DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

24 JUNE

2004

Thursday, 24 June 2004

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

Minister for Health
Motion of want of confidence

MR SMYTH (Leader of the Opposition) (10.32): Mr Speaker, I seek leave to move the motion circulated in my name of no confidence in Minister Corbell.

Leave granted.

MR SMYTH: Mr Speaker, I move

> That the Assembly expresses a lack of confidence in the Minister for Health and Planning for persistently and wilfully misleading the Assembly on a number of issues.

I have moved this motion today because I believe it is time to draw a line in the sand on parliamentary behaviour. We're doing this because we're fed up with the behaviour, particularly the behaviour this week, of this minister that again has been evident in his approach to the debates on RILU and the matter of public importance on the hospital.

I want to say at the outset, Mr Speaker, that the Chief Minister has to leave to go to Tasmania—and we will certainly honour that pair and will offer the Chief Minister the opportunity to speak early, should he wish to do so before he has to leave—to attend the funeral of former Premier Bacon.

Mr Speaker, I have moved this motion today, and it's about character. It's about the character of the minister and it's about his approach to the Assembly. It should be an approach of the highest standard. Indeed, the Chief Minister's own code of conduct says, in regard to conformity with the principles of accountability and financial and collective responsibility:

> Being answerable to the Assembly requires Ministers to ensure that they do not wilfully mislead the Assembly in respect of their Ministerial responsibilities. The ultimate sanction for a Minister who so misleads is to resign or be dismissed. Ministers should take reasonable steps to ensure the factual content of statements they make in the Assembly are soundly based and that they correct any inadvertent error at the earliest possible opportunity.

Mr Speaker, I will make three detailed and specific examples of Mr Corbell's deliberate misleads. These examples are crystal clear. I can no longer stand back and allow Mr Corbell to continually and deliberately mislead the Assembly with impunity. In each case the misleads have been brought to his attention and he has refused to correct the record or, in the one case, his clarification was indeed also misleading.

Mr Speaker, this Assembly suffers from a lot of unfair criticism. People call it the sandpit or the toy parliament. The credibility of this parliament is not helped if ministers

thumb their noses at the rules regarding misleading the Assembly. The credibility of the Assembly is also open to attack if we do not take strong action against those who deliberately mislead and refuse to correct.

Mr Speaker, this is a serious matter. This is a serious motion that I have thought long and hard about bringing on. The first example of Mr Corbell's pattern of misleading relates to psychiatric nursing scholarships. On 29 March this year, Mr Speaker, I announced the Canberra Liberal's policy on mental health. One of the components of the policy was the provision of $75,000 to fund five scholarships for psychiatric nursing. Minister Corbell, in a media release later that day in response to the policy, stated:

> This government has undertaken a comprehensive 18 months consultation with carers and consumers towards developing a Mental Health Action Plan that will shortly be released. It already provides $300,000 for mental health nursing scholarships and committed money to universities to build facilities to train and educate future medical practitioners.

He later reinforced this claim in the Assembly, on 30 March 2004, when he stated:

> It is interesting, Mr Speaker, that Mr Smyth thinks that we need some mental health nursing scholarships. We agree with him, which is why we funded them in our last budget. The sum of $300,000 went into that. Mr Smyth, in comparison, is proposing only $100,000.

When questioned in the Estimates Committee on 7 April 2004 about the provenance of the $300,000 for mental health nursing scholarships, Mr Corbell stated:

> From advice, that occurred in the January 2002 appropriation.

Mr Speaker, this funding is not in the January 2002 appropriation. In fact, there was no appropriation in January 2002. There was one in February, but there was no money in the February appropriation, Appropriation Bill (No 3) 2001-2002, for scholarships of this kind or, indeed, scholarships of any kind. Nor was there, as Mr Corbell claimed in the Assembly, mental health scholarships in the last budget, the 2003-04 budget. This funding is not in the budget before that, the 2002-03 budget, or in any supplementary appropriation brought by the Stanhope government.

The only reference to nursing scholarships of any kind, let alone mental health ones, in any *Hansard* since the change of government is a passing reference in the Estimates Committee hearing of 30 July 2002. I'll actually read from the transcript, if I may. A public servant was answering:

> Mr Foster: … We directed some money from nursing scholarships out to Calvary. We had held some money centrally for scholarships, so we directed $200,000 to Calvary for that.
>
> MRS DUNNE: That's not part of the 4.7 for throughput?
>
> Mr Foster: It is. It was part of the—
>
> MRS DUNNE: The scholarship money?

> Mr Foster: 4.7 that went to Calvary for overall costs.
>
> Dr Gregory: It was money left over from the scholarship scheme, which was then redirected into service provision.
>
> MRS DUNNE: So the scholarship scheme wasn't taken up?
>
> Dr Gregory: There was some spare money from it.
>
> Mr Foster: That money was returned to the centre for this financial year, so we have the full amount available for scholarships in 2002-03.

Then I asked:

> That is about 3.4?

He replied:

> Well, there are some other amounts of throughput money we did provide because of delayed spending on programs within the health portfolio in 2001-2002.

Then Mrs Dunne finishes:

> So what you're saying, Mr Foster, is that there are a lot of little buckets … and … you've quite rightly put it into—

Mr Foster closes:

> Pressure points.

Mr Speaker, the only nursing scholarship money was pre-existing money from the former government. Indeed, unexpected scholarship money for 2001-02 was redirected to Calvary and pressure points. Therefore, the only money for nursing scholarships is that which was funded in the outyears by the former Liberal government. Mr Corbell has misled the public in his media release; he has misled the Assembly in question time; and he has misled the Estimates Committee.

Mr Speaker, the misleading statements are made worse by the fact that two of them contradict each other. In the Assembly Mr Corbell states that the $300,000 for mental health nursing scholarships was provided "in our last budget". In estimates he states that it was provided "in the January 2002 appropriation". In both cases the answers are incorrect.

The final word, though, Mr Speaker, apparently is an answer to a question on notice that states at point 7:

> An appropriation for "Strengthening the Nursing Workforce" in 2001-02 included $0.600M for general nursing scholarships. In 2002-03, in response to an identified specific need in Mental Health half these funds were transferred to Mental Health.

That, Mr Speaker, is just the first example of three that I have.

The next example relates to the issue of a forensic unit. On Tuesday, 30 March, in question time, Mr Corbell stated:

> This is an interesting policy direction from the opposition. The reason for that is that earlier this year the opposition's spokesperson on health advocated that this sort of facility should be part of the hospital. I quote him from *Hansard*.

Mr Corbell is quoting me apparently:

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

that is, the Liberal Party—

> would establish a time-out facility and make sure there is a forensic unit as part of the hospital. That is what he said only a couple of months ago, yet yesterday he came out and said that it is going to be at the prison.

I could not remember making such remarks and thoroughly checked *Hansard* for it and couldn't find it. So I asked Hansard to check. Hansard conducted a search of their database and found no such quote, and they told me, "I searched the Hansard database and cannot find the quote that has been attributed to Mr Smyth."

That is because it does not exist. And this is conclusive evidence that the quote attributed to me does not exist. Hansard cannot even find it. I did not make these remarks. I continue:

> His position and that of the opposition—

indeed, me—

> has been consistent over a period of years that we would aim to build a forensic unit as part of the … prison.

Indeed, *Hansard* of 15 May records me as saying:

> Part of our continuing strategy to address the needs of those with mental health difficulties in the ACT was to build on this foundation. Part of that would have been answered in the construction of a prison with a forensic unit.

That was the position in May 2002; that was the position all last year; and it is the position today. Mr Corbell was given an opportunity to correct the record after I made a personal explanation on the subject of the forensic unit. He did not do so. A misquote is one thing, as is a quote out of context; however, making up a quote is a serious matter; it is deliberately misleading. Mr Corbell just made this quote up. He has not made any effort to correct the record or—shock, horror—apologise for that mislead.

Mr Speaker, some may want to argue that these are only minor misleads. I disagree. They demonstrate a contempt for the Assembly by Mr Corbell who becomes a serial misleader. However, I think my next example will remove all doubt.

Mr Corbell has maintained on numerous occasions in the Assembly that when Labor came to office mental health spending per capita in the ACT was $67. He stated this in the Assembly on at least six separate occasions. And I will read them, Mr Speaker. In the 3 March *Hansard*, Mr Corbell said:

> The government has significantly increased resources for mental health. When we came to office the spending was $67 per head of population. We now have it over $100 per head of population.

On 11 March he said:

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

He then goes on to say:

> Since coming to office we have increased the funding for mental health from the miserly $67 per capita under the previous government to $115 per capita in 2003.

On 30 March, Mr Corbell said:

> Of course, it is worth repeating in this place, although Mr Smyth likes to avoid it, that when we came to office the level of expenditure in the ACT stood at $67 per head of population.

He then says again:

> It was $67. We have close to doubled that to $117 per head of population.

Mr Corbell then comes back, on 31 March, and says:

> If Mr Smyth wants to challenge the data from the latest national mental health report, which recorded the ACT's per capita expenditure was $67 per head …

He goes on to say:

> … that $67 per capita was the level of expenditure that the Liberals were delivering—a measly amount.

Then again, on 31 March, Mr Corbell says:

> The opposition spokesperson also asked me where the … $67 per head of population attributed to the last government comes from.

He then comes back into the Assembly, Mr Speaker, and makes half a correction. I will get to that shortly. In the wee hours of the sitting of 13 May he came into this place and attempted to clarify his statements, and this is what he said:

> I'd also like to advise the Assembly that in a debate in the Assembly on 11 March I brought to the attention of the Assembly that per capita expenditure on mental health in the ACT had increased to $117 per head.

So this is his first claim: "Under this government, it increased to $117." This is correct:

> However, I am advised by my department that the level of expenditure at the time of the change of government was $82.50 per capita, not $67 per capita. This error was included in a speech prepared for me by ACT Health, and I wish to correct the record so there is no misunderstanding.

This beggars belief. If Mr Corbell had used the figure once, maybe even twice, this explanation would stack up. But the explanation does not stack up because I have evidence that shows that Mr Corbell was informed of the correct figure, in writing, in February 2004, the month before he started using the erroneous figure.

Mr Corbell misled the Assembly also in his correction. Mr Speaker, at a question time brief given in February 2004, the minister was informed by his department that the figure for 2001-02 was in fact $83.70. It's in his question time brief, the brief that he brings to the Assembly. Mr Corbell was advised in February 2004 that the figure was $83.70. He knowingly used the incorrect figure in each of the references in the March sitting.

Mr Speaker, I seek leave to table the document "Question brief 2004 Report on Government Services".

Leave granted.

MR SMYTH: I present the following paper:

> 2004 Report on Government Services—quality and efficiency of health services in the ACT—Question brief, 10 February 2004.

These examples demonstrate an attitude from the minister that he is happy to mislead the Assembly and is happy to mislead the Assembly even when he's correcting the record. This is a minister who is prepared to mislead the Assembly quite without remorse; he is not fit to hold office. *(Extension of time granted.)*

The final part of the mental health saga is the claim that "we've doubled the money". The brief that Mr Corbell has for question time actually says that the funding under this government went up by $2.72 million. In this place and in press releases, Mr Corbell claimed that the government has increased mental health funding by $3.4 million in the last two budgets. So the other sad and sorry part of this saga is Mr Corbell's insistence that they have doubled mental health funding. They have not. What they have done is the tricky sleight of hand of adjusting money.

When he came to office it was $83. They're putting in $3.4 million, by his own claim—and I think he needs to justify it because, according to the question time brief, their two budgets only bring in $2.72 million. If you take his $3.4 million—let's give him his $3.4 million—that equates to $10 per head of population of the ACT. So if it's $83 when we leave office and we add $10, that's $93 in the two years, the period that he was talking

about. $93 per head of population is not the $117 per head that Mr Corbell claims they've extended mental health funding by. What they did, Mr Speaker, was not put in almost double the money. What they did was simply shift the overheads out of the department into the mental health figure.

From another question on notice, we learn that from 2002-03 the cost of the mental health policy unit was included. The overhead component of the cost of mental health is also impacted on by the factors listed above. They then moved the restructure of financial reporting and met the inclusion of employee provisions. The cost of overheads recorded for mental health increased by $700,000 approximately. The mental health policy unit was incorporated.

So this is existing money. They haven't doubled anything, Mr Speaker; yet the minister has come into this place on numerous occasions, as listed, and made the claim that they doubled the money. Going from $83 to $117 per head is not doubling it. When you add approximately $10 that takes it to $93, an eighth. That's not doubling it. And when you look at it overall, it's the old sleight of hand of shifting existing overheads and existing payments out of one part of the department into another part of the department, and that's not doubling it. This is all misleading.

The minister knew this because his question time brief tells us so. It is the detail that was given to the minister in February before any of these numbers were played out either in the Assembly or out in the public. Mr Speaker, this is a minister who is prepared to mislead the Assembly quite without remorse. He is not fit to hold office.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.51): That is it, is it? That is the case? That is the case for asking one of the best ministers that the ACT has had to resign? That is the case, is it: an argument around where the forensic mental health facility should go; a contest about whether or not the forensic mental health facility might be at the hospital or at the prison, a decision or a position that hasn't yet been finally resolved; a discussion and an argument about the number of psychiatric nurses, how they might be funded and where some might come from or whether or not they exist? That is the argument in relation to both those things, if I can understand the argument.

That occurred two years ago. This is a matter of such pressing moment, this is a matter of such concern to the opposition that a minister should resign his position, that he should leave the job, on the basis of questions that were asked in estimates—what?—18 months ago or earlier this year or six months ago. Did you notice the date on which these arguments occurred? Last year; in estimates 18 months ago or last year or earlier this year.

The opposition have had already this week 12 questions in question time. Here we have this matter, this dramatic matter of moment, that the opposition charges in here today at 10.30 and lays on the table, without notice, a no-confidence motion in relation to issues, in some instances, over a year old and in relation to which they didn't even feel the need to ask questions in question time this week. That's how pressing these matters are; that's how urgent these issues are; that is how dramatic the case against the minister is that he should resign his portfolios that they did not ask a single question on a single one of

these pressing issues at any time over the last two days, nor in the last sitting, nor, as far as I can recall from the statement of claim made by the Leader of the Opposition, at any time this year.

Matters in relation to psychiatric nurses, matters in relation to the location of the forensic mental health facility—a decision that actually hasn't ultimately or absolutely been taken—or in relation to the level of expenditure on mental health facilities don't, as far as I can recall, loom large in any question time in this Assembly this year. And yet these matters are that dramatic, are so pressing, are of such grave concern that the opposition marches in here this morning, without notice to the government or to the minister, and puts on the table a demand that before the close of business today the minister resign.

This needs to be seen for what it is: appalling, petty, pathetic politics by a leader of the opposition with no standing in the community, with an opposition that knows it's in for a flogging in three months time and is desperate for any clawing back of any respect within the community. I know what your polling says. You know what your polling says. You are regarded by the Canberra community as a joke. The Leader of the Opposition's preferred Chief Minister rating is 14 per cent. That is why the Leader of the Opposition has come in here today and moved this motion of no confidence in a very good minister. It's because he knows from his polling that his preferred Chief Minister rating is 14 per cent. That is the state in which the Liberal Party in the ACT has been reduced to: a leader of the opposition with a 14 per cent preferred Chief Minister status; a group of colleagues who are regarded as a rabble, half of whom don't have a positive approval rating in the polling, half of whom have a higher disapproval rating than approval rating in the eyes of the electorate.

Why wouldn't you storm into this place three months out from an election and see whether or not you can't actually provide something of a diversion or a distraction from your own sorry state? The fact is that as an opposition you have been an abject failure. You have not been able, as a result of your lack of capacity, your lack of diligence, to actually perform your essential role as an opposition. And it hasn't been good for the Assembly, it hasn't been good for governance and it hasn't been good for the level of scrutiny that the people of Canberra have a right to deserve from their elected representatives.

We all know that that's what this motion's about. Look at the nature of it. It relates to what has happened over the last two years with the Minister for Health and Minister for Planning You've had the poor old Hansard staff trawling through every detail for the last two years looking for an inconsistency, and you found three inconsistencies. And they go basically to matters of dispute or disputation between you and us on issues of essential policy.

Where should the forensic mental health facility be? What are we doing about psychiatric nursing scholarships? What is the true level of expenditure on mental health in the ACT? We can argy-bargy about them; we can debate them or dispute them. They change; they're not constants. Ministers grapple with a lorry-load of information constantly; it's a feature of this place because you have ministers with multiple portfolios.

You want a very good minister, an extremely competent, intelligent and committed minister, who has given everything within his capacity in his portfolios to deliver good outcomes for the people of the ACT, to resign. In the 2½ years of his tenure as Minister for Planning he has achieved the most fundamental shift in planning philosophy in the ACT in its history, since last played with essentially by the NCDC—an enormous piece of work by a minister, for 2½ years, to turn on its head, to refocus, to revitalise and re-energise our attitude to planning and the planning of this city and to produce a plan for the future that will stand as the plan. It won't be improved on because I don't think it can be improved on. And you want him to resign.

The Minister for Health has been absolutely diligent in the pursuit of his function. Sure, there are issues in health. Since when have there not been issues in health? Since when has their not been a forceful argument around the appropriate level of mental health funding in the ACT?

We do know—and the reports show it and prove it—that when the Liberal Party left government the ACT had the lowest level of per capita funding for mental health of any place in Australia. That was your legacy for the people of the ACT. We all know it. It's incontrovertible that you stripped funding from mental health in the ACT, and we have striven to overcome your lack of attention to this vital area of health service delivery in the ACT. That's the fact. The fact is that was your legacy, that's what you left us with—the lowest per capita level of funding of any jurisdiction in Australia—and we have striven to redress what you left us with, as we have in so many areas.

We comment often on the mess that you left us to clean up. And you left us a mess in planning, and the Minister for Planning, Simon Corbell, has cleaned it up. You left us a mess in health, and we're working as well as resources and our capacity permit, through the Minister for Health, Simon Corbell, to redress the issues that we inherited in relation to health.

These are two hard and demanding portfolios, among a raft of hard and demanding portfolios. The Minister for Health and Minister for Planning has achieved outstanding results in both of those portfolios and he is asked to resign. You have come in here, because you've got a quibble about what the real level of expenditure in mental health is, because you've got a concern about exactly what the Minister for Health believes in relation to where a forensic mental health facility might be best located, whether it might be located at the prison or at the hospital—and it's a decision that hasn't been ultimately made yet, and there are a range of views around it—and asked him to resign.

There is some esoteric argument that occurred in estimates, from what I can remember, nearly two years ago about how many psychiatric nurse scholarships there are in the ACT. And this is the litany; this is the history that should lead this minister to resign, to give up his job, to go onto the backbench, with the record of achievement, the dedication, the diligence, the professionalism that this minister has produced. It is a joke and it needs to be seen for what it is. As a parliament, we need to wake up to the fact that this parliament has to grow up, and behaviour such as this is not going to allow that to occur.

I have striven in the last 2½ years to actually raise the profile, the standing and the reputation of this parliament in the eyes of the people of Canberra. And we did see

something yesterday. I have to say that yesterday—I'll just digress on this—was perhaps, for good governance, one of the worst days I've experienced in this place. It was, truly. And I think you need to take a deep breath and understand what happened yesterday. Everybody in this place needs to do that in terms of the capacity of governments to govern—and this is more of it, that a minister should be asked to resign on the basis of statements he made.

Before we get all holier than thou about statements that the Minister for Health might or might not have made, how they should be interpreted and whether or not he should resign, everybody in this place makes statements that are not true, and the fact that those statements are not true are brought to their attention. Yesterday, I heard a number of members in this place in a number of speeches insist that I had changed this government's targets in relation to greenhouse gas reductions. I challenge anybody in this place to point to a statement where I said this government was no longer committed to greenhouse gas targets.

I heard a number of members in this place say it yesterday. I drew to their attention that those statements were not true. Not a single member withdrew their comments. Those comments are untrue. I have concerns about our capacity to achieve the targets, but I have not abandoned them or walked away from them. Yet I was reported in the media as having done so. That statement is not true, but it has not been withdrawn. And I drew to the members' attention yesterday that those statements were not true.

I heard the Leader of the Opposition yesterday state emphatically that I was afraid of targets, that I would not commit to targets. He explicitly drew attention to the fact that the social plan does not contain targets. The social plan contains hard, tough, explicit targets. Yesterday in the Assembly—and the Leader of the Opposition must have known that that statement wasn't true—I heard him say it; it's in the *Hansard*.

Have a look at Mr Smyth's speech yesterday in the debate on greenhouse gas targets and see if Mr Smyth said, "The Chief Minister won't commit to targets in the social plan." Get yesterday's *Hansard*, have a look at Mr Smyth's speech on the greenhouse motion of Ms Tucker's and see if Mr Smyth said, "The Chief Minister will not commit to targets at all and has refused to commit to targets in the social plan." Get the social plan out and see if the social plan contains any targets. It contains hard, tough, explicit targets. Get the water strategy out and see if the water strategy contains any targets. But get Mr Smyth's speech yesterday and see what Mr Smyth said about targets and me.

What's the process for moving a motion of no confidence in the Leader of the Opposition in relation to those gross and blatant misleads of the Assembly that he engaged in yesterday?

Mr Quinlan: The party sorted him out.

MR STANHOPE: Yes, it's perhaps not for us; it perhaps is for Mr Stefaniak. Mr Stefaniak knows, but as the reluctant bridesmaid, he is twice as popular in the electorate as Mr Smyth. But ultimately, I guess, it's a matter for the electorate. And I'm sure the electorate will pass judgment and will do it appropriately. They will do it on the basis of absurd, pathetic, nonsensical motions such as this.

This minister has absolutely nothing to consider resigning about. That is a joke. This minister can hold his head up with pride for the rest of his professional life on the basis of what he's already achieved in just over 2½ years as the most farsighted and energetic Minister for Planning this jurisdiction has ever had and, I believe, will ever have. He has produced a visionary plan for the future of the city and is a dedicated, diligent, understanding and intelligent Minister for Health. He has striven to provide the best possible health service for this community.

We're standing here today, on the basis of his record and the record of this government, seriously discussing whether this Minister for Planning and Minister for Health should be asked to resign. This is just laughably stupid. It is absolutely stupid in the context of governments, the responsibility of ministers and what this minister has achieved. I can't believe, seriously, that we're debating this. That's how absurd this is. It is absolutely stupid.

Debate (on motion by **Ms Tucker**) adjourned to a later hour.

Civil Law (Wrongs) (Proportionate Liability and Professional Standards) Amendment Bill 2004

Mr Wood, on behalf of **Mr Stanhope**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.06): I move:

> That this bill be agreed to in principle.

I seek leave to have the introductory speech incorporated in *Hansard*.

Leave granted.

The incorporated document appears at attachment 1 on page 2737.

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

Criminal Code (Serious Drug Offences) Amendment Bill 2004

Mr Wood, on behalf of **Mr Stanhope**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.07): I move:

That this bill be agreed to in principle.

I seek leave to have the introductory speech incorporated in *Hansard*.

Leave granted.

The incorporated document appears at attachment 2 on page 2738.

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

Discrimination Amendment Bill 2004 (No 2)

Mr Wood, on behalf of **Mr Stanhope**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.09): I move:

That this bill be agreed to in principle.

I seek leave to have the introductory speech incorporated in *Hansard*.

Leave granted.

The incorporated document appears at attachment 3 on page 2741.

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

Residential Tenancies Amendment Bill 2004

Mr Wood, on behalf of **Mr Stanhope**, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.10): I move:

That this bill be agreed to in principle.

I seek leave to have the introductory speech incorporated in *Hansard*.

Leave granted.

The incorporated document appears at attachment 4 on page 2742.

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

Electricity (Greenhouse Gas Emissions) Bill 2004

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

Title read by Clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (11.11): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Stanhope government continues to show its commitment to an environmentally aware and sustainable Canberra, as evidenced most recently by the release of the Canberra plan. The government is also committed to reducing the ACT's share of the nation's greenhouse gas emissions. Together with the Minister for Environment, I am pleased to introduce to the Assembly this government's response to the absence of a national greenhouse trading scheme, the bill being the Electricity (Greenhouse Gas Emissions) Bill 2004.

Rising greenhouse emissions pose a significant threat to the social, environmental and economic welfare of ACT citizens, present and future. From a world perspective, greenhouse gas emissions are expected to increase the mean annual global surface temperature by more than 1.4 degrees centigrade, and possibly as much as 5.8 degrees centigrade, by 2100.

Within Australia, average temperatures have already risen by 0.7 degrees centigrade over the last century. By the year 2030, average temperatures could be anything from 0.4 of a degree to two degrees higher. When this information is combined with a trend towards declining rainfall, it indicates that droughts are likely to become more severe and longer lasting. Australia's ecosystems and agriculture will become increasingly vulnerable to climate change and extreme weather events.

This government recognises that Australia cannot afford to turn a blind eye to these issues. It recognises that combating greenhouse gas emissions is a large problem, and therefore any solution must incorporate and involve the electricity industry, which is heavily dependent on non-renewable fossil fuels for electricity generation. In the ACT, electricity use accounts for 59 per cent of greenhouse gas emissions, and ACT residents are the highest per capita users of electricity in the country. Targeting electricity production and consumption is therefore a key step in achieving ACT greenhouse targets.

This bill introduces a scheme that, while technically complex, is conceptually quite simple. Electricity retailers in the territory will, over time, have to procure an increasing component of their product from cleaner and greener means of producing electricity, thereby effecting larger reductions in greenhouse gases. Of course, electricity production is spread across the national grid, with very little being generated within the ACT. However, as end-user of the product, we have a responsibility for its environmental

impacts. Accordingly, emissions associated with ACT electricity usage is counted as part of the territory's greenhouse gas inventory.

The scheme is based on the New South Wales gas abatement scheme and will be highly integrated and consistent with this model. It operates by setting benchmarks for industry, where compliance is measured through the acquisition of greenhouse gas abatement certificates. Compliance with this scheme is far more cost effective than failing to reach benchmarks and, if fines are imposed, this money is redirected back into environmental programs.

The scheme is also extremely flexible and practical as it allows compliance to be achieved in a wide variety of ways. One example of this is the requirement for cleaner or renewable technologies, such as is achieved by the conversion of existing generators to natural gas-based operation, or the introduction of new wind, solar or carbon sequestration technologies. Other examples are the initiation of effective energy demand education programs for consumers, or forest carbon sinks, which lead to measurable reductions in greenhouse emissions.

This scheme is a major breakthrough as it allows the energy sector, traditionally associated with environmental degradation, to become part of a long-term solution. It recognises the importance of both the environment and electricity generation in the advancement of modern society. Most importantly, this scheme allows for industry incentive. The flexibility enshrined in this legislation allows the market to achieve greenhouse gas abatement. It does not distort the market and it does not choose technological winners and losers, making it economically viable in the longer term.

This bill will greatly assist in keeping Canberra a sustainable, liveable city for future generations. Its passage will ensure that the ACT plays its part in reducing greenhouse gas emissions that result from our lifestyle. We look forward to the support of all of our Assembly colleagues, not only those in the opposition—who agreed during their term of office to greenhouse gas reduction targets in the ACT—but also those on the crossbenches, who have expressed strong interest in greenhouse and other environmental issues.

The legislation encapsulates a forward-looking scheme that is good for the environment, good for consumers and good for business. I therefore commend the Electricity (Greenhouse Gas Emissions) Bill to the Assembly as a positive step forward in this government's program.

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

Payroll Tax Amendment Bill 2004

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

Title read by Clerk.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (11.17): I move:

That this bill be agreed to in principle.

I seek leave to have the introductory speech incorporated in *Hansard*.

Leave granted.

The incorporated document appears at attachment 5 on page 2745.

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

Drugs of Dependence (Syringe Vending Machines) Amendment Bill 2004

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

Title read by Clerk.

MR CORBELL (Minister for Health and Minister for Planning) (11.18): I move:

That this bill be agreed to in principle.

Following the government's preliminary consideration of the draft ACT alcohol, tobacco and other drugs strategy, members will be aware that a quarter of a million dollars in drug and alcohol initiatives, including a trial of syringe vending machines in the ACT, was announced in December 2003. As members will also be aware, the government's decision to trial vending machines is consistent with the Standing Committee on Health's recommendation to install injecting equipment vending machines across the ACT.

The installation of vending machines will provide the ACT with 24-hour access to clean injecting equipment. The government proposes to set up the vending machines outside the Belconnen, Civic, Woden, Tuggeranong and possibly Narrabundah health centres as part of a 12-month trial. A number of measures will be implemented to reduce the likelihood of inappropriate access to the machines and their contents. These include charging a small fee for the needles and syringes, locating the machines at a height that will minimise the possibility of children putting money into the machines, and covering the machines with a steel mesh security grill.

It is proposed that a range of information, including where to dispose of the Fitpacks, who to contact regarding syringes that have been inappropriately disposed of, and contact details for drug and alcohol support services, will be provided on the Fitpacks. Sharing needles has consistently been found to be associated with hepatitis C transmission among intravenous drug users worldwide. It is currently estimated that, here in the ACT alone, there are over 2,500 people living with hepatitis C.

While the ACT already has a comprehensive needle and syringe program in place, injecting drug users in the ACT are currently without 24-hour access to clean injecting equipment. In addition, large parts of Tuggeranong, Gungahlin and inner Belconnen have no after-hours access, and limited access on weekends. If injecting drug users are

unable to access clean injecting equipment, there is a risk that they will continue to share needles and be at a greater risk of contracting blood-borne viruses such as hepatitis C.

The proposed amendments will allow the ACT Chief Health Officer to approve the supply, by a corporation or an individual, of needles and syringes through vending machines and—in line with the protection given to people who provide millions of syringes through existing programs—provide immunity from prosecution if the syringes are then used to inject illicit drugs.

Mr Speaker, I believe these amendments to the Drugs of Dependence Act 1989 are essential to allow increased access to clean injecting equipment in the ACT and to reduce the risk of contracting blood-borne viruses through sharing injecting equipment. I commend the bill and its explanatory statement to the Assembly.

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

Intoxicated Persons (Care and Protection) Amendment Bill 2004

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

Title read by Clerk.

MR CORBELL (Minister for Health and Minister for Planning) (11.22): I move:

> That this bill be agreed to in principle.

Mr Speaker, as colleagues will be aware, the ACT has been without a sobering-up facility since 1996. Since this time, intoxicated persons have been placed in the city watch-house for the care and protection of themselves and others. Many attempts have been made to re-establish the sobering-up service since this time.

As my colleagues would be aware, the previous government allocated funding in the 2001-02 budget to establish a night shelter in the ACT consisting of both a sobering-up facility and a crisis accommodation service. Following the last election, the government reaffirmed this commitment.

In 2003, the Department of Disability, Housing and Community Services established a crisis accommodation service at Ainslie Village. Recurrent funding of $311,000 is available in this year's budget for the sobering-up facility. A facility is expected to be opened late this year.

Mr Speaker, the Assembly passed changes to the act in 1997 to cover issues such as the power of carers to search intoxicated persons. These amendments have since been found to be insufficient to address the likelihood of people presenting for admission at the facility with dangerous and/or illicit goods in their possession. This presents a potential risk of harm to the person, other clients, staff and/or the facility. The proposed amendments to the act will allow staff to search intoxicated persons and store their possessions for the duration of their stay. If the person declines or is found to be in possession of prohibited substances, they will be refused entry to the facility.

Mr Speaker, I believe these amendments are essential to ensure the safety of staff and clients alike when the new sobering-up facility is opened later this year. I commend the bill and its explanatory statement to the Assembly.

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

Planning and Environment—Standing Committee
Reference

Debate resumed from 1 April 2004, on motion by **Mrs Dunne**:

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

And on the amendment moved by **Ms Dundas**:

> Omit everything after "1 July 2004" and replace with:
>
> (1) the proposal for aged care facilities on part of Section 99 Holt, the disuse holes 19 to 27 of the Belconnen golf course;
>
> (2) the proposal for aged care facilities on Section 87 Belconnen, with particular reference to any impact on the social and environmental impact upon Belconnen Lakeshore; and
>
> (3) refer the demand for aged care accommodation in the Belconnen region and any other relevant sites.

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

> That, pursuant to standing order 152, order of the day No 1, Assembly business, relating to possible aged care facilities in Holt—Proposed reference to the Standing Committee on Planning and Environment, be discharged from the Notice Paper.

Planning and Environment—Standing Committee
Statement by chair

MS DUNDAS (11.25): Mr Speaker, I seek leave to make a statement regarding a new inquiry.

Leave granted.

MS DUNDAS: Mr Speaker, the Standing Committee on Planning and Environment has resolved to conduct an inquiry into, and report on, long-term planning for the provision of land for aged-care facilities in the ACT, following an examination of the predicted needs of the ACT's ageing population.

Executive business

Ordered that executive business be called on.

Justice and Community Safety Legislation Amendment Bill 2004

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

> That this bill be agreed to in principle.

MR STEFANIAK (11.26): The opposition will be supporting this bill. However, I note with a little bit of concern—and I have had the benefit of a briefing from the Law Society of the ACT—that the government has made a number of fairly quick amendments to the bill, especially to get itself out of a bit of jam it found itself in in relation to the start of new provisions that will affect buyers and sellers of houses. I assume that Mr Wood will be handling that when we come to the detail stage and I might leave it until then to make a few more comments.

Generally, this bill is one of the consolidation bills that come before the Assembly from time to time. It contains a number of matters that probably do not justify being the subject of substantive bills put before the Assembly. I do, however, issue a word of caution. I think we are seeing quite a few consolidation bills from this government—far more than we have ever seen in the past—and I would caution them about getting into too much of a habit in relation to such a practice. I think it is far better to bring in specific pieces of legislation where you can, rather than lump a large number of matters in one consolidation bill—especially when some of those matters contain significant changes to the law.

As I said, I will make some comments later about the government amendments in relation to the sale of land, and I will be opposing another part of the bill. However, even without the government amendments, there is nothing particularly earth shattering about the bill as it stands.

Firstly, I must say that I am pleased to see the new Crimes Act provision on page 8, which inserts a new section of common assault, making it a summary offence. This means that a person commits an offence if they assault someone. The maximum penalty is 50 penalty units, which is $5,000, or imprisonment for six months, or both. There are some consequential amendments in relation to the criminal code. We will now have two offences of common assault, one of which is indictable. That means a defendant can have their day in court and can opt for a trial by jury. I have seen that happen on quite a few occasions—I have often wanted to defend one of them just for the fun of it—and I prosecuted a couple in the Supreme Court.

When you consider that the maximum penalty for common assault is $5,000 and imprisonment for six months, I think it is a little bit over the top to expend a huge amount—tens of thousands of dollars—to take a relatively minor offence to the Supreme Court. That option is still available for more serious matters, and that will be something, I assume, for the prosecution to determine.

Common assault is the lowest form of assault. Basically, common assault would cover someone who feels they are very badly threatened. There does not even have to be physical contact. Common assault would include, for example, slapping someone across the face; pouring a bucket of water over someone; or pushing someone. It covers cases where the skin is not broken or muscular damage is not caused. If someone breaks the skin, punches someone and breaks their nose, gives them a bleeding lip, that is assault occasioning actual bodily harm, which carries a five-year term of imprisonment.

What the government has done here means that cases of summary basic assault can now be dealt with solely in the Magistrates Court. I have spoken to the DPP and they are very happy about this. Indeed, I think the police have no real problems either—it is sufficient for them as well. Basically, the defendant will not have the option of saying, "I'd like my day in court. I'd like to have a jury. I'd like to waste everyone's time and cost the community tens of thousands of dollars."

So I think this measure is probably fairly sensible. There are precedents for this. A number of years ago a section was put in the Crimes Act—I think section 90 or thereabouts—in relation to property worth less than $1,000, and that too could be dealt with summarily, with six months imprisonment being the maximum. There were some problems in relation to the timeframe it took to bring that action. I understand there is a timeframe of 24 months. I think this is something we need to look at because sometimes it is impossible to bring these types of charges within, say, a six-month period, as was the case with basic larceny, particularly in relation to shoplifting offences. I think that has been attended to.

I certainly will be looking closely to ensure that there are not any timeframe problems. It is quite reasonable for the prosecution to bring charges down the track if the person to be charged cannot be found. I think restrictive timeframes in these types of more minor matters that should be dealt with in the Magistrates Court can be a problem.

But that being said, this provision is quite sensible. We will probably see a lot more justice done. I was particularly concerned to see a decision recently in the Supreme Court in relation to assault that had everyone scratching their heads about how on earth in a judge-alone-trial the person was not convicted. Looking at the facts of the situation as reported in the paper and talking to people in the profession, I do scratch my head.

I think summary justice in minor matters of assault will probably be well served by this provision. I am quite pleased to see that, and the consultations I have had indicate that the profession is pretty happy with that, too.

I have a greater concern in relation to the Ombudsman Act, and I will address that during the detail stage. But we need to be very careful—and I would assume this government especially would want to be very careful—about taking away people's rights. Funnily enough, we are seeing a fair bit of that in a number of areas since the Human Rights Act has been passed—in some instances quite properly so; in other instances you think, "Well, maybe, not quite properly so." I do have some significant concerns, which have not been allayed by the briefings I have had, in relation to the Ombudsman Act. I will address that in a little more detail when we come to the detail stage. But we are certainly

happy to support in this legislation in principal. As I have indicated, I do have concerns about the Ombudsman Act.

MS DUNDAS (11.33): The ACT Democrats will also be supporting the Justice and Community Safety Legislation Amendment Bill 2004. It is another bill in a series of bills that continuously address minor problems in ACT law issues. However, some of the issues in this bill are more substantial than those usually presented by way of a statute law amendment bill. We are trying to ensure that laws of the ACT are kept up to date and relevant.

A number of areas are covered by the Justice and Community Safety Legislation Amendment Bill and we also have in front of us a raft of amendments from the Attorney-General, which we will address in the detail stage. The Democrats also agree with the concerns that have been raised by the opposition in relation to the powers of the ombudsman and their ability to investigate tribunals. We see no reason for this power to be taken away and strong arguments have not been put forward to support this change. We foreshadow that when we get to the detail stage we will be supporting any opposition amendments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.35): On behalf of Mr Stanhope, I move amendment No 1 circulated in my name *[see schedule 1 at page 2747]*. I table a supplementary explanatory statement to the amendments.

MR STEFANIAK (11.35): Mr Speaker, I trust that the supplementary explanatory statement—I have just had a quick look at it—relates to the necessary amendments the government has to move to ensure that we do not have utter chaos in relation to buying and selling in the property market, with the new laws coming into effect on 1 July.

Might I say I find it somewhat ironic that during debate yesterday concerns were expressed about amendments. There was a very strong push by someone for all amendments to go to the Scrutiny of Bills Committee. We dealt with a couple of amendments yesterday yet here we have 16 pages of amendments. So let us not get too precious about amendments.

Ms Gallagher: There is a difference and you know it.

MR STEFANIAK: Well, not really. Having said that, I might point out that I have not had sufficient time to go through the amendments as much as I would like to have done.

I am a qualified lawyer and I do not think other members would have had a huge amount of time to look at them either.

Ms Tucker: No.

MR STEFANIAK: Ms Tucker is shaking her head, and she is quite right. I must say that, from the quick look I have had at the amendments and the talk I have had with and the advice I have received from the relevant people in the Law Society, I am reasonably satisfied that these amendments should proceed today and that there is an urgency to do so.

But I think it is a bit rich for the government to make great protestations about other people's amendments and doing things on the run when probably what is now before us has very much had to be done on the run. I say to the government that in September last year you made some substantive changes to the way property law and conveyancing in this territory are carried out. Instead of buyers having to get their own documents, the seller now has to provide all those documents in the contract.

Up until a couple of weeks ago, I had seen I think about one advertisement indicating what was going to happen. I think a lot of people in that nine-month period were caught somewhat unawares. After good consultation with the Law Society and with the Real Estate Institute leading up to that, in September you changed the law. When you changed the law I indicated that I expected to see that good consultation continue. I think you went to sleep after that. Suddenly it is all upon us. The law in relation to conveyancing has changed. Now we have everyone—buyers and seller—madly scrambling for the relevant certificates. So these amendments are really to get us over that hiatus period.

I think there should have been a little bit of forethought and perhaps a little bit of recognition of what really was important in respect of the legislation you brought down. It has been suggested to me by other lawyers that perhaps if you were not so concerned with legislation such as your Human Rights Act and concentrated more on getting right the basic things that really do affect ordinary citizens in Canberra, we would not have had this problem.

The Law Society feels that these amendments are going to do the job. In fact, there will now be a situation where people can on a handshake agree to sell property, and up until I think 31 October the buyer will still ultimately have some time; and contracts will not formally be binding until such time as there is a pest report and a building report. But at least there is recognition of the fact that there is a bit of a problem at present, which I think with a bit of prior preparation and planning could have been overcome by the government. At least the government recognises that "oops, there is a problem now" and some sensible provisions are being put into effect which will get us over that problem. But you need not have put yourselves in that mess.

On the basis of what I have been advised by the Law Society and the quick glance I have had at these amendments—and it has been very quick and not as long as I would have liked—we will support them. I add the proviso that I hope you and the Law Society are right. I would hate to see any more dislocation in the property market at this point in time with problems caused by either the action or inaction of the government affecting buyers

and sellers of properties. The opposition will be supporting the amendments with those provisos.

As I say, I look forward with interest to hopefully seeing that this change is okay. I would strongly urge you in future when you are doing things like this not to drop the ball, keep the momentum going and do not assume things—do not assume that everyone will think it is going to be all right, because invariably that does not happen. I will not speak any further on any of these amendments. The comments that I have just made on this first amendment apply to all of the other amendments.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.41): I thank Mr Stefaniak for his support. Given that that support is going to continue throughout the progress of this bill, I am not going to get into a slanging match.

I missed the jump in replying earlier so, with a little tolerance, I will make one comment about the consolidation bill that we have before us. Mr Stefaniak mentioned earlier that it would be better to have specific pieces of legislation. Once or twice a year we have a consolidated bill of this nature rather than introducing a dozen or so specific items of legislation. There is a reasonably long history of doing things this way and I think this is the agreed way to do it.

I note the point made by Mr Stefaniak about the history of this amendment. Bearing in mind the way in which consideration of this bill is going to proceed, I will not debate what Mr Stefaniak said.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Proposed new clauses 3A, 3B and 3C.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.42): On behalf of Mr Stanhope, I move amendment No 2 circulated in my name, which inserts new clauses 3A, 3B and 3C *[see schedule 1 at page 2747]*.

This amendment inserts new clauses which alter the licensing arrangements for a travel agent under the Agents Act 2003 to exempt a director of a travel agency already holding a corporate licence from the additional eligibility requirement of contributing to the travel compensation fund twice. This will avoid the doubling up of insurance payments by directors who already hold a corporate licence and who have already paid their travel compensation fund contribution.

MS TUCKER (11.43): We will be supporting this amendment. I want to support Mr Stefaniak's comments. I, too, am very unhappy about the amount of time we have been given to look at the amendments. We support the bill in principle, we had a

comprehensive briefing on the component changes, we followed up on a couple of matters and we were mostly satisfied in the end, but I think it is very disrespectful of the process to then be given so many amendments at this late stage.

Although I am going to support these amendments, I am qualifying my support with the comment that, as Mr Stefaniak said, we have not had time to really consult or look carefully at some of the amendments. The amendment now before us is about avoiding the doubling up of insurance payments for travel agents, and it seems reasonable. But I just want to make the comment that I do not think we have been given nearly enough time.

Proposed new clauses 3A, 3B and 3C agreed to.

Clauses 4 and 5, by leave, taken together and agreed to.

Proposed new part 2A incorporating new clauses 5A, 5B and 5C.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.45): On behalf of Mr Stanhope, I move amendment No 3, which inserts a new part 2A incorporating new clauses 5A, 5B and 5C *[see schedule 1 at page 2747]*.

This provides for amendments to the Agents Regulations 2003 to provide that an agent is deemed to have the qualifications for a real estate licence if immediately before the commencement of the Agents Act 2003 the person was eligible for the grant of a licence under the Agents Act 1968. This amendment will ensure that those agents who qualified under the old legislation can continue to work in the industry.

Proposed new part 2A incorporating new clauses 5A, 5B and 5C agreed to.

Clause 6 agreed to.

Proposed new clauses 6A to 6ZH.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.46): On behalf of Mr Stanhope, I move amendment No 4 circulated in my name, which inserts new clauses 6A to 6ZH *[see schedule 1 at page 2747]*.

Mr Speaker, this inserts a number of new clauses, making a number of minor and technical amendments to part 2 of the Civil Law (Sale of Residential Property) Act 2003. These amendments arose out of the department's consultation with the ACT Law Society on the drafting of regulations to the act and the Law Society's pro forma contract for the sale of property.

The amendments are designed to better reflect the commercial practice of real estate conveyancing in the ACT. They will also facilitate a smooth market transition to the new system for the sale of residential property and will ensure that the balance of rights between buyers and sellers is appropriate and sensible. They include a provision that

makes clear that the Civil Law (Sale of Residential Property) Act will not apply to people who have already exchanged contracts before 1 July 2004.

Another amendment will give sellers a qualified defence from prosecution but only for a limited period. This is to ensure that a seller will be able to continue to market their property, although they will still need to comply with the legislative requirements at the time of sale. This defence will give temporary protection to sellers of properties on the market but only where a seller has made some attempt to comply with the legislation and obtain the required documents. This provision will also have a limited lifespan to facilitate a smooth transition to the new system and will end on 31 October 2004.

Proposed new clauses 6A and 6ZH agreed to.

Clause 7 agreed to.

Proposed new clauses 7A to 7M.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.48): On behalf of Mr Stanhope, I move amendment No 5 circulated in my name, which inserts new clauses 7A to 7M *[see schedule 1 at page 2747]*.

Mr Speaker, similar to amendment No 4, these amendments are the result of industry consultation. The new clauses make a number of minor and technical amendments to parts 4 and 5 of the Civil Law (Sale of Residential Property) Act 2003. The amendments are designed to facilitate a smooth market transition with a new system for conducting public auctions of residential property. In particular, the amendments will allow for standard auction conditions to be prescribed under the regulations. This will ensure that all auctions are conducted in a transparent and consistent manner.

The amendments will also provide for national industry standards to be prescribed for the purpose of pest inspection in building and compliance inspection reports. This amendment, which will ensure that all reports are benchmarked to an appropriate standard, has the support of both pest and building inspectors and their insurers.

Proposed new clauses 7A to 7M agreed to.

MR SPEAKER: Before we move on, I would like to acknowledge the presence in the gallery of students and staff from St Thomas the Apostle, Kambah, Year 5. Welcome.

Clause 8 agreed to.

Proposed new clauses 8A and 8B.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.50): Mr Speaker, on behalf of Mr Stanhope, I move amendment No 6 circulated in my name, which inserts new clauses 8A and 8B *[see schedule 1 at page 2747]*.

Proposed new clauses 8A and 8B agreed to.

Clauses 9 to 31, by leave, taken together and agreed to.

Proposed new part 10A incorporating new clauses 31A and 31B.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.51): Mr Speaker, on behalf of Mr Stanhope, I move amendment No 7 circulated in my name, which inserts a new part 10A, incorporating new clauses 31A and 31B *[see schedule 1 at page 2747]*.

Mr Speaker, this part amends the Leases (Commercial and Retail) Act 2001 to extend the transitional period provided under section 171 of the act.

Proposed new part 10A incorporating new clauses 31A and 31B agreed to.

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

Clause 34.

MR STEFANIAK (11.52): Mr Speaker, I will be opposing clause 34. I should point out that my comments also relate to clauses 35 and 36. As I flagged earlier, I have some serious concerns about removing the role of the ombudsman in relation to action taken by a tribunal, members of a tribunal, and basically anything to do with tribunals.

I appreciate that part of the role of tribunals is judicial but I think you have to be very careful indeed when you actually take away people's rights. There has to be a very good reason for doing that, and there also have to be instances to indicate that things have gone wrong and there is actually good reason to take those rights away. It has to be shown that there have been problems with the exercise of those rights—problems that need to be alleviated and resolved and therefore justify a change to the law. No-one has really been able to show me any practical problems or any cases or incidents where the current right the ombudsman has in relation to tribunals has caused problems. I think that is a very important point.

If someone had been able to say that there was a real problem in a couple of cases and that people, far from having their rights protected, got burnt as a result, I would say, "Fair enough. I think what you are doing is probably sensible." I can see why the government is doing it but I cannot see any actual problems that really justify this step. There simply have not been any indicated to me.

When one compares the rights people have under the courts and, indeed, some tribunals with the rights people have in relation to the ombudsman, we can see that we are often talking about very different things. The ombudsman is a very cheap and effective way for people to seek redress by changing practices that have affected them as a result of bad administrative decisions. A court process is very different. It is all very well to say that people have appeal rights in relation to court decisions but this is a very costly process. I can see situations perhaps where some of these issues might well merge and there will still be an ongoing continuous role for the ombudsman, which will benefit

ordinary citizens and assist them in their dealings with bureaucracy and with government.

So I do have some concerns that we may be trampling, for no particularly good reason, on the reasonable rights people already have. And I stress that. If someone can show me that there is a good reason, then I think I would accept that. But I just cannot think of any matters where the rights that people have at present and the ombudsman's powers in relation to this have caused a problem. Accordingly, I will be opposing these clauses. I commend my remarks to members.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (11.56): Mr Speaker, I am advised that this is what the ombudsman wanted, and I think it is a fair request. The scrutiny report—and I think the scrutiny of bills committee has had a reply to that report—did raise the question. But it is the government's view, and I believe the ombudsman view as well, that the scrutiny of the deliberative decisions of tribunals in the ACT by the ombudsman is unnecessary because the procedural requirement of tribunals already provides substantial protections for citizens' rights.

The tribunals that we have operate in accordance with principles of procedural fairness and protections for those appearing before them. They are generally open to the public and reasons for decisions are made available. They are constituted by independent members who make decisions at arm's length from the government. Conclusions by a tribunal are already reviewable through judicial supervision, either as a direct right of appeal or under the Administrative Decisions (Judicial Review) Act. Further, they are not subject to the same problems of access that attach to traditional means of challenging administrative decisions. For example, when performing deliberative functions, tribunals provide conclusions in a timely manner and minimise the time and cost required to make a decision.

If the ombudsman investigates the actions taken by a tribunal, it is likely to duplicate an already independent, impartial, accessible, efficient and transparent decision-making process. The decision to exclude the ombudsman from reviewing the deliberative functions of tribunals is consistent with laws in Queensland, Victoria and New South Wales. The amendment does not exclude the ombudsman from receiving complaints about the way in which a complainant was dealt with by tribunal staff. The amendment simply excludes the ombudsman from reviewing decisions made by a tribunal which are based on policy grounds.

It is a fair thing, I suppose, that the scrutiny committee should raise this question. After all, it is the role of the committee to do so. They raised it and the question has been more than satisfactorily answered. The amendment has the support of the ombudsman and I think it should also have the support of this Assembly.

MS TUCKER (11.59): I have listened to Mr Wood and I have to say that I have still got concerns. I understand the responses that have been made by the government. However, the scrutiny committee made the following point:

> The facility to make a complaint to the Ombudsman is a very cheap and efficacious means for the ordinary citizen to seek review of some administrative action. The Ombudsman may only make a recommendation to the relevant administrator to take action to give redress to a complainant, but it is rare for this recommendation to be rejected.

Mr Wood, are you saying—you may need to speak again; this is the problem when we get these things so late—that this amendment does not stop people using the ombudsman in cases where they could go to a tribunal? You are saying that the ombudsman cannot review something that has already been looked at by a tribunal?

Mr Wood: It is not going to duplicate what another tribunal is doing.

MS TUCKER: Okay. So, as I understand it, at the moment there is a choice—someone can go to the ombudsman or they can go to a tribunal?

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (12.00): As I understand it, there was an element of confusion in the existing legislation and this amendment simply clears up and makes crystal clear what has always applied. That is what it is about. It is not about cutting any powers that have previously existed. It is just making quite clear in legislation what applies.

I repeat: it is what the ombudsman sought. The ombudsman is not looking to diminish his or her responsibilities. It will not stop the ombudsman from doing their job—it simply will not. You will see from the further advice that I have received that the ombudsman can still review the administrative processes of tribunals. There is still a choice—I think that is your key point—for the consumer.

Clause 34 agreed to.

Clause 35.

MR STEFANIAK (12.01): Mr Deputy Speaker, I hear what the minister says and I have had a look at this clause. I also note that this minister is not naturally across this subject and that he has been receiving advice from the departmental officials.

He has indicated in the Assembly, through his officials, that the ombudsman himself wants this. I suppose I am inclined to accept that assurance and I just indicate that I will be watching this very closely. I still have some reservations—even though I accept that this what the ombudsman wants—that these amendments are necessary. But I do give a fair bit of weight to what the ombudsman himself has indicated. I have confidence in the office of the ombudsman and the way that office does its job. So, with that assurance from the minister—

Mr Wood: The assurance that I have got from—

MR STEFANIAK: and the assurance you have from your officials, I am inclined at this stage to accept that and not proceed further with my objections.

Clause 35 agreed to.

Clause 36 agreed to.

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

Bill, as amended, agreed to.

Suspension of standing and temporary orders

Motion (by **Mr Wood**) agreed to, with the concurrence of an absolute majority:

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 23, Private Members' business, relating to the Financial Management Amendment Bill 2003 (No 3) being called on and debated cognately with order of the day No 2, Executive business, relating to the Financial Management Amendment Bill 2004 (No 2).

Financial Management Amendment Bill 2003 (No 3)

[Cognate bill:
Financial Management Amendment Bill 2004 (No 2)]

Debate resumed from 26 November 2003, on motion by **Ms Dundas**:

> That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (12.05): The Liberal Party will be supporting the government's bill, particularly as it picks up most of the recommendations of the Public Accounts Committee's report on the use of the Treasurer's advance, and as I understand that Ms Dundas will not be proceeding with her bill if the Treasurer's bill is passed.

The government's bill has been a long time in coming and there has been much discussion—now water under the bridge—particularly in the last two or three years, about the use of the Treasurer's advance. I suspect that probably goes back for the last 14 or 15 years. The Auditor-General has made many comments about the lack of clarity in the legislation relating to the use of the Treasurer's advance.

We will all recall the fiasco surrounding the government's use of the Treasurer's advance to fund so-called urgent fire safety upgrades in public housing complexes. Not only did the use of the Treasurer's advance, at that time, have all the hallmarks of a government seeking to spend every last cent of the Treasurer's advance, we are all well aware that this spending on this urgent work in mid-2002 remains uncompleted. We also had a report from the Auditor-General in which he said that the use of the Treasurer's advance in that situation was a misuse and that its legality could also be questioned.

