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Wednesday, 23 June 2004

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

Legal Affairs—Standing committee
Scrutiny report 51

MR STEFANIAK (10.31): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 51, dated 23 June 2004, together with the relevant minutes of 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 seek leave to make a statement in relation to the report.

Leave granted.

MR STEFANIAK: This report contains the committee's comments on Mrs Cross's pharmacy bill, and I commend the report to the Assembly. I understand that it should have gone to the scrutiny committee before, but there was apparently a glitch with this one. The committee would impress upon all members, and especially those who have private members' bills, the need to make sure that the bills go to the committee. I will certainly be making sure that private members' bills go to the committee. I think it is very important that all bills come to the committee. I thank my colleagues and I thank the adviser for very quickly having a look at the bill. Accordingly, this is the report on the pharmacy bill. The bill should have gone to the committee earlier, but there was a glitch in the administration in relation to that.

Charter of Responsibilities Bill 2004

Mr Stefaniak, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MR STEFANIAK (10.34): I move:

> That this bill be agreed to in principle.

This bill has been prepared on the necessary premise that with rights come responsibilities. Today I am tabling this private member's bill—the Charter of Responsibilities Bill—to balance, as much as anything else, Mr Stanhope's human rights act which, as members may be aware, comes into force on 1 July of this year. In a way it is somewhat sad that we have had to go down this path. There are other ways of looking at rights and responsibilities that have served us well as a community for many years—namely our conventions, our statute laws and the ever evolving changes, and the common law as well. I think those have served the ACT and Australia well. Nevertheless, if we are going to go down the path of having a human rights act, I think we also need a charter of responsibilities to complement it.

In tabling this bill I will also table, for the information of members, the Universal Declaration of Human Responsibilities dated 1 September 1997, which was proposed by the InterAction Council for the United Nations. It is one of a number of documents the United Nations has looked at. I think there is another draft in escrow as well. The United Nations who, of course, has to some extent over the years, pushed human rights—not so much legislation but declarations—has also seen the need for corresponding responsibilities. It recognises this by saying:

> The inalienable rights and inherent dignity of everyone requires certain obligations to be followed and certain responsibilities to be accepted. Both the rule of law and human beings depend on the readiness of everyone to act justly. These rights cannot endure without the commitment to the responsibilities that come with them.

I seek leave to table the following paper:

> A universal declaration of human responsibilities, dated 1 September 1997, prepared by the InterAction Council.

Leave granted.

MR STEFANIAK: If members want to have a look at that at some stage, I think they might find it somewhat identifying and helpful. These documents have been used to assist in drafting a charter of responsibilities. What does this particular act do? I will go through the salient details in relation to it. It has a preamble and the preamble is largely taken from the UN declarations. It is not as full as what is in the UN declarations, and it does not necessarily need to be. It basically stipulates the essential facts—that everyone is capable of making free and responsible choices and that the inalienable rights and inherent dignity of all human beings also require certain obligations to be followed and responsibilities to be accepted.

The rules of law and human rights depend on the readiness of everyone in our society to act justly. These rights simply cannot endure without the commitment to the responsibilities that go with them. Everyone is responsible, to the best of their knowledge and ability, for a better community—our community—which cannot be created or enforced by laws, prescriptions and conventions alone.

Those statements are not dissimilar, although they talk about responsibilities in the preamble and some of the statements in Mr Stanhope's human rights legislation. Part 1 of this bill sets out what the bill is called. This bill, of course, will not commence on 1 July because we are not going to debate it until August. It will therefore commence on

the day after its notification, if the Assembly passes it. In Part 2 it deals with civil responsibilities. They are referred to in Schedule 1. Individuals have civil responsibilities, just as individuals have civil rights and human rights attached to them. Just as in the human rights act in section 6, it states:

> This Act is not exhaustive of the rights an individual may have under domestic or international law.

I think that would be impossible. It is a task that has been regarded as impossible by the government and its legal advisers, in bringing down its human rights legislation. There is an example given of other responsibilities—responsibilities under international covenants—in that part. Part 3 deals with the application of civil responsibility to our territory laws. Just like the human rights act, clause 7 states that it applies to all our laws. In terms of interpreting laws and civil responsibilities, clause 8 (1) states:

> In working out the meaning of a Territory law, an interpretation that is consistent with civil responsibilities is to be preferred to any other interpretation.

It goes on to say:

> Subsection (1) is subject to the Legislation Act, section 139.

There is a note that explains that. Importantly, subsection (3) states that, "If applying subsection (1) and the human rights act 2004, section 30 (1) to a territory law would achieve…" If that had achieved a different result, only subsection (1) is to be applied. In other words, if there is an inconsistency or any conflict between the human rights act and this particular act, subsection 8 (1) will apply. That is that the bill on civil responsibilities is to be preferred if there is any conflict with the human rights act.

I think that is important. People have rights and responsibilities. As human beings we all have a responsibility to the society we live in. If we were concerned only about our individual rights and not the rights of society and the rights of others, it would be a pretty poor society we live in. I think society would go to pieces pretty quickly if we just did that. Indeed, societies that were utterly selfish and just looked after people's individual rights, and not collective rights and responsibilities, really did not last very long.

When those things happen, societies crumble—one only has to look at history to see that. People have to be responsible for their own actions; they have responsibilities to their fellow human beings; and I think it is only right and proper that, if there is a clash between people's rights and responsibilities, the responsibilities and interests towards a just, decent and functioning society should win out. Hopefully we will not see that terribly often.

Subsection (4) is "working out the meaning of a territory law". Again this pretty well replicates what is in the human rights act, as indeed does interpretation of "civil responsibility". Again we look at international law and the judgments of foreign international courts and tribunals. Anything relevant there to a civil responsibility might be considered in interpreting that responsibility—again provisions very similar to the human rights act. Similarly, part 4 deals with a review of the act. As the Attorney-General is going to review the operations of the human rights act, similarly there will be a review of this act. Again, there is an expiry date for that. There are some

consequential amendments in relation to annual reports and the Legislation Act. Those are technical amendments required as a result of this bill to be consistent with other legislation.

There are some basic responsibilities that the drafters and I very much drew from what has been done in the United Nations and with regard to the responsibilities people in our civilised society expect should be extended to other people. Part 1.1 is "Responsibilities towards others". Everyone has a responsibility to respect other people. People should indeed respect those who hold positions of authority. Conversely, of course, people who hold positions of trust and authority in our community are required to show respect to others, and they must have ethical standards and serve truth.

People need to show respect to workers in our society such as police officers, teachers and nurses—people at the coalface—who do an excellent job on behalf of society. For example, I think it is unreasonable that the police are often assaulted in the course of their duties. As my old friend and ex-legal colleague, the now departed Kevin Dobson SM, was often wont to say, "Police should not be treated like blue punching bags." I have some legislation elsewhere before this Assembly that will assist in making some offences in relation to that. That is just an example of the fact that the people who have authority in our community are entitled to respect—and conversely, of course, they should respect others.

Respecting other people includes respecting other people's freedoms and human rights. People should not unlawfully restrict people's speech or movement; people should respect everyone else's right to life; people should respect people's right to equality before the law; people should not harass, annoy or interfere with people in our community. That applies to people who are being unreasonable towards their neighbours. People, regardless of race, colour, creed should act towards each other in the proper spirit of goodwill and unity.

We deal with respect for life: no-one has the right to kill or injure anyone except in self-defence. Under "Respect for the rule of law" I have a provision that, in respecting the rule of law, everyone should assist the police and the authorities in the course of their duties and in the exercise of their functions under the laws of the territory. People should oppose inhumane actions, such as fanaticism and hateful social exclusion.

People should be honest and fair in dealing with everyone else—and I give some examples there. For example, if you do an honest day's labour, you should expect an honest day's pay for it. People who cause damage to others have a responsibility to make good that damage and, if need be, to pay financial compensation. Those examples are not exhaustive but they give a good idea of how people should be honest and fair in dealing with people. No-one has the right to rob or dispossess any group of people or individual—or to dispossess or rob the state, including the territory or Commonwealth. People have a responsibility not to lie to each other.

I then deal with some specific professions generally. In many of these areas there are codes which govern the way these professions operate. I deal with teachers, who need to behave responsibly and professionally; be good role models; assist in the character development of their students; ensure that they do the necessary personal and

professional development; assist with pastoral care; and be neutral in respect of any political positions that may crop up from time to time.

We grant religious freedom but religious people and religious leaders should avoid prejudice, fanaticism and hatred towards individuals, and should not incite or legitimise religious wars. They should be guides for truthfulness in thinking, speaking and acting. Professionals generally should have high ethical standards of integrity and should act with honour and dignity to earn the trust of the community.

I deal with professionals in section 8. There are provisions in relation to how members of the legal profession should serve their clients and the community. Again, these are largely drawn from professional standards already in existence. For the judiciary there are standards in relation to the code of chief justices of Australia—the *Guide to judicial conduct*. This gives a guide to how they should operate. Similarly there are provisions for journalists and the media. They have guides and codes by which to operate. This is drawn largely from those.

Employers and employees are dealt with in subsection 12. Section 13 deals with sexuality and says that people should not either treat each other as sex objects or disadvantage anyone because of their sexuality. Marriage is dealt with. Marriage should be characterised by love, loyalty and permanence, with a guarantee of mutual security and support. Of course there is a provision in relation to the family and a family's relationships with one another which will be based on mutual respect, appreciation and concern and the raising of children, so as to acknowledge the importance of community and that the community respects them.

Part 1.2 deals with responsibilities to society. There is firstly a provision that everyone should obey the law, because the law is made by the elective representatives on behalf of everyone—the people—and it is an expression of society's will and responsibility. If people break the law, they should have the responsibility of confessing and admitting that they have done wrong and adhere to that and accept appropriate punishment and anything that flows from that breach.

There is a section on economic and political power. That power should not be misused; it should be used for the service of people. Then there is respect for property. People need to acknowledge and respect the rights associated with each other's property—not just each other's individual property but community property as well. People should not engage in any social activity of defacing property or unlawfully removing property. My colleague Mr Cornwell was concerned about vandalism and graffiti. People should not unlawfully remove property; people should have a responsibility to protect the property of others and that of the community. They should have a responsibility to report antisocial activity to any appropriate authority.

Finally, there is respect for the environment—this is again drawn from the UN draft declarations. People should acknowledge and respect the principle that the lives of animals and plants deserve protection, preservation and care and that people have a responsibility not only to our present generation but also to future generations to take care of the environment.

There are some fairly broad types of statements and comments there. This type of legislation lends itself to it and maybe it is a shame that I have to introduce this bill here today. Things like this should just be commonsense; things like this should occur in a civilised society; and existing laws, conventions and structures in that society should ensure that, where applicable, these types of things are in force so that society can live in relative harmony. However, if you are going down the path of human rights legislation, an overemphasis on rights to the detriment of responsibilities is not good for any society. Groups like the UN have seen that.

If we did not have a human rights act, there would probably be a good argument that we might not need legislation like this, but we do need it. Most members of the Assembly voted for that, and I think it is very important that we, the United Nations and groups within that recognise that with rights go responsibilities. You cannot have one without the other. The need to counter it is crucially important, and if there are any excesses from the human rights act, a bill like this will counter them. I think it is terribly important that Canberrans realise they have responsibilities as well as rights. This bill simply seeks to achieve that. I commend it to the house and look forward to the debate on it in August.

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

Tobacco (Vending Machine Ban) Amendment Bill 2004

Ms Dundas, pursuant to notice, presented the bill and its explanatory memorandum.

Title read by Clerk.

MS DUNDAS (10.52): I move:

> That this bill be agreed to in principle.

This bill will prohibit the use of tobacco vending machines in the ACT. This measure will be one more step in ensuring that the ACT has effective and comprehensive tobacco control laws and, in particular, strong legislation that reduces the ability of children to access tobacco products. In 2001 an estimated 15,524 people died in Australia as a result of tobacco smoking. This compares with an estimated 4,270 deaths from illness and injuries associated with excessive alcohol consumption and 821 deaths attributable to illicit drug use.

Tobacco use costs the Australian community at least $21.1 billion per year in social costs, and that includes involuntary smoking. Also in 2001, one in four males and one in five females aged 14 years or over described themselves as regular smokers. We know that young people are most likely to be smoking daily. The age group of 20 to 29 constitutes the highest level of regular smokers. I quote from the National Tobacco Strategy. It says:

> Access to tobacco products is an important factor in the uptake of smoking. In Australia…46.7% of 12-17 year old smokers had purchased their last cigarette as a result of illegal sales. This, coupled with the fact that smoking behaviour is well

> established before the end of teenage years, means that reducing access to tobacco products is likely to contribute to reducing the overall prevalence of smoking.

The same national strategy, which has been endorsed by all state and territory governments since as early as 1997, explicitly lists the prohibition of self-service vending machines to prevent access by minors as part of our national response to reducing access to tobacco products. The problem of underage access to cigarettes is well documented, such as by a controlled study undertaken in Adelaide that showed that 45 per cent of children aged between 12 and 14 successfully purchased cigarettes for themselves. This study showed that children were successful on all occasions on which they tried to obtain cigarettes from vending machines. They were not questioned; they were able to take cigarettes away from vending machines.

Here in the ACT our adult smoking rates are among the lowest in Australia but our youth smoking rates are among the highest. Our teenagers are the age group most likely to take up smoking. Almost one in three teenage girls here in the ACT smoke daily—and this is on comparison to only 18 per cent of all Canberrans. The significant number of teenage girls smoking suggests a high rate of nicotine addiction, despite our ongoing drug education programs in schools. It is clear that the ACT will not be able to further reduce the prevalence of smoking without tackling our youth smoking rates, and an important element of that program is to reduce illegal sales and access by children to cigarettes. The bill I put forward today hopes to achieve one element of that task.

Since 1990 we have legally restricted the sale of tobacco products to people aged 18 and over, yet we have allowed hundreds of cigarette vending machines to be installed in licensed cafes, community clubs and sporting venues across the territory. These machines are often left unsupervised, easily reached by children with enough coins to walk away with as many packets of cigarettes as they like. While we have laws specifically prohibiting children from accessing vending machines, they are quite often ignored and ineffective. Prohibiting the use of cigarette vending machines will mean that cigarettes can only be sold with the attention of the seller. This will mean that identification will need to be produced if the age of the purchaser is in doubt, and it will allow greater vigilance in ensuring that children are not purchasing tobacco.

When I originally announced my intention to introduce this bill, I hoped to ensure the ban would be effective from September this year. However, after consulting with the community, including clubs and anti-smoking and health based organisations, the tight timeframes this would require would mean more administrative difficulties for both the Regulator of Tobacco Licences and businesses affected by this law. The bill I table today moves to introduce this ban from 1 September 2005, which gives all stakeholders adequate time to be informed and to alter their licences if necessary. This is also the time that existing tobacco licences are renewed, so the changes will cause a minimum of fuss to the administration of that licensing regime.

The delay before the ban will also allow those with vending machines the time to consider whether to sell the cigarettes directly or to dispense with tobacco sales altogether. Since many vending machine licensees will also be affected by the commencement of the prohibition on smoking in enclosed public places, which is to come in at the beginning of 2006, the most prudent form of action may be to cease selling cigarettes altogether, but that is something for each licensee to work out. The

removal of cigarette vending machines will serve as a reminder for businesses with regard to the prohibition on smoking in enclosed public places and will help prepare the community for this change in public policy. The prohibition of vending machines will fit into a considered and staged implementation of the ACT's tobacco control framework.

I admit that this bill is not the one solution for the reduction of smoking in the ACT, especially smoking among children and young people, but it is an important step in the process. I note that the ACT Liberal Party included a policy of prohibiting vending machines in its platform at the last election. I note also that the health minister has given an indication that he will seriously consider this proposal after scrutinising the legislation.

I believe there is general consensus that this proposal is sensible and should be passed by this Assembly. I think we need to keep at the core of the debate what we are trying to achieve, which is better health outcomes for young people here in the ACT and better health outcomes for everybody in the ACT. We want to make sure that the sale of cigarettes and access to cigarettes is limited to those people over the age of 18. I commend this bill to the Assembly.

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

Rehabilitation Independent Living Unit

MR SMYTH (Leader of the opposition) (10.59): I move:

> That this Assembly:
>
> (1) notes:
>
> (a) the remarkable achievements of the Rehabilitation/Independent Living Unit (RILU);
>
> (b) the different functions performed by Ward 12B of The Canberra Hospital and RILU; and
>
> (c) the projected need for more rehabilitation beds;
>
> (2) opposes any plans to reduce the capacity of RILU or transfer its beds to Ward 12B of The Canberra Hospital; and
>
> (3) directs the Minister for Health to maintain RILU in its current location and maintain, at the very least, its current level of operation.

Mr Speaker, Mr Corbell has a problem of his own making, made through his inattention to the health portfolio, and made through the inability of aged care facility proponents to get through Mr Corbell's planning system. His solution to the problem is to ask those in our community who need the service that RILU provides to forego that service; to ask their families to forego that service; and to ask the staff not to provide that service the best way they know how to, to pay for Mr Corbell's incompetence. Mr Corbell's solution to his problem is to rob Peter to pay Paul. But the price is too high. One supporter of RILU wrote to me—and, indeed, to Mr Corbell. This lady is a nurse who had a stroke. She said:

> My own experiences both on the nursing staff and as a rehabilitation patient, as well as a member of the Southpaw Stroke Club and the Stroke Association of A.C.T…

That establishes her bona fides. It continues:

> My main regret is that the unit did not exist when I needed it; and I urge you not to take this retrograde step. I have come to regard the unit as "The Jewel in the Crown of Rehabilitation."

This is what the patients say about RILU—that it is the jewel in the crown of rehabilitation. Mr Corbell wants to squander that jewel. Mr Corbell has told us in the last couple of weeks and in the estimates committee that, "We're not reducing service, we are just moving it; we are going to combine it with something else; it will be fine because there is no real reduction in the numbers." The reductions have already occurred. Some of what Mr Corbell has been putting out recently is contradicted by others in the know. For instance, let us look at the nursing—at the number that go to RILU. I have been given a minute that has been circulated around the hospital. I will read one paragraph from it. It says:

> RILU bed numbers are 14. Under "normal" circumstances we have a waiting list. The average bed occupancy over the last eighteen months is not 7 as often quoted, but 8.5-10. I will not go into the reasons why referrals have been down, as we all know the answer to that.

For those members who do not know, or have not heard, the reason for that is that the hospital lost 50 per cent of the rehabilitation doctors, so they can only operate at half the level. Mr Corbell is asking us to accept a unit that operates at half the level it used to two years ago as normal—and that is the reason for shutting it. It continues:

> We can justify the decrease in patient referrals and occupancy. Today, out total patient number is 12. With the recent employment of another Rehabilitation Physician and the newly appointed Rehabilitation Advisor Nurse L3, and the planned return to usual referral from outside T.C.H…

No wonder the bed numbers are down! It continues:

> …we will soon have a waiting list. In recent discussions with the Pilot Stroke C.N.C. It is obvious that RILU will also have a vital part to play in the patient throughput from this new unit.

We are starting other units that have based their functionality on having RILU and the minister is going to take it away. Ward 12B and RILU have very different functions; I would like to read from another document that has been provided from the hospital. It says:

> I would like to draw your attention to the core business of RILU. That of providing inpatient rehabilitation services in a home like setting to enable patients to return home. I find RILU to be the most appropriate setting for the final stage of rehabilitation prior to discharge into the community, and I would like to share with you the reasons why.

> RILU has a unique environment, both physically and the service provided within the walls…It is RILU's unique home like design and atmosphere which provides patients with the essential final step towards independence which enables them to return home. RILU is the only environment where a patient who usually lives alone at home, can be accommodated in a single cottage and allowed to manage all their daily activities independently. Thus providing a final 'test' of the persons' readiness to return home.
>
> RILU is the only unit where a wheelchair bound patient who has narrow doors and corridors at home, can be accommodated in a unit with narrow doors and corridors to allow them to learn the wheelchair skills they require to manage at home.
> RILU is the only unit where a patient who has steps to negotiate at home, can be accommodated in a room where he/she must negotiate steps to access the dining room. This provides constant practice and retraining of stair climbing to achieve independence.

It goes on, but summarises by saying:

> I cannot see how these aspects of the service, which is currently located in RILU, can be replicated either on 12B or in the community rehabilitation team.
>
> It is all of these things which make RILU irreplaceable, and an asset to ACT Health.

I think the minister is going to try and convince us that he can do that inside 12B. He is going to close down a house that has narrow corridors like at home, narrow doors, a small bathroom and steps, a kitchen, a laundry and a garden, where you can learn to be at home again. He is going to shut that so he can spend money to replicate it in a hospital ward. We are going to build narrow corridors in a hospital—or are we just going to put out witches hats? Are we going to narrow some doors in a hospital ward, which I suspect might be in contravention of building codes, or will we just put out witches hats? It is not the same. People who have had strokes or amputations—and that is who we are talking about, people who are at a vulnerable time in their lives—will not get what they deserve: the real ability to go home with confidence.

We have seen the incorrect information that has been put about on RILU. Its bed numbers are down because the government has chosen to let its bed numbers be down. It is the Sir Humphrey answer: we will wind it down, then when it gets to half of what it used to be we can shut it. That is not a compassionate, caring government. We have a government that says they are involved in consultation—they will consult with people—but, as we know, the decision has already been made. I will read the last paragraph of the minute from ACT Health for members. It talks about having looked at RILU as a preferred site, including acceptability to the Commonwealth for funding such a facility. The last paragraph says:

> Management of TCH and community health will be meeting with all key stakeholders to discuss the implications of this decision within the next week.

It is a done deal; the unit is closing. Mr Corbell and his senior echelons have made the decision, despite their protestations that they have not; otherwise this minute is incorrect. Why they are consulting on how to put in place the minister's decision if the decision has not been made is beyond me, but I am sure Mr Corbell will attempt to explain that away.

The other dilemma for the minister is that in the consultations they forgot to talk to the NRMA. The NRMA gave $799,000 to establish RILU and has a deed of agreement with the government on how that money will be spent. Mr Corbell—the incompetent health minister—comes along and says, "We're just going to change that; we don't have to talk to anybody"—until he gets caught. I understand that, under the deed of agreement, there has to be agreement from both sides before something changes.

So that is another little hurdle Mr Corbell has to get over. It is just another indication of the lousy process that has been followed here. When they have given almost $800,000 for something—or indeed $3 million to establish the chair of emergency medicine at the Canberra Hospital—I suspect that the road safety trust will want the money spent on what it intended, not on what the minister thinks he needs. Why is this happening? This is happening because Mr Corbell has a problem. Why? Because he has allowed bed block to continue when he has had ample opportunity over the last two and a half years to build additional aged care facilities, step-down and sub-acute transition facilities, but has done nothing to ensure it will happen.

We have one facility that has had money since 2001 that will not now be completed until February 2006. It has taken almost five years to build an urgently required medical facility. This is a minister who does not have his eye on the ball. The real reason RILU must go is to enable the government, hopefully, to solve their bed block problem, and they can only do it off campus. I have been sent a letter from a constituent, Ms Debbie Booth, who spoke to ACT Health to clarify issues. The critical paragraph reads:

> As it appears that the decision has already been taken to close RILU to meet the requirements to secure the Commonwealth funding for the transitional facility, RILU is off campus.

As stated by Ms Booth, that is what is required. It is not about providing better facilities or maintaining facilities, it is about finding the only site under the control of the minister where he can put Commonwealth money in to solve his problems in his hospital. Let us be honest about this. The problem for RILU is that it occupies the ground that Mr Corbell wants and nothing will stand in the way of changing that. In estimates Mr Corbell said, "We are moving to the community-based model because the community-based model is the model that works". That is probably true, but you must transition to it properly, otherwise the community-based model can leave patients high and dry.

The jurisdiction that I understand is doing community-based rehab best is the Victorian model. I have just found out something that Mr Corbell did not tell us in estimates, because I have been lucky enough to secure a document entitled *ACT rehabilitation services* as planned by the ACT Health planning and performance unit in August 2002. Their assessment, based on the Victorian model, is that we already have an undersupply of beds. I will read from page 13, table 12, entitled "Projected bed requirements placed on planning guidelines". It reads:

> The planning guidelines estimate an additional 31 beds will be required for the ACT population in 2006 and 41 additional beds will be required in 2011. Only the Victorian Planning Guidelines have been included. As stated above, the Victorian

> Guidelines allow for recent trends towards community based rehabilitation and are more consistent with the results of other planning methodologies outlined below.

Based on that, we are short by 31 beds. They are estimating that we will need this in 2006, but it says here "ACT population estimated 326,300". We are already at 332,000, so on that figure we are probably above. The figure in the report might not include those under the age of 15, who are normally not considered to need rehabilitation or are not in the rehabilitation figures.

We have a minister who has allowed this service to drop from approximately 14 beds to under 10 beds. He has a report that is two years' old that says that, in fact, you are already short 31 beds—and he wants to close more beds. That is effectively what he is doing: he is closing beds permanently. Beds that are temporarily closed because of a lack of medical specialists to assist Mr Corbell are going to close permanently. He is going to take that opportunity away, knowing well that he should be planning to open another 31 beds in the next two years and another 41 beds beyond that in five years time. Where is the logic in this? Will we lose the jewel in the crown purely and simply because of Mr Corbell's incompetence in dealing with his portfolio?

RILU is an important service. I have received a number of letters, as I am sure other members have, from people who have been through RILU, from people who have had family members there and from people who work there. All of them say that this is a fabulous service and it should not go. The interesting thing is that the process to accredit RILU is underway, even as Mr Corbell seeks to shut the facility. That is smart. Why start the process at all and then decide to close the facility? It is interesting that Mr Daniel O'Connor from the Accreditation Working Party went to RILU on 12 May. I will read a paragraph from this other document that I have. It says:

> In my preparation for Accreditation, I was aware of the need to focus on evidence and outcomes. On May 12th I met with Mr Daniel O'Connor (Accreditation Working Party) at RILU. I took great pleasure in talking about the successes of RILU, showing him around and answering his questions. He repeatedly asked me how we 'sold' the unit. He wanted to know how much thought and action had gone into promoting the unit, how we told other health facilities, medicos about the work we did, and the outcomes achieved at RILU…Daniel encouraged me to think about how we would improve in this area.

Instead, on 20 May, they found out that in fact RILU was not going to be improved; that they were not going to tell the people how well they were doing; and that Mr Corbell was instead going to shut RILU. I ask members to support this motion to stop that action.

MR CORBELL (Minister for Health and Minister for Planning) (11.15): What we have heard from the Leader of the Opposition is an ultimatum to this Assembly that, if his motion is supported, this community will be denied 40 aged care transitional care beds in the ACT. That is the proposition that Mr Smyth is putting on the table for members today. He is saying, "Support my motion—but, sorry, by the way, 40 aged care transitional care beds will not be available to people who are currently in acute care beds in our hospitals." Mr Smyth is saying, "Sorry, we are not going to support a proposal which will help free up access block and bed block in our hospitals. We are not going to support a proposal that would allow more people to be seen in our emergency departments. We are not going to support a proposal which would facilitate better care

for those aged care nursing home type patients in our hospitals." That is the proposition Mr Smyth is putting on the table today. What a completely unreasonable position to come from a man who suggests that he wants to be the Minister for Health in the ACT. He is going to say, "I don't care about those nursing home type patients; I don't care about access block in our hospitals; I don't care about waiting times in our emergency department. I am just going to say all of those things are unacceptable."

Mrs Dunne: Point of order, Mr Speaker.

MR CORBELL: Mrs Dunne, Mr Smyth has had his turn. You sit down and let me have mine. Mr Speaker, that is the proposition.

Mrs Dunne: Mr Corbell is continually misrepresenting the Leader of the Opposition—

MR CORBELL: There is no point of order, Mr Speaker.

MR SPEAKER: It is not a point of order; it is a point for debate.

MR CORBELL: That is the proposition that Mr Smyth is putting to this Assembly. He professes to have concerns about waiting times in our emergency departments, but, when it comes to the crunch, when it comes to the hard decision to put in place some systemic reform to address that, what does he do? He seeks to block it in this place. He professes to have concerns about bed block in our hospitals, but, when it comes to the crunch, when it comes to making the hard decisions about how to address those issues, what does he do? He fudges it and seeks to block it.

When it comes to the crunch—to try to address the level of care and appropriate level of care for nursing home type patients in our hospitals—what does he do? He fudges it. He seeks to block it. That is the proposition that Mr Smyth is putting on the table today. If this motion is successful, he and this Assembly will deny 40 aged care-type patients the opportunity to have transitional care in our hospitals—a level of care suitable for them and paid for by the Commonwealth government.

Let us put a few facts very clearly on the table. RILU was established in 1996 and partially funded through an NRMA grant. The service provided at RILU by the medical nursing and allied health staff is delivered in a homelike environment but in all other respects is identical to the type of care provided in Ward 12B. Many patients over the years have benefited from the excellent care and expertise provided by the dedicated staff of the rehabilitation service. No-one is questioning their capacity or their experience and skill.

The RILU model was developed in response to a need identified over 10 years ago specifically for road trauma cases—that is why the NRMA Road Safety Trust funded it—but over the past four to five years the service has changed. It has evolved from its original purpose to be more of a general rehabilitation service as we see today. This current model of service does not exist in many other settings, with the preferred models being for community or home based care as the patient moves on from an acute rehabilitation setting. In addition, over the past decade many other changes have occurred in both the inpatient and community settings that impact on the identified role of RILU and make it timely to reconsider the efficiency of its current operations.

At the time that RILU was established, Ward 12B at the Canberra Hospital was also refurbished to provide an excellent facility for rehabilitation. It has areas where patients can relearn the activities of daily living and a large and well-equipped gymnasium for assessment and treatment. There is a pleasant outdoor area, with easy access from the dining room, which makes it very accessible for patients as well as their families.

Mr Smyth made some comments about so-called shortages in rehabilitation facilities. I do not know whether Mr Smyth had noticed, but this budget sets aside over $6 million to build a new purpose-built sub-acute rehabilitation psycho-geriatric facility at the Calvary Hospital. That is this government's commitment to investing long term in rehabilitation facilities for the ACT. Guess how many beds it will have, Mr Smyth? It will have 40 beds. So, contrary to your suggestion that we are ignoring what the plan says, we are actually building a facility to meet the need. We are building a multimillion dollar facility to meet the need by providing an additional 40 new beds for functional assessment and restoration for those in need of post-acute care. That is the government's commitment. Mr Smyth can suggest that there is going to be some downgrading of the level of service provision, but he is simply wrong and is misleading the community if he suggests that.

Current bed utilisation rates in rehabilitation and the acute care setting would indicate that transitional care services are a more pressing need at this moment. The government is not in any way going to diminish the existing level of care. But what Mr Smyth wants to do, from the safety, the comfort and the laziness of the opposition benches, is to micro-manage the hospital system.

Mr Smyth: You're the lazy one, fella.

MR CORBELL: I heard you in silence, Mr Smyth, and I would ask you to give me the same courtesy. This proposition is a lazy attempt at micro-management simply for the sake of grandstanding, simply because Mr Smyth is not prepared to accept that managing the hospital system is a complex proposition and that judgments have to be made about how to meet the variety of demands on that system. Moving people more suitable for transitional care from the rehabilitation system will free up acute and rehabilitation beds, allow for better patient flow and ensure that we are not tying up resources in an inappropriate way, delivering an inappropriate care setting. That is the proposition behind the use of RILU.

I reiterate that the key issue at the heart of this motion that members must consider is: does this Assembly want to deny the ACT access to 40 transitional care beds? If members accept the proposition in this motion that directs me to manage this facility in a particular way, we will lose the 40 transitional care beds for older patients and it will be the fault of the opposition and any members who support the motion.

I cannot stand by and have this Assembly tell me that we cannot have transitional care beds for aged care-type patients in the ACT. That is what this motion will do today. This is a black and white issue I am putting to members; that is what will happen. If you want to remove the capacity of the ACT to deliver those 40 transitional care beds to nursing home type patients, then support this motion. I am telling you that the government will

not be in a position to deliver those beds unless they can be delivered in the facility currently used by RILU.

As members will be aware, older people are significant users of health services and can remain in acute wards simply because more appropriate care is not available. The ACT government has agreement from the Australian government to establish a service to provide more appropriate care for these people. The aim of this service is to provide improved restorative care to older people. It will be available to people who are medically stable and who no longer require care in an acute hospital but who require additional care and services to improve their level of functioning—

Mrs Dunne: Just like RILU patients.

MR CORBELL: You just can't help yourself, can you, Mrs Dunne? You just can't keep your big mouth shut for five seconds. You just can't do it. I listened in silence to the diatribe of nonsense and outright misleading comments from your Leader of the Opposition and you cannot sit still for five seconds and listen to the debate.

Mr Smyth: On a point of order, Mr Speaker.

MR SPEAKER: Just withdraw the word "misleading", Mr Corbell.

MR CORBELL: I am happy to withdraw the comment, but it just shows how sensitive members of the Liberal Party are on this issue. They cannot sit still for five seconds in this place and listen to a rebuttal of the load of nonsense that has come from their leader on the other side of this place. They will just have to wear that, Mr Speaker, because the position that Mr Smyth puts in this debate is simply untenable if he and the Liberal Party are to profess any care for nursing home type patients in the ACT.

I am happy to outline to members that the current enhancement of services planned for rehabilitation services includes redevelopment of the Dickson Health Centre as a base for community based services on the north side; the freeing up of additional treatment space in the Phillip Health Care Centre; and additional allied health staff, particularly clinical psychology, occupational therapy and rehabilitation engineer positions. These proposed developments are all clear evidence of the government's commitment to enhancing and improving efficient and effective service delivery that best meets the needs of the community.

As at 22 June this year there were nine patients in RILU and 11 rehabilitation patients in Ward 12B. Some of these patients are people not receiving active rehabilitation and who may well be appropriate for the new transitional care services. The government amendment to the motion, which I have circulated and will move in my name shortly, also outlines that formal consultation will occur with the stakeholders. I will be very willing to report back to the Assembly with the outcome of that consultation. Until formal consultation is completed with consumers, carers, staff and other stakeholders, including the NRMA Road Safety Trust, no final decision will be made.

I have to again be very clear to members in this place: if this motion is supported, which directs me to maintain RILU in its existing location and based on its existing level of provision, then we will not have those transitional care beds.

Mrs Dunne: And whose fault is that?

MR CORBELL: You just can't help yourself, can you, Mrs Dunne?

MR SPEAKER: Order, Mrs Dunne!

MR CORBELL: You persistently interject. You just can't help yourself.

MR SPEAKER: Order, Minister!

MR CORBELL: You can't give anyone the courtesy—

MR SPEAKER: Members of the opposition will remain silent.

MR CORBELL: The bottom line is that we will not have transitional care beds. I am sorry that Ms Tucker was not here for the earlier part of my speech because she would have heard quite clearly the rationale behind what these transitional care beds are for.

Very quickly, in summation, these transitional care beds will shift nursing home type patients currently occupying acute care beds—I am glad you are listening, Mr Cornwell; I hope you will be supporting the government on this motion, given your professed interest in nursing home type patients—into a bed funded on a nursing home basis by the federal government in an ACT health setting until they can find a bed in a private nursing home facility. It will free up 40 beds across our two public hospitals for more acute care patients. It will increase the capacity of our emergency department to see people through the system more quickly and have them admitted into a ward if that is their requirement. It will ensure that we have more people able to access equally elective surgery when they need it because it will free up those acute care beds for recovery after surgery. All of these things are important reforms to the health system.

I object most strongly to a proposition from this place that I cannot manage the health system in a way that tries to achieve those outcomes and which, at the same time, does not diminish the provision of rehabilitation services in the ACT. It is a sensible and strategic approach to better manage the pressures in our hospital system. If members vote for this motion today, they will be denying me that opportunity and, more importantly, they will be denying the Canberra community and nursing home type patients the level of care they need and our hospital system the ability to work more effectively overall. The government will be opposing this motion in its present form. I have circulated an amendment in my name. I now move:

> Omit all words after "(RILU);", substitute:
>
> > "(b) the Stanhope Government's commitment to continue the current level of provision of rehabilitation services in the Territory;
> >
> > (c) the importance of the transitional care facility currently being developed for the future of the ACT health system;

> (d) that the trust agreement with the NRMA over the use of RILU specifically contains a provision that after five years the parties to the agreement can initiate a review of the agreement; and
>
> (e) that any plans to relocate rehabilitation services to other areas will only occur after formal consultation is completed with consumers, carers, staff and other stakeholders including the NRMA Road Safety Trust;
>
> (2) agrees that the Minister will report to the Assembly of the outcome of that consultation.".

MR SPEAKER: I would like to acknowledge the presence in the gallery of students from St Thomas the Apostle, Kambah. Welcome.

MS TUCKER (11.30): Mr Corbell, it is okay: I was listening in my office to you shouting and I have heard what you have had to say. Mr Smyth has brought on this motion today in an effort to head off what appears to be moves by the Minister for Health to permanently merge the functions of the Rehabilitation and Independent Living Unit at Garran with Ward 12B in the Canberra Hospital. This would free up the space at RILU for use as a transitional care facility for older people who have been assessed as needing nursing home care. The minister has not made these plans entirely clear. I understand, following discussions my office had with the manager of the project, that this is because the analysis was still under way. There has been a study of rehabilitation services in the ACT, which is still awaiting analysis of the need. It is not yet clear from that study whether or not rehabilitation services in the ACT require the existence of RILU.

In this situation there seems to be a lot of pressure to establish the transitional care facility and that seems to be pushing on RILU, before the work has been done, and on the role of RILU. Although there is clearly a need for transitional care, this is about getting people who do not require acute care out of hospital and about giving people the best chance of returning their lives as closely as possible to their normal setting. However, the need for transitional care should not and does not mean that RILU is not needed. That is really the crux of this matter. I have heard what Mr Corbell has said, but it appears—I admit that it is difficult to get a clear view at this stage—that RILU is being pushed from outside. The minister's spokesperson is quoted as saying in the *City Chronicle* of yesterday:

> With the introduction of new models of care, RILU's occupancy rate has fallen over the past 2 years and inpatients requiring rehabilitation services can be accommodated in 12B.

On the first point—that is, the occupancy rate has fallen due to the use of new models of care—I do not know whether we have been given the evidence to support that this is the reason. I have heard convincing reports from people who have worked in the area that there have been workplace issues which have led to long-term expert staff leaving the unit and seeking work elsewhere. I understand that this has included the three top physios associated with the unit. I understand that there has also been a reduction in staff

and that there have been other positions vacated and not filled. It could well be that the reduction in use is due to a reduction in capacity.

I have seen a copy of the draft service plan for ACT rehabilitation services dated August 2002. I understand that further work has been done but is not yet complete. However, this draft plan uses the model of care in Victoria—that is, increased use of support in the community, which I understand to mean support in a person's own home—but, even so, it predicts that there will be an increase in need for rehabilitation beds in the ACT; that is, it would be surprising on this basis if the drop in use relates to a drop in actual need.

The draft plan on page 14 projects that 34 additional rehabilitation beds will be required in 2006 and 37 additional beds in 2011. I have not read the report carefully yet, because there just has not been time, but I am aware that this may not be the most up to date analysis. But I am concerned that the plans for removing RILU—effectively disbanding it—are proceeding without proper analysis and consideration. It is not enough for the minister to say, as he effectively has said in his proposed amendments to Mr Smyth's amendment, that we should trust him and that "any plans to relocate rehabilitation services to other areas will only occur after formal consultation is completed with consumers, carers, staff and other stakeholders, including the NRMA Road Safety Trust".

My difficulty in accepting this is that there is already apparently a determination to use the RILU space for the new transitional care service. The arguments given so far have been that, if we pass this motion calling on the minister to retain RILU in its current location, then we will debunk the arrangement with the Commonwealth for the transitional care unit. That says to me that the decision to shift RILU in favour of the new transitional care facility has already been made. I think that, at the very least, this should be halted until the Assembly has a chance to discuss the need for RILU, along with full information. So I am supporting Mr Smyth's motion and not the government's amendment.

I have sympathy with paragraph (b), which notes the importance of the transitional care facility currently being developed for the future of the ACT health system. I agree that this is important; however, I do not agree that it means it should replace another facility, which certainly, according to anecdotal evidence, is also extremely important. Ward 12B is in the hospital; it is run by ACT Health. RILU is not in the hospital; it is run by Community Care.

RILU is another step for people once they do not need the medical care but need to learn how to use the new equipment and how to live in a normal home environment with the changes that have happened to their bodies. This is about people who have had a stroke, brain injury or amputation. It is not the same as the hospital setting, nor is it the same as going home with support. There is a level of skill and confidence that should be developed first. Without this kind of step, you will end up with more accidents once people go home, and re-admissions to hospital.

