (5) on application or on the chief executive's own initiative.

Schedule 7

Emergencies Bill 2004

Amendments moved by the Minister for Police and Emergency Services to Mr Pratt's amendments

1
Amendment 18
Proposed new clause 147A

omit proposed new clause 147A, substitute

- 147A Content of emergency plan

The emergency plan must include a plan for an emergency if there is a reasonable possibility of the emergency happening in the ACT (whether or not an emergency of that kind has happened in the ACT or had an effect in the ACT).

Examples

1 terrorist attack
2 flood emergency
3 storm emergency
4 bushfire emergency
5 urban fire emergency
6 chemical or hazardous material incident
7 disease or epidemic emergency
8 aircraft accident
9 hospital emergency or evacuation by ambulance.

(i) *Note* An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

2
Amendment 18
Proposed new clause 147B (2) (b) (ii)

omit

and that a media representative's willingness to fully participate in the training be a condition of selection