I believe the Treasurer's bacon was only saved because the transfer of funds between the territory bank accounts could be considered to have satisfied the technical requirements of the FMA for the funds having been spent.

However, that is not all. We also have a fascinating insight into how this government makes spending decisions, and how it has not exercised restraint when making those decisions. The current ACT Treasurer described his use of the Treasurer's advance during the 2002-03 financial year as "frugal". I admit that it is sometimes very difficult to understand Quinlan-speak, but in this situation all I can do is read what he said, and it goes like this:

> The final expenditure against the Treasurer's Advance in 2002-03 totalled $19.178 million, leaving $0.222 million unallocated—very frugal, I would suggest.

It may have been said tongue in cheek, but this Treasurer would have us, and the ACT community, believe that he and his government are being frugal because only 99 per cent of the total allocation of the Treasurer's advance was spent. What absolute rubbish! It seems that, to Mr Quinlan's ignorance of economics, we can now add his ignorance of the English language.

Mr Hargreaves: Coming from you that is rich! What is the price of a newspaper these days?

MR SPEAKER: Order!

MR SMYTH: According to the *Concise Oxford Dictionary*, frugal means to use sparingly, and yet we have a Treasurer who congratulates himself because he only spent 99 per cent of the funds that were available. There is no way we can describe spending almost to the limit of one's budget as being frugal. I believe a little history of this matter is relevant to put this bill into context. It is crucial that this Assembly has some means of monitoring the profligate spending of this government and, ultimately, of ensuring that this government is called to account, not for being frugal, but for spending to excess.

Mr Speaker, the government's bill completely recasts the current section 18 in the Financial Management Act. If we pass that bill, we will establish the principles for using the Treasurer's advance, set out the requirements for the consideration of using the Treasurer's advance, explain quite clearly what is meant by expenditure, provide for a report to the Assembly each time the release of funds from the Treasurer's advance is authorised, and provide for a summary report on the use of the Treasurer's advance after the end of each financial year.

This approach seems sound and logical given that all the knowledge we have gained in the territory about using the Treasurer's advance, including the comprehensive report from the Public Accounts Committee and the experience of other Australian jurisdictions in using similar provisions.

A fundamental issue with any changes to section 18 of the Financial Management Act is ensuring that the fire safety upgrade fiasco or, as the Treasurer described it in the Assembly, the "misinterpretation of section 18", is not repeated. As the explanatory statement for the bill notes, "The intention of this definition" of expenditure:

> is to restrict the use of Treasurer's Advance to payments for output delivery or payments on behalf of the Territory, as opposed to simply transferring cash to other departments or…authorities.

The bill will ensure that the Treasurer's advance can be used only for situations where the territory either has to make a relevant payment in a financial year, or where there is an obligation—that is, a firm commitment—in place that requires payments to be made.

I should note at this point that the consideration we are now giving to section 18 indicates that there is merit in reviewing the financial model that is implicit within the Financial Management Act. That is something that the former Auditor-General strongly suggested should happen. Undertaking such a review would be better because, for example, of the way in which we have had to consider the concept of when funds are considered to have been expended.

I have had some concerns about the nature of the reporting requirements relating to the use of the Treasurer's advance. I am therefore pleased to see the removal of the requirement, set out in the original subsection 2 of section 18, for details of all authorisations to be included in appropriation bills prepared for the first such bill each year. This will reduce the workload associated with the preparation of subsequent appropriation bills, and therefore enhance their comprehension.

If the Assembly supports the government's bill, then the bill proposed by Ms Dundas will effectively become redundant. This should not necessarily be seen as a bad outcome. On the contrary, much of the impetus that has led to the bill we are discussing has been generated as a result of Ms Dundas's bill and for that she is to be congratulated. Moreover, many of the elements that are included in Ms Dundas's bill have been incorporated into the government's bill, and those that have not been included have been excluded on sound grounds.

There is one matter, however, that has been raised by Ms Dundas, and by the government's bill, that warrants some comment and it concerns the definition of the word "urgent". We agree with the approach adopted in the bill in that the interpretation of what constitutes "urgent" should be prescribed by guidelines. To this end, however, we await with interest the government's final guideline on the matter, as it will be important that what is considered as urgent achieves the right balance between establishing the need for the funds and ensuring there is appropriate use of the Treasurer's advance.

I should note that we have advised the Parliamentary Counsel's Office of a minor error in the drafting, in the heading of what will be the new section 18A, and we believe this will be rectified in the final version.

We have had a situation in which the use of the Treasurer's advance has been subject to less scrutiny than should be the case with the use of public funds. This lack of transparency had led to some of the unfortunate situations that have arisen, situations that could and should have been avoided if there had been an appropriate degree of accountability and responsibility. It is rare that I say this, but I concur with the Treasurer when he said that the government's bill should clarify the provisions dealing with the Treasurer's advance, and I trust that our experience with these new provisions is satisfactory. Mr Speaker, we will be supporting the government's bill.

MS TUCKER (12.14): The Greens will not be supporting Ms Dundas's bill. We will be supporting the government's bill. We had a committee inquiry looking at this issue that made a number of recommendations and the government's bill has picked up most of the changes recommended by that inquiry. The main points of difference between Ms Dundas's approach and that of the committee, and now the government, were the issues of unforeseeability, return of funds and urgency.

In brief, the committee recommended that the government's proposed amendments to the Financial Management Act should:

(a) provide for urgent and unforeseen expenditure, and where there is an error in omission or the understatement of other appropriations;
(b) include the Commonwealth's definition of urgency;
(c) define expenditure as:
  (i) entering into a contract to make a payment for goods or services; or
  (ii) entering into a contract to make a payment of a grant or subsidy; or
  (iii) entering into a contract to make a payment for a capital injection.
(d) provide for the return of "unspent" funds to the Territory's Banking Account by 30 June each year;
(e) provide that Treasurer's Advance authorisations be tabled in the…Assembly within 3 sitting days of issue and that this information be presented cumulatively, with a summary of total expenditures tabled at 30 June each year.

We did not make the recommendation to deal specifically with the question of who in government is required to foresee the need for the expenditure. However, the report did include several points of view on this matter. The Auditor-General, in particular, made some interesting comments that were quoted in the committee's report. Basically, she said:

> I think the unforeseeable test is actually quite confusing because it can be foreseen by most Chief Executives throughout the year about cost pressure and so on, but as the Treasurer advised, because you've foreseen the need of the cost pressure, but at the time you don't know if you could use other mechanisms to take care of it, or you don't know the certainty of when that will happen or you don't even know the quantity of it to be accurately advised to Government.
>
> Hence in many cases, if you're really strict in the terms of the foreseeable test, then most of the need can be foreseen by the Chief Executive running the department. So that test is quite confusing in terms of foreseeable by whom, foreseeable at what time, is it before the Appropriation Bill No 1, i.e., the first one, or supplementary bill. So if you would like to ensure that the Treasurer's Advance is limited for urgency or urgent need for expenditure, then that test, the unforeseeable test, may or may not be required.
>
> To keep the unforeseen test is not helpful [because] Chief Executives foresee some of these things already, but if they do that then they are in breach of the law by asking for Treasurer's Advance later. So it doesn't work in practice. So…the urgency test would be a better test to apply and remove the foreseeable test.

As I understand it, the problem is that, if you include chief executives of the department and Treasury, along with the minister for that area, then you are saying that the need for expenditure must not have been foreseen at basically any stage of the budgeting process.

Clearly, in making a budget, a large range of needs are identified. Then there is the filtering process when needs identified, but regarded as less important, become urgent or more important. Surely, there should be a capacity to deal with this. The question of urgency has to be defined in the regulations later.

I think that the government's bill has fairly picked up the concerns that came through from the Public Accounts Committee process.

MRS CROSS (12.19): Mr Speaker, the Treasurer's advance and its application has become an issue because of its use for housing in June 2002. In the view of the Auditor-General, as detailed in the Auditor-General's report No 7 of 2002, this was "a misuse of the Treasurer's Advance", and further "its legality could also be questioned".

This misuse of the Treasurer's advance brought into question not only the circumstances when a Treasurer's advance is necessary, but the very existence of the advance. This is disappointing because the Treasurer's advance is an important instrument for dealing with the urgent need for funds. It can and has been used to fund urgent projects that require funding before it would be possible to get the funding through an appropriation bill. A perfect example of the proper use of the Treasurer's advance was its use after the 2003 bushfires.

In discussions over these two competing pieces of legislation, two substantial issues have arisen. First, there is an issue of foreseeability and, more specifically, who should have foreseen that an expense would be incurred. For a Treasurer's advance to be properly used, an expenditure should be unforeseen. Ms Dundas's bill seeks to extend the list of those who might have foreseen an expenditure, beyond the Treasurer, to the responsible minister and the responsible chief executive. I believe this significantly dilutes ministerial responsibility. At the end of the day, a minister is responsible for his or her department and a Treasurer is responsible for the distribution of appropriated money. I will therefore not be supporting this aspect of Ms Dundas's bill and will be supporting the government's changes.

The second major issue is the return to the territory's bank account of unused funds provided by the Treasurer's advance. In theory, this should not occur as the Treasurer's advance should only be for the amount required to pay for urgent expenditure. However, this does occur and really all unexpended money should be returned to the territory's bank account. The problem with Ms Dundas's change is that it will create an inconsistency in territory accounting as it will require cash accounting, not accrual accounting. I believe the government's bill implicitly requires all unexpended Treasurer's advance money to be repaid, and thus I will be supporting the government on this issue.

Mr Speaker, it is important that the government is transparent in its expenditure of government funds. Traceability is important. The government's bill substantially improves the transparency and traceability of money distributed through use of the Treasurer's advance. The Treasurer's advance is an important instrument necessary to ensure that there is a mechanism to transfer funds when an urgent expenditure is required. I am pleased to see that the government's bill does not prevent or hinder this, but rather increases the transparency and traceability of its use. Once again, Mr Deputy Speaker, I shall be supporting the government's bill.

MS DUNDAS: Mr Speaker, I seek leave to speak again without closing the debate.

Leave granted.

MS DUNDAS (12.22): Mr Speaker, I first wish to thank the Treasurer for agreeing to a cognate debate on these two bills, and the Assembly for allowing this to take place so that we can deal with the issue of the Treasurer's advance and financial management in a very cohesive way. I understand that my bill will be defeated and the government's bill will be passed unamended, but I do wish to put on the record why I still believe that the provisions in my bill provide better accountability for the expenditure of the Treasurer's advance.

The Treasurer's advance is the only money the government can spend that has not been approved by the Assembly for a particular purpose, so I do believe it is appropriate that we have special accountability requirements for it. Although the Treasurer's advance, as is clearly defined, cannot exceed one per cent of the total monies appropriated by all appropriation acts, the amount is very significant in light of the fact that the overwhelming majority of budget funds are non-discretionary funds to cover unavoidable costs such as wages.

As I stated when I tabled my bill, the current wording of the Financial Management Act does not specify whether the Treasurer's advance or a supplementary appropriation is the right process to meet expenditure requirements that are not accounted for in the budget. Presently, where expenditure could not be reasonably foreseen and included in the first appropriation act, the expenditure can be funded using either process.

I believe, as do other members, that the Treasurer's advance exists to provide emergency funding to cover unanticipated costs, where there is insufficient money in the existing appropriation and there is no time to prepare a supplementary appropriation bill because of the urgency of the required expenditure. Although there are some strong similarities between the two bills being debated today, I wish to highlight four main differences.

First, the government's bill does introduce the word "urgency", which is a small step forward, but that word is not defined. I understand that regulations the Treasurer plans to make will not include any time element in the definition of urgency, and it would then be up to the Treasurer to make a subjective decision about whether or not the requirement is urgent.

In contrast, the proposal I put forward made it clear that urgency means that the need for the expenditure is so urgent that there is no time to prepare and debate a supplementary appropriation bill. The test would be simple to assess objectively in almost all circumstances. That a supplementary appropriation can be raised in most circumstances has been well demonstrated this financial year, when we have seen no less than three supplementary appropriation bills.

I think this demonstrates that we have already seen a cultural change from the previous financial year, when the government seemed to be working to expend all the advance rather than return it to consolidated revenue or deal with it through supplementary

appropriation bills. I welcome that move from the government but I would prefer to see this new culture backed by a legislative direction, so that it remains in the future.

Second, my bill would seek to clarify who it is who must not have reasonably foreseen the need for the expenditure item before the Treasurer's advance can be used. Previous legal advice on this issue has indicated that the condition is not clear and, to be more effective, the condition needs to specify who is responsible for foreseeing the expenditure. It is currently unclear whether the need for expenditure must have been not reasonably foreseeable by the Treasurer, officers of Treasury or officers of the agency requesting the funds. The Auditor-General raised this issue specifically with the Public Accounts Committee.

The government bill uses the word "unforeseen" but replicates the shortcomings of the existing Financial Management Act because it does not clarify who must not have foreseen the need for the expenditure. My proposal would make it clear that, if the Treasurer, the chief executive of the appropriate department or the chief executive officer of the authority, or any minister, had knowledge of the need to meet the expense and knew this prior to the date of presentation of the last appropriation bill, the Treasurer's advance should not be used. If any one of these people knew of the need for spending on this item in the current financial year before the tabling of the last appropriation bill, they obviously had an opportunity to get that item into the appropriation bill through the cabinet process.

Third, under my proposals, if any money from the advance remains unspent at the end of the financial year because it has not been handed over as wages, to contractors or for a capital item, it should be repaid to the territory's bank account so that it can be reallocated in the next budget. The government's proposal is not explicit on this particular issue, so it seems to me that unspent money can simply be rolled over and disappear from view, as is currently the case. It is challenging to keep track of unspent initiatives money, and knowing that unspent Treasurer's advance will be returned to the territory's bank account for reappropriation would provide more peace of mind and accountability.

The Treasurer's tabling speech suggested that the Treasurer's advance will only be used when payments must be made or firm commitments have been entered into. However, this is not clearly expressed in the government's bill. I hope we will not see any loopholes being used here, and that we will see the Treasurer's advance being used when we know that payments have to be made and commitments have to be met.

Finally, I would like to discuss the government's decision to allow the Treasurer's advance to be drawn on if a contractual commitment is entered into but a payment is not required before the end of the financial year, or before the passage of a subsequent appropriation bill. Contract law permits a contract to be broken with payment of only enough money to put the wronged party back into the position they were in before the contract was entered into. This can be a very small sum of money if a contract is terminated at an early stage.

By only allowing the TA to be used when an actual payment had to be made, my proposal would require the government to ask for an appropriation to cover a contract that has been entered into, but has not yet required any payments. I am thinking of a

situation where the government may enter into a controversial contract in the dying days of a financial year, a contract that no-one but the Treasurer would see as urgent and unforeseen. I believe the Assembly should have the opportunity to debate and discuss the requirements of such a contract and the decision to fund it.

Under the government's version, however, which I acknowledge does reflect the public accounts report's recommendation, the Assembly would have no such opportunity. The argument has been put that to treat contractual obligations differently to payments would be inconsistent with accrual accounting and, while that is an interesting argument, I am not yet convinced. I believe that the Treasurer's advance is special money that requires special treatment and that the return of allocated but unspent funds is certainly administratively possible.

I would like to indicate, however, that my mind is a bit easier regarding the provisions of the proposed clause 18A in the government's bill, which will require Assembly notification of use of the Treasurer's advance within three sitting days. This is a commendable change and at least it provides the Assembly with an opportunity to examine government decisions in relation to the Treasurer's advance. I thank the Treasurer for offering this level of accountability.

I would like to briefly address the public accounts inquiry into the proposal I put forward. While I thank the committee for its thorough investigation, the report was a little bit disappointing in that it did not acknowledge that I appeared before the committee, and it did not then pick up on any of my responses to the government's submission to that committee. An interesting debate was held in the Public Accounts Committee's hearing about what the Treasurer had proposed and what I had proposed, but that is not reflected as strongly as I would have preferred it to be in the report.

However, regarding what we are trying to achieve today—approving the accountability of the Treasurer's advance—I agree that both of the ideas put forward do that. We are talking about the expenditure of around $20 million of public money and we do have to ensure that the Treasurer's advance is accountable. I support the continued existence of the Treasurer's advance. I know that there are events that require the government to meet urgent and unavoidable expenses—the January bushfires is a case in point. There are situations where we have no real choice but to spend money quickly so that we can respond to urgent situations, when there is no time to prepare a supplementary appropriation bill.

Acknowledging that my proposals will not be supported by this Assembly, I am happy to support the government's proposals so that we will end up with greater accountability on the Treasurer's advance. I hope that the situation that led to this entire debate will never arise again and we can be assured that the Treasurer's advance is being used in an accountable manner.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (12.31): Thank you, Mr Speaker, and I thank members for their support. I will not belabour the question. There are a couple of points on which I want to correct the record. I understand Mr Smyth's desire to curry favour with Ms Dundas by crediting her with being the impetus behind the government's bill, but that is simply not true.

There were, as you will recall and as you alluded, some other events that predated her actions and, quite frankly, there did seem to be a little race to see who could get the legislation in place. That is one of the sadder commentaries on this particular Assembly and it does often give rise to problems such as yesterday's. I think it is underscored by Ms Dundas's appeal for greater recognition in this. I appreciate the motivation, and I appreciate her desire to be seen as the one who is keeping the bastards honest, but the government's bill does contain the benefits of some practical experience.

After passing the bill, we will have a regime that is far stricter than exists in any other more mature jurisdiction. It is a reflection of the fact that we do have a majority government and we do probably have an overweening focus on process, rather than outcomes. I am quite happy, despite the ructions that occurred, that the funds that have been spent on housing safety have been spent for the public good, rather than having been absorbed back into consolidated revenue and maybe being lost to that cause. The exercise was thoroughly examined and yes, it was a process that went hard up against the restrictions. That is what restrictions are for. If we do not take the maximum opportunity to provide for public good then we are not doing our jobs.

Let me thank the members for their support of the government's bill again, and the former Auditor-General for being the impetus behind it.

Question resolved in the negative.

Financial Management Amendment Bill 2004 (No 2)

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

> That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Sitting suspended from 12.36 to 2.30 pm.

Absence of Chief Minister

MR QUINLAN: Mr Speaker, I advise the house that the Chief Minister will be absent this afternoon attending the state funeral of a great Labor leader, Mr Jim Bacon. I will take his questions on notice, filibuster or dismiss them out of hand—whichever is relevant.

Questions without notice

Hospital bypasses

MR SMYTH: My question is directed to the Minister for Health. The ACT opposition has raised concerns about the high levels of bypasses in the ACT hospital system, with 61 patients being sent to other hospitals since August 2003. In response to this alarming statistic, you said that the figures are low compared to the national average. According to ABC Online of 15 June, you said:

> Canberra Hospital performs very well against the national standards, the levels of bypass and the levels of patients going elsewhere is very low compared to many other hospitals right around the country.

The ACT opposition has checked the Press Ganey satisfaction survey and found no mention of a national average or similar measurement for bypasses. The Press Ganey survey did however find that the Canberra Hospital emergency department was in the bottom third of all hospitals in terms of patient satisfaction, and just outside the bottom third for all emergency departments.

The Productivity Commission does not use bypass as a comparison in its assessment of state services. Why did you claim that the Canberra Hospital was performing better than the national average on bypasses when there is no such record of such a measure?

MR CORBELL: My point is that, compared to other major trauma hospitals in areas such as New South Wales, the Canberra Hospital performs very well. The level of bypass compared to those hospitals is low. That is the point I was making. That point is an accurate point to make.

Mr Smyth: Mr Speaker, I rise on a point of order. I was not talking about the levels; I was talking about the creation of a national standard, where it comes from and whether it exists. The minister has ignored that question.

MR SPEAKER: There is no point of order.

MR SMYTH: Mr Speaker, I have a supplementary question. Minister, have you simply made up this statistic to attempt to calm public concerns over the poor performance of the hospital system under your management, or will you today table some information as to where this national standard comes from?

MR CORBELL: No, I have not made it up.

Child protection

MRS BURKE: My question is to the Minister for Children, Youth and Family Support, Ms Gallagher. Minister, given that it is now clear that section 162 (2) of the Children and Young People Act was not complied with, can you assure the Assembly that the 71—in total—delegations under the act have been complied with by your department, especially since section 161 (1) of the Children and Young People Act was also not complied with?

MS GALLAGHER: As far as I am aware, yes, I can. I have sought advice on that and have been advised that those obligations are being met.

MRS BURKE: Mr Speaker, I have a supplementary question. Minister, how can the Canberra community be assured that the Vardon report, with its limited terms of reference, actually dealt with all the possible systemic failures of your department to comply with their statutory responsibilities under the act?

MS GALLAGHER: I disagree with the point Mrs Burke made that the terms of reference were too narrow. I do not have them in front of me, but the first one was to inquire into all aspects that led to this failure, or words to that effect. The last term of reference was to inquire into any other related matter. They are fairly broad terms of reference.

From my understanding, the commissioner had access to all the resources she required, including staff in the department. She sought records, documents and interviews. She sought public submissions. She had interviews with MLAs and with people involved in child protection. Those public submissions I just referred to were considered in her review. I cannot see any reason why an investigation of that sort would not have been able to look at all aspects of the child protection system.

You have got the report in front of you. It is a very broad-ranging report, with comments on a lot of areas where the commissioner, and all of us in this place, would like to see further improvements. Unless there is a particular issue you do not think has been covered, I see that review and the subsequent audit review, which is yet to come, as covering all areas that I am aware need inquiring into.

Canberra central

MS MacDONALD: Mr Speaker, my question, through you, is to the Minister for Planning, Mr Corbell. Minister, can you advise the Assembly of progress in the development of the government's central area strategic implementation program plan?

MR CORBELL: I thank Ms MacDonald for the question. The prime objective of this program is to develop and invest in strategies and projects that will reinforce the central area of Canberra as the pre-eminent cultural, commercial and administrative heart of the capital. A clear focus and priority for the program is Civic, and a business plan is being developed that outlines short to long-term actions that encompass a range of issues to reinforce Canberra city as the pre-eminent heart of Canberra. These include issues, Mr Speaker, such as planning and administration, an events program as well as, obviously, capital works.

There has been considerable previous planning investment in the central area from both the Commonwealth and ACT governments. A range of studies has identified a number of systemic issues that have compromised the cohesive development of the central area. So the government's objective, through its economic white paper, through the spatial plan and, indeed, through the Canberra plan overall, is to drive the growth and development of Civic as a prime business centre for Canberra and the region—a place which attracts

activity and economic development, jobs, prosperity and a high quality of built environment for all Canberrans to enjoy.

The central Canberra implementation program, or Canberra central as it will now be known, will build from this work, identifying opportunities for public/private partnerships, capital works improvement projects, cultural and event programs and other initiatives that will help to revitalise and bring the heart back into Civic. The government has already invested $1½ million in the 2003-04 budget to be invested over the next three years in this program. This money is to run the program itself and to cover administrative costs, feasibility assessments, forward planning and design, with $350,000 expected to be expended in the 2004-05 financial year.

I am pleased to say that already there has been a range of meetings between key stakeholders, including the NCA, the Australian National University and industry, to develop the objectives and the scope of the program. A clear management structure that engages key stakeholders has been established and will focus on issues such as access, events and marketing, governance, environmental leadership, land release, place management and investment.

The authority has employed a project director for the program and is setting up an implementation team. I am very pleased to advise members that Mr Magdy Youssef has been engaged as programs director. He has excellent credentials for this task. He has completed similar programs in Melbourne city, Wollongong, Maroochydore and the Tweed Shire and has won a range of urban design awards. He is a qualified architect and a planner and has a strong background in project and capital works delivery, as well as marketing and engagement with the business sector. His appointment has been warmly welcomed by the business and industry sector in the ACT. His skills will help us to lead the upgrading and revitalisation of Canberra city, and we are very fortunate to have a person of his ability heading up this project.

A cross-agency task force, consisting of chief executives, has been established. The first meeting will be held on 17 June this year. The second meeting is scheduled in July to discuss key priorities. The government is well on the way to its Canberra central program, something which is instrumental in making Canberra central a place to live, work, play and invest and is central to the government's objectives, through its economic white paper and the spatial plan, in particular, but also the social plan in terms of social choice and housing diversity. I commend to members this very important piece of work.

Child protection

MR CORNWELL: My question is to the Minister for Children, Youth and Family Support, Ms Gallagher. "Family support" is a bit of a bit of a misnomer, but never mind. The Vardon report states that Ms Gwenn Murray will present the report of the audit and case review to the Chief Minister by the end of May. This report outlines the extent of the government's failure to protect vulnerable children. As yet, the government has not released this report. When will it be released so that we may make an assessment of how badly vulnerable children in this territory have been failed?

MS GALLAGHER: If you had read the estimates committee's report you would have noticed a letter from the commissioner, which has been incorporated in the estimates

committee's report, that the audit report has been delayed. It has not been provided to the government. It is in your estimates committee's report, Mr Stefaniak. It says that it will be provided in mid-July. The government does not have it, contrary to the media releases that Mrs Burke has been putting out every Saturday morning. For two Saturdays in a row she has been saying, "Where is the report?" The government does not have it. She has been asking us to stop sitting on a report we do not have. We have not received it. I imagine that the commissioner, when she receives it, will make a decision about how she will provide it to the Chief Minister.

The commissioner commissioned that part of the review, or the audit review under her review. My understanding is that the report will be provided to the Chief Minister and that it will be provided to me some time in July. Mid-July is what the commissioner has written in her letter to the estimates committee. I cannot see any reason, going on the way that the government has conducted this very transparent process of tabling and making public all the information it has available through this inquiry, to have any significant delay.

I imagine that it will take a couple of days or so for the government to consider the report. If it is required to go to cabinet, some time will be needed for cabinet to be briefed on it. I imagine that it will be along the lines of how we dealt with the report, that we would seek a few days and then release it to the public. We have nothing to hide, Mr Cornwell.

MR CORNWELL: I have a supplementary question, Mr Speaker. This report was supposed to come down at the end of May 2004, according to the Vardon report. Why has it been held up? Is it because of the failure of the government to provide data to Ms Murray to finish the report or is it for some other reason? Will you give this house an assurance that you will provide copies of it to interested members as soon as it becomes available?

MS GALLAGHER: I answered the second part of the question in my first response. I do not know why it has been delayed. It is a very thorough piece of work.

Mrs Burke: Didn't you ask?

MS GALLAGHER: Ms Murray reports to the commissioner. The commissioner has required this part of the investigation. I have had a brief from the commissioner saying that it has been delayed. I had a briefing three, maybe four, days ago, saying that it was going to be delayed. From memory—I will check in case I am wrong—there were 40 children still to have their audits written up. It has taken longer than expected. There is no conspiracy here. You can dig around and try to find one.

Mrs Burke: Nobody is suggesting a conspiracy. You said that.

MS GALLAGHER: You are insinuating that the government is trying to hide something, is not handing you information or is delaying the provision of information. In fact, Mr Cornwell, in the lead-up to his question, asked whether it is because the government has not cooperated. Essentially, that was the point he was making. I take offence at that. The government has cooperated; the government has been transparent. We have provided all the documents that we have relating to this matter, either through

FOI to Mrs Burke or through tabling in the Assembly. There is nothing to hide. I have already said that when we have the audit report and the executive has had time to consider it, the report will be made public. There is no big deal here. It has been delayed. It is a thorough piece of work. It covers a number of children.

Bushfires—warnings

MR PRATT: Mr Speaker, my question through you is to the Minister for Police and Emergency Services, Mr Wood. Minister, from the evidence presented at the coronial inquest we have heard that then Superintendent Prince of the ACT Fire Brigade confirmed that Mr Peter Lucas-Smith warned the fire brigade on Thursday 17 January 2003 that it was likely that the fires would reach urban Canberra and he apparently asked the fire brigade to "keep this information to themselves".

Additionally, it is now clear from Superintendent Prince's evidence that Mr Rob Tonkin and Mr Tim Keady attended a meeting at 8 am on 18 January 2003 to discuss warning residents and the evacuation of suburbs. Clearly, both of these events indicate that senior government officials and the ESB were gravely concerned that an impact on suburbs was imminent and that the evacuation of suburbs was likely.

Minister, during your handover to the Chief Minister on the evening of 17 January 2003, did you brief the Chief Minister on this imminent danger of an impact on the suburbs or had you and the Chief Minister already been briefed at the cabinet meeting and other meetings on 17 January 2003 on the clear and present danger to suburbs; and if so, did you—or the Chief Minister—warn the community and take action to prepare evacuations either on 17 January 2003 or early on 18 January 2003?

MR WOOD: Mr Speaker, Mr Pratt is quoting extensively from material from the coroner's inquiry. It is material of great detail and it is very much a matter for that inquiry. I have indicated in answers to questions asked earlier this week the circumstances that applied at the time. This chamber is not a second coroner's inquiry, Mr Pratt. I think it is the province of the inquiry to go into that very considerable detail. I will just make one point that strikes me. I think that there needs to be a definition of impact on the ACT. At no time in my hearing was there ever any comprehension that the fire would impact in the way that it did.

Children with disabilities

MS DUNDAS: Mr Speaker, through you, my question is to the Minister for Education and Training. Minister, concerns have been raised about the provision of information in relation to services to assist the education of children with disabilities. The information on the departmental website is out of date and there are no direct links in relation to support for children with learning disabilities. Is it the intention of the department to update the information on the website and provide information that is easily accessible to parents?

MS GALLAGHER: Mr Speaker, this question I think just relates to information on the website about students with disabilities.

MS DUNDAS: Learning disabilities.

MS GALLAGHER: I might take the question on notice. I am not aware of the information that is on the website. I know information is provided to parents of students with a disability in a number of ways. I will check out what is on the website for you and get back to the Assembly.

MS DUNDAS: Mr Speaker, I have a supplementary question that the minister might be able to answer. Minister, what support is available to parents so that they can assist in the education of children with specific needs—disabilities and learning disabilities? Are there programs in place so that there is early identification of children with developmental and learning disorders, so that the problems can be worked through as quickly as possible?

MS GALLAGHER: Yes. I am aware of a range of mechanisms, particularly at the school level, where parents can get involved and where, if there is a concern from the teacher or from the point of view of someone in the school about a child, that is identified and support is sought. Again, I will provide you with more information about how that is done. I know, from individual children that I am aware of, that there is a range of ways—and parental involvement is essential in ensuring that children who may have extra support needs, or who have an identified disability, are supported appropriately at school.

Bushfires—warnings

MR STEFANIAK: My question is directed to the Minister for Police and Emergency Services. The ACT fire brigade began contingency planning on Thursday, 16 January and 17 January 2003 in case the bushfires hit Canberra the following weekend. I understand that that process began after the cabinet was briefed on the 16th.

On Friday, 17 January 2003, leave for every member of the fire brigade was cancelled for the following weekend so that the ACT fire brigade would be ready for when the fires reached urban Canberra that weekend. A couple of reserve pumpers were called up so that the ACT fire brigade would be at maximum strength, given that it was likely that the fires would reach the urban edge. Fire brigade officers checked fire hydrants on the urban edge of Canberra, most notably on Eucumbene Drive in Duffy.

Minister, what advice did you receive on 16 and 17 January 2003 from the ACT fire brigade about the preparations for when the fires hit Canberra that weekend?

MR WOOD: I have said here that I attended meetings in all that period. I heard all the arrangements being made as each day was planned—going back Saturday, Sunday and Monday of that week through to Thursday and Friday of that week—and as all the operational people went out and attacked the fire with all the resources they could muster. As to the precise details, you should understand that, while I attended those meetings, the minister does not have an operational role. My role was one of interest and support and attending to what was happening. That is the role of the minister.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Thank you, Minister. Did you brief Mr Stanhope on 17 January 2003 about the preparations the ACT fire brigade was making?

MR WOOD: I do not recall that I spoke specifically to Mr Stanhope about those issues. The 17th was the Friday. I do not recall that. I certainly had conversations with Mr Stanhope over that period on a whole range of issues, as ministers do at all times. I do not have a particular memory of what might have been said about the fires.

Hire cars

MRS DUNNE: Mr Speaker, my question is to the Minister for Urban Services regarding the government's overdue response to the planning and environment committee's inquiry into the Road Transport (Public Passenger Services) Amendment Bill. Minister, in your response, the government undertook to conduct a budget buyout of hire car plates by 1 July 2005. Do you have a precise timetable for that buyout? If so, what is it? If not, why not?

MR WOOD: I suppose it is a precise buyout—it is by that date. The reason for that date is that it comes after the next budget. There is no appropriation in the current budget for the approximate amount of money that we could speculate would be part of that buyout. I would hope that it could be done sooner, but I would have to find a mechanism by which to do it. That is the reason that date was given.

MRS DUNNE: Mr Speaker, I have a supplementary question. Minister, given that the planning and environment committee's report has been on the table since 19 December last year, why was this not considered in the budget context?

MR WOOD: At that time we were working through all the issues. I wish the process had been completed in this chamber well before that, and that it had not gone to a committee—although one outcome of the committee's report is that we picked up some of its recommendations: specifically and importantly the one about the hire cars. But you do not prepare budgets on the basis of speculation—on what might happen. We had not worked through those issues at that time.

Emergency services

MR HARGREAVES: Given that the opposition is not interested in what is happening in the Emergency Services Authority, Mr Speaker, I would like to ask a question, through you, of the minister for emergency services. Now that the legislation creating the Emergency Services Authority has passed, what other advances in emergency services are being made, Minister?

MR WOOD: Since the focus today is all on the fire brigade, let me talk about that. I might indicate that, as regards support, the budget gave a 26 per cent increase to emergency services. That is a very heavy commitment on the part of this government.

Mr Corbell: Unlike Brendan Smyth when he was emergency services minister.

MR WOOD: No, he wasn't very helpful.

Mr Corbell: He wasn't very good, was he?

MR WOOD: No.

Mr Corbell: How much did he spend on emergency services? Bugger all.

MR WOOD: Thanks for your help, Mr Corbell. The debate we had on the Emergency Services Bill indicated that there is broad support here for the emergency services. We have been putting hard money into it.

Mr Smyth: We did, too.

MR WOOD: You didn't put in anything of the order that we have done here. A 26 per cent increase is a truly remarkable increase. That will accommodate, for example, some 36 new fire fighters. They will also be specifically trained in hazardous chemicals and other sorts of issues that are very important in this day and age as we face terrorist issues.

We have now ordered four new fire engines. I think that is a remarkable advance; it is a $1.38 million contract. I think the specific nature of these is very important. They increase the efficiency of water by expanding it with compressed air. It has the capacity to increase 8,000 litres of water to 40,000 litres of foam. You can see what technology is doing.

A little while ago—and that was before this budget—I launched a new rural fire fighting appliance that has got the capacity to spray. If crews should ever get caught in dire circumstances, it can generate a very heavy spray for the protection of those people. These are just some of the measures we're taking to upgrade to a very great degree the ability of our Emergency Services Authority.

Child protection

MRS CROSS: My question is to Minister Gallagher. Last year, I was successful in the Assembly with a motion asking the government to trial a system similar to the out of harm's way agreement that was being trialled by the Warringah Council in New South Wales that increased the safety of young people through strengthening the relationship between those people and their parents or guardians. Could you advise the Assembly as to where the government is at in looking at or conducting such a trial or something similar in the ACT?

MS GALLAGHER: From memory, the motion was amended on the day to include a referral to the Minister's Youth Council and Mrs Cross attended a meeting of the Minister's Youth Council to brief it on the out of harm's way proposal. Having said that, I will check with the Minister's Youth Council as to where it is at and report back to Mrs Cross.

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

Supplementary answers to questions without notice
WorkCover

MS GALLAGHER: Yesterday in question time Mr Smyth asked me if WorkCover had guidelines regarding the acceptance of gifts or hospitality, and I took the question on notice. I can report back that ACT WorkCover does have a code of conduct which makes specific reference to gifts or benefits related to the performance of official duties. Of course all WorkCover employees are public servants and, as such, are required to abide by the Public Sector Management Act. I am happy to table that, if you like, Mr Smyth.

In relation to the supplementary question—whether I was aware if WorkCover staff had compromised the operation of the supplementation fund through gifts or hospitality—my answer yesterday remains. I am unaware of any situation where that has occurred but I am certainly making inquiries.

Child protection

MS GALLAGHER: Earlier, in answer to a question from Mr Cornwell, I said I would check on the figure of 40 in relation to the children whose cases are required to be audited. I am advised that as of 21 June there are 15 children's files remaining to be audited. I imagine that is small compared to the overall number they have looked at, so I think mid-July is a probably a fair time for that audit report to be received.

Papers

Mr Speaker presented the following papers:

> Report No 2 of 2004 entitled *Travel Arrangements and Expenses*; and
> Report No 3 of 2004 entitled *Revenue estimates in budget papers 2002-03*.

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

> That this Assembly authorises for publication Auditor-General's reports Nos 2 and 3 of 2004.

Paper

Mr Wood, on behalf of Mr **Stanhope**, presented the following paper:

> Facing up to Racism: a strategic plan addressing racism and unfair discrimination 2004-2008.

Protection Orders Act 2001
Paper and statement by minister

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage): On behalf of Mr Stanhope I present a report on the review of the Protection Orders Act 2001. I ask leave to make a statement.

Leave granted.

MR WOOD: On behalf of Mr Stanhope, I present the government report on the review of the Protection Orders Act 2001. This is the end product of an extensive assessment of the current protection orders legislation. The main focus of the review was to examine the Protection Orders Act 2001 for consistency with the model domestic violence laws, and to examine whether the protection orders legislation provides adequately for the safety and protection of people from violence, harassment and intimidation. The scope of the domestic violence and personal protection order provisions was also examined. Issues considered were: what should constitute domestic or personal violence for the purpose of the act, who is a relevant person for the purpose of making an application, who may apply and when the court may grant an order.

The review also focused on the identification of amendments that will provide people with a greater level of safety and protection under the act. The report was developed in response to the review. The report concentrates on amendments designed to ensure that the act provides adequately for the safety and protection of people from violence, harassment and intimidation and consists of four parts.

Part 1 provides background information which led to the compilation of the report. This part also gives an overall description of the current position; the second part provides a description of the proposed legislative amendments; the third part provides a review on the consistence of the act with the model domestic violence laws; and the report concludes with an appendix containing copies of the submissions received from agencies in relation to the proposed amendments to the Protection Orders Act. There are a number of recommendations in the report to which I recommend members pay particular attention. I commend the report to the Assembly.

Public Accounts—Standing Committee
Report 8—government response

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): For the information of members I present the government's response to report 8 on the Standing Committee on Public Accounts, entitled *Revenue Raising Issues in the ACT*, which was presented to the Assembly on 4 March 2004. I ask leave to make a brief statement.

Leave granted.

MR QUINLAN: I am pleased to table government's response to report 8 of the Standing Committee on Public Accounts. I would like to thank the committee for their report and am happy to advise that the government supports some of the recommendations and some at least in principle. The government is committed to the intergovernmental agreement on the reform of Commonwealth/state financial relations. This is the forum where a significant proportion of the issues relating to tax reform in the PAC report 8 will be addressed.

I point out that the revenue management branch of the Department of Treasury constantly monitors revenue legislation to ensure currency and equity are maintained.

Another important factor constantly under review is that taxation legislation is practical to administer, with efficient compliance costs for both government and the taxpayer. The government is also committed to protecting revenue by minimising the impact on ACT tax leakages, evasion and avoidance through effective legislation and regulatory measures. I might observe that the original report was produced by the PAC, chaired by Mr Smyth. It is worthy of note that it has no benchmarks, no KPIs, no time lines and, in fact, no positive suggestions but simply a stream of questions for government. It fits under the heading of, "They should do something."

Papers

Ms Gallagher presented the following paper:

> Pursuant to section 96D of the Occupational Health and Safety Act the quarterly performance report on the operation of the Occupational Health and Safety Act 1989 and its associated law for the period 1 January to 31 March 2004.

Mr Wood presented the following paper:

> An out-of-order petition from 541 residents requesting free parking at suburban shopping centres in the ACT and, in particular, the Dickson shops.

Police numbers
Discussion of a matter of public importance

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

> The state of police numbers in the ACT.

MR PRATT (3.10): Today I would like to speak about an issue that is at the top of everyone's mind—the state of police numbers in the ACT. The ACT has an excellent police force. I would say—and most professional observers would also say—it is one of the best in the country. I have said this before and I will say it again: the men and women of ACT Policing do the best job they possibly can under the current structure and funding imposed upon them by the Labor government.

However, there are many elements of ACT Policing that can be greatly improved—at no fault of the police force. The police, through their own imagination and professionalism, have made changes to try and keep pace with the changing crime profile. But the profile and confidence in ACT Policing over the past few years, in its ability to protect the community and respond to crime, has greatly declined.

Unlike the Labor government, the Liberal opposition is greatly concerned about the safety of the Canberra community, especially more vulnerable groups such as the elderly and the young. The level of concern in the community about criminal activity has been consistently, if gently, rising for some two years. A number of spectacular robberies involving violence and some unfortunate deaths have clearly fuelled these concerns. Concern about crime, so evident in the *Canberra Times* over the last seven months, is but one example of the demonstration of consistent community feedback.

The *Canberra Times* article in September of last year, you will recall, demonstrated very significant negative statistics about how unsafe people felt in their homes, and certainly in shopping centres after dusk. You will recall that the poll feedback lamented the absence of a police presence. The number of emails and letters received by my office and others has indicated substantial concern for about 18 months now. This clearly reflects a nationwide trend. I will refer to data later to illustrate this point.

I have said before—and it is worth stressing again—that there is no getting around the fact that, while society has become increasingly more sophisticated, richer, more clever and more comfortable, statistics prove that, nationwide, there has been a concurrent rise in crime beyond the natural growth of expected activity and commensurate with an increasing population. I will mention those statistics later.

I repeat that I believe this to be a worrying trend. It is not just a matter of increasing rates of crime, it is the disturbing increase in criminal intensity—the increase in mindless vandalism, the increasing levels of destruction and the increasing levels of violence by people perpetrating crimes just for the hell of it. There is no respect and no fear of the consequences by many more people now than was once the case. Early this year, residents in Jackie Howe Crescent, Macarthur, were adamant that the level of vandalism in their street, particularly firecracker vandalism, had increased by about 20 per cent annually over some years. There were destroyed letterboxes and ripped-out gardens; there was damage to local parks and local barbecue facilities, et cetera.

In March shopkeepers in Chisholm told me that the level of vandalism in their shopping centre had gradually escalated over three years and was now significantly reduced, but only due to their private security initiatives. They cannot stop the growing number of "burnouts" and "wheelies" occurring around the precinct, particularly at the junction of Proctor and Mead Streets, where young fools turn up regularly, dump oil onto the road surface and then broadside through the slick at up to 100 kilometres an hour. This is done in a 60 kilometres an hour residential zone, in broad daylight, with no fear of consequences.

Shopkeepers in Isaacs and Torrens in April this year were reporting to me the same growing crime rates in their areas, including multiple break-ins. At Isaacs, they are sick of seeing the same young people in the shopping centre, trading drugs from their cars in the evenings. They are thankful that the police have tried to respond but lament that they have not been able to stop these cocky young men from continuing their trade. The owner of Video 2000 at Mawson and the proprietor of the Shell Service Station at Braddon have told me they are sick of being held up at syringe and knifepoint and are waiting for their first firearm experience. I guess it will be something to tell the grandkids about.

These reports and these sentiments are repeated across the ACT. I do not believe the community is being unfair or misjudging the situation when it perceives the significant increase in crime and deterioration in community safety it is feeling. Nor do I believe the community is unfair when it is constantly saying that it does not see enough of its police force. While crime statistics show a number of successes, they also show a gradual incline in general level of criminality in the ACT.

A significant drop in burglaries has occurred in the last couple of years. This has been consistent with the successful deployment of Operation Halite and other operations that have followed it. That is a typical "taskforce" targeted police deployment. The Labor government says they are concerned with the state of police numbers in the ACT, but we have not seen this transformed into constructive action. Must I remind the Labor government of their 2001 election promise? It said:

> Labor will implement a program to restore the number of police officers available to at least the national average.

Furthermore, their policy stated:

> If Canberrans are to feel safe and secure, the police must win the fight against crime. They must have the necessary resources and leadership and the broader community has to be involved in the development and implementation of initiatives aimed at effective crime prevention. Labor will provide the commitment needed for the police to do their job.

Their election promise also stated:

> Labor's plan will be to enhance foot patrols and bike patrols.

It sounds terrific on paper. It is a shame they have failed to deliver on these election promises, as they have on so many others. Let me discuss the absence of staff at Canberra police stations to answer the phones when members of the community call for help or information and, in some cases, the understaffing of police stations, which does not allow already busy police to answer the phone. The Labor government has accepted this lack of service by transferring all calls to police stations to the call centre on 131444. This means that no-one in the Canberra community has telephone access to their local police station either for assistance or for information.

The minister for police has said before in the chamber that people should call 131444 for assistance, but what if they need information or advice about something relative to a crime or a security matter? The Labor government has simply removed the Canberra community's telephone access to their local police stations, instead of solving the problem through positive and value-adding solutions such as having more police officers available to serve the community.

Let us talk about the mounted police saga—the recently disbanded mounted police unit. This is an example that the government is not giving to the community; they are taking away from them. Canberra's mounted police unit comprised two mounted police officers and horses. Originally established by the former government, there were plans to develop this unit to six officers and six horses. Unfortunately, when the Labor Party took government the mounted police force—or really the entire ACT police force—had no chance.

People noticed the presence of the mounted police force on the streets of Canberra. They engaged with and interacted with children and youths and forged positive relationships in the community. This was a stark example of community policing. That is what community policing means: it is two-way communication; it is getting out there in the

front line; it is preventative policing. The Labor government has simply disbanded the mounted police unit, instead of solving the problem of police numbers in the ACT by recruiting more police officers to serve the community through forces such as mounted police, foot patrols and bike patrols. I stress again that the last two patrols were consistent with the failed election promise of Labor in 2001.

I will justify this argument with a few more statistics. According to the Australian Bureau of Statistics there were 11,818 offences, excluding drug and traffic offences, which were reported or became known to ACT police during the December quarter of 2002. That was a 16 per cent increase from the December quarter of 2001, when 10,188 offences were reported. The main offences reported were theft and related offences, equalling 38 per cent of total reported offences, property damage and pollution, equalling 17 per cent; and burglary, break and enter, equalling 15 per cent.

The largest increases were seen in the number of reported acts intended to cause injury—up 10 per cent from the previous quarter. Public order offences were up 26 per cent and sexual assault and related offences were up 67 per cent. The number of incidents in the ACT requiring patrols also increased in December 2002 to 13,381 incidents—up seven per cent from the September 2002 quarter. To balance this snapshot of criminal incidents and reports in Canberra the Australian Federal Police Association's assessment of police numbers as at November 2003 is as follows: there are 290 close protection personnel, 720 total ACT Policing personnel—including 579 sworn officers and 141 unsworn officers—and 52 ACT Policing personnel seconded overseas to the Solomons, Cyprus and Timor.

Let me just go back and say that while unsworn police can do very important duties, they are restricted in the duties that they can perform—they cannot arrest anyone. In respect of experience levels, in addition to these quite concerning figures about police numbers, the Australian Federal Police Association has stated that 70 to 80 per cent of ACT Policing comprises junior constables. Where are the experienced numbers? I have spoken in this place about the declining experience in police station teams at Belconnen. I would now like to draw on the results of two polls conducted in the ACT in relation to police.

I have previously used this example: the *Canberra Times* poll of September 2003 showed that 47 per cent of people feel that their shopping centres are unsafe after 9 pm. This poll also showed that 80 per cent of people believe that Canberra's police force is not visible enough. A more recent poll conducted by Mix 106 FM, on their website, on 4 February 2004, showed that per cent of people rated the service given to them by ACT police as absolutely appalling and 21 per cent rated it as inadequate. A total of 76 per cent of people who voluntarily participated in the web poll believe that the ACT police force is unsatisfactory. While I do not share that harsh criticism, this government's inaction and the feedback we see—feedback based on a lack of confidence in a resource starved police force—in support of our police force is an indictment of the government.

Another figure for the Assembly to consider is the current level of ACT Policing staff, including admin, policy and PR staff—citizens, not officers—being on a ratio of 1:405 Canberrans, a figure provided to me by the minister in answer to a question on notice. This information identifies that ACT Policing are operating under extreme pressure—due mainly to a decreasing level of experience, increasing commitments and a lack of

human and financial resourcing. The figures show that Canberra has the lowest number of police in Australia per capita.

Am I wrong in recalling the failed Labor election promise that Labor would implement a program to restore the number of police officers available to at least the national average? The Productivity Commission report shows that the Labor government has failed to deliver on their election promise and highlights deficiencies in ministerial responsibility and the current purchasing agreement for the provision of policing in the ACT.

I could talk about the neglect of Gungahlin 24/7, but I will leave that to my learned colleague here. I will leave it to my colleague to talk about Mr Keelty's comment today that the ACT gets what it pays for. The state of police numbers in the ACT is dangerous for the community and must be improved. This government needs to take urgent action.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Arts and Heritage and Minister for Police and Emergency Services) (3.24): What a hypocritical motion this is! It is remarkable. Mr Pratt ought to go back into history a little but, since he will not, I will do it for him. There have never been more police in the ACT than there are right now. There are 40 more police in the ACT now than when the Labor Party came into government. Mr Pratt did not mention that.

Mr Pratt did not go back to the figures when ACT Policing, along with AFP national, provided police to East Timor. At that time ACT Policing numbers on the street dropped to an all-time low when Mr Pratt's Liberals—he was not here then—were in government. Mt Pratt makes mention of our policy commitments. He did not mention the very specific commitment, which the Liberals did not match, that we would increase police numbers by 20 over three years. They had no such commitment. That has been done.

In the last budget we committed to more police—10 over each of the next two years. So there is a clear increase in police numbers of 40. The Liberals were never able to manage numbers anywhere close to that. I say again that, with the East Timor commitment, they ran the police numbers right down. At that time Mr Stefaniak, Mr Humphries or Mr Smyth—whoever was the police minister of the day—did not do as I did and go to the federal minister for police and say, "Now listen, in respect of overseas deployments, we need to look after ACT interests." That is what I did, but the numbers that you allowed to go to East Timor allowed our local police numbers to run down considerably.

Mr Stefaniak: That was Mr Humphries.

MR WOOD: Mr Stefaniak acknowledges that. That is not the case in my dealings—my very good dealings, I might say. I believe I have a very good relationship with the federal minister and the AFP commissioner. This is a hypocritical motion. No-one has treated police as badly, as far as numbers are concerned, as those people sitting opposite. It is to the credit of this government that we have been providing more police.

A little while ago, with Mr Keelty, I announced a study into a number of aspects of ACT police and the contract that defines the way we deal with the ACT police. Among other

things, that study will look at what staff we need in comparison with the states. It is one thing to talk about police per capita, but do we have the same demands as the Northern Territory, Western Australia, Queensland and New South Wales, where there is a strong requirement to have police across a very large expanse?

Mr Pratt: When the community cannot see them, you bet we do!

MR WOOD: I take the point that Canberra is not quite the place it was many years ago and that there is more crime—society seems to have changed. Nevertheless, all the statistics show that Canberra is by far the safest capital in Australia, if not the world. It remains a very safe place in which to live. That is not a statement of complacency. That is not a statement that says, "We're doing pretty well; let's leave it at that." The fact that we are putting more police into the service is pretty clear evidence that we are going to do better and better.

You can quote police statistics from year to year. Mr Quinlan, a very distinguished former police minister, might have a bit more detail about that. The fact is that, at the moment, crime statistics across most of the areas are pretty low. Last year car thefts were up; this year, as police respond very effectively, car thefts are well down. At various times burglaries go up; the police respond, and they go down again. In general terms our crime is down but you could always find a point or two where it is up. This month the numbers of ACT Policing are almost at an all-time high; we have some 816 police. It fluctuates, as other members might remember from their time as minister, from day to day as things change. In fact, one of the things I have tried to do is get a more persistent figure and a levelling of those police numbers—and I think that is happening.

Mr Pratt made a lot of flamboyant statements about the safety of the ACT community. We do need to be a little more guarded than we used to be. You do need to lock your house doors and lock your car. I repeat that this is nevertheless the safest community in Australia. I could go back, if I had the time, into my files and pull out newspaper clippings from some years ago and produce shock-horror stories from the times when there were three Liberal police ministers. "Crime is up"; "Concern in the suburbs"—those headlines were there in the times of the Liberal government. What have we done? We have taken action to put more police on the streets.

Mr Pratt made some comment about phones. There was certainly an issue about phones—there is no doubt about that. After the bushfires, calls to police stations peaked and they remained at a very high level. There was intense pressure on the police stations with phone calls. When you get phone calls, sometimes they might be dispensed with quickly, but in many circumstances you cannot simply answer a question and hang up. There may be a complaint or an issue. The police, as you know, are meticulous and they are at their computers recording the details over the phone.

It was found that, with the very great increase in phone calls, there was pressure—and therefore a centralised system was brought into being. That does not say, Mr Pratt, as you tried to, that users have been denied access to their local police stations. If you are in contact with a police officer you will be given a particular number to ring, and that will get you a direct line. If you ring the central number you will be diverted back to the police station or the police officer you are looking for. You are not denied access to the particular police station, as has been claimed. That is just a bit of nonsense.

Let me go on with the over-exaggerated further nonsense about police horses. Mr Pratt said that they were great to be seen on the streets. The problem, when I became minister, was that they were not seen on the streets. You could go out to a paddock at Hall and have a look at them. Do you know why they were not seen on the streets? Because it was a very inefficient method of handling crime.

Mr Quinlan: They used to go to fetes, and the kiddies loved them.

MR WOOD: I agree that it was good police promotion; there is no question about that. But it takes a lot of time to get the horses ready.

Mr Pratt: They used to patrol the car parks at Bruce Stadium very effectively.

MR WOOD: That is great. There was one incident at Bruce Stadium and it has become the headlight on what is happening. I saw the figures on what was required to get those horses up and out. It took hours and hours to get them on the road for a little time and then hours to get them back into the float, back to Hall and wiped down—they are all the things that they do—whereas if you have a car, you can walk out, put the key in the ignition, maybe go and get some petrol, and you are on the road. In fact, the police horses were very inefficient for the local policing role. They were good for ceremonial occasions and good for public relations, no doubt. It might not be widely known but they can still be used for ceremonial occasions or for publicity.

Mr Quinlan: One of them is scared of people! One of them is a bit shy!

MR WOOD: I did not know that, Mr Quinlan. As I came into office it seemed to me a strange thing to have horses standing in a paddock. In fact—you may know by now that the horses are still there—I have an agreement with AFP national that the horses can be used for ceremonial purposes, for publicity or for other purposes at the expense of AFP national. I think that is quite a good result. I do not think there is anything much to worry about on that.