Mr Smyth has read out testimonials and so on, so I will not do that, but, in supporting his motion, I am saying that, firstly, another location for the transitional facility must be found and the key ingredients are that it is homelike and, secondly, that until and unless there is convincing evidence of a change in need rather than some problems within the

unit which should be sorted out, RILU should be more than maintained if the need is there. If the capacity is weakened, then there should be serious attention paid to that.

MR HARGREAVES (11.37): I will not be very long. Ms Tucker has decided to leave the chamber. Perhaps her mind is already made up—in which case that is very sad after such an emotive speech.

I have two issues with Mr Smyth's motion. Firstly, the motion calls on this Assembly to micro-manage a subset of a branch within a government department. The logical extension of this is that this Assembly can move motions to direct government departments on how to use their shredding machines. That is how ridiculous this particular motion is!

You would think that these people would have more to do with their time and would address the issues of policy relating to this town rather than trying to micro-manage a department. If Mr Smyth becomes the Minister for Health in this town, pity us and the officers in the department. Their minister will want them to explain every single little detail. He will, I am afraid, be the most pathetic health minister this town has ever spawned.

I now turn to my substantive difficulty with this motion. In doing so, I call on my previous service in this area as administrative manager for a considerable number of years. In fact, I was part of the process in 1989 which sought to have a slow stream rehabilitation unit created—what we then called a convalescent unit. The Liberal Party cabinet allocated some $1.4 million, if my memory serves me correctly, for the creation of such a unit by the lake.

The Liberal government accepted the argument that a slow stream rehabilitation unit—we call it a step down unit or a sub-acute unit these days—would have a couple of interesting facets. In 1989 the late Professor Peter Sinnett, who was then the Director of the Rehabilitation Aged Care Service at the then Woden Valley Hospital, spoke to me about convalescent care—I was newly appointed to the position—and explained the difference between rehabilitation and other hospital services. He said that rehabilitation was to provide treatment in concert with a patient as opposed to other acute services where they do something to or in a patient. Rehabilitation is a partnership arrangement. He was explaining these details to me.

He said that there is a need for a community based recovery facility for people recovering from amputation, stroke, acquired brain injury and a range of other similar things. This will prevent inpatients from occupying acute beds when they are, in reality, occupying nursing home type beds. These beds should be in a community setting for rehabilitation patients and aged people who occupy beds for slow non-acute recovery. Rehabilitation patients and the elderly have a common issue—disability. The treatment regimes are often identical in clinical treatment and the time of recovery. Hospital and community services for these patients should be integrated.

Mr Smyth is trying to drive a wedge between nursing home type patients and patients in a rehabilitative perspective. They should be regarded as one and the same thing. If their clinical treatment regimes are so similar, we should be providing those services in the

community setting for this group of people based on their disability and their clinical treatment regimes.

As Mr Corbell has indicated, the government has allocated some money to create the 40-bed facility at Calvary. It will take a bit of time to build that. What we are talking about here is an interim regime where both types of people can be satisfied. Whether or not there is a full take-up of beds at RILU, and the reasons for that, is immaterial. The fact is that there is capacity within the context of Ward 12B. There is nothing to suggest that that will be a permanent arrangement.

People who are in nursing home type beds are not necessarily older people; they are people who have to stay in hospital a certain length of time because of the nature of their condition. They need to have a service as well. Mr Smyth cannot criticise the government for a lack of decent throughput, according to his measure, and then turn round and say that the government should not have come up with a regime to address that in part. Making beds available to nursing home type patients as well as to patients in rehabilitation treatment regimes will mean that some acute care beds will be freed up. Mr Smyth will deny the use of those 40 beds in the clinical setting—make no mistake about that.

I urge members not to support Mr Smyth's motion on two bases: firstly, he is seeking to micro-manage the subset of a department.

Mr Stefaniak interjecting—

MR HARGREAVES: Each time they interject, I shall merely stop, go back, and start my paragraph all over again.

MR DEPUTY SPEAKER: That is a very severe warning, Mr Hargreaves.

MR HARGREAVES: Indeed. If members want to stay here until hell freezes over, that is fine with me. I was not here at half past 1; you were.

This Assembly should not micro-manage subsections of departments. That is a rotten precedent to raise here. Further, it should have some faith in the clinical decision making of the people who are making these decisions within the hospital. This opposition is saying that it does not trust the clinical managers in rehabilitation to look after their patients, nor does it trust them to assist in the treatment management regimes for nursing home type patients. We, on this side of the house, have every confidence in them.

These people are very confused—this will be of absolutely no surprise to anybody within the ACT borders; in fact, they could probably do with a bit of a visit and a stay within the RILU area themselves for some cerebral rehabilitation—and basically wrong and are denying people who sorely need it access to these facilities.

Remember the warning of the Minister for Health—in voting for this motion you will jeopardise the 40 beds at Calvary. The amendment that the minister has moved indicates that there will be discussion with the NRMA Road Safety Trust, consumers and practitioners in this area. I urge members to support the amendment that the minister has moved and urge them to treat Mr Smyth's motion with the contempt that it deserves.

MR STEFANIAK (11.46): I really think that Mr Hargreaves should see what the Minister for Health said as just basically a petulant threat. All he needs to do is to hark back to previous Assembly meetings, the last one of which he attended. Members would, with some regularity during private members' business, move motions calling on the government to do things. The government might not have been terribly happy to do it because it wanted to do something else, but at the end of the day it had to acquiesce. Mr Corbell's petulant threat—

Mrs Dunne: It is called democracy.

MR STEFANIAK: Exactly, Mrs Dunne. It is called democracy. His petulant threat to close these 40 transitional care beds is just that—a threat. I think it is the height of cheek for the minister to make that petulant threat given his government's record and his track record both as Minister for Health and Minister for Planning in aged care. We are now towards the end of the life of this government and I still do not think we have seen any really new aged care beds. There is a crucial growing need for these beds. There are a number of sites around Canberra that could be developed. The government has the go-ahead on a number of sites but it does not do anything. So I find it ironic in the extreme for the minister to make this petulant threat.

As Mr Smyth has said, you cannot replicate a home in a hospital ward. The minister asked, "Are you saying that I can't manage a health system?" or something along those lines. Yes, we are. I think he himself says, "I can't manage a health system"—and maybe that is the crux of the matter.

I am going to read out what was said at the estimates committee. It is only one page. It is quite clear from what the minister has said today that he has implied that he certainly has made his mind up. I think he has implied that he has made his mind up for some time. That really corroborates the evidence we heard at the estimates committee where, despite his protestations that it has not really come to him yet and he has not made his mind up, most people in the health system regarded this as a done deal. I seem to recall that a certain email, dated 20 May, basically indicated that. The estimates committee report, on page 66, in discussing this very issue, states:

> 11.6 The Committee held lengthy discussions with the Minister on the future of the Rehabilitation and Independent Living Unit (RILU). It has been proposed that the existing RILU service be moved to ward 12B of the hospital, with enhanced support for people in their homes and the existing RILU facilities to be used to accommodate nursing-home type patients.
>
> 11.7 The Committee is concerned about this for several reasons, namely:
>
> - providing rehabilitation in the hospital setting may prolong or create a 'sickness syndrome';
> - moving individuals into the community too early may affect their long-term rehabilitation outcomes; and
> - rehabilitation may be compromised in the ward environment that does not mimic home-like conditions with steps, narrow corridors, kitchen and laundry facilities and gardens to assist people with re-learning the skills that they will ultimately need at home.

That is the very point that Mr Smyth was making in his opening remarks. The report continues:

> 11.8 Concerns were raised with individual Members by staff—

that is, staff at the hospital—

> that the decision to close RILU had been taken, although the Minister told the Committee that Hospital management were to meet with stakeholders, and brief him fully, before this decision was to be made.

It certainly seems that if he had not made it then—which we query—he certainly seems to have done so now, from his comments today. The committee made two recommendations, which were disagreed to by Mr Hargreaves and Ms MacDonald, government members. The first recommendation states:

> 11.9 The Committee recommends that the Minister for Health ensure that the proposed changes to the Rehabilitation and Independent Living Unit will not compromise the outcomes for rehabilitation patients in any way and if this cannot be done, not to proceed with the changes.

Nothing could be clearer. Quite clearly, we have not been satisfied that the outcomes will not be compromised. They will be significantly compromised. Our final recommendation is:

> 11.10 The Committee recommends that the Minister for Health does not proceed with the proposed changes to the Rehabilitation and Independent Living Unit without informing the Assembly.

Also, I read into the transcript of the estimates hearing a minute from Mark Bassett, the Deputy General Manager, and Lauren Yen, which has been tabled, about co-locating nursing home patients within TCH. It states:

> Some of you will be aware that many options have been discussed and considered for the co-location of nursing home patients within the TCH. The Commonwealth government has provided access to funding for financial assistance for flexible care waiting for placement beds.
>
> It appears, after significant consideration, that RILU is the preferred site based on many considerations, including acceptability of the Commonwealth to fund such a facility. Co-locating these patients in one area of the hospital would have a number of significant benefits. It would firstly improve the welfare and care of nursing home patients for providing an appropriate environment to meet their needs.
>
> Other benefits would include the ability to focus services for this particular patient group. It is essential that consideration needs to be given to the number of beds for rehabilitation inpatients within the main hospital block in order to continue to provide a viable rehabilitation service. Management of TCH and Community Health will be meeting with all key stakeholders to discuss the implications of this decision within the next week.

The minute is dated 20 May. That has already happened. The minister has effectively today confirmed that that was probably the intention all along. I think it is abundantly clear from everything we have heard today that it is a bad decision. Members should not be taken in by this petulant, idle threat of the minister. The minister has to act in accordance with the Assembly's wishes. We have a duty to act on behalf of the community. If members are not going to support Mr Smyth's motion they will be failing in their duty.

MR CORNWELL (11.52): We appear to have stirred up a hornet's nest. It is a pity that the Minister for Health and Minister for Planning is not present to listen to the debate on this matter. I was interested to hear his so-called defence. He attacked my colleague Mr Smyth for attempting to micro-manage the health system. At least Mr Smyth is trying to manage it. Mr Corbell said that we will lose 40 transitional care beds. Whose fault is that? This man has been the Minister for Health and Minister for Planning for 2½ years and what have we seen in that time? Mr Hargreaves commented that we are trying to drive a wedge between rehabilitation and nursing home patients. Your minister, Mr Corbell, has effectively driven a wedge between acute care patients and nursing home patients by taking up beds that should have been used for acute care.

Mr Hargreaves: They are not nursing home beds.

MR CORNWELL: I am talking about public hospitals.

Mr Hargreaves: Yes. They are not nursing home beds.

MR CORNWELL: Yes. I am happy to back up my statement. I have some figures here that turned up yesterday.

Mr Hargreaves: They are nursing home type beds.

MR CORNWELL: Just a moment. You complained earlier about interjections, Mr Hargreaves. I suggest that you practise what you preach. I asked the following questions of the Minister for Health:

> 1. How many nursing home type patients, who should not be in hospital beds … are currently in the (a) Calvary and (b) Canberra hospitals;
>
> 2. What has been the daily average number of such patients in hospital beds in the A.C.T. each month for the past 12 months;
>
> 3. What is the current cost per day for accommodating such patients in hospital beds in the ACT?

Yesterday I received an answer on the Canberra Hospital average nursing home type inpatients per month: in July last year there was not a figure; in August there were 23; in September, 21; in October, 13; in November, 27; in December, 11; in January, 9—that is probably explained by the fact that there is generally a decrease over the Christmas period—in February, 7; in March, 23; and in April, 21—a monthly average of 17.2.

What is important, however, is that when you add all the costs together—let me remind members that nursing home patients in acute hospital beds are costing $635 per day—you will find that they are close to $3 million. How can any hospital system possibly afford that sort of expenditure? Why has the minister not done something in the last 2½ years to relieve the pressure on the system by moving nursing home patients out of the hospitals and into nursing home accommodation?

As we all know, there are plenty of beds available from the Commonwealth. I think the figure is about 255 beds available. What have we seen in the last 2½ years? Welcome back, Mr Corbell. We have seen a lot of promises but we have seen no bricks and mortar. Let me repeat: there are Southern Cross Homes at Garran, St Andrew's Village at Hughes, Calvary and there is the question of Goodwin Homes in Tuggeranong. Need I go on? We all know the numbers; we all know the figures. We have seen no attempt from this minister and this government to relieve the pressure of nursing home patients in acute hospital beds. Mr Corbell now attempts to blame the Leader of the Opposition, Mr Smyth, who has raised this matter today, for the fact that we are going to lose 40 transitional care beds.

This is an interesting question because I again received an answer to a question on notice yesterday—you have been a bit unlucky, haven't you, Minister, that the answers have come through at this time—about the $5.15 million set aside for the sub non-acute care facility containing 60 beds for aged persons. Mr Corbell made much of this. Do you know when it was set aside, Mr Smyth?—in the 2003-04 budget! Why are we now being told that it is coming on line when construction is expected to be completed late in 2005 and the facility is expected to be operational early in 2006? Where is the planning in all this activity? Why has the government waited so long to get this off the ground? We are also told that "40 beds will be allocated for rehabilitation and transitional care services and 20 beds will be allocated for acute psychogeriatric care". No money has yet been spent on this facility. Do not hold your breath. I asked: where is the money? When did construction commence? Has the money been expended yet? The answer is:

> No. Detailed planning and consultations are currently underway ...

We have all heard that before. I also asked:

> How much of the $5.15 million budgeted for this project has been expended to date?

The answer is:

> None. Funds expended to date have been expended from the $0.3m feasibility funding provided in the 2002-03 Budget.

We are going even further back. Minister, you are really not in a position to attack this motion. I remind members that your dilatory behaviour—if not in health, then certainly in planning—has led to this very expensive situation. About $3 million, over a period of only over nine months, is being expended on nursing home patients who should not be in acute hospital beds. They are denying others the opportunity to go to hospital for more serious activities. The minister thinks that his new proposal to throw out the rehab section is somehow going to solve all these problems. Minister, the problems are of your making. The problems arise because, it would seem to me, sir, you pull the hats you wear

in health and planning over your ears and eyes and simply fail to address the problems that have beset the area of health care for the 2½ years of your government.

MS MacDONALD (12.02): I will attempt to be brief. Yesterday, Mr Smyth introduced a matter of public importance in this place on the state of the ACT public hospital system. I quite clearly heard him say that he was concerned about the lack of throughput. Mr Hargreaves said before that Mr Smyth cannot have it both ways. I beg to differ with Mr Hargreaves on this because I think Mr Smyth thinks that he can have it both ways, which I believe is the problem here.

I have not visited RILU but I have no doubt that it provides an excellent service. I spoke to one gentleman a few years ago about the wonderful work that RILU does in re-acclimatising people after they had lost a leg, had a stroke or whatever and getting them back home. I met a gentleman who was in this situation, having just returned home from RILU. As I said, I have no doubt about the wonderful work that it does.

I think Mr Hargreaves hit the nail on the head when he said that we are talking about an interim regime. Regardless of whether patients are located in RILU or in Ward 12B, we need to keep in mind that the rehabilitation treatment philosophy is identical in both locations. Mr Smyth has raised the issue about having the setting similar to a home. I know there is that issue, but there is also the issue that other states, other locations, have a number of different options in which they utilise rehabilitation services. This can be long day stay, day admission to a facility or community based. It can also include home rehabilitation. All of these methods are commonly used and evaluated and shown to be effective. RILU might provide a wonderful service, but it is not irreplaceable. It can be replaced by other things that will adequately meet the needs of people who would have previously gone into the Rehabilitation and Independent Living Unit.

I find the scaremongering that has been going on in the last couple of weeks about the Rehabilitation and Independent Living Unit quite concerning. I believe there are people in the community who are giving the impression that RILU is going to close altogether, that there will be no rehabilitation services offered. I think it is irresponsible for the opposition and the Leader of the Opposition to put out the message that there will be no rehabilitation services, because people will get up in arms—and they have been getting up in arms. As a result, they have been writing to a number of us here because they are concerned.

The service can be provided in a variety of settings. I believe that the service to the community will not be diminished but will be enhanced and will address the need for transitional beds in the long run. In a period of 18 months we will have 40 rehabilitation beds in place. It will address the needs of our community, which, for whatever reason, have changed in the last few years. As a result, we have nursing home type patients taking up hospital beds. We are talking about 80-year-olds who have fractured their hips, broken their femur—or whatever—and who take considerably longer to heal but do not need acute care. They need not only the attention of surgeons and hospital staff immediately after the breakage—and they certainly need it at the beginning—but also some sort of facility to look after them in the meantime. They are taking up precious space and, as a result, we do not have the throughput going on.

The minister also mentioned that this budget sets aside $6 million for the sub-acute rehabilitation facility. As I said, that will take some time to build. In the meantime we have to ensure that we are looking after those patients. They are not going to be turned out on the street or returned to their homes without any adequate support, which is what you are trying to put out there, Mr Smyth. I am sorry, but you are wrong.

The minister made the comment—and this goes back to what Mr Hargreaves was saying about not micro-managing—that judgments need to be made as to how to manage and free up health facilities. That is what this government is trying to do. It is trying to manage the health system responsibly. People do not like change—there are no two ways about that. I believe that Mr Smyth is taking advantage of the fact that people do not like change. As I said at the beginning, RILU provides a good service. Nobody doubts that and nobody doubts the dedication of the nursing staff in either location, but we should not be focusing on the location for rehabilitation. We can provide this service in another area. I think it is totally wrong for the Assembly to tie the minister's hands in such a way. I support Mr Corbell in what he has said and urge the Assembly to vote against the original motion.

MR CORBELL (Minister for Health and Minister for Planning): I seek leave to speak to my amendment.

Leave granted.

MR CORBELL: I just wanted to clarify for members a number of points so that they can be very clear in their minds what the amendment addresses and hopefully seek to reassure members before they make, I think, a very significant decision on the basis of very poor advice and in fact, I would argue, very poor information generally.

The amendment, first of all, makes very clear that the government is committed to continuing the current level of provision of rehabilitation services in the territory. There will be no reduction in the level of rehabilitation beds; there will be no reduction in access to those services; and, indeed, as I have outlined in my earlier speech, there will be an enhancement, particularly of community-based services through community health centres at Phillip and on the northside. So the government is maintaining the existing level of service provision.

I would also ask members to keep in mind that in the medium term, that is, in the next one to two years, there will be established a new transitional care facility which will provide 40 new rehabilitation beds, along with psycho-geriatric services and a range of other facilities. These facilities will then become the key rehabilitation facility in the ACT. There is a multi-million dollar facility being planned for construction in the next financial year at the Calvary public hospital campus. This is the heart of the issue.

Ms Tucker and other members have said, "We do not want to see this service disappear." Well, rehabilitation services are not disappearing; rehabilitation services are being maintained. They may be delivered in a different setting but they are being maintained, and that is the key issue. But what really upsets me is the assertion by some members of this place that the transitional care facility can go somewhere else. On what basis do members make that assertion? On what basis do they know that?

I can assure members today that there has been a very clear look, right across the ACT health system, at examining where that transitional care facility can go. RILU is the only place it can go. We have explored other options. We have explored existing facilities within the Canberra Hospital. They have not been agreed to; they have not been progressed because they are not deemed to be suitable.

What members have to establish is that a transitional care facility is not just opening another ward in a hospital. We will not get Commonwealth funding to run aged-care beds on that basis. Aged-care beds will be funded for the transitional care facility only on the basis that those beds would be in a private nursing home. There are different standards, different physical standards, that have to be met for the provision of those services, and a residential-type setting best meets those needs. And that is what the RILU building is; it is a residential-type setting. It is not an acute care setting. It is on that basis that we can use that setting to deliver the transitional care beds.

So Ms Tucker glibly asserts that transitional care can go somewhere else. Well, show me the evidence, Ms Tucker. You're always keen on evidence. Show me the evidence. Where else can the transitional care facility go? You tell me. You seem to know it all; you tell me.

I can assure members here and now that that transitional care facility cannot go somewhere else. RILU is the setting because it is a residential-type facility; it is not an acute care facility. The Commonwealth will not provide funding for nursing home type beds in an acute care environment. That is the whole thing we are trying to get out of. We are trying to get out of a situation of having nursing home type patients in acute care beds.

So if the Assembly supports the motion today that directs me to maintain RILU in its existing location, not only is it very poor micro-management by members who do not know what is going on on the ground but it is also going to jeopardise those 40 nursing home type patients and the 40 transitional care beds we can put them into. And I may have little choice but to do it anyway, if I want to get those 40 transitional care beds operational.

It is crucial for the better operation of the public hospital system that we are able to get those nursing home type patients into transitional care beds, out of acute care beds, so that we can help reduce the waiting times in our emergency departments, so that we can help reduce the waiting times for elective surgery, so that we can get more people going through the acute care areas of hospital when they need to go through them.

I just cannot believe that this Assembly would say, "We know better. Put it somewhere else," even though they have no idea where it could go, and at the same time deny the Canberra community access to 40 transitional care beds, paid for by the Commonwealth government—which frees up those beds in our public hospital system. I would ask members to think again. Think again before you decide on a motion that, if passed, will deny us the opportunity to run those transitional care beds, that will deny 40 Canberrans the opportunity to get out of acute care beds and go into a transitional care facility. That is what is at stake here.

Maybe it is in Mr Smyth's interest to stop the transitional care facility. I am sure he would be delighted to see continued problems in the emergency department, in access to elective surgery, in the lead-up to the election, because that, I am sure, suits his political motives. I am sure that he would be delighted to achieve that. But it is not in the best interests of the public hospital system; it is not in the best interests of those nursing home type patients who are currently sitting in acute care beds in our hospitals; it is not in the interests of supporting those staff who work in the emergency department of our hospitals; it is not in the interests of those staff who provide elective surgery services in our hospitals; it is not in the interests of those people who need those services every day of the week.

So, members, think again, because that is what is on the line: either a continuation of the existing level of service provision and rehabilitation and 40 new transitional care beds or the status quo and no transitional care facilities. That is what is on the line. I ask members to reconsider their support for this deeply flawed and seriously misjudged motion.

MRS CROSS (12.18): I will speak to Mr Smyth's motion and the amendment. Firstly, I would like to commend Mr Smyth for this motion. It is good to see a responsible member in this place putting the community's interests before his own, unlike on the pharmacy issue.

The rehabilitation independent living unit, RILU for short, was first built way back in 1996. It was the fledgling NRMA Road Safety Trust's first major community project. The NRMA Road Safety Trust paid $799,000 to set RILU up. This $799,000 needs to be seen in the context of the times. It represents unparalleled community donations for a specific purpose.

The question has to be asked as to why the NRMA made such a significant contribution. The answer is: after death, the thing that plagues members of the NRMA is road accidents and trauma-related brain damage. A person who acquires brain damage through a traffic accident is in a truly difficult position.

MR SPEAKER: Order! Would you resume your seat, please. There is somebody filming from the gallery. That is not permitted.

MRS CROSS: A person who acquires brain damage through a traffic accident is truly in a difficult position. To the casual observer, they are the same person; but, in reality, everything about them has been altered by their injury. People with even a mild, acquired brain injury, ABI, can experience a dramatic personality change. For example, if the injury is to the frontal lobe of the brain, the injury often changes a person's temperament. There are many examples of gentle, calm people turning into angry, difficult, even uncontrollable people after their injury. The point is that an ABI can totally change someone. Simple things from walking, to shopping, to bathing, to cooking can all be affected. These basic living skills that we all take for granted can be affected.

There is always a need for basic rehabilitation services. These are the areas that teach people who have been seriously injured how to walk again. Most of the profession of occupational therapy is based on the desire to help sick or injured people get well. This is

the role that ward 12B in the Canberra Hospital fulfils. This is the place where people who have experienced serious injury, had a stroke or had a limb amputated go to learn to walk again.

I do not, for a moment wish to say that the work of ward 12B is less important than the work of RILU, far from it. The two can and should work together. To me, the measure of our ability to be a compassionate society rests with our desire to help people get well. When we want people to get well, we want them to experience a quality of life and a quality of independent living. This is what RILU offers. RILU teaches people how to cook again; it teaches people in wheelchairs how to negotiate narrow corridors; it teaches people the basic social skills that we take for granted, such as basic hygiene.

This is why the claims of the ACT health minister, Mr Corbell, are so utterly abhorrent. Oh, sure, he will say—and he has said—that there will be no net loss of beds. This is a mere Sir Humphrey sophistry. If the evidence to the Estimates Committee is anything to go by the minister is committed to closing RILU and moving its clients into ward 12B. To do this is to miss the point of RILU. It is also to miss the point of ward 12B. It also, incidentally, betrays the trust and the will of the NRMA Road Safety Trust.

I do not think anyone of us who has had the chance to listen to Mr Corbell's doublespeak on health really believes his claims about RILU. I do not think anyone who seriously believes that people with ABIs, people who have had a stroke or amputees will get better service under his plans. Of course they will not. The excuses of the minister are a complete farce.

I would like to put money on the fact that neither the minister nor his senior executives had any idea that RILU came about as a result of a grant from the NRMA Road Safety Trust. I would be happy to take double or nothing, Mr Speaker, on the fact that neither the minister nor his senior executives have any idea of the role that RILU plays within the range of rehabilitation services available in the ACT. And I would be happy to take double or nothing again on the statement, on the idea, that the minister, having struck a deal with the Commonwealth for some interim aged-care funding, was desperate to find an off-campus site for aged care.

Why? Well, the condition of the funding is that it cannot be delivered on a public hospital campus. RILU conveniently is just a few metres off campus. It is clear, that the health minister was desperate for a site to hide the aged-care debacle, and the first one that came up was RILU. Well, Mr Speaker, let me say, through you: Mr Corbell, the gig is up. We know what you are trying to do. Give up now. Leave RILU alone and actually get up off your you-know-what and work to solve the aged-care crisis rather than go through the tiresome rob-Peter-to-pay-Paul routine.

The value of RILU is unquestioned. Indeed, even the Labor backbench value RILU. It was, after all, Mr Hargreaves who first raised the RILU issue in estimates. Having seen Mr Hargreaves soul hung out to dry over continuous registration, I am waiting for the full-force sell-out where he gets up now to support Mr Corbell and his plans for RILU. At least Robert Johnson got the ability to play the guitar for selling his soul. What did Mr Hargreaves get for agreeing to close RILU in August?

The half-baked plans of the government to close RILU are a pathetically transparent attempt to cover up the truly astounding problem in aged care. The minister goes to all the trouble of ratting on state Labor colleagues on the Australian health care agreement's payoff in aged care only to discover that he has not got a venue. In his desperation, he casts around for an off-campus site that he can use and picks RILU.

If ever there was an indictment of the ability of this government to plan, then this is it. The good news is: even if this motion is defeated—and I am hoping it is not—we will know, and all of Tuggeranong will know, that John Hargreaves is so muted, so impotent, that he cannot effect a decision on an area he feels passionate about. The people of Tuggeranong will know that John Hargreaves is just talk. I am sure Paschal and Rebecca will enjoy dancing on the political grave of Mr Hargreaves, just as you enjoyed dancing on Mr Whitecross's.

Ms MacDonald: Mr Speaker, I seek your ruling. Mrs Cross was making a personal imputation on Mr Hargreaves, and I do not know that that was parliamentary.

MR SPEAKER: Well, I missed that. I'll have to have a look at the *Hansard* report later.

MRS CROSS: But I digress. I urge the Assembly to support this very worthy motion. To support it will ensure that a vital community resource gets to continue. To oppose this motion is to close a vital resource and to cover Mr Corbell's exposed rear.

MS DUNDAS (12.28): This is a very important debate on how we provide services to the community for those people in great need. We all agree that the Rehabilitation Independent Living Unit plays an important role in our health care system, particularly in relation to community health care.

I agree wholeheartedly that the RILU has done some amazing things and that the testimonials of former patients are a tribute to the work that has been done by the staff and the facilities available at RILU. It is a shining example of what can go right when health care is properly resourced and staffed. So I do have concerns that the government plans to reduce the number of community rehabilitation beds by relocating some of those to Canberra Hospital and shifting others away from a purpose-built, non-acute community facility and into patients' homes.

It is without a doubt that additional transitional care places are necessary and it is welcome to see the government attempting to fulfil its agreement with the Commonwealth, but it is a shame that, in doing so, it is cutting places in another part of the health system. With a budget surplus of almost $250 million over three years, this government is making cuts it does not have to, and these cuts are short-term cuts. If people are expected to be rehabilitated in their homes, surely these home will have to be appropriately equipped and there will have to be greater levels of nursing available to people in their houses.

Where is the money for this particular initiative coming from? How will we support people in their homes? Where is the budget increases for extra community nurses? We are having an ongoing debate about the appropriate pay for nurses and how to support

nurses properly in our community. So how can we expect more community nurses and an increase in nursing numbers when that debate is not yet finished?

The RILU is a good model and deserving of praise. If this government were committed to actually do all the things it has been talking about today, then it would be expanding the RILU. And there is actually a very legitimate argument that we need extra rehabilitation beds, not a reduction in the number of beds and a co-location with another unit.

There have been arguments put forward today in this debate about nursing home type patients and those requiring rehabilitation. And it was Mr Hargreaves who indicated that they need the same clinical treatment regime. So there should be no problem in co-locating them and providing that clinical treatment regime in the same space. I actually do have problems with that argument. We are talking about two different sets of issues here and people trying to get different types of care.

We are not having this debate today—but there is the opportunity to open up the debate—about young people in nursing homes. And that is where I see this debate actually going: we are going to say that that is okay, when actually it is not; we should be doing what we can to ensure that people are cared for appropriately in facilities that are appropriate for them.

There are also other arguments raised about the faith and decision making of officials in the department of health. I see it not as a question of faith or not having any confidence in the decision making of the officials in health, but I think that this plan is a response to artificial economic constraints being put on the department of health when that does not need to occur, when we could actually accommodate these transitional beds in another facility if the government were willing to consider that option. To have one service close or be moved so that another can take its place is not the best health care outcome.

I cannot support the government's amendment because I think it is obvious that, if it is supported, we will not continue to have the same level of rehabilitation beds being provided to the community. I realise that there is an agreement with the NRMA that allows for review after five years of operation, but I cannot see that downgrading RILU is a positive outcome or the best outcome for the community and for health care in the ACT.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Question put:

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

The Assembly voted—

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

Question so resolved in the affirmative.

Motion agreed to.

Pharmacy Amendment Bill 2004

Debate (on motion by **Mr Smyth**) adjourned to a later hour.

Paper
Statement by member

MRS CROSS: Mr Speaker, I seek leave to present a paper relating to the Pharmacy Amendment Bill 2004 and to make a brief statement.

Leave not granted.

Suspension of standing and temporary orders

MRS CROSS (12.42): I move:

> That so much of the standing and temporary orders be suspended as would prevent Mrs Cross presenting a paper and making a statement.

I simply wish to table this petition to the Assembly from the ACT Pharmacy Guild and members of the community. There are 35,000 signatures here to an informal petition that opposes the attempt by supermarkets to establish in-store pharmacies and supports the current system of community pharmacies.

MR CORBELL (Minister for Health and Minister for Planning) (12.43): Mr Speaker, I do not understand why Mrs Cross just did not do it when everyone else tables their petitions, which is first thing in the morning. It seems unusual, Mr Speaker. The normal practice is for a petition to be presented at the beginning of business each day

Mrs Cross: On a point of order, Mr Speaker: the petition could not be tabled in the morning because it was an out-of-order petition, which is why we had to seek leave to do it this way.

MR SPEAKER: That is not a point of order, Mrs Cross.

MR CORBELL: Mr Speaker, the Assembly is now 15 minutes past its usual conclusion period for the morning. If Mrs Cross wants to make a speech about a particular matter that is not on the notice paper, the normal time to do that is during the adjournment debate. Equally, the presentation of petitions that are out of order is usually done by the leader of government business, who is responsible for tabling those petitions. That is how every other out-of-order petition is dealt with in this place and I do not understand why Mrs Cross chooses to do it this way, except that maybe she feels that she has got something more to gain from doing it this way. But there are norms for this place and Mrs Cross has chosen to ignore every one of them in doing this the way she is choosing to do it today.

MR SMYTH (Leader of the Opposition) (12.44): Mr Speaker, that is why you would seek leave to table it. The member sought leave. There was an agreement between the whips and the crossbenchers—

Mr Hargreaves: There was no agreement, none.

MR SPEAKER: Order! Mr Smyth has the floor. Order, Mr Hargreaves!

MR SMYTH: I am told that there was an agreement that this would occur just before the suspension for lunch. That is why we have the provisions that members can seek leave. Mr Corbell makes the case that you have got to follow the rules all the time. One of the standing orders is that members can seek leave to do something. If the member has done that, it is up to the Assembly to decide whether or not she gets that leave.

But I guess it is because of the embarrassment we see from the other side that they do not want this expression of the community tabled and they do not want this expression of the community recognised because they would want it done at some other time. I think what we should do is just put the question, Mr Speaker.

Question put:

> That **Mrs Cross's** motion be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative, with the concurrence of an absolute majority.

Motion agreed to.

Community pharmacy
Paper and statements by members

MRS CROSS: I present documents from 35,000 signatories to an informal petition that opposes the attempt by supermarkets to establish in-store pharmacies and supports the current system of community pharmacies. I present the following paper:

> Community pharmacy—Petition not in accordance with the standing and temporary orders.

I would like to acknowledge the National Council of the Pharmacy Guild from around Australia and also all the local community pharmacies and their pharmacy assistants. I hope that you see this today as an attempt by the government to gag this debate.

MR SPEAKER: Order! Direct your comments through the chair, please, Mrs Cross.

MR CORBELL (Minister for Health and Minister for Planning): I would like to seek leave to make a brief statement.

Leave granted.

MR CORBELL: Mr Speaker, I just want to clarify, for the benefit of members, that in no way is the government seeking to prevent this petition being tabled. We are quite happy for the petition to be tabled; we just did not see any reason why it could not be tabled in the way every other petition is tabled in this place. But nor is the government interested in gagging debate on the issue of pharmacies. In fact, as I will outline to members later today, Mrs Cross's bill would have the effect of banning any pharmacy in the ACT that does not have a crown lease.

Mrs Dunne: On a point of order, Mr Speaker—

MR SPEAKER: Mrs Dunne, if you are going to raise a point of order, you are in deep trouble because you gave Mr Corbell leave to make a statement.

Mrs Dunne: He cannot anticipate debate. He is making a personal statement.

MR SPEAKER: Mrs Dunne, the Assembly has given him leave to speak. It cannot be withdrawn, unless by way of a motion.

MR CORBELL: Mr Speaker, the legislation that Mrs Cross has tabled in the Assembly today prohibits the operation of a pharmacy where the owner of the pharmacy does not have a crown lease; that is, they do not own the premises. Every pharmacy in the ACT where the pharmacist rents the premises from a landowner, from a property owner, would be illegal under Mrs Cross's legislation. I find it ironic in the extreme that Mrs Cross submits a petition from pharmacists and their customers seeking to protect

pharmacies when her very legislation puts in place a requirement that the pharmacy can operate only if it has a crown lease and it owns the premises in which it operates.

Every single pharmacy in the ACT that rents its premises from a landowner or indeed which operates within an enclosed private shopping centre would be operating illegally under either Mrs Cross's legislation or Ms Dundas's amendments. Ms Dundas's amendments say very clearly that the pharmacy cannot operate legally if it is operating within another business which is not a pharmacy.

I think I should draw to the attention of members and indeed people interested in this debate that a business would include a private shopping centre. Woden Plaza, Belconnen Mall, Tuggeranong Hyperdome, City Markets, Wanniassa shops—any of these shopping centres where the pharmacy is conducting its business within a privately owned shopping centre would be illegal under Ms Dundas's amendments. And that is the absurdity and the irony of the situation that we now have before us.

The government is very interested in protecting community pharmacies but it is not interested in legislation that actually drives half the pharmacists in the ACT out of business, and that would be the effect of both Mrs Cross's legislation and Ms Dundas's amendments. It shows the absurdity and the ham-fistedness of attempting to regulate pharmacies in this way.

There are other ways of ensuring a pharmacy does not operate in supermarkets, and the most obvious way and the way that is already in place is the federal government's police, which refuses to allow pharmacies in supermarkets to operate with a PBS agreement so that they cannot sell medicines on the PBS.

That is the position in place at the moment, but what Mrs Cross's legislation means is that if you do not own your premises and you rent them from someone else, as a pharmacist you will be trading illegally. What Ms Dundas's amendments mean is that if you operate your pharmacy in a privately owned shopping centre you will be trading illegally. And it is for those reasons, Mr Speaker, that later in the debate today we will be opposing Ms Dundas's amendments and Mrs Cross's bill.

ACT Planning and Land Authority

The Clerk having called on Notice No 4, private member's business—

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

> That the Assembly now suspend for lunch.

Sitting suspended from 12.55 to 2.30 pm.

Questions without notice

WorkCover

MR SMYTH: My question is to Ms Gallagher as the Minister for Industrial Relations and it relates to ACT WorkCover. Minister, as you are aware, I have written to the Auditor-General outlining my concerns about the expenditure of $1.5 million from the

workers compensation supplementation fund on legal advice. Since then I have been given further information in relation to this issue, which leads me to ask you: does ACT WorkCover have any guidelines or regulations prohibiting employees of WorkCover receiving gifts or hospitality from clients and stakeholders?

MS GALLAGHER: I have to take on notice the question as to whether WorkCover has specific guidelines.

MR SMYTH: Mr Speaker, I have a supplementary question. Can you guarantee that WorkCover and the workers compensation supplementation fund have not been compromised by the receipt of gifts and hospitality?

MS GALLAGHER: Certainly not that I am aware of, at all. I do not know. If you have some information about some use of the supplementation fund money that may have been compromised—

MR SPEAKER: Ms Gallagher, it is open to you to take that on notice, given that you took the main part of the question on notice.

MS GALLAGHER: I am merely saying that what the opposition leader is suggesting is quite serious. I am not aware of anything. Obviously, Mr Smyth is aware of something quite serious. If he could provide us with additional information I would be happy to pursue that fully and respond to the Assembly.

Economic white paper—defence industry

MR HARGREAVES: My question, through you, Mr Speaker, is to the Minister for Economic Development, Business and Tourism. As part of the economic white paper released by the minister, the defence industry was highlighted as a priority industry sector. I also note that the defence and industry annual conference is currently being held at the National Convention Centre. Can the minister outline what BusinessACT is doing to target this sector?

MR QUINLAN: Thank you, Mr Hargreaves. It is quite a topical question, given that that conference is on at the moment and that we have recently had what has been termed a policy release by the opposition in relation to the defence industry; a policy the centrepiece of which was borrowed, I think, from quotations from the economic white paper, which we are quite flattered about; a policy that is, like most of the others I have seen so far, very thin.

The government recognises that the defence and security industry has an employment base of something in the order of 15,000 across the ACT, with a huge spend—hundreds of millions of dollars—directly and indirectly impacting upon the territory. With the current world climate, we expect that the defence and security industry will continue to grow for some time, and that is a sad situation. However, as the saying goes, it is an ill wind that blows nobody good. To some extent, the pressure within defence and security will have a positive impact upon the ACT economy for some time to come.

Action 28, already recognised in the economic white paper, outlined the government's commitment to developing businesses in the ACT that are capable of tapping into the

opportunities that the sector will offer. The government will focus on ensuring that defence procurement takes account of local business capability and that the department of defence is better connected with local suppliers. In addition to that work, we are required to improve the level of retained expenditure in the region.

Other significant aspects of the defence activities include ACT-specific industry capability mapping to market back into the department of defence, connecting new defence needs to the local research and development capability through NICTA, DSTO and others, and offering significant opportunities to turn new defence technology needs into local opportunities.

How are we going to achieve this? We already have dedicated staff working directly with defence, the security sector, through the sector development unit in BusinessACT. We are already developing a defence industry database as part of the capability mapping exercise. We are already working through the Capital Region Defence Industry Committee that has been set up and which operates by connecting most of the businesses that are interested in defence to each other. BusinessACT is, of course, working with them.

Canberra is home to scores of companies providing services and products to the defence industry including ATI, Codorra Advanced Systems, CEA Technologies, CES Solutions, Wet PC Allied Technologies Group, the Distillery and many others. Many of these companies have been recipients of ACT government assistance through the knowledge fund and other programs. Even as we speak, the ACT is represented at the defence and industry conference that Mr Hargreaves mentioned in his question.

This government is working hard to further develop a vibrant sector of our economy and take advantage of the opportunities. We intend to keep producing policies and initiatives like this, which have substance, as opposed to the very thin, glib policy that was put out by the opposition, which borrowed so heavily from the content of the economic white paper that they criticised at the same time.

MR HARGREAVES: Mr Speaker, I have a supplementary question. How does this activity fit in with the overall objectives of the economic white paper? Can the minister inform the Assembly about other initiatives this government has put in place to support business in the ACT?