I want to come back to the study that is to be undertaken. An arrangement was made at the time Mr Humphries was police minister. That comes up for renewal, scrapping or whatever in March next year. I think it has worked well; I do not have any issue about that. I have said publicly, like Mr Pratt, that we have a very good police force. He does not want to criticise the police, so he is in a difficult situation in trying to get some mileage. That arrangement has worked quite well. At the same time, while we come up to a renewal of that arrangement—I emphasise the word "arrangement"; it is not a straight contract—it would be a good idea to look back into what we might sign up to in the next four to five-year period. There is to be a study looking at police resources and looking at the way police are managed.

You will recall that the auditor had some comments to make about the management by JACS of the police arrangement. We did not altogether agree with the lines taken by the auditor, but it is further encouragement to have a look at that arrangement, and that is what we will do. I expect that study will be reporting by December this year. When we sign up to a new arrangement we will get to see whether it is to be expressed in different terms, whether it can be said in ways that might serve us and ACT Policing better.

Let me come back to the point Mr Pratt was pushing. You can always bring up dire circumstances; there is no doubt about that. The ACT is not the place it might have been, although it is still very safe. As I said, I can go upstairs and bring down the various clippings I have kept over the period that show quite shocking headlines—for what notice you take of them—in the media when you, Mr Stefaniak, were police minister I expect, and Mr Smyth or Mr Humphries, who I think was the longest serving police minister. The same things were said then, Mr Pratt. What is the difference? The difference is that crime is well controlled. It is well controlled because, among other things, we have very good chief police officers here, and they have more police to work with than you ever provided them with.

MR STEFANIAK (3.39): The figures that have been given in the last few days indicate quite clearly—and I will take them at their highest for the Labor Party—that there were something like 600 or so police 20 years ago and, at best, the figures now are around 800. That is not a huge number when one considers that Queanbeyan, with about 10 per cent of the population of the ACT, and a reasonable sized geographic district, has about 167 to whatever our figures are now—700 and something. Quite clearly the evidence is there that we need an extra 120 or so police. We are about 120 short of the national average—and numbers do count.

Mr Wood, in answer to a couple of points you raised, a lot of very experienced police, many of whom I know personally, have been deployed to a number of trouble spots around the world. That probably did not happen so much when I was minister because I was minister for only about eight weeks but, from time to time, police will be deployed. In fact, I was giving out commendations to those coming back from Timor.

The Chief Minister said on ABC radio last week that he did not know exactly how many police we have; the number changes daily and it depends on the deployment as per the AFP daily plan. Mick Keelty said on the radio today that the ACT gets the police it pays for, and that is quite so. You cannot get away from the fact that you need sufficient police to do certain roles—to undertake crime prevention and service the operational regions.

The AFP says that in Belconnen, for example—they also look after Gungahlin after dark—we need four police cars, as we have for some time. What have we got? Two police cars. I suspect it is somewhat the same for Woden. I am not going to go on about police horses because, after all, that would be only two people. Certainly during the time of the previous government there were some police horse patrols used, and they did a good job. There were also the bike patrols, which did some particularly good jobs.

In my time in the Assembly I have never had so many complaints from people saying they have rung the police station and either the police have not been able to come or the phone has rung out. I would be the last person to blame the men and women of the Australian police force for that. Having dealt with them extensively as a prosecutor and also during my time in this Assembly, I have the utmost regard for their professionalism and their great desire to do the best possible job properly. You cannot get away from the fact that that makes it very hard if they are stretched to the limit because of insufficient numbers.

Whatever way you look at it, this town has grown a lot since self-government. It has grown a lot since the agreement was signed with the police in 1990. Since the AFP came into existence on, I think, 21 September 1979, we have not seen a huge increase in numbers in real terms. Although the population of Canberra has probably doubled, the number of police has gone up by only about 25 or 30 per cent, whichever way you want to look at the numbers. Quite clearly that is not enough, because crime has certainly grown in that time in Canberra, although compared with other cities we are fairly safe.

Mr Wood mentioned that the number of burglaries is coming down. The police will tell you that there are two reasons for that, one being very good policing operations like Halite and another being that good, sensible laws have been passed, specifically section 9A of division 2.2 of the Bail Act, which I brought in—I think it is section 10D, now that you have reorganised the sections. That section was brought in specifically at the request of the AFP, because they said it would have a huge effect on crimes such as burglary. Indeed it has had an effect on several other crimes too.

Mr Pratt is quite right. Basically, he talks about the number of street offence type crimes being up—assaults and other crimes that occur quite often out there on the streets over a wide-ranging area of Canberra, including armed robberies. A greater police presence—simply more police just being able to get out and about—will have a very significant influence on those crimes. It will also have an influence in perhaps being able to counter the acts of vandalism that Mr Pratt talks about.

If vandals or criminals of any description have a pretty good idea that they might get caught in the act—that they might be interrupted by police—that has a big deterrent effect. It is like drivers who might otherwise speed. When you go to Cooma during the snow season you know you are going to see about four or five police patrol cars, for sure. There is a police presence and there is a real likelihood that you are going to get caught by the police. That is terribly important.

There are two factors that someone who is going to commit a crime are going to be largely affected by more than anything else. First and foremost, "Am I going to get away with it; am I going to get caught?" If there is a distinct possibility that, because we have a reasonable number of police, people are going to get caught, that is often enough to stop everyone except the most desperate. The other thing is that, if you do happen to get caught, what happens to you? That is another area that needs addressing around here, of course: very weak sentences for serious crimes. That is where I think our courts really need to lift their game. The first component is that people have to get caught, to even get to that stage. That, of course, is where our police force comes in.

In respect of some of the targeted crimes where they have been able to muster the numbers, they have done a particularly good job. Operation Halite and Operation Anchorage are examples of those, and there are other crimes that have been solved as a result of magnificent work over the years by our police force. We are letting down the citizens of this town whom we, as legislators, have a duty to protect. I would argue, as I have argued before in this place, that our first and foremost duty is the security of our people.

At a national level, that means we need strong security systems and a strong defence force. At a local level it means we need a strong police force that is properly equipped and able to get out there and do its job to protect the citizens of the ACT. We do not do the right thing by our police force if we do not adequately resource them and do not ensure that the numbers are there. It worries me that, whereas in the past we seemed to be somewhere in the middle of the pack where numbers were concerned, we are now down at the bottom. We have the association saying, "We desperately need at least another 100 or 120 really"—it might be 123—"to take us up to the national average." What do we see? I think the government has committed to about another 20 police officers in this budget. That is simply not good enough when, for example, the Gungahlin Police Station has a reduced capacity, which means it cannot open all the time.

The previous government opened that police station and it operated around the clock. That simply does not happen now and the Belconnen police have to service that area. In fact, that has not happened since June 2003 when the northern district was restructured and we saw 19 operational police move into other areas. Gungahlin has certainly missed out. It has lost a lot of policing capacity and local residents are very frustrated by this, as witnessed by a couple of incidents reported in the paper recently.

I think it is crucially important that this government, and indeed any government, seriously address the issue of police numbers, because you are not going to stop crime. You are certainly not going to deter people who have an inkling to commit crime if you do not have a police force that is able to respond and if you do not have at the back of the criminal's mind, or the wrongdoer's mind, the very real likelihood that they might get caught.

We rarely see police out there in Canberra these days. We certainly see them to a much lesser extent than we did in the past. It is crucially important that police are not only able to do simple things like answer the phones in the stations to be able to respond to crime but also to be seen out there. In my own area of Belconnen, in Kippax for example, one particular store in Hardwick Crescent has been broken into 10 times in the space of 14 or 15 months. Seven of those were late Saturday night break-ins, or in the early hours of Sunday morning.

On about five occasions the tavern next door had its windows kicked in. They pinpointed a fairly narrow space of time when that occurred. If you had greater numbers with greater patrols, you could even perhaps stake out the place and catch some of the criminals in the act. The police came on each occasion, but they were being reactive rather than proactive. If you have the numbers you are able to be proactive.

I know the Queanbeyan police are fairly proactive—I think that is a particularly well-policed town. Unfortunately, I think we compare rather sadly when one looks at Queanbeyan. If you have the numbers and you are proactive you are able to do things like the bike patrols, which have worked wonders not only in deterring crime but also in stopping crime; you are able to ensure that you have adequate cars out there to undertake some beat patrols and provide backup if police get into a difficult situation; and you are able to respond to such things as armed robberies. There are far too many of those and more police would greatly assist in that area.

MS DUNDAS (3.50): I would like to talk about the state of police numbers in the context of the entire police budget. People will feel unsafe and think that we are in need of more police, as long as people get up in here and scaremonger about the level of crime in the community. What we really need to do is talk about preventing crime. I believe the government has not done enough on this.

For the third year in a row the government has substantially underspent on crime prevention, while spending almost 10 times as much on prosecutions and going well over the prosecution budget by in excess of seven per cent. Annual reports show that this is not a new problem. In the Stanhope government's first year in office the crime prevention budget was underspent by 20 per cent. The next year the underspend was 14 per cent. The final figures are not in yet for this year but it looks like, yet again, we will see an underspend of the crime prevention budget.

I believe the effect of this lack of prioritisation and support will become evident in future crime statistics. It is well documented that social factors almost always explain why someone ends up committing a crime. This is why most victims of crime oppose sending property crime offenders to prison and why crime prevention programs can work. We need to provide support for people likely to commit crime—those who cannot find a job and believe they never will, and those who lack ongoing family support. First-time offenders are likely to commit further crimes if we do not address the underlying problems that lead them to commit a crime in the first place. They require targeted support, providing an alternative to the downward spiral of crime, incarceration and unemployment.

I agree that community safety is a major issue of concern to many ACT residents, and I think everyone believes it is critical, in that sense, that we prevent first offenders from committing a crime in the first place, that we prevent first offenders from becoming repeat offenders, and that we divert people at risk of committing their first crime. The government needs to take more responsibility for ensuring that programs and projects are being delivered and that what we require of our police in their role as key providers of community safety and crime prevention is being delivered.

For some time I have been very concerned that too few police resources have been dedicated to crime prevention activities. When we have asked the government about this the government has indicated, "We are sorry but that is an operational issue for the AFP." However, the lack of direction given by successive police ministers suggests that the government has not thought through how we can get the best value out of our contract with the AFP and ensure that the crime prevention programs are delivered.

I think we need to look at the underlying issue here. This matter of public importance is about the state of police numbers in the ACT. We need to ask ourselves, "Why do we need more police?" or, "Why do we need as many police as we have? What can we do to help police with the roles they are trying to carry out in the community?" That is why I am talking about crime prevention programs. If we have crime prevention initiatives working to support the community and diversion programs working to support those in need, then the police can get on and look at the larger issues they are there to deal with and we will have a society with less crime in it, which is a better outcome for everybody.

This year $86 million will be spent on ACT Policing and in 2004-05 we will be spending $90 million. This is a lot of money to be spending. The Auditor-General has found that the policing agreements have not given the government proper financial control over the services provided and the ACT government is doing little to ensure value for money. This does not impact just on the economic bottom line; as I have indicated, this impacts on the social bottom line for our community.

The Auditor-General reported that, where agreed services have not been provided, no action was taken by the government—and the government has not investigated whether the price the AFP charges is reasonable. The ACT government needs to take some responsibility for the state of policing in the ACT. They cannot continue to say, "We pay for our contract with the AFP and it is up to the AFP to decide what happens in the ACT."

That is not good enough. We can no longer have this buck-passing. We need government responsibility; we need to ensure that the programs we are prioritising for delivery are being delivered; and we need to ensure that we have crime prevention working here in the territory. Police services are available to the community. If we are not getting what we are paying for and if we are not seeing the social benefits of that, then the government needs to be doing more to ensure that that is going to occur.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (3.55): I have to say that, compared to many MPIs of recent times, this MPI does contribute something to the debate in this place. I would also, as a sometime police minister, have to confess that I feel I failed to get to the base of the contract between the AFP and the ACT, as did ministers before me. I know Mr Humphries tried hard. We are now on the way to a review, which is going to take some time; nevertheless, it is a great step forward. Mr Humphries certainly battled manfully with this one; I am not sure that Mr Smyth did; I do not know.

Mr Smyth: Operation Anchorage, Mr Quinlan!

MR QUINLAN: Was that your idea?

Mr Smyth: We worked very hard.

MR QUINLAN: I was not even talking about the operations, I was talking about whether you tried to get to the bottom of the arrangement for payment between the AFP and the ACT.

Mr Smyth: We did.

MR QUINLAN: You got to the bottom of that?

Mr Smyth: We got close.

MR QUINLAN: Mate, I will be down to see you to get a briefing, because I have to say that it seemed to me to be an ill-defined process based on results. Let us refer to results. We will have to accept that the results have been pretty good, but I share some of the

concerns mentioned today. I share the concern that AFP officers are seconded overseas and that, when you turn on your television, you see many of the well-known faces within the AFP strolling the footpaths at Honiara—and we have so many young faces within the ACT force.

I trust that the progress Mr Wood is obviously making will continue and that, in the inquiry and review that takes place, we will get a better handle on the value we get and find out if we really get the police that we pay for. Commissioner Keelty was asked that this morning. He gave a reflexive answer, but we seem to have a fluctuating number of police and a constant stream of payment. There has to be something there that needs some form of adjustment.

I would have to say, from my limited experience, that being the police minister is a lonely place to be. Who is there to help you? Quite obviously the rest of this house, as it rightly should, is keeping a weather eye on you and making sure that, if there is an opportunity to criticise, they take it. You have the police force themselves, who are not shy. They have quite a comprehensive PR unit telling the community exactly how hard they are working. I do not doubt that they work pretty hard.

We often get debates like the one we had yesterday with the new term of "community chemist"—chemists are not just chemist anymore, they are community chemists. And we had a little competition as to who loves chemists more than another. We have had, "Who loves nurses more?"—and, "Who loves teachers more?" Of course, from time to time, we have, "Who loves our police more?"

As I said, the position of police minister is a lonely place. Then there is the police association. What are the police association going to say about police numbers? "Have you got enough; don't need any more; done well; would you like more?" If Mr Pratt would pretend to become police minister, I would warn him: don't become a captive of the police association. We have had their words parroted by Mr Pratt in this place as being proof positive that there are not enough police—because the police association says so. Just take one step back from that and take a look at it.

Mr Pratt: They are parroting statistics, Ted. They are repeating statistics; they did not make it up.

MR QUINLAN: Let us get a quote from them out of the *Canberra Times* then, mate.

Mr Pratt: ABS—per head per capita, 184.

MR QUINLAN: I cannot find the date. Let me say "recent". This is an article relating to claims by the police association. It says, "Opposition police spokesperson Steve Pratt said he agreed an additional 120 police were required immediately. 'We think the AFP is putting forward a credible sensible plan.'" That to me, as I said, rings alarm bells, Mr Pratt. Be careful what you are dealing with. The police association are doing their job. They are doing their job by their members.

Mr Pratt: We stand by that comment.

MR QUINLAN: I am glad you are saying that. I hope Hansard is picking up that Mr Pratt is saying, "We stand by that comment" because during the lead-up to the election we need to cost all the commitments you have made. I recall you making the comment that you were going to bring police numbers up and you were going to pay for it out of the additional economic activity of Creative Canberra. As a funny coincidence, that ain't got no benchmark, ain't got no targets, ain't got no numbers and ain't got no time lines.

Creative Canberra is quite transparent, thin and has absolutely no substance, and yet it is going to pay for, immediately, 120 additional police. I am very happy—I think there might be a little time left over—for the leader to leap up at the end of my time and commit to 120 new police and the cost associated with them. We are keeping the table up there; we want to inform the people of Canberra what election commitments are going to cost them. You are lining up as one of the highest taxing governments coming in the ACT.

Mr Smyth: Highest taxing? What taxing?

MR QUINLAN: You agreed yesterday to a resolution put forward by the Greens.

Mr Smyth: Highest taxing? You're a joke!

MR QUINLAN: You agreed to something that is going to cost $100 million. That is on your list now.

Mr Smyth: We agreed to it in 1997!

MR QUINLAN: You can deny it. Your voice is getting squeaky!

MR SPEAKER: Order, members!

MR QUINLAN: You agreed yesterday to a resolution by the Greens. We just want to get all the costs against your name. We went through the exercise; we put our numbers out. We put out in our numbers last year that there would be 30 police. We debated; you put our numbers out; you put out that we committed to 30 police. You did not put us out as committing to immediately go to the national average; we talked about going to the national average in aspirational terms. What did we go to the electorate with? I have in front of me the article from the *Canberra Times* of the Friday the week before the election—eight days before the election. It says, "Labor Party's pledge for an extra 20 police officers over three years was criticised by the ACT government."

Mr Smyth: Would that be Friday the 13th?

MR QUINLAN: That would be Friday the 12th.

MR QUINLAN: The ACT government at that time accepted that this incoming government had committed to an extra 20 police over three years. You debated it. So you cannot come in here and say, "Oh no, you committed to the national average—you haven't done it, so you've broken a promise."

Mr Smyth: He got rolled in caucus.

MR QUINLAN: Much of what is in here is accredited to Mr Hargreaves, who was put in to clear up the question before that time. What I want to hear is: are you going to put on 120 police immediately on coming to government? We are putting you down for it. If you want to deny it, please do so; otherwise, you are on the list.

MR SMYTH (4.05): The most delightful thing about talking after Mr Quinlan has spoken is that you can point out to him that, when he has does not have a defence of his own, he starts asking questions about what other people will do. The focus today is about the government and what is happening in the ACT today. We have to talk about what Mr Quinlan and his government have been up to, what they have done and what they are doing now.

Mr Wood started by saying that the police horses were ineffective. Who said so? Where is the review? This is a government of review. Where is the document that supports the contention that police horses are ineffective? I am aware of a number of instances where the police horses were quite useful in solving crimes and, had they been given the opportunity, I am sure they would have gone on doing so. Mr Quinlan says they were simply used for PR. They were certainly used for PR, but that is not all.

Then we get to Mr Quinlan, who throws out the challenge because he cannot answer the question. He cannot answer the question because this government is failing the community in policing. Mr Quinlan asks the question—Mr Quinlan makes the statement—as to where these concerns are coming from. If Mr Quinlan got out into the community, the community would tell him. If Mr Quinlan bothered to go and do a Saturday morning at Lanyon, Mawson or Chisholm, people would tell him that they do not see the police on the streets and they would like to see the police on the streets; that they do not think the police respond when they call and that they would like the police to respond when they call.

There was an instance when we pressed the button here, not so long ago, and it took the police about 15 or 20 minutes to turn up to the Assembly. The question is: where has Mr Quinlan been? Where has Mr Quinlan been hiding? The community are saying that they support the police; they believe in the police; they appreciate the quality of the police; they would just like to see more police on the streets.

It is interesting that Mr Quinlan quotes the *Canberra Times* of 12 October 2001 where the born again Mr Hargreaves rereleases the Labor Party policy of not bringing the police numbers up to national average. That is what we chastise you for. You led the community a pup right up until 12 October—it might have been the 12th of never—that the numbers were going to come up to national average. You sat in here every time the Productivity Commission brought out a report and said, "It is 118; it is 124; it is 100"—or whatever it was at the time. Mr Hargreaves—the then opposition spokesperson on policing—led the charge on, "Let's meet national average"—and he got rolled.

For all the tough talk in the term of the opposition, when push came to shove Mr Hargreaves got rolled in the caucus and could not deliver on national average—because the government do not support policing in this city. Mr Hargreaves got rolled, and we

had the mea culpa stunt. There was a picture. Did you see the picture? Did the picture come with that article? There was this sort of stunned-mullet faced Mr Hargreaves. You could taste the bitterness in his mouth of having to say, "We are going to mumble, mumble"—as the national average of police numbers in the ACT went out the window, didn't they, Jonno? Jonno has a smirk. Mr Hargreaves got rolled by caucus. For their whole time in opposition it was, "We're going to do better, we're going to support the police, we are on side, we have the AFPA talking for us!" He got rolled. I assume, Jon, you can still taste the bitterness in your mouth, since your colleagues let you down.

There was some talk of what is happening out there. We have recently had a spate of armed hold-ups, some involving violence—we had the very sad murder at Latham. I do not think we have had this level of armed violence in the ACT ever before. I certainly do not recall it; I do not think the statistics would show it. This has all happened under a Jon Stanhope Labor soft-on-war government. That is what it is—soft on crime.

MR SPEAKER: Order. The time for this discussion has concluded.

Gaming Machine Bill 2004

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

> That this bill be agreed to in principle.

MR STEFANIAK (4.10): Mr Deputy Speaker, the opposition will be supporting the government's Gaming Machine Amendment Bill 2004. There are several amendments by other members, some of which we will be supporting and some of which we will not. It is a comprehensive bill, and I am pleased to see that it largely follows the government's response to the study last year, most of which was quite sensible. That is to be commended. There are, however, a few problems and a few surprises. It is important that we have a consolidated bill in relation to this most important issue.

Gaming is a vexed issue. The downside of gaming is that some people cannot do it responsibly. They suffer and their families suffer. That is one of the downsides of it. On the upside of it, in terms of benefits to the community, the club industry has been a source of employment for thousands of Canberrans, many of them young Canberrans, and the main form of entertainment for most people in Canberra—and economical entertainment at that.

As a result of the community contribution scheme, which we introduced, a significant increase in the money from gaming revenue has been going back into the wider community in a range of areas, and that is very much to the good. That is not to say that clubs and other licensed establishments have not put money into the community in the past. Of course they have, and very successfully. Indeed, most of the venues that have gaming machines—all but a handful of gaming machines are in the club industry, and, of course, all the class Cs—were set up for specific purposes.

In Canberra the majority of clubs were set up for sporting purposes. Other clubs were set up as Returned Service League clubs, community clubs and ethnic clubs—some successful and some not so successful. All of them have contributed in some way to our community and, on the upside, gaming revenue has played a significant part in ensuring

that a lot of facilities have been developed. Sporting teams—including junior sporting teams—cultural activities, charities and other groups have got money they probably would not have got from elsewhere. That is something positive and it is something that needs to continue.

A number of issues face the industry, one of which is when the smoking legislation takes full effect. That weighs very heavily on the clubs. In Victoria, gaming revenue immediately dropped by 20 per cent. If that happened to most of our clubs, club president Jim Shonk has told me that we would have about five left. They are certainly facing up to those challenges.

For that reason, apart from the other reasons, it is crucially important that they have certainty. The good thing about debating this legislation now and having this legislation passed is that it will give the industry a lot of certainty. That is important for where we go from here in providing entertainment for many people in Canberra, providing jobs for thousands of people and providing the assistance the industry gives to people and groups in our community. That is one thing this bill will do, and there are a number of other things, which I will touch on in principle. I have some amendments, which I might briefly flag now and talk more to when we come to the detail stage.

The Carnell government introduced the cap. The cap is a vexed issue. Currently, it is 5,200, and we are still under the cap. The reasons for this are that there are not too many new clubs, there is not a huge number of applications for extra machines from existing clubs, several clubs have machines held in limbo and several clubs are actually going to the wall, which is one of the sad facts of life.

Some of those clubs that have gone to the wall were small ethnic clubs. Second generation Australians have probably assimilated so well that the clubs do not have quite the same pull for them as for their parents. I was involved in a club like that fairly recently: the White Eagle Club, which was the Polish Club at O'Connor, which my father was instrumental in building. That is certainly tottering, and the Lithuanian Club and several others have ceased to operate in recent times.

It is an evolving industry and these things will change. Indeed, forward-looking people in the club industry will tell you that gaming habits will change. There will be changes as we advance through the 21st century. Nothing really says static. It is important that clubs have certainty, and it is important in a bill like this that there are sensible and workable restrictions and that there are not too many unnecessary bureaucratic imposts. There are several here that need highlighting, which resulted in three of the amendments I have foreshadowed, which are on the green sheet of paper.

The government has been stuck now on the seven per cent community contribution, and for the time being that is sensible. That is about the amount we envisaged when we introduced the community contribution scheme several years ago. The community contribution scheme has worked well. The latest figures show that about $15 million went towards community contribution in the last year.

Some people have problems with how it goes. Some people—in my view, misguidedly—worry that too much is going to sport. Sport is an essential part of the fabric of this town, and a lot of that money specifically helps junior sport, which is essential for

developing healthy attitudes in our young. Sport provides not only good, healthy, physical activity but also healthy mental attitudes, assisting them to become good citizens. I see huge community benefit in sport and, given that a lot of the clubs were specifically set up for sporting reasons and have sport in their articles of association as their purpose, it is right and proper that they give the bulk of their community contribution to sport.

I was a director for Royals for a number of years in the 1980s. When we were able to, we gave money not only to the various sporting groups but also to various charities that needed money in our area. Unfortunately, in the last couple of years I spent as a director we were constantly trying to save money. There is a sorry saga with that particular club, in that it has now been taken over by another club. That indicates some of the pitfalls that affect the industry.

I am pleased to see the Labor Club suddenly take a great interest in the arts. That should not surprise me; Gough Whitlam seemed to have a great interest in the arts. A lot of very good cultural events have been sponsored by the Labor Club, and I wonder if that has something to do with the fact that they are probably the main club group making political donations, it being in their charter as much as anything to help their comrades in the parliamentary party.

An amendment put some years ago to the last consolidation ensured that, apart from the seven per cent community contribution, there was an additional proviso whereby for every dollar clubs donate to political parties, individuals, candidates or MLAs they would contribute a dollar to the community as well. As a result of the money the Labor Club pays out to its own political party, I hope to see a corresponding amount of money go to the community organisations. In this instance, that might go to some of the great cultural events I have seen the Labor Club sponsoring recently. Those are examples of good use of the taxes and imposts that have been put on clubs—good use for the benefit of our community.

I am pleased to see—and I accept what the officials tell me—some of the provisions that were put in the February or March amendments, which Mr Quinlan and I respectively made to this act in relation to social impact assessments. The taverns are now completing theirs, and I am pleased to hear from the officials that it is not going to be too onerous and that they feel it is better for the organisation to do it rather than for the officials to do it for the organisation and then maybe reject an application. I can see the logic in that, although I would hope they would not be too bureaucratic. Nevertheless, social impact statements for any new poker machines, or any changes, are an essential tool for looking at the issues of problem gambling and overproliferation and have checks and balances to make sure that there is justification for change, especially any increases in areas for poker machines.

I am delighted that after 18 years the imbroglio and the unreasonable impasse that saw taverns and hotels have access to only two non-existing class A machines have finally been amicably resolved with taverns and hotels being allowed to have two class B machines—class B machines being the draw poker machines. Apart from six draw poker machines in clubs that have them, all the rest will be in the taverns and hotels. Of course, the seven pubs that have accommodation have 10 class Bs each and have been able to for some time. That compromise has solved to most people's satisfaction the

vexed problem that has been with us for 18 years. That is a feature of, and is regurgitated in, this legislation. We sorted it out over the last year and brought it in earlier because there was a real need.

I am pleased to see some of the recommendations of the commission enacted as well. There is a restriction on notes in machines. When I first started playing poker machines, you put in your 5c or even 2c—the 2c machine at Batemans Bay was a beauty; I won some money on that once. Now people can put in a lot of notes, and it is sensible to say you cannot put more than $20 in. I understand that is the case in other states. There are a few sensible restrictions.

I believe people should be responsible for their own acts, but I also think we need to take into account that there are some people who are so desperate that it is in the interests of everyone, including themselves and their families, that some assistance be offered and some sensible precautions taken. That is quite a sensible precaution.

We are going to have to face the issue of caps at some stage. It is certainly unrealistic to expect the cap to be decreased. There seem to be some reasonable provisions in there, and there are probably a few amendments in relation to increasing the cap at some stage. Work has to be done in accordance with this bill before that can occur. It is a very important check, which should and will happen.

There is also the issue of automatic tellers, which might be in one of the amendments. A lot of people use them for convenience, and it has not been shown to me that it is a problem in itself. Whilst it might be a problem for some people, there are a lot of people, especially the elderly, who feel a lot safer using one there than—harking back to our previous debate about police numbers—being mugged near an automatic teller on a cold, wintry Canberra night in some not terribly well-lit place in a public area.

In relation to some of the amendments, we were a bit concerned to see—and I am pleased Ms Dundas has it as part of her amendments—that there is no section in the government's bill dealing with the taxes the industry pays. It is not so much a case of taxes rising every year—they do rise occasionally and change occasionally. But it is important for it to be there upfront rather than in regulation. If the government changes the taxes at some stage, a simple amendment can be made. A new bill can be brought in to do that. On balance, that is a far better way of doing it than what the government is proposing. We are happy to see Ms Dundas do that, and I can flag now that we will be supporting that.

I have some amendments, and I have already partly talked to the one on the dollar-for-dollar club contributions in relation to donations to political parties. I have three other amendments, which I will speak to when we come to them. Overall, the opposition is happy to support this bill. It will give some certainty to the industry, which we see as terribly important. I will deal with the other issues in the detail stage.

MS TUCKER (4.25): This long awaited bill is the result of the Gambling and Racing Commission's review of gaming machine laws in the ACT. The Greens will be supporting this bill. Although it does not go far enough in some areas, it is clearly an improvement on the current system. It is a large bill and I will not attempt to go through

all the details. My office did receive extensive briefing and assistance in understanding the implications of the different parts.

The key features of note are new rules for the operation of gambling machine licensed clubs in general, clubs' decisions about poker machines and increased requirements for social impact assessments in regard to applications for additional machines and applications to relocate premises. The cap, which has been temporary, is to be put into legislation without a sunset clause. However, this new section allows the minister, after recommendation by the commission, to change the cap by a disallowable instrument. I have some amendments to this section.

There are new conditions on licences. There is an allowance for a central monitoring system, although I understand from the commission that they are considering the costs and benefits of this, and there is not yet a proposal to launch into developing it. Allowance for cashless gambling is similarly included. There is scope for some changes to warning notices; a ban on any external signs advertising gaming machines—although advertising on television remains a matter to be regulated by the mandatory code; and the removal of the requirement, introduced late at night in the dying days of the last Assembly, that political contributions by clubs be matched by additional community contributions.

I have a few comments to make on the social impact assessment provisions. When this was introduced in the last bill, which—unwisely, I believe—expanded the types of venues for poker machines, the details had not been finalised. Guidelines governing the social impact assessment process have now been prepared. The social impact assessment is prepared by the proponent. The guidelines for social impact assessments currently require the use of published data and for the assessment to provide readily checkable facts. For example, it must include a map showing a five-kilometre radius around the venue and identifying other relevant premises. "Relevant premises" are not defined, but examples are given as nearby residences; businesses or shops; other gambling outlets; schools, sporting and community facilities; and places of worship.

Population and an estimate of the average income of people within a five-kilometre radius are also required, among other things. The focus on the five-kilometre radius, as I understand it, is because of research indicating that proximity is an important factor in whether people, including people who have problems with their gambling, gamble on poker machines. As we receive the results of local research work on that kind of question and on the factors important to different cultural groups in our community, it is important that they are factored into the social impact assessments and/or into the commission's consideration of social impact assessments. It will be interesting to see the quality of these assessments.

At this stage it is also worth mentioning a slightly different perspective to problem gambling. Mark Dickerson, holder of the Tattersall's Chair of Psychology at the University of Western Sydney, in a submission to IPART's "Review of gambling harm minimisation measures", reference 03/308, last October, drew on new evidence to argue for rethinking the isolation of problems associated with gambling to people with a particular pathology and the resulting emphasis on responsible gambling. Rather, he argues, we should be looking at consumer protection. Mark Dickerson wrote:

> New evidence from a study of over 200 regular pokies players (A final study in a sequence of projects involving separate samples totaling over 700 such players funded by the Casino Community Benefits Fund.) shows that:
>
> - The experience of impaired control i.e. being unable to stick to limits of time and money spent gaming is very common among players who play pokies once per week or more often, and
> - the main cause of this impaired control is the enjoyable strong emotion experienced during play (enhanced by more playing time and prior levels of mild negative mood)…
>
> In other words the commonly reported impaired control over cash and time budgets is not necessarily an indication of pathology but is a natural response to modern sophisticated and entertaining poker machines. Players who spend several hours per week playing come to experience strong enjoyable emotions during play and the loss of control over time and money expenditure is likely to be a result of this emotion, increased by how long is played and any negative emotions 'brought' to the venue. This seems so utterly commonsensical and far removed from problem/pathological gambling that it merits a close and careful examination.

Dickerson notes that he had previously reported:

> The typical regular egm player in NSW makes 832 consecutive purchasing decisions in a session of play. During such a session 43.8% of regular players will report that they experience "an irresistible urge to continue"…i.e. an urge to continue purchasing more of the entertainment product…and the next game is being offered. It is still being offered to the player after 1, 2, or 10 hours of continuous play.

The conclusion Professor Dickerson draws from all this is that:

> …the current strategy aimed at changing the machine for the player to not lose control is ill conceived and derived from the alcohol context. A more appropriate aim from a consumer protection perspective is to maintain the integrity of the gaming experience-it is clearly enjoyable and what the consumer wants-and yet to prevent the enjoyed loss of control resulting in excessive, and potentially harmful expenditure.

His recommendation is to focus on measures that are made available by new electronic monitoring systems and by the potential for cashless systems so that so-called pre-commitment measures are the very best protective measures. The proposal has some uncomfortable privacy implications, but it is the sort of thing that needs to be taken into account in assessing and developing the central monitoring system. In the meantime, the other thing it shows is that it is probably useful to limit the amount that can be fed into the machines at any one time.

Note acceptors are one part of this. Ms Dundas is proposing to simply ban note acceptors or, failing that, my proposal is to impose a cap of $20 on amounts that can be spent via note acceptors on any one game. When that cap was used in Queensland, there was a significant reduction in revenue, which is to say there was a significant reduction in the amount of money lost by players.

I have several amendments and I know there are quite a few from other members, some of which are extensive and came quite late, without any previous notice of their content. This seems to be a theme this week. I remind everyone that the earlier we note notice of proposed amendments, the easier it makes all our jobs and the better we can consider them.

MS DUNDAS (4.33): Mr Deputy Speaker, the ACT Democrats will be supporting this bill in principle. The Gaming Machine Bill 2004 has been a long time coming. The genesis of the bill is that it was a review of the Gaming Machine Act, first requested by the previous Chief Minister, Mr Humphries, back in 2001. The review was repeated under the new government. Then we had the very slow process of completing the review and getting the government response and—finally—some legislation to appear on the table. This has all happened in the last few weeks of the Assembly.

This bill introduces a whole new set of procedures for regulating gaming machines. It picks up a number of the Gambling and Racing Commission's recommendations, and I commend the government for the initiatives they have agreed to. I believe it was a good idea to introduce an entirely new act, as the old act had become increasingly difficult to understand because of a number of amendments over a number of years. In addition, the technology of gaming machines has become increasingly complicated, and it is appropriate that the commission has an increased ability to regulate this new technology. I particularly welcome the improvements in section 6 of the bill, which goes into some detail about the mechanics of regulating a large number of areas of technology.

The Democrats welcome debate on the Gaming Machine Act today. It is a long time coming, and hopefully the wait is worth it. But I am concerned that the government continues to reject a number of harm minimisation measures that were put forward by the Gambling and Racing Commission in its report. It is a pity that the government continues to show that it requires a high threshold of evidence before it is willing to accept a proposal aimed at reducing problem gambling. In contrast, it does not require the same amount of evidence to determine whether to increase access to gambling in the territory, such as the ability of the Treasurer to increase the number of poker machines.

The Democrats approach this from a very different perspective. We approach it from one of minimising harm and observing the precautionary principle. If we are presented with a reasonable means of reducing the harm associated with poker machines, we should adopt that process unless there is a significant amount of proof that it would not work. This government, unfortunately, reverses this premise and instead says that the burden of proof is on those who wish to protect problem gamblers, not on the gambling industry. I once again note that problem gambling is a significant problem in the ACT community.

The ACT survey of problem gambling highlighted the extent of gambling in the territory. There has never been any formal response to this analysis by any government, despite the disturbing picture that it puts forward. The survey showed in 2001 that ACT residents with gambling problems represented over 5,000 adults, or nearly two per cent of the ACT adult population. This group accounts for nearly 40 per cent of all gambling expenditure in the territory and an even higher percentage for gaming machines.

The survey also showed the number of social problems that are associated with problem gambling. About 50 per cent of surveyed problem gamblers reported that they suffered from depression due to gambling, about 14 per cent of ACT residents with gambling problems seriously considered suicide because of gambling and about 25 per cent of ACT problem gamblers had their jobs adversely affected by gambling or felt that they had less time to spend with their families. The survey also noted that a higher proportion of ACT problem gamblers said they had lost their job due to gambling than did those surveyed in a national survey considered by the Productivity Commission.

We should note that gambling is not equally distributed among people in the community. Younger ACT males from English-speaking backgrounds with lower levels of education and income are disproportionately represented amongst problem gamblers in the territory. Younger Australian-born men in lower income levels with no post-secondary education experience the most difficulties with gaming machines.

In regard to the debate about the wellbeing of boys and young men in Australia that is dominating some political discourse at the moment, it is clear from this evidence that problem gambling is a significant cause of harm among this particular group. Given that problem gamblers are at greater risk of suicide, there are implications for the high rate of youth suicide among men.

Perhaps the most revealing facts uncovered by the survey are the public attitudes to gambling in the territory. The survey showed that 78 per cent of Canberrans thought gambling did more harm than good to the community, and more than half disagreed with increasing the number of poker machines. We see that other governments are taking action on this issue. Despite the fact that they have fewer poker machines per capita than the national average, the South Australian government has announced that it will be taking 3,000 poker machines out of circulation. It is unfortunate that the ACT, with the highest number of poker machines per capita than any other jurisdiction in Australia, is not prepared to take this step.

Despite the bill providing a better framework for the regulation of poker machines in the territory than the previous act, I continue to have a number of concerns in relation to the bill. I will go into greater detail on some of those concerns when we get to the detail stage, and I have moved, or will be moving, a number of amendments to deal with them.

I am particularly concerned that there has been no move to place a time limit on the length of licences for poker machines in the ACT. It is ironic that, despite our time-limiting the right to occupy land in the ACT by issuing a 99-year lease, we allow people the right to have a poker machine indefinitely. You can have a poker machine in the ACT for longer than you can have access to a block of land. The commission specifically recommended that this anomaly be removed, but the government has decided to continue with the practices that are already in place.

I also have concerns about the new provisions to increase the level of the gaming machine cap. While other jurisdictions are actively reducing their poker machine numbers, the ACT is implementing a system that will allow us to increase them. This is clearly not in line with the precautionary principle and, despite the additional steps that

must be taken before any increase occurs, I do not agree that the determination of the level of gaming machines should be devolved by this Assembly to the minister.

I also have amendments that insert additional harm minimisation measures recommended by the Gaming and Racing Commission. Despite the Assembly setting up an independent commission specifically to investigate harm minimisation and the proper regulation of gambling in the ACT and despite that commission believing there is sufficient evidence to recommend that these measures be introduced to reduce the harm caused by gambling, the government has so far refused to implement them.

In particular, the commission has recommended that ATMs and note acceptors be banned in poker machine premises, and the commission is currently preparing research on these very issues. It is a shame that this bill is being debated without the essential information—but I do not want to make it seem that I am not happy to have this debate. This debate has been a long time coming, but it is interesting that, when we finally get to have this debate about how we will regulate gaming and gaming machines in the ACT, the government comes forward and says, "But we're doing all these other investigations."

This means we will be seeing a series of amendments to the Gaming Machine Act, not just today, when we are debating it for the first time, but also in the future, when we see these reports come down. It is not the best way to move forward with this. If the government were committed to working through harm minimisation issues and to reforming gaming in the ACT, we would have seen this legislation a long time ago.

In conclusion, the ACT Democrats support the moves in this bill to include the regulation of electronic gaming machines, but we still believe that this government is lagging behind other jurisdictions in the control of gambling. We should be moving faster to ensure that the harm caused by problem gambling is minimised to the greatest extent.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (4.41), in reply: I thank members for their contributions. I am fairly certain that the detail of people's attitude to the bill will come out in the detail stage. Let me just say that, in the overall context, this bill is about providing a balanced approach to the operation of poker machines in the ACT.

Clubs are more integrated into the community within the territory than anywhere in Australia other than a couple of country towns. Clubs provide a relatively safe, threat-free environment for their members to socialise in and to avail themselves of the amenities provided. I think it is important that clubs survive and continue to provide that service.

Sometimes it is difficult for people who are not regular club goers to appreciate what clubs do. Sometimes it is difficult for them to appreciate the contribution they make to so many of the community activities that take place and that we take for granted, all of which cost resources. I relate this particularly to cultural events, which provide a place for various communities to meet; to the provision of support for sport, particularly grassroots sport, which cannot command sponsorship or entrance fee revenue; and to activities provided for older people.

I am one of those older people. I play lawn bowls. That is, I used to; I have not played for a while. Most of the bowling clubs in the ACT are struggling now. Without clubs there would be no lawn bowls for people to play. That would be the case. Without some of the clubs there would be no ballroom dancing at the Southern Cross and none of the various activities or venues, such as Probus clubs and Rotary clubs, to meet at. The physical infrastructure the clubs provide allow for the next layer of community activity to be facilitated.

There is a great need for a balanced approach to the operation and survival of the club industry. It is going to go through a difficult phase as we impose smoking bans in the near future. I am confident that the club industry in the main will survive that change, and that change is necessary for public health. We recognise that there is a phenomenon called "problem gambling". We do not believe that total prohibition is the answer to problem gambling; we do not believe that total prohibition is the answer to much in society.

It is an odd juxtaposition that parties such as the Greens and the Democrats who claim to be progressive are the parties that would involve themselves in the highest degree of prohibition in relation to an activity that involves so many people of our community and provides so many people of our community with a social outlet—a relatively safe place in which to have a few drinks, to socialise and maybe have a flutter on the pokies.

We recognise that problem gambling does beset some people. As I said, I do not believe prohibition is the answer to that. The ACT itself has been recognised as being the jurisdiction in Australia with the most rigid code of practice, and after this legislation, I am sure we will have the most rigid framework of legislation. I will not guarantee that, but I am fairly certain that is the case. The code of practice has been recognised by bodies outside of this government—the Productivity Commission, the Brotherhood of St Laurence—as being the most progressive of codes of practice. I congratulate the club industry on the way it has responded over time and will, I expect, continue to respond.

There are some restrictions involved in this legislation, but I am confident that this will not be the end of the debate or the end of the evolution of how we manage gambling. But for God's sake let's not head towards the prohibitionist solution. Let's work towards education and the management of a problem because I believe that will be more successful in the longer term. I would hazard a guess to say that what total prohibition will do is stop everybody but problem gamblers from gambling.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 8, by leave, taken together and agreed to.

Clause 9.

MS DUNDAS (4.48): I move amendment No 1 circulated in my name on the sand piece of paper *[see schedule 2 at page 2756]*.

Mr Deputy Speaker, this amendment goes to the issue of time-limiting licences and in particular includes an additional system whereby licensees can renew their licences. The proposal of the Gambling and Racing Commission in its review of the Gaming Machine Act was to limit the length of a licence to five years. The commission at that time thought this would improve the compliance of licensees with provision of the Gaming Machine Act. I appreciate that many of the concerns raised by the commission in raising this issue have been dealt with by other means. Particularly, the commission may order the compliance of a licensee at any time. However, I think there are additional benefits to this idea, which is why I am seeking that the Assembly supports the amendment today.

It is highly unusual for a government to issue licences for an indefinite period. We put time limits on liquor and tobacco licences, on licences for running a brothel, on drivers licences and even on the lease for the use of land in the territory. What is so special about poker machines that they should get special treatment and be licensed indefinitely? It is clearly poor governance to continue handing out gaming machine licences in perpetuity. The commission raised that this issue might be problematic from the perspective of taking away a right, but my understanding is that the government has sought legal advice from the Government Solicitor and has confirmed that this would not expose the government to any liability, as it does not remove a right but simply changes a condition on a licence.

The second issue is that, by limiting the length of the licences, we allow the government and the Assembly future policy flexibility. My amendments do not affect the right of people who currently hold gaming machine licences, but they will allow the government and the Assembly the flexibility to change the licensing regime in the future if they wish. This is a very prudent position to take as the regulation of poker machines in Australia continues to change quickly. I do not think we should continue granting licences indefinitely in such a volatile and changing regulatory environment.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (4.50): Mr Speaker, the government will not be accepting this amendment. What it implies is that we should have a regular renewal process, and I think that is a retrograde step on what we do now.

We have within the commission an inspectorial process. We are a relatively compact jurisdiction. I happen to know some people who work directly in the commission, and they are very familiar with the characteristics and the doings of all of the clubs in the ACT. I would want to continue a process whereby we depend upon regular checks and on monitoring where it is thought appropriate, rather than slip back into a mechanical, regular, renewal process. Putting in a renewal cycle will only give us a more mechanical process than the one that we have now. The one that we have now is generally interactive, and I would like to think that we can continue to have an interactive process. Rest assured that, if people and clubs operate in breach of their licences, action will be taken.

MS TUCKER (4.52): I was waiting to hear Mr Stefaniak's argument, but I have listened to Mr Quinlan's, which seems to be that you do not need a regular renewal process—that is too mechanical. So I guess he is making assumptions about what that process would be, and he thinks that right now it is generally working very well. The Greens do not have a problem with this amendment of the Democrats; it is probably a greater accountability mechanism. We support it.

MR STEFANIAK (4.53): Having had the benefit of a good chat with the licensed clubs, I am inclined to accept the government's explanation in relation to this. We will not be supporting the amendment.

Amendment negatived.

Clause 9 agreed to.

Clause 10 agreed to.

Clause 11.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (4.53): Mr Speaker, I move amendment No 1 circulated in my name *[see schedule 3 at page 2761]* and present a supplementary explanatory statement to the government's amendments.

Amendment agreed to.

Clause 11, as amended, agreed to.

Clauses 12 to 14, by leave, taken together and agreed to.

Proposed new clause 14A.

MS DUNDAS (4.54): I move amendment No 2 circulated in my name, which inserts a new clause 14A *[see schedule 2 at page 2756]*.

I know that this amendment is consequential to amendment No 1, which has been defeated by this Assembly. I thought it was important to again make the point that we still remain with a licence situation in the ACT where somebody can have a gaming licence granted in perpetuity. Despite the argument put forward by the Treasurer, I still remain concerned about this. I hope that in the future we can come up with a way of addressing these problems and that we do not continue to have a system where poker machine licences are granted indefinitely.

Proposed new clause 14A negatived.

Clauses 15 and 16, by leave, taken together and agreed to.

Clause 17

MS DUNDAS (4.56): I move amendment No 3 circulated in my name *[see schedule 2 at page 2756]*.

Mr Deputy Speaker, this amendment goes to the way that the government is trying to deal with the situation of the cap. I have a great deal of concern about the government's proposed clause 17. The government's proposal means that the commissioner will continue to grant people the right to have a poker machine, even if there are no poker machines left under the cap.

This procedure will mean that some clubs or taverns are told that they have a right to have a gaming machine, but they are not allowed to have one because the cap has been reached. The fact that these people will then have to wait for machines to become available will probably mean that they will approach the Treasurer, and the Assembly, to simply have the cap increased because they feel it is their right to have a machine, and they will lobby quite hard to have that cap increased so that they can get those machines. I think this is putting the cart before the horse. The commission should not award people the right to have a machine when that machine does not exist.

Instead, my amendment puts forward that if the commission receives an application, it will hold on to that application until machines become available. A concern was raised that we did not have a way of dealing properly with the order of applications as they came through, once we reached the cap. This amendment deals with that situation without putting us in the untenable situation of people having a licence to hold a machine when that machine legally does not exist.

The best solution is one put forward here: that the commission hold on to an application until machines become available. Then it would be able to determine whether or not to grant machines. This means that no one will be given a right to poker machines when they are not available.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (4.58): We will not be accepting this amendment. It seems commonsense that, once an application is received, it can be processed. We do not want duplicated effort. People will have made their preparation for the application, and there will have been some interaction. It does not just happen like that—one form coming in. There will have been some exchange and interaction between the commission and the applicant.

I do not see any reason why at least conditional approval cannot be given, if the machines are not available. With the possible demise of some clubs, who knows when the machines will become available? And with the introduction of smoking bans we may see a number of machines become available. Should they become available and a perfectly adequate application is made and approved, why shouldn't it stand?

I would not mind taking this opportunity to say that the cap itself, which looked like some sort of transitional temporary measure when it was introduced, does not seem to me to be a logical way to manage the situation. What it means is: them that's got'em, keep'em; them that hasn't got'em, won't get'em. As the geography of Canberra changes, that is going to cause inequity. It is not a logical way of managing.

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

MR QUINLAN: Mr Deputy Speaker, I was just saying that I think the cap is an unsophisticated way of managing. Maybe we need to investigate it further, if we do not get too rigid later in the way this legislation is applied, changing, for example, the taxation regime so that there is a cost of holding non-performing machines. At this stage, clubs that have machines that they do not need right now or that are not producing are just not going to give them up, because they do not know what the future is. Because they may need them in the future, they are going to hang onto them.

Maybe the taxation regime, if it is an A+BX formula with a standing cost and then a different rate of taxation, will change the motivation to keep machines. That may be one way. Another way may be just to review the throughput of machines. If they are not utilised, then they may be forfeited. There are ways we can bend our minds to controlling the number of machines other than the cap, which is a blunt instrument. I just put that in as an observation.

MR STEFANIAK (5.01): I have another interesting observation, Mr Treasurer. I can recall when the cap was first introduced and the discussions around it. It was actually introduced rather reluctantly but nevertheless seems to have served us fairly well to date. As you rightly say, fortunately, some clubs do go under and some machines are handed back and, some years down the track, we are still just under the cap. In regard to Ms Dundas's motion, however, the Assembly is going to get lobbied whichever way it does it. We will not be supporting her amendment.

MS TUCKER (5.02): The Greens will be supporting Ms Dundas on this. This amendment relates to procedures for the commission in dealing with applications for machines that would bring the ACT over the cap. The procedure proposed in the bill for the commission is to advise the applicant that no machines are available and to give, essentially, a promissory note.

Ms Dundas's amendment would change the procedure. Instead of the promissory note, the commission would simply advise the applicant that there are no available machines. Then the commission must not deal with the application until the gaming machines sought to be authorised under the licence, or amended licence, can be authorised without the maximum number being exceeded. Applications would, in any case, be dealt with in the order in which they are received. This system has the advantage of not raising expectations.

In response to Mr Quinlan's comments, the basic reality is that we are oversupplied with poker machines in Canberra, and everyone acknowledges that. I am not saying, as the person who initiated the cap, that it is the most ideal situation to deal with the impact of having poker machines to the degree that we do in Canberra, but it is certainly one way to address it. I have yet to see an alternative suggestion from this government, or previous governments, to address the issue.

From what Mr Quinlan has said, it is pretty obvious that he thinks that the cap could go up, and he speaks about the inequity of the distribution of poker machines. It has to take me back to the original concerns of the community, particularly of people who are looking at the social and economic impact of poker machines on the community. Equity is the word we are focusing on. There is inequity in terms of the impact playing poker machines has on those who come from a lower income sector of society—the very detrimental impact felt by people who gamble in a way that is not appropriate to their income. There are real questions of equity around that.

Mr Quinlan has said that the clubs need to be congratulated in the ACT. They have lifted their game on this, and I acknowledge that. Lifeline has worked with them. But as the person who first started raising issues around gambling in the very early days of the Assembly, I have seen the slow progress over the years. We have had an inquiry and a recommendation out of that to set up a commission; we have had the setting up of the commission and then the review of the legislation.

Watching it year after year, while we have certainly seen a framework that attempts to bring in a more socially responsible management of gambling in the ACT, there is no way that anyone in this place can say that we have dealt with the issues, because we have not. There has never been a thorough evaluation of the different harm reduction responses that are in place at the moment, and we still see quite concerning practices in some of the clubs, with the inducements and the drawing for the cars to get people in for that draw night, and so on.

Questions about the impact of clubs on the local economy and small businesses, on which, as members are aware—and I will not go into detail here—there have been some studies, have never really been evaluated in the local context. Both Labor and Liberal have been dragged along in this debate to try and address some of these issues, but I do not really think we have changed things all that much in the last eight years or so I have been working on the issue.

We have got a few more things happening, and I commend the work of the commission, but the reality on the ground, for people using poker machines, is not that different. I hear that from Lifeline and from people who are working at the ground level about the impact of the poker machines and how seductive they are. That is why we are pushing this note, except that it is being reduced to $20. As I read out before from Dickerson, it is a lot more complicated than just the four per cent of so-called problem gamblers. The whole atmosphere and environment of clubs and poker machines—poker machines particularly—are about seducing people to keep using them and spending money.

Of course, this is associated with alcohol—the very fact that you can only have poker machines where you have got alcohol. If you came and looked at a society and someone said, "Okay, we've got these things called poker machines, and this is how they work. We've got this substance called alcohol, and this is how that works. Let's put them together," you would think, "Maybe not. That's maybe not such a good idea." These are the basic realities we are dealing with. I can see that the major parties will not be supporting the measures that Ms Dundas and I are putting forward, but I wanted to make these comments in response to Mr Quinlan's comment.

Amendment negatived.

Clause 17 agreed to.

Clause 18.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (5.08): Mr Speaker, I move amendment No 2 circulated in my name *[see schedule 3 at page 2761]*. This is just a point of clarification in the final review of the bill about a couple of words that are redundant to the message. It is nothing earth shattering.

Amendment agreed to.

Clause 18, as amended, agreed to.

Clause 19.

MS TUCKER (5.08): I move amendment No 1 circulated in my name *[see schedule 8 at page 2764]*. This section relates to the publication of social impact assessments, which are required of applicants for a new licence or to amend a licence. The section as proposed requires an ad to be placed in an ACT newspaper alerting members of the public to the six-week consultation period on the SIA.

My amendment would add to that by inserting two new sections requiring a sign to be erected at the site of the proposed change, much like the signs required for a development application. The requirement would be that on or before the day the advertisement is published, the applicant must place a sign, called the information sign, containing information about the application in a prominent position outside each public entrance to the premises to which the application relates and ensure that the sign stays at the entrance for the six-week comment period.

The information sign for an application must include the following:

a) a description of the application;
b) a statement of when and where the social impact assessment for the application will be available;
c) an invitation to make written submissions to the commission about the social impact assessment within the six-week comment period;
d) when the six-week comment period ends; and
e) details of where to get more information.

This is a fairly straightforward amendment. The idea is that for the public consultation on the proposed new poker machines to be realistic as many potentially affected members of the public as possible should know. To elaborate, the bill establishes a six-week consultation period for members of the public to comment on the social impact assessment and thereby give their own input on social impacts.