Mrs Dunne: Mr Speaker, I wish to raise a point of order. I seek your ruling on whether the second part of Mr Hargreaves's supplementary question fits with the original question.

MR SPEAKER: How does this activity fit in with the economic white paper? I think that is relevant.

MR QUINLAN: Thank you, Mr Speaker. Through the economic white paper we identified nine priority business sectors. So I expect to see at least nine thin policy papers coming from the other side sooner or later—ICT, Biotechnology, defence, public administration, sports science and administration, environment management, space science, creative industries and education.

Similar work to that which I have described for the defence industry is occurring in all those industries now. We are supporting, in any way we can, the development of these industries in Canberra through national and international partnerships and direct support through the knowledge fund and other programs, ensuring that as many Canberra businesses as possible are open to the opportunities as they arise.

To do this, government has in place a wide range of initiatives designed to enhance and support business in the ACT, including:

- $14.4 million in program support for ACT businesses announced in the 2004-05 budget—over the knowledge fund, the export growth program, the business employment-ready program, the business acceleration program, the industry capability network and a proposed new mentoring program for technology based industries;
- a record increase of $28.2 million for tourism promotion and marketing over the next four years;
- $10 million to support the Canberra-centric commercialisation fund, as a base for that fund;
- $9.5 million for VET places to support the demands for apprenticeships and traineeships;
- in the area of government procurement, replacement of the Canberra Regional Industry Plan—CRIP—process with a new pre-tender consultation process for local industry;
- a record $330 million in the capital works program; and
- sound economic management.

The government has also made a substantial investment in NICTA, a project that we believe will become the focus for innovative ICT development and commercialisation in the ACT. As I said, we will be working hard over the next few months leading up to the election to acquaint the electorate with the difference between substance and glib, thin, painted policy.

Bushfires—briefings

MR PRATT: My question is to the Minister for Police and Emergency Services, Mr Wood. Minister, in response to a question from me yesterday, you advised the Assembly that:

> …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.

Minister, did you participate in the twice-daily planning meetings held at the Emergency Services Bureau in that period each morning and afternoon? When you were not at the ESB, how were you briefed about significant developments in the bushfires and what were you told?

MR WOOD: You know my view on who has responsibility for going into great detail on this. Mr Pratt, if by "planning meetings" you mean the morning and afternoon sessions when all the personnel of the ESB get together to understand the forecast, read about the conditions and indicate what is going to happen during the day, I was there for the morning session. I did not attend the afternoon sessions bearing in mind that I was also a minister with a range of other activities to carry out.

I had many informal discussions over that period about issues mainly centring around whether we could hold the fire, what the future was, whether it would get into the pine forests and other questions of that nature. That is the extent of it, Mr Pratt.

MR PRATT: Minister, did you brief Mr Stanhope, as the man who would act as minister on that fateful Saturday, about the progress of the bushfires on Friday, 17 January 2003 and, if so, what did you tell him?

MR WOOD: Mr Stanhope became acting minister at that time. We had had an extensive briefing on the Thursday—wasn't that when we had that briefing?—with Mr Castle and others, and Mr Stanhope was pretty much as informed as I was as to what was happening.

Asbestos

MS TUCKER: My question is to the Minister for Health. Minister, I think you are aware, as is the Chief Minister, that there has been a series of letters to you both from Elizabeth Thurbon regarding asbestos in Canberra. As you are aware, she is concerned that there is potential for people to contract the disease asbestosis, particularly, from renovating houses. She is concerned that there is still a lot of ignorance in the community about that and that people will not necessarily know it is there, even if they see it, because they do not understand the implications or know what it is.

They have been asking that the government bring in some kind of alert system that is triggered when a house is sold—basically, a mandatory report, which would come with the building inspection, of the existence of asbestos, so that the buyer knows if the house has asbestos and where it is. With that alert will come notification of the dangers of sanding it or drilling into it, et cetera.

As I understand it, you do not think that there is need for more education on this, but can you tell the Assembly whether you would be prepared to bring in some kind of alert system of the nature Mrs Thurbon has been talking to you about?

MR CORBELL: I will take the majority of the question on notice because these are issues that are being dealt with across a range of portfolios. I will be happy to reply in some more detail to Ms Tucker when I get that information together. What I can say is that the issue of asbestos in dwellings is of concern.

The difficulty with Ms Tucker's suggestion is that asbestos is very difficult to formally identify without testing the material. For example, there is a range of sheeting used in different types of dwellings, dating back many decades, some of which may be asbestos based and some of it not. The only sure way to know exactly what is in that material is to

test it. That is quite a burdensome and difficult task, which in general has not been seen as something that should be done as part of the normal conveyancing process, although it would clearly need to be dealt with whenever someone seeks to renovate their home, either by themselves or by using a builder.

The issue is a complex one. The Health Protection Service advises people on handling asbestos to ensure that it is handled only by people who are qualified to do so. I am very happy to make the cross-government response available to Ms Tucker when I have spoken to my colleagues and have that information together.

MS TUCKER: Mr Speaker, I have a supplementary question. For your consideration, Minister, could it be an alert system particularly for houses that were built before 1983? I understand that they are the risk.

MR CORBELL: A balance has to be struck here. Many people react adversely to the notion of even being aware that there is asbestos in their home, even if it is entirely safe because of the state it is in. As long as it is not disturbed by sawing, drilling or cutting, it remains inert and safe. It is fair to say that many dwellings built over the past 20 to 30 years have some asbestos product in them, particularly in the bathrooms, where asbestos sheeting was used as a waterproofing feature and for laying down tiles and things like that. The issue is not as straightforward as you suggest, Ms Tucker, but I am happy to provide further information to you and to continue the discussion on that basis.

Civic library development

MR CORNWELL: Mr Speaker, my question, which is to the Minister for Urban Services, Mr Wood, concerns the $14 million Civic library development. Minister, on Tuesday 1 June this year you commented during the 2CC morning radio news that the reason the project had been delayed for the last two years, thus meaning that it would cost more than originally budgeted, was the wait for planning approval from the National Capital Authority.

However, in the 2003-04 budget—last year's budget—there is a footnote at page 434 of budget paper 4 regarding this library link, which states, "In prior years $1.1 million has been spent in order to finalise a design that has received approval from the National Capital Authority." Can you explain the discrepancy? On the one hand you are saying that it has been held up and the budget is overrun because you did not have National Capital Authority approval and yet, as I say, in the 2003-04 budget you state that it had received approval.

MR WOOD: I do not know that there is any discrepancy at all. What period of time are we talking about here? This first came to notice when Mr Smyth went across the square and announced that there would be a library and an extension to the link. I am not sure even what year that was. It would probably be the year 2000—perhaps early 2001. I am not sure of the exact date when it was first raised.

Designs were prepared and submitted. That is when the National Capital Authority said, "Uh-uh, you can't do that." So it was back to the drawing board. That is certainly what I had in mind when I was answering that radio question, or whatever it was. That held up matters by a year or more. I cannot be too specific about the precise time but it certainly

took a long time. Then there was traffic backwards and forwards and eventually the National Capital Authority gave approval.

Mr Cornwell mentioned a footnote. I can check the details for clear accuracy but I am not sure that their final sign-on approval was till some time later than that. Certainly, there was approval in principle that, yes, if we needed to come out into the square they would agree with that, and I think there was a bit more detail to come. So the approval in principle was given to that.

Reference was made to an overrun on budget. It was more a planning issue. There was $1 million or so rolled over for the planning and I think a little more was provided—a figure of $300,000 comes to mind somewhere there. It was all just rolling on. It was a lengthy process—as simple as that.

Bushfires—coronial inquest

MR STEFANIAK: Mr Speaker, my question is to the Minister for Police and Emergency Services. Minister, have you been invited to provide evidence to the coroner's inquest into the 2003 bushfires? If so, when? Have you provided a written statement to the coroner's inquest about your involvement in the fight against the bushfires?

MR WOOD: At this stage, no.

Executive—additional staff

MS DUNDAS: Mr Speaker, through you, my question is to the Chief Minister. Chief Minister, on 19 May 2004 I asked, in estimates, the following questions, which still have not been answered some 36 days later. So I shall ask again. They related to the budget papers indication that there is an extra $299,000 for additional staff for the ACT executive. My questions were:

1. How many additional staff are to be engaged with this money?

2. What level are those staff to be appointed at?

3. What work are they being engaged to perform?

MR STANHOPE: I will pursue the answer to that question, Mr Speaker. I apologise for the delay in responding.

MS DUNDAS: I would also like to know, Minister, whether or not an explanation could be provided about why this question was not answered during the estimates process.

MR STANHOPE: I have just answered the question.

Vardon report

MRS BURKE: My question is directed to the Chief Minister. On the 19th of May this year, it was reported in the *Canberra Times* by Emma Macdonald that you would have your department investigate who was responsible for the leaking of the Vardon report

and how it happened. Chief Minister, given similar comments made by you on commercial television news highlighting how disappointed you were and that you took the leak on the report "very seriously", when did this investigation occur and has it been completed? If so, who was involved? How was the investigation conducted and what was the outcome?

MR STANHOPE: I thank Mrs Burke for her question. I did take the apparent leak of the Vardon report extremely seriously. I regard it as an extreme breach of public service discipline, and indeed of the essential responsibility by public servants to retain information as confidential, to respect it, to deal with it only with the appropriate authority, and to not release it inappropriately. I regard all leaks of any information by public servants of information provided by ministers or government as quite grave and serious issues.

I continue to be concerned that details of the Vardon report were provided to the *Canberra Times* I think on the very day that the report was provided to me. I instituted an investigation and inquiry. I directed the chief executive officer of the Chief Minister's Department to undertake a rigorous investigation, an internal inquiry, in relation to the release of information contained in the Vardon report. The chief executive did that by identifying each of those officers within the department that had been provided with a copy of the report or had information in relation to the report perhaps or potentially made available to them.

I understand that the chief executive required or demanded of each person in the ACT public service that either had had a copy provided to him or her or had had access to information contained in the report to provide him with a written statement of his or her involvement with the report and sought from him or her a declaration as to the appropriateness or otherwise of his or her handling and treatment of that particular report and information.

The matter was treated extremely seriously. Directions were given to all officers within the ACT public service that may have had access to the report to give an explanation or undertaking in relation to the way in which they dealt with or handled the report or information in relation to it. As a result of that, there was no explanation provided by anybody identified as having had any contact with the report as to how information contained in the report might have been relayed to the *Canberra Times* or to any journalist. The chief executive of the Chief Minister's Department then advised me that he saw nothing to be gained by further pursuit of the inquiry.

However, let it be said that I regard it as an extremely serious breach of professional and ethical standards by a public servant somewhere within the ACT public service. I take it extremely seriously. I have advised the chief executive officer that, as a result of the level of my dissatisfaction with this breach, on the next instance of what I regard as a serious breach of professionalism, standards or security within the ACT public service, I will expect a full police inquiry of him.

MRS BURKE: Mr Speaker, I have a supplementary question. Chief Minister, why did you choose not to have the Australian Federal Police investigate the leak, as is commonly the practice with serious issues, given the very serious nature of the report relating to the care of children by the territory?

MR STANHOPE: In this instance, I chose to direct the chief executive officer to undertake an internal inquiry. I took the decision in this instance that that was appropriate on the basis of the rigorous nature of the inquiry. I was satisfied but I have indicated to the chief executive—

Mrs Dunne: Mr Speaker, I rise on a point of order. I ask the Chief Minister to direct his comments through you as required under standing order 42.

MR STANHOPE: I was satisfied with the nature of inquiry in this particular instance. I have, as I said in answer to my question, indicated to the chief executive officer that, if there is a repeat of the seriousness of the nature of this particular inquiry, I will involve the police on the next instance.

Pharmacy Amendment Bill 2004

MRS CROSS: My question is to the Minister for Health, Mr Corbell. Minister, did you employ any coercion, bullying or similarly persuasive tactics to elicit the remarkably timely appearance of a letter to you from the chair of the Pharmacy Board, Mr Paul O'Connor, urging you not to support the Pharmacy Amendment Bill 2004—

Mr Hargreaves: Point of order, Mr Speaker: this question is anticipating something on the notice paper to do with the pharmacy bill that will be debated later on this afternoon.

MRS CROSS: No, it is not anticipating the debate—

MR SPEAKER: Would you repeat the question, please, Mrs Cross?

MRS CROSS: Repeat it?

MR SPEAKER: Yes.

MRS CROSS: Minister, did you employ any coercion, or bullying or similarly persuasive tactics to elicit the remarkably—

MR SPEAKER: Thank you for repeating that. There are some pretty strong imputations there and I order you to withdraw those.

MRS CROSS: I will withdraw and rephrase, Mr Speaker.

MR SPEAKER: Thank you.

MRS CROSS: Minister, did you at any stage use coercion or any persuasive tactics to elicit a timely appearance of the letter to you from the chair of the Pharmacy Board—

Mr Hargreaves: Point of order, Mr Speaker: that is suggesting that the minister may have used coercion.

MR SPEAKER: Order! I think you should rephrase that. I do not think you should accuse a minister of coercion. I think that is an imputation.

MRS CROSS: Actually, Mr Speaker, I am asking the minister, not accusing.

MR SPEAKER: There is an imputation there.

MRS CROSS: May I rephrase the question, Mr Speaker?

MR SPEAKER: Yes.

MRS CROSS: Minister, at any stage, did you discuss or have anything to do with the letter from the chair of the Pharmacy Board, Mr Paul O'Connor, urging you not to support the Pharmacy Amendment Bill 2004?

Members interjecting—

MR SPEAKER: Order, members please!

MR CORBELL: Mr Speaker, I think Mrs Cross is a big fan of *The X Files*: the truth is out there and ultimately all conspiracies will be proved. There is some giant web of entangled conspiracy designed to undermine everything that she does in this place and to support everything that she does not agree with in this place. If only the world were so simple! I am afraid that it is not the case, however.

Yes, Mr Speaker, I had a meeting with the Pharmacy Board at its request—

Mr Stanhope: On Phillip oval?

MR CORBELL: No, not on Phillip oval but I am sure that there was some attempt to implant in my mind some sinister plan to undermine Mrs Cross's views about Phillip oval.

Mr Hargreaves: Was it a Trojan horse?

MR SPEAKER: Order, Mr Hargreaves!

MR CORBELL: However, I did meet with the Pharmacy Board last Friday at its request to discuss a range of pharmacy issues, including the issue of Mrs Cross's legislation. At that meeting, the chair of the board indicated to me that the board was most concerned about the nature of Mrs Cross's legislation. The board indicated to me that it did not support that legislation because it believed that the legislation would fundamentally undermine the operation of community pharmacy in the ACT.

I suggested to the board that it would be appropriate for it to formally inform me of its position. That is what occurred and I have made that letter available to all members in this place so that they can be aware of the views of the Pharmacy Board—which advises me on issues as they affect the regulation of pharmacies in the ACT—and can rethink the fatally flawed, redundant, ham-fisted and absurd legislation put forward by Mrs Cross, which would result in the closure of dozens of currently legal and operating pharmacies here in the ACT.

MRS CROSS: Minister, do you or do you not support the concept of pharmacies operating out of supermarkets?

Mr Corbell: Point of order, Mr Speaker: that is not a supplementary question.

Mrs Cross: It is just a general question, Mr Speaker. What was the answer?

Mr Corbell: I took a point of order that it was not a supplementary question.

Mrs Cross: It is a supplementary.

MR SPEAKER: It is not a supplementary question and it could quite easily be argued that it is an attempt to anticipate the debate.

Child protection

MRS DUNNE: My question is to the Minister for Children, Youth and Family Support, Ms Gallagher. Yesterday, in response to a question from Mr Cornwell, you implied that no minister or official should be held accountable for the breaking of section 162 (2) of the Children and Young People Act 1999, because your department did not have enough resources to comply with it.

Minister, your department did not make even the slightest effort to follow the law, even though it was in the clear interest of vulnerable children that it did so. Why aren't you prepared to hold people accountable or to be held accountable for breaking the law? Why do you have this attitude that, even though it is clear that your department decided that it did not have to follow the law and did not make the slightest effort to do so, they can get away with this?

MS GALLAGHER: We can keep going around this issue, and we have since it emerged in January. Every sitting period I have been asked a variation of this question. I do not think anyone has got away with anything through this process. It has been a sad and difficult time for everyone who had been involved in child protection in the ACT, including this Assembly, I should add.

We have gone through a rigorous process: there has been an independent review, there have been recommendations made in that review; and the government have accepted recommendations. We have poured additional resources into this area; we are attracting new staff to this area. I again extend the challenge to the opposition to indicate to me where, at any stage of their reading of the report, they can identify one person who should be held responsible for the issues outlined in the Vardon report—all of the issues outlined in the Vardon report.

There was one area of one statutory obligation that was not met. It was a very important statutory obligation. But through this process it has become clear that, even though this area was underresourced and challenged on a number of fronts, the department met the crisis needs of children in the care of the territory. They have done a very good job in very difficult circumstances. There was an area of one part of one statutory obligation

that was not met. That area has been analysed, reviewed and reported on, and the government has made its decision.

I know the opposition have a lot of difficulty with this because they would really like someone to be sacked over it. They are not quite sure who it should be, but they would really like someone to go.

Mr Cornwell: There are about eight on page 112.

MS GALLAGHER: You can name them. Name the people you would like to see sacked over this! Start with Bill Stefaniak for his role in it. That's where it all started.

Mr Stefaniak: Check your facts.

Mrs Burke: That's not true. Good try.

MS GALLAGHER: You don't like that? Well, you tell me who the eight are that you would like to see sacked. The government has made its decision. I know you are uncomfortable. You did not want scapegoats. No—from day one Mrs Burke wanted to sack the entire child protection workforce! They are the people that should go! Then ministers and chief ministers had to be sacked. Chief executives who were stood down could not be scapegoats.

Mr Stanhope: I think Simon Corbell had to be sacked as well at one stage.

MS GALLAGHER: Yes. Mr Corbell, the Chief Minister and I had to be sacked. You are just all over the place on this issue, Mrs Burke. The government has made its decision. You have a problem with it. You cannot accept the fact that the reform process is under way, that the challenges we were faced with have been met and that we are moving on. You can't cope with it, so keep digging around and name the eight people you would like to see sacked!

MRS DUNNE: Mr Speaker, I have a supplementary question. Minister, why don't you consider that the clear and repeated breaking of the Children and Young People Act by the then chief executive of the education, youth and family services department made her unfit to act as the territory parent or to meet any other statutory responsibilities she may have?

MS GALLAGHER: I have answered this question a number of times. I have been through it, and I will go through it again. There were a number of reasons that led to section 162 (2) not being met. You can all read about it if you take the time to read the Vardon report. The chief executive in question is no longer the territory parent and no longer holds those statutory obligations, but the government's position has been that there was a whole range of reasons that led to this non-compliance. That is what the Vardon report says. After our considered reading of the Vardon report and discussion of it, we made a decision that it was not appropriate for one single individual to be held accountable for the failings in family services over a number of years and under two governments.

Nurses—enterprise agreement

MS MacDONALD: Mr Speaker, my question, through you, is to the Minister for Health, Mr Corbell. Minister, there has been a lot discussion recently about the negotiations surrounding the nurses enterprise agreement. Minister, can you advise the Assembly how the ACT government's current wage offer to ACT nurses compares to recent outcomes in other jurisdictions?

MR CORBELL: I thank Ms MacDonald for the question. I think it is a timely question, given the current debate around the adequacy or otherwise of the ACT government's current pay offer to nurses. I thought it was useful, Mr Speaker, to take the opportunity to put on the record the ACT government's position.

Mr Speaker, let us look at the whole range of the nursing workforce, starting with enrolled nurses. Enrolled nurses in the ACT, on the date of certification of the new agreement, will receive a salary of $42,573 at the top of the range. Compare that with the agreements which have recently been signed up in South Australia, Victoria and Tasmania. In Victoria, enrolled nurses will receive a maximum of $42,453 or just under a hundred or so dollars less than what the ACT government is offering; in South Australia, only $40,851 or a full $2½ thousand less; and in Tasmania, $41,937 or approximately $1,000 per annum less. The ACT has put enrolled nurses in a very strong position. In fact, these nurses will be the best paid enrolled nurses in the country, when you look at this current pay offer.

In addition, Mr Speaker, we are proposing a new level, enrolled nurse level 2, with a factored rate of $40,000 per annum, rising to $43,286 after certification after two years. Compare that with the EN special grade in New South Wales, the equivalent rank, which is only $39,504 or a difference of close to $4,000 per annum. That is just in our lowest paid, lowest level of the nursing workforce.

In relation to registered nurses, which of course constitute the bulk of the nursing workforce in the ACT, I am very pleased to advise members that the pay rise for new graduate registered nurses has gone from 10.1 per cent to 12½ per cent. The pay rise for registered nurses at the top of the salary scale remains at an 18.4 per cent wage increase. This will see registered nurses level 1 receiving $59,454 after two years. Compare this, Mr Speaker, with the other states: in Victoria, only $45,189 or a full $15,100 difference; in South Australia, $57,000 or approximately a $2,000 difference in favour of the ACT; and in Tasmania, $56,000, again another $2½ thousand in favour of nurses in the ACT.

Mr Speaker, these are just some examples of the rates of pay which the ACT government is now offering to the nursing workforce. It is offering a comprehensive range of conditions of service as well as rates of pay which will make our nursing workforce one of the most attractive in the country in terms of employment conditions and rates of pay.

I would also like to quickly address the issue of higher-level nurses, Mr Speaker. When you look at this, again, we perform very well. In regard to registered nurses level 3, a significant area in our nursing workforce, our wage offer will see a top-of-the-range payment of $74,062 after two years. Compare this with the other states: in Victoria, only $71,407 or a $3,000 differential in favour of ACT nurses; in South Australia, $76,356—

we're about $1½ thousand behind there; and in Tasmania, $72,216, where again we're a couple of thousand dollars in front.

Mr Speaker, the ACT has a very competitive pay offer on the table. No-one can doubt the accuracy of these figures and no-one can certainly suggest that the ACT is offering an inadequate pay offer when it comes to our nursing workforce, a very important workforce, which we want to value, retain and recruit further to into the future.

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

Supplementary answer to question without notice
Policing—Manuka

MR WOOD: Mr Speaker, I have a question left over from yesterday from Mr Stefaniak about policing in Manuka and Kingston. I can advise that over the second half of last year, south district patrol had capacity to operate additional dedicated patrols in Manuka and Kingston under the umbrella of Project Fearless. These were occurring on Friday and Saturday nights during the warmer months in response to peak activity in this area and were additional to standard patrolling by south district officers.

With the expiration of Project Fearless, that extra activity has now been returned to the rostered dedicated patrol, which varies between Friday and Saturday night. And, of course, standard patrols are still available to respond to incidents there, as in any other area within the south district.

Pharmacy Amendment Bill 2004

Debate resumed.

MR SMYTH (Leader of the Opposition) (3.16): Mr Speaker, the opposition will be supporting Mrs Cross's bill. We certainly support the intention of the bill and we support the intention of the amendments to be moved by Ms Dundas. There are some dilemmas as to whether the bill and the amendments actually achieve what they want to do and I understand there is agreement that we will go through the in-principle stage and come back to the detail stage later in the day to address this issue.

We in the opposition think it is important to keep pharmacies out of the supermarkets, out of the chains, for a very simple reason. Pharmacies are what we can call community glue. These days they are the vital shop in a shopping centre that actually holds shopping centres together. They are the vital difference between what might go on in a small suburban centre and a large shopping mall.

I want members—some may remember and some may not—to hark back to the days some time ago during the buyback of pharmacists' provider numbers when Rivett lost its pharmacy. The removal of the pharmacy killed that shopping centre. You can make a case that people from Rivett can go down to Cooleman Court, which is the nearest large shopping centre that has a pharmacy, and to other suburbs which still have pharmacies. The effect of the removal of the pharmacy from Rivett was that the whole of the Rivett shops and the surrounding community suffered. The Rivett shops effectively died.

Rivett has quite a large ACT Housing population. A large number of the residences in Rivett are owned by ACT Housing. I think it is acknowledged that Rivett is probably not as well off socioeconomically as some of the other suburbs that surround it. When the pharmacist went, the doctor stopped coming and the butcher closed down. Before that happened I think Rivett had two supermarkets. One of the supermarkets went under, and for a long period I think there was a small corner store-type supermarket with a newsagency in the Rivett shops. That was the effect of losing the pharmacy.

You can say, "Well, all right, that's a commercial decision. The pharmacist closed up, he sold back his number to the government," or whatever occurred. But it is what is lost beyond that that worries me about supermarkets controlling pharmacies in the ACT. And that is what will happen. The buying power of the chains will ensure that they control pharmacy in the ACT.

It is a matter of what we lose. It is not just the scripts; it is not just the ability to go and get the script. It is the allied health, I guess you would call it, that goes with picking up a script. As well as the antibiotic, you have to get some cough mixture, some throat lozenges, a chest rub or something else. When you look at it, the front line in health care is our pharmacies and our GPs. The people we actually go and chat to first are our pharmacist and/or our GP. Often, the pharmacist will refer you on to your GP or some other form of appropriate health care.

I am not against supermarkets and I am not against chains. They serve very useful functions. But I do not believe that you will get that same level of service from a pharmacist who is an employee in a chain supermarket that has got targets and different objectives. You will not get the personalised care and attention that you will get in your local pharmacy. It is about history and it is about local knowledge. In many ways, often the pharmacist is the only friend a lot of people have got. They chat to the pharmacist and their newsagent once or twice a week. That cannot be replicated inside the supermarket. So it is not just the scripts: it is the additional advice that you get on how to use products; it is the additional service; it is the chat; it is the home delivery.

A number of pharmacists have aged care facilities in their area, and they pack the pills for the older Canberrans who live in those facilities. I will bet you that would not happen in a chain store run supermarket. That is my prediction. People with mental health difficulties also use their pharmacies as a first port of call. I am sure that most, if not all, of the pharmacists I know pre-pack the medication required by people with mental health issues. I bet you that will go out the window with a pharmacy that is run with a bottom-line profit motive. Let us face it, supermarkets want pharmacies in their stores to entice people to buy more; it is to make a profit.

I would worry about the government services that pharmacies currently offer. For instance, will supermarkets offer methadone programs? That is a good question. We know that, say, the friendly societies—the big chains that operate in other cities—do not offer nearly as many of the services that government want delivered right in the community, right in the suburbs. These are services that your local pharmacists have offered for years and will continue to do so. Often, local pharmacies are handed on from parents to son or daughter. We want services delivered on behalf of the community but I question whether the ACT government would get the same level of penetration out in

the suburbs that community pharmacy currently delivers. My bet would be that the answer to that is also no.

The other advantage is that pharmacists are genuine small business people. Forty-six owners of pharmacies are Canberra residents. They live here, reinvest here, spend here and the profits they make stay here. The profits stay in the community, they come back to the ACT government, they come back to the people of the ACT. That would not happen if pharmacies were allowed to operate in supermarkets, because the profits from the large supermarket chains go out of the ACT. Let's face it, they go straight out the door. I do not see why we should hand over those profits to the chains as well as lose a community asset, the community glue that pharmacy is.

It is important to make the point that we are not against supermarkets and we are not against chains per se. What we are in fact in favour of is building up local community shops so that they can service their communities. That is why we will be supporting the intent of this bill today, subject to amendments being made to achieve its objectives.

I think it is very important in this day and age that we spread into the community as much as we can the ability to deliver services at all levels across all socioeconomic groups, against all price points. But if we lose things like newsagencies and pharmacies from our local shopping centres—and a number of them have gone—our shopping centres will become unviable and there will be a cost to government. Government will either have to renew shopping centres and do their best to keep them afloat, even through refurbishments or community-based programs, or actually knock down shopping centres that have died, in which case these facilities will be lost entirely to the community.

The community makes a decision. Sometimes the community votes with their feet. They go down to the local supermarket, to a regional centre or to a bigger centre. That is the community's intention; that is the community's choice. But I think we ought to be saying that we will do our best to keep local shopping centres alive for as long as we can by ensuring that they have the components that people are attracted to. That is why we will vote for the intention of this bill.

My concern is that we will have a number of Rivett shops. Rivett is now coming back but it has taken about 10 years for it to do so. However, the whole nature of the shopping centre has changed. It still does not have a chemist. The problem is that once these services are lost they often do not come back.

If we are concerned, for instance, about competition policy, we should be mindful that there are 46 family-owned, individually owned, pharmacy businesses in the ACT. That is real and genuine competition. These businesses are organised into a couple of different buying groups. That is real and genuine competition. I think what we ought to do is look beyond that competition issue. The Prime Minister has already said that if he receives a letter from jurisdictions, he is not going to force it; he is not interested at all in extending it to supermarkets.

How do we bolster the delivery of services into the communities? One of the ways of keeping our communities viable is to provide what I have called the community glue. I think the best way we can do that is ensure that the supermarkets do not gobble up pharmacies as they have done so many other things.

How many communities do not have a butcher because the local supermarket has put a butcher in and effectively priced out the community butcher? How many suburban shopping centres these days do not have a greengrocer anymore because the big food chains, through their supermarkets and their buying power, have gobbled up the community grocer? For a long time, Chisholm shops, for instance, did not have a grocer. We have just got one back, and it is quite useful to have a local chap who lives in the area providing those services.

We have been quite lucky with Chisholm, which is my shopping centre. We have maintained both our butcher and our newsagent, and we have got a pharmacy as well. Chisholm shops have survived very nicely. But there are a number of other shopping centres in that part of Tuggeranong and in the surrounding areas that have suffered because once the glue goes out of the community, the community falls apart.

We have a number of reasons for backing this bill. First and foremost, we believe the local pharmacy system is working well; it is working effectively. I think it is delivering cost-competitive price on items—there is competition between various pharmacies. And pharmacies deliver so much more. They deliver the sort of service that we all like—that personalised attention from well-trained staff who are there to meet our needs and with whom over a period of time we have built a relationship. From that relationship comes trust, so that when you have a personal health issue you can actually talk to somebody. Often that person is your local pharmacist.

Given that doctors are not necessarily located in a lot of shopping centres these days, the pharmacist is often the easiest and most accessible person you can speak to. I do not believe people get the health care they deserve if they cannot talk to a person they trust. Trust is at the heart of delivering health services and the person that I believe we trust most often in our local shopping centre—if I were asked for my personal preference, I would say the local newsagent—is our pharmacist. We have to keep that trust in the community.

We then have all the add-on services—the additional advice, the service they provide, the home delivery and all those bits and pieces that only a local person will take the time to deliver. Let's face it, certain supermarket chains do not. And then there is the economic advantage to the ACT in that these are local businesses owned by real local people. They have made the effort, they have invested in their local community, they live here, they have raised their families here and in the main they retire here, and some of them have recently even used RILU local services. These are people that we know and trust, and we should support them. It is for all those reasons that the opposition will be supporting the bill.

I understand there is some dilemma about whether the bill actually achieves the purpose that it seeks to achieve. Ms Dundas has pointed out at least one error with it and she has circulated an amendment that she will bring before the house. We support the intention of her amendment, although there is some conjecture as to whether it actually achieves its purpose. We will support the passage of the bill through the in-principle stage. We would be happy to agree to the debate being adjourned. We will seek advice throughout the course of the afternoon as to how we can make this bill achieve what it sets out to do.

MR CORBELL (Minister for Health and Minister for Planning) (3.29): Mr Speaker, the government will not be supporting this legislation. It will not be doing so because the legislation does not do what it tries to do.

We have just heard a warm and cuddly speech from Mr Smyth about how great pharmacists are. We agree: pharmacists perform an important service in our community, as do many other professions, and pharmacists deliver important services in a range of ways that everyone in the community values. But there is a big difference between making the motherhood statement that pharmacists deliver important services and then saying, "And that's why we are going to support this bill," without critically looking at this bill and making a judgement about whether the bill actually sets out the intent of what it is claimed it is trying to achieve.

The stated purpose of this bill is to ensure that pharmacists in the ACT operate out of their own premises and not as sub-lessees of supermarkets. Mrs Cross believes that the bill will strengthen the pharmacy legislation that stipulates that pharmacies must be owned and operated by registered pharmacists, by prohibiting pharmacists operating a pharmacy as a sub-lessee.

The explanatory statement accompanying her bill states: "This bill will not affect any pharmacist currently operating in the ACT, including those operating in shopping centres and town centres". This statement is not correct. It is not correct particularly in relation to pharmacies operating in the larger corporate-owned and operated shopping centres where the centre's owner and/or operator holds the crown lease for the land on which the centre is built. In fact, the majority of the pharmacies in the ACT would be seriously and adversely affected by Mrs Cross's proposal.

And this is why: in the ACT, land is held by lessees under a crown lease. These leases are granted under the land act and they are currently granted for a set term—typically, 99 years. Mrs Cross's bill requires that "A registered pharmacist must not carry on a pharmacy business as owner at premises unless the pharmacist is the lessee of the crown lease for the premises; and the crown lease is registered under the Land Titles Act".

The owner/operators of large shopping centres such as those at our town centres—Woden, Tuggeranong, Belconnen and Civic—hold crown leases. However, the pharmacies in these centres do not. Pharmacies in these centres have sub-leases for their shop space rather than a separate crown lease. Therefore, the Cross bill would have the effect of placing the owners of any pharmacy that did not have a crown lease in breach of the law. They would, quite simply, be trading illegally. It would also have a secondary effect of making it difficult for the owners of such a pharmacy to sell the pharmacy business, as the intending purchaser would also be at the risk of being in breach of the law unless they were able to obtain a crown lease for the business.

The mechanism that Mrs Cross proposes in this legislation to achieve the outcome she is looking for is so fundamentally flawed that it would result in every single pharmacy in the ACT which rents its premises, either in a small centre or in a large shopping centre, being held in breach of the law and trading illegally.

As members will be aware, the Pharmacy Act specifies that the act is to be administered by the Pharmacy Board. The board's primary responsibility is to maintain the standards of pharmacy practice. I do not think it would be sensible for the Pharmacy Board to be responsible for oversighting the leasehold arrangements of pharmacy businesses and I doubt that the board has the capacity and/or the capability to monitor business leases in accordance with the Pharmacy Act, modified as the bill proposes. Further, the Pharmacy Board does not have regulatory powers under the Land Titles Act, making this mechanism even more unworkable.

In fact, the bill is opposed by the Pharmacy Board, which has advised me that if the bill is passed as presented, pharmacies would have to buy the complex in which they are located or be forced to leave their shopping centre. The chairman of the board has advised that this would mean that most shopping centres would no longer have a pharmacy. This would inconvenience the public, leaving many of them without a pharmacy at their local shops. That is how fundamentally flawed this legislation is.

I would also like to address the proposed changes that I understand have been discussed by some members, in particular a change being proposed by Ms Dundas as an amendment to this bill. From what I have seen, the amendment states that a registered pharmacist must not carry on their pharmacy business as owner "(a) on or inside the premises of a supermarket or any other business other than a pharmacy; or (b) at premises (i) that are adjacent to or partly inside the premises of a supermarket or any other business other than a pharmacy, and (ii) where customers have direct access from the premises of the pharmacy to the premises of the supermarket or other business".

This amendment appears to have the intention of preventing a pharmacist from opening up a pharmacy within a supermarket. I have been advised in no uncertain terms that the amendment would also prohibit a number of other pharmacy operations in the ACT. For example, in the first case I am advised that a pharmacist's shop may consist of two interrelated businesses. The "back shop" is where pharmacy is practised—that is where the medicines are dispensed. The "front shop" is where general retail takes place. The two shops are generally run as two different businesses with different business structures. The practice may be for the "front shop" to rent the premises. The prohibition on the pharmacist from carrying on business "inside the premises … of any other business other than a pharmacy" would cast doubt on the common market practice that I have just described. It would prohibit an arrangement where the "front shop" leased the pharmacist shop and may prohibit the carrying on of business in conjunction with the "front shop" in other cases.

The amendment is also damaging to the practice of pharmacy in the territory with respect to the requirement for a pharmacy business not to be carried on inside the premises of another business. The shopping centre owners, particularly the owners of the large corporate-owned and operated centres such as Woden Plaza, Tuggeranong Hyperdome, Belconnen Mall and Civic, are carrying on "non-pharmacy" businesses. The operation of the shopping facility itself is a non-pharmacy business. Therefore, the pharmacies in these centres are operating inside the premises of another business. These pharmacies would be deemed to be in contravention of the act if Ms Dundas's amendment were to be passed.

In addition, there are other pharmacies in the territory where there is another non-pharmacy business being operated within or adjacent to the pharmacy. I am advised in particular of a pharmacy in Campbell that also has operating as part of its business a post office shop. Clearly these provisions, as proposed by Ms Dundas and Mrs Cross, would result in that pharmacy also having to close down.

The Pharmacy Board has advised me that most pharmacies are located in complexes that sub-lease space to the pharmacist. These pharmacists would have to buy the complex in which they are located or leave it if they wanted to continue to trade legally. This would mean that most shopping centres would no longer have a pharmacy.

This is one of the most ham-fisted, awkward and misjudged pieces of legislation I have ever seen in this place. It claims to protect community pharmacies but every single element of it that I have seen either from Mrs Cross or from Ms Dundas has exactly the reverse effect—they actually impinge on the existing operating practices of pharmacy as they exist today and this would result in me, as Minister for Health, having to advise pharmacists that they were trading illegally and they would have to rectify their circumstances.

I do not want to be the minister for health who has to do that. I do not want to write to pharmacists saying, "You are trading illegally because of the legislation passed in this place by the crossbenchers, with the support of the Liberal Party." That is why I am saying to members today that this legislation is fundamentally flawed. It will result in the closure of dozens of pharmacies because they will not be able to operate legally under these provisions. It may seem melodramatic, but that is how fundamentally flawed this legislation is. The government will not be supporting it. At the very least, I would encourage members to sit back, look at the issue in some more detail and not seek to pass this legislation today.

MS TUCKER (3.40): The ACT Greens are opposed to the push from supermarkets to include a pharmacy in a supermarket premises. In 2002 the Legislative Assembly supported my Pharmacy Amendment Bill, which we understood at the time would prevent supermarket ownership of pharmacies by ensuring that pharmacists are the only people who can own a pharmacy business. I would just like to recap on a speech I made in 2001 which explains our commitment to pharmacists owning pharmacies. I said:

> Mr Speaker, for many years in Australia, there has been a general presumption that the pharmacies we see in our shopping centres are owned by the registered pharmacists who work within them. In fact, all state pharmacy legislation limits the ownership of pharmacies to pharmacists.
>
> However, in recent years, concern has arisen within the pharmacy profession about the potential for corporations with no particular pharmacy connections to take over the operation of pharmacies and run them as a retail business. For example, a supermarket could operate a pharmacy section within its premises in the same way as it may have a bakery or delicatessen, or a company may want to set up its own chain of pharmacies.
>
> This concern came to a head when the state and Commonwealth governments agreed through COAG to undertake a national competition policy review of national

> pharmacy legislation. This review was completed in early 2000 and came to be known as the Wilkinson review. This review concluded that there is a net public benefit in the existing system of pharmacy ownership, even though this could be considered as a restriction on competition.
>
> The review concluded that the ownership of pharmacies by pharmacists ensured the highest standard of provision of this important health care service—

and a high level of accountability by pharmacists—

> Non-pharmacist corporate structures are more likely to focus on maximising commercial returns—for example, through encouraging greater sales in medicinal and health care products—thus leading to overservicing. Overseas experience also shows that chain store types of pharmacies do little of the across-the-counter counselling that independent pharmacies provide.
>
> The present system of pharmacy ownership also promotes better accountability. A pharmacist who runs their own pharmacy has a personal as well as professional interest in operating their business ethically. However, company directors of a chain store pharmacy—

or supermarket—

> would not have the same professional connections to the business ...

In October last year Mrs Cross introduced a motion to ask the government to investigate the current pharmacy legislation to see if there were any loopholes that would allow the establishment of pharmacies in supermarkets in the ACT. The government response to this motion clarified that "only a registered pharmacist may own the business of a pharmacy ... This does not mean that the building in which the pharmacy business is carried on cannot be owned by a person other than a registered pharmacist or that a pharmacist cannot carry on a business within a larger retail organisation if the business of the pharmacy is carried on by a registered pharmacist".

The government went on to give the example that "if a supermarket operated a pharmacy with a registered pharmacist in charge that would most likely breach the act. As the owner of the pharmacy the supermarket would be carrying on the business of a pharmacist and would therefore be in breach of subsection 42 (1). It is also probable that the supermarket would be in breach of subsection 42 (2). Because the pharmacy was located within the supermarket store it is arguable that the supermarket would be providing a pharmacy service in breach of subsection 42 (2)".