While I welcome the proposed section, the problem is that not many people scrutinise the newspapers' public notice section to find out what consultations are coming up. Organisations such as ACTCOSS, CARE, the Consumer Legal Centre or Lifeline are more likely to notice such a notice and would be in a position to provide important comments and evidence, but most members of the public would not realise the opportunity was there. My amendment is a small step towards improving that situation. Requiring notices at the local shops would also improve it, but unfortunately I did not think of that until this morning.

Development application signs are put up on the public boundary so that passers-by see them. A potential problem with these signs is that they may not be seen by people who are just passing by, as distinct from people entering the club. The requirement, however, is worded to say that the sign should be prominent outside all public entrances and I believe this would attract the attention of some interested people at least.

In the case where a new premises is proposed, it would be sensible for the signs to be at the public boundary of or public entrance to the site. This is part of a process of recognising that establishing poker machine venues is not something to be undertaken lightly. I say poker machine venues because it is not only the machine itself. This is a straightforward amendment that will facilitate more scrutiny and input from the general public on the installation of poker machines.

MS DUNDAS (5.12): The Democrats will be supporting this amendment. It is quite sensible to put up a sign indicating that there is an application for a licence or amendment to a licence in relation to the social impact statement at the place where that licence is or may be in operation. That is, as Ms Tucker has indicated, what we do for development applications. I see no reason why we should not do it for these licence applications.

MR STEFANIAK (5.12): The opposition will be supporting this amendment. I note that there are quite a few good provisions in clause 19. Indeed, they could be dovetailed into the subclause of Ms Tucker's amendment in terms of where the assessment for application will be available. It could just as easily be from the commission. I think that there is logic in this amendment. It is very similar to the provisions in relation to development applications and seems to fit in quite nicely with clause 19.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.13): The government does not have a real problem with this amendment. It will be fascinating to see how it works in action. I very much doubt that it will elicit much of a response, but I do not have a great problem with it.

Amendment agreed to.

Clause 19, as amended, agreed to.

Clauses 20 to 24, by leave, taken together and agreed to.

Proposed new clause 24A.

MR STEFANIAK (5.14): I move amendment No 1 circulated in my name, which seeks to insert a new clause 24A *[see schedule 4 at page 2762]*.

This amendment needs to be read in conjunction with the application proceedings and the social impact assessments. A licence is needed for each site. The first couple of subclauses enable clubs that hold two or more licences for existing sites, such as the Tuggeranong rugby club, the Southern Cross Club and the Labor group of clubs, to transfer machines within the cap between those sites when the need arises.

They will now have to do so after the necessary social impact assessments have been made, which gives a certain amount of rigour to it and provides any concerned individuals with the ability to have their say in relation to that. This is something that the Licensed Clubs Association has been keen to see because, quite clearly, in some instances there is a much greater demand at certain premises and not so much at other premises. It is also a way of ensuring that a club does not have, as at present, to go to the commission and apply for more poker machines. It is a way of controlling the number of poker machines and keeping within the cap in the territory.

One of the big problems with this type of provision is the situation where a club is sold to another club or there is a merger. Subclause (3) provides that the commissioner must not amend one licence in accordance with the application unless the other licence is also amended and that an amendment cannot proceed in relation to a merger situation or a takeover situation until three years have elapsed. I think that that is an important provision. It is an accountability provision. Social impact assessments have to be done as well.

One of the criticisms in recent times of takeovers or mergers has been that the club taking over simply wants access to the poker machines of the club that has gone defunct. That is a very real problem with takeovers. This exercise adds a bit of rigour there. It ensures that that cannot happen for a three-year period. It would mean that, if there were a takeover or a merger, the lesser of the two sites, the club taken over, would have to retain the machines for three years and that only after a social impact assessment had been done could they be moved.

This amendment at least gives the clubs the flexibility to move the machines around commensurate with sensible commercial practice. Also, apart from the steps taken to put some rigour into the process, it assists with keeping within the cap by ensuring that clubs do not go off and make application for more poker machines. I see it as a way of ensuring that we have some chance of retaining the cap.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.17): Mr Speaker, the government will not be accepting this amendment. I think that it would confer an advantage on already large clubs. Let me give a specific example. It is not happening yet, but let's take Gungahlin as an example. It is a growth area. The Ainslie Football Club now has a large club called the Lakes out in the middle of Gungahlin. They would be, by this provision, in an advantaged position versus another sporting organisation that might want to set up a club in the northern part of Gungahlin in as much as they have the machines ready to go as opposed to another club that must start from the ground up.

I know of a current situation where a large club is applying for new machines even though it has underperforming machines elsewhere because that is its response to the cap. But that is a different question. The problem that Mr Stefaniak referred to of clubs applying for more machines is a function of the cap and I do not believe that club groups should have an advantage conferred over individual clubs, which is what this amendment does. It gives an efficiency advantage and a walk-up start to the larger club groups that already have an advantage.

Proposed new clause 24A negatived.

Clauses 25 to 29, by leave, taken together and agreed to.

Clauses 30 to 34, by leave, taken together and agreed to.

Clause 35.

Ms Dundas: Mr Speaker, I seek clarification. If we debate my amendment and the vote goes either way, would that mean that Ms Tucker would not able to move her amendments?

MR SPEAKER: Ms Dundas, if you proceed with your amendment and succeed, Ms Tucker's amendments would not be applicable as currently drafted. If Ms Tucker wished to redraft her amendments to amend your amendment, she could move them after you have moved your amendment.

Ms Tucker: What would happen if mine went first and were passed?

MR SPEAKER: If Ms Dundas did not proceed with her amendment, you would be able to proceed with your amendments.

Ms Tucker: If mine were successful, could Ms Dundas still move her amendment?

MR SPEAKER: No.

MS DUNDAS (5.20): I move amendment No 5 circulated in my name *[see schedule 2 at page 2763]*.

Mr Speaker, I thank you for that clarification. Ms Tucker and I have concerns about how the cap is to be regulated under the new Gaming Machine Act and my amendment seeks to make it quite clear that the only way that the cap can be changed is through legislation. The Democrats do not agree with the cap being changed before the Assembly has time to scrutinise that change, which is what the government is proposing by making changes to the cap under a regulation that is a disallowable instrument.

When we are talking about an issue as fundamental to this whole debate as how many gaming machines will be allowed in the ACT, I think that it is important that we have that debate in the Assembly before any changes are made. We could end up with a situation in which a change was made under this legislation to the cap in the ACT and

we had a queue of people waiting to get machines, because they had all had their licence applications agreed to under the licensing regime, the machines automatically went out, because the cap had been changed by a disallowable instrument, and at the next available sitting day, be that a week, three months or possibly six months between assemblies, the disallowable instrument hit the floor of the Assembly and the Assembly voted down an increase in the cap.

We would be voting down an increase in the cap when those machines were already out in the community being used. That would not be a very good situation for anybody. It would put this Assembly in the position of being forced to make a decision that would impact on a club's business in terms of removing machines from it. It is not right to force the Assembly into that situation. If we are going to increase the cap, let's have the debate in the Assembly before the change can be enforced in any way.

I have moved this amendment to make quite clear that the only way the number of machines in the ACT can be changed is by having a debate in this Assembly before that change occurs. I am disappointed that the government is trying to make it happen through a disallowable instrument, because that just restricts accountability. For an issue that has been through so much debate in this Assembly, it is disappointing to see that move being taken.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.27): Mr Speaker, we will not be supporting this amendment. I have already stated my reservations about the cap as a simplistic blunt instrument and not necessarily an effective instrument. It will just give rise to inequity in the longer term. I fully concede that there may be better ways to change the way we govern the total number of machines, but I just cannot accept this amendment.

Amendment negatived.

MS TUCKER (5.28): I seek leave to move together amendments Nos 2 to 4 circulated in my name.

Leave granted.

MS TUCKER: I move amendments 2 to 4 circulated in my name *[see schedule 8 at page 2764]*.

Amendment No 2 of the Greens would limit the direction of changes that could be made to the cap. It would specify that the minister could only reduce the cap by instrument, rather than the current wording which allows the minister to increase the cap. The primary reason for this amendment is that it is clear that the ACT has enough poker machines. We have, as we are regularly reminded, the highest number of poker machines per capita. If there were a firm upper limit on the number of machines, either new areas of Canberra would not get clubs with poker machines or, if there were truly a demand for them, an existing club could transfer some of its machines.

Clubs have been established in Canberra as places where there are electronic gaming machines, but clubs for community purposes could be run without them. In Western

Australia, the only poker machines are in the casino and Western Australia does, in fact, have clubs. If there were a good case for increasing the limit, it could come back to the Assembly as a law change. While this provision in the bill requires a recommendation for change from the commission before the minister may make such a declaration, I believe that it would be better to have a firm cap. The only acceptable direction for the number of poker machines is down.

In the event of this amendment not being successful—I do not think that it will be from what I am hearing—acceptance of my next amendment would have an important effect on the clause as it stands in the bill. That amendment seeks to make an instrument increasing or decreasing the cap into an allowable disallowable instrument; that is, the instrument would not come into effect unless the Assembly had rejected a motion to disallow the instrument or the disallowance period had expired.

That is to avoid any complications in the case of a cap being raised, machines being allocated and the increase then being disallowed by the Assembly. It fits common administrative practices, I understand, but has the advantage of providing a legislative basis for delaying action until the change is certain. I think that this is a very sensible and non-controversial change and I hope that it will be supported.

My fourth amendment is, essentially, consequential upon the passage of my next amendment, but I will put the case here. I am proposing that the cap be reduced whenever a licence is surrendered to the commission. A licence would be surrendered when a club closes or possibly when the commission assesses that machines are being underutilised. I find it a slightly bizarre concept that, if they are being underutilised, it may be that they are being used but not in a harmful way, but it remains arguable at least that this indicates a smaller demand for poker machines. In response, it would make sense to reduce the cap by that amount.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.32): We will not be accepting these amendments. These amendments are, effectively, prohibition by stealth and, as I have said, I do not accept that prohibition is the answer. Amendment No 3, which is about the disallowable instrument and the timing of it, would in large part reverse the process we have. We have a process of regulation of disallowable instruments to allow from time to time sensible decisions to be made and I think that we should be consistent.

I really think that the Assembly should give some credit to the commission in the advice that they will give and the way that they will issue licences. They are not going to issue licences until they are certain that the machines are available. That is just a nonsense situation. I think that we can put that much trust in the commission that they are able to manage a process that will not cause silly outcomes such as approvals and then reversals of approvals because of inadequate numbers. Let's be a little bit practical about how we set this up.

MR STEFANIAK (5.33): Mr Speaker, we certainly will not be supporting Ms Tucker's amendment No 2, but I would like her and Mr Quinlan to address any real practical and legal problems with amendment No 3, because she is actually making it an allowable instrument, which, on the face of it, seems to have some merit.

Mr Quinlan: I don't have a great problem with it, Bill. It is just that it is inconsistent with the way we handle disallowable instruments.

MR STEFANIAK: Unless there is some pressing problem with that, I am inclined to support the amendment at least to see how it works. It seems to me to be a reasonably sensible suggestion. I do not think that, on the face of it, it is going to cause too much angst to anyone. We will certainly be supporting amendment No 3. I am not quite sure what Ms Tucker is trying to aim at in amendment No 4, or whether it is just consequential upon something, but we will support amendment No 3.

MS DUNDAS (5.34): I am quite happy to support these amendments. There are some questions to be asked about the next clause that Ms Tucker is proposing but, if we are going to have a cap, ensuring that it actually exists as a cap is a very important argument. I am particularly pleased to see amendment No 3 and to hear Mr Stefaniak say he is willing to consider supporting this amendment.

The Treasurer has asked us to have faith in how the commission will issue licences. I do think that the commission does a very good job in how it manages these things, but under clause 12 the commission must issue a licence to the applicant if a series of requirements is met. It does not have a choice; it is a must. There are some grounds for the commission to refuse an initial licence application, but they are all in relation to how a club is managed and decisions of that club in terms of its rent.

If the cap is increased by a disallowable instrument, the commission might not have any choice but to issue the machines. That is why I have so many concerns about how that cap, as regulated by a disallowable instrument, will function. Having it as an allowable disallowable instrument, as Ms Tucker has proposed, gets around that problem. So I hope that this amendment will be supported by the Assembly today. I had hoped that it would support my amendment, but we cannot have everything. I hope that this amendment will be supported so that we will not end up in a situation where the commission is forced to give out a machine and then the Assembly has to have a debate about whether that was the right thing to do.

Ordered that the amendments be divided.

Question put:

> That amendment No 2 be agreed to.

Question resolved in the negative.

Question put:

> That amendment No 3 be agreed to.

Question resolved in the affirmative.

Question put:

That amendment No 4 be agreed to.

Question resolved in the negative.

Clause 35, as amended, agreed to.

Clause 36 agreed to.

Clauses 37 to 43, by leave, taken together and agreed to.

Proposed new clauses 43A and 43B.

MS DUNDAS (5.39): I move amendment No 7 circulated in my name to insert new clauses 43A and 43B. *[see schedule 2 at page 2756]*.

This amendment relates directly to gaming machines with note acceptors and states that it would be a condition of the licence that a licensee must not operate a gaming machine with a note acceptor on the licensed premises. I am moving this amendment as a harm minimisation measure.

One of the things that so many of the surveys, so many of the discussions and so much of the work that has been done with problem gamblers have shown is they would like it to be harder for them to lose big amounts of money in one go. Being able to put $50, $20 or $10 into a machine and lose it all in one go is one of the problems that they experience in terms of actually trying to walk away from a machine. They get sucked into putting more and more notes through a machine and they have the ability to lose far more money in the same amount of time than they would have been able to lose if they were just putting in 20c coins or $1 coins.

That is something that has been shown by a number of studies that have come forward. As a simple harm minimisation measure, I have moved that we not allow gaming machines with note acceptors to be operated in the ACT. There are exemptions to that in relation to what is currently happening in the ACT, but I think that that is something we need to work towards so that we no longer have this situation.

It is not necessarily going to happen that somebody will go up and get hundreds of dollars worth of coins. They would be embarrassed to be walking around with that amount of money in coins just to put through a poker machine. But it is quite easy to pull out a wad of notes and stick them through a poker machine. For harm minimisation, to protect those with gambling problems, I urge members of this Assembly to support this amendment and not make it easier for those with gambling problems to lose more money more quickly.

MS TUCKER (5.42): This amendment seeks to prohibit the use of note acceptors. The Greens support this amendment. For reasons I discussed in the in-principle stage, removing or limiting note acceptors would be a useful harm reduction strategy. I flag with members that, when the regulations are tabled, I will move for the introduction of a cap of $20 on note acceptors. That would be in addition to the limit on the types of notes that can be put into a machine to $20 notes. I am supportive of this amendment.

I would just ask members to note that, in the event that it is not supported, I will be moving for a different form of harm minimisation at the regulation stage, which, as I said, will be a cap of $20.

MR STEFANIAK (5.43): I will not be supporting this amendment, Mr Speaker. As a result of the review, the commission has made recommendations in relation to restricting note acceptors to $20 notes, which, in the various discussions that I have had over a period, seems quite reasonable. Accordingly, we will not be supporting this amendment.

Proposed new clauses 43A and 43B negatived.

Clauses 44 to 53, by leave, taken together and agreed to.

Clause 54.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.44): I move amendment No 3 circulated in my name *[see schedule 3 at page 2761]*.

This amendment is purely a matter of clarification, again arising out of a review undertaken after drafting.

Amendment agreed to.

Clause 54, as amended, agreed to.

Clause 55.

MR STEFANIAK (5.45): I move amendment No 2 circulated in my name *[see schedule 4 at page 2762]*.

This amendment is about something that snuck in under the radar of the review and the government's response to the review. The amendment removes paragraph (g) of clause 55. Perhaps it was not appreciated that clubs are corporations as a result of an amendment moved by the former Liberal government several years ago which imposes certain obligations and certain duties on clubs. It was not the most popular amendment at the time, either. The clubs were not terribly keen on it. Nevertheless, it was passed and it has been accepted and is working.

I have considerable sympathy for the view put by the Licensed Clubs Association in relation to this amendment unnecessarily and unreasonably fettering the discretion of a board to run its club properly. At first blush, the provision might look reasonable, but not when you consider the Corporations Act as well. Directors are liable for decisions taken. In fact, I think that they are liable for up to six months after they cease to be directors. This provision is a huge problem for the club industry. The club industry, as I said in my opening remarks, does have a number of significant pressures on it. We have seen clubs go to the wall. If wrong decisions are taken or decisions are taken inappropriately, a community could lose its club. In consideration of those things, we are proposing the removal of paragraph (g) of clause 55.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.47): Mr Speaker, the government can accept this amendment. As Mr Stefaniak pointed out, this provision was slipped in rather later, certainly beyond the consultation stage. We had not consulted on this provision to any extent. I have had some more recent discussions on it, particularly in relation to the financial structure of clubs and their capacity to take out mortgages and leases. There may be room for some tightening in this area at a later stage, but I think that this provision might cause more difficulties than it would solve, so we are happy to cop this amendment.

MS TUCKER (5.48): We will not be supporting this amendment. It would delete from the bill the new requirement that clubs must have a vote of their members in support of any acquisition or disposal of land; for example, by lease or sublease. I understand from listening to Mr Quinlan that the government is withdrawing from this provision, which I think is a pity.

This new requirement, while it is only one step, does at least go to the issue of whether the boards of management of clubs are focused on what should be their main business, that business being to meet the objectives of the community purpose for which the club was originally established. While requiring a vote of voting members does not ensure that that guides the decisions, it does at least give some enforcement to a club's claim that it is a special case because of its membership and community purposes.

We face the problem of clubs becoming big businesses. In the time I have been in the Assembly, I have been involved in several disputes about allegations of clubs or particular directors of some clubs profiting from the selling of land. Also, concerns have been raised with me about clubs acquiring property in other places. I think that it would not be interfering too much with a board to require in these major decisions the supportive vote of members.

I am informed that the voting members of clubs are not the same as the social members. It is more usual, I understand, for the voting members to be connected to the purpose of the club, so a connection to a sporting team, et cetera. Mr Stefaniak's argument is that this provision would interfere with a board's capacity to manage a club and that there is enough accountability within a club, in that members can vote for new board members. On such major decisions, I think it is important to ask that members of the club also support the board.

Amendment agreed to.

Clause 55, as amended, agreed to.

Clauses 56 to 65, by leave, taken together and agreed to.

Clause 66.

MR STEFANIAK (5.50): Mr Speaker, I will be opposing this clause. In speaking to this clause, I am also speaking to clause 67. Clause 66 relates to having a centralised monitoring system. New South Wales, which was very much behind the ACT in terms of

the monitoring of poker machines, went to a centralised system. For a huge state with about 6,000 clubs, there might be some logic in that. We have, I think, 64 clubs. The information that the commission receives is received within three or four weeks.

It has been pointed out that this monitoring is something that the clubs would have to pay for and would cost them about $360 a machine per year. In the case of medium clubs, the impost would be quite significant at about $50,000. For larger ones, it would be hundreds of thousand of dollars, to do something that is really being done at present. We would certainly want to see a proper cost-benefit analysis done just to see whether there is any real need for this monitoring.

I note that in recent discussions the government has indicated that it does not intend to do too much about this matter. It has in clause 67 regulation making powers to provide for the establishment and operation of the CMS and may fix a date for that in future, but the government has no intention of doing anything at this point. It may well be that it will be desirable for work to be done down the track, but I think it is bad law as much as anything to have these provisions on the books if nothing is going to happen in the foreseeable future. If something is going to happen in the foreseeable future, the government can simply bring an amendment to the Assembly at the time and have it passed.

At this stage, these two clauses serve no real purpose. I suspect that there would be significant problems with them if they were actioned immediately, which is not going to be the case. I think that the most sensible thing to do is to delete them by opposing them. If the government does show down the track any need to have such a system, a small bill could be prepared and the monitoring could happen then.

MRS CROSS (5.53): I shall be opposing clauses 66 and 67, as I believe that the introduction of a central monitoring system would be overly costly and unnecessary. This project would be a costly one that would undoubtedly hurt many clubs, particularly small and medium sized clubs, as the costs would be passed on to them. Further, it is my understanding that, even though this system is being placed into legislation, it will not be implemented. I shall therefore not be supporting attempts by the government to introduce this system.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.53): The central monitoring system will be implemented if it is cost effective. We have had an amount of protestation from the club industry. We have certainly had some strong lobbying and I am prepared to listen to that and take note of it, but it is strange that the clubs that have come to us and said that they could not do it because it would be prohibitive can somehow run link jackpots without a problem, and with great alacrity. I think that these provisions should stay in the act on the basis that, provided it is not going to be an inordinate impost upon clubs and provided the case stands up, there will be a central monitoring system.

Clause 66 agreed to

Clause 67.

MR STEFANIAK (5.54): I make the same points on this clause. I oppose this clause as well, Mr Speaker, and I rely on what I said earlier.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.55): I move amendment No 4 circulated in my name *[see schedule 3 at page 2761]*.

This amendment is just tightening up the grammar within the bill.

Amendment agreed to.

Clause 67, as amended, agreed to.

Clause 68 agreed to.

Clause 69.

MS TUCKER (5.57): I move amendment No 6 circulated in my name *[see schedule 8 at page 2764]*.

Clause 69 establishes the basis for the commission to monitor and allow or not allow the introduction of new types of gaming machines and new peripheral equipment. Note acceptors are an example of peripheral equipment. The commission would signify its approval of such equipment by a notifiable instrument. The clause requires the commission to consider what is, essentially, a reputable technical evaluation of the new equipment.

My amendment adds to that required assessment by requiring the commission also to consider any available research on the consumer protection and harm minimisation implications of the gaming machine or peripheral equipment proposed to be approved. This is important because such technologies are not neutral in the effect they have on the gaming experience and hence on the risk of people spending much more than they should and thereby harming themselves, their families and so on.

This amendment on its own simply adds to the statutory requirements for the commission's consideration. It does not add any other scrutineers to the process of checking the equipment we are bringing in; it just gives effect, essentially, to the commission's obligation to conduct its activities with consideration for consumer protection, which I remind members is one of the objectives of the act. I think that it is a simple and sensible amendment.

Amendment agreed to.

MS TUCKER (5.58): I move amendment No 7 circulated in my name *[see schedule 8 at page 2764]*.

This amendment seeks to change the notifiable instrument approving new types of gaming machines or new peripheral equipment to a disallowable instrument in the form of an allowable instrument. I think that I have put the case for having some Assembly

scrutiny of the new forms of equipment I have mentioned, in that they are not necessarily neutral forms of technology. Some will not be of concern and some will, so I am saying that this approval is simply a technical administrative question, but that in some cases there will be important policy considerations to be dealt with.

The commission's work in fulfilment of clause 69 (2) should be available to inform consideration of the technology. A case for an allowable form of a disallowable instrument is, again, that where the instrument authorises the use of new equipment it would create great difficulties if the equipment were purchased and then the authorisation was withdrawn by the Assembly. It is better to wait until the authorisation is solidified by the scrutiny of the Assembly.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.59): The government will not be accepting this amendment, Mr Speaker. I do not intend to do the job of the commission. That is why we have a commission and that is why we have the experts in the field. I am happy to leave it to the commission to do the job that it is legislated to do.

MR STEFANIAK (6.00): Whilst I saw a lot of merit in Ms Tucker's amendment earlier about allowable instruments in relation to the cap, I tend to agree with Mr Quinlan on this one and will not be supporting the amendment.

Amendment negatived.

Clause 69, as amended, agreed to.

Clauses 70 to 152, by leave, taken together and agreed to.

Clause 153.

MS DUNDAS (6.01): I move amendment No 9 circulated in my name *[see schedule 2 at page 2756]*.

This amendment basically brings life to a bill which I already have on the table but which would need to be substantially reworded as the amendments to the Gaming Machine Act go through. The aim of the amendment is to remove ATMs from licensed premises that hold poker machines. As I put forward when I tabled my bill for the removal of ATMs from licensed venues, I am seeking to do so solely as a harm minimisation measure.

The ACT Gambling and Racing Commission, in its review of the Gaming Machine Act 1987, recommended that ATMs be prohibited from gaming licensees' premises. The recommendation was based on research conducted by the Productivity Commission on Australia's gambling industries and from the survey of the Australian Institute of Gambling Research on the nature and extent of gambling and problem gambling in the ACT.

Research has already been done that shows that we should remove ATMs from gaming venues. It prohibits only ATMs, not EFTPOS facilities, so that patrons may still have

access to cash facilities at gaming premises. That is also in line with the recommendation of the Gambling and Racing Commission.

The reason we would work to allow access to EFTPOS facilities but not ATMs is that, when you are accessing EFTPOS facilities, you are usually restricted to smaller limits of cash, venue-imposed limits, and gaming machine licensees would then become aware of users that are repeatedly using EFTPOS facilities, particularly in a short period, to take out more cash to put through machines.

That would assist the providers in identifying possible problem gamblers and enabling them to take the appropriate action, as they should under the code of conduct. It also means that patrons who wish to access cash can still access cash; their rights have not been limited. But problem gamblers will be subjected to a reality check, a conversation with somebody when they need to access cash. I do not believe that this is a controversial amendment. It is working solely to ensure that problem gamblers are supported in terms of not continuing their habit.

Research conducted by the federal government's Productivity Commission shows that problem gamblers are the biggest users of ATMs in gaming venues. Ninety per cent of patrons who are not problem gamblers say that they use the machines rarely or never. Patrons who are not problem gamblers are not accessing ATMs, so removing ATMs would not severely impact on them. However, 75 per cent of problem gamblers use the machines regularly to withdraw cash. This amendment is targeted specifically at problem gambling.

I hope that the Assembly will see the benefit of this amendment in terms of specifically targeting problem gamblers and not trying to impact on patrons who are using a club in other ways. I have discussed this amendment with ClubsACT and I heard the issues that they raised. I have used ATMs in club facilities, but that is something that I am willing to let go of so that problem gamblers can get a reality check and we can support them in terms of dealing with their habit. Other patrons will be still able to access EFTPOS facilities, so it would not be a large impost on them. This work is being followed in other states. South Australia and Tasmania are examining it and I think that it is something that we should be doing in the ACT.

MRS CROSS (6.05): I shall take this opportunity briefly to express my support for Ms Dundas's intention to increase the number of harm minimisation measures in gaming areas in the ACT. Harm minimisation is crucial to reducing the alarming levels of problem gambling in society. Warning signs, clocks, restricted cash facilities and a prohibition on credit are all important measures designed to reduce the incidences of problem gambling. Whilst I respect Ms Dundas's attempt to implement a further harm minimisation measure through prohibiting ATMs from licensed premises, I cannot support this one as it would substantially impact upon other areas of a club, pub or tavern.

I am fully supportive of ensuring cash facilities are not provided in gaming rooms, but I do believe that prohibiting ATMs from clubs would be going too far. It would not only affect the convenience of non-gambling club patrons but also substantially damage other activities of a club, such as food and beverage services.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (6.06): Mr Speaker, the government believes that the provisions already in this bill ought to be given a chance, that the code of practice and other provisions of this bill ought to be given a chance. I really think that we should not get to the stage of deluding ourselves into believing that we know exactly the best cures. Certainly, I am a frequenter of a club and I use the ATM in the club. I happen to be a guy that works odd hours and it is often the only access that I have to an ATM at night.

I have not fully examined the Productivity Commission's figures. I find them difficult to relate to, but I will not deny them. I know of so many people that use the ATM at my club of choice who play poker machines very occasionally and who would probably attend the ATM more than they would attend the machines. That includes me. Unlike Ms Dundas, I do not think that we should impose this sort of prohibition, to the detriment of the convenience of the vast bulk of members.

MR STEFANIAK (6.07): We will not be supporting the amendment, either. I note that clause 153 does make some provisions along the lines of what Ms Dundas is seeking to do in the first part of her amendment; but in relation especially to the ATMs, I tend to agree with both Mr Quinlan and Mrs Cross. I know quite a few people who for convenience and for safety reasons, especially elderly people, prefer to draw money out of an ATM in a club. Some of those people probably never play a poker machine and are not remotely interested in doing so.

Poker machine players are not the only people to benefit from the presence of ATMs in clubs. I suppose I have only ever got money out of an ATM at a club on two occasions in my life, but I am rare. I tend to go to a hole in the wall. Even that worries me at times, and I am a big bloke. I imagine that elderly people would find it particularly convenient to go into a club for a convivial drink and access one. They are probably not remotely interested in the poker machines, but wish to have this convenience there that outweighs some of the potential harm. Accordingly, we will not be supporting this amendment, either.

MS TUCKER (6.09): The Greens will be supporting this amendment. I think that it is a sensible measure because we know that the evidence clearly indicates that access to money is a serious issue. I think that there are ways of ensuring that people have access to what they need for their food and so on in a club without having an ATM there.

Amendment negatived.

Clause 153 agreed to.

Clauses 154 to 158, by leave, taken together and agreed to.

Clause 159 agreed to.

Motion (by **Ms Dundas**, by leave) agreed to:

> That clause 159 be reconsidered.

Clause 159—reconsideration.

MS DUNDAS: I move amendment No 10 circulated in my name *[see schedule 2 at page 2756]*.

The amendment is on a sand coloured piece of paper. As members will note, an amendment has been circulated on a white piece of paper. Clause 159 has to be amended first and, if I am successful in that regard, I will move the amendment circulated on the white piece of paper. I thank members for their attention to detail in highlighting to me that there was a small error in drafting that required another amendment to be circulated.

The aim of these amendments is to ensure that the rate at which gaming tax is prescribed is kept in legislation, that it does not become a disallowable instrument. We have at other points raised the discussion about the problem with issues coming through in disallowable instruments. I think that this is especially relevant in relation to taxation, as we could have a situation where a tax is being levied on licensees and then the Assembly debates the issue and changes the tax, but for a period of up to six months the tax is being taken at one rate and after the Assembly has debated it the tax is to be taken at a different rate.

The provisions that I am seeking to put in here in relation to the prescribed percentage and how it is calculated for a licensee are identical to what is in the current act, so nothing is being changed there. I am not changing the regime or the levels at which the licensees are actually taxed. I am just maintaining this position in the law so that any changes being made to the tax regime have to come to the Assembly first.

MR STEFANIAK (6.13): The Opposition will be supporting Ms Dundas's amendment and also, I flag, her amendment on the white piece of paper to the new clause 159A that she will be moving shortly if she is successful with this one. This one does put it back in the tax regime. As I flagged in my opening remarks, we see that as preferable. It is not something that the government changes all that often. I think that there would be a furore if they did, as these changes become very big issues. I think it is far more transparent to have the tax in the legislation. It has been changed on a few occasions but not all that often, so we are very supportive of that.

It was been pointed out by the gaming officials, and I thank them for it, that there was a technical problem with this amendment which Ms Dundas has very quickly fixed up with her proposed new clause 159A in relation to what would have been a double tax and making provision there for the GST.

Mr Quinlan: We wouldn't want a double tax, would we, Bill?

MR STEFANIAK: We certainly wouldn't; that would get them all absolutely up in arms, Ted. We are very happy to support both of these amendments.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (6.14): It would appear that there is the possibility of this amendment getting up. The government is not keen on this amendment. It is actually a retrograde step in terms of what we have done with various

taxation provisions and ratings to try to make the process more effective and efficient. The Assembly has generally supported that. This move will be inconsistent with the changes that we have made to revenue bills so far.

I do not understand and it is yet to be explained why we would have different treatment of this revenue measure over others. I guess it has something to do with the emotion attached to poker machines. I do congratulate my officers for tidying up the legislation. This has been one of those weeks for legislation to need to be sorted out. But the government is not keen on the amendment. We would much prefer this revenue measure to be applied consistent with virtually all the other revenue measures that we have and treated in the same way. If someone could possibly explain why this one has to be different, I might be a little bit more enlightened.

MS TUCKER (6.16): This amendment changes the tax rating in at least one way, possibly two. Firstly, it changes the method of setting tax rates from a disallowable instrument to being part of the act. This is one amendment I have not had time to understand in detail, since we received it only yesterday. It is because of that that I am not able to support it today.

Things to consider in setting tax rates include the government revenue not being too dependent on tax from gambling, a fair rate in terms of competing businesses, and the use to which the tax is put in terms of preventing harm. Unfortunately, we have no mechanism for linking these two and the best option, I have argued, would be for a mandatory amount—say, one per cent of gambling revenue—to go to a problem gambling fund, which I know was widely supported in the community a couple of years ago when we were working on these issues.

MS DUNDAS (6.17): I hear Ms Tucker's concerns. I wish to clarify that my understanding is that this amendment is about a provision that was already in the Gaming Machine Act of, I think, 1987 and we are just ensuring that it stays in the act and does not become a disallowable instrument. I put forward that argument in relation to a number of things when I spoke before, but that was just to clarify that.

Question put:

> That **Ms Dundas's** amendment No 10 be agreed to.

The Assembly voted—

Ayes 8		Noes 7	
Mrs Burke	Mrs Dunne	Mr Berry	Ms MacDonald
Mr Cornwell	Mr Pratt	Mr Corbell	Mr Quinlan
Mrs Cross	Mr Stefaniak	Ms Gallagher	Mr Wood
Ms Dundas	Ms Tucker	Mr Hargreaves	

Question so resolved in the affirmative.

Amendment agreed to.

Clause 159, as amended, agreed to.

Proposed new clause 159A.

MS DUNDAS (6.22): I move the amendment circulated on the white sheet of paper for the insertion of new clause 159A *[see schedule 7 at page 2764]*.

Mr Speaker, this amendment is consequential upon the amendment just put in terms of fixing up a technical issue that was recently brought to my attention in relation to the GST and not wanting to double tax clubs. That was not the intention of the amendment I moved and this amendment clarifies that.

Proposed new clause 159A agreed to.

Clauses 160 to 162, by leave, taken together and agreed to.

Clause 163.

MS DUNDAS (6.22): I seek leave to move together amendments Nos 11 to 16.

Leave granted.

MS DUNDAS: I move amendments Nos 11 to 16 circulated in my name *[see schedule 2 at page 2756]*.

Mr Speaker, these amendments go to inserting a new definition for social and charitable community contributions, which was a recommendation of the Gambling and Racing Commission. That recommendation related to mandating that two per cent of gambling revenue be directed towards social welfare and charity organisations. To enact that recommendation, I have moved amendments to insert a definition for social welfare and charity organisations. Later, I will have other amendments that would actually mandate that two per cent mark there.

There is a broader debate about the reliance of sporting clubs and other organisations and the government on gambling revenue. Whilst that is a very important debate at this point in time, we continue to have gambling revenue in the ACT. We have poker machines operating. I think that it would be a good thing if there were greater targeting of where that revenue actually went and we should be supporting those in the community that are doing the charitable and social welfare things that they are doing.

I know that clubs will say that they already contribute to these sorts of organisations. I recognise that and I recognise the good work that clubs do, but I think that we should have at least a mandatory minimum so that those clubs that are not already doing so will have to lift their game and support those in the community that assist the community.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (6.25): Mr Speaker, the government does not accept these amendments. I think that they actually show to some extent a lack of appreciation of the full spectrum of the club industry. Not all of the club industry is rolling in dough. Some of the club industry is running at an official loss, but

continues to battle to provide various dimensions of community, including sport, which seems to be the one that gets frowned upon a little.

If you are fair dinkum about charitable and social welfare, I think that you should come into this house, move an amendment to the act, increase the tax by two per cent on poker machines and then redistribute that income according to some formula or process or through some trust. I do believe that we should allow clubs that have been set up by volunteers to promote cultural, ethnic or sporting activity to contribute to that activity and be recognised as part of the community—not a lesser part of the community than outright charity, but a genuine part of the community.

Some of them are near the edge and, as I said earlier in this debate, it is probable that for at least an interim period they will get closer to the edge when smoking bans come into play. I do think that this proposal is overly prescriptive and restrictive in terms of what clubs might do. A lot of these clubs are run by volunteers who put work into trying to promote their particular dimension of the community, and we need them. Instead of saying that that is a lesser activity, they ought to be lauded for it as opposed to being somehow put in a position where they feel that they have to apologise for using poker machine revenue or they have to apologise for supporting sport. I think we really ought to take a different attitude.

MR STEFANIAK (6.27): Mr Speaker, I certainly agree with what the Treasurer has said. Indeed, attempts have been made both here and elsewhere to divide up and categorise how clubs should do their thing. That might happen to an extent in New South Wales. I think that the requirement there is something like 0.6 per cent and 0.9 per cent of revenue for certain things and the clubs there have all sorts of difficulties in terms of actually divvying it up.

We had this argument several years ago. I can remember when it was proposed that we do something along the lines of what Ms Dundas is doing now—you were not here then, Ms Dundas—and it caused huge angst among the clubs. As Mr Quinlan has rightly said, these clubs have all been set up with articles of association. Most of them have been set up with some specific aims in mind. As I said earlier, sport is terribly important. It is one of the main reasons that a lot of these clubs exist and they do a wonderful job for the community.

In terms of looking at charitable things, they help people who otherwise would not get help. They help kids who are at risk by providing good sporting opportunities for them. They should be recognised for the excellent work they do. A whole lot of the clubs would not know a football if they fell over one and are much more interested in supporting other avenues, be they charitable or artistic pursuits. I think that it all pans out pretty well, with some $15 million in contributions being made last year above the seven per cent or whatever it is the clubs are required to make. I think that we should give credit where credit is due.

I must say that I am pleased to see more contributions going to other pursuits as well. In fact, the community contribution section is deliberately broad to enable clubs to give money for a broad spectrum of very useful community purposes, ranging from sport to artistic pursuits, charities, assisting people in need, and assisting certain ethnic dance groups or whatever, and I do not think that we should be prescriptive. I think that the

system works very well. It works far better than it does in New South Wales, where there is prescription. Whilst I understand where Ms Dundas is coming from, she probably is not aware of the history of the matter and the fact that, after a lot of effort, this system has been worked out and is going very well indeed. Accordingly, we are not able to support the amendments.

Sitting suspended from 6.30 to 8.00 pm.

MS DUNDAS (8.01): I was just going to make the point, in response to the things that Mr Quinlan and Mr Stefaniak were saying, that I do not in any way think that clubs should not exist and I do recognise the good work that they do for the community in a whole range of areas. However, what these specific amendments refer to is money that is being put through poker machines, money that somebody picks up, sticks into a machine, into a slot and plays with.

Mr Quinlan: Bad person.

MS DUNDAS: I am not indicating that either, Mr Treasurer. The point I am trying to make is: why is that money more appropriate for a football or basketball team than for a social welfare organisation? We are not talking about the key constitution of the clubs. Poker machines are not part of the key constitutions of clubs. The key, the reason they are established, is to do all the diverse things that you have spoken about this evening, not to run poker machines.

The fact that they run poker machines means they are able to support their members and the community at large, and all I am asking for is that we specifically recognise that in relation to social and charitable organisations. I do not think this will see clubs going under, as Mr Quinlan put it. I see it as a mere extension of the support that they already give to the community. I do think some further questions have to be answered if clubs are relying solely on poker machines to survive. I commend these amendments to the Assembly.

Amendments negatived.

MS DUNDAS (8.03): I move amendment No 17 circulated in my name *[see schedule 2 at page 2756]*.

This amendment goes to the issue of which types of community contributions can be counted. Clause 163 of the bill discusses the types of contributions that are acceptable to be counted as such and those that are not. However, when you read the current section 163 (2), the example to the section states that a capital payment may be claimed proportionally over a number of years. At the same time, section 163B (6) explicitly includes depreciation as a type of notional provision that can be claimed as a community contribution.

I read this to say that, effectively, a licensee can claim both a capital payment and the depreciation on that capital payment as a community contribution. This is clearly double counting, as a licensee can count the capital payment, say, for building a new football field, and then depreciate the asset and count the depreciation again as a community contribution. The Gambling and Racing Commission specifically wanted to prevent

depreciation being counted as a community contribution, partly to stop this type of double counting.

After speaking with Clubs ACT, I have no problem with clubs claiming depreciation as a community contribution, as it allows licensees to spread the cost of an expensive acquisition over a number of years. However, I would have a problem with their claiming depreciation on an asset that they have already claimed as a capital payment, and that is what I am trying to address with this amendment.

In addition, the current section places restrictions on the type of capital payment that can be claimed. Only capital assets that are located in the territory and are available to the public can be claimed as a community contribution. However, this is not the case for depreciation, where there are no limits on the types of asset on which depreciation can be claimed. This means that a club could build some kind of facility in Queensland and could legitimately depreciate that asset and claim it as a community contribution here in the territory.

My amendment clarifies these two issues. It states that depreciation can only be claimed on an asset when it is located in the ACT and is available for use by the public. It ensures that depreciation cannot be claimed if the capital payment for that asset has already been claimed. I commend this amendment to the Assembly.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (8.06): If, as Ms Dundas explains it, that is the case—and I have the nod from officials that that is the case—I think we can accept these amendments. The intention is that clubs can certainly claim what they invest in facilities, but certainly only once. We are happy to accept these amendments. If they do need to be cleaned up, we can come back and do it, but our intention is certainly that there will only be a single claim.

Amendment agreed to.

Clause 163, as amended, agreed to.

Clause 164 agreed to.

Clause 165.

MS DUNDAS (8.07): I seek leave to move amendments Nos 19 and 20 together.

Leave granted.

MS DUNDAS: I move amendments Nos 19 and 20 circulated in my name together *[see schedule 2 at page 2756]*.

Ordered that the amendments be divided.

MS DUNDAS (8.07): Thank you, members. I am sorry for the confusion. Currently, only licensees who are clubs are required to give community contributions. However, after the passing of the Gaming Machine Amendment Act earlier this year, hotels and

taverns have been allowed to access class B poker machines. I also note that a number of hotels currently hold class B machines and they are not required to make a community contribution.

I am at a loss to understand why this differentiation exists, especially as the government has made such a big deal about the importance of gaming machine revenues that go towards different communities. This amendment, along with some other consequential amendments, addresses this issue and ensures that all licensees, regardless of whether or not they are clubs, are required to pay the same level of community contributions. I think that is only fair. I do not understand why somebody who has a poker machine in this type of venue can get away without paying a community contribution, but somebody who has a poker machine in a club has to pay a community contribution. I think it would be fairer if everybody contributed.

Question put:

> That amendment No 19 be agreed to.

Question resolved in the negative.

Amendment No 20, by leave, withdrawn.

MRS CROSS (8.12): I move amendment No 1 circulated in my name *[see schedule 5 at page 2763]*.

Mr Speaker, this amendment reinserts into the Gaming Machine Act a provision that exists in the current act requiring licensees to report the total value of contributions to registered parties and associated entities in their yearly financial reports.

It is quite reasonable to expect that any licensee who contributes to a political party or an associated entity should record these in their yearly financial reports. This would enhance the transparency of not only licensees but also the electoral process. Ensuring electoral transparency is important, and knowing who gave what to whom is also important. This amendment ensures this will be the case. This clause was an amendment to the previous act and should remain as such. I commend the amendment to the Assembly.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (8.13): The government will not be accepting this amendment, Mr Speaker. If this is a laudable objective, then it should be part of the Electoral Act. The Electoral Act covers disclosure of contributions. I do not see why we should start this stupid process of duplicating legislation on what are really emotive grounds rather than practical grounds. There is a process for the reporting of political contributions that covers everybody. Why shouldn't everybody—pubs, businesses, individuals—be treated equally? This is totally redundant.

MR STEFANIAK (8.13): It might be a bit of doubling up, but I think we report already, and it is reported to the Assembly, how the community contributions are divvied up and the value of them. We do not see any harm in this and we will support it.

Question put:

That **Mrs Cross's** amendment be agreed to.

The Assembly voted—

Ayes 8		Noes 7	
Mr Cornwell	Mr Pratt	Mr Berry	Ms MacDonald
Mrs Cross	Mr Smyth	Mr Corbell	Mr Quinlan
Ms Dundas	Mr Stefaniak	Ms Gallagher	Mr Wood
Mrs Dunne	Ms Tucker	Mr Hargreaves	

Question so resolved in the affirmative.

Clause 165, as amended, agreed to.

Motion (by **Ms Dundas**, by leave) agreed to:

That clause 165 be reconsidered.

Clause 165—reconsideration.

MS DUNDAS (8.20): I move amendment No 19 circulated in my name *[see schedule 2 at page 2756]*.

Mr Speaker, I have already put forward the arguments. I think it is important that, where there is a poker machine, the community contribution on that poker machine should be the same, irrespective of the location of that poker machine.

MR STEFANIAK (8.20): Mr Speaker, the opposition will not be supporting this amendment as there is a very big difference between clubs and other entities, which has now been clarified for most people in the Assembly. Basically, a club is a community organisation that is meant to churn its profits back into the community. Hotels and taverns are commercial, private enterprises and that is why, in the tax regime, they pay more tax. They pay a much higher rate of tax.

There might have been a bit of confusion about this because the hotels that have 10 class B machines do make contributions to the community, but they do that through choice, probably to get custom and for reasons like that. They have been included in some of the publications so I can see where the confusion arose. However, fundamentally, hotels and taverns are private bodies and, while they do support local entities, they do so by choice and they pay a much higher rate of tax than clubs. We will not be supporting this amendment.

Question put:

That **Ms Dundas's** amendment be agreed to.

The Assembly voted—

Ayes 3	Noes 12	
Mrs Cross	Mr Berry	Ms MacDonald
Ms Dundas	Mr Corbell	Mr Pratt
Ms Tucker	Mr Cornwell	Mr Quinlan
	Ms Dunne	Mr Smyth
	Ms Gallagher	Mr Stefaniak
	Mr Hargreaves	Mr Wood

Question so resolved in the negative.

Amendment (**Mrs Cross's**) agreed to.

Clause 165, as amended, agreed to.

Clause 166 agreed to.

Clause 167 agreed to.

Clause 168.

MR STEFANIAK (8.26): I move amendment No 5 circulated in my name *[see schedule 4 at page 2762]*.

Mr Speaker, this amendment puts back into this act something that was in the previous act, and that is what is known as the dollar-for-dollar contribution. It is merely added to the start of clause 168. The amendment does nothing else in relation to the required percentages, the gross revenue and so on, which is fine by the opposition. However, the government has not included in its new bill the dollar-for-dollar community contribution related to licensed clubs that make donations to registered parties, associated entities, members of the Legislative Assembly and candidates.

As a result of this particular amendment, which was moved some years ago, and with which no-one has really had practical problems—it has not made clubs bankrupt or anything—about an extra $350,000 a year, at current yearly rates, has gone towards community contributions. I think that is a very good thing.

Mr Quinlan: It is an average of about 200, Bill. Do not pick the high year.

MR STEFANIAK: Mr Quinlan says it averages about 200. I thought the Labor Club paid the Labor Party a little bit more than that, Ted.

Mr Hargreaves: Not as much as the 250 Club did, Bill.

MR STEFANIAK: Yes, it is something that probably affects the Labor Club more than anyone else, but it does affect any contributions made to any of us. Yes, I have probably benefited on occasions, as have other members, as have other parties, as have other associated entities. However, what this means is that, if we do not put this clause back in, that extra money that has been going towards some very good community contributions may not go towards them in future.

As I think I said in my opening remarks earlier on this afternoon, during the in-principle debate, I am pleased to see the Labor Club—and let's take that as a good example here—sponsoring quite a few good cultural events. I wonder whether that would continue if this clause were not reinserted. I have not heard of the Labor Club being unable to make these contributions. So nice try for taking it out but, on balance, the community benefit is served best if this is reinserted. I commend this amendment to the Assembly.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (8.29): Mr Speaker, I have to say that this provision's existence, from the time it was introduced into the bill—and it was done for no altruistic reasons at all but for purely political reasons—like it or not, has diminished all of us. It has diminished this place, because this place has on record a provision that is designed by nothing but political expediency, designed to do nothing more than limit, or try to limit, resources available to the Labor Party.

These resources are supplied through the Labor Club group which, quite proudly, wears the name Labor Club—no disguise. Everybody who goes into those places and supports those places knows that they are directly associated with the Labor Party. This is not a case of dollar for dollar; this is a case of an absolute penalty that is applied pretty well to one organisation, and we are all the lesser for it.

MRS CROSS (8.31): Mr Speaker, my biggest concern with this bill is with the government's attempt to remove the dollar-for-dollar community contribution for donations made to political parties and, further, their attempts to remove reporting provisions relating to political parties. As I have always stated, I believe that venues with gaming machines should give back to the community.

We are fortunate, here in the ACT, in that most clubs put into the community above and beyond what is legislatively required back. To my mind, putting back into the community means giving money to social and welfare organisations, providing funding for community infrastructure and non-profit organisations, and supporting sporting and recreational activities. I do not believe giving to political parties is putting back into the community, and a political party is certainly not a community organisation.

While I accept that the tradesmen's and Labor clubs exist to fund political parties, it must also be noted that these clubs contribute significantly to community problems such as problem gambling. I therefore believe that these licensees should put back into the community. This appears to be nothing—

Mr Quinlan: On an inequitable basis.

MRS CROSS: Mr Speaker!

MR SPEAKER: Order!

Mr Quinlan: You are talking crap.

MR SPEAKER: Order! Mrs Cross has the floor.

MRS CROSS: Mr Speaker, the Treasurer made an imputation. I ask him to withdraw that.

MR SPEAKER: What did he say?

MRS CROSS: He said that I was talking crap. Please ask him to withdraw that.

MR SPEAKER: Withdraw that. It is unparliamentary.

Mr Quinlan: Can I replace crap with rubbish?

MR SPEAKER: No, you cannot as an interjection but, in due course, you can speak to the matter.

Mr Quinlan: I withdraw crap until later.

MR SPEAKER: No, you will withdraw it unconditionally and you can contribute later.

Mr Quinlan: Okay. I have made my point.

MRS CROSS: Thank you, Mr Speaker. This appears to be nothing more than an attempt by the Labor Party to ensure that they maximise what they receive from clubs. This is a shame because they are putting community interest behind their own self-interest. To correct the comment that was made by the Treasurer, it was stated to my office and me by members of the Chief Minister's office that the Labor Party is a community organisation.

I will, therefore, be supporting Mr Stefaniak's amendment No 5, which ensures that all donations to political parties are matched dollar for dollar by community contributions.

MR HARGREAVES (8.34): I just want to point out, for the record, that the main plank to Mrs Cross's argument is an attack on the Labor Party and nothing else. It is purely a political stance. The premise that the Labor Club group would claim political donations made to the Labor Party as community contributions is false. Mrs Cross has perpetrated a falsehood. She knows full well that that is not the case and, if she does not know that is not so, she is guilty of not having read the act, nor is she familiar with the Electoral Act. This piece of legislation that merely singles out one particular group, every single person—

Mrs Dunne: Point of order, Mr Speaker: I think I heard Mr Hargreaves say, "Mrs Cross has perpetuated a falsehood," which I think is one of those similes for a lie.

MR SPEAKER: No, I am not going to draw that out. If people cannot say that what somebody else has said is not factual—

Mrs Dunne: Is your ruling that perpetuating a falsehood is not a simile for telling a lie?

MR HARGREAVES: On the point of order, Mr Speaker: you have ruled.

Mrs Dunne: I am just asking for a clarification.

MR SPEAKER: I have ruled on the matter.

MR HARGREAVES: When people join the Hellenic Club, they join the Hellenic Club because they want two things: they want a club that has amenities that they can enjoy, and they want to know what the club stands for, which is the furtherance, quite rightly, of Greek culture. That is why they join.

MR SPEAKER: Mr Hargreaves.

MR HARGREAVES: Yes, Mr Speaker.

MR SPEAKER: I have just had another look at this. You should withdraw that.

MR HARGREAVES: I withdraw that, Mr Speaker.

People join the Burns Club for similar reasons and people join the Labor Club for exactly those reasons. There is nothing untoward about this. What we are doing is legislating away a person's right to contribute to whatever they like. You are singling them out. Mr Quinlan is quite right: the singling out of one entity and the removal of the right of these people to make a contribution, either through the use of their amenity or through their fees, to the Labor Party is quite fundamentally wrong. You should not be doing this. Mr Quinlan is right: you are diminishing the dignity of this place. You are putting self-interest before reason.

It is quite clear to me that this amendment will get up. I sincerely hope that those people who consider themselves guardians of the rights of people in this town think very seriously about what they have done.

MS TUCKER (8.37): This is not an easy one for me. Mr Moore introduced this in the last Assembly, late at night, and he had had a really obvious campaign for years about the Labor Party's conflict of interest because it received money from poker machines. That was just something that Michael ran with, as he had the right to. The Liberals ran with that as well. This came in, I remember, late at night. At the time, I checked *Hansard* and I remember saying, "I am not supporting this because we have not had time to consider it," but I certainly cannot say that now. I have had lots of time to consider it.

The first point in this argument is conflict of interest. There can be a perception that there is a conflict of interest because the government of the day is receiving money from poker machines because they have clubs that are funding them. However, when I look at the record of Labor and Liberal, I do not see any difference in their performance on gambling. They are both pretty much co-opted by the revenue that comes in in the form of tax and that is, in my view, the main game. That is the big money, the millions of dollars that we are talking about that. From my observation, it is probably that revenue that has created a situation where neither major party is really seriously prepared to reduce that revenue by strict harm minimisation.

For example, tonight, both parties voted pretty much in the same way. Mr Stefaniak agreed to an allowable instrument that I do not think Mr Quinlan agreed to but, other than that, their voting has been pretty much the same, unless—

Mr Quinlan: Separate the issues, Kerrie.

MS TUCKER: Just listen, Mr Quinlan. I am addressing the question of the conflict of interest. There is good logic in my argument. If you chose to listen instead of interrupting we might get through it quicker. As I said, I do not see any difference between the major parties, and I think the main issue is the co-option that occurs as a result of the tax revenue that comes in.

The second argument seems to be that there should be a particular onus on a political party that receives revenue from an activity with an accompanying accepted social ill. The argument is that, therefore, there should be a penalty on that party for accepting revenue that comes from a potentially socially—well, we accept that it has social fallout. I do not think anyone in this place disagrees with that. That is why we have a gambling commission and all the different mechanisms that are supposedly reducing the harm.

That argument has some merit, except I do have to then say, if that is the case, to be fair, you really have to make that apply across the board, because other political parties—apart from the Greens; I do not know about the Democrats—do accept money from pretty much anyone, including tobacco, sugar, junk food and alcohol companies. We could have an analysis of relative social harm and revenue going to political parties and then make a decision that we are going to apply that rationale to the acceptance of money by political parties from the community. However, we do not see that, so that is a problem for me.

The third argument is that there seems to be an inference that the Labor Party should be penalised for accepting money from poker machines, but that it is not a community activity. We have all decided, because of the social harm that is accepted as coming from poker machines, that there has to be a contribution to the community to compensate. So they make contributions to sports clubs, they make contributions to charities and they make contributions to cultural groups. The inference made by the people who are proposing to put this back in is that a political party is not a community activity.