I understand that Mrs Cross's amending bill seeks to address this loophole. Unfortunately, her bill was not examined by the scrutiny committee until this morning. I am on that committee, as members are aware, and we noted that there may be an argument of interference with the right to property in the bill, but there are also arguments of an overall social value that may be served. The committee also noted that there is a possibility that some pharmacies currently operating in the ACT might be affected by the bill and, in this connection, the position of pharmacies operating within shopping malls needs to be clarified.

We also noted that the extent of regulation of the business of a pharmacy as proposed by this bill appears to be wider than necessary to achieve the objective of the bill. Lastly, we noted that bringing about a situation in which a crown lease held by a pharmacist will contain the prohibitions specified in paragraph (c) of proposed new section 48B could require some degree of administrative change and possible changes to the law. These are some genuine concerns about the effectiveness of Mrs Cross's bill. The minister obviously has also expressed strong concerns about this bill and he has passed on a letter with some concerns from the Pharmacy Board of the ACT.

Ms Dundas has prepared an amendment. I have been informed by the chief medical officer and the chief pharmacist that that amendment would also have unintended consequences of affecting pharmacies that already exist in Canberra. This originally would have made the current arrangements of pharmacies in shopping malls illegal.

It is clear that there is a willingness by potentially a majority of members of the Assembly—probably all of them, in fact—to deal with this issue but the dilemma that faces us now is how to do it. I hope that later today we will be able to find a way to carry out the intention of the bill.

I understand that possibly there are some urgent circumstances around the passing of this bill due to developments towards a move of a pharmacy into a supermarket in Canberra. Apparently the pharmacist owns the supermarket and the pharmacist is creating a space in the supermarket for a pharmacy business. There are legitimate concerns here that a pharmacy located in a local supermarket sets a precedent for larger corporate supermarkets like Woolworths to introduce pharmacies into their supermarkets. I understand that Ms Dundas is amending her amendment to try to deal with the particular concerns that have come up. I am seeking some advice on that particular proposal.

During conversations with various stakeholders on this issue, I was interested to see that the government is conducting an internal inquiry into unmet need and access in relation to pharmacies in Canberra. I know that concern has been expressed by a number of stakeholders that they have not been involved in developing the terms of reference for that inquiry. I have asked, through the officers, if I can see where that is up to. I have also asked—and other members of the Assembly might also wish to be involved—whether I can have some input through consulting with the major players and anyone else who is interested in developing these terms of reference.

There is probably an opportunity here for us to look at some of the broader issues. It would not be a bad thing to have a broader inquiry. I would think it would be very helpful if we had an inquiry which had terms of reference that were supported by everyone concerned. At the moment, a number of the people involved are feeling quite alienated from the process and, therefore, have no ownership of it. Therefore, I would argue that it is a problematic process. I hope that we can use this debate today as an opportunity to get from the minister a commitment to look at the potential for broadening that inquiry and involving people in it at this early stage, so that there is ownership of it. We might come up with some interesting conclusions about a very important primary health service in the ACT.

As I said, we will have to wait and debate later on in the day the bill and the various amendments. I will have to get advice on Ms Dundas's most recent amendment before I can say for sure what the Greens will be doing.

MR PRATT (3.48): Mr Speaker, I rise to give in-principle support to the Pharmacy Amendment Bill. I also support our community pharmacies. I would like to make the point that the minister's criticism so far of this piece of legislation is quite unfair. I think it is the height of ignorance for the minister to say that this legislation is fundamentally flawed because of some amendments that were brought forward concurrently with the tabling of the legislation.

Might I remind the minister that last night, in this place, the government brought on 21 amendments to its new OH&S legislation. I am not necessarily criticising that—I am simply making a comparison. Last night 21 amendments were brought on, of which seven related to one clause.

I think we need to be a little fair here and give the MLAs a go. I think the point ought to be made that a couple of sensible amendments do not represent a fundamentally flawed piece of legislation. As I said, in addition to taking the time to deal with its own legislation last night, the government introduced 21 amendments. This legislation deserves to be looked at. It deserves to be supported. The government, in fact, needs to get behind this legislation; the government needs to get behind pharmacies rather than attacking them.

MS DUNDAS (3.51): Mr Speaker, the Democrats have one clear goal in mind today and that is to ensure that supermarkets cannot have pharmacies operating within their walls. We do not want to have supermarkets operating pharmacies in the ACT.

Pharmacies are at the forefront of primary health care in our society and it is important that not only do we have excellent pharmacies but also that the services they provide are accessible and affordable. Pharmacists help with minor ailments and they offer specialist guidance on the proper use of medicine. They are trained health professional who, like doctors, make a commitment to promoting the health of their clients. This is why many offer what are quite unprofitable services and why they feel obliged to advise customers against excessive or inappropriate use of medications. Pharmacists have a focus on social benefits, not just economic ones.

The prospect of supermarkets owning pharmacies is not a positive step for health care in this country. In an ever increasing bid for market share and sales, pharmaceuticals, as with petrol and liquor, would simply become another product to stock on the shelves without thought to the medicinal needs of the community.

Supermarket chains are currently claiming they will bring competition, which will in turn lead to lower prices and more benefits to consumers. What they forget to mention is that their superior purchasing power would in the short term lower prices, but this could force local community pharmacies to cut services and, in many cases, close down.

This has been the overseas experience. In the United States, for every dispensary that opened in a supermarket, 1.3 independent pharmacies were forced to close their doors.

As we have seen in other industries, when price-cutting causes competitors to close, prices soon rise to the levels that they were at before the competition started. But the ongoing effects are far worse in that health care will not be provided at the level it once was.

The cost of health care products is of concern to many in the community and many people and consumer groups feel that prices are currently too high. This is a legitimate concern and one that is worth investigating. But the answer is not to let supermarkets engage in a price war and drive local community pharmacies and the provision of health care in our suburbs out of the market. Jobs will go, prices will come back up again and many of the unprofitable services that benefit so many in our community, such as the methadone and benzo programs, home medication reviews and free home deliveries, will disappear. What will be the cost of achieving a short-term win with cheaper goods? It is just not worth it.

The supermarket chains claim that pharmacies and supermarkets will have longer opening hours, possibly even 24 hours. Again, overseas experience shows that this simply is not the case. There are a number of instances where the pharmacy section of a supermarket shuts before the rest of the supermarket shuts. So even though the supermarket is open, the pharmacy inside that supermarket has been closed.

It is claimed that this bill is anti-competitive. I think there is already ample competition in the pharmacy sector, particularly in the ACT. There are several large chains, some not so large chains, cooperatives and many independent and local pharmacies operating across the territory. Competition is pointless if jobs are lost and in the end prices rise and we lose the health care benefits that we all want to support. The core issue that we need to focus on here is the provision of services and medicines to the community.

Mr Corbell put forward a very strong argument that we should not support this bill because of its unintended consequences. He also raised a number of concerns about my original amendment in relation to unintended consequences. It is a shame that the minister was not willing to work through a solution so that we could, as we all agree, find the right way to address concern about pharmacies opening up in supermarkets. For the information of members, I have circulated a revised amendment that makes it very clear that a registered pharmacist must not carry on a pharmacy business as an owner on, inside or partly inside the premises of a supermarket. The amendment is very simple. It makes our intention very clear that we do not want pharmacies operating in supermarkets.

The concerns of the minister about unintended consequences in relation to shopping centres and crown leases have been addressed. I urge this Assembly to support my amendment so that we can move forward together in this debate and lay down today the very clear message that we do not want pharmacies operating in supermarkets.

I do not support the idea that we should just leave this in the hands of the federal government. We need to take responsibility for what is happening to pharmacies here in the ACT. If we leave everything in the hands of the federal government then nothing may happen. If members of the Assembly are committed, as I believe they are, to not allowing pharmacies to operate in supermarkets, I urge them to support my amendment and to support this bill.

The original bill is founded on the best of intentions to stop supermarket pharmacies and the fears that were raised in relation to crown leases have been addressed. We are explicitly prohibiting supermarkets from operating pharmacies and pharmacists operating inside supermarkets. I believe that the Assembly supports this idea. I hope that we can deal with it today so that pharmacists who have been working on this issue can get back to their primary job of delivering health care to the community.

MRS DUNNE (3.57): This is a very important issue that, up until today, I thought there was bipartisan support for. On 23 October last year, when Mrs Cross first raised this issue, the government supported the notion of taking steps to ensure that pharmacies were not able to operate within supermarkets. At that time the minister made the case very clearly, and that case very much supports the case made by Mr Smyth—that this is about small businessmen and women in this town, supporting this town and supporting the health of the people in this town.

I will quote what the minister had to say. He said:

> There are currently 56 pharmacies providing pharmacy care across the ACT. A majority of these pharmacies are owned by pharmacists who reside in the ACT. A few of these pharmacists also have business partners who are based interstate. It is estimated that local pharmacies employ approximately 200 pharmacists and 500 other staff on a full-time or part-time basis.

We are talking about a serious matter. But it is not just business. This is about the health care of people in the ACT. When representatives of the Pharmacy Guild came to see me I made the point that I suppose I am a bit old fashioned in that I have had the same GP for 25 years, I have had the same pharmacist for as long as I have lived in my area and I go out of my way not to go to another pharmacist.

But from time to time things happen. You do not always go to the one doctor. Sometimes you have to go to a specialist. I went to have a prescription filled recently for one of my children who had been to a specialist, after having been to a GP, and the pharmacist said to me, "Do you realise, Mrs Dunne, that this is the third time in a row that you have had this prescription. You really need to be careful. Next time you need to have a different antibiotic." I had forgotten and because I had seen two different doctors, they did not know. But the pharmacist knew. The pharmacist could give that little warning and make sure that next time I could say, "Don't give him so-and-so because he has already had that three times in a row."

That is the sort of thing that you would miss out on getting if you went to a pharmacy in a large supermarket. You are never going to see the same person all the time. I know that when I go to my local pharmacy I am going to see one of three people. They know who I am—not because I am a member; they have known me for a long time. They know who my children are. They know the ailments we all suffer from and how prescriptions interact. You are not going to get that in a supermarket. That is why I thought that we had bipartisan support for this notion and why we should be supporting this bill.

Mr Corbell, the minister, suddenly stood up in this place today and said that we could not solve the situation. This is a very ingenious minister. He can work his way through the planning system—he is the planning minister, for goodness sake! But he stands up and

says there is a problem with using this notion in respect of crown leases. And yes he is right. But was he going to be part of the solution? No. I wonder why, Mr Speaker?

Most members in this place have dealt with this matter in good faith and in what we thought was a bipartisan way. But when it came to the crunch today, this minister walked away from what has previously been a bipartisan approach—a multipartisan approach—to this important health issue. He is the Minister for Health; he is the Minister for Planning. If he wanted to sort it out, there is no-one more qualified in the Stanhope government to do so.

But basically what we had today was a series of petulant outbreaks rather than sitting down and saying, "Okay, we are all singing from the one hymn sheet. Can we just make sure that we are all on the right verse, and how do we get the harmonies right?" And the harmonies have not been here today because this minister does not want it to happen.

I thought it was priceless to hear him say, "I'd hate to be in a position where I had to close down a pharmacy because they were in contravention of their lease." There are hundreds of businesses across the ACT operating every day in contravention of their lease. And what do the compliance people in the planning authority do about it? Not a sausage. So what would change if we did find an unintended consequence? Would he not come back and fix it or would he really want to go out and close the pharmacies? You have to ask the question: what is the motivation of this minister?

The majority of this Assembly is in favour of supporting primary health care through health care professionals in our community, and this is what this bill does. I commend Mrs Cross for her bill and I commend Ms Dundas for her very neat and very well thought out amendment that I think saves the bacon.

MRS BURKE (4.02): I, too, would like to offer my support and congratulations to Mrs Cross for formulating this legislation today and to Ms Dundas for coming up with the amendment. I support our local pharmacies, Mr Speaker. Evidence of the fact that the government does not is that not one member is sitting opposite right now.

I believe that we are going down yet another path that will be very detrimental to the Canberra community. If we travel down this track that the minister wants to take us, we will for sure see a reduction in services. Despite what the minister says when he stands up reading from his prepared speech—no latitude; no room to move: 'We're just going to stick this way; blinkers on; let's go, no matter what the cost; I'll bulldoze through; I have made my mind up; that's where we're going"—he wants, as does the rest of the government, which is obvious, to remove the essential and valuable services of the local pharmacy. It seems we now have a local government that done a backflip, only this time it is not taken the advice of its federal counterparts on a sensible move; they are again taking this community on an unknown journey.

I will not take too much time, but I believe it is worth reiterating a couple of the comments I want to make. Health is going to be viewed as a retail commodity. Is that what we want to see—people just becoming a number; you are on a conveyor belt; zoom in, zoom out, that is it; no care; no over-the-counter service; no compassion; just straight on the conveyor belt?

Again, we are going to be at the hands of the experimenters. Why shouldn't we do it? I know what is going on here. "We want to be the first." Yes, I forgot. Because it is a greenfields site, let's go down this track of being "the first". Why not? Something else. Well, Mr Stanhope will have so many medals he will be walking lopsided, I think, if he gets elected at the next election.

Let's just have a look at some of the services currently provided through our local pharmacies. I really am very concerned that they are being taken down this journey of uncertainty by an arrogant government with an arrogant attitude that will just railroad its agenda through no matter what. I really wonder what the agenda is. It certainly is not to provide a better service; it certainly is not to provide competition, or fair competition, or a level playing field.

Have a look at the services provided. There is the methadone program. Are you going to rock up at the supermarket and get your methadone? What are we going to do to people?

Mrs Cross: Put it in the basket with your tomatoes and cucumbers.

MRS BURKE: That's it. Trolley them along. Yes, that is right. We should not make light of it, Mrs Cross.

There is the home medicine review, an extremely important part played by our pharmacies in conjunction with GPs. The patient can walk into the pharmacy at the moment and have a specialised person on site to get their medications checked. There are the talks to the community—endless hours, unpaid hours—to the ACT carers, to those from a non-English speaking background, to the war veterans, to diabetes groups. I could go on and on.

Do you think, when we have this new push, this new wave and something new, that this service is going to come free? No, these come at a tangible cost to the pharmacist. So who is going to pay? I see it as being user-pays. I thought that was something that this government, which stands on a strong social platform, would be totally dead against. Well, I am being proved wrong.

Let's have a look at another thing, the Gallop report. Interestingly enough, at page 165 it deals with medication. I understand that for over 18 months the pharmacy-combined effort—and they still have a full-time person working on that project right now—worked towards the introduction of the Webster packs, the booster packs, which is a major advance towards the prevention of medication mishaps which, we all know is a serious issue. Eighteen months of input free, gratis. So we remove that. Who is going to pay for somebody's wages for 18 months? That is an enormous cost to the community. Again, stunned by the silence opposite—no interjections. It is quite good having no interjections. They are obviously all hiding away embarrassed somewhere.

Mrs Cross: It's their commitment to the community, Jacqui.

MRS BURKE: Yes. Here comes the health minister. Welcome. Quality of care will suffer. Let's talk about professional accountability. Duty of care is now a major issue. But let's have a look. Currently the pharmacist and the owner are held accountable. We

have professional accountability. Under the system being proposed there would be no responsibility to the entity or accountability to the entity. An employee dispensing the wrong medication can be pursued but the entity is exempt. I see that there are lots of loopholes. I think another path that we are being taken down that has not been thought through that Mr Corbell and/or the Chief Minister want to be first at something else. So we are all going to pay for it.

We are talking about 800-plus employees in the ACT. Have we thought about the fiscal impact of this—payroll; impact on the ACT community; $260,000 a year by three pharmacies alone; $3.9 million spent locally in 12 months on related services such as ActewAGL, IT, courier services, et cetera?

Chemists will not earn anywhere near the salary paid to the managers within supermarkets. The ACT economy will suffer. The money will move outside the ACT. It will not benefit the people in the community here. I am hoping, if I am wrong, Mr Corbell can tell me I am. That will be good. He can put my mind at rest.

There is lots that I could go on and talk about. Another matter is the ownership and succession programs for chemists. Has the health minister talked to these people on a business footing to understand really what it is like to own a business? We have had this debate in this place today. They have no idea, none. Furthermore, they do not care. They do not care as long as they get their agenda, what they want to do. To hell with the rest of you—it does not matter.

As I said, I am extremely disappointed that the government has done a backflip and reneged; their word is worthless; their arrogant behaviour and arrogant approach to this just beggar belief. But I wait to hear the minister's response, if he is to speak again, and I hope that he can put my mind at rest that we are not going to lose one of the most valuable and critical services to community care in this city.

MR STEFANIAK (4.10): Mr Speaker, earlier Mr Smyth mentioned the importance of the Rivett pharmacy. I am well aware of that as I was living in that suburb when the pharmacy left and I saw the effect of that; it went down to two shops.

As someone who regularly visits the Charnwood pharmacy and as someone who has a family member who is very much dependent on regular prescriptions being attended to there, I have become very well aware of exactly how important suburban pharmacies are in the structure of Canberra. The pharmacists there know the customers; they get personalised service. I think a local pharmacy is even more important now, when we do not have quite so many doctors in the suburbs. I know that the Charnwood pharmacy gives a lot of assistance to people who normally would go to the doctor. Indeed, I am advised they send about 20 to 30 people a weekend to Calvary because they need additional treatment.

You are just not going to get that sort of service in a supermarket; you are not going to get that sort of service with a conveyer belt-type of arrangement where you effectively get rid of these crucially important aspects of our local suburban society, the pharmacy. There are a lot of people in our community who simply are not mobile, who cannot get around, who cannot perhaps go off to some central pharmacy or whatever, and who depend utterly on their local pharmacy and on pharmacists who actually know exactly,

because they have been there for a number of years, what their individual clients need. If something goes wrong, if there is something wrong and the client does not have a script for whatever, the pharmacists have got records there; they can actually attend to problems very quickly, which simply cannot be done with a mass-produced, supermarket type of arrangement.

It has already been said that pharmacies and service stations are probably some of the most important things you can have in a suburban centre, and suburban centres are really the lifeblood of our community. I think it would be a very sad day indeed if our suburban pharmacists were to be forced out. That is exactly what they feel will happen; that is exactly why Mrs Cross has brought in this legislation.

It seems to me, too, that every sensible piece of legislation that someone outside the government brings in is criticised by the government; they will nit-pick; they will find some often very spurious tangential legal point to actually do all they can to run interference with it. Well, I think this is very important legislation. People are trying to work out a minor amendment, just to make sure that it does operate well, but it is certainly something I have great pleasure in supporting.

I dread to think what would happen both to my family member who depends on our local pharmacy and indeed to so many other people in north-west Belconnen whom I know depend on the local pharmacy in Charnwood and indeed pharmacies right throughout Canberra for the excellent service that they do, which we will lose if this goes through.

I am amazed that a supposedly socially responsible and socially oriented government would do something like this, which can only hurt people who are perhaps more vulnerable than most in our community, who really depend on this particular service, because they do not have transport, they do not have access to things that a lot of other people do. Many of them are unemployed; many of them are elderly. They all are not particularly well and they do depend on the pharmacy.

If we lose our local pharmacies, if anything is done to affect our pharmacies and cause them to leave, it will be quite catastrophic, I think, for our community. I am somewhat amazed that this government particularly is actually going down this path; it really does quite amaze me. Congratulations, Mrs Cross, on bringing in this particular piece of legislation and I certainly hope we sort it out today and that you get a very favourable response because I think a lot of people in Canberra will be very happy to see that occur.

MRS CROSS (4.14), in reply: I must begin by thanking my crossbench colleagues and Mr Smyth, Mrs Burke, Mrs Dunne, Mr Stefaniak and Mr Pratt for speaking on this bill. I thank them very much for their support.

Mr Speaker, as you are aware, the purpose of this bill is to ensure that pharmacies in the ACT are owned and operated by registered pharmacists, as required under current legislation which restricts the ownership and control of pharmacies to registered pharmacists or companies that are controlled by registered pharmacists. However, clarification is needed within the legislation to ensure pharmacists are the only controllers and operators of pharmacies.

The primary intention of this bill, as all members know, is to ensure that health care remains the chief focus of pharmacists and that the professionalism of pharmacists conforms to the highest standards. This is done by ensuring that pharmacists are properly qualified, are accountable to a supervisory board and are required to own, operate and be responsible for their own pharmacies.

The role of pharmacies in society is different from that of other retailers and service providers because pharmacists are not just sellers of medicines, drugs and medical supplies; they are often the first point of health advice for many in our community; and they often act as de facto doctors and nurses, patching up cuts and abrasions, providing basic advice and making medical recommendations. Pharmacists understand the history of their clientele and are best equipped to provide the best combination of drugs and medicine that will improve the individual's overall health. Pharmacists also provide a number of community-based health care programs. In sum, pharmacists combine the roles of health supplier, health care provider, health care adviser and health monitor.

It must be acknowledged that pharmacists are unique. This uniqueness has not come about as a matter of professional preference or mere idiosyncrasy in the legislative framework in which pharmacies operate but out of necessity—out of the necessity to ensure only qualified and responsible people dispense potentially lethal medicines and drugs; out of the necessity to ensure that only the most qualified people are in charge of health care in our community; and out of the necessity to ensure that the health of our community is placed in the hands of professionals whose priority is health care and not professionals whose priority is profit.

It is therefore plain that the intention of the bill is to have pharmacists in full control of the ownership and operation of pharmacies. Any attempt to remove full responsibility away from the pharmacists through a clouding of the issue of ownership and operation of pharmacies will no doubt create a greater likelihood in our community that drugs and medicines could be distributed by unqualified people and that medical supplies and medicine varieties could be limited because of decisions based purely on economic considerations. We do not want to see those "coulds" become "wills".

This amendment bill is necessary because of a loophole in the current legislation that would permit a pharmacist to operate within the boundaries of a supermarket. This would create confusion about who actually operates the pharmacy. This loophole has led to a case where a supermarket and a pharmacist have under way a process whereby the pharmacist would operate within the walls of a supermarket. This deal has progressed to a level where the pharmacist has actually already begun advertising on television. This is a clear breach of the intention of the Pharmacy Act, even if not of its wording as it now stands. In the context of what we are trying to do with this bill, this development is like a Trojan horse, opening up the way towards the emasculation of the legislation that is intended to preserve the integrity of the system.

In 2001, Ms Tucker introduced a bill that allowed companies to operate a pharmacy but "only if the company is controlled and managed by registered pharmacists". As I said then, I assumed that it was Ms Tucker's intention to allow for flexibility within the governance of pharmacies, whilst seeking to ensure that the control of the pharmacy and its general operations remained in the hands of registered pharmacists. I believe the

Pharmacy Amendment Bill 2004 is consistent with Ms Tucker's aims, which are to be commended.

And I remind members of the telling statistic provided by Ms Dundas during last year's debate to the effect that "for every dispensary opened in a supermarket in the United States", which the government, I believe, is attempting to emulate, "1.3 independent pharmacies were forced to close their doors". This is clear evidence of the negative effect that allowing supermarkets to fulfil pharmaceutical duties could have on community pharmacies and consequently on the community as a whole.

All these comments were an expression of support from my non-government colleagues for the intention of this bill—an expression of concern from my non-government colleagues about the prospect of Australia adopting a deregulated pharmacy system similar to that which operates in the United States. I was encouraged by those words of support then. I also, at that time, offered to sit down with every member of this Assembly to discuss the bill, with a view to improving it, if necessary, in order to get the best outcomes for the communities.

I was, however, not as encouraged by the government's attitude towards the matter of pharmacies operating out of supermarkets and, sad to say, no-one from that side has ever indicated to me an interest in discussing with me any aspect of this bill. The only government comment on this bill was a press release put out yesterday by this minister—a silly, undermining, misleading press release—and yet this is just one more indication of Mr Corbell's unwillingness to enter into constructive discussion with other members of this place in order to reach the best outcomes for the community.

It is truly a shame because the Democrats, the Greens, the Liberals and I have worked very well together in order to achieve the best goals for the community and for pharmacies. It is just unfortunate that Mr Corbell's aloofness has resulted in not discussing his concerns with other members or indeed the person that has carriage of this bill, that is, me.

On 12 February this year, Mr Corbell, in response to a question from me regarding the establishment of pharmacies within the walls of supermarkets, stated:

> This is a difficult policy issue, and not one on which this government has formed a view.

And elsewhere during the same period he has referred to it as a moot point. So he has obviously been wrestling with the problem, but never ever has he shared his concerns with me as a possible means of finding some resolution to the problems that have evidently been plaguing him.

This seeming secretiveness of Minister Corbell also characterised the lead-up period to the passing of the anti-smoking bill earlier. At that time it was a case of a last-minute involvement/interference by the minister, as has occurred this time also.

MR SPEAKER: Order! You cannot reflect on a vote of the Assembly, Mrs Cross.

MRS CROSS: I withdraw that, Mr Speaker. It seems to me to be a less than honourable tactic when the option is always there to sit down and talk things over. Sadly, that is not the minister's way.

The government's interpretation of the current legislation is worrying, because it seems to ignore the sort of Pandora's box that might be opened up without this interpretation and subsequently impact adversely on an element of our preferably robust small business community. As I said last year, this wavy interpretation of the legislation simply reinforces the need for this legislation. We need clarification, and this legislation provides that clarity with the proposed Dundas amendment.

Among arguments put forward by supporters of allowing pharmacies in supermarkets is the matter of convenience. In practice, this argument does not hold water. It is designed to persuade the unthinking. Is it a source of inconvenience to have in, for example, Southlands centre in Mawson two independent owner/operated pharmacies almost cheek by jowl with the Woolworths supermarket? They all seem to be operating satisfactorily in the eyes of the centre's customers. I cannot conceive of anyone trying to make a case that this is an inconvenient arrangement. Nor is there any inconvenience in having an independent pharmacy operated in a shopping centre where there is also a supermarket or even two supermarkets. How is convenience enhanced by putting a pharmacy inside one or both the supermarkets rather than outside and nearby? Convenience is not an argument of any consequence.

The other argument usually put forward for allowing pharmacies to operate out of supermarkets is the argument of competition. Some, including some supermarkets, believe that not allowing pharmacies to operate out of supermarkets is anti-competitive. Let me go back to the example of Southlands in Mawson and see things in practice as they presently are. There we have two of the ACT's more than 50 independent pharmacies competing against each other and, on a significant range of health products, competing with Woolworths right next door. That is a perfect combination of convenience and competition, the sort of example of practical, effective, day-to-day operations we see everywhere and which we want to keep in our communities.

Further, while the national competition policy review of pharmacies stated that there are "serious restrictions on competition", it went on to say that "current limitations on who may own and operate a pharmacy are seen as a net benefit to the Australian community as a whole". This is highlighted in recommendation 1 of the review that recommends:

> (a) legislative restrictions on who may own and operate community pharmacies are retained and
> (b) with existing exceptions, the ownership and control of community pharmacies continues to be confined to the registered pharmacists.

The long and the short of the matter is that pharmacies do compete; they compete against each other and they compete against supermarkets. Whilst, admittedly, they do not exist in a perfectly competitive market, this competition restriction is accepted as necessary even by the National Competition Council because pharmacists have a special role in society. Arguments against prohibiting pharmacists operating out of supermarkets based on competition are weak, particularly considering that the great bastion of competition in

Australia, the National Competition Council, supports restrictions on competition in the pharmacy industry.

While I implore all members to give their support to ensuring that this amendment bill is passed into law, I must address some of the prolific comments made by our health minister. It was very interesting to me that this minister said that this is a flawed, imperfect bill. Gee! Last night we sat here until 1.30 in the morning debating 21 government amendments to their own Occupation Health and Safety Bill because it was not flawed or imperfect, it just happened to need 21 amendments in addition to the raft of other amendments that were put forward by other members.

My understanding, Mr Speaker, is that the only amendment to this bill we are looking at addressing this afternoon is to ensure that we address the concerns raised by the minister. If he had bothered to discuss it with us—me and the opposition—he would have realised that we were working very hard with the Pharmacy Guild of the ACT to ensure that we were addressing the concerns that the minister and others had raised. No, he was not interested in talking to me; he was not interested in talking to the opposition. In fact, I do not even recall my office ever having been approached by his office on this bill.

This minister could be considered funny if he were not so desperately sad. He used the words "awkward" and "misjudged" in his speech. Well, I would use those words to describe Mr Corbell's approach to all legislation that does not have his name on it—"awkward" and "misjudged". I believe that is the crux of this minister's problems. His pathetic attempt to undermine this bill and any amendment proposed to improve this bill, which aims to achieve positive outcomes for the community, for the pharmacy industry, for small business and, above all, for the weak and the vulnerable in our community, is appalling.

This minister went to the last election promising to consult this community; to be transparent, open and accountable with this community; to listen to this community's input; he would take that back to the Assembly if he were elected to government; and, if he became a minister, those sentiments would be reflected in his work. Well, you all saw the efforts that this minister made this morning to stop me tabling that petition. Tell me how that is open, accountable, transparent and even democratic. It is not.

Mr Corbell continues to not only show his immaturity and sneakiness with the legislative process—

Mr Corbell: On a point of order: Mr Speaker, I have just sat here and listened to—

MRS CROSS: I withdraw, Mr Speaker.

Mr Corbell: No. On the point of the order, Mr Speaker: I would ask you to give some direction in relation to when a speech simply becomes a diatribe, with many, not just one, personal reflections against me as a member of this place. I have no difficulty debating the substance of this legislation and the relative merits of it, but I have some difficulty with sitting here and listening to the diatribe I am hearing from Mrs Cross, with constant personal reflection on my personal attributes and my personal approaches to the issues. And I think that is far from the spirit of debate that the community would expect of this place.

MR SPEAKER: Would you take note of that, please, Mrs Cross.

MRS CROSS: Mr Speaker, I did withdraw that. *(Extension of time granted.)* Talk about the pot calling the kettle black—Mr Nice Guy who never describes us in any adverse way.

Mr Corbell: On a point of order, Mr Speaker: you have just directed Mrs Cross to pay attention to debating the substance of the issue. She immediately leaps into a continuing personal attack on me that has absolutely nothing to do with the legislation. I do not mind an occasional barb across the chamber, Mr Speaker, but to hear the last 10 minutes of personal mudslinging against me and my attributed personality weaknesses as far as Mrs Cross is concerned, I think, is a bit beyond the pale. You have already directed her to debate the substance of the legislation. Surely she should just get on and do that rather than continue this ongoing diatribe we are hearing at the moment.

MR SPEAKER: Mrs Cross, it is disorderly to impute improper motives and personally reflect on members. It is also disorderly to use offensive words. "Offensive" is really a matter of how members feel about issues, and I think Mr Corbell is entitled to feel that he has had a fair stream of criticism which he might be offended by. I think it might add to the quality of the debate if we tone it down a bit.

MRS CROSS: Mr Speaker, if I have used words that have offended Mr Corbell, I withdraw those words.

MR SPEAKER: Thank you, Mrs Cross.

MRS CROSS: Thank you, Mr Speaker. I do have some questions relating to the approach the minister has taken to this bill, which is very sad. And the questions I have—and he might like to answer these when we go into the detail stage later tonight—are these: did the minister have any intentions of slowing the debate on this bill down? Did he attempt in any way to stop this bill from going through, aside from what we have seen transparently here today? Does he care about our local pharmacies? Does he want to protect small business in the ACT? Does he have a concrete position now on whether he wants pharmacies in supermarkets and he is too afraid to say it?

I have not heard Mr Corbell say that in his speech, and I would very much like to know, as I am sure the pharmacy industry would like to know. At least if you know where you stand with people, you know where they are coming from in a debate. I have not yet heard from Mr Corbell an argument that we, the members, have not been able to address by this amendment and ongoing collaboration not only with each other but also with the industry. I have not heard that yet. Once we have addressed this concern that Mr Corbell raised about the technical issues in the bill—once we have addressed the issues with the industry and with each other and we seek some consensus, which I am hoping we will—I do not know what there is left for Mr Corbell to be concerned about, aside from the fact that the bill is not in his name.

I might be wrong there; I could be misjudging him. I do not know. But I am concerned that, for someone who says they are concerned about the interests of the community, it does not appear that that is put into action. I suppose that is why, as a newer member of

this place—and Mr Corbell has far more experience in this chamber than I—I ask why it is that he is not doing what the people elected him to do, which is to genuinely represent their interests.

I would have thought that a petition with more than 35,000 signatures, which is still growing, reflects a significant voice of the community. Why is it that you would try to stop a petition being tabled which is a significant representation of the community—one could say a significant people-power voice? Why would you do that if you are genuinely interested in representing the interests of your community and the people who elected you to represent them? Really, that is why we are here. We are not here for our own personal agenda.

I heard earlier, during speeches made by Ms Dundas, Mrs Burke, Mrs Dunne, Mr Pratt and Mr Stefaniak, snide comments coming from the backbench of the government, very nasty comments, that this was politicking. For crikey's sake, this is a political arena. We are all politicians. For the backbench of the government to criticise speeches supporting this bill, which aims to achieve good outcomes for the community and to look after small business, a primary health care provider and, above all, not allow small business to be swallowed up by big business—I do not get it. I think Mr Hargreaves's comments earlier, which were not only uncalled for but also, frankly, tended to border on the flippant and silly, were unnecessary because we all want to do good things for the community here.

I will close the in-principle stage of this debate by thanking once again the members who are supporting this bill. In particular, I would like to thank Mr Smyth, the Leader of the Opposition, for working with me and Ms Dundas and Ms Tucker to try to achieve some outcome that we can hopefully realise by the end of the evening. I look forward to the debate in the detail stage.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

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

> That the debate be adjourned.

Mrs Dunne: To a later hour this day.

MR SPEAKER: In the ordinary course of events here, when a motion to adjourn a particular matter is put, we resolve the matter of the adjournment first. I am required to subsequently set the resumption of the debate, whereupon members can move amendments, unless the resumption of the debate is dealt with in the original motion. In the case of Mr Corbell's motion, the resumption of the debate was not dealt with. I am required to put it without debate. It is open to members to deal with the question that

I later put about the resumption of the debate in the ordinary way of dealing with things in here.

Mrs Dunne: I do apologise, Mr Speaker. We are getting a bit testy here today.

MR SPEAKER: Some of us are. The question now is:

> That the resumption of the debate be made an order of the day for the next sitting.

Amendment (by **Mrs Dunne**) proposed:

> Omit "the next sitting", substitute "a later hour this day".

MR CORBELL (Minister for Health and Minister for Planning) (4.40): Mr Speaker, I am uncomfortable with simply adjourning this debate to a later hour this day. The reason for that, Mr Speaker is that we have had a number of amendments developed only over the course of this afternoon. The most recent one, which I understand a number of members are comfortable with, has been circulated by Ms Dundas. That amendment, without wanting to debate the substance of it, is a matter which I think would benefit from some further advice being provided in relation to the implications of that amendment, and rather than move to debate this matter later today I think it would be preferable if this matter were dealt with on the next private members' business day, which is next Wednesday, to allow some more considered reflection of the implications of this amendment.

Again, I think it would be poor law-making, similar to what we have seen in relation to the substantive bill, if we were to rush this process and were not fully cognisant of the impacts of the particular amendment. Just to elaborate on that if I may briefly, Mr Speaker, without wanting to pre-empt too much debate: the amendment as proposed by Ms Dundas, the latest amendment which was produced at half past 3 this afternoon, about an hour and a half ago, indicates that she wants to restrict pharmacies simply to not occurring inside or partly inside the premises of a supermarket.

Mrs Dunne: On a point of order Mr Speaker: I think that Mr Corbell is now debating the substantive issue. I was prepared to let him go for a while, but I think he is debating the substantive issue. The motion before us is that my amendment be agreed to, and that is to insert "to a later hour this day".

MR SPEAKER: It is a bit hard for Mr Corbell, though, to deal with the substance of the matter without explaining in some detail why he wants to delay the matter for a longer period than a later hour this day, don't you think? I am prepared to allow it. As long as we do not carry on for ages a debate on the matter of the amendment that is likely to be considered later, it strikes me that it is open to Mr Corbell to at least reflect on it to some degree in order to make the point.

MR CORBELL: Thank you, Mr Speaker; I appreciate your ruling. The point I simply want to make to members is: it is possible that this definition as proposed by Ms Dundas could catch larger pharmacy operations already in place in the ACT and make their operations illegal. I think it would be prudent on the part of members to allow some time for some further analysis of this amendment prior to making a decision and that it would

not be possible to get that analysis done between now and close of business tonight. So I simply ask members to delay this debate until Wednesday next week.

MR SMYTH (Leader of the Opposition) (4.43): Mr Speaker, it is standard that amendments are delivered in this place. Some are more timely than others. Sometimes we have many days, many weeks, to look at amendments; sometimes we do them on the spur of the moment during debate. That is standard. It is standard to also shut down debates to a later hour this day to allow some discussion and to seek input from interested parties.

Mr Corbell would like to consult with the Pharmacy Guild. They have said to me that the amendment is satisfactory. They do not believe it will catch any of their pharmacies. There are not too many pharmacies that are bigger than supermarkets in the territory, Mr Speaker. The opposition will support the amendment because we believe that it is important to get a decision on this amendment and on this bill today.

MRS CROSS (4.44): I do not see the reason for Mr Corbell to ask that we adjourn something that has been on the notice paper for more than three months—in fact, something that I tabled over three months ago. As Mr Smyth said, it is not uncommon in this place for us to circulate amendments on the day a bill is debated. We have given considerable consideration to these amendments. This is a simple amendment, which the pharmacy guild is comfortable with, which addresses a problem. I see that the minister, in trying to delay this debate until next week, is simply trying to buy time. God knows what he would do in that week. I do not trust this person to do the right thing by this community.

Mr Corbell: Mr Speaker, I wish to raise a point of order.

MR SPEAKER: Order! That is an imputation that the minister is untrustworthy.

MRS CROSS: Withdrawn.

Mr Smyth: It is true!

MR SPEAKER: Who said that?

Mr Smyth: I withdraw it, Mr Speaker.

MRS CROSS: The minister has every opportunity to speak to the guild—there are members of the guild here—and he has an opportunity to speak to his colleagues in this Assembly. There is no reason for him to delay this. The reason we are adjourning this to a later hour this day is to give the minister and other members of this place time to consider this amendment. It is a simpler amendment than others that have been put forward up until today.

If the minister has a genuine interest in seeing that this bill is looked at carefully, then he will talk to the guild and he will talk to the opposition and the crossbench whether he supports it or not. The only way to do it is to work in a collaborative way. I do not see what the minister will do in one week that he cannot do tonight. That is the way we deal

with amendments on many other bills; it is a not uncommon practice. I think Mr Corbell is attempting to throw a red herring here, and I think it is unnecessary.

MR PRATT (4.46): In terms of the substantive issue raised by Mr Corbell as to why we cannot adjourn this debate to a later time this day, may I remind him and members that, yesterday in two major bills, on which I led the opposition's counter-debate, we had to deal with in excess of 10 major amendments. Ten major, complex amendments of the government's making were placed on the table and we accepted those without a whimper. May I just remind the minister of that issue as he judges this particular issue?

MR CORBELL (Minister for Health and Minister for Planning) (4.47): I seek leave to speak briefly.

Leave granted.

MR CORBELL: It is quite clear that amendments are dealt with in a variety of ways in this place. If members yesterday felt that they were happy with the amendments they saw on the table, then of course there was no reason not to debate them, but I have some questions about this amendment. Let me elaborate. Firstly, I am not convinced that this amendment will not capture larger pharmacy operations here in the ACT. Secondly, I am not convinced that this is not open to challenge. The question I have, which I want to get some legal advice on, is: what is to stop Woolworths coming to me and saying, "Your interpretation of a supermarket also applies to large pharmacy operations", and challenging that?

These are the issues that I think deserve some fairly serious consideration before members resolve on this particular piece of legislation. That is all I am asking. The definition of "territory plan" is neither here nor there. It is the pharmacy board that will have to interpret the definition in this section to ensure compliance with the act; it will not be ACTPLA, or anything to do with the territory plan. The chief pharmacist will have to undertake compliance activity consistent with what is in the act, based on some assessment by the pharmacy board. These are not insignificant issues. I am disappointed that members will not do the government the courtesy of an adjournment to simply enable consideration of this amendment and an understanding of its full ramifications. It happens all the time on all sorts of other legislation.

Mrs Cross: It is not rocket science!

MR CORBELL: You probably said that about your original bill, Mrs Cross, but look where that got you! Your whole bill has been gutted because you did not think about it. I simply ask members to do the government the courtesy of an adjournment until private members' business next week.

MS DUNDAS (4.50): Without wishing to address the substantive issue of the amendments, I would like to say that maybe this is a debate we need to have about the amendments in relation to some of the definitions included here. I think we can have that debate at a later hour today, and I am quite happy to do so. We have spent a lot of time working on this issue, both here in the chamber and with people in the community, and there is agreement that we deal with this issue as soon as possible. The resources of the government are at the command of the minister when the crossbenchers—I do not want

to speak for all crossbenchers—and the opposition are ready to debate this issue. We want to hear the arguments but we want to debate them, not delay them.