I do not accept that because I think it is pretty obvious that, in a democracy, we cherish political activity and political parties, and they are very important parts of our democracy. We want to see engagement in and respect for the political process, which means not just what we do in here but what political groups, parties or independents do and how they work and so on.

When I think about all those factors, I come to the conclusion that I cannot support putting this back, although I have to say that I would be much more comfortable if Mr Quinlan had been more prepared to accept the proposals that Ms Dundas and I have put forward tonight to further reduce the harm. That would have made it an easier position for the Labor Party to take in dealing with that perception of a conflict of interest. However, after giving it serious consideration, I have to say that I cannot support putting this back in.

MS DUNDAS (8.44): I thank members for their considered contribution to this debate. I would like to say that the Democrats will be supporting the amendment. We see it that this amendment does not prevent clubs making donations to political parties in any way: it just ensures that, if donations are made to political parties, community contributions are made as well.

We see that political parties are different in the same way that clubs are considered different. There are different regulatory mechanisms that apply to political parties because of the role that they play in furthering political debate and the role that they play in ensuring that our parliaments work effectively. In that sense, it is important that we do distinguish, but we are saying that you cannot just hand over all of the contribution you have to make to a political party and that is your community contribution. That is not the answer we are looking for.

I support the amendment, which still allows clubs to make donations to political parties, but it means that the community contributions are counted separately. We have had debates about different exemptions for community contributions for a number of different things, when we have been trying to support things that we think should require more community contribution than others. In this sense, as I have said, there is a case for considering political parties differently.

MR STEFANIAK (8.46): I thank members for their contribution. I am somewhat disappointed that Ms Tucker, after all that, is not going to support the amendment. For your benefit, Ms Tucker, I remember quite well when this provision was brought in. I thought that it was a bit out of left field, too. I have some sympathy for what you have said, and even for what Mr Quinlan has said—except that, in the time the provision has been in the act, it has proved to be quite sensible.

In the rest of Australia—with the possible exception of a very small club somewhere in New South Wales—no other political party receives considerable benefit from gaming machines. People ask what the difference is between this and doing a dollar-for-dollar contribution for all money raised by political parties. Yes, maybe, but that is different from expecting, say, the CFMEU Redfern branch to make a dollar-for-dollar contribution to community organisations every time it gives the Labor Party money.

The thing to realise here is that we have a regime where seven per cent has to go to community contributions. Mrs Cross and Ms Dundas have explained quite well that here some extra money is donated to political parties that they get from poker machines. There is a lot of strength in what both Ms Dundas and Mrs Cross say there.

This particular measure has not caused any angst whatsoever since it came in, so I am disappointed that Ms Tucker is not supporting it at the end of the day. I can read the numbers, and it is a shame. This provision, despite the controversy about how it originated, has served us and the community well, and I think the community will lose a little bit as a result of the rejection of this amendment.

Question put:

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

The Assembly voted—

Ayes 7		Noes 8	
Mr Cornwell	Mr Pratt	Mr Berry	Ms MacDonald
Mrs Cross	Mr Smyth	Mr Corbell	Mr Quinlan
Ms Dundas	Mr Stefaniak	Ms Gallagher	Ms Tucker
Mrs Dunne		Mr Hargreaves	Mr Wood

Question so resolved in the negative.

MS DUNDAS (8.51): I move amendment No 1 circulated in my name on the blue sheet *[see schedule 6 at page 2763]*.

This amendment goes to the issue of increasing the levels of community contributions. When the recording of compulsory community contributions first came into effect, there was a requirement that the percentage increased each year by one per cent. This raised the initial contribution of five per cent up to the level of seven per cent, where it is now. This amendment proposes to continue the policy of increasing community contributions over the next few years up to a level of 10 per cent. I note that this is below what the actual level of community contributions across the sector is: I understand that it is currently at about 13 per cent.

Many clubs do give far in excess of the statutory minimum, and I congratulate those clubs for the support that they give to this community. This amendment will not affect them in any way. However, there are some other clubs that just meet the legislative minimum and refuse to contribute any more. I think it is fair to ask that a very small additional amount, which rises each year, is given back to the community, particular as the major parties often applaud the community contributions that are generated from gaming revenue.

The Treasurer has previously raised the issue that this will put a squeeze on smaller clubs, but of course there are provisions for the Treasurer to exempt licensees from making community contributions so that, if the club is in genuine financial trouble, there is a way of fixing that. This amendment can only benefit the community of Canberra, and I commend it to the Assembly.

MR STEFANIAK (8.54): I can see the rationale behind this and I have some sympathy for it, but what Ms Dundas does not realise is that the percentages that we arrived at were worked out in some detail, after a lot of debate, and were in fact phased in gradually. I am not going to go over ground I have covered earlier in relation to community contributions and the way they are worked out, apart from what I have just said.

I think the Treasurer is right, in that a lot of clubs are doing it tough and any further imposts imposed on them by the Assembly might well backfire, might be the thing that makes them go to the wall. That is not really going to benefit a lot of people in the community either. Ms Dundas is right: it is good to see that a lot of clubs do pay a lot more than their seven per cent. That is excellent. After all, they are there to help out in the community and, as I said earlier, most of them do that in an excellent way.

However, it is an industry that is changing and that has its own pressures. Seven per cent is quite a fair amount for clubs to pay. It is not dissimilar to the way rates work out interstate. It is obviously manageable. We have arrived at that figure after several years. The clubs have been gearing up for it. It does appear to work well. While I have some sympathy with what Ms Dundas is trying to do, what we have arrived at is sensible, works well and is not an unreasonable impost.

MS TUCKER (8.55): I will be supporting this proposal by Ms Dundas. For Mr Stefaniak's benefit, the act says that:

> (3) The Minister may, in writing, determine a lower required community contribution for a club if satisfied, on application by the club, that—
>
> (a) the gross revenue of the club for a financial year is, or is likely to be, less than $200 000; and
>
> (b) if the required percentage for the club…

and so on. There is, therefore, a capacity to take into account the individual situations of the clubs. Once again, we just see Labor and Liberal not being prepared, in this case, to look at increasing the community contribution in a fair way.

Amendment negatived.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (8.57): I move amendment 4A circulated in my name on the yellow sheet *[see schedule 9 at page 2766]*.

This amendment is not material to the bill but simply clarifies it.

Amendment agreed to.

Clause 168, as amended, agreed to.

Clause 169 agreed to.

Clause 170 agreed to.

Clause 171 agreed to.

Clauses 172 to 179, by leave, taken together and agreed to.

Clause 180 agreed to.

Clauses 181 to 188, by leave, taken together and agreed to.

Schedules 1 and 2, by leave, taken together and agreed to.

Dictionary

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (8.59): I move amendment No 5 circulated in my name *[see schedule 3 at page 2761]*.

This is a simple addition to clarify the use of the dictionary.

Amendment agreed to.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (9.00): I move amendment No 6 circulated in my name *[see schedule 3 at page 2761]*.

Amendment agreed to.

Dictionary, as amended, agreed to.

Title agreed to.

Bill, as amended, agreed to.

Minister for Health
Motion of want of confidence

Debate resumed.

MR CORBELL (Minister for Health and Minister for Planning) (9.01): There are three issues in contention in this motion of no confidence this evening. The first is that Mr Smyth claims that I misled the Assembly by claiming mental health nursing scholarships have been funded by the Stanhope government when they have not been. This is simply incorrect. Mr Smyth was advised, in answer to a question on notice through the last estimates round, that provision was made in 2002-03 for an amount of $300,000. This came about following a decision to spend 50 per cent of $600,000 provided for general nursing scholarships on mental health nursing scholarships. This occurred in the 2002-03 budget context. In estimates when I was asked when this occurred, I indicated, "I am advised it occurred in the January 2002 appropriation." This advice was based on the direct advice of my officials at the hearing at the time. In fact, it occurred in the 2002-03 budget and this is the advice that Mr Smyth correctly received when he received his response to his question on notice. For the information of members, I table a copy of that question and the answer supplied.

Mr Smyth has been advised of what has occurred and the facts are unchanged. Currently 15 people have completed the registered nurse program and six have completed the enrolled nurses program for mental health scholarships. Seven people are currently enrolled in the registered nurse program and six in the enrolled nurse program. Mr Smyth is simply wrong when he states that there is no funding for this program. People are studying with the aid of that funding right now.

Mr Smyth's second claim is that I said the Liberals would establish a forensic mental health facility at the hospital and that they then changed their mind to establish it instead

at the prison. My comments were, and remain, accurate. I relied on a package of material issued by the Liberal Party on their mental health policy, supplied to the *Canberra Times* and subsequently passed on to me for my comment, which included a summary of quotes from Mr Smyth: "There are facilities. The key is the caseload. We would establish a time-out facility and make sure there is a forensic unit as part of the hospital." For the information of members, I now table a copy of those documents. I did attribute this quote to *Hansard* and that is clearly not correct. However, it was supplied with material I received from the *Canberra Times* on Mr Smyth's policy announcement. I have a valid claim for making that statement. I did not, as Mr Smyth asserts, simply make it up.

Mr Smyth's third claim in this weak no confidence motion is that expenditure per capita figures on mental health were deliberately misrepresented by me when my question time brief said otherwise. This claim is inaccurate and unreasonable. While my question time brief showed that, for the last full year of the Liberal government, expenditure was $75 per person and that, for the 2001-02 financial year, the current expenditure had increased to $83.7 per person, I also continued to be advised by my department that $67 per person was an accurate figure. This occurred at least twice after the February question on notice brief Mr Smyth referred to. In the speech prepared for me by the Department of Health for the matter of public importance on the state of mental health services in the ACT on 11 March, the department supplied the $67 figure. In another question time brief from forensic mental health facilities, dated 25 March, the $67 per head figure was also quoted. For the information of members, I provide the relevant documents on those two instances as well.

It is worth making the point that the $67 per person figure is based on the most recent national mental health report, and is still the only figure available to compare mental health expenditure in the ACT with that of other jurisdictions. My assertion of an almost doubling of expenditure was based on a rough calculation that an increase from around $60 to around $120 was indeed a doubling. I am sure members would accept that this is a reasonable debating point.

It is true that an error was made in relation to the level of mental health expenditure per capita. And when this error was drawn to my attention, I corrected it. I would like to draw to members' attention the requirement of the code of conduct for ministers in this regard. It states:

> Ministers should take reasonable steps to ensure the factual content of statements they make in the Assembly are soundly based and that they correct any inadvertent error at the earliest opportunity.

I table a copy of the ministerial code of conduct, for the information of members, so that they are familiar with what it requires. I know I have fulfilled the requirements of the code. The inaccuracy of my statements was brought to my attention in a brief from the Chief Executive of Health, received by my office on 3 May this year. I have a copy of that brief for the information of members also.

Given the subsequent notice of no confidence in the Chief Minister, I advised the Assembly and corrected the record on 13 May. I advised the Assembly of the error in the figures and corrected the record to ensure that there was no further misunderstanding. It is my obligation under the code of conduct to correct the record when an error is drawn

to my attention. This motion of no confidence is pedantic, confused and, based on the evidence that I have presented today, without any foundation whatsoever.

MR STEFANIAK (9.08): I will speak to a number of points first in relation to the allegations initially against the Minister for Health and Minister for Planning, then I will read out the relevant part of the code of conduct and then I will say a few other things about some previous matters which are very relevant when the Assembly is considering this matter.

As to the first issue that the minister refers to, from what I can see there is misleading on the current government funded mental health nursing scholarships. On 30 March, some false information was given by the minister—namely, the false claim that the current government had funded mental health nursing scholarships through their budgets. Mr Smyth, I think, has gone through the actual facts of what occurred.

The next relevant date is 1 April. The error was drawn to his attention by a question that appeared on the notice paper and, again, by discussion in the estimates hearing on 7 April. By returning an answer to the question on notice presented to the Assembly on 14 May, the minister had signed off a document that confirmed that the information as originally given was misleading. The response was that the minister has never given the Assembly a correction; hence on each of the sitting days—4 May, 5 May, 13 May, 14 May, 25 May, 22 June and 23 June—he was still in breach of his obligations to correct the record.

There is another matter—this is No 2—which is the claim that the Leader of the Opposition has made a statement recorded in *Hansard*. We say that the minister misled the Assembly by giving false information on 3 March—namely, the false claim that the opposition leader had made in the Assembly about a forensic unit. No statement of the kind alleged by the minister has ever been made in the Assembly. My colleague Mr Smyth has said that he has trawled *Hansard* and there is simply no record of it.

That error was drawn to the minister's attention by Mr Smyth by way of a personal explanation on 1 April. The response was that the minister has never given the Assembly a correction; hence on each of the sitting days—4 May, 5 May, 13 May, 14 May, 25 May, 22 June and 23 June—he has continued to be in breach of his obligation to correct the record.

Now we come to the mental health funding. I find this quite amazing: we have a briefing note on 10 February. The minister, firstly, misled the media with a media release on 10 February, which made this false claim in relation to the $67. There was some false information then given by the minister on 11 March—again about the $67. That was repeated on 30 and 31 March. The minister was made aware of this and the errors were drawn to his attention in the adjournment debate on 30 March and again through a direct question on 31 March. In addition, there were questions on notice placed on 1 April—

Mr Wood: Are you saying it happened in March?

MR STEFANIAK: He was briefed on 3 May by the chief executive.

Mr Wood: Isn't this the end of June?

MR SPEAKER: Order! Mr Stefaniak has the floor!

MR STEFANIAK: Thank you, Mr Speaker. He was briefed on 3 May by the chief executive who drew his attention to the error. After returning answers to the question on notice signed off on 5 May, there was no doubt that the minister was aware of the inaccuracies of his claims—that is, two days after the briefing on 3 May. We had sitting days again on 4 and 5 May and he failed to correct the record. He gave a partial correction on 13 May—

Mr Wood: Four months ago!

MR SPEAKER: Order, Mr Wood! You can make a contribution to the debate later on if you want to.

Mr Wood: Four months ago, Bill.

MR SPEAKER: Order!

MR STEFANIAK: On 13 May. We are talking about May now, Bill. However, the correction is inadequate in that it is not a full and true disclosure. It is in itself incorrect because the minister had been given the correct information on 10 February. He was warned again of the inadequacy of that response on 14 May. For each of the sitting days—25 May, 22 June and 23 June—he has continued to be in breach of his obligations to correct the record. That is a basic synopsis. The code of conduct is indeed quite clear. It says:

> All ministers are to recognise the importance of full and true disclosure and accountability to the Parliament.
>
> Being answerable to the Assembly requires Ministers to ensure that they do not wilfully mislead the Assembly in respect of their Ministerial responsibilities.
>
> The ultimate sanction for a Minister who so misleads is to resign or be dismissed.
>
> Ministers should take reasonable steps to ensure the factual content of statements they make in the Assembly are soundly based and that they correct any inadvertent error at the earliest opportunity.

I know people are being treated differently in this place with motions of no confidence. Everyone was certainly after Mrs Carnell. She was, finally, effectively the subject of a successful motion of no confidence. Most of us have been censured at some time. There are some other relevant factors here. If the minister had done nothing else wrong and this was the first time these types of actions had been drawn to the Assembly's attention, there might well have been a case for some leniency being shown, even though there is a fairly systematic course of conduct here.

You have to take into account another factor here; that is, this is about the third time, I think, that there have been problems with this particular minister—his attitude to the Assembly and allegations of misleading et cetera—that have come to the fore. In anything like this, if the Assembly finds that there has been some improper conduct and

that there has been misleading in any of these matters, it is important for it to take into consideration other aspects too over the course of this Assembly—that is, to use an old criminal parlance term, I suppose, prior convictions. Unfortunately this minister does have form. Back in May 2003 there were incidents in relation to withholding information from the Assembly on hospital activity and waiting lists. The Assembly at that stage forced him to supply the information. I understand that he went kicking and screaming but that he did supply it.

Also, in May 2003 we had a fairly well known incident—withholding information from the Estimates Committee in regard to waiting list data. At a privileges committee hearing it was found that the minister had been guilty of contempt. A motion of no confidence was moved in the Assembly on 18 November 2003. It was downgraded to one of grave concern and the motion was passed. The minister was found in contempt and the ultimate sanction imposed was one of grave concern. There was a successful censure, even before that, on 23 September 2003 in relation to the Nettlefold Street trees. Back in August 2003 there was a failure by the minister to respect the resolution of the Assembly on the Nettlefold Street trees. On 23 September 2003 there was a successful censure motion on the minister.

Last year, a contempt of the Assembly process resulted in a motion of grave concern. There was also a successful censure motion of the minister. And now we have these other matters. Effectively, if you are going to find him not guilty, that is the end of it, but I certainly submit that the evidence is there that he is guilty. Unfortunately there is a pattern of fairly systematic actions which show that the minister is not giving due regard to the Assembly. He is holding the Assembly in some contempt by his actions here. There is, in fact, a track record. The fact that he has priors is something that should be taken into account in these matters. Ministers should recognise the importance of full and true disclosure and accountability to the Assembly.

There was not a terribly satisfactory chain of events, even after the censure motion on the Nettlefold Street trees. Some very half-hearted efforts were made by some government officials in relation to the Nettlefold Street trees. I read out an email on 12 February this year from a very concerned Helen Brewer citing the lack of action from Mr Corbell and his office in adhering to what the Assembly wanted.

Mr Speaker and members: you are not considering just these matters. With this particular matter here today you also have to take into account that this minister, unfortunately—and it is unfortunate—has form. As a result of that form—sadly, he has already had a grave concern motion and one censure motion; it is always sad when these things are proven—the motion of no confidence is appropriate and deserving of support for the reasons I have outlined.

MR HARGREAVES (9.18): If we believe that, because somebody has got form, they should be convicted and sentenced without consideration of anything, then we can support what Mr Stefaniak is saying. The truth of the matter is that Mr Smyth lays three charges. The Minister for Health and Minister for Planning in his speech has debunked those charges, almost to the abject embarrassment of the Leader of the Opposition. The Leader of the Opposition has been nothing short of petty in this instance and he ought to be thoroughly ashamed of himself. But, then again, it is not surprising, given that he is struggling for oxygen.

Mr Speaker, if you look at the papers that the minister has provided us today you will see just how frivolous this charge is. It is a bit of a shame that we do not have a mechanism for an expression of no confidence in the Leader of the Opposition. I for one, and I am sure his colleagues, would love to explore that.

What is really at the heart of this matter is that those opposite do not like the demeanour of Mr Corbell, the attitude of Mr Corbell or the way he does things. Why is that, do you think? That is because Mr Corbell actually does do things. This minister has put planning on the map in this city, he has got people talking about planning in their homes, he has turned the paradigms of planning in this town on their ear and he has re-created a planning paradigm in this city which will live on.

What we are seeing here is a nice piece of spiteful jealousy. There is not a shred of evidence. Have a good look at the seriousness of this issue, Mr Speaker. It is really mind-blowing! The minister has misled because he said a figure was doubled. What is the figure? Sixty-seven bucks. Wow! When you look at the minister's paperwork, you will find that he is right. The Leader of the Opposition says that we should express no confidence in this minister because he misquoted a Liberal Party policy statement. Good heavens! I recall in the last Assembly that the then government used to do it almost every time we met. Mr Humphries, the great builder of straw men of all time, did it. He used to take selective sentences out of our policy. We did not think that was particularly serious enough to move a no confidence motion. But, then again, we were not sinking; we were swimming a bit.

I say to the people who have not made up their minds already: consider, if you will, not these unsustained arguments put forward by the Leader of the Opposition—consider them not—but consider the achievements of this minister. I think this minister can wear as a badge of honour the number of times he has upset the shadow minister for planning and how often he has made the shadow minister for planning look like just that—a shadow.

I have just had placed before me an amendment to replace the censure motion. Here we go again! All I can say is: please give some thought to the seriousness of this issue. This is a frivolous claim, totally debunked with paper proof, measured up against the achievements of this minister. Just consider for a second, if you will, the achievements of those opposite—the six years of disaster they wreaked upon this town. You are going to censure this minister: for what? He has provided you with proof that the charges made by Mr Smyth are the biggest load of rot he has perpetrated in this place since he has been here. No wonder Mr 14 per cent is just that! He has absolutely no credibility at all. He does himself and this chamber no credit by this no confidence motion. He denigrates the whole lot of us. I take it as a personal affront that he denigrates the institution of this parliament. There is no necessity for this. If those opposite want to move a motion of no confidence in the minister, they should consider his performance in the portfolio. It should not just be because he has misread to you, by your interpretation, your own policy.

These charges are nothing short of kindergarten stuff and should be dismissed out of hand. You do not have to applaud every single thing this minister does in planning; heavens, I do not always do that. You can giggle away just like a kindergarten dropout if

you like, Mr Smyth, but you have to applaud the global vision of this minister. Those opposite do not have global vision and are never going to get it. They should be withdrawing this motion and this amendment. I urge Ms Dundas to reconsider this amendment and to consider the relativity of it. Let us hope that you do not embarrass yourself.

MR CORNWELL (9.24): This motion against Mr Corbell is really not about policy differences over health and planning issues or financial and funding results of the minister's portfolios, as Labor has attempted to portray. It is about (1) the minister's misleading the Assembly; (2) fulfilling the requirements of the code of conduct; and (3) this parliament's public duty to hold ministers accountable. This Assembly of 17 members, 17 individuals, is not a private fiefdom to do with as we each like. Fortunately, this has been recognised within the Assembly itself. First of all, in recognising it, my colleague Mr Stefaniak has identified three issues where the Minister for Health and Minister for Planning has misled the Assembly. On two occasions of seven opportunities and another occasion of three, he has failed to correct these mistakes.

I appreciate that the government is conscious that such behaviour is unacceptable because it has put out a code of conduct. It states, in part:

> Ministers will ensure their conduct does not bring discredit upon the government or Territory.

The set-up of this Assembly means that inevitably you will not always get what you want, as the Chief Minister found to his cost yesterday on, I think, three occasions. The fact of the matter is, however, that you have to be very careful that, even if you do not get what you want, you do not mislead the Assembly in an attempt to gloss over problems perhaps through ignorance or whatever. We have something that was spoken of earlier tonight by the government—it is called the dignity of the House. We, in this ACT Assembly, have a particular need to maintain this dignity. We have had 15 years so far of struggle for acceptance of this place by the people of the ACT. They are very quick to condemn our behaviour. Unfortunately, all parliaments suffer from this, but we suffer a little more because we are right on the spot 24 hours a day, seven days a week. We are very much under the scrutiny of the people of the ACT—the people, I would remind you, whom we represent. They are quick to note when ministers in this place show contempt for the decisions of the Assembly. This minister has certainly done that in the past. I remember Nettlefold Street in Belconnen.

Mr Wood: Mr Speaker, I rise on a point of order. I ask this speaker to keep to the terms of the motion, which is one of the standing orders. This has nothing to do with decisions of the Assembly on Nettlefold Street. There are statements on the no confidence motion and they have no reference to other issues. Mr Cornwell, a former Speaker, should be brought to order.

MR CORNWELL: Mr Speaker, may I seek your patience?

MR SPEAKER: I think there is a fair bit of contextualising going on here.

MR CORNWELL: May I seek your patience? All will be revealed, sir.

MR SPEAKER: I think members are entitled to do that, because members defending the case will also do it.

MR CORNWELL: Thank you, Mr Speaker, for your protection.

MR SPEAKER: I would not have called it that, but proceed anyway.

MR CORNWELL: My position will be revealed. There was the issue of Nettlefold Street. This morning I read in the paper that this minister threatens to ignore the Assembly and force a health merger on a matter that was discussed only yesterday. I understand from radio this morning that the electorate is already responding to this matter by saying that Mr Corbell is again making a mockery of the Assembly and the instructions of the majority of the Assembly. Mr Speaker, this is what I am referring to in my case in expressing a lack of confidence in the Minister for Health by the Assembly.

The rights and privileges we have in this parliament are vested in us only by the electorate, by the people who have placed us here; therefore, if you seek to insult the Assembly by ignoring its rules, by misleading its representatives, you insult and ignore the people of the ACT who placed everybody here. That is the point. It certainly leads to arrogance, if you are prepared to dismiss the views of the majority of members who clearly must have been elected by the majority of voters. I am talking now of the Assembly collectively. If nine members of this Assembly make a decision against the other eight, clearly the majority of the Assembly members and the majority of their voters must be listened to.

This is not the case with at least three examples of this minister misleading the Assembly. It shows, at best, incompetence; it certainly shows arrogance and I suspect it shows contempt for the Assembly and, therefore, for the people of the ACT. It is therefore a small step to a minister deciding that, if he can get away with the issue of Nettlefold Street and the health merger in spite of what the Assembly wants, then it is but a short step to deciding that the information sought by and provided to other members of this Assembly can be equally abused and members misled. That is the point of this motion tonight. We do not wish to see this behaviour perpetuated.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (9.33): I think Mr Cornwell and Mr Stefaniak, who spoke before him, have made clear the basis of this ill-founded motion. Quite simply they do not like Mr Corbell.

I took a point of order on bringing in other issues. Members opposite just do not like Mr Corbell's style and his personality. Not only that, as the election gets nearer they have been searching around for something—anything; whatever they can drag up, whether it is to do with Mr Corbell or somebody else—to try to get some attention. I think it is thoroughly unjustified. Mr Cornwell claimed that Mr Corbell insulted the Assembly by ignoring the rules. I have to say that I think the insult to the Assembly is this motion; that such a pathetically presented case with absolutely no arguments should be brought in here. We have said before that no confidence motions are quite serious things. Indeed they are. Mr Corbell's future is at stake here tonight. The Assembly can

be quite perverse in the way it does things sometimes. This is a very serious issue to bring forward. It is clear that there is no basis for it.

Mr Corbell has effectively rebutted, point by point, the issues that have been raised—issues outlined in the no confidence motion. Where there was an inaccuracy in one statement—it was not particularly significant anyway—it was corrected in the way it should have been. The other issues are of no depth. There is no background to them; there is no strength behind what is claimed. What is also very revealing is that the issues were raised quite some time ago. It is only now—months after they were first raised and weeks after they were raised in this Assembly—that they have suddenly emerged. If there were a real concern about these issues, that concern should have been expressed well before this—not today. Quite clearly the opposition—Mr Smyth and company—are just out there trawling around, looking for something—anything—to go with.

When we get Mr Stefaniak and Mr Cornwell just raking over old coals, going back into history, it becomes quite clear what the real reason is. They wanted a target and, gosh, Mr Corbell was the one they wanted to grab because they do not like the way he does things. They do not like the fine job either that he has done as Minister for Planning. As an ex-planning minister, I can applaud Mr Corbell for what he has done. Also, they do not like the way he has done the job as Minister for Health, a very difficult task that he has done extremely well. I can tell you that, from reading the budget papers and having sat in the budget debate, he has done extremely well in the health portfolio, hasn't he, Mr Quinlan?

Mr Quinlan: He has, Mr Wood.

MR WOOD: Yes. There is no question about that: he has done extremely well as health minister and you want to censure him. What about some balance here? The history of Mr Corbell as a minister is outstanding. He has been very successful in what he has done. These claims just do not rate. There is nothing there; the claims are unfounded; there is no justification; the points raised are quite puerile. I say to the crossbenchers, who make the decisions in these things: "Look at the record. Look at the increased funding for health. Look at the way health is doing extremely well under Mr Corbell's stewardship. Look at all the activity in planning. Look at the studies that have been done and the great work and community acceptance of the work that has been done." Crossbenchers should consider all that. This motion is not worthy of the time that this Assembly is having to give to it. Mr Corbell is an excellent minister and I know that he is going to be staying as one.

MS DUNDAS (9.38): I think everybody has agreed that this is a very serious matter. There are a number of issues that need to be addressed in relation to the actions and words of Minister Corbell over the last number of months. The motion includes the words "persistently … misleading the Assembly on a number of issues". I see it as a very broad motion, unlike Minister Wood, who saw it as a very specific motion.

A number of things need to be considered when looking at this motion of no confidence: claims put to the minister about things that he has said or not said in this place; his ability to correct the record; and, also, in terms of each of these issues, what has been the outcome of all of this, which is, I think, what Mr Wood was alluding to.

We have focused this evening on three particular issues. The first is mental health nursing scholarships. Minister Corbell has answered that by saying that the advice that he received in estimates was not correct, that mental health scholarships were provided for in the 2002-03 budget. However, there are still a lot more questions to be asked and answers to be given on the whole mental health scholarships issue. I do not think that this debate has cleared it up any more.

Mr Wood: What were the questions?

MS DUNDAS: When was the decision made to start funding mental health nursing scholarships? Who made the decision? When was the information communicated to the ministers, be that Minister Stanhope or Minister Corbell? I know that this is something that goes back a long time, so I am raising it almost as a separate issue. I think that more things need to be investigated. As to how it reflects on Minister Corbell specifically, he did get some information wrong and he has now sought to correct that. As to the discussion on mental health expenditure, he has corrected the figure on one occasion, but that figure was incorrectly used on a number of occasions. That needs to be clear. The figure of $67 for the level of mental health funding was correct for 2000. It has just been used incorrectly a number of times in this place and publicly.

When advised of that through a ministerial brief, the minister did correct the record, but he referred to only one occasion which I think was a bit disappointing. There were a number of occasions where this statement was used incorrectly. By particularly referring to only one point, the record for the rest of those situations still remains unclear. Although I think we can all agree at this point that, when the Labor government took office, the correct figure for mental health funding was $82.50.

Then we have the discussion about the forensic health facility. Minister Corbell believed that he was quoting *Hansard* when he quoted from a document that attributed some words to the Leader of the Opposition. From my reading of that document, it appears to be notes taken by a journalist who was talking to the Leader of the Opposition about the Liberal Party's policy for mental health funding into the future. Tonight Mr Corbell sought to correct the record on that particular issue. I think it is safe to say that there have been a number of times when the wrong information has been put in front of this Assembly. There is a pattern of behaviour. There are concerns about not only the information that has been presented to this Assembly but also how errors are dealt with when they are noticed in the presentation.

When concerns were raised about the implementation of this Assembly's motion in relation to the Nettlefold Street trees, it took a motion of no confidence, amended to a motion of censure, for the minister to come to this Assembly and explain what was happening. When concerns were raised about information provided in the Estimates Committee, it took the threat of a referral to the privileges committee for the minister to apologise and indicate that he had done something wrong. Despite the fact that Mr Smyth has indicated on at least two occasions this year that he believed Mr Corbell had made incorrect statements in this place, it has taken a motion of no confidence to get Minister Corbell to correct the record. It is incredibly disappointing that that continues to occur. It would have been a lot easier if the minister, on hearing the comments of Mr Smyth on 14 May or early in March, had come down and said, "Yes, I was wrong" or

had answered those concerns by saying "No, I wasn't wrong. Here is the proof". Either way it would have been better to have cleared these things up than to get to the point where we are debating another no confidence motion.

I ask the minister to consider that particular point: even when members are asking for more information or asking for the record to be clarified, nothing is happening. We have to go through a process of moving these motions to get the right information out. This reactive responsiveness, panic driven responsiveness, is disappointing. We have to give weight to people's words. We have to be able to have trust and confidence in what people are saying. It is all we have. When questions are cast about what people are saying, we have a responsibility to check and to provide information correctly or to clarify the situation as soon as we possibly can. As has been quoted, that is the gist of ministerial responsibility and the code of conduct for ministers.

I ask the minister to consider that for the future so that we do not, at some time in the future, have to have another debate like this. We have had reams of paper put before us in order to clarify two statements. All that being said, I have taken on board the things that Minister Corbell's colleagues have said. I recognise that Minister Corbell works extremely hard in the position as Minister for Health and Minister for Planning. This was amply demonstrated yesterday when we had a lot of discussions about health and planning and he was able, in an informed way, to participate in those debates.

On the case presented to us and on the answer given by the minister, I do not think it is appropriate for the minister to be asked to cease to be a minister at this point in time. However, because of his unwillingness over the past number of months to correct the record and the fact that we have had to go through this debate to get corrections on the record—we still have not had an apology for all the incorrect information floating around—I think it is important that we put on the record our concern about these events and recognise, through this censure motion, that we do not want this to happen again. I recognise that there are still going to be stoushes about who said what and when, what was meant and whether or not it was true, but I think this debate has shown that there is an onus of responsibility to clear that up as soon as we possibly can. That goes for everybody here, but applies particularly to ministers under the code of conduct. I move:

> Omit "expresses a lack of confidence in", substitute "censures".

I ask members to support my amendment.

MR CORBELL (Minister for Health and Minister for Planning) (9.48): In speaking to Ms Dundas's amendment, I would like to make a couple of comments additional to my earlier speech. The first is that the past three to four hours in particular have been very useful to me because I have had the opportunity to have some very frank discussions with crossbench members around their concerns as to how they perceive my actions and the way I handle business in this place. I accept that I can be a difficult person to get to know. I accept that, because I am a relatively private person and not a particularly demonstrative person, I can come across as somewhat arrogant, aloof or disrespectful. I regret that perception. But, at the same time, I have to remain true to myself and to how I manage my interactions with the world.

What has become clear to me is that in those discussions quite simple notions of expressing regret or apologising for distress caused were something that could go a long way to recognising the value of one's statements in this place and the value of one's approach to the work that we all do here. I do have regret and recognise the concerns that crossbench members in particular have raised in this place. Unlike members opposite, I feel that they have at least recognised the human dimension to this discussion and that there is the need to honour words not just in what is said but also in how it has been said.

I do apologise for my actions and for the concerns and distress they have caused members in this place. I recognise that there is an opportunity to build a more constructive relationship with a range of members in this place and I will be endeavouring to do so. Again, I reiterate to members that this opportunity is one that I think can come about as a result of the discussions that have occurred this evening, but it is equally one which allows us to focus on the business of government in this place rather than, I would have to argue, the fairly difficult and, in some respects, less relevant discussions that we have had to embark upon in recent times.

I do express my concern and my regret to members for the distress I have caused them. I understand that members take this issue very seriously and I do intend to pay greater attention to that in the time between now and the next election—and beyond, if I have the opportunity—in whatever role I have in this place.

MRS DUNNE (9.52): This is a very serious matter and has not been done lightly. I think that most members on this side who have been around this place know exactly how gut-wrenching an experience like this is for a member. I also know, because I have sat on the advisors' bench, how gut wrenching it is for the staff who are supporting their member and who always have in the back of their minds that, if everything goes wrong, their jobs are on the line as well. Therefore, this has not been done lightly.

I want to speak about only one matter today. I also remind members that, as Ms Dundas said, this motion is about persistently and wilfully misleading the Assembly. Ministerial conduct and honesty are the key as to how parliaments work. It is a primary convention of responsible government that ministers who mislead parliament are expected to resign or be dismissed from office. This is borne out in the *House of Representatives Practice,* which says:

> In cases where a minister has misled parliament … resignation or dismissal is the appropriate action.

The ministerial code of conduct of both the previous government and this government sets quite a high bar about ministerial honesty. It states:

> The position of a government Minister is one of trust.
>
> Being a Minister demands the highest standards of probity, accountability, honesty, integrity and diligence ...

There are things about "full and true disclosure"; "Ministers to ensure that they do not wilfully mislead the Assembly in respect of their Ministerial responsibilities"; and

"Ministers should take reasonable steps to ensure the factual content of statements they make…and that they correct any inadvertent error at the earliest possible opportunity."

I would like to speak about the issue that has been talked about here—that is, the forensic centre. It really is not about the forensic centre; it is about what the minister said about what Mr Smyth said. Mr Hargreaves or Mr Wood said that this is about Mr Corbell's misquoting a Liberal Party policy statement. I am sorry: it is not. It is about Mr Corbell's saying that something that he said Mr Smyth said was in the record of this place. That is the crux of the matter. So that there is no mistake about it, I will quote from page 1,276 of *Hansard* of 30 March. It says:

> This is an interesting policy direction from the opposition. The reason for that is that earlier this year the opposition's spokesperson on health advocated this sort of facility should be part of the hospital.

These are the important words:

> I quote him from *Hansard*:
>
> > There are facilities. The key is the caseload. We—
>
> that is the Liberal Party—
>
> > would establish a time-out facility and make sure there is a forensic unit as part of the hospital.

That is the end of the quote. Mr Corbell goes on to say that this is what he said only a couple of months ago. We probably would not be here today talking about this, except that Mr Corbell said the words are "from *Hansard*". By saying "from *Hansard*" he actually fabricated the record of this place. Mr Speaker, that is seriously misleading this place. Mr Smyth has come into this place on a couple of occasions and said, "I can't find where I was supposed to have said it in *Hansard*. The Hansard people can't find it and I couldn't find it in *Hansard*". Mr Corbell has not come into this place tonight and said, "This is the page in *Hansard*. I will read it out to you from *Hansard.*" Until he can do that, he has perpetuated the misleading of this Assembly.

Mr Corbell has come in here tonight and said, "I read from some notes which turned out to be notes that a journalist gave me." Mr Corbell said that he was quoting what Mr Smyth said from *Hansard*. Mr Smyth gave him the opportunity on a number of occasions to correct the record and he has not done it—and that is the problem. Mr Smyth, in April, said, "Perhaps the minister would like to correct the record." He asked the minister to correct the record because he had done a search, his staff had done a search and he had asked Hansard to do a search. If those words from *Hansard* were not there, there would have been a "he said, she said" argy-bargy argument about it and it would have been political point scoring. But this is not political point scoring. It is not about whether the minister is a good Minister for Health or a good Minister for Planning or whether he has great vision and great energy. No-one denies that, Mr Speaker, and I did not deny it when we talked about planning issues last night.

The minister is a man of vision. He does do things, but sometimes he does them the wrong way. When the opportunities arise for him to fix it, he does not fix it. On 1 April,

Mr Smyth gave Mr Corbell an opportunity to correct the record, for him to come in and say, "Look, I had a whole pile of papers which I thought were from *Hansard.* I am sorry; they weren't". If he had done that on 1 April or soon after 1 April—on any of the sitting days between then and now—we would not be here tonight.

Again, as Ms Dundas said, only when you are confronted with the cold, hard reality that your job is on the line—and your job is on the line; it is not easy—do you admit your mistake. I do not think "full and complete disclosure" and "correcting the record at the earliest possible time" in any way reflect this minister's action. This is what we are about. The earliest possible opportunity was very soon after the 1 April sitting. Correcting the record has been done grudgingly tonight when Mr Corbell was facing a want of confidence motion. We have to support Mr Smyth's motion because only when you are dragged kicking and screaming to the precipice do we have a change of behaviour. This happens serially. It happened last year over the privileges issue. At this stage we really have to say, "Enough is enough."

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (10.00): Mr Speaker, I believe that the people of Canberra are sick of confrontationist politics. "I think they are, quite rightly, tired of negative opposition nit-picking and fault finding." These are not my words. These are the second and third sentences of the inaugural speech of Mr Smyth on the day he ascended to the leadership of the opposition. How times have changed! After the motion was put this morning I had trouble following Mr Smyth's speech because it was very detailed. I did not get the wow factor, the crunch. All I heard was numbers going here and there, and, "He said" and, "I said." Mr Corbell has been accused of misquoting Mr Smyth because he did not say it in the house, but he still said it, apparently.

Mr Smyth: Check the policy.

MR QUINLAN: We will have to check it. I have read Mr Corbell's explanation—the speech that he delivered—which seems to me to be fairly reasonable. There is now an amendment on the table and Mr Corbell has had the grace and the courage to stand and recognise that he may have upset some people some of the time. Therefore, I do not believe that we should inflame this debate from this point on.

However, I would lay down a challenge, given the level of detail in that which Mr Smyth has said. Let me hark back to the previous Assembly. I remember several occasions on which, on this side of the house, Mr Smyth—only when caught out—stood in this place and had to withdraw and apologise for giving incorrect figures. I lay a challenge to Mr Smyth: Mr Smyth, will you resign as Leader of the Opposition if this side of the house can table inconsistencies in what you have said in and out of this place? I leave that one with you.

Let me refer to one example. It is the hoary chestnut of a $344 million deficit. It became a bit of a running joke, because some of us have a sense of humour. It is an untrue statement. It was a figure arrived at during the Carnell government that included abnormal items. Both inside and outside of this house, as I recall—and I have not checked *Hansard* so it is just the best of recollection—that figure has been used consistently by members of the now opposition—I think including Mr Smyth. Mr Smyth,

that is an incorrect figure. Will you, at one stage in your life, have the grace that Mr Corbell has shown in this place and stand and say, "That has been a misleading figure"? Would you? Do you have that courage?

Mr Smyth: Is it misleading?

MR QUINLAN: Yes. It occurred in 1995-96—the middle year of the Carnell government. It is not indicative of the bottom line because it is inflated by abnormal items. So it is neither indicative nor attributable to Labor.

Mr Smyth: It was the Auditor-General's figure.

MR QUINLAN: You have been using it. If you did not know those few details, Mr Smyth, you have been reckless—equally at fault. So I challenge you to show the same moral courage that Mr Corbell has shown today. Stand on your feet and admit that you have misled. You have used that figure in the public forum, so you have misled the public.

I will go to one other very recent example before I move on, and I have considered referring the matter for legal advice. You went on the public record—not in this place but outside, in the public forum where it does more harm—and accused me of illegally interfering in the appointment of the CEO of the Canberra Tourism and Events Corporation. Do you have the courage to stand up and admit you were wrong there? I do not think so. If we are to have a standard, and if you are going to be the champion of a standard, then I think the first thing you need to do is to make the best attempt you can to rise to it.

I will very quickly endorse Mr Corbell's credentials as a minister. If you can be honest with yourselves for a couple of minutes, imagine that the ACT, with its $2½ billion budget and 16,000 employees, is your enterprise and you have these 17 from which to choose the board of management: consider whether you will include Mr Corbell. I suggest that, if it were in your interests, he would be one of the first chosen. An event like this—no matter how spurious it might be, how it might be reflective of the politics of this place—does do harm; it does cause angst to the person who is accused. I am sure Mr Corbell has not enjoyed this process. I am sure that he has come out, at the other end, a bigger man—not that he is it not a big man now!

Some continued mudslinging does work—I have to give you that. If you sling enough mud, some will stick. But I have to say that, when we go through what is contained in Mr Smyth's accusation this morning—and we are talking about a lack of confidence over a couple of numbers which are reasonably explained—we should really reflect upon it. As I close, Mr Smyth, I repeat my challenge to you.

MS TUCKER (10.08): There are several points in this no confidence motion which raise serious questions about Mr Corbell. The most fundamental is the question of whether he should lose his ministry because of seriously misleading the Assembly. I say "serious" because I think we have to be careful, in any analysis, to look at the seriousness of it as well as whether there was an intention to mislead. It is not a matter of whether it was a simple misleading or not; it could well be the case, as others have said—Mr Quinlan has certainly made the point very clearly—that all of us have at one

time or another misled the Assembly or the community by accidentally or carelessly making an incorrect statement. Sometimes we realise and correct the record, and at other times it is brought to our attention and we then correct it.

The opposition is claiming that Mr Corbell has seriously misled us on several occasions, and I think they are saying that the misleading was intentional. Having listened to Mr Corbell and Mr Smyth, I have to say that I am not able to share the view of the opposition that Mr Corbell deserves to lose his position as minister, although I am interested in the amendment put by Ros Dundas because I am concerned at the length of time it has taken the minister to clear up some of the inconsistencies.

I will go through the accusations one by one. Firstly, there is the issue of the hospital patient activity data. This was a sequence of events incorporating changing reporting regime, the surprising provision of less information than had been promised and a subsequent motion in the Assembly that resulted, in the end, in a return to the original process. Clearly, Mr Corbell would have preferred to control the information to a better extent, and did not appear to be concerned that we would receive less information in the new format than we had received in the past. It strikes me more as an uncooperative approach than an offence against the code of conduct, and was dealt with effectively, if perhaps slowly, through normal Assembly processes. It does set a rather unfortunate tone, however, for the relationship between the Assembly and the minister.

The next issue in Mr Smyth's claims was Mr Corbell's performance in the estimates hearings last year, when he withheld information on hospital waiting lists. The subsequent privileges committee inquiry, as everyone would be aware, found that Mr Corbell was in contempt of the Assembly. In response to that, the Assembly expressed its grave concern about a minister who chose not to be forthcoming with information that was accessible and ought, in the context of an estimates inquiry, to have been made available. Arguably, given the minister's subsequent comments that he was "more conscious perhaps than I have been previously of my responsibilities", that ought to have been the end of the matter.

The next chronological issue relates to the long-running saga of the trees in Nettlefold Street, Belconnen, when action began in the community and in this place against development of the Nettlefold Street site. The minister made no secret of his view, which was that the previous government had sold the site for development in accordance with the territory plan. The site was not of true ecological significance, in his view, and buying it back would prove to be either too expensive or impossible. When the Assembly passed a motion calling on him to negotiate a land swap with the developer in order to preserve the Nettlefold Street site from development, to say that the minister was disgusted is probably not too strong a word.

While the Assembly does not have powers to compel government to act, choosing not to pursue the request without offering a full explanation was not a particularly constructive approach. Following a censure in the Assembly the minister, through his office, made some attempt to contact the proponent and advise them that a land swap of some sort might be on the cards. It is hard to believe that the minister's heart was in that negotiation, and the fact that the proponent's agent advised him that there was not much point in pursuing the matter was clearly almost convincing enough. Since then, of course, we have heard various rumours that the proponents were urged by others—not

Mr Corbell or his office—to get on with the development and so put the matter to rest, but that matter is still not resolved.

I think this did illustrate a lack of respect for the Assembly, even though I defend the minister's right to make the final decision. The motions of the Assembly are not binding. I respect the difference between the executive and the parliament and understand that it would be inappropriate for us to be forcing government to do anything. But there is obviously a lot of political weight in a majority motion of the Assembly. I think it is how Mr Corbell has responded on a couple of occasions to the majority will of the Assembly that has made people concerned about his attitude to the rest of the Assembly.

There seemed to be a change after that which was reflected in the fact that, after the Karralika issue blew up, the minister withdrew his promise to call in the development in the face of Assembly resistance, so discretion in that case proved the better part of valour. I think I would characterise the difficulties over all these issues and events as more reflective of a relationship problem than a legal problem. The question then is really about how bad the relationship is: if it is getting worse, if it can improve or if it is improving.

Another charge is that Mr Corbell has misled us on the question of scholarships for mental health nurses. Mr Smyth claims that Mr Corbell misled on this matter in a media release, in question time, and in estimates. The argument was that there was no mention of these scholarships in any of this government's budget documents, yet Mr Corbell claimed to have funded them in the ACT government budget. As I understand it, the government has funded these scholarships and that funding has been made available since government changed hands.

While it may be that there is no line in the budget specifically identifying that program, it seems inescapable that the scholarships exist—indeed 21 nurses have completed these programs since 2002, and 13 are now enrolled in them. It may also be that the initiative was first developed under the previous government and that the scholarships were made available through the release of funds that may or may not have accrued from one year to the next.

I saw an email this afternoon that suggested that there was money for mental health scholarships in the previous government that was not properly authorised, and that there was some fairly concerning administrative failure in the previous government in respect of that arrangement. I do not see that that particularly compounds any charges against Mr Corbell; that is just rather concerning information about the last government. Similarly, the comment that the money was made available through the 2002 appropriation, where again there is no line identifying such expenditure specifically is, it seems to me, not necessarily untrue. Funds are allocated from a range of programs and it seems to be a moot point as to where any individual dollar comes from.

Clearly announced programs need to be conducted and expenditure commitments need to be met, but I do not see how the information put in front of us that the government had not flagged this specific expenditure in its budget breakdown demonstrates that we have been misled in any significant manner. If the government, which controls its expenditure through a budget process, makes $300,000 available for mental health nurse scholarships and nurses take them up, that is the main thing.

There is a fairly simple instance that I will address before discussing the more complex one of mental health funding levels. When government changed hands, Mr Smyth is on record as making the comment that the Liberals proposed a forensic facility as part of the hospital, which he argues he never has, and Hansard can find no record of that. That was, it seems, as other members have said tonight, sourced from a document provided through the media, along with Liberal Party policy documents, that the minister presumably was asked to respond to. At first glance one might imagine it was draft *Hansard*, but the use of Mr Smyth's first name and the lack of headers and footers on the page make it obvious that it is instead a fairly informal record of a speech or interview. It is interesting that there is just one reference to the facility at the hospital in a document which clearly made the Leader of the Opposition appear inconsistent, but all other references on Liberal Party documents are to a prison.

I can see why Mr Corbell might seize on that for point scoring but, clearly, if he took that more seriously he should have, and would have, looked more closely and more widely at what Mr Smyth was saying. The fact that, when given the chance to correct the record on this matter, he did not do so demonstrates that we are dealing with an enthusiasm for making a political point and perhaps mocking other people. That is an approach shared by both sides of this house that creates an antagonistic atmosphere and wastes a lot of time.

I do not, as Mrs Dunne has suggested, see that there was a deliberate fabrication. I have not seen evidence from her to prove that, anyway. Nonetheless, it is concerning that such an approach leads to misrepresentation, as it can do, particularly in a minister who has bigger responsibilities to the parliament and the community. The issue of mental health funding—how much we allocate per person in the ACT for mental health services—is new in this debate, and in some ways puts the most coherent case.

As I understand it, the minister received advice in early February, in the form of a possible question brief, that in 2000 and 2001 the ACT had the lowest recurrent expenditure per person for any state or territory on mental health services at $67. *(Extension of time granted.)* This figure had increased to $83 when government changed hands. Given that there were no specific questions on the issue in that week, it is certainly conceivable that the information at the bottom of that brief was not read or absorbed.

I accept also that the national comparative figures in 1999-2000, where the ACT at $67 was so much lower than the other states and territories, would be much more memorable. I accept that a possibly inadvertent use of the wrong figure, once it was reinforced by inaccurate briefing notes provided by the department for a speech, could seem to be unquestionable. Certainly it was a conveniently low figure that allowed the government to present itself as making a significantly greater sudden improvement to mental health funding than it did in reality.

It seems to me that Mr Smyth was quite strenuous in challenging that figure, despite the fact that the minister took such delight in attacking him with it. I am alarmed that there was no alarm in the minister's office that Mr Smyth kept coming back to it, particularly as it only made the Liberal Party look bad if they could not prove their case. It seems that there was no query from the office, and it was the department that alerted the minister to

his errors in early May. The minister then set the record straight at virtually the first opportunity. It is in looking at the detail that I find myself taking this matter quite seriously.

To put it simply Mr Corbell enjoyed a month or two of bashing up the opposition on the basis of inaccurate information that he did not check when it was challenged. Then, when the error is pointed out he corrects the record in the most minimal way, arguing legalistically that that is all that is required. He shows no interest in apologising for the unwarranted political damage that has been inflicted. I must say I was glad to see Mr Corbell tonight showing a little bit more understanding of the damage he created and apologising to the Assembly.

If this were a matter for the Civil Law (Wrongs) Act, then a press release correcting the record and a genuine apology would be the obvious requirement. This is a small parliament where we work with each other quite intensely. I have seen no evidence yet that an antagonistic point-scoring personal approach to politics delivers a better outcome in policy, in the status of this parliament or in the health and effectiveness of those of us who work here. Rather, I would imagine it is the opposite.

A lot can be gained by people who have the grace to admit they are wrong and apologise for any harm they have done to others as a consequence. It is not just about following policy frameworks and putting things on the record, it is also about how we approach our work. If it continues without change it also makes it difficult to trust each other and, in this case, the minister's word. It is not duplicitous to consider the intent and feelings of others in how you do your work, even in this little bear pit of an Assembly, because antagonism and aggression does lead us into misrepresentation, misleading, and lack of respect for the institution. However, as I have said, at this point I do not see the offences that have been put up by the opposition as hanging offences, but join with Ms Dundas in her amendment expressing concern at what has happened. As I said, I hope that this has been a positive experience in some ways for all of us to reflect on how we operate, but particularly for Mr Corbell.

MS MacDONALD (10.22): I am slightly confused because Ms Tucker just referred to Ms Dundas's amendment as expressing concern, as opposed to a censure, but it says "censure" on it.

Ms Tucker: That is what I meant.

MS MacDONALD: I was wondering if it had been downgraded again, while I blinked. I think what we have here today is the issue of style; the issue of a number of people not liking the style of Minister Corbell and taking advantage of that—seeing him as an easy shot because of his style. There has been a lot said tonight and earlier today about the dignity of the house and the place has been referred to as a sandpit or toy parliament. We all contribute to that—not just the executive of the Assembly.

Ms Tucker made the comment that she believes Mr Corbell does not deserve to lose his ministry, and that is a relief. Everybody has been talking tonight about how seriously they take the issue of a no confidence motion, as they should, because it is a serious matter. To take a ministry away, a person would have to have committed a grave error. Obviously that means that the opposition, who are putting up this motion, need to make

the case that the minister's actions have been so grave that he deserves to lose his position.

Ms Tucker also said that she was going to support Ms Dundas's amendment, or that she was interested in Ms Dundas's amendment. If my recollection is correct she went on to say that we all make mistakes; that when we become aware of mistakes, some of us correct them; that sometimes we do not correct them; and that sometimes we correct them when they are brought to our attention.

Mrs Dunne made comment on the crux of Mrs Dunne's argument. She was talking about Mr Corbell having said that Mr Smyth had said something that was in *Hansard*, instead of saying that it was from the Liberals' package—Mr Corbell has tonight said that he did.

It is interesting. I am looking at the package of information that was provided to the media entitled *Creating a safe, secure, and responsive mental health service*, which the minister tabled earlier. Turning to page 4 of the document, under "key actions" it says that a Smyth Liberal government will x, y and z. It then says it will include a forensic unit as part of the ACT prison project. On page 5 about halfway down, in a quote from Mr Smyth, it says:

> There are facilities. The key is the case load. We would establish a time-out facility and make sure there is a forensic unit as part of the hospital.

It is my opinion that both Mr Smyth and Mr Corbell have made human errors, as we all do. Mrs Dunne has based the crux of her argument on the fact that the minister said that this was in *Hansard* and Mr Smyth has come in here several times and said, "I cannot find where it is in *Hansard*", and this is all suddenly terrible. The first thing I knew about this motion of no confidence was this morning, and that is the case for the majority of members on this side of the house.

I have asked Mr Corbell if he can recall Mr Smyth coming to his office, writing a letter to him, speaking to his office at all—if he knew—or asking about it in question time, to correct the record where Mr Corbell claimed that Mr Smyth had said that this was in *Hansard*. Mr Corbell, to the best of his knowledge, cannot recollect that. I do not know. Mr Smyth possibly made that approach but it would probably be the case that somebody from the minister's office would have informed the minister that an approach had been made. If there was a letter we would have evidence of that letter; if there was an email we would have evidence of that email; and if there had been a conversation between the minister and Mr Smyth on this issue I hazard a guess that the minister would probably have some vague recollection of it, but he has no recollection of that.