MS TUCKER (4.51): I support Mrs Dunne's amendment for the debate to be adjourned to a later time this day. I also have some concerns and I want the opportunity to obtain further advice. Hopefully, we will be given access to the officers of the department. At the end of the day, if we are not happy, we can still adjourn it until next week. Obviously we will be sitting after dinner, so we will have further opportunities to listen to the people from the department, if they are made available to us to talk about these issues.

If there are real concerns with this amendment—the amended amendment of the amendment of the bill—then we would not go with that. We take these responsibilities seriously. I support this amendment and I think we can at least leave it open to try to deal with it today. If we cannot and we are not happy, then we can adjourn it until the next sitting week.

Amendment agreed to.

Motion, as amended, agreed to.

Greenhouse gas reduction

MS TUCKER (4.53): I move the motion circulated in my name regarding the greenhouse strategy.

> That this Assembly calls on the Government to:
>
> (1) reaffirm the Territory's commitment to meeting the Greenhouse Gas Reduction target of reducing net greenhouse emissions to 1990 levels by 2008, and reducing them by 20% by 2018; and to this end;
>
> (2) commit to:
>
> (a) introduce Greenhouse Benchmarks as a Retail Licence Condition for electricity retailers, in line with NSW;
>
> (b) introduce a no-interest, low-interest or CPI-interest only loan scheme to facilitate house owners increasing the energy efficiency of their properties, and installing solar water heating, with particular attention to landlords;
>
> (c) introduce an energy efficiency and water use rating system for commercial buildings, drawing on the best available Australian models;
>
> (d) develop a program to retrofit current public housing to four star energy ratings in the short term, aiming for five stars in the medium term;
>
> (e) introduce annual targets specifically for greenhouse emissions from transport in the ACT; and
>
> (f) establish an additional dedicated position within Environment ACT (or other appropriate agency) to drive implementation of government targets and timelines for government agency reduction of greenhouse gas emissions.

I have moved this motion today because it is very disturbing that the government is contemplating moving away from the greenhouse targets set in 1999, and because there has not been nearly enough commitment on the part of this government, or indeed previous governments, to do the work necessary to achieve the target. The first part of my motion would recommit the territory to meeting the targets set in 1999.

I believe it is important to reaffirm this commitment at this time. I understand from the minister's office that they will be moving to amend this to say "reconsider". Let me put my case for sticking to the targets at this stage. If we had seen a large amount of effort—some spending but primarily effort—to attempt to meet this target, that would be one thing, but we have not seen that. I refer to the May 2000 review of the ACT Greenhouse Strategy by Energy Strategies. It says:

> The ACT should be able to reach its emissions target by fully implementing the measures which have been quantified.

It was reaffirmed today by Energy Strategies that they are still of that view. In discussion leading to this recommendation, the reviewers recommended the implementation of a range of measures, some unquantified at that point. Their assessment was that, together, the measures would result in a capacity to meet targets. It has been quite clear for some time that action is needed. The review is already much later than it was supposed to be—2002 was the review date. Here we are in mid-2004 and the review process is still grinding along. Meanwhile, what significant new measures have been undertaken? How well staffed is the greenhouse section of Environment ACT? How much has the ACT government done towards cleaning up its own act? How has the government funded the work?

The minister has said a number of times recently that the government is seriously considering moving away from the targets. Problems raised include the difficulty of dealing with the Commonwealth sector, over which we have no control. At other times it is because it has become apparent that the 1998 emission level, which is the basis for the target, was lower than originally understood. On the first point the Commonwealth sector could be isolated in counting from the rest of the ACT. However, I note also that the Commonwealth has been much more active in pursuing energy efficiency measures than has the ACT government. This is commented on in the Energy Strategies report. Although we do not have control over the Commonwealth, we know that the Commonwealth is doing more than we are.

On the second point, as I have said, the reviewer of the strategy last year still believed it was possible to meet the target. It is also important to note that, as our energy consumption continues to rise, and as the minister said in the paper today, the ACT used 40 per cent more electricity in 2001-02 than the national average. We are not doing even the most basic things. It is wrong to shift the target when we have not made a real effort. This is why I have moved this motion. It is clear that the government has not focused sufficiently on the need to take concerted action. Mr Stanhope has himself acknowledged that in answers to questions from me over the last year or so. It is very good news that the government has been working on benchmarking. We are pleased to hear that that is happening, rather than its being an ongoing matter for discussion.

Point (b) of my motion calls on the government to introduce a form of loan scheme to facilitate house owners increasing the energy efficiency of their properties and to enable them to install solar hot water heaters. This is focused on reducing demand. The Centre for Renewable Energy has proposed a program they call "solarisation", which is essentially this, but the motion today is not specifying details of the loan system. The centre's briefing note on their proposal is as follows:

> Initial solarizations could focus on the items with the most clear-cut financial benefit. This would increase the probability that the scheme is commercially successful. In approximate order this would be ceiling insulation, draught proofing, house zoning and low-flow shower heads, followed by solar water heaters and wall and floor insulation followed by photovoltaic systems and double glazing.
>
> Solarization will create a substantial number of new jobs in the local community. The scheme fits very well with the building energy rating scheme in several states. Early solarization companies will be well placed to dominate the national solarisation market that is likely to develop in a few years time. The risk is low because the debt is secured against the building and is repayable within the guaranteed period of the equipment. Large reductions in greenhouse gas emissions are likely.

It is clear that one of the barriers to massive retrofitting of residential buildings is the upfront costs. Subsidies are helpful, and the experience of cool communities has been that receiving some kind of incentive has a big impact.

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 TUCKER: However, the fact remains that to seriously improve the energy efficiency of a house—for instance, by insulating ceiling walls, floors, curtains, pelmets, double glazing windows and so on—is expensive up front. Andrew Blakers has estimated that, for a typical brick veneer home, it would cost around $8,000. The fact that it would be paid off through reduced energy consumption, making it a loan with clear means of paying it off, and the fact that it is for someone who owns their own home, make it a reasonably secure loan. However, the work does cost a lot of money up front. The government is able to borrow money at a lower cost. The government is in the position of trying to encourage the reduction of greenhouse gas emissions, and there are benefits for the community as a whole.

It may be that the best way to pay off the investment is through power bills, through rates, or through a more direct loan repayment system set at a rate to match the expected savings. A loan scheme is a means to facilitate the widespread retrofitting which is essential, without having government pay for it all, but with government playing a role in assisting people to make those changes.

My point (b) calls for a focus on landlords, for two reasons: firstly, tenants are not in a position to make major changes and they have to bear the energy costs. Energy costs are a contributor to poverty. Landlords are not living in the place, and so do not have the same personal incentive to pay off their investment through lower energy bills. The full

solarisation proposal includes organisation of a one-stop shop for solarisation, which removes another hurdle. That is not in my motion today but I raise it because it is another very good idea that has come forward towards which the government should be considering taking action.

Point (c) of my motion is about setting in place a rating system for commercial buildings. I know that there is a range of systems about and I know that the property council, among others, has been active on this. I was talking to them today at the launch of the government's documents on sustainable building. What is our government really doing about this issue? This part of the motion simply calls for the government to get it together, without specifying the particular system.

Point (d) calls for the retrofitting of public housing. This is a measure supported by the conservation council and by housing advocates. There are obvious links between high energy costs and poverty. The WEST trial, which works with people who go to the essential services council because of difficulties with their energy bills, has focused on such basic things as window coverings and energy efficient light fittings. I understand that something like 80 per cent of the properties that have been fitted with basic energy conservation measures through this program so far are ACT Housing properties. The fact that ACT Housing still does not routinely provide even for thermal window coverings is really disturbing. We need money to do the work. That money would reduce poverty and would also reduce our greenhouse emissions.

Point (e) calls for annual targets, specifically for greenhouse emissions, from transport in the ACT. We do not yet have the data. We need to delegate that responsibility to measure how much fuel is sold in the ACT. We also need to be making a much greater effort with transport. The Gungahlin Drive extension decision and the failure to invest in a light rail core for public transport are big mistakes. Requiring regular reporting on targets related to transport at least keeps the issue visible. I refer to point (f). The review conducted last year had the following to say on what the government has achieved in its own building energy efficiency program. I am quoting from page 98. It says:

> A…process of setting individual agency energy intensity indicator targets is being planned within the ACT. The Energy Use in ACT Government Operations 1999/2000 report states that:
>
> > Once reports from future years are completed and compared to each other, mandatory energy intensity targets will be set for end use categories…In addition, the ACT Greenhouse Strategy states that 'each ACT Government Agency is required to develop an action plan which demonstrates how this energy use will be reduced to achieve nominated targets.' Agency action plans will be developed in light of this report. Agencies will then be required to implement their action plans, and monitor and publicly report on performance against action plans on an annual basis.
>
> Such indicators are planned but yet to be developed or enforced upon individual ACT government agencies, but their use is still intended for future implementation. However, since the 2004 target is only two years away and indicators are yet to be applied, it is considered unlikely that this measure will achieve its stated first target. It is recommended that individual agency energy intensity indicator targets are assigned as soon as possible and that the Commonwealth program is used as a guide to assist the ACT in this matter.

It continues:

> It should be noted that the ACT Government has already made some valuable steps in putting into place the framework to reduce its own greenhouse gas emissions. The ACT has established a Greenhouse Steering Committee, which meets every two months to discuss potential new initiatives and the progress of actions already taken. Also, some agency officers of the greenhouse steering committee have contributed a large amount of time and effort to energy recording and identifying energy efficiency projects. However, despite the individual efforts made and the development of a general framework for reducing energy consumption there is a need for decisive, meaningful action to be taken and for adequate resources to be allocated to this task. This may require the establishment of a more formal and structured financing program for energy efficiency projects.

The clear message here is that it is time to commit, and it is time to act. Part of the specific recommendations on this area of action are that "a dedicated position with Environment ACT be established to facilitate the compilation of government energy reporting, the identification of energy efficiency priorities, and securing of capital funding for projects". The conservation council's response to the review recommended on this basis that the government establish a dedicated position in Environment ACT to drive the process of change within government. Point (f) of my motion calls for this to happen but leaves some flexibility as to where the position is.

Clearly, according to the review, there are problems in the resourcing of the greenhouse office. The review makes several references to needing to focus on measures to allow the staff to do the work. We note that, this year, overall funding for the greenhouse program only increased by $100,000 for next year, even though the government claims it is increasing capacity for a range of programs aimed at reducing ACT greenhouse emissions to the tune of $300,000 per year.

Unfortunately, the government has not responded to a question on notice put during the estimates hearing in which there was a request for a breakdown of greenhouse expenditure for 2002-03. We wonder about that and will wait to see it. I have also noticed that we were able to afford $8 million for a dragway. It seems as though the priorities are a little askew here. I encourage members to support this motion and encourage the government to take action.

MS DUNDAS (5.08): I thank Ms Tucker for moving this motion. We are asking the Assembly, including government members, to reaffirm our commitment to cutting greenhouse gas emissions to 1990 levels. The federal government have so far proven reluctant to commit to generous targets for Australia under the Kyoto protocol, but this motion reminds us that we have an essential role to play in reducing emissions at the territory level.

The previous ACT government was willing to go further than the Kyoto protocol, but I fear that this government is not even serious about meeting the Kyoto minimum. I hope what I hear this afternoon proves me wrong. I am extremely disappointed that the Stanhope government has chosen to back away from the commitment made by the previous ACT government to move to 100 per cent purchase of green power for government operations.

Instead we are told that the government is exploring energy efficiency measures. These efficiency measures can never go as far in reducing emissions as a full shift to green power. Mr Stanhope's argument for this policy retreat was that green power is not cost effective. That is another way of saying it costs more to be environmentally friendly on greenhouse. In a few lucky instances you can minimise environmental impacts and save the money up front; however, in most cases the environmental damage of our energy consumption is not paid for by the supplier or the user, so there is no cash saving for switching to environmentally friendly approaches.

After energy reduction measures are adopted you are left only with options that cost more. That is the reality of the situation but the long-term benefits of using efficient energy mean that we have a world to live in in the future, and that our way of living, as far as access to sunlight and oxygen is concerned, is not irreparably damaged.

The federal government has decided that the Kyoto protocol is too expensive to sign up to because some industries reliant upon dirty coal power may lose the competitive advantage they now have, because they can externalise environmental impacts onto the world community at no direct cost to their business. It is an incredibly depressing story, but there is a good outcome. If each state and territory government did everything they could to ensure that Kyoto targets are met within their area of geographic influence, it would not matter whether or not the federal government is following through on its responsibilities.

The disappointing thing, though, is that at the ACT level we have not seen solid evidence that our territory government is serious about trying to meet the Kyoto targets. We seem to be waiting forever for the ACT government's revised greenhouse strategy and, in the interim, nothing seems to be happening to improve the energy efficiency of public housing or private rental housing. Government agreement to the list of commitments in this motion would greatly reassure us that the government is serious about cutting greenhouse gas emissions.

The federal minimum renewable energy target to increase renewable energy output by two per cent by 2010 is insignificant, and we need to go further. A commitment to many greenhouse benchmarks seems a reasonable licence condition for electricity retailers. I understand that the New South Wales system requires retailers to reduce per customer emissions to five per cent below 1989-90 levels by 2007, through the meeting of a series of progressive annual targets. I understand that, if these targets are not met, they will lose their retail licences. If retailers in New South Wales have to do this, then it cannot be hard for them to do it in the ACT as well. If we are not doing it, we may even end up as a dumping ground for dirty power, which I am sure nobody in the ACT wants to see.

A subsidised loan scheme for home energy efficiency measures would be a great step forward for home owners, and retrofitting public housing to a four-star energy standard as a minimum would be a great benefit to financially stretched tenants and for environmental outcomes. An energy efficiency and water use rating system for commercial buildings would bring commercial developments more into line with residential developments.

Greenhouse targets for transport would also be a step forward. The government has set targets for public transport patronage, but it is not clear whether meeting those targets would bring our greenhouse gas emissions back down to pre-1990 levels. Every year there are more vehicles on the road in the ACT. Without clear targets accompanied by a clear strategy our transport emissions will continue to rise. Proper assessment of a number of scenarios may demonstrate that we need to adopt some novel, and perhaps even drastic, measures to get residents to consider more environmentally sound transport choices.

The issue of staffing is a perennial one for Environment ACT. This government has announced a number of laudable environmental strategies and initiatives, but there is not the staff on the ground to deliver on those initiatives. An extra dedicated person with responsibility for overseeing action to reduce government emissions could make a substantial difference, if they are backed by a top-down political commitment from the environment minister.

Possibly we need to explore things even further than the motion put forward by Ms Tucker. We have recently seen the major announcement by the Howard government in relation to renewable energy and the solar cities program. There is $75 million committed to some ideas that could be working here in the ACT. Is the Minister for Environment lobbying the federal government to be a beneficiary of the good ideas that are going to come out of the Howard initiative? I am not saying all the ideas in the federal government's plan are useful but the ones that are useful—such as the solar cities trials and the wind monitoring ideas—are things that would work greatly here in the ACT. That requires a commitment from this government to try to make sure these initiatives can work, and to lobby the federal government to get those resources into the ACT.

We need a political commitment from the mouth of the environment minister to reducing our greenhouse gas emissions. Once we have that commitment we can start to see some changes here in the ACT. For far too long the government has been hiding behind the excuse that they must do years of consultation before they take any real action to reduce environmental impacts. The time for talking is over; the time for action is now.

MRS DUNNE (5.15): I am happy to speak on this motion. I commend Ms Tucker for bringing forward this motion today. I also commend the sentiments of Ms Dundas on this important issue, which the Liberal opposition is glad and proud to support. I think I need to remind the Legislative Assembly just why we are glad and proud to support this motion.

Back in 1996 the ACT Legislative Assembly resolved that we should have greenhouse gas reduction targets. Shortly before the Kyoto conference on climate change the then Minister for Environment, Mr Gary Humphries, who was then my boss, went to Japan and announced at a conference there—not the Kyoto conference but the one that went before it—that the ACT government would work towards reducing the territory's emissions of greenhouse gases to their 1990 level by 2008 and would reduce emissions to 20 per cent below that level by 2018.

The ACT Liberal government, whose environment minister was Gary Humphries, was the first government in Australia—national, state or territory—to make such a firm commitment to greenhouse gas reductions. That is a very proud record that I stand here today to support. Ms Tucker's motion reaffirms that very strong commitment from the former Liberal government made in November 1997. I have been open. At the time I was mildly sceptical about whether this was a good idea or not. I was in the office at the time, counselling some caution. But I have changed my views—and I am happy to say so when I change my views. I think the commitment made by Gary Humphries at that time was prescient and forward thinking. We now see what is necessary to make things happen.

Ms Dundas said that we need a political commitment, but I need to correct her: we need a continued political commitment. There is commitment, obviously, from the Greens, the Democrats and the Liberal Party to meeting greenhouse targets, but we do not have a commitment from the Labor Party to meeting greenhouse targets. We need to go back to the state of the environment report brought out in early April by the retiring Commissioner for the Environment, Dr Joe Baker. In the part on greenhouse he said, "Quite frankly, we need to lift our game". He was a lot more polite than that, but he highlights some issues that we have to overcome. He says:

> Because of its small population and the lack of heavy industry, the ACT contributes about 1% of Australia's total emissions. The Territory's Greenhouse emissions could be lower still if not for the climate, urban and building design, and lifestyle.

He said, "Our emissions could be lower still if not for the climate, urban building design, and lifestyle". As I said at the time, there is not very much we can do about our climate—it is a cold climate. There are issues about climate change but there is not much we can do about the climate as it presents itself, particularly on days like today. But there is a lot we can do about our urban and building design and our lifestyle. It is very interesting that coincidentally, today, a fairly commendable set of publications came out of ACTPLA. The most important one in the context of this debate is *Guide to good design: design for a sustainable lifestyle*.

I have not read that from cover to cover but I have had a chance to flick through it. Generally speaking, this is a pretty good document. I have a few issues with the way they talk about thermal mass and there are a few issues that I would perhaps debate with the people in ACTPLA, but this is a pretty damn good start. It is a shame that the environment minister does not read the publications that come out of the planning department, because there is a lot in here that goes a long way to addressing the issues we are discussing here today.

The recommendation to the government of the Commissioner for the Environment was that the government should work with the commissioner to adopt the six recommendations in the *ACT greenhouse strategy: 2000 review of performance and options for the future*, released in March 2003. That is the document Ms Tucker has quoted from today, and there are six recommendations. There is a lot of stuff that underpins those six recommendations. Before I get to the recommendations, I will draw to the Assembly's attention the first finding, as opposed to a recommendation. Finding No 1 says, "It is prudent and appropriate for the ACT to maintain its present commitment

to reduce emissions by 2008 to the same level as in 1990 and to continue thereafter to work towards further reductions."

The 2002 review of the greenhouse strategy, whilst saying we had to lift our game, said that we were on the right track; that our intentions were right; and it set a path that we might go down to address those issues. We have here a number of measures which this government has essentially ignored since these recommendations came out. They have talked a little bit about the government approach, but they have ignored the costs and benefits to business, consumers and householders. There is an enlightening table on page 116. You can look down the list of things that they suggest could be done, that have been left undone by this government for over a year.

One of the measures under "residential measures" is to address the issue of water heater covers. This is one that members of the planning and environment committee might find interesting. They suggest a cost subsidy plus associated costs of administration; there would be benefits to the suppliers of the covers, and the benefits to consumers and householders would be lower expenditure on energy for heating water. It is a simple thing. The product exists. It is recommended that we go down that path, but it is not here. There are six recommendations in here, most of which are essentially, "Hold your mettle, Minister for Environment. Do not waiver, because you can do it but you have to try."

The ACT Liberals, in continuing their proud commitment in this place, have already made policy announcements in this area. We announced in November 2002—and I thank Ms Tucker for raising it—that we have adopted as policy, which we will implement come the successful outcome of this election, the solarisation program suggested by the ANU's Centre for Sustainable Energy Systems.

This is a system that could work for us here today. What it will do is provide savings for people across the board, not just for people who own their own homes. If ACT Housing did it, they would provide savings to public housing and in the private rental market. One of the most intractable problems is how to improve the energy efficiency rating in the private rental market when it is not in the interests of the owner to fix it up. This solarisation—the loans program that Ms Tucker has talked about which the Canberra Liberals endorsed in November 2002—is part of that solution.

In September 2003, as an add-on to this, the Liberals proposed an environmental rating system for efficient Canberra houses. To add onto the already existing energy efficiency rating scheme, we propose what we have called the "bluebell awards", whereby you would get a bluebell for particular initiatives. So you could say that you have a three-bluebell rated house or a five-bluebell rated house. This is very much based on the concept of the green building process put forward by the green building council.

It is proposed that, under the scheme, you could get recognition for measures including a builder who uses sound environmental design practices, building a house to higher than the minimum energy rating system, installing a solar hot water system, improving your basic water efficiency by using dual flush loos and water efficient showerheads and flow regulating meters and water efficient appliances. You could perhaps get an extra bluebell if you installed an underground tank, which would give you thermal mass as well as storing your water. These are the things we could look at. These are sensible approaches that we should be educating our people about. The minister is not even prepared to stand

up and speak on this issue, and there are amendments that try to gut Ms Tucker's excellent proposal which we will not be supporting.

MRS CROSS (5.25): I support Ms Tucker's motion. I think that it is a very timely motion. It is interesting how everybody round the country is getting politically into the energy issue.

Mrs Dunne: Except this government.

MRS CROSS: Most people, I suppose. I am interested in Mrs Dunne's bluebell award proposal. I am just wondering whether it replaces the star system.

Mrs Dunne: No, it is in addition to the star system.

MRS CROSS: Okay. The measures proposed by Ms Tucker in her call for a commitment to a reduction in greenhouse gas emissions in the ACT are sound and practical and the benefits that would flow from the implementation of those measures are unarguable. We need to keep aware and be kept aware of the need to maintain the health of our habitat in the same way as we need to be aware that our personal health will decline if we do not consciously take measures to maintain it.

To maintain our health, we need to establish goals so that we do not become neglectful of things that are important. Sometimes, maybe often, we fall short of achieving the goals that we set for ourselves, but that should not lead to our not having these goals. Sometimes we might fail to achieve goals because we have set them too high, but there is no harm in that either; it usually just serves as a spur to make us try a bit harder.

The bottom line is that we need standards. Among other things, we need them as a measure of the seriousness of our approach to maintaining and improving our habitat and as a reminder to us of how careless we sometimes are in the way we neglect mother nature. We need to look after her. The measures and goals proposed by Ms Tucker in her motion for the reduction of greenhouse gas emissions in the ACT would help us to do that better. I commend Ms Tucker for her motion.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.27): Mr Deputy Speaker, an amendment to the motion has been circulated in my name. I will speak to both the motion and my amendment. I move:

> Omit all words after "That this Assembly", substitute:
>
> "Notes the Government will soon introduce Greenhouse Benchmarks as a Retail Licence Condition for electricity retailers, in line with NSW; and calls on the Government to:
>
> (1) review the Territory's commitment to meeting the Greenhouse Gas Reduction target of reducing net greenhouse emissions to 1990 levels by 2008, and reducing them by 20% by 2018; and to this end
>
> (2) give consideration to:

> (a) a no-interest, low-interest or CPI-interest only loan scheme to facilitate house owners increasing the energy efficiency of their properties, and installing solar water heating, with particular attention to landlords;
>
> (b) an energy efficiency and water use rating system for commercial buildings, drawing on the best available Australian models;
>
> (c) a program to retrofit current public housing to four star energy ratings in the short term, aiming for five stars in the medium term;
>
> (d) annual targets specifically for greenhouse emissions from transport in the ACT; and
>
> (e) an additional dedicated position within Environment ACT (or other appropriate agency) to drive implementation of government targets and timelines for government agency reduction of greenhouse gas emissions.".

The government is seriously committed to tackling the greenhouse issue. Since being elected, the government has funded a number of greenhouse reduction projects, including $1.1 million over three years for the solar hot water rebate scheme, $225,000 for the wood heater replacement scheme, $1.2 million for the energise your home scheme, $150,000 for a government buildings energy audit, $4 million for sustainable infrastructure projects aimed at dealing with issues such as greenhouse gas emissions from government buildings, and the announcement today of the greenhouse gas abatement scheme, legislation for which is to be introduced tomorrow. All these programs are having a significant impact on our greenhouse gas emissions.

There is no doubt that there is much more that we can and should do to meet greenhouse obligations. However, a review of the ACT greenhouse strategy which commenced in 2002 found that the task of achieving the targets set in the original 2000 greenhouse strategy has become significantly harder. The original targets were set in 1997. It is important to recognise that the then Liberal government committed to the target whilst completely ignorant of the ACT's actual greenhouse gas emissions. Therefore, the targets were essentially a best guess that, in retrospect, are beginning to seem more than a little unrealistic.

Emission levels attributable to the ACT were first estimated in 1988. Inventory calculations in 2000 found that the 1990 ACT emissions were nine per cent lower than the levels estimated in 1998. The review of the greenhouse strategy, using more recent information, found that the rate of growth of emissions was higher than estimated in the 2000 strategy. The result of these findings is that the saving required by 2008 to reduce emissions to 1990 levels is now 890 kilotonnes, a 27 per cent increase in the estimate in the 2000 strategy. This is at best extremely challenging, but in reality could be an impossible target.

However, the latest advice which I have received from my primary greenhouse adviser within Environment ACT, Mr Gordon McAllister, indicates that the ACT can only realistically hope to achieve 75 per cent of the required abatement to achieve 1990 levels; that is, according to Mr McAllister, even if the ACT were to implement all of the proposals contained in the greenhouse strategy review which was released last year and if these measures were to prove effective, the ACT would only meet 75 per cent of its target.

The briefing I have received from Mr McAllister and Environment ACT is that the implications of sticking to these targets are huge. Substantial additional government expenditure and regulatory imposts on the community would be necessary. That is not to say, of course, that the government should give up on reducing greenhouse emissions. However, it is appropriate to go back to the community and gauge what level of expenditure and effort is considered appropriate when meeting our greenhouse obligations. That is, essentially, the position I have been putting; that is what I have been saying. Let's gauge the level of expenditure and effort that we consider appropriate.

For example, the original greenhouse strategy has a target of the ACT government buying 100 per cent of its electricity from green power sources by 2008. This proposal alone, according to Mr McAllister, would cost $7 million a year on top of existing electricity charges and this measure would make up only nine per cent of the target. Another possibility on which Mr McAllister has advised me would be to establish a program to provide incentives to upgrade the energy efficiency of, say, 20,000 houses based on our current rebate schemes for solar water heaters and cavity wall installation. Mr McAllister advises me that that would cost the government $28 million. Let me repeat that: the advice is that that would cost $28 million.

We could make solar water heaters mandatory for all new houses, but that would require new home owners to find an additional $2,000 to pay for such systems, as well as the extra cost to government if rebates were paid on these systems. In order to meet these targets the government may, according to the advice of Mr McAllister, have to require commercial buildings to achieve a five-star green rating, but the community needs to be aware that by adopting this measure the costs of construction would increase by about 20 per cent; that is, there would be a 20 per cent increase in the cost of constructing a commercial building were we to do that.

The ACT would have to implement all of those measures, all of them, at those costs and with those implications; yet we would still not meet the targets. Besides these cost implications, the government is committed to "stretch targets"; that is, those that will require a concerted and ongoing effort by all. But to have unrealistic targets might mean that the community sees the challenge as unachievable and therefore may not participate to the degree required or support our actions.

In the light of these realities, the government has decided that other target options should be explored and that the community's views on those options should be canvassed. For this reason, I do not believe that it is appropriate at this stage just to automatically recommit without investigation to those targets.

It is worth noting that the greenhouse strategy review also found that the government's ability to reduce emissions is constrained by many factors outside its control. For example, federal government policies that impact on greenhouse gas emissions are to a large extent beyond the control of the ACT, but are an important factor in determining the extent of emission reductions that can be achieved in the ACT.

However, as I have noted, all of this is not to say that more cannot and should not be done to meet our greenhouse obligations. The ACT government has already agreed to adopt the same regulatory and administrative framework for the greenhouse gas

abatement scheme as exists in New South Wales, in effect joining the ACT to the New South Wales scheme. Legislation to implement the scheme will be tabled in the Assembly tomorrow.

The legislation is aimed specifically at assisting the ACT to meet its greenhouse gas reduction goals by introducing a scheme requiring all ACT electricity retailers to procure over time an increasing component of their product from accredited clean or green sources. Similar in operation to the New South Wales scheme, the proposed ACT scheme will involve the setting of annual industry greenhouse benchmarks and providing for their compliance and monitoring. Participation in the ACT scheme will be a licence condition for all retailers selling into the ACT electricity market. The scheme will produce significant greenhouse abatement for the ACT and has already been factored into identified emission savings.

The proposal by Ms Tucker to introduce a no-interest, low-interest or CPI-interest only loan scheme to facilitate house owners increasing the energy efficiency of their properties is not a new one. I met recently with Professor Blakers, who has proposed a similar mass solarisation scheme, and it is certainly something that deserves serious consideration by the government and the community. However, it needs to be remembered that there are already effective enabling mechanisms in the marketplace for assisting with the capital costs of home energy improvements. It is debatable whether it is the role of government to supplant these opportunities by operating as a bank, but let's have the debate.

There are already examples in other states of electricity retailers allowing customers to pay off, through their electricity bills, hot water heaters and airconditioners that they have purchased through the retailer. Suppliers of particular products, such as insulation and solar water heaters, already engage in their own marketing activities within competitive markets and some offer their own financing arrangements. Some companies have combined to offer joint packages, such as ActewAGL and Solahart both offering discounts on gas-boosted solar water heaters.

Generous rebates for solar water heaters and cavity wall insulation are already provided by government, but there is scope for providing more flexible rebate packages to broaden their attractiveness to householders and stimulate the home improvement sector to better market its products. In this context, it may be that this proposal is not the best way to provide incentives to householders and to minimise their upfront capital costs when undertaking energy efficiency upgrades.

Similarly, consideration should be given to the introduction of an energy efficiency and water use rating system for commercial buildings. The Australian building code has recently indicated an intention to widen the scope of its responsibilities to include the overall sustainability of buildings. That will include aspects such as energy efficiency and water use of both residential and commercial buildings.

Several national commercial building rating schemes currently exist, including the Australian building greenhouse rating scheme, the national building environmental rating scheme and the Green Building Council's green star scheme. Green star and the national building environmental rating scheme have the capability of incorporating water and

energy use into the assessment. These programs certainly should be further investigated in the interim.

A program to retrofit current public housing to achieve a higher standard of energy efficiency could well be another part of the solution, although funding for the program, like all budgetary expenditure, would need to be considered in the broader budget context. ACT Housing has set as a minimum a three-star energy rating benchmark for all acquisitions of existing properties in an effort to increase the overall energy rating of the portfolio. Newly constructed public housing has to achieve a mandatory four-star rating, as with all new housing. Unfortunately, while efforts are made to rejuvenate stock through the sale of older properties and the purchase of newer stock, the rate of exchange is slow.

ACT Housing has advised me today that it is estimated that to achieve major water and energy efficiency for ACT Housing stock an expenditure of around $60 million would be required. In the view of ACT Housing it would require the expenditure of around $60 million. However, the government certainly is prepared to consider further proposals to upgrade the energy efficiency of ACT public housing stock. It is interesting to me that Mrs Dunne, on behalf of the Liberal Party, has committed an incoming Liberal government to these expenditures; that is, $100 million has just been committed by the Liberal Party to this policy. *(Extension of time granted.)*

It does need to be remembered that that is what has just been committed to by the Liberal Party in this debate. They have just committed an incoming Liberal government, on the basis of the best advice available to me, to the expenditure of $100 million to achieve these greenhouse targets. That is what you have just done. You have not done your costings, you have not looked at the emissions and you have not bothered to wait for a detailed scientific analysis which is being undertaken of the strategy on behalf of the government and which I have advised you is about to be released. You did not bother to wait for it. You did not look at the assumptions. You did not care about the greenhouse gas emission levels. You have not costed it. You have just committed yourself to $100 million worth of expenditure as an incoming government. It needs to be remembered and it will be remembered that that is what you have just done: $100 million of expenditure has just been committed to that.

Another issue that we need to look at in relation to our determination to address issues concerning greenhouse emissions is, of course, greenhouse gas emissions from transport, which is another area that is being targeted by the government. Through the Canberra spatial plan and the sustainable transport plan, the government is committed to an annual reduction in greenhouse gas emissions. The Canberra spatial plan has the following specific outcomes relating to greenhouse gas emissions: decreased greenhouse gas emissions per year per capita and less greenhouse gas emissions and other negative external impacts from private car use.

The introduction of annual targets for greenhouse gas emissions is not a practical solution to the management of greenhouse gas emissions. The concept of annual emission targets is attractive on the surface, but it is unproductive as annual targets do not accommodate the lead times for the results of structural and policy initiatives to become apparent. Rather, the setting of broad five-year or 10-year emission reduction targets is a much more appropriate response. For example, the sustainable transport plan

includes a target of increasing non-private vehicle use for journeys to work from 13.1 per cent in 2001 to 20 per cent by 2011.

The spatial plan supports the initiatives of the ACT greenhouse strategy by proposing an urban form and structure that minimises car use by reducing total travel distances; encourages alternative travel modes, such as walking, cycling and public transport; encourages more efficient commercial building stock by providing opportunities for new commercial development to replace older and less energy efficient buildings; and encourages decreased residential energy use through higher density housing and more efficient lower density housing.

The sustainable transport plan forms the overarching framework for the implementation of the transport measures which will contribute to reducing greenhouse gas emissions: for example, upgrading the ACTION bus network, including the bus interchanges, to increase the attractiveness of public transport; expansion of pay parking areas to all town centres; upgrading the bicycle network, including on-road cycle lanes; and implementation of a travel smart travel behaviour change program.

There is clearly a lot that the ACT can and should do to meet its greenhouse obligations and the ACT is well on the way to acting on many of those programs. However, there can be no doubt, particularly on the basis of the information now available to us—the fact that the scientific work that should have been done last time and was not done but is now being done and the fact that there has been a significant underestimation of the level of emissions in the ACT and the nature of the target as set—that we need to look seriously at what the community believes is achievable.

We need, as a government, to look at our expenditure on greenhouse gas emissions in the context of the overall budget and our other priorities. Simply to bung on the table a statement of what you will do, particularly in an environment where you know that the government has been working for a considerable period on an assessment of the real situation in the ACT, and not want to wait to see the report and not want to see what the emissions are and what the possibilities are indicates that you are not interested in the cost of addressing greenhouse gas emissions in the ACT. I think that really is a matter of concern. That is why I have moved the amendment to acknowledge that we should be reviewing the territory's commitment to meeting the greenhouse gas reduction targets. We do need to look at them and we have done that. The report is complete. It is being printed and it will be released in a few weeks.

In addition to that, let's give consideration to all the ideas that are stipulated in the paper, but why commit to them when you do not know what you are committing to and you have no idea of the cost of what you are committing to? It is just reckless in the extreme to commit to these proposals when you do not have a clue as to the cost of that commitment. That is being reckless in the extreme. My amendment should be accepted. We should review, as we are, the strategy. We should look seriously at the implications of implementing the strategy and the costs associated with each of the steps that we can take. We need to do that in the context of a full understanding of all of the situations, including our budget position. I commend my amendment to the Assembly.

MR SMYTH (Leader of the Opposition) (5.42): Mr Deputy Speaker, I am not sure whether there is a medical condition called fear of targets, but there is something over

there that makes the man supposedly the leader of this territory afraid of setting a target. Chief Minister, why are you afraid to achieve something? Why are you afraid to commit to something? Apparently your federal party wants the federal government to commit to the Kyoto protocol and a reduction in greenhouse targets, but you cannot do it in the ACT. Jon Stanhope does not want to go there because he does not have the courage to try to reach these targets. We have had a speech with all the reasons for not doing anything. It can be summed up, basically, by saying, "I am afraid of the targets. I am afraid of failure. I am afraid of doing anything."

This Chief Minister will go down in history, having lost office at the end of his first term in government, as the Chief Minister of reviews. What is he proposing in relation to a commitment to greenhouse targets? He is proposing another review. When we had as a political party to go out and say in 1997, as the first jurisdiction in Australia, that we would set ourselves ambitious targets, we knew that it would not be easy to achieve them. We knew that it would take some effort.

Mr Stanhope: Did you know that it was impossible?

MR SMYTH: Oh, it is impossible! Everything is impossible! Mr Stanhope says that it is impossible. It is only impossible, Jon, if you let it be impossible. When we said that there should be no waste by 2010, they laughed at us. We were able to set targets and we went after them, such that the no waste by 2010 strategy, which had its genesis in Liberal Party policy in this Assembly in the last decade, is now being followed across the world. There are no waste networks across the world—everywhere from America to the Welsh no waste network. Wales can do it, but the ACT cannot. To your shame, Chief Minister, you will go down in history as the bland Chief Minister who would not set a target or would not set a time line.

Let's look at the reviews we have had and the plans that we have. The white paper has no target and no time line. The spacial plan has no target and no time line. The mental health plan has no target and no time line. The children's health plan has no target and no time line. The health action plan has no target and no time line. The social plan has no target and no time line.

The draft west Civic plan had a target. We were going to achieve something in 30 years. That is something to stir the soul, something on which to say to the troops, "Come on, gird your loins, get your backpacks out, pick up your shovels." But in the final analysis, Jon Stanhope's government could not commit to a 30-year time line for reviving west Civic. He is a man without time lines, a man without targets.

Not only is he content with not putting up serious targets or time limits, but also in some of his plans he has put up nebulous things. As with the promise that no child shall live in poverty by 1990, he says that he will do something by 2013 or he will do something by 2033. There are no serious time lines and no serious targets in anything that this government has issued. Not only is he content with having a lackadaisical and lazy style of leadership that does not challenge him to do anything or achieve anything, but also he is now so afraid of the targets set by a government in 1997 that he is going to gut those plans as well.

He will not set himself to do anything and he will remove all reminders that this territory ever had an ambition to be the best, ever had the ambition to lead the world, to change the world, to influence the world, to make the world a better place. He will get rid of those targets as well. Will you commit to the no waste by 2010 strategy, Chief Minister, or is it next to go? Is it? Go on; tell us. Will the no waste by 2010 strategy be next?

Ms MacDonald: I take a point of order, Mr Deputy Speaker. I ask that the Leader of the Opposition direct his comments through the chair.

THE DEPUTY SPEAKER: I uphold the point of order.

MR SMYTH: Ms MacDonald is right: talking to a chair might bring about a better outcome here, Mr Deputy Speaker. The point here is that, unless you have something to measure yourself against, you do not know where you have got to, where you are going, how far you have to go, how much more effort you have to make or what you have to do. He is saying that his government is committed to reducing greenhouse gas emissions as though it is okay just to say that it is committed and that that is what it is being asked to do here. That is not leadership. That is not the stuff that the people of the ACT expect of their government.

Sometimes targets will not be reached and sometimes governments will fail in not reaching those targets, but if we accept that and we do not set ourselves targets, we will be stuck in the horse and cart age. Jon Stanhope would have us stuck in the horse and cart age because it was oh so much easier then. You need to strive, you need to reach out and set yourself targets. Sometimes you will fail, but along the way you will find answers to achieving what you should aspire to achieve. That is why we will not be supporting the weak-kneed amendment put forward by the minister for reviews, the Chief Minister.

The Chief Minister wants to review the territory's commitment. He ought to get out and talk to the community about his endless pile of reviews. The people are sick of the reviews and want some action. They want things to be achieved on their behalf so that Canberra becomes a better place to live, not something that was caught in what happened 10 years ago, which is where he seems to want to live. Jon Stanhope is not willing to take action.

The only thing that came out of his speech was his mention of the incoming government. I hope to lead the incoming government. I will give it some leadership. We will set ourselves some targets and we will achieve something on behalf of the people of the ACT. We might not always get there and we might have to modify what we aspire to do, but we will strive to do something, unlike the weak-kneed reaction we are getting from the Chief Minister today. Set yourself some targets and set yourself some time lines, Chief Minister. You might be able to achieve something if you try.

MRS DUNNE (5.50): Mr Deputy Speaker, I would like to speak to Mr Stanhope's amendment to Ms Tucker's motion. The reason that the opposition is not supporting this amendment, as eloquently outlined by the Leader of the Opposition, is that it is a counsel of defeat. The trouble is that the government has decided that it cannot do anything, so it

will not even try. We have had endless reviews and we know what is the tenor of this government's approach to energy efficiency and to reducing greenhouse gas emissions.