Mr Cornwell said that it comes down to the dignity of the house and that Mr Corbell was making a mockery of the Assembly. I go back to what I said before. We all contribute to the dignity or otherwise of this place. I have to say that I do not believe this place was particularly dignified yesterday in the way a lot of items were handled. I felt almost physically ill at the behaviour in this place yesterday. I think that goes to many people, not just the people in the executive.

I would also say that the Treasurer raised a fairly good point in asking Mr Smyth if he would stand down from the position if he were found to have misled this place. I would also make this point: there have been times when I have personally heard and seen Mr Smyth and others make less than dignified comments which they have been reluctant to withdraw. If we want to talk about dignity, in Yiddish we have the word "mensch". That means "good person" but it means much more than that.

I refer to the attitude displayed by the minister this evening when he got up, I believe after Ms Dundas had spoken. He spoke about how he can often come across as being aloof and arrogant. That is really laying oneself on the line. I believe Mr Corbell fulfils the requirements of being a mensch, but I cannot necessarily say the same about the people on the opposite side this evening.

Amendment agreed to.

MR SMYTH (Leader of the Opposition) (10.32): This motion is not about how, when, why or by whom the original mistake was made. It is not about a breach of the code. If you make a genuine mistake it is not a breach of the code. But when a breach of the code, where you have misled the house, is brought to your attention you are obliged to correct the record. If you do not, that is when you have breached the code. For the last three or four months I have asked the minister to correct the record on numerous occasions—on just about every sitting date from 11 March—in either questions on mental health, an MPI on mental health, or direct questions, and the minister has chosen not to do that.

A minister has an obligation to investigate and, if necessary, correct the record when it is drawn to his attention that he has misled the Assembly. A mistake can be okay when it is a genuine mistake. Not to correct the record is when you get into trouble. Not to correct the record at the first available opportunity when an error is brought to your attention is a breach of the ministerial code of conduct and the rules of the house. Not to correct the record on three, four, five, six, or seven possible opportunities is wilful political evasion, as well as a breach of the code.

We would not be here tonight if the minister had corrected the record when it was first brought to his attention. Much has been made of the fact that the minister has apologised and that that makes him a bigger man; but you are a much better man if you apologise when it is first brought to your attention, not when you have the threat of a motion of no confidence hanging over your head.

The question of timing was raised. Nobody was aware of this, apparently, but I have been asking about and talking of mental health since the launch of our policy. Questions were asked; MPIs were had; questions were placed on notice. If there is any doubt at all as to how seriously the opposition was treating it I would read, for the benefit of members, the last two paragraphs of my adjournment speech on 14 May. It says:

> I warn the minister that if he indeed knows the answers to my questions and he knows that he has misled the Assembly in relation to these issues, then he failed last night to provide full disclosure to the Assembly. Once more I insist that the minister reveal the answers to the questions asked of him. I place him and the Chief Minister

> on notice that the minister is not living up to the requirements of the ministerial code of conduct, which states:
>
> > All ministers are to recognise the importance of full and true disclosures and accountability to the parliament.

Let us not say we did not know or that we did not hear. Questions were asked, MPIs were had, questions were put on notice, questions were asked in estimates and adjournment speeches were made. That is the full gamut of what anyone can do to bring this to the attention of the minister, and it was all done.

Let us look at the three areas that we have discussed in more detail than some. There are others, but let us look at the three answers. Let us look first at the question of *Hansard*. The *Hansard* issue I think comes up as the feeblest of the excuses presented by the minister tonight. The policy document that was launched, in which this transcript of a conversation or interview is apparently included, clearly sets it out in several places, and I am happy to quote it for the interests of members. On the front page it says, "include a forensic unit as part of the ACT prison project". Going to page 2, it says that an eight-bed forensic facility as part of the future ACT prison would provide appropriate care for the mentally ill. The inclusion of a forensic unit as part of the ACT prison project is in the press release.

Let us have no doubt. I never said in this place that we would build a forensic unit as part of the hospital. It cannot be found in *Hansard* because it was not said in this place. The minister has come in here tonight and said, "It came across in a bundle of Liberal Party documents." That is the best excuse I have ever heard to cover a politician's backside on how they got something. If it is in the middle of a pile of documents, then it must belong to that pile of documents. The pile of documents as presented contained the draft policy without the pictures—it is a text document, by the look of it. At the back is the document as released with the photos that were included in the middle of this. The excuse seems to be, "I mistook it for *Hansard*."

The minister has tabled this this evening and I would ask members to look at it. It does not look like *Hansard*; it does not read like *Hansard*; it does not have "draft *Hansard*" or "final *Hansard*" on it; it does not have the notations of Hansard on it; and it has my name, to start with—"Brendan". I defy any of you to go through any of the volumes of *Hansard* and see a minister, a member or the speaker addressed by their first name. It has never happened before; and it will never happen again because it does not happen. The excuse tonight is that it came across in a pile of documents when the Liberal Party released their mental health policy in late March. Let us see what the minister said in *Hansard*. He said that the Liberal Party policy would establish a time-out facility and make sure there is a forensic unit as part of the hospital. It continues:

> That is what he said only a couple of months ago, yet yesterday he came out and said that it is going to be at the prison.

I will read it again. It says:

> That is what he said only a couple of months ago, yet yesterday he came out and said that it is going to be at the prison.

If you accept that the mistake was that he thought it was part of Liberal Party policy because it came in a pile of documents that purported be Liberal Party policy—and one is a draft and one is the actual policy; you have to be careful these days—it does not say anywhere on this document that I said that a couple of months ago. The fabrication is even more complex than is first presented; it is total fabrication. He got this, I assume, on or about the 29th, because the *Canberra Times* did not get it until just before the 29th. I will quote one more time what Simon Corbell says Brendan Smyth said. He said, "That is what he said only a couple of months ago…" Members, please ponder that—"only a couple of months ago".

It is the feeblest excuse that, if you get something from the *Canberra Times,* you can think it is from *Hansard*. I think that is particularly interesting. The other question is: since when did the *Canberra Times* supply members with *Hansard*? Who made up *Hansard*? Mr Corbell did. It has been corrected only tonight. The only reason it has been corrected—and I have asked him to correct it prior to this evening—is that the minister has the threat of a motion of no confidence hanging over his head.

Let us move to the nursing scholarships, which are particularly interesting. Instead of the answer getting clearer in the course of today, the claim that Mr Corbell had announced the nursing scholarships gets more complex because there is not just one answer; we now have three answers from the minister. I put a question on notice about where the scholarships come from. The answer was that an appropriation for strengthening the nurses' work force in 2001-02 included $600,000 for general nursing scholarships. In 2002-03, in response to identified specific needs from mental health, half of these funds were transferred to mental health.

According to that, they come from a Liberal Party initiative. Then we find, in the original answer from the minister in *Hansard*, that the money came from an appropriation in January 2002. There was no appropriation in January 2002. The appropriation that occurred in February 2002 did not include money for mental health scholarships. So one story; two stories. *(Extension of time granted).*

Then tonight a document is given to another member that says that the mental health nursing scholarships commenced in December 2000. So it is not Mr Corbell's policies or his announcement—these scholarships were running. Again, he did it because, when we announced that we would have mental health scholarships, he had to go one better. That I guess is politics. But when it is brought to his attention, he has to come to the chamber and correct that mistake. He did not do that, and that is the problem.

The third issue is the question of the money, and who spent how much when. But that is not the question. The question is: when Mr Corbell was asked if his facts were correct, instead of checking, he stuck to his story for almost three months before he came in here at the very end of Thursday, 13 May and answered in the dead of night. We know that Mr Corbell knew from the start—from his question time brief of 10 February—that that was not correct. The question time brief says, "In 2001-02 recurrent expenditure has increased to $83.7 per person." Members, that was the last Liberal budget.

I asked him on several occasions—on almost every sitting day from when this first commenced until I issued the warning on the 14th, when we had the misleading correction of one of the instances; not all six—and that is the problem. When it is

brought to your attention that you have made a mistake—an inadvertent mistake, an accident, somebody has provided you with incorrect information, which happens to all of us—you have to come and correct it. But there has been no correction from Mr Corbell until this evening.

We try to look at what has been given to us. I made it quite clear where I had got my figures from. I made it quite clear that the figure Mr Corbell was quoting was from a previous year, not the last year of the Liberal government, and yet through March, April and May he persisted in telling that story. That is wilfully misleading the house and that is what is unacceptable. I will quote the ministerial code of conduct again. It says:

> All Ministers are to recognise the importance of full and true disclosure and accountability to the Parliament.

It continues:

> …Being answerable to the Assembly requires Ministers to ensure that they do not wilfully mislead the Assembly in respect of their Ministerial responsibilities.

It continues:

> Ministers should take reasonable steps to ensure the factual content of statements they make in the Assembly are soundly based and that they correct any inadvertent error at the earliest opportunity.

Again, that is the escape clause. Let us look at what Mr Corbell did in each of these three issues. The misleading is that the minister misled the Assembly by giving false information on 30 March about government-funded mental health nursing scholarships. The error was drawn to his attention by a question that appeared on the notice paper on 1 April, and again by discussion in estimates hearings on 7 April. By returning an answer to the question on notice presented to the Assembly on 14 May the minister had signed off on a document that confirmed that the original information was misleading. The minister has never given the Assembly a correction; hence on each of the sitting dates of 4 May, 5 May, 13 May, 14 May, 25 May, 22 June and 23 June he is in breach of his obligation to correct the record

He had seven opportunities. That is the problem—when you are asked to correct and you choose not to. You might get away with it once or twice but to have several opportunities—and in this case there were seven occasions—on which to correct and not do so is a breach of the ministerial code. Let us go to the claims that the opposition leader made a statement which is recorded in *Hansard*. The misleading is that the minister misled the Assembly by giving false information on 30 March—namely the false claim that the opposition leader had in the Assembly made a particular claim about a forensic unit.

No statement of any kind as alleged by the minister has ever been made by me. The error was drawn to the minister's attention by personal explanation by myself on 1 April. *(Further extension of time granted.)* Until this evening the minister has never given the Assembly a correction. Hence, through each of the sitting days of 4 May, 5 May, 13 May, 14 May, 25 May, 22 June and 23 June he continued to be in breach of the obligation to correct the record. There were another seven opportunities, members.

The issue of the money is more complex. The minister misled the media by media release on 10 February by making a false claim. The minister then misled the Assembly by giving false information on 11 March: (a) the false claim that mental health funding was $67 when the government came to office; and (b) by making the invalid comparison between the pre-2002 national average figures with the post-2002 budget figures following a significant administrative restructure. Remember that on 10 February Mr Corbell had a question time brief that said the funding had increased to $83.70 per person in the 2001-02 financial year.

The misleading was repeated on 30 and 31 March; the errors were drawn to his attention in the adjournment debate on 30 March, and again through a direct question on 31 March. In addition, questions were placed on notice on 1 April that directly raised the issue. The minister was briefed on 3 May by the chief executive of his department, and I think he has tabled a copy of that briefing tonight. But, after returning answers to questions on notice, signed off on 5 May, there can be no doubt that the minister was aware of the inaccuracies of his claims. On each of the sitting dates of 4 and 5 May the minister failed to correct the record.

The minister gave a partial correction to the record in the adjournment debate on 13 May; however, this correction is inadequate. It is not, under the code, full and true disclosure. It is incorrect because the minister had been given the real information on 10 February. The minister was again warned of the inadequacies of his response on 14 May. He could have corrected this on 25 May, 22 June or 23 June—on three occasions. The minister continued to be in breach of his obligations to correct the record.

This is a serious matter. In some ways the issue of what the breaches were about does not matter. It is about abiding by your own ministerial code of conduct, respecting the house, and respecting your fellow members. It is about being accountable. We have had a number of platitudes. I do not care how you come across; it is not about your personality; it is not about your style—we all have differences in the way we do things—it is about misleading; it is about an original mistake—possibly a genuine mistake—that, when it is brought to your attention you are obliged to correct.

In the three specific examples given tonight the minister had many opportunities—seven days, seven days and three days—to respond to what he was asked, and he failed to do that. It is only here now, at almost 11 o'clock, after a day of debate and a day of negotiation, that we finally get an apology and some corrections from the minister. I will check the record to see whether we have full corrections at this stage. That is why the minister should have been found to have lacked the confidence of the Assembly. I refer the amended motion to members.

Motion, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Water

MRS DUNNE (10.53): COAG is to meet tomorrow to continue the process of water reform. Before that important date I think it is important that this Assembly place on record just how significant this issue is and encourage the states, the Commonwealth and the territories to roll up their sleeves, get on with the job and put aside their partisan concerns for the good of the nation.

While we are talking about the good of the nation I was reflecting last night, whilst watching the *7.30 Report*, about the different approaches of the states when it comes to the crucial water debate. I would like to reflect on some of the things that were said on the *7.30 Report* by the Western Australian Premier, Dr Geoff Gallop, and the New South Wales Minister for Utilities and Energy, Mr Frank Sartor. Dr Gallop and Western Australia are taking a very serious approach to the problem of water. Dr Gallop said:

> Look, I think we've all got a problem.
>
> It's a nationwide issue.
>
> If you look at human history - I mean some civilisations have collapsed either through changes in weather patterns or, indeed, through the way that they operated in their own environments.
>
> Let's adjust, otherwise I think we're threatening the future of our environment and therefore we're threatening the future of our civilisation here in Australia.

Elsewhere Dr Gallop said:

> Assume lower rainfall, assume even drier winters into the future and that's the basis upon which we're proceeding.
>
> To do otherwise I think would be reckless.

Hear, hear, Dr Gallop! Dr Gallop is trying to address these issues. The reporter says that Western Australia is so concerned in this that Premier Geoff Gallop has organised his own war cabinet to plan a full-on assault on the water problems. We have Dr Geoff Gallop saying things like:

> Unless you do that with major issues like this, you can get indigestion in the system of government and I think you can get difficulty in implementing any particular plan.

The reporter says that WA is going a long way to encourage water saving measures at a domestic level. I would like to contrast that very serious approach with the pollyanna approach of Mr Frank Sartor, the New South Wales energy and utilities minister, who said, "Look, it's not a problem". He said:

> We're absolutely on top of it.
>
> We're absolutely on top of it.

He has so little to say he has to repeat everything at various stages. I like this one. Mr Sartor also said:

> We do know what we're doing.
>
> It's going well.
>
> We've got a plan, we've got a long-term plan.

Does that remind you of anybody? I think that the local minister for the environment and water is taking a leaf out of the Frank Sartor book. The trouble is that the Frank Sartor book has one problem, which even he admits. He says:

> There is one piece of uncertainty and that's climate and weather and we'll keep monitoring that to see if we have to do more.

I think it is very important, on this vital issue, that the ACT adopt the very serious approach of Dr Gallop and admit that we do have a long-term problem; that we plan for the worst case scenario and not be reckless, rather than adopting the pollyanna approach of just having a long-term plan but not doing very much about it. Water is our most precious natural resource. While there is a certain amount of will to improve the situation, that will is not backed up by action. Unfortunately, I do not think there is enough action being taken in this territory to show leadership in this particularly important area.

I hope that, through negotiations and discussions at COAG, we can see what other people are doing and perhaps the government will redouble its efforts to do something about the vital issue of water. We often say that we should lead by example but I think that, in this debate, we are following along behind. I think it is unfortunate. It does not do service to the people of Canberra or to the people of Australia.

Statements in Legislative Assembly

MS MacDONALD: I am not reflecting on a vote. A lot was said this evening and earlier today about misleading the place, et cetera, withdrawing things and correcting the record. When we got to the end of the discussion tonight I remembered an issue that happened earlier in the year during the Karralika debate. If members go to page 178 of the Fifth Assembly *Hansard* for 2004 they will see that, in that debate, Mr Smyth said, "Then we get to the role of Mr Hargreaves and Ms MacDonald…"

It continues:

> There was a rash of press releases faxed to the media at half past 5 on a Friday night. Ms MacDonald arrived at a resident's house and said, "It's all okay, the development is off. We're going to pull it and it will go through the proper process." It was not until the press release arrived from the minister's office, of which a copy was made available to the community, that you found in paragraph 5 the words, "But I'll call it in." Ms MacDonald was not telling the residents it was going to be called in.

I, of course, took umbrage at that. When going through the history of the Karralika matter, as it was for me, at the top of page 222, I made the following comment:

> While we are talking about that, earlier in this debate Mr Smyth said that I had gone to the resident's house after 5 o'clock on Friday, after the press release had come out from the minister, and that I had made no mention of the call-in powers when I visited one of the residents in Jackie Howe Crescent. While I was there the neighbours of this resident came in—they are in the gallery today…I attempted to speak to them about the minister's proposal—after his meeting with Mr Hargreaves, Mr Wood and me…Mr Smyth has made the comment that I withheld the fact that the minister intended to call it in; that I had not told them. I took the press release that Mr Hargreaves, Mr Wood and I had put out. I will read from it.

It continues:

> It can be no more explicit than that. I really do take umbrage at the suggestion that I was trying to hide that.

I was drawing attention to the fact that I had not been trying to conceal anything and that I had been honest at all times with the members of the community I spoke to on the issue of Karralika. Then on page 226, Mr Smyth spoke. Did he say, "Well, I might have made a mistake about that", or, "I may have been incorrect about what I said about Ms MacDonald"? No. I did tell him that he was wrong—that I had not done it in the way he said I had. Mr Smyth said:

> Ms MacDonald raises some interesting points. She claims to have taken a press release. I went looking for the MacDonald press release.

I did not put out a press release. It was put out in my name, Mr Wood's name, and Mr Hargreaves's name—it was done on Mr Hargreaves's letterhead—and that was made very clear to Mr Smyth. He continues:

> It is a habit in this place that press releases go to the library so that the community can see what you have said and what you stand for. The last press release that Ms MacDonald…

Mr Hargreaves interjected with, "I sent it." Mr Smyth continued:

> If Mr Hargreaves sent it, then I will go and look in his file as well. A press release has gone out in Ms MacDonald's name, but it does not appear to have been seen. It certainly had not been raised with the residents until confronted with the truth.

Mr Quinlan: He will be down to apologise shortly!

MS MacDONALD: I am still waiting for the apology and the correction from Mr Smyth from 11 February. I spoke to Mr Smyth and quite clearly told him that that was wrong, that that had not happened, but he did not correct it. He has not been into this place and corrected the record. I would like to see Mr Smyth uphold the standards that he is expecting everybody else in this place to uphold, and act how the minister has acted tonight.

Question resolved in the affirmative.

The Assembly adjourned at 11.03 pm until Tuesday, 29 June 2004, at 10.30 am.

Incorporated documents

Attachment 1
Document incorporated by the Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage

I present the Civil Law (Wrongs) (Proportionate Liability and Professional Standards) Amendment Bill 2004. The Bill will amend the *Civil Law (Wrongs) Act 2002* to implement proportionate liability and professional standards in the Australian Capital Territory.

The Bill represents a further measure to deal with the problems experienced by the insurance industry since 2001. A combination of international, domestic and structural factors came together to produce a severe increase in premiums for liability classes of insurance in Australia. For some risks, liability insurance became completely unavailable.

To counteract the effect of the insurance crisis on the professional indemnity insurance market, the Standing Committee of Attorneys-General in August 2003 set out a nationally consistent basis for proportionate liability legislation and professional standards legislation and committed to legislative implementation. These initiatives target the problem of economic loss as a result of professional negligence and do not relate to claims arising from personal injury. The Standing Committee of Attorneys-General proposal is the culmination of a long process of national policy consultation aimed at dealing with the recent problems affecting the insurance industry in Australia and overseas.

The Bill will replace the use of the concept of joint and several liability as a means of compensating claimants with the concept of proportionate liability as a means for compensating claimants in legal claim for economic loss or property damage.

Proportionate liability means that in an action for damages for purely economic loss or damage to property where more than one person has caused the loss or damage, each defendant in the action is liable only to the extent of his or her responsibility for the loss or damage caused. This proposal does not extend to personal injury claims.

The Bill will also introduce professional standards for industry associations, such as compulsory professional indemnity insurance, continuing education, codes of conduct, disciplinary procedures and risk management strategies, in return for financial limits on liability for damages in relation to an action under the law of negligence, contract or misleading conduct for economic loss.

A Professional Standards Council, whose members will be appointed from the ranks of key Australian professions, will be established with the responsibility for overseeing the implementation of risk management strategies by professional groups in the Australian Capital Territory. The council will be funded on a "user pays" basis by fees paid by the professional associations which will be regulated under the legislation.

In preparing the professional standards legislation, due regard has been given to maximising the flexible application of the provisions to the professionals who will

be regulated. Section 20 of Schedule 4 of the provisions reflects the approach taken by other Australian jurisdictions, in allowing professionals to raise the financial limits of their liability for a particular work engagement. The balancing factor to this flexible approach is that any adjustment to liability limits would first need the approval of the relevant professional association.

In preparing the Bill, an extensive process of consultation was undertaken by my department with representatives of peak bodies representing the accounting, legal and engineering professions. There is unanimous support amongst these professions for both proportionate liability and professional standards. It is generally agreed that "prevention is better than cure", and I am confident that an increase in the standards of service delivered by professionals will result in a corresponding decrease in the number of professional negligence complaints.

I commend the Bill to the Assembly.

Attachment 2
Document incorporated by the Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage

Mr Speaker, I present the Criminal Code (Serious Drugs Offences) Amendment Bill 2004.

This bill represents the fourth phase in an ongoing process to modernise and codify the criminal law of the ACT so that it is relevant to the conditions of the 21st century and is expressed in terms that ordinary people can understand.

The process began in September 2001 and has thus far seen the inclusion of four chapters in the Criminal Code. This bill will insert a new chapter 6 in the Code and make consequential amendments to the Drugs of Dependence Act 1989 to give the ACT a modern regime of offences to deal more effectively with serious drug crime in the ACT. More importantly, I believe that this Bill has the potential to dramatically improve the overall effectiveness of the war on drugs by promoting uniform drug laws across Australia.

Mr Speaker, no other area of the law begs for uniformity like this one. The need for a national drug strategy was recognised as far back as 1980 with the Williams Royal Commission report and in the view of the Model Criminal Code Officers' Committee, which I'll refer to as the officers' committee, the arguments for a uniform approach to deal with the illicit drug trade remain "clear and compelling".

But regrettably in the years since the Williams Royal Commission report there has been very little progress towards uniform legislation. A comparison of the various legislative regimes across the country reveals extreme variation among the Australian jurisdictions. In the meantime the trade in illicit drugs has increased dramatically and grows ever larger, reaching deep into the Australian population with incalculable costs in human suffering and scarce resources.

But I am pleased to say that there has been some meaningful progress towards uniformity in more recent times. In November last year the Standing Committee of Attorneys-General resolved that all jurisdictions would implement the recommendations of the officers' committee report on serious drug offences as a matter of priority. In keeping with that commitment this government has moved this

Bill today and calls upon all jurisdictions in the country to do the same so that our combined and co-ordinated efforts may one day rid us of this scourge that so deeply affects the well being of our communities.

Mr Speaker, the reforms in this package are primarily based on the report developed by the officers' committee, entitled "Serious Drug Offences", which was released in 1998 after an extensive nationwide consultation process. As I have indicated the model provisions were designed for adoption by all jurisdictions as part of a uniform national approach for dealing with serious drug crime.

In common with most other Australian jurisdictions, the ACT's offences for dealing with the illicit drug trade were essentially grafted onto legislation – the Drugs of Dependence Act in the ACT - that was originally designed for regulating the legal distribution and use of poisons, pharmaceutical drugs and other dangerous substances used in medicine, industry and agriculture. Consequently the offences are not as well tuned as they could be to deal effectively with the illegal trade and often there are anomalies because of the dual character of the legislation.

For example, section 162(3) of the Drugs of Dependence Act imposes a maximum penalty of life imprisonment for cultivating a commercial crop of cannabis but only a 10 years maximum for manufacturing amphetamines in any quantity. The evident reason for the discrepancy is that the cannabis prohibition is directed solely at the black market, whilst the prohibition against manufacture of amphetamines applies to the legal and black markets alike.

A major advantage of the Bill is that it will enact a regime of offences that are specifically designed for and directed against the illegal drug trade. Consequently the Bill offences are more effectively targeted with less anomalies and the overall scheme is more comprehensive so that a much broader range of the illegal trade is addressed.

The bill also includes some additional lower order offences for cannabis and cannabis plants based on offences in the Drugs of Dependence Act. There will also be a reduction in the number of plants covered by the simple cannabis offence notice scheme. The Bill will also remove a number of offences from the Drugs of Dependence Act that will be made redundant by the enactment of chapter 6, however, it will leave intact the health and regulatory scheme in that Act so that it will continue to be the primary legislative tool for regulating the legitimate manufacture, supply, use and misuse of pharmaceuticals and controlled drugs in the ACT.

The Drugs of Dependence Act offences that can be utilised against those involved in the illicit drug trade are essentially limited to selling, supplying, possessing, manufacturing and cultivating controlled drugs and plants. The offences in chapter 6 of the bill cover a wider range of criminality and apply more consistent maximum penalties determined on the amount of drug involved.

Therefore, whether a person illegally manufactures a "large commercial quantity" of amphetamines or cultivates a "large commercial quantity" of controlled plants, the maximum penalty that applies is the same, life imprisonment. Similarly, the maximum penalty for manufacturing, trafficking or growing a "commercial quantity" of a controlled drug or plant is 25 years imprisonment for each.

The bill offences also have a greater organised crime focus and consequently cover a much broader range of criminal activity than the Drugs of Dependence Act. The

offences for trafficking are a good example because they apply not only to selling and possessing controlled drugs to sell but also to preparing and packaging the drugs for supply and transporting, guarding or concealing them for selling or engaging in such activities believing that someone else intends to sell the drugs.

There is also a comprehensive range of additional offences that are not currently in the Drugs of Dependence Act. These include offences of receiving money or property derived from a drug offence and concealing, transferring, converting or removing money or property from the ACT that has been derived from a drug offence.

There are also new offences of possessing equipment, substances and instructions with the intention of manufacturing or cultivating controlled drugs or plants and related but more serious offences of supplying others with such equipment and instructions etc so that they may manufacture or cultivate controlled drugs and plants.

Like the Drugs of Dependence Act chapter 6 has an offence of supplying drugs to a child but it also includes two new important offences for the protection of children. They are offences of procuring a child to traffic in drugs and supplying drugs to a child for trafficking, for which maximum penalties of 25 years' imprisonment applies.

One of the more significant improvements this Bill will make to the drug laws in the ACT is the inclusion of offences with respect to "precursors". Essentially, "precursors" are the raw chemical components of a controlled drug.

Many precursors are present in products that are readily available off the shelf in pharmacies (eg Sudafed), supermarkets and hardware stores and are commonly extracted in backyard laboratories to manufacture controlled drugs, particularly amphetamines. The problem has become particularly acute over recent years and accordingly chapter 6 includes a range of offences to deal with those who manufacture, sell or possess "controlled precursors" to manufacture controlled drugs.

Chapter 6 also includes a range of provisions to improve the effectiveness and enforceability of the offences in the Bill. Perhaps the most important improvement concerns controlled drugs that are commonly sold in a diluted form on the black market.

For those drugs the regulations will specify different prohibited weights for the drugs in their pure form and in a mixture - which of course will be set at a higher weight. The prosecution will then be able to elect to establish the quantity of the drug involved in an offence by reference to the pure drug weight or the mixed drug weight.

At present, quantity is determined in the ACT by reference to the pure weight, however, other Australian jurisdictions are divided on the method they employ. The officers' committee assessed the arguments for both methods and concluded that there are significant advantages and disadvantages to both.

Accordingly, it recommended that either measure could be used. In addition to encouraging uniformity, this measure will also ensure that expensive and scarce resources for analysing purity are not unnecessarily wasted. The Bill also includes a number of provisions that allow the prosecution to prove the quantity of the drug

involved in an alleged offence - for example, "a large commercial quantity" or "a commercial quantity" - by aggregating the amount of drugs trafficked over repeated transactions and aggregating different kinds of drugs involved on one occasion. The purpose of these measures is to enable the infliction of severe penalties on those who deal in bulk by an accumulation of small sales.

Mr Speaker, the enactment of this bill will ensure that the ACT has a modern and more effective regime for dealing with the illegal drug trade. More importantly it will encourage other jurisdictions to enact their part of the proposed uniform scheme and thereby enormously improve the effectiveness of this nation's efforts to eradicate this contemptible trade.

I commend this bill and the explanatory statement to the Assembly.

Attachment 3
Document incorporated by the Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage

Mr Speaker, I present to the Assembly the Discrimination Amendment Bill 2004.

This bill will amend the Discrimination Act 1991 by clarifying the special measures provision in section 27 of the Act in order to put its meaning beyond doubt.

The special measures provision is the 'affirmative action' or 'positive discrimination' provision in the Discrimination Act. Its purpose is to prevent people from outside the relevant class complaining about services targeted to those within the relevant class and in need of it.

For example, it is intended to prevent men from complaining about women's specific health services or non-aboriginal people from complaining about their exclusion from programs for Aboriginal people. That is the intent of section 27. It is intended to help classes of people with special needs.

Past decisions by the Administrative Appeals Tribunal and the Supreme Court misconstrued section 27 as a blanket exemption, which blocked all claims of discrimination arising out of a special measures program. The Full Court of the Federal Court in *Richardson's case* corrected this misinterpretation and concluded that section 27 did not protect unjustifiable differences in treatment done in the course of administering a special measures program. In 1999, section 27 was amended to ensure that an intended beneficiary is able to challenge a discriminatory act that is not relevant to achieving the purpose of the program.

Despite the Federal Court decision and the 1999 amendment, there are still differing views about the scope and application of section 27. The current law on special measures continues to be the subject of uncertainty in the community. In particular, there has been concern whether people with special needs are effectively protected against discriminatory practices in the provision of special measures services. ACT Council of Social Services has argued that the relevance test in section 27(2) prevents intended beneficiaries from successfully challenging discrimination because virtually all acts undertaken may be construed as relevant to achieving the purpose of the program.

The government undertook as an election promise to amend the Discrimination Act to put the meaning of section 27 beyond doubt and to ensure that the provision operates as originally intended. The purpose of the amendment is to more clearly express the policy objective of protecting special measures programs for people with special needs from legal challenge by people not intended to benefit from the program, without protecting any negative discrimination within those programs.

The bill clarifies by way of example that the words 'members of a relevant class of people' in section 27(1) of the Act refers to people intended to be beneficiaries of a special measure. Therefore only beneficiaries of a special measure may legitimately invoke section 27(2). This will prevent people from outside those groups being able to successfully challenge a measure designed to promote equality for disadvantaged groups.

Section 27(2) will be improved by using a test for reasonableness, rather than relevance. By using a reasonableness test, beneficiaries will be protected against unlawful discrimination in the administration of special measures programs by the same standard as is applied to the rest of the community. It makes the threshold level of what constitutes unlawful discrimination in section 27 internally consistent with the rest of the Act (as defined in section 8 of the Act). It is not acceptable that the most vulnerable members of our society are afforded a lower standard of protection against discrimination than everyone else.

The Bill therefore ensures that people who are entitled to special services have the same right as the rest of the community to make a discrimination complaint about the services that they receive. The Human Rights Act 2004 recognises the right to equal protection of the law. The Bill gives effect to the fundamental principle of equal and effective protection against discrimination. As such it is part of the government's broader commitment to building a culture of respect for human rights through the introduction of a Human Rights Act for the ACT.

The Bill does not put service providers at risk of unreasonable demands on their services. Service providers will continue to be able to make decisions about which clients they provide services to. However, those decisions must be based on criteria which are reasonable and proportionate to the delivery of those services. Human rights standards require that limits on rights be reasonable and proportionate to achieve a legitimate aim.

Mr Speaker, I commend the bill to the Assembly.

Attachment 4
Document incorporated by the Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage

Mr Speaker, I present the Residential Tenancies Amendment Bill 2004. The Bill makes a number of important changes to the Residential Tenancies Act 1997. In particular, the amendments now deal with occupants, such as boarders and lodgers, who have not previously been recognised under the Act.

The amendments are based on a review of the Residential Tenancies Act 1997 undertaken by my department. The review commenced in 2002 when a broad range of industry groups and other stakeholders were invited to identify issues with the

operation of the Act. The review process identified widespread satisfaction with the existing legislation. For example, the Real Estate Institute of the ACT summed up the general satisfaction with the law stating that:

"The new Act is a vast improvement over the former out-of-date 1949 Act. While there are some issues that need to be reviewed in the four years operation of the Act, there are many features that have benefited lessor/owners and tenants that do not need to be changed. These include the operation of the breach of non-payment of rent/other breaches and the risk of termination of the lease, the different lease definitions of fixed and periodic tenancies, the operation of urgent repairs, the responsibility that the tenant takes for reasonable care, the property and its contents, the establishment of the Tribunal, and the integration of ACT Housing so that the same laws apply equally to public housing tenants and private housing tenants."

Similar sentiments have been expressed by both tenant and owner representatives. However, a number of areas were identified where changes are desirable. This bill contains amendments that deal with a number of these areas – where there appears to be general support for change. A future bill will deal with issues of greater complexity and contention.

Our existing residential tenancies law provides a balance between the interests of tenants and lessors in relation to residential tenancies. It is based on the 182 recommendations of the 1994 report on private residential tenancies by the ACT Community Law Reform Committee. However, our present law does not deal with a number of occupancy arrangements that fall short of being residential tenancies.

In making its 1994 report, the ACT Community Law Reform Committee observed that a common set of principles should apply equally regardless of the classification of the legal arrangements underlying any particular tenancy or occupation. For example, as a basic principle, the need to have and use accommodation without arbitrary interference is common to all residents, whether the resident is a tenant in a house or an occupant of a boarding house or a lodger in a private residence.

The bill addresses this issue by extending the Residential Tenancies Act 1997 to apply to a number of short-term occupancies which are presently excluded from the Act. The occupancies include a number of legal arrangements including licences and boarder and lodger contracts, which may include certain types of shorter term caravan park or student accommodation agreements. In addition, the amendments allow parties, for example a long term caravan park tenant, who previously could not hold a residential tenancy agreement to now enter into residential tenancy agreements.

The bill provides that the Act be amended to include a new part which deals specifically with "occupancy agreements". This part will define and govern occupancy agreements and disputes. These agreements may arise for a number of different premises not presently covered by the Act, including caravan parks, hotels or motels, or on the campus of an educational institution. They do not include an agreement that is a residential tenancy agreement.

In this context, the bill also establishes the concept of "occupancy principles". The occupancy principles provide that an occupant is entitled to a minimum standard of repair and cleanliness of the premises; a measure of security of tenure, such that termination and eviction by the owner may only take place in accordance with agreed periods of notice and procedures so that arbitrary eviction is not possible;

clearly defined rights of privacy subject to access for inspections and other appropriate purposes; clear information concerning the rules of the premises and the rights of residents; and access to appropriate in-house and external dispute resolution processes.

This extension of the Act to occupancy agreements involves two specific elements. Firstly, the Act is amended so that the jurisdiction for determining disputes under short-term occupancies would be vested in the Residential Tenancies Tribunal. Initially, disputes in relation to this extended jurisdiction would be determined under existing contracts and the common law. This measure will permit access to a fast cost-effective tribunal with significant experience in these types of disputes.

When considering an occupancy agreement, the Residential Tenancy Tribunal shall have regard to the occupancy principles.

The second element of the process amends the legislation to permit the development of new sets of standard occupancy terms that would apply to different short-term occupancies. These terms are required to be consistent with the occupancy principles. This measure will enable the formalisation of core provisions for contracts in this area, designed to protect and balance the interests of occupants and those people they contract with.

The development of these new sets of standard occupancy terms for occupancies will be by regulation, and will be conducted in close consultation with stakeholders to ensure that all interests are adequately represented. A range of other amendments are included in the Bill.

These amendments clarify the definition of residential tenancy agreements. As noted above, the bill allows some agreements to 'opt into' the operation of the Act in relation to residential tenancies. Some of the terminology used in the existing Act has had to change to accommodate the new concept of an occupancy agreement – in particular, the concept of "prescribed terms" is renamed "standard residential tenancy terms". This is necessary to distinguish between prescribed terms of residential tenancies, and those that might be prescribed for occupancy agreements.

The bill makes it clear that an endorsed term cannot be inconsistent with the Act. As at present, it will remain possible for terms endorsed by the tribunal to be inconsistent with the standard residential tenancy terms.

In light of experience, the bill removes the existing requirement for a condition report to be lodged with the Office of Rental Bonds. At present, a condition report is required to be lodged with each bond – however, in practice, these reports are not further called upon, and so the requirement has been removed.

The bill improves a number of provisions in the bill dealing with the abandonment of premises, retaliatory actions, successor in title and quiet enjoyment.

In particular, the bill defines the concept of quiet enjoyment, confirming the approach of the Supreme Court in the 2001 case of *Anthony Worrall v Commissioner for Housing for the ACT*. The concept of 'quiet enjoyment' is used in the Act and in standard residential tenancy terms.

It is an important concept in considering the rights and responsibilities of tenants. Until relatively recently, the common law has required evidence of direct physical

interference with the enjoyment of the premises. More recently, courts have found that quiet enjoyment is breached by any acts that significantly interfere with a tenant's freedom in exercising their rights as a tenant. In line with modern authority, the bill inserts the more current and commonly accepted meaning of the term for use in the Act.

The Bill also contains amendments designed to improve the way the Residential Tenancies Tribunal records its reasons and decisions. The tribunal is a relatively high transaction body - dealing with many matters in the course of a year. The bill makes provision for the tribunal to keep details of its orders, which will be available to parties within a short period of the proceedings.

The bill contains a number of improvements to the organisation of the Act together with a number of minor and technical amendments to the Act (such as updating the reference to the relevant Australian Bureau of Statistics "index number". In particular, in response to a change requested by some stakeholders, the bill replaces time periods expressed in terms of days with weeks to ensure consistency with the rest of the Act. Member's attention is also drawn to the delayed commencement of amendments in relation to changes to the standard residential tenancy terms. The delay will permit time to develop new contracts that comply with the changes.

In summary, a significant measure in this bill is the recognition of "occupancy agreements" and "occupancy principles". Jurisdiction for resolving disputes involving occupancy agreements is conferred on the Residential Tenancies Tribunal. The bill further permits the development of prescribed terms for occupancy arrangements by regulation. The bill makes a number of other changes designed to otherwise improve the operation of the law for the benefit of the ACT community.

Mr Speaker, I commend this bill to the Assembly.

Attachment 5
Document incorporated by the Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming

Mr Speaker, the Payroll Tax Amendment Bill 2004 (the Bill) amends the Payroll Tax Act 1987 (Payroll Tax Act) to implement an initiative from the Government's 2004-05 Budget. The Bill extends a payroll tax exemption to employers in respect to wages paid to ACT employees utilising paid maternity, adoption and/or primary carer leave. This leave is for a maximum of 14 weeks and is for both full time and part time employees.

This exemption is designed to provide employers with an incentive to provide paid maternity, adoption and/or primary carer leave for their ACT employees, similar to the ACT public sector's current leave arrangements.

This Bill does not commence until 1 July 2005 to avoid disruption, complication and unnecessary costs for both employers and the Government, as payroll tax is assessed annually. Mr Speaker, this delay provides employers with sufficient time to consider altering their existing leave conditions to utilise this exemption and make any amendments to their payroll systems and training programs.

Mr Speaker, the provisions in this Bill are designed to encourage and assist employers to better match the maternity, adoption and primary carer leave

conditions available in the ACT public sector; reduce the barriers and difficulties associated with the giving and taking of maternity, adoption and/or primary carer leave in the private sector; and aid the transition of employees between the two sectors.

The Canberra Social Plan has a goal of promoting a better balance between work and family. One of the key strategies of the Canberra Plan is investing in our people by committing to promoting family friendly work solutions.

Mr Speaker, the Bill supports the ACT Labor Party Platform for Women by promoting a greater acceptance of the fact that women and men will temporarily interrupt their careers for parenting duties. It also supports the Government's policy directions for women by promoting family friendly work policies.

It is anticipated that the exemption in this Bill will cost approximately $150,000 per annum in revenue forgone from 2005-06 onwards.

This Bill sees the ACT leading Australia in encouraging family-friendly measures by supporting workers in the private sector who have newborn babies or adopted children.

Mr Speaker, I commend the Payroll Tax Amendment Bill 2004 to the Assembly.

Schedules of amendments

Schedule 1

Justice and Community Safety Legislation Amendment Bill 2004

Amendments moved by the Minister for Urban Services, on behalf of the Attorney-General

1
Clause 2
Page 2, line 5—

omit clause 2, substitute

2 Commencement

Part 2 (Agents Act 2003), part 2A (Agents Regulations 2003) and part 10A (Leases (Commercial and Retail) Act 2001) commence on the day after this Act's notification day.

Part 3 (Civil Law (Sale of Residential Property) Act 2003) commences on 1 July 2004.

The remaining provisions commence on the 14th day after this Act's notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

2
Proposed new clauses 3A to 3C
Page 3, line 3—

insert

3A Eligibility for licences
Section 24 (1) (d)

substitute

(d) for a travel agents licence—the individual is eligible under section 26 (Additional eligibility grounds for travel agents).

3B New section 24 (3A)

insert

(3A) However, a corporation is eligible to be licensed as a travel agent if—

(a) the commissioner for fair trading is satisfied that no director of the corporation is disqualified from being licensed under section 27; and

(b) at least 1 director of the corporation satisfies the eligibility requirements of section 24 (1) (a) to (c); and

(c) the corporation satisfies the additional eligibility requirements of section 26 (Additional eligibility grounds for travel agents).

3C Section 24

renumber subsections when Act next republished under Legislation Act

3
Proposed new part 2A
Page 3, line 20—

insert

Part 2A Agents Regulations 2003

5A Legislation amended—pt 2A

This part amends the *Agents Regulations 2003*.

5B Qualifications for licences, Act s 25
New regulation 6 (1A)

insert

(1A) However, a person has the qualifications for a real estate agents licence if, immediately before the repeal of the repealed Act, the person was eligible for the grant of a real estate agent's licence under that Act.

5C Regulation 6

renumber subregulations when regulations next republished under Legislation Act

4
Proposed new clauses 6A to 6ZH
Page 4, line 5—

insert

6A Definitions for pt 2
Section 7, new definition of *building and compliance inspection report*

insert

building and compliance inspection report means a building and compliance inspection report prescribed under the regulations.

6B Section 7, definition of *building inspection report*

omit

6C Section 7, definition of *encumbrance*

substitute

encumbrance, in relation to residential property proposed to be sold, includes an unregistered or statutory encumbrance, but does not include an encumbrance that is to be released or discharged on or before completion of the sale.

6D Section 7, definition of *pest treatment cert*ificate

omit

6E Section 7, definition of *seller*, paragraph (a)

after

legal

insert

or equitable

6F **Meaning of *residential property***
New section 8 (2) (ba)

insert

(ba) land or a unit subject to the Retirement Villages Industry Code of Practice prescribed under the *Fair Trading Act 1992*, section 34; or

6G **Section 8 (2) (c)**

omit

'developer's holding lease'

substitute

developer's holding lease

6H **Section 8 (2)**

renumber paragraphs when Act next republished under Legislation Act

6I **Meaning of *required documents***
New section 9 (1) (ba)

insert

(ba) a copy of the deposited plan;

6J **Section 9 (1) (f) (i)**

substitute

(i) if there is a registered units plan—

(A) the registered units plan; and

(B) a unit title certificate for the unit dated not earlier than 3 months before the day the property was first advertised or offered for sale or listed by an agent; and

(ia) if there is no registered units plan—a plan showing the proposed location and dimensions of the unit in relation to other units and the common property; and

6K **Section 9 (1) (g) (iii)**

after

building

insert

and compliance

6L **Section 9 (1) (g) (iii)**

after

advertised

insert

or offered

6M **Section 9 (1) (g) (iv) and (v)**

omit

6N **Section 9 (1) (g) (vi) and (vii)**

after

advertised

insert

or offered

6O **Section 9 (1) (g) (vii)**

omit

agent.

substitute

agent;

6P **New section 9 (1) (h)**

insert

(h) any other document prescribed under the regulations.

6Q **Section 9 (1)**

renumber paragraphs and subparagraphs when Act next republished under Legislation Act

6R **Section 9 (2) (a)**

before

inspection

insert

and compliance

6S **Section 9 (2) (a) (iii)**

omit

'off-the plan purchase'

substitute

off-the-plan purchase

6T **Section 9 (2) (b)**

omit

unit.

substitute

unit; and

6U **New section 9 (2) (c) and (d)**

insert

(c) a document mentioned in subsection (1) is not required if the seller cannot obtain the document after taking all reasonable steps to obtain it; and

(d) for a sale of vacant land under a developer's holding lease, the ***required documents*** are—

(i) a copy of the holding lease; and

(ii) a copy of the development conditions or, if they are not finalised, the draft development conditions for the lease.

6V Section 9 (3)

omit

, (v)

6W Proposed contract etc to be available for inspection Section 10 (1)

before

times

insert

reasonable

6X Certain conditions to be included in contract Section 11 (1) (a) (ii)

after

possession

insert

on completion of the contract

6Y Section 11 (1) (d)

substitute

(d) if, before completion of the contract, the buyer becomes aware of an unapproved structure that is not disclosed in the contract, the buyer may—

(i) ask the seller to arrange for the structure to be approved before completion of the contract; and

(ii) if the structure is not approved before completion—rescind the contract, or complete the contract and claim damages.

6Z Section 11 (1) (f) (iii)

omit

there are no

substitute

the seller has no knowledge of any

6ZA Section 11 (1) (g) (i)

after

be

insert

, or be able to be,

6ZB Section 11 (1) (g) (iii)

omit

there are no

substitute

the seller has no knowledge of any

6ZC Section 11 (1) (h)

substitute

(h) if, before completion of the contract, the buyer becomes aware of an error in the description of the property the buyer may—

(i) ask the seller to arrange for the error to be corrected before completion of the contract; and

(ii) if the error is not corrected before completion—

(A) for an error that is material—rescind the contract, or complete the contract and claim damages; and

(B) for an error that is not material—complete the contract and claim damages;

6ZD Section 11 (1) (i)

omit

(g)

substitute

(h)

6ZE Section 11 (2)

omit

(g) (ii)

substitute

(g) (i), (ii)

6ZF Section 11 (2) (a)

after

property

insert

, or exercising a power of sale

6ZG **Buyer may waive cooling-off period**
Section 13

omit

signing

substitute

entering into

6ZH **Buyer to reimburse seller for cost of certain reports**
Section 18 (a) and (b)

substitute

(a) a building and compliance inspection report required under section 9 (1) (g) (iii) (or, if the seller obtained more than 1 report, the latest report);

(b) a pest inspection report required under section 9 (1) (g) (vi) (or, if the seller obtained more than 1 report, the latest report).

5
Proposed new clauses 7A to 7M
Page 4, line 12—

insert

7A **Bidders record**
Section 25 (4)

after

in relation to

insert

bidders records, including

7B **Bidder's name and address to be established by proof of identity**
Section 26 (5)

omit

(3)

substitute

(4)

7C **New section 31A**

insert

31A **Standard auction conditions**

A public auction of residential property must be conducted in accordance with the standard auction conditions prescribed under the regulations.

7D **Auction conditions to be available before auction begins**
New section 32 (3)

insert

(3) In this section:

conditions, of an auction, means—

(a) the standard auction conditions prescribed under section 31A; and

(b) any other conditions (not inconsistent with the standard auction conditions) decided by the seller for the auction.

7E **Making false or misleading statements**
Section 37 (7), definition of *relevant document*, paragraph (b), (c) and (d)

substitute

(b) a building and compliance inspection report; or

(c) a pest inspection report.

7F **Regulation-making power**
New section 40 (3) and (4)

insert

(3) The regulations may incorporate a law or instrument, or a provision of a law or instrument, as in force from time to time.

(4) In this section:

incorporate includes apply and adopt.

7G **New part 7**

insert

Part 7 Transitional

43 Contracts entered into before 1 July 2004

Part 2 (Sale of residential property) does not apply in relation to a contract for the sale of residential property entered into before 1 July 2004.

44 Required documents not available before 31 October 2004

(1) A seller of residential property does not commit an offence against section 10 (Proposed contract etc to be available for inspection) because a required document is not available at any time before 31 October 2004 if the seller has taken all reasonable steps to obtain the document.

(2) This section expires on 31 October 2004.

45 Transitional regulations

(1) The regulations may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of this Act.

(2) Without limiting subsection (1), the regulations may prescribe matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(3) Regulations made for this section must not be taken to be inconsistent with this Act as far as they can operate concurrently with this Act.

(4) This section is additional to, and does not limit, section 46.

46 Modification of pt 7's operation

The regulations may modify the operation of this part to make provision in relation to any matter that is not already, or is not (in the Executive's opinion) adequately, dealt with in this part

47 Expiry of pt 7

This part expires 1 year after the day it commences.

7H Schedule 1, amendment 1.1
Proposed new section 89A (1) (b) and (2) (c)

before

times

insert

reasonable

7I Dictionary, new definition of *building and compliance inspection report*

insert

building and compliance inspection report, for part 2 (Sale of residential property)—see section 7.

7J Dictionary, definition of *building inspection report*

omit

7K Dictionary, new definition of *developer's holding lease*

insert

developer's holding lease—see section 8 (2) (c).

7L Dictionary, definition of *pest treatment certificate*

omit

7M Dictionary, new definition of *unit title certificate*

insert

unit title certificate, for a unit, means a certificate given under the *Unit Titles Act 2001*, section 75 (1).

6
Proposed new clauses 8A and 8B
Page 5, line 3—

insert

8A **Limitation of liability for acts of terrorism**
Section 38 (1)

omit

committed before 1 October 2004

8B **Expiry of pt 3.3**
Section 39

omit

7
Proposed new part 10A
Page 17, line 21—

insert

Part 10A **Leases (Commercial and Retail) Act 2001**

31A **Legislation amended—pt 10A**

This part amends the *Leases (Commercial and Retail) Act 2001*.

31B **Expiry of pt 16**
Section 171

substitute

171 **Expiry of pt 16**

(1) This part expires on 30 June 2006.

(2) However, section 169, section 170 and this subsection expire on 30 June 2004.

Schedule 2

Gaming Machine Bill 2004

Amendments moved by Ms Dundas

1
Clause 9
Page 6, line1—

omit clause 9, substitute

9 **Kinds of applications—pt 2**

A person may apply to the commission for—

(a) a licence (an ***initial licence application***); or

(b) an amendment of a licence (a ***licence amendment application***); or

(c) renewal of a licence (a ***licence renewal application***).

Note 1 If a form is approved under the Control Act, s 53D for an application, the form must be used.

Note 2 A fee may be determined under s 176 for this provision.

2
Proposed new clause 14A
Page 13, line 14—

insert

14A Term of licence

A licence is issued for the term (up to 5 years) stated in the licence.

3
Clause 17
Page 14, line 23—

omit clause 17, substitute

17 No available gaming machines

(1) This section applies to an application for an initial licence, or a licence amendment under section 22 (1) (a) to increase the number of licensed gaming machines allowed under the licence, if the maximum number of gaming machines allowed on all licensed premises in the ACT has been reached.

(2) The commission—

(a) must tell the applicant that the maximum number of gaming machines allowed on all licensed premises in the ACT has been reached; and

(b) must not deal with the application until the gaming machines sought to be authorised under the licence or amended licence can be authorised without the maximum number of gaming machines allowed on all licensed premises in the ACT being exceeded.

Note Applications must be dealt with in the order they are received or are fully received (see s 10).

5
Clause 35
Page 29, line 12—

omit clause 35, substitute

35 Maximum number of gaming machines allowed

The maximum number of gaming machines allowed on all licensed premises in the ACT is 5 200.

7
Proposed new clauses 43A and 43B
Page 33, line 16—

insert

43A Gaming machines with note acceptors

It is a condition of a licence that a licensee must not operate a gaming machine with a note acceptor on the licensed premises.

43B Existing note acceptors

(1) This section applies if, immediately before the commencement of this Act, a gaming machine with a note acceptor was on licensed premises.

(2) The commission may, in writing, exempt the licensee from the operation of section 43A in relation to the gaming machine for the period stated in the exemption.

(3) However, the commission may exempt a licensee only for the period the commission considers is reasonable to allow the licensee to remove the note acceptor.

(4) An exemption is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(5) This section expires on 1 January 2008.

9
Clause 153
Page 98, line 1—

omit clause 153, substitute

153 Cash facilities on licensed premises

(1) A licensee commits an offence if the licensee provides any of the following in a gaming area in the licensed premises:

(a) an automatic teller machine;

(b) an EFTPOS facility;

(c) any other facility for gaining access to cash or credit.

Maximum penalty: 50 penalty units.

Note The Criminal Code, pt 2.4 (Extensions of criminal responsibility) extends this offence to cover situations where the licensee does not personally provide a cash facility but allows the provision of the facility by someone else.

(2) A licensee commits an offence if the licensee provides an automatic teller machine in the licensed premises in a place other than a gaming area.

Maximum penalty: 50 penalty units.

153A Existing automatic teller machines in licensed premises

(1) This section applies if, immediately before 1 January 2005—

(a) there was an automatic teller machine in licensed premises; and

(b) the automatic teller machine was not in a gaming area.

(2) The commission may, in writing, exempt the licensee from the operation of section 153 (2) (which makes it an offence to provide an automatic teller machine in licensed premises) in relation to the automatic teller machine for the period stated in the exemption.

(3) However, the commission may exempt a licensee only for the period the commission considers is reasonable to allow the licensee to remove the automatic teller machine.

(4) An exemption is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

(5) This section expires on 1 January 2008.

10
Clause 159 (2) and (3)
Page 102, line 1—

omit clause 159 (2) and (3), substitute

(2) The rate at which gaming machine tax is payable is the prescribed percentage.

(3) In this section:

prescribed percentage, in relation to a licensee, means—

(a) if the licensee is a club whose gross revenue for the relevant month does not exceed $8 000—nil; or

(b) if the licensee is a club whose gross revenue for the relevant month exceeds $8 000—

(i) in relation to the part of the gross revenue that does not exceed $8 000—1%; and

(ii) in relation to the part of the gross revenue that exceeds $8 000 but does not exceed $25 000—23.5%; and

(iii) in relation to the part of the gross revenue that exceeds $25 000 but does not exceed $50 000—24.5%; and

(iv) in relation to the part of the gross revenue that exceeds $50 000—27.0%; or

(c) if the licensee is not a club—25.9%.

11
Part 12 heading
Page 104, line 1—

omit the heading, substitute

Part 12 Charitable and social welfare contributions and community contributions

12
Proposed new clause 162A
Page 104, line 1—

insert

162A Definitions for pt 12

In this part:

approved contribution means—

(a) a charitable and social welfare contribution; or

(b) a community contribution.