I take members back to what was said in this place on 11 April 2002, when I successfully moved a motion asking the planning and environment committee to look at energy efficiency and the options for renewable energy. Mr Quinlan, the minister for energy, as I like to characterise him, but I do not know whether it is among his official titles, spoke in a fairly disparaging way on that day about how the reference was just a waste of time His priceless line was that he was not going to do any bleeding for sustainable energy because he thought it was idealistic and stunning, but totally useless. That was the tenor that was set very early in the life of this government about its commitment to doing things about energy efficiency, renewable energy and cutting greenhouse gas emissions, because that is what that reference was all about.

Quite frankly, this community is sick to death of the countless reviews and revisions, because they show a complete lack of commitment. Characteristic of how this government is lacking in commitment to the environment is the report on the review of the Environment Protection Act 1997 and the role of the Environment Protection Authority, which was tabled in this place yesterday by the Chief Minister and issued earlier.

The thing that struck me when I went through the report was that it was about a review of an act—when you review an act you have some things to do, usually to do with amending the act to do something or fix up something or reviewing a guideline to achieve something—and there were over 50 proposals in the report relating to fixing up the Environment Protection Act 1997, but very few of the proposals actually begin with a concrete active verb.

There is this one: "Proposal 25: amend section 52 so that authorisations commence when they are issued." But most of them begin with such words as "Consider appropriate expansion", "Consider the deeming provisions", "Re-examine the way" and "Consider means of implementing". Going further I found one and I thought, "Ah, that's an actual thing." I cannot find it now, but it was actually to do with liaising with somebody else to consider what might be done in this context.

There are 53 proposals in this document supposedly to fix up the Environment Protection Act that have almost no concrete steps, so you can rest assured that this government will not be taking any, given its track record of taking targets out of everything and wimping on the no waste by 2010 strategy. The report entitled *ACT greenhouse strategy—review of assessment of options* says just how important the no waste by 2010 strategy is, predicting a 17 per cent reduction in greenhouse gas emissions just by implementing the no waste by 2010 strategy.

Why should we adopt this counsel of defeat from this government when the basic things are not being done? We should be trying. As Mr Smyth said, we may fail, but I would rather try and fail than not do anything, and I would rather try and fail and not achieve a no waste by 2010 target than say, as the current minister says, "It is too hard. Putrescible waste as 15 per cent of the waste treatment is too hard." The no waste by 2010 strategy, by itself, will produce a 17 per cent reduction in greenhouse gas emissions and it is not being followed. We have a transport strategy which has ridiculously long

lead targets and there is almost no money in this budget to start to implement that strategy. I would be prepared to listen if this government were actually doing something, committing the money and going the hard yards and then saying, "Sorry, we can't achieve it." But because the government is doing nothing and showing no interest in this regard, I am not prepared to support the amendment.

MS DUNDAS (5.54): Mr Deputy Speaker, we will be opposing the government's amendment. The main argument put forward by the Minister for Environment is that we do not understand the cost of this motion, which is why we need to support the amendment. I ask in return of the Minister for Environment: do you understand the cost of not supporting this motion? Do you understand the cost of doing nothing in relation to greenhouse gas emissions and the long-term impact that that will have on the ACT, on Australia and on the world?

The Kyoto protocol is in place because the world has agreed that something needs to be done in relation to greenhouse gas emissions. By backing away from that, the ACT government shows that it does do not care about the long-term environmental impacts of what is being done in the territory.

Mr Stanhope: I take a point of order, Mr Deputy Speaker. The government has not backed away from any target. During a number of speeches tonight, the government—

MR DEPUTY SPEAKER: There is no substance to the point of order, Chief Minister.

Mr Stanhope: There is. A statement has just been made that is patently untrue.

MR DEPUTY SPEAKER: Chief Minister, that is not a point of order. It may be a debating point.

Mr Stanhope: The statement is untrue and it has been repeated on a number of occasions by a number of speakers. The government has not backed away from any targets.

MR DEPUTY SPEAKER: Sit down, Chief Minister.

MS DUNDAS: Mr Deputy Speaker, this assertion cannot be just about the dollar-based bottom line. There is a need to look at the long-term economic and social impacts as well. I thought the government was willing to move forward on this front, with the Office of Sustainability being established and the tabling of supplementary budget paper No 5 in relation to triple bottom line reporting, but it appears that it is just using lots of words and not taking a lot of action. If the greenhouse strategy is printed and ready to go, as the Minister for Environment has indicated, why can't we have a copy to prove what the Chief Minister has just interjected about?

Mr Stanhope: Are you calling me a liar?

MR DEPUTY SPEAKER: Be quiet, Chief Minister. Ms Dundas has the floor.

MS DUNDAS: I wasn't actually, Jon. I was just looking for some backup.

MR DEPUTY SPEAKER: Ms Dundas listened to you in silence and you should extend the same courtesy to her.

Ms MacDonald: She wasn't here; of course she listened in silence.

MR DEPUTY SPEAKER: Of course she did. Proceed, Ms Dundas.

MS DUNDAS: As I said before, political leadership is needed on this issue. We have the opportunity and the need to address greenhouse gas emissions in the ACT and it is disappointing that the Stanhope government is not keeping to the commitment made by previous ACT governments—is that a more accurate wording?—and are not working to move to a 100 per cent purchase of green power for government operations. If the claims that have been put forward in this debate are not accurate, show us the greenhouse strategy. We need to have some action taken on this issue. I urge the government to support the motion as it stands.

Amendment negatived.

MS TUCKER (5.57): I take this opportunity to close the debate. I would like to make a couple of comments. I have to say that I am really sorry that Mr Stanhope chose to use over and over again the name of a public servant in making some political point. I do not think the person he named deserved that. I am really sorry that Mr Stanhope chose to do that.

As to the particular issues that were raised, Mr Stanhope has expressed concerns that implementation of this motion would cost $100 million. I can only assume that he has misunderstood the motion, because I have not said that every single item in the strategy has to be carried on as it is in the strategy. I said that we should stick with the target and find ways of reaching that target. I have seen costings for the couple of things that I have raised as important to develop. The estimate I have seen for retrofitting current public housing to a four-star energy rating is that it would cost $30 million. Obviously, establishing an additional dedicated position within Environment ACT would have some costs.

As I have already explained in some detail, we are looking at lots of initiatives that would be cost neutral to government through innovative financing schemes. The basic reality check is that many buildings in Canberra are too primitive for the climate we live in. New developments are taking place that are not nearly as good as they could be. They are not as bad as some, with a four-star rating, but they are still way under what we could be seeing. Cars are still being used most of the time in Canberra. Most of the power is coming from dirty fossil fuels and we are not seeing the renewable energy industry being properly supported. That is the reality in Australia.

We have had a great desire for Australia to ratify the Kyoto protocol. In fact, the *Warnings from the bush* report of the Climate Action Network in Australia, which drew on 50 scientific studies and was peer reviewed by the CSIRO and other scientists, highlighted that it was very important to ratify the Kyoto protocol and set a national target that went well beyond it for the reduction of Australia's greenhouse gas emissions, going to well below 1990 levels by 2010. We want to see a national commitment to that.

That means that we have to have at least a commitment to the Kyoto protocol. We want to see a commitment to that and it has to happen at a state and territory level.

That report found that global warming is not just a future threat; it is already affecting Australia's nature. The key findings of the report were that global warming may already be creating weather conditions that increase the intensity of bushfires; that, as global warming intensifies, actual conditions in south-eastern Australia are matching scientific projections for the region; that since 1970 there has been a decreasing trend in the number of days on which snow has been recorded in the Snowy Mountains; that, as global warning intensifies, Mount Kosciusko will lose its alpine environment and that species that depend on this environment will be lost; that studies have identified 47 alpine plants species and the mountain pygmy possum as at risk of extinction from global warming; that among the animals at risk of decline or extinction in the New South Wales area are the smoky mouse, the long-footed potoroo, the red-lored whistler, the red-tailed black cockatoo, the regent parrot, the sooty owl and the plains wanderer. The number of species at risk is likely to be far higher than have yet to be studied.

A study by Stephen Williams, a rainforest ecologist at James Cook University, indicated that the annual mean temperature was expected to rise by between 1.4 and 5.8 degrees by 2100 and that, if it rose by 5.8 degrees, only about three of the 65 rainforest animals unique to the north Queensland wet tropics would remain. A mid-range rise of 3.5 degrees would leave 30 species extinct and the rest threatened. A seven-degree rise would wipe them out. Dr Williams said that even a rise of only one degree, likely over the next 20 to 30 years, would annihilate one species and leave another 20 highly endangered. Animals potentially lost to the world would include the tree kangaroo, several species of ring tailed possums, the chameleon gecko and the golden bowerbird. He was shocked by the preliminary findings of his long-term research into rainforest ecology.

I am talking just about Australia, a country that apparently has to have a flag in every school. I do not know whether people here are interested in the impacts globally, but the point I am making in concluding this debate is that this is not an issue that we can just put aside as too expensive. It does not have to cost the earth to reach the target set for the ACT, but it will cost the earth if we do not take the situation seriously.

Motion agreed to.

Making of regulations

MR SMYTH (Leader of the Opposition) (6.04): I move:

> That this Assembly calls on the Government to refrain from making regulations after 16 August 2004 in relation to new Bills passed by this Assembly during the June-July and August 2004 sittings.

Mr Speaker, we face a dilemma in the coming months in that the trend in modern legislation is to put more and more of the detail in the regulations. We do not have a problem with that; we agreed to it when we were in office. Having said that, it is important that regulations have a suitable scrutiny when they are made. The dilemma that faces us as legislators in the coming months is that the last sitting day of this place

will be 26 August, and the caretaker period will start on 13 September. Ideally, we will have an election on 16 October, but we may have an election on 4 December, depending on what the federal government does.

If we have the election on 16 October, we will probably seek to elect the new government on or about 9 November. It is then likely that the first proper sitting, which would be the first opportunity for any of the members to move disallowance on regulations that they disagree with, would occur on or around 30 November or Tuesday 7 December. That would be a period of three months.

In the event that the federal election intervenes and we are bumped to 4 December, it is quite likely that, when the poll is declared and we sit within the six days after the declaration of the poll, this place will sit on something like 28 December, which would mean that the first proper sitting following the New Year and January break might be in February 2005. That would mean a minimum of five months without the scrutiny of any regulation.

We have some significant bills before the house, and in this session we have passed some significant bills. But we are yet to see the regulations. The government has brought forward some of the bills as a package, and we have seen the legislation itself with the regulations attached. The construction industry bills Mr Corbell did are a good example of that, but we are yet to see the regulations for some of the other bills before us, like the tree legislation or the heritage legislation. The way we seem to be going, I doubt that we will see the regulations before the house rises and we move into caretaker mode.

A good example is the regulations that will accompany the new gambling legislation. In this case the taxation rate will be in the regulations. If the regulations are tabled after the rise of the Assembly and there is no scrutiny until either three or five months later, there will be nothing to stop the government raising that tax rate without the scrutiny of the Assembly for three to five months. I am not saying that the government will do it, but that scrutiny is important. It is actually the role of this place to scrutinise what the government does.

I am suggesting in this motion that we call on the government to refrain from making any new regulations after 16 August for new bills that are passed in these June, July and August sittings. The logic is that no-one will have the opportunity to scrutinise them until the new government is sworn in. Governments make regulations all the time, and this government will no doubt make regulations in the caretaker period, if they are not significant regulations. But we will not see large blocks of new regulations. They will sit here waiting for scrutiny, because the six-day period will not have gone away.

That amendment to the Legislation Act has in it the opportunity to move disallowance, but they won't get to that until either December or February next year. In my motion I am saying that, for this place to be able to scrutinise what the government is doing in relation to some fairly significant legislation, those regulations should be tabled on the Monday of the second last sitting week so that members who have concerns have the opportunity in the following six sitting days to move disallowance. If the government is not ready to table its regulations and if the regulations are so far off that we will not have the opportunity to scrutinise them in August, it would be fair for the government not to

table them and not to allow them to come into being when we are going to have such a long period in which they will not be able to be scrutinised.

There is a fairly big gap in the sitting pattern currently. In April we had no sitting weeks and in July we have one sitting day. That is nearly a month. From December through to January we normally do not sit. That is about eight weeks. We are talking about something between 12 and 20 weeks when there will not be scrutiny of regulations. That will be in force; that will have effect as before. But no-one will be able to scrutinise them properly on behalf of the public.

The purpose of this motion is to bring to the attention of the Assembly that we are coming into an interesting crossover of electoral cycles, federal and local, and that there is a real likelihood that 16 October will be the federal election date, unless it is going to be on 7 August—and only one person knows that. But I think three months is way too long to be dropping very large blocks of regulations onto the table, without scrutiny, against significant bills: the OH&S, emergency services and gambling bills and possibly the trees and heritage bills. Then we will have between three and five months before members—indeed, members of the new Assembly—will be able to come forward and scrutinise them properly on behalf of the people of the ACT.

The purpose of the motion is, first, to bring to the attention of members that there is a possibility of this occurring and, second, to ask the government to try to have on the table before 16 August all the regulations that are attached to bills that are passed by this Assembly, so that this Assembly, having passed those bills, can scrutinise the regulations to make sure that understandings are kept and that the regulations, in which so much of the detail is—and we all know the devil is in the detail—are adhered to. With that, I simply put the motion to the Assembly for it to consider. I think it is a reasonable thing to do and would hope that the government sees the sense of in having proper scrutiny, given their commitment to honest, open and accountable government.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming and Acting Manager for Planning) (6.11): First of all, I will record our commitment that we will not be doing those things that are unnecessary. We will respect a caretaker period, and there will be no taxation changes during that period. On the other hand, a government must govern—as we have.

In recent times the quality of debate in this place has—very disappointingly, I have to say—descended, what with the personalisation of some of the comment, et cetera. Rising above that for the moment, I have to say that this government has governed well. You are trying to convince yourself that we are lazy and have not done things on time—all those things you need to whip yourself up in the lead-up to an election. But you will see the catalogue of what we have done in the course of the election campaign. You will see the catalogue of what we have not done. We will report to the electorate, and we are happy to allow the electorate to make their judgment.

Rest assured that a motion like this is pretty unnecessary, particularly in the context of this government. When you scrape away the personal invective that has flowed across here, you will see that we have governed well, governed very responsibly and governed within the confines of where we ought to govern, in the face of what at times has been

a very childish approach to opposition. It is unfortunate, and I do not expect it to get better.

MR STEFANIAK (6.13): I take it, Minister, that means you are going to vote for this quite sensible motion.

Mr Quinlan: No, it's redundant.

MR STEFANIAK: That causes a bit of a concern, Minister.

Mr Quinlan: But it will get up, Mr Stefaniak. What are we seeing in this place today? We have not seen the pursuit of good government; we have seen the win-lose mentality.

MR STEFANIAK: All it says is that the government refrain from making regulations after 16 August this year in relation to new bills passed by this Assembly during the June, July and August 2004 sittings. That is eminently sensible and, as you yourself have said, a prudent government would not do it anyway, except for any necessary regulations to ensure that you govern.

Mr Smyth has listed a number of important bills where there will be significant regulations. The Chief Minister is introducing a bill tomorrow that has a number of regulations relevant to it. The Law Society has seen the regulations, and the regulations are dependent on this bill being passed, which it probably will be in these sittings because of its context, and those regulations can then take effect. That is fine. That is before 16 August.

Similarly, I assume that the gaming bill, which Mr Smyth referred to, will be passed during these sittings, and any regulations appertaining to it should be in by 16 August. That would simply be good law making and good government. I do not think it is particularly onerous, and I do not think the government needs to be churlish in rejecting it. If it does reject it, the conclusion people will draw is that it is not going to refrain from making regulations after 16 August, which you yourself, Mr Quinlan, have indicated would be very much the wrong thing for a responsible government to do.

Despite the fact that you might not have liked other things that happened today, please refrain from worrying about them. Those are other matters. I ask you to look at the matter at hand now and reconsider it, in the interest of good government.

MS DUNDAS (6.15): Mr Speaker, all Assembly members have a responsibility to ensure that every piece of ACT legislation is fair and effective. That is the principal reason we are elected to sit here. This responsibility extends to the scrutiny of all delegated legislation, which includes regulations. As has been pointed out, if the government makes regulations after 16 August, we might be stuck with an unacceptable law for at least four months. If the federal election is called for the same date as the ACT election, the Assembly may not sit again until February, which means the risk of being stuck with a bad law for six months.

In the interests of good process, regulations should not be introduced too late to allow the Assembly its mandated six sitting days to consider them and move a motion of disallowance. We need an opportunity to debate and pass a disallowance motion before

the election in October; otherwise the right to remove that disallowance becomes meaningless.

There is less cause for concern if the legislative framework for a particular area is already well settled and new regulations are only making changes of a minor or technical nature. The concern, however, is in relation to new bills passed by the Assembly, as this government is in the habit of presenting new legislative regimes to the Assembly in an incomplete form and filling in crucial details later through delegated legislation.

I take the words of the Treasurer to heart that there is a commitment from this government to not break caretaker conventions. However, there is before us a raft of legislation to be debated where an extensive amount of detail to make this legislation work is tied up in regulations—regulations that we will not have seen at the time of debating the legislation. The Financial Management Act amendment is one such example. As I understand, the government hopes to pass this bill this or next week and then find the urgent circumstances that permit the use of the Treasurer's Advance through subordinate legislation.

Another example is the health practitioners bill, which may be passed during these sittings without the content of its accompanying regulations being known to the Assembly. This is a controversial bill, and it is possible that one or more members of the Assembly could have concerns about the regulations governing its implementation. So much detail is caught up in the regulations for how these laws are going to be implemented.

The government may believe that some of the new regulatory regimes contained in the swag of bills on the current notice paper must be implemented before the election. This motion debated today gives the government time to re-order the notice paper to get the relevant bills debated and passed during this sitting period. They can then get the regulations drafted in time for introduction by 16 August. Alternatively, they could incorporate the material they intend to put in regulations into the principal act, which means that they could be debated and passed in August, with all the information before the Assembly.

If there has not been enough consultation on the content of the regulations, the government may have to make interim regulations that get replaced either late this year or early in 2005. This could be an inconvenience for the government and place some pressure on Parliamentary Counsel, but it is always going to take a little bit of work to get a democratic system to work properly. Following this motion will be consistent with the convention of a caretaker period, which the government has said it is committing to and which is well accepted. We have all seen lengthy guidelines that have been circulated through this Assembly on how the caretaker conventions will work.

Although the government is able to implement major policy decisions, there is a blurred line between decision making and implementation, where crucial details of a legislative regime are left to regulations. A responsible government should inform the Assembly of anything it thinks could generate serious objections. This is akin to a responsible board of directors informing the market of anything that is likely to affect the share price of their company.

All those things considered, I am willing to support the motion put forward today, so that we have the opportunity to properly scrutinise the laws that will be enforced in the ACT.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (6.20) Mr Speaker, the government will not support this motion. The motion appears to be aimed at ensuring that no regulations can be made in relation to the legislation passed during the June, July and August sittings unless they are subject to the full disallowance period before the Assembly.

The motion poses a significant and totally unnecessary constraint on the effective and proper governance of the territory. Effectively, the motion prevents any necessary regulations for acts enacted during this period being made prior to 16 August, an impossibility for any legislation made in the last two sitting weeks of August. It appears that it will have to wait until a new Assembly meets, an event not likely to occur until at least mid-November, and perhaps even later.

In any event, the disallowance period for any regulation is set out in the Legislation Act 2001. Section 71 deals with the period that is worrying the Liberal Party, which applies, I quote, if:

> (a) notice of motion to disallow or amend a subordinate law or disallowable instrument is given in the Legislative Assembly within 6 sitting days after the instrument is presented to the Assembly; and
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> (b) within 6 sitting days after the notice is given, the Assembly is dissolved or expires; and
>
> (c) at the time of the dissolution or expiry—
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> (i) the notice has not been withdrawn and the motion has not been called on; or
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> (ii) the motion has been called on and moved, but has not been withdrawn or otherwise disposed of.

Where this occurs—

> (2) …the subordinate law or disallowable instrument is taken to have been presented to the Legislative Assembly on the first sitting day of the Assembly after the next general election of members of the Assembly.

This issue was foreseen in the Legislation Act and dealt with. This amendment proposes that we simply ignore the Legislation Act and the decision that previous assemblies took on how this very issue will be dealt with in the Assembly. The issue has been foreseen; the issue has been dealt with.

The Legislation Act further provides that any regulations made after the Assembly rises for the last time can be subject to a disallowance motion within six sitting days of the commencement of the new Assembly. In either case, if any objectionable regulations are made after the Assembly rises, the new Assembly will be able to disallow them. This motion is a serious, and unnecessary, curb on the government's regulation making powers as provided to it by the Assembly when the Assembly passes a bill into law.

If the Assembly passes this motion, the government will be directed to not bring into effect the range of subordinate legislation that may be necessary to give effect to legislation to which the Assembly has agreed, regardless of whether there is a need to deal with these matters as soon as possible or whether there are significant implications if they are not dealt with. If it passes the motion, the Assembly's proposal is that we pass legislation and then simply ignore it, perhaps, for months.

As members are aware, subordinate legislation is needed to ensure that principal legislation operates effectively. The motion would prevent the government from allowing legislation to operate properly, if at all, essentially directing the government not to allow legislation passed by the parliament to take effect. I am not aware of a single precedent for any such prohibition on the operation of laws passed by a parliament—where the parliament passes a law and then the parliament directs the executive not to implement the law. I have never heard of any direction being given to an executive by a parliament not to implement the law passed by the parliament.

Further, while the motion is inappropriate, it also lacks consistency. The motion relates to the legislation passed in the June, July and August period. It would, in fact, be possible for the government to bring into effect regulations under acts already in existence, which may have a substantial, or indeed greater, policy effect then any regulations we may bring into effect as a result of legislation passed in June, July and August. If this is just aimed at June, July and August legislation, why ignore every other act in existence in the ACT that provides a regulation making power? The situation has absolutely no logic and does not seem to serve any purpose at all.

Setting aside for a moment the fact that the motion relates to legislation passed in June, July and August, the conventions that apply to the continuing governance of the territory leading up to an election are established in the caretaker conventions. Members have received the updated caretaker guidelines that will apply in the 2004 caretaker period. The conventions are codified in those guidelines and properly set out the appropriate constraints and processes that apply to governments prior to an election and the reconvening of the legislature.

The principal convention that applies under the guidelines is that the government will ordinarily not make major policy decisions that bind incoming governments. In circumstances where this is not possible the government will consult with the opposition and other members to seek and obtain agreement to the action to be taken. The government is committed to this convention, and it is the approach that most meets the concerns inherent in the motion raised and the approach that is the most sensible and practical for the governance of the territory.

In effect, the motion attempts to amend the Electoral Act provision that sets the caretaker period at 37 days before the date of the election by a motion in the Assembly, not an amendment bill. The caretaker convention, pursuant to the Electoral Act, comes into effect on 12 September. This motion seeks to extend the caretaker convention in relation to regulations, from 12 September to 16 August. The Electoral Act specifies a 37-day caretaker period, and this motion seeks to override the act and kick in a caretaker convention period from 16 August.

Perhaps the most important argument in relation to this motion, and the fundamental reason that I oppose it, is on the basis of the intuitive understanding I have of my responsibility and duty as a minister and an intuitive understanding, which has been confirmed for me by the Department of Justice and Community Safety, that the motion is almost certainly contrary to the law. It is almost certainly the case that it is contrary to sections 37 (b) and (c) of the self-government act, which make it clear that the executive's responsibility is to execute and maintain enactments and subordinate laws, and it is for the executive to exercise such powers as are vested in it by, or under, a law in force in the territory.

We all know that the executive cannot properly agree to not exercise its statutory responsibilities. As a minister who takes responsibilities extremely seriously, I cannot and will not accept a direction not to do my duty as I see it.

Mr Quinlan: It's as the law sees it.

MR STANHOPE: It is as the law sees it that protects that right. I believe I would be contravening not just my statutory responsibility but my duty and my obligation to fulfil my duties as I see fit, and I cannot be directed by anybody in the performance of my executive function. This is a motion I simply cannot accept.

MS TUCKER (6.28): I have considered this motion carefully, and I am not able to support it. I have now been through several caretaker periods and do not recall anything like this. There is a convention in the caretaker period. The capacity to move disallowance in the new Assembly is acknowledged as an issue, and I have sympathy with Mr Stanhope's position and the arguments he has just put. I think the motion comes from a real lack of trust from some members of the Assembly. I cannot agree to this motion, because it would be inappropriate and I do not think you can stop government doing its business to that degree. There could be some quite serious implications.

MR SPEAKER: I have been told it is the wish of the Assembly to break for dinner. Does that still stand?

MR STANHOPE (6.29): Mr Speaker, I was advised that an agreement was reached in the Assembly that there would be no sitting tonight beyond 7 o'clock, and the government arranged its program on that basis.

MS DUNDAS: Mr Speaker, the Chief Minister does not have leave to make a statement.

MR SPEAKER: Order! You'll need to seek leave, Chief Minister.

MR STANHOPE: I seek leave to make a statement, Mr Speaker.

Leave granted.

MR STANHOPE: Mr Speaker, I was advised by the government whip that there was an agreement within the Assembly that there would be no sitting today beyond 7 o'clock. On the basis of that understanding, government members did not seek to have placed on the notice paper today motions of interest to them. I understand that undertaking has

been withdrawn, and I regard it as a very serious breach of faith in this place and in the way this place operates. On the basis of the undertaking I was given by my government whip, I made arrangements for tonight, which I have cancelled.

I accept that we now rise. I just want to put on the record that I find it a matter of serious concern that, having come to an arrangement, we find it unilaterally broken and withdrawn. I wish to record my concern that clear undertakings and understandings, on the basis of which many of us acted, have been unilaterally withdrawn. These are issues that need to be seriously addressed.

Sitting suspended from 6.31 to 8.00 pm.

Debate interrupted.

Distinguished visitor

MR SPEAKER: I want to acknowledge the presence in the gallery of a former member of the Assembly, Mr Rugendyke.

Making of regulations

Debate resumed.

MRS CROSS (8.00): Mr Speaker, the underlying notion of Mr Smyth's motion this evening centres on the dispute over Assembly power and executive power. The motion is simply seeking to stop the government from making regulations attached to legislation passed in the June, July and August sitting weeks after 16 August. The argument in favour of this is that there is a distinct possibility that there may be up to seven months between when this Assembly last sits and the next Assembly first sits. This would occur if the federal government called an election for 16 October, which would force the ACT election back to 4 December.

Combined with the modern trend to incorporate much of the oomph into regulations rather than into legislation, and the increasing amount of complex legislation being put forward by this government, this would seem to reduce the accountability of the executive if it were allowed to continue to introduce regulations on new legislation that the Assembly may not be able to consider for up to seven months. While I am sure the government will abide by the caretaker convention, and while I am sure the government would not abuse its power to make regulations, it is still important that safeguards exist. It is also important that the elected members of the Assembly have time to consider any regulations implemented by the government.

Mr Stanhope said before dinner that this motion extends to the caretaker period for the government. I do not believe this to be true. The executive can still implement regulations on any act that was not passed in June, July or August this year. It seems entirely reasonable that the Assembly should have time to consider regulations implemented by the executive and then reject these if necessary.

I will be supporting Mr Smyth's motion as I believe that the possibility of having seven months between sittings means that regulations could be in place for too long without Assembly scrutiny and approval.

MR SMYTH (Leader of the Opposition) (8.03): Mr Speaker, the speeches of the government are unfortunate: Mr Stanhope says, "Nobody is going to stop me from doing my job." Nobody is asking you to stop doing your job. What we are asking you is to do your job in a timely fashion, so the rest of us can do our job, which is to scrutinise what you do. That is what we are paid to do. If substantial blocks of regulations come in that are attached to bills that are passed in the next couple of weeks, and the last couple of weeks, we will not be able to do our job.

I made the point in my speech, if you bothered to listen, Mr Chief Minister, that we understood that the right to move disallowance would not disappear and the right to a disallowance travels across from one Assembly to the next. I said that, because I too, have read the act. The problem with it is that, in this case, some of the timeframes may mean that, from August to February, new regulations will be put in place that will go for five, six or seven months, depending on certain dates, without having had the benefit of the scrutiny of the Assembly.

The Chief Minister said that what we are saying is that no regulations can be made. This is a disingenuous approach, because I said that we understood that, for acts passed before this sitting period and the next, there might be the need to make new regulations and that we accepted that. What I am saying is that, because of the number of bills—and the list of bills was expanded by other members who added to it the FMA and the health practitioners act—there are substantial amounts of work to be done in the last couple of weeks. Because of the way we now legislate and the emphasis we put on regulation, substantial blocks of regulations will go unchecked for three to six months. That was the whole point of this motion.

What we are asking you is to do your job in a timely fashion because surely, if you are ready to pass these bills, you have the regulations in them and ready to go. What we are asking you to do is either table the regulations when we debate the bills or table the regulations as soon as possible, that is, before 16 August, so we can do our job.

Mr Quinlan said that you will not break the caretaker convention and I am sure that you would not. There is no purpose in breaking the caretaker convention because, in a campaign period, you would be caught doing it. Nobody is that stupid. Mr Quinlan also said you would govern well, that we should trust you and that we were being childish. Have you governed well? That is up to the electors. Trust you: no, we do not. Is the opposition being childish? No, the opposition is doing its job, which is to keep you under scrutiny, and we will do it right up to election day.

So, the purpose of this motion was to say simply, "Do your job in a timely fashion so we can do our job." I note that the numbers are against the motion. Perhaps it is something that we need to address with regard to regulations: when bills are passed, we often do take on trust—you did it with us and we do it with you—that governments will ensure that the regulations mirror the sentiment of the bill that was passed in the Assembly on

the day. Perhaps assemblies—opposition and crossbenchers—should be more insistent that bills are not passed until regulations are available, so that we know the full package.

The government has achieved it: I think it was in the construction industry bills that Mr Corbell brought on, which were quite complex and had quite large regulations attached to them. When we debated those bills, we knew the entire package. Given the size of some of the bills and the importance of some of the bills we have talked about this week, and will talk about next week and in August, I think it is appropriate that the opposition and the crossbench have time to scrutinise them.

That being said, I understand that the Assembly is not with this but, again, our job is to scrutinise what you do. I will ask that you extend to the Assembly the courtesy of tabling as many of your regulations as you can before the 16th, so that members can scrutinise them, look at what you are doing and, if it is necessary, take the opportunity to move a disallowance. That is a courtesy that it would be nice to extend to the Assembly. I understand that the motion is going down but I thank members for the debate. It has been very interesting and very instructive.

Question resolved in the negative.

Planning and Land Authority

MRS DUNNE (8.11): Mr Speaker, I seek leave to move a motion the same as the one that was on the notice paper but which fell off accidentally earlier in the day.

Mr Hargreaves: Point of order, Mr Speaker: is a suspension of standing orders required?

MR SPEAKER: No, if Mrs Dunne has leave, suspension of standing orders will not be required, but if she does not have leave, that is another matter.

Mr Hargreaves: Well, let's hear the begging.

Ms Dundas: Has she been a good girl?

Mr Hargreaves: Has she been honest?

MR SPEAKER: Just resume your seat for a moment, Mrs Dunne. What happened earlier on—

Mr Smyth: Sorry, point of order: Mr Hargreaves said, "Is she being honest?" and I think he should withdraw that.

Mr Hargreaves: I said, "Has she been honest?"

Mr Smyth: He should withdraw that comment also.

MR SPEAKER: There is an imputation there. Just withdraw it.

Mr Hargreaves: I withdraw, Mr Speaker, if I asked if she was being dishonest.

MR SPEAKER: The matter under Mrs Dunne's name, which is notice No 4, came on immediately before Mrs Dunne moved to suspend for lunch and it fell off the notice paper as a result. Mrs Dunne either has to have leave to bring it back on again or to suspend standing orders.

Leave granted.

MRS DUNNE: I move:

> That this Assembly:
>
> (1) notes:
>
> (a) it is now a year since the establishment of the ACT Planning and Land Authority;
> (b) the failure of the Stanhope Government to establish a clear and trusted process of community consultation;
> (c) the increasing lack of confidence of the community in the planning process;
> (d) the lack of independence of the ACT Planning and Land Authority; and
> (e) the lack of access of Members of the Legislative Assembly to advice from the ACT Planning and Land Authority; and
>
> (2) calls on the ACT Government to restore confidence in the ACT planning system by:
>
> (a) establishing a process of consultation which is widely accepted in the community;
> (b) working towards a truly integrated planning approvals system; and
> (c) ensuring that the ACT Planning and Land Authority is truly an independent body by allowing Members of the Legislative Assembly free and unhindered access to the advice from the Chief Planning Executive and his staff.

I thank the Assembly for its indulgence and apologise for the inattention that caused this to drop off the notice paper. As the motion says, next Thursday marks the ACT Planning and Land Authority's first anniversary. It is now an appropriate time for us to reflect on what has happened in that year.

In December 2002, when the legislation was passed, it was largely opposed by the Liberal opposition, but this was not blind opposition—opposition for its own sake. I said at the time, "We believe that some of what is being suggested may be an appropriate solution, but it is certainly being suggested at the wrong time." This was reinforced by the recommendations of the Standing Committee on Planning and Environment in its inquiry into the Planning and Land Bill and associated legislation, when it said, "The committee recommends to the Assembly that this legislation not be rushed through to meet artificial deadlines", and later, "The committee reaffirms its view that the long term outcome of the government's reform process will be improved if more time is allowed for consideration of this legislation."

At the time, Mr Speaker, I asked what the situation would be like six months after the act came into operation and I think it is now time to reflect on that. We have reflected a little in the past. However, the minister at the time, in December 2002, ploughed ahead. To be

fair, this is very much a do-nothing government and the Minister for Planning wanted to stand out as somebody who was at least prepared to do something. That is creditable, but much of what was done was misguided.

This is not to say that the Planning and Land Authority does not have the potential to be a good institution. Over time, it will develop into that but, at the moment, it does not have the tools to do that. The cautionary note that was being sounded by the Liberal opposition back in December 2002 and before that, predicted what has occurred. Much of what I predicted at the time has come to fruition. I do not claim any particular prescience but I predicted that little would change and, for the most part, little has changed and what has changed has changed for the worse.

This is because—and these were issues that I raised at the time—there was insufficient commitment to the staff and staffing levels, there was no real commitment to organisational change and there was a fixation on passing a piece of legislation, but legislation alone does not create or revivify an organisation. The planning and environment committee at the time, and the opposition, cautioned the government and the minister about their approach.

The planning and environment committee, in its recommendations, said that it shared the concerns expressed by people who made submissions, that "this legislation may add further layers of complexity to an already complex and sometimes cumbersome process" and that "There appear to be a number of areas of overlap between existing and new legislation and also a lack of clarity with regard to the interaction of existing and new processes." The committee further recommended:

> that the government consider establishing a Planning Ministry which would:
>
> (a) provide the Planning minister with administrative support and advice; and
> (b) assume some of the routine administrative functions proposed to be given to the Planning and Land Authority.

The opposition spoke then of low morale and lack of commitment to the staff. I believe that there is still no commitment from this government to this organisation.

I know that I expressed at the time some concerns about some of the appointments to the Planning and Land Council and the Land Development Agency, but I congratulate the minister on those appointments. I have been proven wrong. They have proved to be quite good appointments and some of the people about whom I had reservations have shone. I am quite prepared to say that it is the case that I was perhaps overly cautious and that, for the most part, the appointments have been quite good.

We have made good appointments. The appointment of the chief planning executive, while it took overly long—and it also took too long to get the appointee in place—appears to have been a good one. There is a higher level of satisfaction in the community with the attempts being made by the chief planning executive to get things under way and to bring planning in the ACT into the 21st century.

One of the things that is of great sadness to me is that Canberra once had a pre-eminent role and a pre-eminent reputation as a great planning city, a great planned city and a great place for planners to practise their craft. That is changing, and it is changing so

much that it is now very difficult for the Planning and Land Authority to recruit qualified planners. That means that we have to redouble our efforts and perhaps allocate some more money to ensure that we can attract planners, so that we do not lose our position as a pre-eminent planned city and a place where planners want to practise their craft.

There is no support. A whole lot of stuff happens, a whole lot of reports are produced and, although people might have mixed views about the outcome of the spatial plan as a final document, the planning community, both within ACTPLA and its predecessor, and in the wider community, were bound down by that process. I think there were seven or eight iterations, different reports, that required community consultation. It is like that movie called *The Rise and Rise of Michael Rimmer*: you consult and consult and have elections on everything and referenda on everything until people eventually give up and have a referendum to do away with referenda. This is what has happened in this organisation.

The spatial plan process was too long and too drawn out and it sapped the energy of organisations and of the community. In addition to this, there has been a substantial failure on the part of the Stanhope government, and particularly this minister, to establish a clear and trusted process of community consultation. I do not know how many times people in the community talked to me about lack of trust. There were things such as DV200, to which 96 per cent of people who expressed views about it were opposed, but it was pushed through. There were occasions, such as when this Assembly voted to change the territory plan in relation to a block in Narrabundah occupied by Animals Afloat, when nothing happened and there was obfuscation. That grinds down the community's trust.

There has been the startling failure of this minister to establish his community planning forums. At that time, a member said to me, "We have to solve the problem," and he made a variety of suggestions about how we could get over the problem, but he kept saying that the fundamental reason that the CPFs failed is that they were too clever by half and they have further eroded the community's trust. He said we could go back to other models, but that would be negative and there had been bad experiences.

We could devise an alternative to the CPFs. The trouble is, it would take a very long time and, again, trust will be lacking. The lack of trust is what we see. When the minister finally did come up with a new proposal—the community planning forums mark two or the LAPACs mark three—the community response was a complete lack of trust. All the organisations that I have spoken to are suspicious about what is being done. I think I have said, if not in this place then in other places, if Francis Fukuyama were to do a revision of his book *Trust*, he could come to the ACT and look at the planning system, as reigned over by Minister Corbell here, as an example of how trust does not work.

In addition to that, we have seen the failure of the neighbourhood planning system when residents of places such as Turner were desperately unhappy with the process. Although there was a bit of a splash of publicity the other day about Watson, Downer and Hackett, the people I speak to in Watson, Downer and Hackett express grave reservations about the process and feel that their trust in the process has been seriously undermined.

There is an increasing lack of confidence in the community in the planning process and I will touch on just two examples: block 80 on the Belconnen lake shore, where the

auction documents that the community trusted turned out to be not worth a cracker, and Brown Street in Yarralumla. There is a vast range of documents that show that something has gone wrong with that process, and that the community, the people who live in the neighbourhood, now no longer trust the system.

A similar example occurred in Sirius Place in Red Hill where there have been, on various occasions, five DAs introduced, withdrawn and reintroduced. As a result, there is confusion and a lack of trust. As a result of this lack of clarity, resources are being tied up in a cumbersome process. I see today that the minister has launched three very nice documents that go some way towards addressing the cumbersome nature of that process, but it is still a long way from a perfect system.

One of the things that is really concerning to members in this place is the lack of independence of the Planning and Land Authority. This is a core problem and this is the situation about which you will find that Minister Corbell wants to have his cake and eat it too. If something goes wrong, Minister Corbell says, "The Planning and Land Authority is an independent statutory body. It can do what it likes." However, if he wants something to happen, it happens according to Minister Corbell's will. I do not think he can have his cake and eat it too.

The real problem with this is that Minister Corbell relies upon the planners to advise him on planning matters. That is fair enough, but that is why the Standing Committee on Planning and Environment recommended that he establish a separate, perhaps small, planning ministry so that the Planning and Land Authority could get on with being an independent statutory authority, if that is what you wanted, and he could still have planning advice.

The result of the situation we have is that nobody else in this place has access to the Planning and Land Authority or the chief planning executive for advice. This is something that has to change. Since the outset of this debate back in mid-2002, I have been asking the minister, "Can you guarantee that the chief planning executive will be independent?" and other questions.

Could I, for instance, if I wanted to or if any member of this place wanted to, ring the chief planning executive and say, "I have this problem before me, what do you reckon?" as I could, for instance—and this is the example I always like to use because it is something that I know about—with the Gambling and Racing Commission. I could ring the chief executive of the Gambling and Racing Commission and say, "I have this issue. I would like to chew the fat with you. I do not want to tie you down," and that person would give me confidential advice.

Members of this place cannot receive that kind of advice from the chief planning executive. If members of this place want to approach the chief planning executive, or anybody else in the organisation for that matter, they have to seek permission from the minister's office. This is not how an independent statutory authority should work and I think it is time it changed.

This is why we have moved the second part of the motion, which is the nuts and bolts. There are two or three things here that we really must address. We must establish a community consultation process that is widely accepted in the community. We had, for

instance, in the estimates committee report the other day, a section called "working collaboratively". Working collaboratively is a phrase that appears time after time in the budget papers in relation to planning, as one of the highlights of planning, but the thing is that the community is not finding that we are working collaboratively. We seem to be paying lip-service to it, not really engaging the community in a way that is meaningful.