13
Clause 163 heading
Page 104, line 2—

omit the heading, substitute

163 Approval of charitable and social welfare contributions and community contributions

14
Clause 163 (1), example 1
Page 104, line 11—

omit

15
Proposed new clause 163 (1A)
Page 104, line 17—

insert

(1A) The commission may approve contributions made by a licensee to a stated entity for a stated purpose as charitable and social welfare contributions.

16
Clause 163 (2) (a)
Page 104, line 20—

omit

community

substitute

approved

17
Clause 163 (3), definition of *contribution*, new paragraphs (b) (via), (vib) and (vic)
Page 105, line 17—

insert

(via) depreciation in relation to a capital payment mentioned in paragraph (iv) or (v);

(vib) depreciation in relation to a capital payment that is an approved contribution;

(vic) a capital payment if depreciation in relation to the payment is an approved contribution;

19
Clause 165 (2), definition of *financial report*, paragraph (b)
Page 106, line 22—

omit

if the licensee is a club—

20
Clause 165 (2), definition of *financial report*, paragraph (c)
Page 106, line 23—

omit

community

substitute

approved

Schedule 3

Gaming Machine Bill 2004

Amendments moved by the Treasurer

1
Clause 11 (1) (e)
Page 7, line 10—

omit

type

substitute

kind

2
Clause 18 (2) (b)
Page 15, line 27—

omit

assessed or

3
Clause 54 (b)
Page 37, line 18—

omit clause 54 (b), substitute

(b) any remuneration given to a person the value of which is equal to or more than the amount prescribed under the regulations.

Example for par (b)

A person may be remunerated by salary plus the use of a car.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

4
Clause 67 (1)
Page 46, line 14—

omit

establishment

substitute

approval

5
Dictionary, new definition of *commission*
Page 124, line 16—

insert

commission means the gaming and racing commission.

6
Dictionary, definition of *permit-holder*
Page 129, line 18—

omit the definition, substitute

permit-holder means the holder of a multi-user permit.

Schedule 4

Gaming Machine Bill 2004

Amendments moved by Mr Stefaniak

1
New clause 24A
Page 23, line 4—

insert

24A Transfer of gaming machines within club

(1) This section applies to a licensee that is a club that holds 2 or more licences.

(2) The licensee may apply under section 22 to decrease the number of licensed gaming machines allowed under 1 of the licensee's licences by a stated number (the ***number decreased***) and, at the same time, to increase the number of licensed gaming machines allowed under another of the licensee's licences by the same amount as the number decreased.

Note An application to increase the number of licensed gaming machines allowed under a licence must be accompanied by a social impact assessment (see s 22 (2) (b)).

(3) The commission—

(a) must consider the applications together; and

(b) must not amend 1 licence in accordance with the application unless the other licence is also amended to allow the transfer of gaming machines between the licences.

(4) The commission must not amend the licences if—

(a) any of the licences were transferred to the licensee; and

(b) the transfer happened less than 3 years before the date the application for amendment is made.

2
Clause 55 (g)
Page 38, line 17—

omit

5
Clause 168 (1)
Page 107, line 1—

omit clause 168 (1), substitute

(1) For a licensee that is a club, the ***required community contribution*** for a financial year is the total of—

(a) the required percentage of the club's net revenue for the year; and

(b) an amount equal to the total of the contributions made by the licensee during the financial year to registered parties, associated entities, members of the Legislative Assembly and candidates.

Schedule 5

Gaming Machine Bill 2004

Amendment moved by Mrs Cross

1
New clause 165 (2) (d)
Page 106, line 23—

insert

(d) the total value of contributions to registered parties and associated entities.

Schedule 6

Gaming Machine Bill 2004

Amendment moved by Ms Dundas

1
Clause 168 (2)
Page 107, line 17—

omit clause 168 (2), substitute

(2) In subsection (1):

required percentage, for a club, means—

(a) if the Minister determines a percentage under subsection (3) for the club for a financial year—the percentage determined; or

(b) in any other case—

(i) for the financial year beginning 1 July 2004—7%; or

(ii) for the financial year beginning 1 July 2005—8%; or

(iii) for the financial year beginning 1 July 2006—9%; or

(iv) for the financial year beginning 1 July 2007 and each following financial year—10%.

Schedule 7

Gaming Machine Bill 2004

Amendment moved by Ms Dundas

1
New clause 159A
Page 102, line 5—

insert

159A Tax adjustment in relation to GST for clubs

This section applies if a licensee that is a club paid to the Commonwealth, during a month, an amount in relation to the licensee's liability for a global GST amount (the ***GST paid***).

If the GST paid is less than the club's gross GMT for the month, the amount of gaming machine tax for which the licensee is liable is reduced by the GST paid.

If the GST paid is equal to or more than the club's gross GMT for the month, the licensee is not liable for gaming machine tax for the month.

In this section:

global GST amount—see the GST provision.

gross GMT, for a club, is the amount of gaming machine tax for which the club would, apart from this section, be liable.

GST provision means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), section 126-10 (which deals with tax on gambling revenue).

Schedule 8

Gaming Machine Bill 2004

Amendments moved by Ms Tucker

1
Proposed new clause 19 (4A) and (4B)
Page 16, line 25—

insert

(4A) On or before the day the advertisement is published, the applicant must place a sign (the ***information sign***) containing information about the application in a prominent position outside each public entrance to the premises to which the application relates, and ensure that the sign stays at the entrance for the 6-week comment period.

(4B) The information sign for an application must include the following:

(a) a description of the application;

(b) a statement of when and where the social impact assessment for the application will be available;

(c) an invitation to make written submissions to the commission about the social impact assessment within the 6-week comment period;

(d) when the 6-week comment period ends;

(e) details of where to get more information about the application.

2
Clause 35 (2)
Page 29, line 15—

before

number

insert

smaller

3
New clause 35 (3A)
Page 29, line 22—

insert

(3A) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the declaration commences—

(a) if there is a motion to disallow the declaration and the motion is negatived by the Legislative Assembly—the day after the day the disallowance motion is negatived; or

(b) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(c) if the declaration provides for a later date or time of commencement—on that date or at that time.

4
Clause 35 (4)
Page 29, line 23—

before

section 36

insert

section 35A and

6
Clause 69 (2)
Page 47, line 23—

omit clause 69 (2), substitute

(2) However, the commission must not approve something under subsection (1) unless the commission has considered—

(a) the results of a technical evaluation of the gaming machine and any peripheral equipment by an approved entity; and

(b) any available research on the consumer protection and harm minimisation implications of the gaming machine or peripheral equipment proposed to be approved.

7
Clause 69 (3)
Page 48, line 1—

omit clause 69 (3), substitute

(3) An approval under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3A) Subject to any disallowance or amendment under the Legislation Act, chapter 7, the approval commences—

(a) if there is a motion to disallow the approval and the motion is negatived by the Legislative Assembly—the day after the day the disallowance motion is negatived; or

(a) the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or

(b) if the approval provides for a later date or time of commencement—on that date or at that time.

Schedule 9

Gaming Machine Bill 2004

Amendment moved by the Treasurer

4A
Clause 168 (3)
Page 107, line 23—

omit

community contribution

substitute

percentage

Answers to questions

Child protection
(Question No 1407)

Mrs Burke asked the Minister for Education, Youth and Family Services, upon notice, on 11 March 2004:

Further to his answer to a Question without notice on 9 March 2004 concerning a briefing given to him by the Community Advocate on 3 October 2002 in which he stated that he received written advice from the Department in response to the issues that were raised and he was advised in a written brief signed by the Chief Executive of the Department that things were being done, can he provide (a) any specific written advice from the Department to the Minister, addressing the issues raised by the Community Advocate and (b) any written advice to the Minister at the time, signed by the Chief Executive, addressing the criticisms raised the Community Advocate.

Mr Corbell: The answer to the member's question is:

As I am no longer the Minister for Education, this question should be more properly directed to the current Minister for Education, Ms Katy Gallagher.

Mental health—services
(Question No 1460)

Mr Smyth asked the Minister for Health, upon notice, on 1 April 2004:

(1) What were the estimates of A.C.T. Government funding per capita for mental health services for the current and the past four financial years provided by the (a) forward estimates of each relevant A.C.T. budget, (b) results reported in each relevant annual report by A.C.T. Government health agencies, (c) Productivity Commission's annual report on Government Services series, and (d) National Mental Health Report;

(2) What were the estimates of the national average State and Territory Government funding per capita for mental health services for financial years from 1999-00 onward provided in the (a) Productivity Commission's annual report on Government Services and (b) National Mental Health Report.

Mr Corbell: The answer to the member's question is:

(1) ACT Government Funding per Capita for Mental Health Services ($/Person)

Financial Year	ACT Budget Papers	ACT Health Annual Report	Productivity Commissioner Report on Government Services	National Mental Health Report
2003-2004	117.0	Unavailable*	Unavailable*	Unavailable*
2002-2003	93.1	107.6	Unavailable*	Unavailable*

2001-2002	82.5	87.7	83.7 (prelim. figure)	Unavailable*
2000-2001	78.5	78.0	75.1	Unavailable*
1999-2000	67.9	69.2	68.8	67.4

(2) National Average State and Territory Government Funding Per Capita for Mental Health Services ($/Person)

Financial Year	Productivity Commissioner Report on Government Services	National Mental Health Report
2003-2004	Unavailable*	Unavailable*
2002-2003	Unavailable*	Unavailable*
2001-2002	89.5 (Preliminary Figure)	Unavailable*
2000-2001	86.7	Unavailable*
1999-2000	84.8	81.8

* Note that these reports are not yet available. The National Mental Health Report 2002 provides data up to 2000 only. Similarly, the Report on Government Services 2004, reports up to 2002, but maintains this is a preliminary figure, awaiting the release of the National Mental Health Report.

Mental health—services (Question No 1461)

Mr Smyth asked the Minister for Health, upon notice, on 1 April 2004:

(1) What changes have occurred to the components making up the (a) total cost and (b) cost per 1000 head of population, of funding for mental health services presented in each of the current and past four A.C.T. budgets;

(2) What are the details, both by way of explanation and in terms of financial cost, of the following changes that appear to have occurred in the 2003-04 Budget:

(a) the effect of incorporating the cost of mental health services provisions at the Canberra Hospital into the Department's accounts as outlined in the 2003-04 Budget Paper No 4, page 149, note (4);

(b) changes to the distribution of corporate overheads as outlined in the 2003-04 Budget Paper No 4, page 149, note (4);

(c) the inclusion under Output 1.2: Mental Health Services of any costs reported in previous budgets under output classes for policy, planning and purchasing as outlined in 2003-04 Budget paper No. 4, page 149;

(d) any other redistribution of policy or departmental costs to the Mental Health Services output subclass.

Mr Corbell: The answer to the member's question is:

(1) (a) The changes to total cost in the current and each of the past four year's budgets include funding for new initiatives announced annually by government, indexation on operating costs, salary increases, changes to Mental Health Strategy funds and

increased costs for insurance. From 2002-03 the cost of the Mental Health Policy Unit was included. The overhead component of the cost reported for Mental Health is also impacted on by the factors listed above. Overheads relate to costs that are not directly attributed to an Output Class (these include human resources, information technology support, financial services, supply and the executive).

(b) The cost per 1000 head of population is calculated annually and is based on the cost as determined through the budget process referred to in (a) divided by the population figure advised for the relevant year.

(2) (a) The restructure of the financial reporting in 2003-04 meant the inclusion of employee provisions of $0.473M.

(b) Changes in corporate overheads for the 2003–2004 budget relates primarily to the restructuring of ACT Health and recognizing the costs of support services including human resources, information technology support, finance services, supply and executive support. The cost of overheads reported for Mental Health increased by $0.686m.

(c) In the 2002-03 financial year the Mental Health Policy Unit was incorporated into Output Class 1.2 (Mental Health Services). Previously, these costs were included in the Policy, Planning and Purchasing Output Class. The impact in 2003-04 of the inclusion of the Mental Health Policy Unit was approximately $0.382m.

(d) There are no other costs that have been transferred to Output Class 1.2 (Mental Health Services)

Mental health—services (Question No 1462)

Mr Smyth asked the Minister for Health, upon notice, on 1 April 2004:

What are the differences in the data or the cost components relating to A.C.T. Government funding for mental health services published in the (a) forward estimates of each relevant A.C.T. budget, (b) results reported in each relevant annual report by A.C.T. Government health agencies, (c) Productivity Commission's annual report on Government Services series and (d) National Mental Health Report, that would explain the differences between the annual spending reported by each of those publications.

Mr Corbell: The answer to the member's question is:

(a) The forward estimates of each relevant ACT budget are the projected costs for providing mental health services in that financial year. The increases generally in each year reflect the provision of additional funding for budget initiatives, indexation and salary increases. These estimates also include a component of other functions of the Department. These include an estimate for payroll services, information technology support, financial services, supply and executive support

(b) The cost results reported in the annual report are the outcomes in that financial year. These figures invariably differ from the estimates due to various factors during the year including costs associated with staff turnover, changed referral patterns for clients, decisions of government (for example salary increases) and timing issues (for example

delayed implementation of joint Commonwealth/ACT initiatives). A change in ACT population figures will also impact on the cost per 1000 head of population data.

(c) The Report on Government Services and The National Mental Health Report are both Commonwealth reports that measure mental health service provision across all States and Territories. Organisations have different accounting approaches as some use cash accounting, accrual based accounting or an alternative hybrid model that result in different reporting mechanisms to that of the ACT. In the interests of providing a comparable benchmark across jurisdictions, a modifier is applied to the financial reports causing a variation in financial reporting to those reported locally.

(d) See (c).

Disabled students (Question No 1480)

Ms Dundas asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

(1) In the August 2003 census of students, how many students with disabilities were identified as requiring additional resources or additional services;

(2) Of those students, how many were required, under the Services to students with disabilities policy and mandatory procedures, to have an Individual Education Plan now known as an Individual Learning Plan (ILP);

(3) For those students who required an ILP, how many at the census date had an ILP which was (a) current, for example, for which the review date on the ILP had not passed, (b) agreed to in writing by the parents or carers of the student and (c) both current and agreed to by the parents or carers of the student;

(4) For students who did not have an ILP which was both current and agreed to by parents or carers, how many commenced their schooling in the A.C.T. education system on or after the first day of Term 3, 2003;

(5) Please provide this information as aggregate numbers and also provide the numbers broken down by (a) school and (b) the nature of the program in each school, for example, Special School, Special Unit/Centre and in mainstream classes with additional support;

(6) When there is no agreed and current ILP, how are the educational needs of these students met;

(7) What is the maximum time frame allowed under departmental policy for development and agreement of an ILP for a student who is new to the A.C.T. or to a particular school; if there is no such maximum, why is this the case;

(8) Is there any process in place to monitor at an A.C.T. wide level whether ILPs have been agreed in relation to students with disabilities and that they continue to be updated so that they are current; if so, what is it and how long has it been in operation;

(9) What training or professional development has been provided to principals and teachers in relation to collaborative development of ILPs for students with disabilities over the last twelve months;

(10) For each training or professional development event, (a) when and where was it held, (b) what was its duration, (c) was the training compulsory or optional, (d) how many principals attended, (e) how many teachers attended and (f) was there a charge made for attendance at the training, if so, what was it;

(11) What training or support has been provided over the last twelve months for parents or carers to encourage their meaningful participation in development of ILPs for students, not including addressing support or interest group meetings at the request of such groups;

(12) For each training event, (a) how many parents or carers attended, (b) what charge was made for attendance, if any, (c) where and when was the event held, (d) what was its duration and (e) how was the event publicised.

Ms Gallagher: The answer to the member's question is:

(1) 1583

(2) All students enrolled in special schools or accessing special education assistance in mainstream schools are required to have Individual Learning Plans.

(3) This information is not collected as part of the census, however, it is expected that teachers will endeavour to plan educational programs collaboratively and ensure that the student's current educational needs are met.

(4) The information requested is not collected as part of the census.

(5) The information requested is not collected as part of the census.

(6) It is very rare for agreement not to be reached on an ILP as schools recognise the need to work in collaboration with their parent community. If an ILP was not agreed to by the parents, teachers would make a professional judgement and deliver a program that is based on the individual needs of the student and would continue to attempt to negotiate with parents to reach agreement on the content of the ILP.

(7) For new students, ILPs must be formulated by the end of term 1 or generally within a term after enrolment. There needs to be sufficient time to undertake an appropriate assessment of the student before goals and priorities are set.

(8) Principals are required to report on an annual basis whether an ILP is in place for each student accessing special education services. The Department of Education, Youth and Family Services reports the result in its Statement of Performance Output Class 1.4. This target performance measure was introduced in 2004-05.

(9) Workshops for principals and teachers on the links between the student centred appraisal of need and ILPs were held in February and March 2003. In addition, support teachers (special education) are readily available to work with individual teachers in the development of ILPs.

(10) Training was held at the Centre for Teaching and Learning Technologies on the following dates: 24 February 2003, 27 February 2003, 3 March 2003, 6 March 2003, 10 March 2003. Training was optional. An average of 20 participants attended the meetings. No charge was made for attendance.

(11) Formal training for parents to participate in the development of ILPs has not been held. Most schools host information sessions in which school executives provide assistance and advice to parents and carers with regard to their participation in the development of ILPs. In addition, the department conducts parent information sessions to assist parents in developing an understanding of the issues for participating in their child's educational program and ILP.

(12) ILP training sessions will be offered to parents and carers at the end of 2004 to coincide with the student planning cycle. Training will be free of charge and held at a central location such as the Centre for Teaching and Learning in Stirling or the Special Education Resource Centre in Weston. The training sessions will be publicised through community organisations and schools.

Electricity—costs (Question No 1483)

Mr Cornwell asked the Treasurer, upon notice, on 4 May 2004:

(1) Further to Question on notice No 322 in relation to Full Retail Contestability (FRC) for electricity in the ACT, has the A.C.T. Government received all or part of the expected $12.2m for 2003-2004 from National Competition Payments (NCP) for implementing National Competition Policy in relation to FRC for electricity;

(2) If so, how much has been received; if not, when can the A.C.T. Government expect to receive all or part of this payment;

(3) Has or will the A.C.T. Government use this NCP funding for a specific purpose; if so, what, or will it simply be absorbed into general revenue;

(4) Has the A.C.T. Government's overall performance in relation to FRC been assessed; if so, how was this performance determined and how has it fared; if not, when and how will this occur;

Mr Quinlan: The answer to the member's question is as follows:

(1) Please refer to the 2003 *Assessment Of Government's Progress In Implementing NCP And Related Reforms Report*, from the NCC.

(2) $11 million, of an expected $12.2 million.

(3) All NCP payments are booked to consolidated revenue.

(4) See response to (1.) above.

Aged care accommodation (Question No 1484)

Mr Cornwell asked the Minister for Disability, Housing and Community Services, upon notice, on 4 May 2004:

(1) In relation to vacant older persons public housing accommodation, are the public housing properties at (a) 53 Campbell Street, Ainslie and (b) 7 Waratah Street, O'Connor currently vacant; if so, how long have these properties been untenanted or unoccupied;

(2) Could the Minister confirm that the above properties are indeed older persons public housing accommodation;

(3) Are there immediate or future plans for these properties to be tenanted; if so, when will this occur;

(4) If not, why not, and what future plans does A.C.T. Housing have for these properties.

Mr Wood: The answer to the member's question is as follows:

(1) Yes.
(a) 53 Campbell Street, Ainslie, has been vacant since 22 May 2003.
(b) Unit 1, 7 Waratah Street, O'Connor, has been vacant since 18 February 2004.

(2) Only Unit 1, 7 Waratah Street, O'Connor, is older persons accommodation;

(3) Unit 1, 7 Waratah Street, O'Connor, will be tenanted in June 2004 when maintenance works have been completed. 53 Campbell Street, Ainslie, will not be tenanted;

(4) Following completion of a feasibility study a consultant has been engaged to provide plans for the redevelopment of 53 Campbell Street, Ainslie, to produce two adaptable units.

Street lighting (Question No 1485)

Mr Cornwell asked the Minister for Urban Services, upon notice, on 4 May 2004:

(1) In relation to the absence of street lighting along Hindmarsh Drive between Symonston and O'Malley, why has street lighting not been installed along this road, particularly on the stretch of road upon the hill, which is of significant concern to motorists travelling at night due to kangaroos and the glare of oncoming vehicles;

(2) Are there any plans to install lighting along this stretch of road; if so, what are those plans; if not, why not;

(3) Will consideration be given to providing funding for lighting upon this stretch of road in the future.

Mr Wood: The answer to the member's question is as follows:

(1) Government policy has previously been to install street lighting on arterial roads initially only at intersections. Mid block street lighting between intersections is then installed progressively based on the needs of a specific location as funds become available. This explains the lack of street lighting on this section of Hindmarsh Drive.

(2) There are no current plans to install lighting on this stretch of road, as the available funding provided as part of the 2004/05 budget will be used to provide street lighting on Gungahlin Drive and Mirrabei Drive.

(3) Yes, lighting of Hindmarsh Drive between Symonston and O'Malley will be considered for implementation in a future capital works program.

Child protection (Question No 1486)

Mr Cornwell asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

(1) Further to your interjection in the Assembly on 4 March 2004, Hansard page 721, that the failure of some eight persons who were mandated to report failed to do so in respect of a child who died subsequent to presenting with bruising and other indications of hurt had been followed up, how has the matter been followed up;

(2) Will the Minister be taking action against these eight persons; if so, what action will be taken;

(3) If not, why not.

Ms Gallagher: The answer to Mr Cornwell's question is:

(1) All eight persons whom the Coroner identified as mandated to report received a letter from the Director of Family Services advising of their mandated responsibility to report in line with the Coroner's statement that no mandated person is able to delegate this statutory responsibility to another. Since the Coronial Inquest in June 2002, Family Services has responded to the Coroner's concerns about mandatory reporting with a comprehensive community education strategy. 15,000 copies of the mandatory reporting booklet "Keeping Children and Young People Safe" were printed and have been distributed to all pre-schools, primary schools, high schools, both government and non-government, and colleges. The booklet has also been sent to doctors, nurses, dentists, childcare centres and family day care services in the ACT. Relevant public servants, such as the police and ambulance drivers, also received copies of the booklet.

(2) The Director of Public Prosecutions decided that no prosecution action would be taken regarding the eight persons whom the Coroner identified as having failed to report. Disciplinary action regarding those persons is a matter for the relevant Chief Executives. They have been made aware of the issue and such action has been deemed unwarranted. These decisions are consistent with the views expressed in the report prepared by the Law Reform Commission which recommended the introduction of mandatory reporting in 1981. The Commission, chaired by Justice Kirby, stated: "The Commission believes that the existence of the sanction is more important than its enforcement; it can purposefully be used to educate, to direct and to reinforce good intentions rather than provide a basis for prosecutions…."

(3) As above.

Development—Yarralumla (Question No 1488)

Mr Cornwell asked the Minister for Planning, upon notice, on 4 May 2004:

(1) Is the proposed building construction at Block 2 Section 119 Yarralumla a genuine proposal;

(2) If so, what is proposed to be constructed and who is building it;

(3) Will the construction impede the use of the walking and cycling trail around Lake Burley Griffin;

(4) If the proposed construction is not genuine, (a) why were the signs placed there, (b) by whom were they placed and (c) what action has or will be taken against the perpetrator(s).

Mr Corbell: The answer to the member's question is as follows:

(1) There is no development proposal relating to Block 2 Section 119 Yarralumla (Royal Canberra Golf Club) either at the Design or Development Application phase with the ACT Planning and Land Authority.

(2) N/A.

(3) N/A.

(4) (a) Not known
(b) Not known
(c) No action can be taken against the perpetrator(s)

Land tax (Question No 1489)

Mr Smyth asked the Treasurer, upon notice, on 4 May 2004:

(1) In relation to the collection of revenue from land tax imposed in the A.C.T., what quantum of revenue is generated by those people or organisations who pay land tax on residential properties valued at (a) $100 000 or less, (b) between $100 001 and $200 000 and (c) more than $200 000;

(2) What quantum of revenue is generated by those people or organisations who pay land tax on commercial properties valued at (a) $100 000 or less, (b) between $100 001 and $200 000 and (c) more than $200 000.

Mr Quinlan: The answer to the member's question is as follows:

(1) The estimated land tax revenue in 2003-04 from residential properties with an Average Unimproved Land Value (AUV) of $100 000 or less is $9 852 800; from properties with an AUV between $100 001 and $200 000 is $7 183 100; and from properties with an AUV of $200 001 and above is $8 546 700.

(2) The estimated land tax revenue in 2003-04 from commercial properties with an AUV of $100 000 or less is $1 144 100; from properties with an AUV between $100 001 and $200 000 is $991 100; and from properties with an AUV of $200 001 and above is $18 698 600.

Superannuation (Question No 1490)

Mr Smyth asked the Treasurer, upon notice, on 4 May 2004:

(1) In relation to the action taken by the Commonwealth Government in March 2004 to introduce changes to the basis of the public sector superannuation scheme, will the changes to the public sector scheme (PSS), to operate from 1 July 2005, have any impact on the funding for and provision of superannuation benefits in the A.C.T.;

(2) If so, what is the estimated impact from changing the PSS from a defined benefit scheme to an accumulation scheme on the A.C.T. in terms of estimates of changes in the level of liabilities that are likely to be accrued.

Mr Quinlan: The answer to the member's question is as follows:

(1) The change is likely to have some impact, but details will need to be thoroughly checked when the Commonwealth issues appropriate guidance.

(2) Subject to further consideration of scheme design and the Commonwealth approach, the change from defined benefit to accumulation schemes will have some impact.

The superannuation liabilities of the Territory are reviewed annually, recognising known scheme design benefits. The next scheduled actuarial review will be commissioned in October 2004 (when data is provided by the Australian Government) for submission by end-December 2004.

The impact on funding and provisions will be minimal in the short-term, as the proposed new arrangements will apply only to new employees from 1 July 2005 and accordingly is dependent upon the level of staffing turnover across the ACT Government.

We will continue to review all aspects of superannuation.

Parking levy (Question No 1491)

Mr Smyth asked the Treasurer, upon notice, on 4 May 2004:

(1) In relation to the announcement in the 2003-04 Budget of a proposal to implement a parking space levy in certain parts of the A.C.T., what is the status of this proposal;

(2) When is it anticipated that this new tax will be introduced;

(3) What has been the outcome of any consultations with the community and with directly interested organisations and groups about this proposed new tax;

(4) Have there been any changes proposed to the initial intention to apply this new tax to private car parks located in Civic, Woden, Belconnen and Tuggeranong;

(5) What exemptions, if any, are now being proposed from the application of this new tax;

(6) What concessions, if any, are being proposed to ameliorate the impact of this new tax on community and non-profit organisations.

Mr Quinlan: The answers to the member's questions are as follows:

(1) The proposed Parking Space Levy will not be proceeding in the 2004□05 financial year.

(2) See page 104 of the 2004-05 Budget Paper No. 3.

(3) After extensive consultation with the interested parties the Government has decided that the proposed Levy needed further consideration by the Sustainable Transport Working Group.

(4) Refer to (3) above.

(5) Refer to (3) above.

(6) Refer to (3) above.

Superannuation (Question No 1492)

Mr Smyth asked the Treasurer, upon notice, on 4 May 2004:

(1) In relation to the management of investments held within the Superannuation Provision Account (SPA) and further to answers to Questions on notice Nos 340 and 1280, when did the A.C.T. Government make the decision for the SPA's investment portfolio to go overweight [sic] cash and Australian fixed interest, as noted in the annual report of Treasury for 2001-02;

(2) When the decision was made to allocate at least 54 per cent of the SPA portfolio to cash and Australian fixed interest assets, were appropriate fund managers already in place to handle this change in asset allocation strategy;

(3) Was the basis for this change in asset allocation strategy a result of appropriate fund managers not having been appointed across all asset classes, as noted in the answer in paragraph (2) for Question on notice No 1280;

(4) If the appointment of fund managers was not the reason for the change in asset allocation strategy at that time, what was the reason for this change having been made;

(5) Given that a decision was made during 2001 to allocate at least 54 per cent of the SPA portfolio to cash and Australian fixed interest assets, what is the basis for the comment by the Chief Minister, in his media release of 28 October 2002 in which he stated, that the Government has acted to address the situation by adopting a more defensive position in the light of the collapse in international [equity] markets and has now changed the

balance of asset allocation, with more than 58 per cent of the portfolio now invested in cash and fixed interest assets;

(6) Further to paragraph (3) of answer to Question on notice No 340, concerning research being conducted by Treasury on the performance of superannuation investments in other jurisdictions, will the Treasurer provide a copy of this comparative analysis that has been undertaken by Treasury.

Mr Quinlan: The answer to the member's question is as follows:

(1) In mid 2001, the Finance and Investment Advisory Board endorsed the concept of a defensive asset allocation being retained pending the (then) appointment of an asset consultant and the consequent review of the appropriate strategic asset allocation for SPA investments.

In November 2002 I formally noted the appropriateness of a long-term strategic asset allocation to achieve long-term investment earnings targets but I instructed that it not be implemented at that time given the then poor outlook for equity markets.

As responded to previously (Question No. 1280), no new monies during 2001-02 and 2002-03 were directed to equity investments.

(2) Fund managers were in place to accommodate the additional flows referred to in (1) above.

(3) The response to Question No. 1280 identified that fund manager searches needed to be undertaken prior to adoption of the long-term strategic asset allocation.

(4) Refer to response to question (3).

(5) The Chief Minister's media release of 28 October 2002 noted the maintenance of a defensive investment strategy.

(6) No, the analysis undertaken was done internally within Treasury in preparation for Terms of Reference 3 of the Commission of Audit. The Government did not deem it necessary to undertake Stage 3.

ACTION—services (Question No 1493)

Mr Smyth asked the Minister for Planning, upon notice, on 4 May 2004:

(1) In relation to the involvement of ACTION in providing bus services to community and sporting events and further to the answer to Question on notice No 1339, when is it expected that the review of special event ticketing, mentioned in part (8) of the answer, will be completed;

(2) Is this review solely an internal review or will it involve consultations with external interests, such as tour and event organisations and other bus companies;

(3) Will a copy of this review be available publicly; if not, why not.

Mr Corbell: The answer to the member's question is as follows:

(1) The review has been completed and is subject to further discussion by the ACTION Authority Board.

(2) Yes, this was an internal review.

(3) No, because the review was an internal process.

Tuggeranong—paid parking (Question No 1494)

Mr Pratt asked the Minister for Urban Services, upon notice, on 4 May 2004:

(1) Since the introduction of paid parking in Tuggeranong, have there been any concerns expressed to the Government or the Department of Urban Services by businesses in Tuggeranong whose parking areas are being used by non-customers as an alternative to paying for parking for people working in the area;

(2) If so, how many concerns have been expressed and what is the Government doing about these concerns for businesses in Tuggeranong;

(3) If not, has the Government or the Department of Urban Services contacted businesses in Tuggeranong with large free parking areas for customers to ask for feedback about the impact introduction of paid parking has had on them;

(4) If not, will they be contacted in the future.

Mr Wood: The answer to the member's question is as follows:

(1) Yes.

(2) The Road Transport Branch within the Department of Urban Services has received a total of eleven concerns (4 ministerials, 1 letter, 4 emails and 2 telephone calls to 14 May 2004). Seven of these are in relation to parking at Tuggeranong Square.

The ACT Government does not control all the parking in the Tuggeranong Town Centre. It is a matter for managers of private car parking facilities (whether open to the public, or restricted for private use) to take any necessary steps in response to the Territory's introduction of pay parking. Key stakeholders in Tuggeranong were advised of this as part of the consultation process for the implementation of pay parking.

The car park within the Tuggeranong Square complex is an ACT Government asset, and the original proposal was to implement pay parking in the car park. The owners of the complex expressed an intention to purchase the car park from the Territory and convert it into a private car park directly supporting trade at Tuggeranong Square. Therefore pay parking was not introduced to the car park. We have recently been advised, by the owners that they do not wish to proceed with the purchase of the car park.

Some additional parking control measures have been implemented, to reduce the use of the unrestricted spaces by all day commuters.

(3) No.

(4) No.

Police force—recording devices (Question No 1495)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 4 May 2004:

(1) Are any recording devices such as hand-held video cameras and audio recorders being used by police officers in the A.C.T. to record people when they are booked for traffic infringements in the A.C.T.;

(2) If so, (a) why are they being used, (b) what is being done with the recordings and (c) was there any awareness campaign implemented to alert the public that this was going to take place;

(3) If recording devices are being used by police officers and there was not an awareness campaign implemented to alert the public, why not.

Mr Wood: The answer to the member's question is as follows:

(1) Yes.

(2) (a) Australian Federal Police members may use audio recorders to tape a conversation when issuing a Traffic Infringement Notice in order to protect themselves in the event that a complaint is made against them under the Australian Federal Police Discipline guidelines. Recording may also be used when an offence is committed in order to record material that will later be used as evidence as audio recording material is best practice. A number of Traffic Operations vehicles also have audio/video recording equipment for evidential purposes.

(b) Depending on the reason for the recording, and depending on the Act utilised, the officer may follow evidentiary processes and security measures as when a listening device is used under the *Australian Federal Police Act 1979*. Under the *ACT Listening Devices Act 1992* the provisions for storage are ambiguous and at the discretion of the officer.

(c) The introduction of audio/video units to Traffic Operations vehicles, about two years ago, was widely publicised in the media.

(3) Not applicable.

Schools—staff structures (Question No 1496)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

(1) In relation to staff structures in schools, how many teachers and at what level are they employed, are currently teaching at (a) Calwell High, (b) Torrens Primary, (c) Wanniassa Junior Campus, (d) Wanniassa Senior Campus, (e) Campbell High and (f) Gundaroo Primary schools;

(2) Are any mentoring programs between senior teachers and junior teachers in place at (a) Calwell High, (b) Torrens Primary, (c) Wanniassa Junior Campus, (d) Wanniassa Senior Campus, (e) Campbell High and (f) Gundaroo Primary schools;

(3) If so, what is the structure of these programs and how many hours each week do teachers spend on these programs;

(4) If there are no mentoring programs in place, why not.

Ms Gallagher: The answer to Mr Pratt's question is:

(1)

(a)	Calwell High	Teacher Level 1	34
		Teacher Level 2	7
		Teacher Level 3	1
		Teacher Level 4	1
		TOTAL	43
(b)	Torrens Primary	Teacher Level 1	19
		Teacher Level 2	1
		Teacher Level 3	1
		Teacher Level 4	1
		TOTAL	22
(c)	Wanniassa Junior Campus	Teacher Level 1	16
		Teacher Level 2	2
		Teacher Level 3	1
		TOTAL	19
(d)	Wanniassa Senior Campus	Teacher Level 1	30
		Teacher Level 2	5
		Teacher Level 3	1
		Teacher Level 4	1
		TOTAL	37
(e)	Campbell High	Teacher Level 1	38
		Teacher Level 2	7
		Teacher Level 3	1
		Teacher Level 4	1
		TOTAL	47
(f)	Gundaroo Primary	No records (NSW school)	

(2) (a)-(e) Yes
(f) Gundaroo Primary is a NSW school

(3) For Calwell High School, Torrens Primary, Wanniassa Senior and Junior Campuses and Campbell High Schools:

- All teachers are involved in a mentoring program through the Professional Pathways program.

- Contract and probationary teachers have a panel led by an executive teacher that also includes a level one teacher as their mentor. The probationary panel process is a specific program designed to meet the needs of beginning teachers.

- Informal mentoring occurs within the faculty for new and less experienced teachers.

- At the beginning of the year, between 2 and 4 sessions are conducted for new staff on procedural matters relating to the running of the school.

- The principal and executive have included the development of their mentoring skills as part of their own professional pathways plans. This is achieved through professional discussion, shared readings and attending professional development sessions.

- More experienced teachers are appointed as mentors to teams of less experienced teachers.

- There is no formal allocation of time for mentoring. The degree to which it occurs depends upon the specific needs of individual teachers.

- Informal mentoring occurs frequently. More experienced teachers will assist new teachers. The school culture is very supportive.

Gundaroo Primary is not an ACT government school.

(4) N/A

Teachers
(Question No 1497)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

How many retired teachers (a) were employed by the Department of Education, Youth and Family Services on a casual basis and (b) have applied to the Department for teaching positions in (i) 2002-2003 and (ii) 2003-2004 to date.

Ms Gallagher: The answer to Mr Pratt's question is:

(a) (i) The number of retired teachers aged 55 years or more who were registered and approved casual teachers who worked in 2002-2003 was 164.

(ii) The number of retired teachers aged 55 years or more who were registered and approved casual teachers who are working in 2003-2004 to date is 107.

(b) Temporary (contract) employment is available to any teacher who is registered and approved for casual employment, including teachers retired from permanent employment. Very few teachers aged 55 or more apply for permanent employment once they have retired.

Fireworks
(Question No 1498)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 4 May 2004:

(1) Further to a media release issued by the Minister on 29 March 2004 A.C.T. WorkCover which reported that during the explosives and fireworks amnesty before the *Dangerous Substances Act 2004* came into effect, they made eight referrals to the Bomb Squad, has A.C.T. WorkCover received any reports of the outcomes of the investigation by the Bomb Squad into these referrals;

(2) If so, what are the outcomes;

(3) If not, when is A.C.T. WorkCover expecting reports from the Bomb Squad on the outcomes of the referrals;

(4) Where did A.C.T. WorkCover store these surrendered explosives and fireworks;

(5) What did A.C.T. WorkCover do with the surrendered explosives and fireworks.

Ms Gallagher: The answer to the member's question is as follows:

(1) No, the matters referred to the AFP Bomb Squad were those that ACT WorkCover assessed as requiring additional expertise to collect and dispose of the material. The arrangement made with the Bomb Squad was for them to collect and dispose of the material. No reporting back was anticipated. No investigations were conducted as the explosives were surrendered under an amnesty.

(2) See (1)

(3) See (1)

(4) Explosives surrendered to ACT WorkCover were stored in ACT WorkCover's explosives magazine.

(5) The fireworks surrendered to ACT WorkCover were sent to a disposal facility in NSW for destruction. Other explosives collected were handed over to the AFP Bomb Squad for disposal or for use in their training exercises.

Fireworks
(Question No 1499)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 4 May 2004:

(1) Since the *Dangerous Substances Act 2004* came into effect on 31 March, have there been any reports to A.C.T. WorkCover about any illegal explosives or fireworks in the A.C.T.;

(2) If so, how many reports have there been and what steps has A.C.T. WorkCover taken to investigate them;

(3) If there have been reports made to A.C.T. WorkCover about any illegal explosives or fireworks in the A.C.T., how many (a) calls/reports were received by A.C.T. WorkCover, (b) explosives or fireworks were seized, (c) referrals were made to the Bomb Squad and (d) warnings were issued.

Ms Gallagher: The answer to the member's question is as follows:

(1) Yes

(2) Between 31 March 2004 and 14 May 2004, ACT WorkCover received 19 reports about fireworks. Seventeen (17) reports were about alleged illegal use; one was a request to pick up an unused fireworks a person found in their yard; and one was in relation to an alleged illegal sale of fireworks. The alleged illegal sale is being investigated.

(3) (a) 19

(b) No explosives have been seized. In two matters, fireworks were surrendered to ACT WorkCover.

(c) No referrals were made to the AFP Bomb Squad from ACT WorkCover.

(d) No warnings have been issued. In the matter being investigated, a brief is being prepared for consideration by the Director of Public Prosecution.

Disabled persons—employment (Question No 1500)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 4 May 2004:

(1) In relation to the Disability Employment Framework and further to the response to Question on notice No 1308 in which you stated that a final draft of this framework would be presented to the Government at the end of May, is work on the framework running according to schedule and will the Government still receive the report by the end of May;

(2) How soon after the Minister receives this report will the Government respond;

(3) Since this report will be handed to the Government after the Budget has been handed down, how will the Government ensure any measures that require funding in this framework will be implemented.

Mr Wood: The answer to the member's question is as follows

(1) I have previously informed the Assembly about the development of Whole-of-Government Disability Employment Framework which will seek to improve employment opportunities for people with disabilities within the ACT Public Service. I have mentioned that the Framework will be linked to the Access to ACT Government Strategy and that it is a joint CMD-DHCS project. As members will be aware, the development of the Framework has the support of the Commissioner for Public Administration, the Chief Executives of the ACT Public Service and the Disability Advisory Council.

At this stage it is planned that a Draft of the Framework will be completed by 30 June 2004, one month later than first advised, due to revised contractual arrangements.

To date, The development of the Draft Framework has already resulted in immediate actions including the identification of opportunities for an enhanced capacity within the ACT to promote and access funds from the Commonwealth's New Apprenticeship program for people with a disability.

(2) In relation to your second question a Whole-of-Government response will be developed after the Draft Framework, due to be completed by 30 June 2004, is received from the consultant.

(3) Your third question involved funding measures. The Government will consider the funding requirements for implementation of the Framework after it has received the Draft Framework. DHCS and CMD expect that some measures will be progressed through the use of existing mechanisms and funds and available Commonwealth funding.

Housing—review
(Question No 1501)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 4 May 2004:

(1) In relation to a housing review and further to the response to Question on notice No 1307 in which you stated that a review will take place to provide you with advice on the nature and impact of market renters in A.C.T. public housing, when will this review (a) begin and (b) be completed;

(2) Why has there been a delay in commencing this review.

Mr Wood: The answer to the member's question is as follows:

The review has already commenced and will be completed later this year.

Playground safety
(Question No 1502)

Mrs Burke asked the Minister for Urban Services, upon notice, on 4 May 2004:

In relation to playground safety:

(1) In relation to playground safety, what are giraffe swings;

(2) Which A.C.T. district parks are they located in;

(3) Did The Playground People find that giraffe swings comply with safety requirements;

(4) If not, what are the consequences of that finding.

Mr Wood: The answer to the member's question is as follows:

(1) A giraffe swing is a tall swing structure with a single point swing attachment and an associated tiered step structure for a user to launch from.

(2) In North Canberra there is one giraffe swing at Yerrabi Pond District Park. In South Canberra there were two giraffe swings that have now been removed, one at Point Hut Pond District Park and another at Kambah District Park.

(3) The *Assessment of Safety Risks and Compliance* completed in January 2004 by the Playground People found a number of non-compliant items associated with the giraffe swings in ACT District Parks. The giraffe swings in the South Canberra District Parks did not comply with ACT and Australian Standards and compliance could not feasibly be achieved. The giraffe swing in North Canberra did not comply with ACT and Australian Standards for several elements, however compliance can feasibly be achieved through modification of the giraffe swing.

(4) After review of the Assessment two swings in South Canberra have been removed and are in the process of being replaced with new equipment. The giraffe swing in North Canberra has been placed out of action awaiting the design and construction of modifications that will ensure compliance with ACT and Australian Standards for playgrounds.

Playground safety (Question No 1503)

Mrs Burke asked the Minister for Urban Services, upon notice, on 4 May 2004:

(1) In relation to the $900,000 2003-04 playground safety program, what safety improvements, and at which playgrounds, have been completed in Packages 3, 4 and 5;

(2) Will any of the playground works in any of the packages in part (1) be rolled over into 2004-05; if so, what works at which playgrounds;

(3) Will Package 6 in its entirety be rolled over into the 2004-05 financial year; if not, which playgrounds will have works completed by the end of this financial year.

Mr Wood: The answer to the member's question is as follows:

(1) The playgrounds in packages 3, 4 and 5 have or are in the process of receiving total upgrades. The upgrades include the replacement of play equipment with new equipment that complies with the current ACT and Australian Standards for playgrounds. The softfall material and edging is replaced where required. New seating and fencing is installed, trees planted and pathways constructed as required.

Playgrounds in Package 3 have been **completed** and include:

1. Teague St, Cook
2. Alberga St, Kaleen
3. Oakover Cct, Kaleen
4. Burkitt St, Page
5. Plowman Pl, Flynn

Playgrounds in Package 4 have been **completed** and include:

1. Billson Pl, Wanniassa
2. Marconi Cres, Kambah
3. Halfrey Cct, Wanniassa
4. Karney St, Kambah
5. Summerland Cct, Kambah
6. Maxworthy St, Kambah

Playgrounds in Package 5 are **under construction** and include:

1. Rechner St, Flynn
2. Delaney Ct, Melba
3. Sculptor St, Giralang
4. Copeland Dr, Melba
5. Mildenhall St, Fraser
6. Bishop St, Melba
7. Throssell St, Curtin
8. Stangways St, Curtin
9. Lansell Cct, Wanniassa
10. Hogue Pl, Gilmore

(2) All playgrounds in packages 3, 4 and 5 have been or are expected to be complete by the end of the financial year 2003/2004.

(3) All works in package 6 will be rolled over into 2004/2005 financial year.

Vocational education and training (Question No 1504)

Mrs Burke asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

(1) In relation to Vocational Education and Training (VET), what evidence did the A.C.T. Government provide for the A.C.T. not meeting its New Apprenticeships growth target under the 2001-2003 Australian National Training Authority (ANTA) Agreement, resulting in ineligibility for growth funding in 2003;

(2) Why has the Minister refused to increase funding to the VET sector by 1.5%;

(3) Is the A.C.T. Government doing enough to meet the demands of the VET sector, both in places provided and support for service providers;

(4) What reasons did the Minister provide to the Australian Government for refusing to agree to the National Construction Code;

(5) What reasons did the Minister provide for refusing to agree to the funding levels offered by the Australian Government;

(6) Following the rejection of the A.C.T. Government to sign up to the new ANTA Agreement for 2002-2006, has the A.C.T. now missed out on some $3.6 million funding over three years for the VET sector;

(7) Why has the A.C.T. Government reduced funding levels for VET by 0.3% in real terms between 2002-2003 and 2003-2004;

(8) Where have these funds been redirected to.

Ms Gallagher: The answer to Mrs Burke's question is:

(1) Evidence for satisfaction of the ANTA Agreement targets is collected as raw data by the National Centre for Vocational Education Research Ltd (NCVER) on a quarterly basis. NCVER process the data and derive estimates of training activities. These estimates are used by ANTA to assess jurisdictional compliance with the ANTA Agreement targets.

Brendan Nelson, Federal Minister for Education, Science & Training noted that the ACT had not met the target in only one of the three monitored areas at the relevant census date (30 June 2002). As a result of the ACT's other achievements, and the additional training needs resulting from the January 2003 bushfires, the full amount of $1.71 million Australian Government growth funding was received by the ACT Government.

(2) There has been no refusal to increase VET funding by 1.5%.

(3) Yes.

(4) All states and territories agreed to the rejection of the draft 2004-2006 Australian National Training Authority (ANTA) Agreement.

It was inappropriate to drive the Howard Government's unacceptable industrial relations agenda through a training agreement.

(5) There were several reasons cited for the rejection of the 2004-2006 Australian National Training Authority (ANTA) Agreement, including:

- an insufficient offer of growth funding by the Australian Government
- a failure by the Australian Government to accommodate a request from the states and territories that the Agreement provide for an annual review of funding that would identify where demand exceeds available resources, to be paid as increased Australian Government investment in the first quarter of the following year
- the impasse over the *National Code of Practice for the Construction Industry 1997* and the associated *Commonwealth Implementation Guidelines 1998*.

(6) The ACT Government, with other jurisdictions, rejected the Australian Government's offer for an Australian National Training Authority (ANTA) Agreement for 2004-2006.

The ANTA Agreement was extended for 2004 under the terms and conditions of the 2001-2003 Agreement.

The funding offered by the Australian Government has been put out to tender for eligible Registered Training Organisations to deliver accredited vocational training.

(7) Funding levels for VET in 2003-2004 increased by 4.9% to $69.475 million from $66.216 million in 2002-2003. In real terms, this represents an increase of 2.7%.

(8) No funds have been re-directed.

Canberra Institute of Technology (Question No 1505)

Mrs Burke asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

(1) In relation to Canberra Institute of Technology (CIT) accommodation and further to the response to Question on notice No 1322 in which you stated that the first of two new student housing buildings at the Bruce Campus would be open for occupancy during the Easter break, can you confirm whether these rooms were available for occupancy during that time;

(2) If so, when did the first students move in and how many rooms are currently occupied; if not, when did/will the rooms be available for occupancy and what number are currently occupied, if any;

(3) Has the second building been completed; if not, what is the completion date.

Ms Gallagher: The answer to Mrs Burke's question is:

(1) The first building was available for occupancy during the CIT Easter break.

(2) The first students moved in to the completed building on 23 April 2004. Currently, twelve students are accommodated. One student will be moving in at the beginning of June and a further three have applications in for Semester 2, 2004.

(3) The second accommodation building has not yet been completed. The expected completion date for the second building is 21 May 2004.

Seniors—transport scheme (Question No 1507)

Mr Cornwell asked the Chief Minister, upon notice, on 4 May 2004:

(1) Further to your reply of 13 April to my Question on notice 1424 in relation to a national transport reciprocity scheme for seniors, what was the result of the discussion on this matter at the Positive Ageing Taskforce meeting on 28 April 2004 in Melbourne where the topic was listed on the agenda;

(2) Have any other States or Territories accepted the Commonwealth's offer; if so, which State or Territories;

(3) Has the A.C.T. now accepted the offer; if not, why not.

Mr Stanhope: The answers to the member's questions are as follows:

(1) I am advised that at the National Positive Ageing Taskforce meeting held on 28 April 2004 in Melbourne, Commonwealth, State and Territory officials agreed to establish a

Working Group to advance the matter from a national perspective. It is anticipated that this group will meet shortly;

(2) I am advised that no other State or Territory has accepted the Commonwealth's offer at this time; and

(3) The ACT Government has not accepted the offer at this time either.

Notwithstanding, as I indicated in my reply to your earlier question, the ACT Office for Ageing has initiated discussions with officials in the Commonwealth Department of Family and Community Services.

Further, an Interdepartmental Committee involving representatives from ACT Treasury, the Department of Urban Services, the Department of Disability Housing and Community Services, and the Chief Minister's Department, has been established to develop a whole of ACT Government response to the Commonwealth's offer, and to enable bi-lateral discussions with the Commonwealth to commence.

Housing—investment properties (Question No 1508)

Mr Cornwell asked the Treasurer, upon notice, on 4 May 2004:

(1) In relation to a Letter-to-the-Editor in *The Canberra Times* of 28 April 2004 entitled *A Rort that Needs to be Stopped*, what is the incidence of home owner/builder investment properties claimed to be a family home;

(2) Can such properties at part (1) be identified; if not, can steps be taken to do so;

(3) Can the one year qualification be extended to avoid such profit taking as outlined in the letter;

(4) Alternatively, can such sales of the one year qualification be factored out of local rates rises based upon sales in the suburb;

(5) If neither part (3) nor (4) are feasible, what can be done to prevent (a) loss of revenue to the Government by such means and (b) increasing rate rises to other residents;

(6) Can any estimate be provided as to the annual revenue loss from this subterfuge; if so, how much was the amount in 2002-03.

Mr Quinlan: The answer to the member's question is as follows:

(1) The issue reported relates to capital gains tax and the incidence of home owner/builder investment properties in the ACT is unknown.

(2) Home owner/builder investment properties cannot be identified. As there is no loss of rates, land tax or stamp duty revenue for the ACT, there is no need for the ACT to identify such properties.

(3) No. The one year qualification period relates to the main residence requirement for the purposes of capital gains tax which is the responsibility of the Federal Government.

(4) No. Unimproved land values used for rating purposes are reflective of all property sales in each suburb and it is not appropriate to exclude any property sales that are associated with redevelopment or investment properties.

(5) There is no lost revenue to the ACT due to home owner/builder investment properties. Only a change in the rating system that moves away from using land values to assess rates for existing property owners can remove any effect that such activity has on land values in a particular suburb.

(6) There is no lost revenue to the ACT due to home owner/builder investment properties.

Aged care accommodation (Question No 1509)

Mr Cornwell asked the Minister for Planning, upon notice, on 4 May 2004:

(1) In relation to applications to develop aged care and nursing home facilities, upon what date was the original application lodged with planning authorities for

(a) Calvary, Block 1 and 4 Section 4 Bruce,

(b) Southern Cross Homes, Block 56 Section 8 Garran,

(c) St Andrew's Village, Block 12 Section 28 Hughes,

(d) Goodwin Village, part of Section 3 Block 50 Monash and

(e) Mirinjani, Block 2 Section 59 Weston;

(2) Has approval been given, therefore allowing construction to commence on any of the above; if so, when;

(3) If approval has not yet been given, when is approval likely to be given for each of these applications to enable construction to commence.

Mr Corbell: The answer to the member's question is as follows:

(1) No Development Applications have been lodged to date with the ACT Planning and Land Authority (ACTPLA) seeking development approval for (a) Calvary, Block 1 and 4 Section 4 Bruce, (b) Southern Cross Homes, Block 56 Section 8 Garran, (c) St Andrew's Village, Block 12 Section 28 Hughes, (d) Goodwin Village, part of Section 3 Block 50 Monash and (e) Mirinjani, Block 2 Section 59 Weston.

(2) No development approval had been granted for the identified projects.

(3) When the Development Applications are submitted ACTPLA will assess them within the statutory framework allowed for assessment, ie. 30 business days or 45 business days if any objections are received, subject to adequate information being submitted and any issues arising with the proposals being able to be resolved quickly.

Child protection
(Question No 1510)

Mr Cornwell asked the Minister for Education, Youth and Family Services, upon notice, on 4 May 2004:

(1) In relation to comments made on Wednesday, 28 April upon WIN TV in the 18:00 news in which you stated that more children in need of care were coming into the A.C.T., could you provide supporting figures to justify this statement;

(2) Why would children in need of care come to the A.C.T. from elsewhere in Labor controlled States and Territories;

(3) Why should the A.C.T. population be obliged to look after children in need of care from elsewhere in Australia.

Ms Gallagher: The answer to Mr Cornwell's question is:

(1) (2) and (3)

On Wednesday 28 April 2004 on WIN TV in the 18:00 news I stated that "the cost of supporting those children is increasing all the time." "Those children" referred to the approximately 300 children and young people already in the care of the Department. There was no comment that indicated children in need of care were coming to the ACT from other states and territories.

Workers compensation
(Question No 1511)

Mr Smyth asked the Minister for Industrial Relations, upon notice, on 5 May 2004:

(1) What is the cost to the A.C.T. for the services of the Worker's Compensation Nominal Insurer over the last three years;

(2) Is there a legal panel to provide advice to the Government on claims handled by the Nominal Insurer;

(3) If so, which legal firms are on the panel;

(4) What contractual arrangement is in place between the members of the panel and the A.C.T.;

(5) What was the cost of the services of the panel (a) per year and (b) per firm over the last three financial years and the current financial year to date.