We have to work towards a truly integrated planning approval system. One of the big problems I have always had with planning in the ACT is the land act. The thing that makes everything work, or not work, is the land act. I will not bore you with my usual quote from the Stein report about how the land act is a disgrace, because it is. Over the years, while I have been the planning spokesperson, the Liberal opposition has worked tirelessly to obtain a review of the land act. We are getting it quite some time after we called for it and I am glad to see that it is happening. I think that it is a good thing and I am pleased to see that the staff who are undertaking that review are new to ACTPLA and have not been involved in the last 13 years of running the land act. I think you need that fresh look. *(Extension of time granted.)*

However, I am dissatisfied with the time this will take. We will be well into the term of the next Assembly before we see the review of the land act coming to fruition. Without this review we will not have the system that we need. We need a high-quality, innovative and sustainable outcome from our planning processes. We need a variety of planning styles that will allow for choice in development across the ACT.

One thing we need more than anything else is a way of integrating all the legislation that relates to planning. The comment from all around the place is that we need a totally integrated planning system. When I looked at these documents today—the ones released by the minister at lunchtime—I thought that perhaps we may be getting down that path. There are some very good elements there but it is a very tiny step down the path to a totally integrated planning system.

The ACT should be pushing to have a real independent planning authority that has powers to sign off on all applications, even applications affected by the proposed tree and heritage legislation. As things stand now, ACTPLA can sign off on an application, then the application goes to the conservator, who looks at the trees and could say, "No, we cannot do that" and bounce the DA. Or the application can go off to heritage, as proposed by Mr Wood, and somebody in heritage could say, "No, you cannot do that" and bounce the DA.

This is not integrated planning and it is counter to the spirit of the national approach of the ministerial council on planning and local government. It is something that we, in the ACT, if we are to keep our pre-eminent position, should be embracing. However, the policy steps being taken by this government, by Mr Stanhope with his tree legislation, by Mr Wood with the heritage legislation, are counter to that. We are going to end up with three approval authorities, which is no way to have a totally integrated planning system.

In addition to that, when we redo the land act, we also really need to have better land use policies. Currently, our land use policies are not forward looking, they lack strategic, spatial and economic analysis—as the planning and environment committee has said on a number of occasions—and they do not seem to take into account adjacent areas. They

also ignore practical and sensible issues for business and people who live in the area, and they are often contradictory.

As a result of that, we have seen what I have spoken of on a number of occasions as despair in this town, and a flight of capital. There are now increasing numbers of people who are saying to me, "I have money to spend here but I cannot spend it because I cannot get the approvals." Some of the development application stuff that ACTPLA and the minister announced today may be an improvement on that but, as someone said to me today, this is really good because it is a very succinct summary of just how bureaucratic the process is.

If you look at page 32 of *Development Applications*, for single residences in established areas and dual occupancies, under "Preparing documentation" there are 14 documents that you may have to fill out. In most cases, anyone who wants to build a single residence or a dual occupancy will have to fill out at least 10 of those and, depending on heritage and trees and such things, they may have to fill out up to 14. That is not an integrated system and this is the problem that we have.

This is not to say that it will not happen; it is just not happening fast enough. Part of the reason was that the minister pushed ahead saying, "I have to establish the authorities so people can see that I have done something." It should have been done the other way: we should have been fixing up the land act so that, when you established the authority, you had something to work with, something that would solve people's problems rather than perpetuate them.

In addition to all the other things that I have asked for in this motion, I am asking for, on behalf of the members of this Assembly, more unfettered access to advice from the Planning and Land Authority and from the chief planning executive. In my motion, I have proposed a form of words. I have had some discussion with Ms Tucker's office in the course of the day. Her staff were concerned about the form of words but not about the sentiment, and they have come up with a better form of words that is not quite as prescriptive. On reflection, I found that my form of words tended to be a bit dogmatic and I do not want it to be dogmatic.

What I am trying to do is make freer the exchange of ideas, opinions and advice between the chief planning executive and his staff and members of this place who have to make decisions and vote on issues. Sometimes it is very hard to do that because we cannot get unhindered, confidential advice. Members of this place should not have to be second-guessed by DLOs when they are talking to a statutory officer, or by ministerial staff who might want to constrain others by saying, "You really cannot tell them that" or "I wish you had not said that." That is not how you provide free advice in a grown-up legislature and it is not how it works in other statutory authorities.

I commend the motion to the Assembly and, if Ms Tucker chooses to move her amendment, the opposition will support it.

MR CORBELL (Minister for Health and Minister for Planning) (8.32): Mr Speaker, I thank Mrs Dunne for reminding the Assembly of the fast-approaching first anniversary of the establishment of the ACT Planning and Land Authority, as is also the case for the creation of the Planning and Land Council and the Land Development Agency. I would

like to take this opportunity to publicly congratulate these agencies on the work they have done in the past 12 months.

Mrs Dunne seeks to discredit the planning process and those undertaking it. The point that should not be lost in discussing this motion is that, every time unqualified words such as "confidence" and "trust" are thrown around, some of the mud sticks. Perhaps that is the purpose behind the motion.

I think it is important to note some of the significant changes to the planning system since the Stanhope government came to office. We have established the independent Planning and Land Authority; we have abolished the Commissioner for Land and Planning, reducing a layer of the DA approval process; we have changed the Administrative Appeals Tribunal processes as they relate to planning; and we have included the introduction of a mediation process and a 120-day turnaround time for appeals. Seventy-four per cent of cases going to the AAT have been successfully mediated. This mediation represents savings for those appealing DA decisions and a reduction in the time of the appeals process.

The government has also sought to provide vision and direction for planning in the first significant way since self-government. It has done this through the development of the spatial plan, the sustainable transport plan, central area study and the neighbourhood planning processes which have seen over 10,000 Canberrans participate in the planning for their city. Added to this, each household in Canberra and Queanbeyan received a brochure on the spatial plan—110,000 households.

The government has formed the Planning and Land Council to allow for independent expert planning advice to be provided to the authority and to the minister. Furthermore, all this advice is publicly available and open for all members of the community to review. And the government has brought back public sector land development, ensuring a greater financial return to the territory for its land asset and allowing for improved design and for the community to have their say in how greenfield and brownfield developments are designed and built. These are not the actions of a government that shies away from community consultation. Rather, this is a government that engages in it and encourages it. This is a government that wants the community involved in the planning and decision-making process.

I am pleased that Mrs Dunne has raised this because, as she would be aware, only today I announced a number of initiatives that I believe will result in a process that ensures broad community representation and participation and consultation on planning matters. To help to further facilitate appropriate consultation, a review of stakeholder consultation was commissioned by me. Concurrent research was conducted by Artcraft Research, and the National Institute for Governments was commissioned to undertake a detailed investigation. These reports show that Canberrans are generally happy with the level of planning in the city.

The research undertaken shows that the vast majority of the Canberra community views the ACT's planning positively, with 78 per cent of respondents to a telephone survey rating it as good or better. The review also provided advice on the effectiveness of community engagement in the statutory and non-statutory aspects of the ACT's planning system. As a result of this research, I recently announced a number of initiatives that

I believe will result in a process that ensures broad community representation and participation in consultation on planning issues. The key components of this package are an invitation to community councils to be more closely involved in the planning process, a strengthened role for the planning and development forum and the establishment of a consultation matrix by the ACT Planning and Land Authority.

The new community consultation measures for planning involve a greater focus on community council involvement in planning, and a new role for the Planning and Development Forum is central to the new non-statutory consultation processes. Of course, we still have all of the statutory consultation processes embedded in legislation. This approach recognises that the community councils have provided an enduring and extremely valuable community service and have valuable grassroots links. The government is proposing to contribute up to $40,000 per year to help the councils with this role.

Further reform involves the authority engaging the Planning and Development Forum as a broadly representative body that will act as a conduit between the authority and community interests of strategic planning and development of policy matters. The forum will be chaired by me or my delegate, the chief planning executive, and will meet quarterly. It will comprise community council chairs, representatives from the conversation council, ACTCOSS and the professions and development industry.

A further key message in the review is to emphasise the importance of matching the form of consultation with the purpose. This is one of the key issues that the National Institute of Governments has identified. To this end, ACTPLA is establishing a consultation matrix. This matrix will establish a baseline for the minimum level of consultation that will be expected for different non-statutory exercises conducted by the authority from time to time.

In addition, members should be aware that today I launched a series of new design books and revisions to the development assessment process as it sits within the legislation framework. If you do not have one, please contact my office; I am very happy to provide them. These are designed to provide better policy guidance for those participating in a development application, as well as a more consistent, simple and impartial assessment path that replaces some of the encumbrances and frustrations that we have all become familiar with through what has been known as the HQSD process. The HQSD process was, of course, introduced, Mr Speaker, by the Liberals.

Underpinning these initiatives is the desire to ensure that community consultation and ACT planning methods are appropriate, inclusive and administratively practical. These changes will build on progressive improvements to the ACT's planning, development and building assessment systems.

I would now like to turn to the issue raised in Mrs Dunne's motion around working towards a truly integrated planning approval system. ACTPLA and the government are already delivering on improving the cumbersome and lengthy planning approval system left as a legacy of six years of Liberal government. Improving the ACT's planning system was a priority identified in Labor's policy for the 2001 election and has remained a priority during the government's first term of office.

In particular, section 9 of the act requires that, in performing its functions, the ACT Planning and Land Authority is to take into account the statement of planning intent. The statement of planning intent that I delivered to the authority in 2003, in fact in December last year, outlines, amongst other things, the key principles this government wishes the authority to have regard to in preparing its work program. The statement makes explicit reference to the need to work towards an improved planning system, including an improved and integrated planning approval system. No planning and development system can be successful unless it is capable of providing relative certainty, appropriate levels of flexibility, consistency and time limits.

While very significant progress has been made in performing the overarching governing arrangements for planning in the ACT, including the passage of the Planning and Land Act, it is clear to me that an unnecessary level of complexity, specificity, duplication and open-endedness continues to hamper the administration of performance of our planning assessment system. For this reason, the government is committed to a clearer and more time-responsive system for the making and administration of the planning and development policy. We need to simplify and clarify not only the steps involved in the decision-making process but also expectations of the system by proponents and members of the community who participate in it.

The government's views on the key elements of the overarching reform agenda are already on the public record, and these include the management of leasehold estate as part of the territory's planning and development regulation system, with an emphasis on compliance with these conditions; a reduction of speculation in undeveloped land; simplification of the processes for granting and administering leases; the streamlining of the development assessment system for all activities, including administrative processes that have developed around this system; short-term changes to minimise planning system impediments in Civic, town centres and along public transport corridors, including the pre-application phase; maintaining and promoting a single, integrated development assessment path and elevating the status and roles of strategic planning and policy instruments in guiding decision-making and engaging the community earlier, not later, in the planning process; and, finally, providing appropriate safeguards for members of the community most directly affected by policy change and development applications.

Over the past 12 months since the formation of ACTPLA, significant progress has been made with key elements of planning system reform. The ACT Planning and Land Authority has conducted a major review of concessional lease grant and administration arrangements. The review process has involved significant community and industry comment throughout the early part of 2004. A consistent theme that emerged from almost all quarters is the need for a more equitable and consistent application of the concessional lease framework, an issue of concern since prior to self-government. The review has now been finalised and recommendations prepared for me and the government.

The government has brought forward major legislation, the Construction Occupations (Licensing) Act, that represents a fundamental modernisation of arrangements for the licensing of construction occupations, including builders, building certifiers, plumbers, drainers, gasfitters and electricians. These constructional reforms were well overdue. The

government has delivered, and the legislation will now commence on 1 September this year.

The government has improved information packages on planning matters and development assessments. We have streamlined the high-quality, sustainable design policy introduced by the former Liberal government and we have introduced a revised series of guidance publications which will replace the former HQSD material.

The new approach is considerably more user friendly, easier to understand and simpler and makes a series of sensible refinements to the pre-application phase of the development application—what we are now more accurately describing as the design phase. In fact, there are now just three phases—design, assessment and review—something which is much easier for people to understand and work within. The improved processes will complement the processes that architects and designers naturally go through in working up a development application.

It would be remiss of me not to mention that this government is the first since self-government to set a new strategic direction for the future growth and development of our city. The strategic planning provides more certainty and guidance for both industry and the community.

The central area strategy is also an important initiative which this government has committed to to ensure that Civic becomes a key area of Canberra. Master plans for City west and the Woden town centre, together with the sustainable transport plan, master and neighbourhood plans, have provided the framework for future urban development and redevelopment.

The spatial plan, perhaps more than anything else, makes nonsense of Mrs Dunne's talk of an increasing lack of confidence of the community in the planning process. The release of the plan was the culmination of the community working together for nearly two years to develop a key strategic planning document that would guide the development of Canberra for the next 30 years. It seems that in some respects you're damned if you do and you're damned if you don't; you either consult too much or you do not consult enough. That seemed to be the assertion that Mrs Dunne was making this evening.

The government has committed to planning reform. The review was identified as a priority in the most recent Stanhope budget. In the budget the government committed additional funding of a quarter of a million dollars in 2004-05 and $100,000 in 2005-06 to ensure that the planning system delivers responsible decisions within a simpler framework.

In conducting the review, we are taking account of the work that has been undertaken elsewhere in Australia to achieve better, more timely and more user friendly planning results. This includes the work of the development assessment forum and its leading-practice model for development assessment which has a particular role to play in our consideration of a single, integrated development task. This is not to suggest, however, that the ACT will simply adopt the package as is.

It is clear that there are exciting times ahead for planning. The further reforms outlined above are priorities in the work program of ACTPLA and work is now progressing on all of these proposals so that further information can be made to interested parties and to involve all those people.

I'd like now to quickly address the issue of Legislative Assembly members' access to free and unhindered advice from the chief planning executive and his staff. ACTPLA is an independent authority. You only have to read the legislation to see that. I, as minister, do not and cannot intervene in those matters for which I no longer have an authority under the legislation. This does not mean that, on occasions when matters are drawn to my attention by members of the public or the Assembly, I do not question the decisions of ACTPLA; nor does it mean that I always agree with those decisions.

But I can dispel the myth that the motion tries to cement that the authority is not independent in those matters for which it has been established to make decisions at arm's length from the government. I will again remind the Assembly which government introduced this degree of independence. This government. *(Extension of time granted.)* The Assembly, through me as the Minister for Planning and through its committees, already has access to the authority's expertise. The planning and environment committee is able to call the chief planning executive on behalf of the authority to give advice on issues that are before the committee for its consideration.

Added to this, Mrs Dunne's motion proposes to add further work and stress on the capacity of ACTPLA which would need to service what would be another significant increase in inquiries. This again would take them away from their core business of actually servicing the community. I have to say that there is also the enormous potential for this privilege to be abused and add further pressures and tension between the authority and the community and could be exploited by some people who see it as another avenue to have someone represent and apply pressure for their issue, having failed through other available mechanisms. When this happens, no matter how Mrs Dunne tries to mask it, this would be political interference within what is an independent authority—an independent authority proposed by this government, with the support of the community, and endorsed by this Assembly.

Access to the authority by members of the Assembly cannot be regarded, by itself, as a measure of its independence. It has been recognised practice and courtesy by all sides of politics that an approach to a government department should be through the office of the relevant minister. Just as members may be concerned about the hand of the minister in relation to the activities of government departments, so too should the minister have the right to be concerned about the ability of an Assembly member, be it in good faith or not, to interfere improperly with the business of a government agency.

ACTPLA is a government department for the purposes of its policy role and is not independent from government policy. It is in its decision-making role that it is at arm's length and, as I have stated earlier, whilst I have views on some decisions—on occasions I either disagree with these and/or seek briefings—I do not interfere in this role. I cannot, under the legislation. And this is what I expect of other members who, if they wish to seek a briefing, I believe, should do so by first of all advising my office so that I can be

satisfied that the politics, as best as possible in the planning and development debate, does not interfere with the integrity of the process.

While the authority has independence in decision-making set out in legislation, it does not have independence in policy matters. And members would be aware of that when we debated the Planning and Land Bill. Mrs Dunne's motion, I suggest, flies in the face of any independence of the authority by seeking to have the Assembly direct the authority.

I believe it is essential that Assembly members respect both the independent decision-making capacity of the authority as well as its responsibilities to the minister and, through the minister, to the Assembly. This is not an either/or situation; this is a system where I have responsibilities for many of the actions of ACTPLA, and I reserve the right to ensure that advice is consistent with these responsibilities.

The Planning and Land Act, which established the Planning and Land Authority, the Planning and Land Council and the Land Development Agency, provides the government structures for planning and land development in the ACT. This structure makes clear the separation between the Assembly's and the government's role in setting policy and the planning professionals' role, through the Planning and Land Authority, in undertaking technical assessments against the approved policy framework.

Politicians are elected by the community to set policy. Our technical professionals administer this policy, and the Planning and Land Authority has been given the independence to make those decisions without political interference. The National Development Assessment Forum has recently approved a model for an ideal development assessment framework which the forum advocates should be adopted in all states and territories. Central to this model is a clear separation of powers.

Whilst local governments around Australia are arguing to maintain their right to decide development applications, only in the ACT under this government's leadership has a jurisdiction taken the progressive and groundbreaking step of taking politicians out of the development approvals process. Of course, as in any state government, I, as Minister for Planning, retain the option to call in a development if it is significant or sensitive to the ACT or that in itself raises a significant policy issue. At the same time, this government has further tightened the accountabilities around the use of this power so that the decision can only be made in a fully informed way; that is, I must seek the advice of the Planning and Land Council and the authority prior to making a decision on a call-in and I must table this advice in the Assembly.

It is clear that the authority does not report to the Assembly; it reports to the executive and the minister responsible for planning. However, there are circumstances where the Assembly, through its committees, has access to the authority's expertise. The planning and environment committee is able to call the CPE on behalf of the authority to give advice on issues that are currently before the committee. For example, on a submission to the committee for a variation to the territory plan which the committee felt was contentious, it could seek the advice of the authority to get its views on that variation. And the authority would be able to give the committee its views on that, regardless of the government's policy position.

The staff are staff of the authority and they are responsible to the chief planning executive; they do not report to the minister. It is the chief planning executive's responsibility, knowing that this is a statutory appointment, to provide the minister with advice on issues such as variations to the territory plan as well as having direct opportunity to administer the information aspects of the Planning and Land Act.

In conclusion I'd like to take this opportunity to remind members of a conversation that Mrs Dunne had with me during the Standing Committee on Planning and Environment's hearing on 22 September 2002 when she was the chair of that committee. The discussion was on the independent status of the authority. I was explaining the independent functions of the authority and those of which the government had carriage. I explained that the difference was that the government set the policy framework for the authority and it made certain decisions and that the authority then made certain decisions independently from the government; the decisions which the authority had independence on were in relation to the implementation of planning law; and in that respect it was no different from other statutory bodies such as the Racing and Gaming Commission.

Mrs Dunne herself stated:

> I think I've actually used the example of the Gaming and Racing Commission in that, in a sense, it does not advise the government … and that from my experience the ministerial relationship with planning and land management is very much of a minister-public service arrangement where planning and land management advises the minister for the most part, whereas the relationship between the Gambling and Racing Commission and the minister is not that relationship.

At that stage Mrs Dunne fully understood that the planning authority was a hybrid authority and that its roles and its reporting responsibilities to the minister and the executive were different from those in relation to its independent, decision-making powers. The government agrees. It does not support the motion as outlined by Mrs Dunne. I move the amendment in my name to address our concerns. I move:

> Omit all words after "Authority" first occurring, substitute:
>
> "(2) calls on the ACT Government to ensure that the ACT Planning and Land Authority, in that part of its function where it has an independent decision making capacity, is available at the discretion of its Chief Planning Executive, to brief Members on those planning matters that are already publicly available, subject to the integrity and impartiality of the process not being interfered with and due recognition of the privileges that the Authority needs to observe in conducting its business.".

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

MR CORNWELL (8.56): You just do not get it, do you? We have listened tonight to a great deal of talk about what is happening and what is not happening. We are addressing, I suppose, Mr Speaker, something that is probably the biggest investment that anybody will ever make, that is, a home.

Mrs Dunne mentioned a little earlier a couple of examples of problems associated with planning at the moment, and one of those was at Yarralumla. I think its instructive, sir, that I should mention this. I have here a file half an inch thick relating to this development in Brown Street. I understand that the proposal is to remove an old house and put up a new building. I understand that the person concerned who wishes to erect this is a developer; so I presume the man knows what he's doing.

But the neighbours have been faced with massive problems associated with this approval. At no stage prior to DA approval were we informed that only appendix 111.1 to the territory plan would be used by the ACT planning authority as the basis of the DA approval. It is evident that the planning authority has power to ignore both HQSD process criteria and provisions of this appendix that I just quoted, and its decision is final.

Immediate neighbours have no rights of appeal or redress under the territory plan. The chief planning executive has also now advised us he has no power to revoke or review the DA approval. The ACT planning authority failed to acknowledge or address letters detailing our concerns and forwarded in accordance with the formal notification process.

The proposed new residence is clearly a three-storey dwelling; it includes a 2.4-metre basement, initially designed as a garage but still retained for potential use as such, which is illegal outside core areas of Canberra suburbs. As a result, the ground floor level is unacceptably high in relation to adjacent residences.

MR SPEAKER: Mr Cornwell, I'm trying to work out which part of the motion or the amendment you are addressing.

MR CORNWELL: I am addressing, sir, the need for the government to restore confidence in the planning system.

The planning authority—to continue—has now admitted that the DA approval was illegal because the proposed new dwelling exceeded the permitted plot ratio. Also the planning authority failed to address or ignored key provisions of the appendix 111.1 and the HQSD documentation designed to ensure the visual privacy and amenity of immediate neighbours. These provisions relate to the relative height of the ground floor storey, requirements for boundary fences and walls. The chief planning executive of the planning authority has since admitted that the current development process is flawed and substantial changes are planned. Is it any wonder that we are calling on the ACT government to restore confidence in the ACT planning system?

Mr Corbell has moved an amendment to the motion that:

> "(2) calls on the ACT Government to ensure that the ACT Planning and Land Authority, in that part of its function where it has an independent decision making capacity, is available at the discretion of its Chief Planning Executive, to brief Members on those planning matters that are already publicly available, subject to the integrity and impartiality of the process not being interfered with …

I would question the integrity and impartiality of the process.

There are a number of questions that I will be putting on the notice paper. I notice Mr Corbell, the minister, whenever there is a matter under attack concerning his portfolio, always leaves the floor. Fortunately, Minister, you did say in your speech that we have the opportunity to go through you in terms of this process. I will certainly be putting a series of questions on the notice paper in relation to this Yarralumla development, like:

- Why was approval granted, although the proposed residence was illegal, both in respect to plot ratio and being three-storey?
- How can provisions of appendix 111.1 relating to privacy and boundary fences be ignored by the planning authority during the development application process?
- Why are immediate neighbours having no rights of appeal or redress under the territory plan?
- Why should ACT residents—and this is an important one—continue to be penalised or disadvantaged under a territory plan that is clearly flawed?
- And lastly, of course, will you intervene in the matter?

That's up to you. The questions will be going on the notice paper, Mr Corbell.

The point, I think, that needs to be reinforced, however, is that there is not confidence in the planning process. I repeat that a house, a home, is probably the greatest investment anybody will ever make in their life, and it is simply unacceptable that this purchase should be threatened by all sorts of extraneous activities and that the processes put in place to protect the home, the house, should be so seriously flawed as to be derisory. The angst, the anger and the frustration that people undergo because of this is, I think, apart from being unacceptable, probably also unbelievable.

We have all experienced these problems. We have all seen the way that ordinary, decent people have been seriously inconvenienced and have had to prepare half inch thick documentation to try, not necessarily with any guarantee of success, to get decisions reversed in this matter. I do not know how other members of this house feel but I, for one, would be extremely concerned if this happened to me.

Doesn't anybody in this place, apart from, obviously, a few of us, have any feelings for these people—that they should suddenly find that what they believe are rules are being broken or perhaps even just ignored and the perpetrators are getting away with it?

Mr Hargreaves: Put them in jail, I say.

MR CORNWELL: No. I do not know that we have to put them in jail, Mr Hargreaves, to acknowledge your interjection. All we have to do is enforce the laws, the planning laws that have been introduced.

I do support Mr Corbell's suggestion that this whole matter should be streamlined. It is simply too much of a challenge for the ordinary person out there to work their way through this labyrinth of rules that have been imposed, that have been overlaid. I sometimes wonder—maybe I am too suspicious—whether this proliferation of laws and regulations is not designed specifically to frustrate ordinary people trying to get some justice out of the planning system. But, whatever it is, Mrs Dunne's motion is relevant

and, I believe, very long overdue. The only thing that worries me about it, Minister, is whether you are going to be able to make some of these things retrospective so that you may at least assist some of these people who have been so grievously inconvenienced in their home and indeed their lifestyles.

MS TUCKER (9.05): I welcome this debate on planning in Canberra. The key planning issues that the Greens have campaigned for publicly and worked for here in the Assembly are community participation in planning processes, reasonable appeal processes, an end to developer-led planning decisions and improved outcomes on ecological sustainability. I would say that everyone here has demonstrated an enthusiasm for those ideas at different times and I do not think the outcome is consistent with those goals.

I do not think there is an argument that the community consultation processes to date are either clear or trusted. It has been argued that it is par for the course and that everybody sees every issue differently once it is happening over their fence or in their suburb.

The shift from pressure groups to LAPACs, to the idea of community planning forums, to the proposed partnerships with community councils needs some picking over. Pressure groups, whether they are residents associations or business lobbies, can and do get outcomes on a case-by-case basis. The overall effect, however, is not always good.

One of the strengths of Canberra is that it grew up as a planned city. Unfortunately, we then saw a piecemeal approach to redevelopment, illustrated by the Canberra Centre take-over of Ainslie Avenue and, later, both its expansion and the sale of the Griffin Centre and the Bunda Street car park. They all clearly illustrate the problems of such an approach.

The LAPACs were a partial attempt to address the lack of any formal community input into town planning. They were structured for some diversity which, given the community's response, tends to otherwise be skewed to particular interests or perspectives.

While the most annoying thing about LAPACs for others might be the occasional level of detail they would get down to and then their distress at the lack of support available to allow them to do that detailed work, I think we would have to acknowledge that the concerns coming out of this fine-grain scrutiny were too often perfectly justified and rather affirmed the value of administrative appeals processes. Certainly this work of LAPACs often highlighted the significance of effective appeal processes for appropriate third parties as well as those immediately affected. LAPACs did not cover the whole of the city, however, and they did take on particular flavours that maybe frustrated the planning regime that would have been trying to take a coherent approach to planning and development.

One of the community planning processes that the Greens have long advocated is neighbourhood planning. Recent experience in the inner north of Canberra warrants picking over. Some time in 1998, I recall, ACT Housing proposed two-storey terrace-style redevelopment of ACT Housing properties in Ainslie. There was a fairly vociferous rejection of the idea by Ainslie residents, particularly homeowners who

argued that they did not want their suburb changed. Public housing tenants, on the other hand, were most keen to see ACT Housing keep properties in Ainslie, new or old.

As it happens, the homeowners more or less won that battle and the next five years saw a number of houses, public and private, replaced by upmarket homes and dual occupancies. The suburb has changed irrevocably, both in terms of the streetscape and in terms of the social mix. That is more of the pressure-group approach to neighbourhood planning.

Hackett, Watson and Downer recently experienced a more engaged neighbourhood planning process run by PALM and ACTPLA. It was run by PALM and then they changed their name to ACTPLA. It had a strategic dimension, coming as it did after the garden city variation to the territory plan which consolidated more intense development close to shops and cut back on dual occupancies across the rest of the suburb.

This was a fairly complex process involving, firstly, an exploration of community values for the suburbs; then a creative interpretation of those ideas that earned a fairly volatile response; and then a more detailed, fine-grained negotiation to come out with something fairly acceptable to the most interested parties. At different times interested parties clearly did not understand the process. At other times participants clearly were not prepared to accept some of the broader changes in terms of demography, the property market, the growing commitment to sustainability and what is necessary for viable local shops and facilities. Also, I am not sure how a process like this builds in the interests of older and younger people and more socially excluded people.

While we remain committed, then, to neighbourhood planning, more work needs to happen to establish the trust that clearly needs to underpin such a process. I have to say that just last week I was at a neighbourhood planning meeting in Hackett and I was also at a meeting of residents in Phillip recently. It really is clear that there are three key points that come up from these meetings every time: one, the developers are going to ram as much as they can on a block to maximise profit at our expense; secondly, it does not matter what is promised by the government in terms of quality or what will really happen in terms of the consultation and the feedback that is received, they do not believe it, they do not think it is going to go anywhere; and thirdly, interestingly, there is usually at least one if not more people who say, "If we weren't so afraid that the development would be shocking, we wouldn't be so against it." In other words, there is a really strong understanding in the community about the quality of development and the desire to see high quality, beautiful development. The word "beautiful" came up in Hackett last week. It was very interesting to me to notice how the different suggestions were picked up.

The issue, of course, was sustainability. There is a genuine interest but, once again, there is a lack of real understanding about what that means. An ecological best practice or environmental best practice in building design is something that we really need to be talking about and communicating about a lot more and also linking it with the aesthetic of beauty, because the two are quite compatible. There are synergies between these two traits or characteristics of good developments. It really is quite obvious; these things keep coming up.

I think the government has been working with the neighbourhood planning process, although I think that there is still a lot to be learned. It is an iterative process. Hopefully the lessons from these suburbs are informing the process designed for the next.

Importantly, a neighbourhood plan is not a continuing process. Community participation in planning needs to be continual. The proposition to engage community councils with the planning regime is attractive because those bodies already exist and have reasonably clear domains, central Canberra excepted. They are, of course, self-selecting—they could not function otherwise—but are not necessarily diverse or inclusive and we have to make sure that that is the case if they are to be such an important channel between the community and government. I notice that the Woden Community Council has organised discussion of the Canberra social plan with a number of people from the new Canberra Inclusion Board on 7 July, which is a very commendable move. Those issues might be discussed at that event.

Overall, issues of inclusion and the equally important issues of resourcing are the ones that need to be addressed. Indeed, inclusion and resourcing are fundamental issues in regard to all dimensions of community engagement. I take the view that, if we are to have an active and engaged community and if we are to develop a planning regime that sufficiently reflects the diverse aspirations of this community and the people within it, a thoughtful approach to these issues is important.

I note that, for some consultative bodies, community or consumer representatives receive sitting fees. In the commercial world of focus groups, payment appears to be a key guarantee that a representative group can be assembled. If we are to take the issues of inclusion and representation seriously, perhaps something such as sitting fees is necessary.

The other key issue of this motion is one of access to advice or information from the semi-independent ACT Planning and Land Authority. I think we need to be cognisant of the fact that ACTPLA is not an autonomous authority; it is not structured in that way. While staff answer to the chief planning executive, the chief executive reports to the minister. And while the authority, in dealing with development applications, rightly is independent, when it comes to policy advice it is simply another government department.

Consequently, while I am not sure it is wrong to note the lack of confidence of the community in the planning process, I do not think we can, through this motion, argue that it is a bad thing and imply that the situation can be changed simply through a motion or that, through a motion, we should put an agency at odds with its enabling legislation. But I will come back to that later when I propose an amendment to part 2 (c).

I would also like to put on the record my perspective of the access to ACTPLA issue. I do think there is a danger that, by demanding unhindered access to the planning authority, members open themselves up to being agents for aggrieved developers and constituents demanding too much from a staff with other important responsibilities. More importantly, I would say we do run the risk of running political interference on a process that ought to be outside of politics. That, of course, is the value of the independents.

But there are reasonable questions of access. There are matters of process and information that are managed independently by ACTPLA and that would be appropriate and timely for ACTPLA to address. *(Extension of time granted.)* The process of negotiating your way through a minister's office, when we are dealing with matters independent of the minister, can be too slow and prescriptive. I think it would be to our mutual advantage if arrangements for appropriate direct access could be made.

Now to the details of this motion: I have circulated a revised amendment, which is deletes 1 (d). I've already explained why that is. But I do not have any trouble with the rest of part 1. I think I have canvassed the value of establishing a widely accepted consultation process. I am sure the government is of the view that it is precisely doing that. The implications that confidence does need to be restored, despite the government view to the contrary, I think, simply reflect some of the tumultuous processes of the past few years, and I do not think it is objectionable.

I would say that we all want to see a truly integrated planning approval system, and I would be confident that the government would argue again that it is happy to do that and, indeed, is doing that. I think there are differences in our interpretations of a truly integrated planning approval system, but I do not think we can go into that debate further at the moment.

Finally, I think I have an amendment that gives the chief planning executive the necessary discretion. I believe that, by specifying the matters open to members to ask ACTPLA for information on—that is, planning matters which reflect its independent decision-making capacity—the line between policy and implementation is clear. Giving the chief planning executive the discretion in providing that information or advice, I believe, removes the danger of unreasonable intervention or interference in the operations of ACTPLA.

I move the revised amendment circulated in my name.

Mrs Cross: On a point of order, Mr Speaker: sorry, it is very difficult to concentrate on Ms Tucker's speech when the Chief Minister is speaking without pressing the mute button.

MR SPEAKER: Order, members! Ms Tucker has the floor. Ms Tucker, you can't move that at this point.

MS TUCKER: No, I understand. I withdraw that. I'll wait until Mr Corbell's amendment's been voted on—is that correct? Then I'll move mine.

MR SPEAKER: Well, that's what will have to happen.

MS TUCKER: Yes, sure.

MRS CROSS (9.18): Mrs Dunne's motion has drawn attention to a number of planning problems that seem to be becoming increasingly familiar in this territory. These problems are giving rise to an increasingly wide sense of frustration, not only among

developers and builders but also among people trying to get their homes built. It is truly making for growing resentment. That is the fact of my experience.

One typical project stands out in my more recent experience. That was when the plan to refurbish and expand the Karralika rehabilitation centre in the Fadden/Macarthur area emerged from the veil of semi-secrecy under which it was being progressed to fall like a thunderclap on the unsuspecting residents of the area. Nothing could allay the shock of the residents who felt they were being treated like dupes, and nothing could check the resentment they felt at being so ignored.

The upshot of that experience, Mr Speaker—and this cannot be denied—is that the reaction of ordinary citizens did no good at all to the government's popularity in the long or short term. People lost confidence, and their reactions worsened in proportion to the government's unrelenting disparagement of their reaction. Any chance of achieving a placatory level of communication was lost forever because of the several bloody-minded attitudes expressed by the government. That, in anyone's words, was about outcome, whatever side you were on.

It should not have turned out the way it did, and that it did turn out that way was clearly the fault of the government's handling of the project from the beginning. That sort of planning blunder should never occur and should never recur, and it is only by addressing the evident problems in the way suggested by Mrs Dunne that we can hope to ensure they do not recur.

On that basis, I strongly support Mrs Dunne's motion but I am also very happy with the first amendment that Ms Tucker has foreshadowed. I think I will speak to those amendments later.

MRS DUNNE (9.20): Mr Speaker, the Liberal opposition cannot support the amendment circulated by Mr Corbell—

MR SPEAKER: Are you speaking to the amendment or closing the debate?

MRS DUNNE: I am speaking to Mr Corbell's amendment.

MR SPEAKER: You can still speak to the amendment, but you can close the debate as well.

MRS DUNNE: No, I do not want to close the debate; I want to speak to Mr Corbell's amendment, which I have not spoken to. We cannot support the amendment circulated by Mr Corbell because essentially what it does is gut the motion. It takes out everything after 1 (a) and replaces it with a variation on the form of words in 2 (c).

The minister, in his introductory remarks, said that he was in favour of establishing, for instance, an integrated planning approval system. Why can't we say that in the motion?

I know that they would be uncomfortable about "the failure of the Stanhope government to establish a clear and trusted process of community consultation", but that is evident from the high level of discontent in the community and it is about time this minister faced up to it. We should not be deleting words like that. It may be discomfiting for this

minister, who became the Minister for Planning by promising the world to people. So we should not be deleting words that draw attention and draw this government's attention to the high level of dissatisfaction, not with the people in the Planning and Land Authority so much as the processes that grind people down. There is a lack of confidence and there is a real lack of access of members of this place to the chief planning executive and his staff and we should be putting an end to that.

We heard a whole lot of weasel words about how this is a hybrid authority. While ever members in this place cannot obtain, without being watched or without receiving permission, access to advice—and I think that the words that Ms Tucker has foreshadowed are better than the ones that I have suggested—we will not have an independent planning authority. Everyone in this town can go to the chief planning executive and seek his advice, except the members of this Assembly. The members of this Assembly must first ask permission of the Minister for Planning and his office. When the chief planning executive comes to see us, a member of his office must attend. And that is not how you have an independent planning authority who advises all of us. Yes, he is accountable first and foremost to the minister, but we should not be second-guessed; we cannot obtain confidential advice. We must put an end to that.

MS DUNDAS (9.23): I will address the amendment and the substantive motion, in the interests of time. I will start with the amendment and work backwards. I think the amendment guts this motion far too much. One of the key points of the motion put forward by Mrs Dunne is about community consultation and community involvement in the planning process. It is unfortunate that the minister is focused on only one part of this motion in relation to members' access to the planning authority. That is why I will not be supporting the amendment moved by the minister. Ms Tucker has foreshadowed amendments, which I will be supporting. They address the minister's concerns in relation to unfettered access, or extra resources being demanded of ACTPLA and the chief planning executive. I think they are worthy of support.

In relation to the substantive issue before us, I think it is important that we discuss the different areas raised by Mrs Dunne. We are acknowledging that it has been almost a year since the establishment of the ACT Planning and Land Authority. In that year some very good things and some not so good things have happened. It is unfortunate that, in nearly a year, we have seen a virtual absence of community engagement in planning. I stress the word "engagement" as opposed to "consultation". I think "engagement" is the key, particularly in terms of assessing the community's response to significant development applications and in generally seeking the community's input into the development of planning ideas in the territory.

We have seen the premature dissolution of LAPACs and abortive attempts to implement community and planning forums. It is a great shame that, in the year we have had ACTPLA, we have had ongoing concerns around non-statutory consultation. The creation of ACTPLA gave the ACT a chance to start with a clean slate on planning issues and develop a new culture of engagement with the community. However, given the continuing mess that planning consultation has become over the last year, the opportunity is fast slipping away. I hope we have not lost that opportunity.

I think we all had high hopes for ACTPLA. It was clear during the debate we had on the establishment of the Planning and Land Authority that we wanted to see ACTPLA

succeed—and I think that in some ways it has. We discussed how granting ACTPLA a greater degree of independence would allow the authority to engage more directly with residents of the territory, rather than having its views continually mediated through the political prism. I think some of that has been achieved and is something to be supported.

As the minister noted, the policy framework is put forward by government and then the independent authority has responsibility for the implementation of that. That is why it is pleasing to see the guidelines being put forward today to streamline the implementation of planning processes in the territory. However, we have not seen an engaged community focused planning consultation process taking place. There has been an increasing tendency for the authority to try to disengage from community consultation and shut out and ignore the views of residents. That is quite disappointing.

As I have said a number of times before, planning is not simply an expert pursuit where if we leave everything to the professionals, all will be well. Of course I respect the input of professionals but we are planning a city in which people will live their daily lives. Their opinions and their input into the process are important. There is an essential and important role for professional planning in our city and the role of the community is fundamental to a good planning system.

A good planning system is one responsive to the needs and wants of the population and which allows the community to participate in how the city is shaped. Good planning comes from developing grassroots ideas and necessities, not from imposing control from above. Good planning means people have confidence in the system and feel some ownership of the process. Other members have raised particular planning decisions, but have shown that good planning processes, where people have confidence in the system, have not been followed.

Another example is that of developments around the Belconnen lake shore. There is longstanding community concern about developments too close to the lake. We have seen preliminary assessments and development applications being continually put forward for developments that have rightly upset the community. It is quite concerning that, even though these issues have been brought before the government and ACTPLA a number of times, this proposal is still being pushed forward.

These proposals have no LAPAC to go to. Despite the fact that the minister has indicated that the community council can make some comment, it is clear that the development applications, the planning applications, can be considered a fait accompli and the developments will go ahead whatever the community opinion is. That is not good planning. I think that the motion moved by Mrs Dunne is substantially a good motion for addressing some of the ongoing issues that remain about planning in the ACT. With that being said, I support Ms Tucker's amendment to clarify the key issues we are focusing on.

Question put:

> That **Mr Corbell's** amendment be agreed to

The Assembly voted—

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

Question so resolved in the negative.

MS TUCKER (9.34): I seek leave to move the two amendments circulated in my name on the revised sheet.

Leave granted.

MS TUCKER: I move:

(1) omit paragraph 1(d); and

(2) omit paragraph 2(c), substitute:

"2(c) ensures ACTPLA is able to reflect its independent decision making capacity by being freely available to brief Members of the Assembly on those planning matters, at the discretion of the Chief Planning Executive.".

MR CORBELL (Minister for Health and Minister for Planning) (9.35): We obviously preferred the approach outlined in my amendments. However, given that the Assembly does not support those this evening, the government will reluctantly support these amendments. I think it is worth making some comment in the context of the debate. I am sure everyone in this place can find an instance where someone is unhappy with a planning or development approval. It is the nature of the process.

It is the nature of development assessment that someone, somewhere, at some time will be unhappy with a decision. But that does not mean that there is some systemic failure of development assessment in this city. When you look at the number of development assessments made every year in this city, which is somewhere over 4,000, and the number that go to formal review, which is fewer than 200 in any year, we are talking about a very small number that result in formal review and appeal to the AAT. We are talking even less than 10 per cent of the total number of development applications or approvals granted. It is all very well for Mr Cornwell or Mrs Cross to stand up and say, "Look, we have a problem with this development application, and that shows that the system is in crisis." It is simply not the case.

It is legitimate in individual circumstances to highlight flaws of the system overall and to say, "These things can be improved; these things can be done better." I do not object to that. You use those case studies to improve your process, to improve your system. But to simply say, "I know of a problem; therefore the whole system isn't working" is a very long bow to draw.

The government, as I have outlined, has great confidence in the planning authority, its chief planner and its staff to deliver the reform program that we have embarked upon, a reform program that has been only half completed. Unlike any other government in this place, we have put planning in a policy position that it has not occupied before. We have recognised its significance as a tool to drive economic, social, cultural and environmental sustainability in this city. We have recognised it as a key element in the future success and growth of this city and we have invested in it to deliver those outcomes. I am confident that the foundations we have laid, the strategic directions we have established and the reforms we continue to implement will stand this city in great stead for many years to come.

MR CORNWELL (9.38): In speaking in support of Ms Tucker's amendments, it is simply not good enough to make a claim that these amendments should not be put forward simply because a couple of hundred applications are received each year from people who are not happy with the planning process. This is part of the problem of this government; it totally forgets you are dealing with people—flesh and blood. You are not dealing with some esoteric argument. This is part of the problem. It does not matter. How often have we heard in this place that if only one person, or two people, can be saved or helped, then it will be worth while. I would think that, if it is 200, or even 20, it is still worth while reforming this process. That is what we are moving on tonight.

MRS DUNNE (9.40): Thank you, Mr Speaker.

MR SPEAKER: Order! You are closing debate?

MRS DUNNE: Yes.

MR SPEAKER: Would everybody please be quiet while Mrs Dunne proceeds to close the debate?

MRS DUNNE: I will speak to Ms Tucker's amendments. If no-one else wishes to speak, I will close the debate at the same time. As I said before, I think Ms Tucker's amendments to (2) (c) are more finely nuanced than my original version. I made the point that perhaps the wording in the original draft was a little heavy handed. I do not want to give the impression that this is about "monstering" the chief planning executive. It is far from that; it is having an open discussion. I would like to go to some of the points about that in a moment. I am a bit betwixt and between but, on balance, I think we should support Ms Tucker's first amendment as well. We can be gracious on these things. That is a lesson some people need to learn.

Much of what has happened as a result of the passing of the planning and land act is good. I started out with that. I said that the Liberal opposition opposed the passage of the bill not because we were just opposed but because we thought it was the wrong time—it was not the right time to do it and there were other things that should happen before—the same as the Liberal opposition opposed the implementation of draft variation 200 at the time. We thought it was the wrong time to be looking at residential land use policy when we had not done the spatial plan. As a result of the spatial plan we are going to have to basically undo vast streams of variation 200, as the minister foreshadowed in the first place. The Liberal opposition is not opposed to much of what happens there.

I have to go back and say about the issues raised in the first instance by the minister that the changes to the AAT in particular are brilliant changes, and we need to acknowledge those. The introduction of mediation has been a great innovation. My only concern is that mediation does not happen earlier in the process—that people have to appeal the process before we get to mediation. It is a great process, if it works. The certainty of having a 120-day turnaround is also a great improvement. I will acknowledge those improvements, even though that discomfits the members opposite.

I think the minister gave the figure that, from the experiences people have had, 76 per cent of people who go to mediation solve their problems. A case has been pointed out to me. It was a very contentious case that went on for some time; it eventually got to the AAT and the people who were objecting had to sit down and mediate. Then, lo and behold, it was discovered that the people who were objecting looked at the plans for the very first time. They were objecting out of ignorance and perhaps out of prejudice, I have to say. They had gone all through this process and it had taken months and months.

Mr Wood: Tell Mr Cornwell that!

MRS DUNNE: I have told Mr Corbell that. They then looked at the plans and said, "Oh, we do not really have a problem with that either!" I would like to see mediation brought into the process earlier, so that we do not have to go to the AAT to solve the problems of people who perhaps do not know how to read a plan—perhaps they have not had anyone explain it to them—then we might have fewer cases in the AAT.

Good things have happened but the minister has to be careful not to believe his own rhetoric—that because he has passed this piece of legislation, everything is fine in the garden. This motion here tonight says that everything is not fine in the garden; that we would like it to be better and we want to work cooperatively with it. I have to say that some of the condescending stuff that this minister said about what members of this place might do if they had unfettered access to the chief planning executive was a disgrace; it was condescending and it was absolutely out of order—sorry, not out of order. It was inappropriate and an insult to all members of this place. The idea that, because a member of this place may want to seek advice from the chief planning executive, they are trying to exert undue political influence is an insult.

Mr Corbell: You are the master of those! It takes a master to know one!

MR SPEAKER: Order! I know everybody wants to get involved in this exchange of pleasantries but please, order! Mrs Dunne has the floor.

MRS DUNNE: It is an insult. It is also an insult to the chief planning executive because this is about a highly qualified person who is highly regarded in this community. But the only people in this community who really cannot have a conversation with him are the non-government members of this place. There are other statutory planning officers in regards to whom it is no trouble for us to pick up a phone and say, "Can you give me advice on this?" End of story. That is how it should work on this occasion.

The minister has in fact hoist himself on his own petard because, by his own words, he created a hybrid that also gives him policy advice. That is why the planning and

environment committee advised him to separate those two functions—so he can receive policy advice and the chief planning executive could really be independent; because while ever he is giving policy advice to the minister there is always a crossover; there is always a blurring. "Which hat am I wearing today?" This is where we need to really make it if we want to have an independent planning authority.

The minister talked about the national integrated development application system. He said, "Look, we've done it." But we have not done it because, by his own admission, we have a hybrid authority, not an independent authority. I thank the members of the crossbench for their support in this motion and for the thoughtful way in which they have approached this—and I thank Ms Tucker for her better set of words.

Amendments agreed to.

Motion, as amended, agreed to.

Pharmacy Amendment Bill 2004
Detail stage

Debate resumed.

Clause 1 agreed to.

Remainder of bill, by leave, taken as a whole.

MS DUNDAS (9.49): I move amendment No 1 circulated in my name on the lilac piece of paper *[see schedule 1 at page 2600]*.

After a lot of debate and discussion in relation to what we are trying to achieve here, I have put forward this amendment in the hope that it clearly expresses what this Assembly is trying to achieve and addresses the concerns raised by the Minister for Health in relation to Mrs Cross's original bill. My amendment removes the confusion surrounding the registration of crown leases and expressly prohibits a pharmacy business on, inside, or partly inside the premises of a supermarket as defined by the territory plan.

The government has tried to claim that some pharmacies could be defined as supermarkets and that this amendment could lead to further confusion. I would like to address those concerns. I think we need to realise that proposed new section 48B is but one part of the entire pharmacy act. The Pharmacy Act of 1931 quite clearly sets down that a pharmacy is a pharmacy because it must be a business owned and operated by a pharmacist registered under that act. If there is any confusion that it is a supermarket, then that can be easily resolved by looking at the fact that, if there is a registered pharmacist in control of that site and it is something that has been approved by the board of pharmacies, then it is a pharmacy.

A supermarket is something that is easily recognised in the community. If this were to go to court there would be a "reasonable" judgment—a reasonable person test. I believe that a reasonable person knows the difference between a pharmacy and a supermarket. We are amending the pharmacy act, and this debate is framed in the context of that act. We are not debating the supermarket act; we are not looking at those kinds of issues. What is

a pharmacy, and what is required to be a pharmacy, are laid down elsewhere in the act. I find it disappointing that we have had to have this debate in such an adversarial way.

Mrs Dunne: Mr Speaker, I wish to raise a point of order. The members of the government are really stretching the patience of this place with their constant low hum of conversation. I know that, from time to time, we all lapse but this has been going on and you have warned them. They have done this on a number of occasions.

Mr Stanhope: You are the worst offender in here at that, you hypocrite!

MR SPEAKER: Orders members, please! There are too many conversations going on. If you want to have a conversation, please go out into the lobby.

Mr Hargreaves: He is talking to you, Mrs Dunne!

Mrs Dunne: While we are at it, can Mr Hargreaves withdraw "hypocrite" please?

MR SPEAKER: I did not hear what Mr Hargreaves said.

Mrs Dunne: Sorry—Mr Stanhope.

MR SPEAKER: I did not hear what he said. What did he say?

Mrs Dunne: M**r** Stanhope said that I was a hypocrite.

Ms MacDonald: You are!

MR SPEAKER: I did not hear that.

Mr Stanhope: I withdraw it.

Mrs Dunne: Ms MacDonald can withdraw as well.

Ms MacDonald: I withdraw the imputation.

MS DUNDAS: Thank you, Mr Speaker. I was noting that I was disappointed at the adversarial way in which this bill has been debated. I was under the impression that the Assembly—

MR SPEAKER: Order! Ms Dundas, resume your seat. Please, members of the government will cease the interjections. Ms Dundas has the floor.

MS DUNDAS: What we are trying to achieve here is to not allow pharmacies to operate in supermarkets. I thought this was something that was quite simple. Considering the debate we had last October, when we called on the government to investigate whether or not we did have any loopholes, I thought we were all working off the same page to reach the same outcome. The amendment I put forward quite clearly says that a registered pharmacist must not carry on a pharmacy business in the premises of a supermarket. What a registered pharmacist is is defined in the pharmacy act and what a pharmacy

business is is also sorted out by the pharmacy act, and what a supermarket is is defined in the territory plan.

This is a very simple amendment that addresses all the concerns raised over the last couple of days by the Minister for Health, yet still allows the Assembly to achieve the outcome of not having pharmacies operating in supermarkets which, as we were discussing before, would be a very detrimental thing for the ACT and a very detrimental thing for the provision of health care in the territory. I urge members to support this amendment so we can support this bill, and ensure that our community pharmacies are able to get on with the job of providing health care for the community.

MR CORBELL (Minister for Health and Minister for Planning) (9.48): The government will not be supporting this amendment this evening because this is an extremely bad way to make law. We started, this morning, with a bill that proposed to restrict ownership on the basis of whether or not a pharmacy held a crown lease. Then, at about lunchtime, we had a bill that attempted to restrict ownership of a pharmacy on the basis of location within a private shopping centre or some other business.

This evening the bill has changed again. It is now attempting to limit pharmacy ownership on the basis of a pharmacy not being permitted inside the premises of a supermarket. It has gone all the way from crown leasehold to private shopping centre to only not within a supermarket. That is a very significant departure from the legislation we started off with this morning. It shows how this legislation has been made on the run throughout the day.

Aside from the complaint about the process, which I think is fundamentally flawed, the government also has serious concerns about the nature and extent of this particular amendment. First of all, I can have no confidence that the definition proposed by Ms Dundas would not potentially catch the operations of existing large pharmacies in the ACT that provide a range of goods and services. They could be caught within the definition of "supermarket". Is anyone telling me that pharmacies do not sell food? Yes, they do sell food. Do pharmacies sell other household items such as toothbrushes, combs, hairdryers and soft toys? Yes, they do. Is the selection of those goods on a self-serve basis? Yes, it is.

The issue with this definition is that it potentially captures larger pharmacies that provide a great diversity of services. I think that is a fundamental flaw with this proposal; it opens it up to challenge. If the issue is that we want to prevent big supermarket chains from providing pharmacy services, this provision would potentially open the way for challenge by one of those big supermarket chains. They could say, "This large chemist is providing exactly the same range of services as we provide. We believe it is a supermarket for the purposes of the act, and its ability to trade." That is the fundamental weakness with this definition. Would this catch larger pharmacies? My suggestion is that it could. Would it be open to challenge? My suggestion is that it could be, absolutely. For those reasons I believe that this should be considered further by the Assembly before we consider the issue definitively.

Assume that the legislation is passed. An attempt to apply the provisions to a particular situation may succeed, but it raises the issue of applying the same result to a range of big chemist shops that already operate effectively and provide a similar range of goods to

supermarkets. The government thinks this is poor law; that raises question marks about the operation of larger pharmacies in the ACT and raises questions as to whether or not the legislation is achieving the outcome we are looking for.

I would like to clarify the government's position on this matter. The government has always indicated—and it supported Ms Tucker's legislation in the previous Assembly, when we were in opposition—that pharmacies should be owned and operated by pharmacists. But it is a separate question as to whether or not a pharmacy owned and operated by a pharmacist should be permitted to operate in a supermarket. What if a pharmacist wants to operate their business in a supermarket? What is fundamentally wrong with a professional making the judgment that they, for what they believe to be advantages to their business, want to operate a pharmacy within a supermarket?

It has been drawn to my attention today, and other members have mentioned it in this place, that there is an IGA supermarket which has been purchased by some pharmacists and they are going to run the supermarket and operate a pharmacy along with the supermarket. What are we saying? Are we saying that it is not all right for pharmacists to buy a supermarket, run the supermarket and have a pharmacy run alongside of it? What if the pharmacy is part of the same lease, but there are two separate shops? Is that a pharmacy or not? Is that part of the supermarket or not? That is, quite simply, an example of the difficulty of trying to define and regulate in this way, and the inherent flaws and risks in doing it on the run. The government will not be supporting this amendment tonight—

Mr Stanhope: Quite rightly.

MR CORBELL: Quite rightly, as the Chief Minister says—because of the flawed and ad hoc way in which it has been developed over the course of this afternoon. We will be looking very carefully at the implications of this, if it is passed tonight, and what the prospects are for larger chemist operations in the ACT as a result of this. Of course this definition has not in any way been considered by the scrutiny of bills committee.

Mr Smyth: This is the whole act!

MR CORBELL: This is the whole act—and that is what we have to understand.

Mr Smyth: This is the whole thing; that is all there is!

MR CORBELL: This is the whole act; there is nothing else. The act is nothing; the bill is nothing without this. The bill is meaningless without this provision.

MR SPEAKER: Order! We might as well have an all-in.

Mr Smyth: Are you giving permission for an all-in, Mr Speaker?

MR SPEAKER: My permission seems to be pretty irrelevant. Order, please! Mr Corbell has the floor.

MR CORBELL: The bill is absolutely meaningless without this provision. If members do not think it is meaningless, let us get rid of this provision and pass the rest of the bill.

Mr Smyth: Nobody said that.

MR CORBELL: No-one is saying that, because this is central to the bill.

MR SPEAKER: Please do not respond to the interjections. Direct your comments through me.

MR CORBELL: The government will not be supporting this provision tonight. We will hear in the course of the debate before we vote on this, I assume, a whole series of motherhood statements about how important pharmacies are. No-one is suggesting otherwise. For the record, I have a daughter who would not be able to eat unless I got the prescription she needs filled by my local pharmacist. So don't go around telling me that I do not, as the Minister for Health or as an individual, value the importance of pharmacies. My daughter would not live without having that prescription filled by my local pharmacist. But that is a separate issue from whether or not ownership controls on pharmacies should be considered in a rational and objective way. That is what the government is attempting to do tonight. Regrettably, I do not think that is being done by other members in this place.

MR HARGREAVES (10.04): Mr Speaker, I want Ms Dundas to get up and explain a couple of things to me in her response to this debate. Some things seem to have escaped me. Maybe she can clear them up. I understand, and I am happy to be corrected in this regard, that the Lanyon Marketplace building is owned by Woolworths. The major activity in that marketplace is the supermarket. Therefore, the marketplace is, in my understanding, the premises of a supermarket. There are other businesses around it, including a pharmacy. Can somebody explain to me whether the owner of that pharmacy would be in breach of this amendment? If the answer to that is no, I would like someone to prove it to me. I cite that example because it is the only one I am really aware of. There may be more.

I turn to the other matter that I am curious about. Perhaps Ms Dundas can explain this one to me. If the big objection is that the large supermarket chains are all about squeezing out community pharmacies, are you actually covering your base with this amendment? It is my understanding that Coles Myer owns the Coles supermarkets and that it also own Grace Bros and the Kmart stores. If you are concerned about the predatory nature of the owners of supermarkets, perhaps you ought to go up one level and consider the predatory nature of those people. Is it therefore possible that the Grace Bros store in, say, the Canberra Centre can open a pharmacy? Can you explain that to me? If not, why not? Perhaps it is because the space is too big. If the space is too big, where is the inconsistency with some of the larger pharmacies?

I understand what you are trying to do, but I am challenging you. I do not think that you are going to stop it with this amendment. All you are doing is picking up one part of the possibility of predatory practices concerning community pharmacies. What is to stop any large activity that is part-owned by pharmacists? Why can they not do it under their ownership? The scrutiny of bills committee report makes mention of there being a question mark over exactly what constitutes ownership. A pharmacist who has shares in Woolworths and shares in Coles Myer is a part-owner of them. Would that person escape

the wrath of this law? I do not know. My concern about this amendment is that you might have protection in mind but you have not covered all the bases.

Mrs Dunne: Mr Speaker, I take a point of order under standing order 42. Mr Hargreaves should address the chair.

MR SPEAKER: Mr Hargreaves, address your comments through the chair.

MR HARGREAVES: I am forever in Mrs Dunne's debt. I owe her the blood out of my veins. Mr Speaker, I ask the questions, through you, to Ms Dundas. She is all ears. She is a sackful of the things. Mr Speaker, this piece of legislation has holes in it that you could drive an ACTION bus through. I would like to see Ms Dundas close all of those gaps or pull the amendment, go away and think about it some more and bring it back.

Certainly, if you are all about trying to protect the community pharmacies, Ms Dundas, you have not protected them against the owners of the major supermarkets. You may have protected them against the IGAs, but you have not protected them against the major supermarket chains. You have not, not by a long shot. I have to say that you certainly have not protected them against small supermarket chains because of the example that the minister has just given, which is not going to be the last one. You need to be a bit more constructive and do a bit more homework before you come up with this sort of stuff.

MS TUCKER (10.09): I have looked at the latest version of this amendment and the Greens are feeling comfortable about supporting this version. I have listened to Mr Corbell and Mr Hargreaves and I just do not think that the matter is that complicated, but maybe it is. As far as I can see from the advice that I have received, we have here an amendment which says:

> A registered pharmacist must not carry on a pharmacy business as owner on, inside or partly inside the premises of a supermarket.

Mr Hargreaves has expressed concern about Grace Bros. Unless Mr Grace is a pharmacist, I do not think that that is an issue. I do not see that it is that hard to know what is a supermarket or what is a chemist shop. From my understanding of legislation, there is a reasonable person test and if it got to a challenge, which Mr Corbell has said that it could or would next week, and Woolworths went to a court and said, "This chemist shop is a supermarket," the debate would be about what is a chemist shop and what is a supermarket. I just do not think that it is that hard to tell.

The definition of a supermarket is that it is a large shop selling food and other household items where the selection of goods is organised on a self-serve basis. As we all know, the debate that accompanies legislation is used to interpret it. Let me say that from my perspective a supermarket is not a chemist shop. A supermarket is a place that has all sorts of other goods, many more goods than you would see in any pharmacy in Canberra. I do not believe that this is going to be a challenge to, say, the Watson Pharmacy which, I will put on the record for interpretation, has a post office and, I think, a newsagency. That, to me, is not a supermarket.

I think that a reasonable person would take a dictionary definition of what is a supermarket and I expect that, if ever there were a challenge in court, the reasonable person test would be the thinking in interpreting what we are doing here tonight. I think that the intention of this legislation is clear from the debate, but it may be that everyone who is supporting Ms Dundas's amendment needs to stand up and say what they think a supermarket is and what they think a chemist shop is so that they can give guidance to the poor person in court who is confused.

MRS CROSS (10.12): Speaking to the amendment, I thank Ms Dundas. Her office and my own worked very hard to ensure that all the loopholes and concerns were addressed. My office had no concerns with Ms Dundas's name being on this amendment. Ms Dundas did not have a concern as to whose name was on this amendment. We were only interested in getting it through because we wanted to achieve good outcomes for the community and to protect the pharmacy industry.

It is interesting to me that some people outside this chamber have been brought into this debate not knowing that there was an amendment to this bill to address the concerns regarding the crown lease issue. That causes me great concern because there were misunderstandings and there was an opinion on it that was wrong because people were not informed. You cannot make proper decisions unless you have all the facts. I am truly grateful to the majority of my Assembly colleagues for at least looking at this issue fairly and not being drawn into the scaremongering of the minister.

Naturally, I will be supporting Ms Dundas's amendment to my bill because we worked on it together and it eliminates the confusion over some possible unintended consequences that my bill may have had. This matter was brought to my attention yesterday, not by the minister, who decided to raise these concerns by issuing a press release, but by Ms Dundas after advice she had received.

Mr Corbell: I wrote to you, Mrs Cross.

MRS CROSS: I am grateful that you did that, Minister, but may I say that I would have found it even more encouraging if you had come to me when the bill was tabled and said, "Let's sit down and nut this out," as did Ms Dundas's office, Ms Tucker, and Mr Smyth for the opposition. That is what I would have liked you to have done, instead of trying to scare everybody here and scare people out there in the community who represent pharmacists in a variety of capacities. By working in a collegiate way, we could have saved a lot of time and a lot of anxiety for those people out there who are just trying to earn a living.

Mr Corbell made a point of saying that this bill was flawed. As was said earlier, there were 21 amendments moved to one government bill last night and we are simply debating one amendment to this bill, so it cannot be that bad. The advice suggested that the bill that I had received initially would have a substantial impact on pharmacists currently operating in the ACT, particularly those operating within shopping centres. Whilst I had originally received legal advice informing me that there would be no impact on current pharmacists, yesterday's advice forced me to reconsider this position.

After much discussion with Ms Dundas, it was decided that it would be best to approach the issue of pharmacies in supermarkets in a different way. Ms Dundas's amendment does that, whilst maintaining the spirit and intention of the original bill. Ms Dundas's amendment will ensure that pharmacists cannot operate within a supermarket and, as this is the intention of my bill, I will therefore, naturally, be supporting Ms Dundas's amendment. I reiterate that it did not matter to either Ms Dundas or me whose name was on any amendment. We were only interested in ensuring that we were addressing the concerns that were brought to our attention. That is what has occurred with this amendment. So, of course, I support this amendment.

The issue of scrutiny was raised yesterday. This bill is something that had to be addressed in a very quick manner. I must show my appreciation to Mr Stefaniak for calling an urgent meeting of his committee to look at this bill, which should have been sent to the scrutiny of bills committee after it was tabled but, for some reason, it did not get to the committee. I appreciate the support of the Clerk, Mr Duncan, and the members of the scrutiny of bills committee, Mr Hargreaves and Ms Tucker, for ensuring that this bill was looked at.

The committee's first concern was that the bill may affect some pharmacies, particularly those operating in shopping centres. My support of Ms Dundas's amendment has ensured that this concern has been alleviated. The second concern was that the bill was so broad that it may have unintended consequences. Ms Dundas's amendment substantially narrows the scope of the bill and hence the scope of this bill and its potential to have substantial unintended consequences is no longer an issue.

The third issue raised by the committee revolved around the level of administrative change that would need to occur and further changes to the law that would need to occur if the provisions of proposed new section 48B of the Pharmacy Act were included in law. This point is now obsolete as Ms Dundas's amendments, which, of course, I shall be supporting, will have no effect on crown lease administration.

MR SMYTH (Leader of the Opposition) (10.18): The opposition will be supporting the amendment. We will be supporting it for a number of reasons. One is that it is a neat solution to the problems that have been raised. It is an example of what you can actually do when you work together. How the situation lines up is that we have Mrs Cross, an Independent, the Democrats, the Greens, the Liberals and the community working together to achieve something, and we have been working on it since 31 March when the bill was first tabled.

I want people to draw a parallel with the approach that the government has taken to this bill and this amendment tonight. Like the German retreat from Stalingrad, it has been inexorable, it has been slow and it has been painful, but it is still going to have the same outcome. I think that the sad thing about it is that so many ordinary Canberrans, many of them small business people or people who work for those small business people, have seen today how the Labor Party operates.

I want to go to the point that Mr Corbell made in his latest speech when he said that in opposition his party had supported Ms Tucker in her action against having pharmacies in supermarkets. The question is: what happened? Where did that support go? Was it just

a sham? Was it something that you did in opposition because it seemed smart. Perhaps it was seen as something with which to slap the government around, but we had the same opinion. We supported it in government and we support it in opposition.

The question for Mr Corbell is: where has your support gone? Where has your support for local industry, local small business people, local residents gone? The comment from those opposite has been that this bill is legislation on the run, but it has been on the table since 31 March. We are always hearing about how we need to work better together and do all those sorts of things. Most of us seem to be able to work together, but not Mr Corbell, because Mr Corbell is always right and, if you pooh-pooh Mr Corbell, he just gets up on his hind legs and points out how everybody else is wrong.

Mr Corbell made an interesting comment when he said, "Don't go round telling me about pharmacy; I know." Nobody told him that he was wrong. We have all made comments in this debate in support of pharmacy and what pharmacy does in this community. Those opposite have said that they support pharmacy, but they have a very strange way of showing it. They say that the white paper shows that they are unashamedly pro-business. They have a very strange way of showing it, Mr Speaker.

MR SPEAKER: Relevance!

MR SMYTH: Mr Speaker, the relevance is in commenting on remarks made by others in this debate and it goes back to where we get to with this amendment. Ms Tucker summarised the position quite adequately when she said that we all know what is a pharmacy and we all know what is a supermarket. You can get up and give your own definitions, but the territory plan definition will not be used if this matter goes to court. Mr Stanhope is confident that Woolworths will have us in court next week. It will go back to common law, and the common law definitions of a pharmacy and a supermarket are well known and clear to all of us.

This matter is not about semantics. It is about what people out there know as a pharmacy and as a supermarket. You can hide behind fear, concern and all the things you were going to do, but why didn't you help? You are the one with the department and you are the one with all the legal advice. If you are unashamed in your support of business and if you support Ms Tucker's motion from when you were in opposition, why didn't you help make it better, instead of putting us all through this long, drawn-out agony of claim and counterclaim, write and rewrite? I put the question to Mr Corbell: what is it that you are committed to in pharmacy and how do you support it? I think that you have shown today that your support for pharmacy is questionable at best and absent at worst.

This amendment is neat. I think it answers the questions. Tonight we have had the government attempt to set a new standard, that is, that all amendments have to go through the scrutiny of bills committee. Mr Corbell said that the government has waited as this amendment has not been through the scrutiny of bills committee. I do not recall Ms Gallagher putting her amendments of last night through the scrutiny of bills committee. In fact, I do not remember anybody ever putting an amendment through the scrutiny of bills committee. If we want to slow down the process and turn this chamber really and truly into a place that is a joke out there in the public, we will by making statements like that that we have not put this amendment through the scrutiny of bills committee. There is a new low for you!

Mr Speaker, the amendment is neat and it addresses the concerns that Mr Corbell raised earlier. It has been run by the pharmacy guild, which I understand agrees with it and thinks that it will work. I know that it has been run past legal advisers and they think it will work. Mrs Cross thinks it will work. The Democrats, the Greens and the Liberal Party seem to think that it will work.

Mr Hargreaves: Oh, that makes it right, then.

MR SMYTH: I can think of a few bills passed by the opposition in the last Assembly that were so wrong that we had to come back and clean them up. Every now and then you might get it wrong. Indeed, I think Mr Wood said yesterday that we would be back within 12 months amending the emergency services legislation, because it will need amendment. Some days assemblies, as legislators, do not get it entirely right. But I think that this is pretty close to what we can do tonight to make it workable. I think that it will work. We will have to wait and see. Often legislation is reviewed after it is passed. If we are going to start relying on the excuse that we cannot be certain that it will work, nothing will ever get through this place and this place will be unworkable and it will become a joke.

There must be a point in each debate where we must work together to make sure that things work. I am very happy to have the support of the majority of the people in this place, people who have worked very hard throughout the day, across the dinner break and since that time to try to come up with a workable solution. I am glad that we have a workable solution. The opposition believes that it will work and we are unstinting in our support of the pharmacies of the ACT.

MR CORBELL (Minister for Health and Minister for Planning): Mr Speaker, I seek leave to make an explanation under standing order 47 about words I used in my speech that have been misquoted.

MR SPEAKER: Proceed, Mr Corbell.

MR CORBELL: Mr Smyth suggested in his speech that the Labor Party, in opposition, supported a bill to oppose pharmacy ownership by other than pharmacists, but in government was doing something else. That is incorrect, Mr Speaker. I said in my speech that in opposition we supported provisions that ensured that pharmacies could only be owned and operated by pharmacists. Whether a pharmacist-owned and operated pharmacy should operate in a supermarket is a different matter from whether a pharmacy should be owned and operated by a pharmacist. There is no inconsistency in what the government did in opposition and the approach that it is adopting now.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.26): I will be brief. I want to respond to Mr Smyth who, as usual, became very personal in his attack on Mr Corbell, which is usually the case when he has very little ground beneath him. I have to say that Mr Corbell made what was probably the most intelligent contribution to this debate in terms of analysing and telling this house why there is difficulty with this legislation.

Mr Smyth, out of his own mouth, said that every now and then you might get it wrong. Let me tell you, Mr Smyth, that you give yourself the best chance of getting it wrong if you cobble together different versions of legislation through the course of one day as each of them fails. When this bill came into this place it was lousy legislation. The core of it has been changed, it has been changed a couple of times today and there is a high probability that it will be passed in this place as lousy legislation.

The reason it will be passed in this place today as lousy legislation is that people who have done a lousy job on it are just too proud to back down for a day or a week to allow the thing to be done properly. We have an opposition that is permanently negative and has to beat the government no matter what. Certainly, you have demonstrated how people can work together. You have worked together today to produce a pig's ear.

MRS DUNNE (10.27): Mr Speaker, as Mr Smyth said, the opposition will be supporting this amendment because it is neat and it deals with many of the concerns raised by the scrutiny of bills committee. I think that it was very feeble of the planning minister to stand here today and say that you cannot rely on the definition in the territory plan of a supermarket because a supermarket could be anything and then set out to explain how, if you really cross your eyes, squint a lot and cross your fingers as well, you could redefine a pharmacy to become a supermarket.

Mr Speaker, this is sophistry raised to a high art form and this is the response of a government on the run. For some reason imponderable to me they decided that, come what may, they were not going to be part of this solution and we have spent the entire day, on and off, mucking around and dealing with Mr Corbell's every attempt to denigrate this bill. He sought leave to make a statement to have a debate on the bill. He used a motion for the suspension of standing orders to have a debate on the bill. We have had the whole lot done. He tried to stop the tabling of a petition so that he could have a debate on the bill.

The more I think about it, the reference to the retreat from Stalingrad was a very good analogy. It was bloody, it was house by house and no stone was left unturned. Not a shred of credibility is left for this government when it comes to the issue of community pharmacies. There is a saying about embracing victory and walking away from defeat. Today, this government and this minister embraced defeat rather than walk away from victory. There could have been a win/win situation for everyone, but this government dug itself into a hole and kept digging. From time to time I was sitting here saying, "Stop digging, Simon," but he did not listen; he kept digging and got himself into this pathetic situation, which is untenable.

The common law test is the common man test. Mr Corbell may not know what is a supermarket, but I would say that the man on the inter-town bus could tell him what is a supermarket and he could also tell him what is a pharmacy. A pharmacy is where you get your medicines dispensed. You might buy a toothbrush, you might buy some paracetamol and you might get some nit treatment for your head and a whole lot of gift things, but we know what it is and we also know that you can buy some of those things at a supermarket, but you cannot get your medicines dispensed. You can also buy fire lighters, bananas, fresh fruit and vegetables, fish and chips and a hot chook. We know

the difference. Even the territory plan knows the difference. It is a searing indictment of the planning minister that he would not even support the definition in the territory plan.

MS DUNDAS (10.31): Mr Speaker, I would like to raise some issues that have been raised during the debate, but I would need that piece of legislation back to do so. I will start by addressing some other issues. I thank members for their participation in this debate and their willingness to work through the issues.

Mr Hargreaves asked me to address two issues specifically. The first one was about concerns that Lanyon Marketplace is a supermarket. There is a supermarket in the premises of the marketplace but the entire marketplace, where a number of different shops are doing a number of different things, does not of itself constitute a supermarket. When you walk into a marketplace, when you walk into a shopping centre and when you walk into a mall, you see an array of shops; you do not see an array of shelves. That is what the definition of a supermarket talks about.

On the other issue that Mr Hargreaves raised about other businesses trying to engage in predatory practices concerning pharmacies, I think Ms Tucker summed up the situation quite succinctly when she said that that would be a problem if the owners of these large corporations became pharmacists, but the amendment addresses quite clearly the problem here. The amendment says quite clearly that it is about a registered pharmacist carrying out a pharmacy business and that that must not happen in a supermarket.

Perhaps members should take the time to read the Pharmacy Act 1931, which, quite clearly, talks about what it takes to become a registered pharmacist. Section 9 talks about the training and the process that needs to be agreed to by the board for somebody to be registered as a pharmacist. Section 42 talks about what happens when any person other than a registered pharmacist carries on or attempts to carry on in any place on any occasion the business of a pharmacist, or pretends to be a pharmacist, or assumes and uses the title of pharmaceutical chemist.

Under this amendment, somebody trying to run a pharmacy in a supermarket would not be allowed to do so. "Registered pharmacist" is already clearly defined in the act and what happens to somebody who tries to run a pharmacy but is not a registered pharmacist is also clearly defined in the act. I think the specific issues Mr Hargreaves raised and similar issues raised by the minister have been addressed by the rest of the act. As Ms Tucker has said, we have all clearly put on the record what we see this amendment to mean, what this amendment says, and we have no worries in clearly stating that a pharmacy cannot operate inside a supermarket.

Question put:

That **Ms Dundas's** amendment be agreed to.

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

Question so resolved in the affirmative.

Amendment agreed to.

MRS CROSS (10.39): This morning, I tried to table a petition containing more than 35,000 signatures. As the petition was out of order, I had to seek the leave of the Assembly to do so. The people of the ACT who signed the petition have today had a victory. Not only have we succeeded in honouring the democratic processes of the ACT, but also the spirit of cooperation of the crossbench and the opposition has resulted in a commonsensical outcome that is in the best interest of the community.

To quote Mr Smyth, the process has been agonising at times, but it has been made more tolerable by the support of the opposition, the Greens and the Democrats. I want to pay a special tribute and show my appreciation to Ms Dundas and Andrew Blake from her office, Nick Tedeschi and the other staff of my office, and Parliamentary Counsel. Above all, I have to pay tribute to Pat Reid, president of the Pharmacy Guild of the ACT, and Ann Dalton, the executive director. I acknowledge the members of the national pharmacy board and guild who are here for a national conference. I also acknowledge Mr Paul O'Connor, the chairman of the Pharmacy Board of the ACT, whom I had the pleasure of meeting this evening. I would have loved to have met him earlier, but it was at least good that I got to meet him tonight.

I am delighted with the support I have received and I am so thrilled that we have been able to get this bill through the Assembly. It is a landmark bill. It is very important for the community and it is important for the pharmacy industry. Again, I thank Ms Tucker, Ms Dundas, Mr Smyth and my opposition colleagues for supporting this bill.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Minister for Health and Minister for Planning
Assembly toilets
Naming of public servants

MRS DUNNE (10.41): Mr Speaker, I cannot let the last couple of days of debate go by without reflecting on some of the turns of phrase. I do not want to reflect upon the debates, but I think that there has been a new height in semantics reached in the last little while, mainly by Mr Corbell. Yesterday, in debating a matter of public importance, we talked about what in other states are called code reds but in the ACT are generally called bypasses. In the course of the MPI, the code reds or bypasses became load sharing, which I thought was a new and neat way to talk about a problem in the health system.

Today, whilst talking about the appropriate use of RILU—I do not want to reflect on that debate—Mr Smyth said that the problem was that we were robbing Peter to pay Paul and that we were cutting off our nose to spite our face. When Mr Corbell stood up, he took exception to that. He called it systemic reform. I think that today and yesterday we have heard a new level of health newspeak that would make George Orwell want to eat his heart out.

Mr Speaker, I did contemplate asking you today a question without notice about whether there had been unauthorised renovations to the ACT Legislative Assembly building, because in question time yesterday the Chief Minister embarrassed himself by musing about the fact that his loo was not dual-flushing. I used to work for a former Chief Minister and staff were allowed to use the private facilities. The executive washroom was open to anyone in the office who needed to use it and when I was there the loo was dual-flushing. I was a bit concerned about that but, rather than taking up the time of the Assembly, I just asked Barry and Barry told me, as I suspected, that all the loos in this place have been dual-flushing since the place was renovated in 1994. Perhaps the Minister for Environment needs to take a little bit more notice of what is going on.

On a more serious note, Mr Speaker, I cannot let the debate that went on this afternoon go uncommented on. I was shocked to see and hear Mr Stanhope rise in this place and talk about a public servant, not once but probably 15 or 20 times, in the course of a debate. He named a public servant who advised the government on the greenhouse strategy and did so quite deliberately because that public servant had, in a previous life, worked for a member of this Assembly. I think it was done out of base political motives and it was an entirely inappropriate thing to do.

When he first did it, I went to Mr Stanhope's staff and expressed my dissatisfaction. As I said to Mr Stanhope's staff, as a general rule we walk on hot rocks and we walk on broken glass to avoid naming public servants. Sometimes we fail. We should not do it, but to do it persistently and systematically, as Mr Stanhope did today, was a disgrace. It diminishes the Chief Minister and it is not fair to the public servant. It was done for a base political motive and the Chief Minister should be ashamed of himself.

Naming of public servants

MS TUCKER (10.46): I want to speak on the same subject. I want to speak again about Mr Stanhope's response to my motion on greenhouse gas emissions and the fact that he chose repeatedly to invoke the name and so the history of one individual, not a particularly senior public servant, in his speech. I regard the way Mr Stanhope used the public servant's name as an attack on his integrity, his position and his privacy. Why does this one officer, whom I know has always done his work with the utmost professionalism, whether in the public service or in a political office, have to carry alone both the opprobrium and the credit for the government's views, views which may or may not be consistent with his own?

I do not know quite how the chain of command works, but I imagine and hope that there would be more than one person who is the source of advice to the government on greenhouse issues and the government's final position. No individual employed in what we would hope is a non-political role should be treated in that way. I imagine that staff

of politicians, whether public servants or not, will now be questioning their options of employment once they leave this place.

I will mention the standing orders in case Mr Stanhope thinks his actions were acceptable. Standing order 117, concerning the rules of questions, says that questions shall not contain statements of fact or names of persons, unless they are strictly necessary to render the question intelligible and the facts can be authenticated. In the back of the standing orders, under freedom of speech, it is said that the Assembly considers that, in speaking in the Assembly or in a committee, members should take into account the need to exercise their valuable right of freedom of speech in a responsible manner and the need for members, while fearlessly performing their duties, to have regard to the rights of others.

I understand that the Chief Minister thought that it was important to debunk the arguments I was putting, but I am shocked and disheartened that he would abandon all proper procedure in regard to one of his very fine public servants and treat that person in such a grubby manner simply to make a cheap political point. Mr Stanhope gets angry. It is a worry that in that anger he will ride roughshod over others. I ask him to apologise to Mr McAllister.

Question resolved in the affirmative.

The Assembly adjourned at 10.49 pm.

Schedules of amendments

Schedule 1

Pharmacy Amendment Bill 2004

Amendment moved by Ms Dundas

1
Clause 4
Proposed new section 48B
Page 2, line 11—

omit proposed new section 48B, substitute

48B Restriction on pharmacy premises

(1) A registered pharmacist must not carry on a pharmacy business as owner on, inside or partly inside the premises of a supermarket.

(2) In this section:

supermarket means a large shop selling food and other household items where the selection of goods is organised on a self-serve basis.

Note This definition is the same as the definition of 'supermarket' in the Territory plan.