Ms Gallagher: The answer to the member's question is as follows:

(1) There is no cost to the ACT for the services of the Workers' Compensation Nominal Insurer, as the services are not funded through the budget. Rather, Nominal insurer costs, including money paid to claimants and administration costs, are recovered through

penalties imposed on uninsured employers and levies on approved insurers and self-insurers

(2) Yes.

(3) ACT Government Solicitor (GSO)
Mallesons Stephen Jacques (MSJ)
Dibbs Barker Gosling (DBG)
Minter Ellison (ME)

(4) Contracts were in place with each firm as follows:

GSO – Deed dated 4 July 1999 valid to 4 July 2002
MSJ – Deed dated 6 July 1999 valid to 6 July 2002
DBG – Deed dated 1 July 1999 valid to 1 July 2002
ME – Deed dated 12 July 1999 valid to 12 July 2002

The Government Solicitor provides advice to the Nominal Insurer as a client under the *Government Solicitor Act 1989*, regardless of whether a contract is in place.

The services of the other law firms are currently engaged on terms that include the terms of the original deed, as varied by the conduct of the parties.

A new tender process for the provision of legal services to the Nominal Insurer and WorkCover is to commence in the near future.

(5) The following table shows the cost of the services of the panel for work undertaken on behalf of the Nominal Insurer, by year and by firm:

	2000-01 ($)	**2001-02 ($)**	**2002-03 ($)**	**2003- to date ($)**	**Total ($)**
GSO	Nil	243	Nil	500	743
MSJ	51,270	39,134	66,819	55,551	212,774
DBG	2,365	2,150	Nil	3,241	7,756
ME	462	Nil	Nil	Nil	462
Total	**54,097**	**41,527**	**66,819**	**59,292**	**221,735**

These costs represent direct legal fees and do not include other disbursements such as counsels' fees, medical reports and payments to other solicitors as part of settlement of claims.

WorkCover
(Question No 1512)

Mr Smyth asked the Minister for Industrial Relations, upon notice, on 5 May 2004:

Have there been any claims for stress leave and stress related worker's compensation by employees of A.C.T. WorkCover in (a) 2003-04, (b) 2002-03 and (c) 2001-02.

Ms Gallagher: The answer to the member's question is as follows:

The following claims for psychological injury (stress) have been recorded:

(a) In 2003/04, two claims have been accepted. One other claim has been made in 2003-04 that has not been accepted by Comcare to date and is currently undetermined.

(b) In 2002/03, one claim was accepted.

(c) In 2001/02, no claims were accepted.

WorkCover
(Question No 1513)

Mr Smyth asked the Minister for Industrial Relations, upon notice, on 5 May 2004:

(1) What are the A.C.T. training requirements of WorkCover inspectors;

(2) How do these training requirements compare to training requirements in NSW;

(3) If the A.C.T. has lesser qualifications, why is this so and would the Government look at changing qualifications for inspectors to be better in line with NSW.

Ms Gallagher: The answer to the member's question is as follows:

(1) Under the *Workers Compensation Act 1951*, there is a legislative requirement for inspectors to undertake "appropriate training" before being appointed, but "appropriate training" is not specified. ACT WorkCover, however, has designed a training program which incorporates practical on-the-job training for all staff seeking appointment as an inspector under the Act.

There are currently no training requirements specified for inspectors under the *Occupational Health and Safety Act 1989*. OHS inspectors are recruited on the basis that they have relevant technical and industry experience, as well as qualifications in occupational health and safety or a related discipline. New inspectors attend an Investigations Skills course and also receive on-the-job training and mentoring. New staff are only given appointments as an inspector under the Act when they are competent in undertaking routine workplace inspections, investigating incidents and using enforcement tools.

(2) NSW WorkCover inspectors undergo competency-based training in the Diploma in Government, Workplace Inspection. It consists of 17 weeks of course work, followed by 36 weeks in the field. The course work covers risk management, OHS and workers compensation law, notices and fines, conduct of investigations and the development of technical knowledge and skills. The trainees are assessed in the core essential skills for inspectors.

(3) ACT WorkCover is keen to upgrade inspectors' skills to qualify for the Diploma in Government, Workplace Inspection. After thoroughly investigating competency-based training programs around the country, ACT WorkCover has devised an inspector training program which it will implement shortly.

WorkCover
(Question No 1514)

Mr Smyth asked the Minister for Industrial Relations, upon notice, on 5 May 2004:

(1) What was the odometer reading of the "WorkCover@Work" vehicle (a) when it was first put into service and (b) after its first year;

(2) What is the current reading;

(3) What is the cost of parking the vehicle in the London Circuit carpark;

(4) Is the vehicle still being used; if not, why not.

Ms Gallagher: The answer to the member's question is as follows:

(1) (a) The odometer reading at acquisition was 678km.

(b) After its first year (26 April 2003) the reading was 9,965km.

(2) The current reading is 21,034 (17 May 2004).

(3) The cost of parking in the London Circuit carpark is $115 per month.

(4) The vehicle is currently used by ACT WorkCover to conduct on-site investigations and interviews. It has also been used for other compliance activities, such as amusement ride inspections at the Canberra Show and Unions ACT Picnic Day.

Workers compensation
(Question No 1515)

Mr Smyth asked the Minister for Industrial Relations, upon notice, on 5 May 2004:

(1) In relation to the Worker's Compensation Supplementation Fund, what is the cost to the A.C.T. for the services of the Supervising Insurer since the collapse of HIH in 2001;

(2) What are the respective roles of the Supervising Insurer and A.C.T. WorkCover in resolving HIH claims.

Ms Gallagher: The answer to the member's question is as follows:

(1) The Supervising Insurer (NRMA) has received no payment from the ACT for the provision of its services as Supervising Insurer.

(2) The *Workers Compensation Supplementation Fund Act 1980* (the Act) provides that where the Workers Compensation Supplementation Fund Manager receives a claim against the fund, the Fund Manager shall appoint an approved insurer to be the supervising insurer in relation to the claim.

The roles, functions and responsibilities of the Fund Manager and the Supervising Insurer are contained in the Act.

ACT WorkCover has no statutory role under the Act. The Fund manager is the responsible statutory officer. Currently, the OHS Commissioner, who is also the head of ACT WorkCover, is appointed as the Fund Manager under section 8 of the Act.

Community housing (Question No 1516)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 5 May 2004:

(1) What is the current process or policy for housing individuals in Government or community based housing, who are newly released from gaol or a correctional institution;

(2) What processes or policies are in place to adequately address, house and/or allocate/transfer, tenants in Government or community housing who are undergoing rehabilitation for substance abuse;

(3) What proportion of housing tenants in either A.C.T. Government housing or community housing, would be deemed people on high incomes;

(4) What is the criteria or salary cut off range used to determine or deem a tenant to be a high income earning tenant.

Mr Wood: The answer to the member's question is as follows:

(1) An applicant who has been approved for public housing and who has been released from jail or a correctional institution is housed when their name reaches the top of the Applicants' List they have been approved for i.e. Standard or Early Allocation. If the applicant has been approved for a standard allocation they may apply for an early allocation status if they consider that their circumstances have altered significantly to warrant priority allocation of accommodation. The applicant is also entitled to apply to the Commissioner for Housing for an out of turn allocation of accommodation if they consider that their circumstances warrant them being placed ahead of the applicants on their Applicants' List.

Where appropriate, Housing ACT works with ACT Corrective Services to ensure that accommodation provided to applicants released from jail or a correctional facility meets the needs of the individual and complies with any conditions set by the courts.

(2) Housing ACT exempts the income of a tenant or resident who enters a residential rehabilitation facility for the purposes of calculating their rental rebate. However, the tenant is charged a basic rental of $5 per week.

If a tenant approved for a transfer reaches the top of the Applicants' list while they are in a residential rehabilitation facility, Housing ACT will allow them to stay on the List and will allocate them accommodation as soon as it becomes available on their release. Housing ACT will also engage with client and support agencies to ensure the allocation of the most appropriate available accommodation.

(3) Housing ACT does not determine or deem tenant households to be high or low income earning tenants. A tenant's household income is obtained only for the purpose of determining whether they are eligible for a rental rebate.

(4) See answer to (3) above.

Housing—evictions (Question No 1517)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 5 May 2004:

(1) In relation to the eviction of A.C.T. Housing tenants, for the fiscal year 2002-2003, (a) how many Government or community housing tenants were evicted, (b) what were the reasons for eviction and (c) what processes were in place to deal with evicted tenants;

(2) For the current fiscal year to date (a) how many Government or community housing tenants have been evicted and (b) what were the reasons for eviction;

(3) Have there been changes in eviction policy from the previous fiscal year period to the current fiscal year reporting period;

(4) How is the current housing policy framework responsive to the needs of men in the A.C.T. community;

(5) Does the Department of Disability, Housing and Community Services have specific policies or strategies in place to adequately meet the needs of fathers with dependent children; if so, what are they; if not, why not.

Mr Wood: The answer to the member's question is as follows:

(1) The Department of Disability, Housing and Community Services does not have data on the eviction of tenants of community housing providers. In relation to ACT Housing tenants:

(a) 89 were evicted in 2002/03.
(b) 88 were on the grounds of non-payment of rent and one tenant was evicted for neighbourhood disturbance.
(c) In each case the tenants were offered a referral to appropriate support organisations. Evicted tenants are entitled to re-apply for housing assistance.

(2) Refer to answer 1 above for tenants of Community housing providers. In the current financial year, there have been 35 evictions of Housing ACT Tenants. These were all for non-payment of rent.

(3) The policy in relation to evictions has always been to look at each case on its merits and to seek to maintain the tenancy where reasonably possible. That policy has not changed. However, the policies have been expanded to provide for increased opportunities where contact is made with the tenants to encourage them to engage with relevant support agencies and put in place mechanisms for sustaining their tenancy.

(4) Housing ACT policies do not discriminate between men and women in relation to application or allocation.

(5) Housing ACT policies do not discriminate between men and women with children in relation to application or allocation. In addition, the Department is currently undertaking a process to fund a community Housing provider to provide accommodation and support for households headed by a single male.

Public service—staff training (Question No 1518)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 5 May 2004:

(1) What increased staff training opportunities for staff of the Department of Disability, Housing and Community Services, and particularly for staff of the working in A.C.T. shop fronts, has the Department, under the direction of the Minister, provided;

(2) Can the Minister provide a detailed summary of all courses;

(3) If such courses were mandatory, how many staff attended and what areas did they come from within the Department.

Mr Wood: The answer to the member's question is as follows:

(1) The Department of Disability, Housing and Community Services has provided a broad range of training opportunities for its staff. Since July 2003, more than 80 different training courses have been offered. Gateway Services staff, which includes staff working in shop fronts, have attended over 2000 hours of training so far.

(2) Due to the large volume of training provided, it is not possible to provide a detailed summary of all courses. However, the training has been in the areas of Certificate IV in Government (Social Housing); Certificate III in Disability Work, Certificate IV in Government (Project Management); Diploma of Government; Certificate IV in Workplace Training and Assessment; Certificate IV of Community Mediation, interpersonal skills and team work, including conflict management and negotiation, communication, leadership, software applications, writing skills, emergency procedures, infection control, advanced driving skills, self injurious behaviour, ACT Vision and Values, medication administration, First Aid, Professional Assault Response Training, epilepsy training, client safety workshops and manual handling.

(3) The majority of training for Department of Disability, Housing and Community Services staff is not mandatory. In accordance with the principles of adult learning, workplace based training is more effective when it responds to an individual need for personal development. Appropriate training for each staff member is identified through discussion between the staff member and their supervisor, including through a comprehensive Performance Management Planning process.

However, Induction Training for new staff members in Disability Support Officer Positions, and Housing Manager positions, is compulsory. Since 1 July 2003, 100% of new housing managers have relevant induction training, and 100% of new Disability Support Officers have relevant induction training.

Please note that the induction training programs for these staff are specific to their roles. The induction training for Housing Managers includes interpersonal and client service

skills, clients with complex needs, Gateway services (including shop front), tenancy management, maintenance, managing rebates, debt, allocations, protective behaviours, and software applications. The induction training for Disability Support Officers includes, among other areas, ACT Vision and Values, medication administration, First Aid, Professional Assault Response Training, epilepsy training, client safety workshops and manual handling.

Housing—disabled persons (Question No 1519)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 5 May 2004:

In relation to housing for people with a disability, can the Minister (a) provide a current update in regard to the gradual phasing out of group housing and (b) explain what provisions the Government is making to ensure that people with a disability are appropriately housed.

Mr Wood: The answer to the member's question is as follows:

(a) Current Update in relation to the gradual phasing out of group housing

The Government response to the recommendations of the Board of Inquiry into Disability Services includes several commitments in relation to this question, all of which are being implemented. Progress against these recommendations is included in the Progress Report which was tabled in the Legislative Assembly on Friday 14 May 2004.

In line with the recommendations of the Disability Reform Group the services provided by the Disability Program have remained stable whilst consideration is given to the roles of government and the sector in relation to accommodation services and crisis support. The draft *"Future Directions for Disability ACT 2004-08"* document invites community input into the future role of the government service provider, including the role of group homes.

To date there has been no reduction in the number of people provided with support through government provided group homes. Three people have left group homes and are now being supported by other agencies, with funding provided by Disability ACT. This is balanced by three people who were granted Individual Support Packages in 2002-03, who have requested that Disability ACT's Individual Support Services be their Service Provider.

The Government has given a commitment that existing consumers will be offered opportunities to explore options for increasing the flexibility and portability of the support they receive and will not be disadvantaged through the reform process. The Individual Support Services of Disability ACT is establishing mechanisms to provide these opportunities, including the Community Linking and Needs Assessment team, which assists individuals plan for their future and match their aspirations and support needs to available services.

(b) Explain what provisions the Government is making to ensure that people with a disability are appropriately housed.

People with a disability are able to apply to Housing ACT for public housing and an early allocation of accommodation. Housing is also available through the Community Organisation Rental Housing Assistance Program (CORHAP) to community housing providers who assist people with disabilities.

People with a disability who are currently in Disability ACT group homes will be offered the opportunity to enter into a tenancy agreement directly with Housing ACT, affording them the same tenancy rights as all other tenants.

Many people with a disability will require support to assist them to live independently in their home. Disability ACT funds accommodation support through non-government agencies either through block grants or Individual Support Packages. The 2004-05 Budget provides additional funds for community service provision, including accommodation support for those in the highest need.

Two of the key strategic directions outlined in *the "Future Directions for Disability ACT 2004-08"* paper are aimed at improving the planning and funding of people requiring ongoing support and developing a sustainable and responsive service sector to deliver this support.

Housing—maintenance requests (Question No 1520)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 5 May 2004:

(1) How many requests for maintenance to A.C.T. Housing properties have been received by A.C.T. Housing during (a) 2001 – 2002, (b) 2002 – 2003 and (c) 2003 – 2004 to date;

(2) What is the (a) number of requests for maintenance within each category or classification of works and (b) average waiting time for maintenance requests within each category;

(3) What is the total cost, to date, of maintenance to A.C.T. Housing properties from 2001-2004;

(4) What are the details of amounts paid to service providers for maintenance works completed during (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(5) Does the Department have a policy whereby tenants are provided with basic home maintenance courses;

(6) If so, how many courses have been undertaken and how many tenants have participated.

Mr Wood: The answer to the member's question is as follows:

(1) Housing ACT receives requests for maintenance through many varied methods. These requests resulted in jobs raised in the following quantities:

(a) 2001-2002	171,360 jobs (including the program of hardwiring smoke detectors in each property)
(b) 2002-2003	147,707 jobs
(c) 2003-2004	125,076 jobs (to 30 April 2004).

(2) (a) Those requests referred to in the response to question 1 are detailed below:

CATEGORY	*WORKSORDERS*	*JOBS*
2001-02		
Normal	39,288	95,970
Other	13,482	16,345
Priority	15,355	38,277
Urgent	10,284	20,768
TOTAL	**78,409**	**171,360**
2002-03		
Normal	27,878	81,005
Other	7,208	11,191
Priority	14,494	34,230
Urgent	9,900	21,281
TOTAL	**59,480**	**147,707**
2003-04 till 30 April		
Normal	22,900	61,213
Other	8,363	16,116
Priority	12,945	30,279
Urgent	8,536	17,468
TOTAL	**52,744**	**125,076**

NOTE: Works raised against other may not be requested by tenants and include landscaping and cleaning at large complexes, capital refurbishments and cyclical maintenance.

(b) Below is a table of the response times required under the contract for each category of work raised as responsive repairs.

CATEGORY	*TIME*
Normal	14 Days
Other	40 Days
Priority	3 Days
Urgent	4 Hours

(3) The total cost of maintenance work, including capital maintenance and planned maintenance which are not generally raised as responsive repairs, from 1 July 2001 to 30 April 2004 is $99.728m.

(4) Payments for works completed during the time periods stated in the question are as follows:

(a) 2001-2002 - $31.021m

(b) 2002-2003 - $40.604m

(c) 1 July 2003 - 30 April 2004 - $28.103m

(5) No.

(6) Please see (5) above.

Curriculum guidelines (Question No 1521)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 5 May 2004:

(1) What are the Department of Education, Youth and Family Services curriculum guidelines for teaching information technology studies in (a) primary schools, (b) high schools and (c) colleges;

(2) What percentage, if any, of a curriculum must be dedicated to information technology studies in (a) primary schools, (b) high schools and (c) colleges;

(3) Can the Minister provide a list of all (a) primary schools, (b) high schools and (c) colleges that (i) teach any information technology-related studies and (ii) do not.

Ms Gallagher: The answer to Mr Pratt's questions are:

(1) The Department of Education and Trainings' curriculum guidelines for teaching information technology studies in primary and high schools are contained in the *Technology Curriculum Framework*. Guidelines for teachers in colleges are contained in the *ACT Board of Senior Secondary Studies Information Studies Course Framework.*

Guidelines for incorporating information technology in teaching and learning across the curriculum in all three sectors are contained in the *Across Curriculum Perspectives Statements*.

Curriculum guidelines for the Information and Communication Technology (ICT) Competencies program in high schools are contained in the document, *A Guide for Year 10 ICT Competency Performance Criteria*.

(2) There is no specified percentage of the curriculum that must be dedicated to information technology studies in (a) primary schools, (b) high schools and (c) colleges. However, all students able to be assessed in ICT competencies are required to be assessed in all ACT government high schools.

(3) All primary schools, high schools and colleges are teaching information technology related studies. This ranges from integration within the key learning areas of the curriculum, through to information technology specific courses such as IT applications, and VET Information Technology programs.

Class sizes (Question No 1522)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 5 May 2004:

(1) What was the average class size in the 2003 school year in A.C.T. government (a) primary schools, (b) high schools and (c) colleges;

(2) What was the breakdown of average class sizes in the 2003 school year for each A.C.T. government school.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) (a) The average class size in the 2003 school year in ACT government primary schools was 23.1.

(b)&(c) Average class sizes for high schools and colleges for 2003 are unavailable. This is due to the fact that each high school and college student can attend as many as eight classes while a primary school student only attends one.

(2) The breakdown of average class sizes in the 2003 school year for each ACT government primary school is at Attachment A.

ATTACHMENT A

PRIMARY SCHOOL	**Average Class Size - 2003**
Ainslie Primary School	24.2
Aranda Primary School	24.4
Arawang Primary School	25.4
Bonython Primary School	24.4
Campbell Primary School	27.0
Chisholm Primary School	22.5
Chapman Primary School	24.6
Charnwood Primary School	22.9
Calwell Primary School	24.1
Cook Primary School	21.8
Charles Conder Primary School	24.9
Co-operative School	16.7
Curtin Primary School	26.4
Duffy Primary School	22.5
Evatt Primary School	23.3
Fadden Primary School	22.4
Flynn Primary School	24.3
Florey Primary School	24.1
Forrest Primary School	26.0
Farrer Primary School	23.7
Fraser Primary School	24.3
Gold Creek School (Primary)	25.0
Gilmore Primary School	25.8
Giralang Primary School	21.8
Gowrie Primary School	24.0
Gordon Primary School	24.4
Garran Primary School	24.7
Hall Primary School	22.6
Higgins Primary School	25.1
Hughes Primary School	18.7
Holt Primary School	21.6

Hawker Primary School	25.6
Isabella Plains Primary School	21.7
Jervis Bay Primary School	14.8
Kaleen Primary School	24.6
Latham Primary School	24.5
Lyneham Primary School	22.9
Lyons Primary School	20.5
Majura Primary School	25.0
Macquarie Primary School	22.8
Mawson Primary School	24.3
Maribyrnong Primary School	23.9
Macgregor Primary School	23.3
Miles Franklin Primary School	24.1
Melrose Primary School	16.7
Monash Primary School	27.3
Mt Neighbour Primary School	20.3
Mt Rogers Community School	23.8
North Ainslie Primary School	19.0
Narrabundah Primary School	18.0
Ngunnawal Primary School	24.2
Palmerston Primary School	22.5
Red Hill Primary School	21.9
Richardson Primary School	19.5
Rivett Primary School	20.8
Southern Cross Primary School	25.9
Theodore Primary School	24.7
Tharwa Primary School	13.5
Telopea Park School (Primary)	21.9
Taylor Primary School	20.3
Turner School	14.8
Torrens Primary School	24.8
Urambi Primary School	22.4
Village Creek Primary School	16.8
Wanniassa School (Primary)	25.1
Wanniassa Hills Primary School	23.4
Weston Primary School	19.4
Weetangera Primary School	23.6
Yarralumla Primary School	19.5
TOTAL AVERAGE	**23.1**

Teachers—statistics (Question No 1523)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 5 May 2004:

(1) How many executive teachers are employed by the Department of Education, Youth and Family Services;

(2) What is the breakdown of the number of executive teachers in the A.C.T. teaching at (a) primary schools, (b) high schools and (c) colleges;

(3) What is the breakdown, by each A.C.T. government school, of executive teachers teaching in each school;

(4) What is the common duty statement for executive teachers in the A.C.T.;

(5) What positions do executive teachers hold in A.C.T. schools.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) There are currently 376 executive teachers employed by Department of Education and Training.

(2) The current distribution of executive teachers across ACT Government school sectors is:
(a) primary schools – 91
(b) high schools – 127
(c) colleges – 85
(d) special schools – 5

The other 68 executive teachers are employed in various other positions including senior counsellors, preschool services, the Centre for Teaching and Learning and in other specific roles in the central office.

(3) Currently, apart from some very small primary schools, all ACT Government schools have a minimum of one executive teacher.

(4) There is not a common duty statement for executive teachers.

(5) There are numerous positions held by executive teachers in ACT schools specific to duties outlined by the particular schools. Some of the roles include:
- faculty heads
- staffing officers
- welfare officers
- junior school coordinator (primary schools)

Teachers—retirement (Question No 1524)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 5 May 2004:

(1) How many teachers employed by the Department of Education, Youth and Family Services retired in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(2) What is the breakdown, by position and level, of teachers who retired in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(3) Have any retired teachers been re-employed by the Department to return to teaching, or take up any other positions, in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(4) What is the average age of teachers employed by the Department retiring in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

Ms Gallagher: The answer to Mr Pratt's question is:

Note: Retired teacher numbers include staff that attained the age of 54 years, resigned under the provisions of the Commonwealth Superannuation Scheme and retired.

(1)

(a)	2001-2002	130
(b)	2002-2003	131
(c)	2003-2004 to date	110

(2) The breakdown, by position and level, of teachers who retired in:

(a)	2001-2002	Teacher Level 1	93
		Teacher Level 2	27
		Teacher Level 3	3
		Teacher Level 4	7
(b)	2002-2003	Teacher Level 1	95
		Teacher Level 2	21
		Teacher Level 3	3
		Teacher Level 4	12
(c)	2003-2004 to date	Teacher Level 1	82
		Teacher Level 2	15
		Teacher Level 3	6
		Teacher Level 4	7

(3) The number of retired teachers re-employed by the department to return to teaching, or take up any other positions, in:

(a)	2001-2002	Figures are not available
(b)	2002-2003	57
(c)	2003-2004 to date	51

Note: Figures shown relate to teachers who retired in the respective years.

(4) The average age of teachers employed by the department retiring in:

(a)	2001-2002	56.34 years
(b)	2002-2003	56.66 years
(c)	2003-2004 to date	56.51 years

Teachers—incidents (Question No 1525)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 5 May 2004:

(1) How many reports of incidents of teachers bullying or harassing students were made to

schools, the Minister or the Department in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(2) What is the breakdown of schools for these reported incidents;

(3) What action was taken by the schools, the Minister or the Department to investigate these reports;

(4) Has any action been taken on teachers as a result of these investigations;

(5) If so, what has that action been;

(6) What programs are in place for teachers to advise them about bullying or harassment towards students.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) (a,b,c) If reports of incidents of teachers bullying or harassing students are received by the Minister's office, they are referred to the department for action and advice. Reports of these incidents from schools or other sources are not kept centrally by the department. In the first instance all 'reports' of this nature are treated as unsubstantiated allegations.

(2) See answer to (1)

(3) Action on reports may be taken in a variety of ways. Complaints made at the school may be dealt with informally through mediation; or more formally through investigation and, where appropriate, referral to the department according to the procedures outlined in the department's Complaint Resolution Policy. A complaint made to the Minister's office is referred to the Executive Director School Education for investigation and action. Where a complaint may involve misconduct by a teacher, the department's usual disciplinary processes will be followed.

(4) If an allegation of bullying or harassment by a teacher is proven, the Public Sector Management Act provides for a range of possible penalties ranging from counselling to dismissal. Where counselling of a teacher has occurred, a record has been placed on the teacher's personal file.

(5) See (4)

(6) All ACT government schools are designated Safe Schools and as such adhere to the policy set out in the *Safe Schools Policy Framework*. The *Safe Schools Policy Framework* addresses the need to ensure that students "feel safe and are free from verbal and physical abuse and harassment in the playground, classroom and allied teaching and sporting areas". This is available from the department's website.

ACT Government schools regularly address bullying and harassment issues within their professional development programs. Schools appoint equity and diversity contact officers for staff and Anti-Sexual Harassment and Anti-Racism Contact Officers for students. School counsellors also support students to resolve issues of alleged harassment or bullying.

Schools—Wanniassa
(Question No 1526)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 5 May 2004:

(1) What is the current status and the progress of the pilot study trialing an amalgamation concept between Wanniassa Primary School and Wanniassa High School;

(2) When is the pilot study due for completion;

(3) When will the pilot study report be released;

(4) Have any complaints been received by the Minister or the Department about the pilot study since it began;

(5) If so, how many have been received and what action is being taken to address these complaints;

(6) If no complaints have been received, what feedback has been given to the Minister or the Department, about the pilot study by teachers, parents or the general community;

(7) What mechanisms are in place to record feedback on the pilot study to be incorporated into the final report.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) The amalgamation of Wanniassa High and Primary Schools occurred as a result of lengthy community consultation. The amalgamation commenced at the beginning of the school year in 2000. There was no pilot study of the amalgamation.

(2) Refer to (1)

(3) Refer to (1)

(4) No formal complaints have been received by the department about the amalgamation of Wanniassa High and Primary Schools.

(5) No complaints have been received.

(6) In 2003 the Australian Education Union, ACT Branch produced a report to the AEU ACT Branch Executive, *Non Traditional School Structures Review*. This report provided feedback on two ACT government K – 10 schools, Gold Creek School and Wanniassa School.

(7) In 2002 Wanniassa School participated in the School Review and Development process which provided feedback on the levels of satisfaction of parents, students and staff. A Wanniassa school Development Report was produced as part of the review process.

Long service leave
(Question No 1527)

Mr Pratt asked the Minister for Industrial Relations, upon notice, on 5 May 2004:

(1) In relation to long service leave portability and further to comments made in the *Canberra Times* on 24 March that the office of the Minister confirmed that she was working with employers and employees on a plan for long service leave, including the potential for portability in some industries, which industries are potential candidates for the extension of portable long service leave;

(2) Will the scheme that the Minister is proposing be consistent with the Federal Labor's plans as outlined in its platform for a national portable long-service leave scheme.

Ms Gallagher: The answer to the member's question is as follows:

(1) The ACT Government has no plans to extend portability of long service leave at this time. The Government will continue to consult with employers and unions about improving conditions of employment, including leave entitlements, for the ACT workforce.

(2) As far as I am aware, Federal Labor does not have a plan for a national portable long service leave scheme.

Retirement villages—code of practice
(Question No 1529)

Mr Cornwell asked the Attorney-General, upon notice, on 5 May 2004:

(1) Regarding the A.C.T.'s *Fair Trading Act 1992* Retirement Villages Industry Code of Practice, is there a specific administration unit within the Office of Fair Trading that oversees the implementation and use of the Code of Practice;

(2) If not, why not, and how can it be assured that providers are adhering to the Code of Practice;

(3) Are regular checks undertaken to ensure that retirement villages are adhering to the Code of Practice; if not, why not, when will regular checks be instigated and how will this be done;

(4) If no to part (3), is it solely up to residents to bring attention to and report any breaches of the Code of Practice;

(5) What are the procedures and consequences if it is found that the Code of Practice is not being adhered to by a particular retirement village;

(6) Have any breaches of the Code of Practice occurred in the A.C.T. to date; if so, has any action been taken against any particular retirement village;

(7) If so, in what form and against whom was action taken;

(8) Why is it that under the Code of Practice, only three residents are required to form a quorum in a residents meeting and how is this number deemed acceptable.

Mr Stanhope: The answer to the member's question is as follows:

(1) No. The Office of Fair Trading (OFT), in administering the Retirement Village Industry Code of Practice (the Code), allocates particular aspects of its regulation to the various work units of the office depending on the subject matter involved.

(2) The OFT undertakes a range of proactive and reactive activities in relation to the Code. Proactive compliance activities are conducted by the OFT Compliance Unit. Educational activities are prepared and undertaken by the OFT Business and Community Relations Unit and initial responses to consumer complaints are undertaken by the OFT Advice and Complaints Unit. Internal processes within the OFT ensure that any systemic issues are brought to the attention of senior management and acted upon.

(3) The OFT runs a small but regular compliance program for retirement villages. It focuses on the few issues that have arisen by way of complaints. In addition to this, information has been sent to retirement village operators by way of questionnaires to ensure that their practices are in accordance with their obligations under the Code. The OFT is also in the process of updating and reprinting the 'Retirement Village Handbook' and is producing a brochure for display in retirement villages to remind residents of their rights under the Code.

(4) No. Complaints from residents of villages is only one way, and augments the processes mentioned in response to question 3 above, in which compliance with the Code is established.

(5) Under the *Fair Trading Act 1992* (the Act) the Commissioner for Fair Trading can request an undertaking from a retirement village if the Commissioner believes that the village has been operated in contravention of the Code. If the operator of the village does not give the undertaking requested an application can be made to the Magistrates Court for an undertaking in the terms previously requested. If the Commissioner considers that any undertaking that has been received is breached the Commissioner may apply to the Magistrates Court for an order enforcing the undertaking.

(6) No enforcement action has been taken by the OFT in relation to the Code. Where issues have arisen they have been resolved by discussions between the affected party/s, the village operator and the OFT.

(7) No action has been taken.

(8) The Code was developed in close consultation with the industry and village residents. The quorum of three residents for a meeting was set as a minimum. The Code does, however, allow each village to set a higher quorum number in their rules. Where the retirement village is regulated by the *Unit Titles Act 2001* there are overriding quorum requirements in that Act.

Waste disposal—infringements (Question No 1530)

Mr Cornwell asked the Minister for Urban Services, upon notice, on 5 May 2004:

How many infringements, fines or prosecutions have been issued both to businesses or individuals for illegal dumping of waste in the A.C.T. in (a) 2003-04 to date, (b) 2002-03, (c) 2001-02 and (d) 2000-01.

Mr Wood: The answer to the member's question is as follows:

		Infringements	Fines	Prosecutions
(a)	2003-04 (As at the 12 May 2004)	21	21	0
(b)	2002-03	34	34	0
(c)	2001-02	38	38	2
(d)	2000-01	39	39	2

Under the Litter Act 1977 all infringements of the Act carry prescribed penalty units and an associated monetary fine and/or a gaol term.

Note: All prosecutions resulted in the payment of the original fine, and
All prosecutions are a subset of the total number of infringements issued.

Euthanasia
(Question No 1531)

Ms Dundas asked the Attorney-General, upon notice, on 5 May 2004:

(1) Has the Minister received legal advice concerning the *Medical Treatment Act 1994* and the *Powers of Attorney Act 1956*;

(2) If so, is he able to say whether living wills or medical advance directives, as drawn up by the A.C.T. branch of the Voluntary Euthanasia Society, are acceptable as a direction in writing; if not, can examples be provided of directions in writing that would comply;

(3) Given that the objective of the Medical Treatment Act 4 (a) is to protect the right of the patients to refuse unwanted medical treatment, is he able to say whether this includes unwanted treatment as indicated in medical advance directives;

(4) Is he able to say whether Clause 3B of the Medical Treatment Act, Other Legal Rights Not Affected, take precedence over medical advance directives;

(5) Given that some states allow persons to sign medical advance directives indicating the circumstances under which they wish medical treatment to be withdrawn, is he able to say whether the A.C.T. Medical Treatment Act, with directions that can be made under Part 11 of the Act, suffice to allow patients to make directions about requesting withdrawal of treatment;

(6) If not, is he able to advise to what extent would a medical advance directive that was completed while one is in another medical state, provide direction and legal protection to A.C.T. medical practitioners who might act on such medical advance directives, if the person currently resides in the A.C.T.;

(7) With reference to Part C, Section 13, Power to Consent to Medical Treatment and Medical Donation, is he able to say whether this can include medical treatment which

does not conflict with my advance directive, as included in Living Will drawn up by the Canberra Branch of the Voluntary Euthanasia Society;

(8) Do the Guidelines for Health Care Professionals, prepared in 1999, still apply in the ACT;

(9) Does the Commonwealth *Euthanasia Laws Act 1997* affect the provisions of the Medical Treatment Act; if so, in what way.

(10) Are explanatory guidelines available with regard to how people may refuse or withdraw their consent to medical treatment and can a copy be provided.

Mr Stanhope: The answer to the member's question is as follows:

(1) I have not personally received legal advice concerning the *Medical Treatment Act 1994* or the *Powers of Attorney Act 1956* other than that provided by my Department for this response. The legal implications of all proposed legislation are considered in the development of Bills that are presented in the Assembly as a matter of course. The Member may be interested in the current review of the *Powers of Attorney Act 1956*, which includes consideration of the legal implications of advance personal decision-making. This review is currently being undertaken as part of a Government strategy for the prevention of elder abuse. An Issues Paper on substituted decision-making that includes consideration of the implications of advance directives has been released as part of this review, a copy of which is enclosed. It can also be found on the Department of Justice and Community Safety website at: http://www.jcs.act.gov.au/eLibrary/papers/substituted_decision_making.pdf.

(2) No, I cannot say whether living wills or medical advance directives, as drawn up by the ACT branch of the Voluntary Euthanasia Society, are acceptable as a direction in writing. I am not in a position to provide legal advice on specific matters, or comment on the accuracy of medical advance directives drawn up by the Voluntary Euthanasia Society, or anyone else. The *Medical Treatment Act 1994* provides for the making of a directive to refuse treatment in the form and under the circumstances set out in the Act. Sections 7 and 8 state that a direction is not valid unless it is set out in the accordance with the Act. A person wishing to ensure they have made a valid direction according to the Act should seek advice from a legal practitioner, based on more specific information. The *Medical Treatment Act 1994*, including all amendments, can be found at www.legislation.act.gov.au. It would also be wise to consult medical advice as to how to clearly express the particular treatment they wish to refuse.

(3) There is no specific provision in ACT law for the making of an 'advance directive'. The purpose of the *Medical Treatment Act 1994* is to provide a means of refusing treatment nominated in the form provided. The form allows for the setting out of the particular kind of treatment the person is refusing. Any valid direction would have to comply with the requirements of the Act. If in doubt about whether a specific direction is valid under the Act legal advice should be sought.

(4) There is no 'clause 3B' in the *Medical Treatment Act 1994*. I can only presume that the question relates to section 5 of the Act. This section says that the Act does not affect any right a person has under any other Territory law to refuse medical treatment. It says the Act does not apply to palliative care and does not affect any right, power or duty that a health professional or any other person has in relation to palliative care. Finally it states that the refusal or withdrawal of medical treatment under the Act does not limit any duty of a health professional or other person to advise and inform the patient or the patient's agent or guardian; or to provide medical treatment other than the medical treatment that

has been refused or withdrawn. The section does not indicate that any other rights the person has takes precedence over their right to refuse treatment other than palliative care.

(5) The *Medical Treatment Act 1994* does not specifically provide for describing circumstances under which medical treatment is to be withheld or withdrawn. A person can direct the withdrawal or withholding of medical treatment generally or a particular kind of medical treatment (other than palliative care). It would depend on the individual proposed direction as to whether it was valid under the Act.

(6) Yes. According to the *Medical Treatment Act 1994*, a medical directive that is made in accordance with the prescribed form and other requirements of the Act has the effect of a valid direction.

(7) There is no Part C in the *Medical Treatment Act 1994*. If the question refers to the Powers of Attorney form that is contained in Schedule 2 of the *Powers of Attorney Act 1956*, I cannot say whether this can include medical treatment that does not conflict with an advance directive, as included in a Living Will drawn up by the Canberra Branch of the Voluntary Euthanasia Society. I note that subsections 18(3) and (4) of the Medical Treatment Act deal with the relationship between an enduring power of attorney made under the *Powers of Attorney Act 1956* and a direction or power of attorney made under the *Medical Treatment Act 1994*. The answer to this question would depend on the terms of the living will document and the circumstances of each individual case.

(8) I presume that the Member is referring to the Guidelines for Health Care Professionals developed by the ACT Community Advocate website and available through http://www.oca.act.gov.au/publications/guidelines.html a copy of which is enclosed. I have been advised by the Community Advocate's office that these still apply in the ACT.

(9) No. I have been advised that as the *Medical Treatment Act 1994* applies to the refusal of medical treatment other than palliative care, the *Euthanasia Laws Act 1997 (Clth)* does not affect its operation. Again, private legal advice should be obtained to ensure the validity of a direction made under the *Medical Treatment Act 1994*.

(10) Other than the guidelines referred to in answer to question 8 above, I am not aware of specific guidelines currently available on making a direction under the *Medical Treatment Act 1994*. The Act itself sets out some guidelines for filling out the form for a direction, and its effect in relation to a power of attorney made by the same person.

[The attached guidelines document is available at the Chamber Support Office.]

Prisons and prisoners (Question No 1533)

Mr Smyth asked the Attorney-General, upon notice, on 13 May 2004:

Further to the response to Question on notice No 1388, why was there a need to house an A.C.T. remandee interstate for a period of 52 days when Belconnen Remand Centre and the Court House cells have not been at capacity at any time in the last 12 months.

Mr Stanhope: The answer to the member's question is as follows:

The detainee in question presented serious management issues and posed a severe and special security risk. The ACT's current remand facilities, unlike NSW remand facilities, do not

have a management unit suitable for accommodating detainees who present a severe security risk. This situation will be rectified through the construction of such a unit within the new ACT correctional facility.

Because of the serious risk that the detainee presented, he was transferred to the Goulburn Correctional Centre, where he was detained for a period of 52 days from 23 December 2003. He has since been sentenced to a term of imprisonment for drug-related offences.

This detainee is the only remanded person who has been transferred to NSW in 2004/05. Detainees will be transferred when the ACT's facilities cannot provide the care or management they require.

Police force—resignations (Question No 1534)

Mr Smyth asked the Minister for Police and Emergency Services, upon notice, on 13 May 2004:

(1) In his answer to Question on notice No 1338, why did the Minister not address the specific questions asked as part of Question on notice No 1338;

(2) Is it appropriate to withhold the information requested in the question from members of the Legislative Assembly; if so, why; if not, when will he answer these questions in full.

Mr Wood: The answer to the member's question is as follows:

Question on notice No 1338 was fully answered. Most of the particular questions were not relevant as the position was filled immediately without the need for a recruitment process.

To restate: the new Chief Police Officer was at the same level of seniority as the departing Chief Police Officer and has outstanding credentials including service in the ACT. The Australian Federal Police (AFP) Commissioner has responsibility for filling this position but consulted with me as ACT police minister. The manner of filling the position was fully in accord with AFP procedures.

The AFP Commissioner advised me of Mr Murray's intention to retire on 23 January 2004. I discussed the matter with the Chief Minister but no formal process is required in the ACT.

The ACT was fortunate to have had the leadership of Mr Murray and has welcomed the arrival of another outstanding officer.

Hospitals—waiting lists (Question No 1535)

Mr Smyth asked the Minister for Health, upon notice, on 13 May 2004:

(1) Did the Minister state on 11 December 2003 that "he had every confidence that the waiting list is both stabilising and we are seeing an increase in throughput and that the objective of the government is to get more people the elective surgery they need and that is what we are delivering";

(2) Did a study of Elective Surgery since January 2000 find that Labor is treating an average of 644 patients a month as compared with the 704 patients per month treated under the Canberra Liberals;

(3) Can the Minister explain how there is an increased throughput that he is delivering on when the figures show that an average of 60 patients a month fewer than under the former Liberal Government are being treated.

Mr Corbell: The answer to the member's question is:

(1) Yes

(2) Yes

(3) The average of 60 patients a month fewer treated than the former Liberal Government is based on a period of time (October 2000 to September 2003) when the former Liberal Government had the benefits of additional Critical and Urgent Treatment (CUTS) funding from the Commonwealth. The former Liberal Government made no provision for recurrent funding when the CUTs funding ceased in 2001. This Government has replaced this funding over the past two financial years and the increased throughput has been seen over the last 12 months with an average of 741 patients having their surgery performed each month.

Employment incentive schemes (Question No 1537)

Mr Smyth asked the Minister for Economic Development, Business and Tourism, upon notice, on 13 May 2004:

(1) Are there any incentive schemes offered by the Government to businesses to employ (a) disabled residents and (b) residents aged over 50 years who are wanting to re-enter the workforce;

(2) If so, what incentives are offered; if not, why not and would you consider implementing such schemes.

Mr Stanhope: The answer to the member's question is as follows:

(1) Yes. I am advised that the Commonwealth Department of Education, Science and Training provides incentives for employers of people with a disability and workers aged 45 years and older participating in the new apprenticeships scheme. The ACT Government does not duplicate this scheme, but supports and promotes it.

The ACT Government also supports people with disabilities and those over fifty years seeking to return to the workforce by funding nationally recognised training that mirrors training offered to employed people. Indirectly, this assists employers, as it provides a pool of people with current job-ready skills.

(2) The Commonwealth, through the New Apprenticeship Centre, funds new apprentices with disabilities (including older participants) where eligible participants are undertaking Certificate II to Certificate IV qualifications. Funding is dependent on the outcome of an occupational assessment. The incentives offered include:

Disabled New Apprentice Wage Support:
$114.73 per week, or pro-rata, is paid as an alternative to standard incentives payments made to other employers;

Assistance for Tutorial, Interpreter and Mentor Services
Up to $5,500 a year is available to Registered Training Organisations for assistance to disabled new apprentices assessed as being eligible for *Disabled New Apprentice Wage Support*; and

Workplace Modifications
Assistance of up to $5,000 is available to employers for leasing or purchasing essential equipment, or modifying workplaces, to accommodate an eligible new apprentice with a disability.

Assistance is also available to existing workers that have been in the workplace for more than 3 months before commencing their new apprenticeship, and are eligible to attract a Commonwealth incentive.

Housing—properties (Question No 1538)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 13 May 2004:

(1) How many properties are currently under the control of Community Housing;

(2) How many properties were purchased for Community Housing in (a) 2001□2002, (b) 2002-2003 and (c) 2003-2004 to date;

(3) In which suburbs are these properties located;

(4) What was the total cost of purchase or construction of these properties;

(5) How many properties have been purchased from Housing A.C.T. during (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(6) What was the cost each financial year of the purchase of these properties;

(7) Has the Minister explored alternative funding or financing models with regard to community housing; if so, what are these alternative models.

Mr Wood: The answer to the member's question is as follows:

(1) There currently are 459 properties under community housing management in the ACT.

(2) The Government has not purchased properties directly for community housing organisations. In 2001-2002, there was no funding allocation for community housing and there were no properties purchased for community housing. In 2002-2003 and 2003-2004, the Government allocated annual capital funding of $3 million for community housing. Through an expression of interest process, this funding has been allocated to community housing organisations for approved projects, which have involved either the purchase or construction of properties.

In 2002-2003, funding was approved for a total of 18 dwellings, including the purchase of two dwellings, as outlined below:

- Billabong Aboriginal Corporation to purchase two dwellings;
- Canberra Co-Housing to construct six dwellings;
- Community Housing Canberra to redevelop and construct two dwellings;
- Community Housing Canberra to construct a 10 bedroom dwelling for Abbeyfield Disability;
- Poachling Inc to construct three yurts; and
- Tamil Senior Citizens Association to construct four aged persons units.

In 2003-2004, funding for community housing was approved for the purchase of fourteen dwellings, as outlined below:

1. Centacare to purchase five properties to facilitate a community network of dwellings, supported by a worker, for people with disabilities.
2. Billabong Aboriginal Corporation to purchase one dwelling and to contribute towards the increased cost of completing the purchase of a second house funded in 2002-03.
3. Havelock Housing Association with the AIDS Action Council to purchase 2 houses with self-contained flats attached (4 dwellings).
4. Havelock Housing Association with Anglicare Canberra and Goulburn to purchase 2 houses with self-contained flats attached (4 dwellings).

Billabong Aboriginal Corporation, Centacare and Havelock Housing Association are currently identifying suitable properties to purchase, but have not exchanged contracts for any properties.

Poachling and Community Housing Canberra have completed consultations with stakeholders on their projects, and development applications are expected to be lodged with the ACT Planning and Land Authority shortly.

Canberra Co-Housing, Abbeyfield Disability and the Tamil Senior Citizens Association have applied to the Land Development Authority for sites for each of their projects. Decisions on these applications are expected in the second half of 2004, following completion of consultation and approval processes.

(3) The proposed location of properties for each of the projects is outlined below. These locations are subject to final approval of land and planning applications or exchange of contracts for sale.

- **Billabong Aboriginal Corporation – Purchase of three properties**. Billabong Aboriginal Corporation has identified a suitable property for purchase in Belconnen and is seeking two other properties in Belconnen or Tuggeranong.

- **Canberra Co-Housing – Construction of six dwellings**. Canberra Co-Housing Association has applied to the Land Development Authority for a site in the Gungahlin Town Centre. A decision in relation to the site is expected from the Land Development Authority in early 2004/05.

- **Community Housing Canberra – Redevelopment of two dwellings**. The dwellings proposed for redevelopment are in O'Connor and Ainslie.

- **Community Housing Canberra and Abbeyfield Disability- Construction of a 10 Bedroom Dwelling**. Abbeyfield Disability has applied to the Land Development Authority (LDA) for a community facility site in Curtin. The LDA is currently undertaking a public consultation process in relation to the allocation of this site to Abbeyfield Disability.

- **Poachling Inc- Construction of three yurts.** The three yurts are to be located in Lyneham, Braddon and Dickson.

- **Tamil Senior Citizens Association – Isaacs.** The Tamil Senior Citizens Association has applied to the Land Development Authority for a community facility site in Isaacs.

- **Centacare** – Centacare is currently seeking to purchase five properties in the Belconnen area to facilitate a community network of dwellings.

- **Havelock Housing Association with the AIDS Action Council** – Havelock Housing Association is currently seeking to purchase 2 houses with self-contained flats attached (4 dwellings) in the Central Canberra and Woden regions.

- **Havelock Housing Association with Anglicare Canberra and Goulburn** – Havelock Housing Association is currently seeking to purchase 2 houses with self-contained flats attached (4 dwellings) in the Central Canberra region.

(4) The total funding approved for community housing organisations in 2002-03 and 2003-04 is $6.287 million. Of this funding, $3.3 million has been approved for community housing organisations to purchase properties for community housing and $2.97 million has been approved for construction of properties.

The total actual cost is not available as construction or purchase of these properties has yet to be completed.

(5) No properties were purchased by community housing organisations from Housing ACT in 2001-02, 2002-03 or 2003-04.

(6) Not applicable, as no properties were purchased from Housing ACT.

(7) As part of the 2002-03 capital funding program for community housing, alternative financing mechanisms were examined for community housing. These included financial models to facilitate borrowings by the community housing organisation from private financial institutions and financial models to obtain dwellings for community housing through land and development projects.

The Affordable Housing Taskforce also examined a range of alternative financing or funding models. The Affordable Housing Interdepartmental Committee has been

actively considering options to improve housing affordability (in response to the Affordable housing Taskforce report) in four main areas (homelessness, public & community housing, private rental and home ownership) and the Government has announced a number of major initiatives for public and community housing, rental accommodation and home ownership in the 2004-05 Budget.

As part of the implementation of strategies under the 2003 Bilateral Agreement under the Commonwealth State Housing Agreement, the Government will be continuing to build on the work already undertaken and explore further approaches to leverage additional resources from the non-government and private sectors into the social housing sector in the ACT.

Employment statistics (Question No 1539)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice, on 13 May 2004:

(1) With regard to the current fiscal year, how many (a) female and (b) male specific policies and programs has the Department of Disability, Housing and Community Services developed and/or implemented;

(2) Can the Minister provide (a) detailed costings and a summary of these programs, (b) a separate breakdown of the ratio of men and women employed within both the Housing and Community Services portfolios and (c) a detailed separate summary of the ratio of men and women in senior management and senior executive levels with both the Housing and Community Services portfolios.

Mr Wood: The answer to the member's question is as follows:

Information regarding the Department's policies and programs, together with staffing profiles and gender ratios is outlined in detail in the Department's Annual Report. Information for the current financial year is being collated at present, and will be available to members of the public and the Assembly in accordance with the Chief Minister's Department Annual Report Directions timetable.

Lanyon marketplace (Question No 1540)

Mr Pratt asked the Minister for Urban Services, upon notice, on 13 May 2004:

(1) In relation to land maintenance at Lanyon Marketplace, is the Department of Urban Services responsible for maintaining the dirt area of land adjacent to the main entrance into Lanyon Marketplace;

(2) If so, (a) how regularly is maintenance carried out and (b) what maintenance functions are performed;

(3) How many complaints have been received by the Department of Urban Services, or the Minister, regarding the maintenance of this area;

(4) What action has been taken to investigate or respond to these complaints.

Mr Wood: The answer to the member's question is as follows:

(1) The land in question is Block 2 Section 228 Conder. The land has been recently transferred to the Land Development Agency and is to be sold for commercial uses in accordance with the 2004-2005 land release programme. Prior to transfer the land was the responsibility of the ACT Planning and Land Authority.

(2) In response to complaints received over the past twelve months ACTPLA has had rubbish removed from the site on two occasions. As a commercial development site, the land is not grassed and consequently is not included on the regular mowing programme.

As the site is convenient to the Lanyon Marketplace, members of the public may use the area from time to time for casual car parking. In the extraordinarily dry conditions, which have been experienced in recent times, this is likely to give rise to occasional problems with dust.

While this problem could be controlled by constant watering that would not be appropriate nor responsible given the current water restrictions in force.

(3) Since its transfer to the Land Development Agency no complaints have been received about the condition of the block.

The Department of Urban Services has responded to two complaints about the general area around the Lanyon Markets itself.

(4) As with any complaint that may be received about a dirty or untidy block, the relevant agency's contractors are instructed to remedy the situation.

Development—Conder (Question No 1541)

Mr Pratt asked the Minister for Urban Services, upon notice, on 13 May 2004:

(1) As a result of the new land developments in Conder, what new (a) traffic arrangements are planned to be put in place in the area of Box Hill Avenue and (b) pedestrian crossings or similar are planned to be put in place in the area of Box Hill Avenue and Tom Roberts Street;

(2) Will the area of, and around, Box Hill Avenue in Conder be re-evaluated as a high density traffic area.

Mr Corbell: The answer to the member's question is as follows:

(1) As part of the concept planning for the new developments in Conder, a comprehensive traffic study was carried out in order to assess the impact that extra traffic generated would have on the existing streets including Box Hill Avenue and Tom Roberts Avenue. The study found that whilst the new developments would increase traffic in existing streets, the increased traffic would be within the acceptable limits for each class of road. This has been achieved by sensible planning which has created a hierarchy of roads to maximise use of Box Hill Avenue and Tom Roberts Avenue.

(2) No, my Department will continue to monitor the traffic flows along Tom Roberts Avenue, especially in the vicinity of the schools. Additional traffic control devices such as raised pedestrian crossings to slow the traffic speed can be incorporated into the capital works program if proven to be necessary.

Drug-related crime (Question No 1542)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 13 May 2004:

(1) How many reports were received by police in relation to drug-related crime in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(2) How many of these reports resulted in charges being laid against the offenders for drug-related crime in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(3) What is the breakdown, by each A.C.T. suburb, of reports being called into the police by the public for drug-related crime in 2003-2004 to date;

(4) How many of these reported incidents were attended by the police;

(5) What police programs are currently in place in high drug-related crime suburbs in the A.C.T.

Mr Wood: The answer to the member's question is as follows:

(1) All figures used to answer this question relate to drug offences rather than incidents due to the nature of incident reporting and extraction processes used by ACT Policing. Information to answer this part is contained in Table 1.

(2) Please refer to Table 2 for all figures related to drug offences.

(3) Refer to Table 3.

(4) Refer to Table 1.

(5) While contributing to Canberra wide drug-related programs, ACT Policing does not operate suburb specific drug-related programs, given the population of the ACT and the resulting issues of economies of scale and loss of service delivery efficiencies.

Table 1: Number of drug offences reported by patrol attendance ~ 01 July 2001 to 31 March 2004

	Patrol Attendance		Total
	NO	YES	
2001-02	225	266	**491**
2002-03	196	385	**581**
01 July 03 - 31 March 2004	72	320	**392**

Source: PROMIS database as at 10 May 2004.

Table 2: Number of drug charges by way of proceeding ~ 01 July 2001 to 31 March 2004

	Period reported		
	2001-02	**2002-03**	**01 July 03 – 31 March 04**
ARREST	196	230	169
CAUTION	25	25	5
CHARGED BEFORE COURT	108	72	33
DIVERSIONARY CONFERENCE	0	3	3
DRUG DIVERSION	14	7	34
SCON – Simple Cannabis Offence Notice	99	97	53
SUMMONS	193	208	90
SUMMONS - BRIEF SUBMITTED	0	0	1
VATAC – Voluntary Agreement to Appear before Court	3	0	2
Total	**638**	**642**	**390**

Source: PROMIS database as at 10 May 2004.

Table 3: Number of drug offences by suburb ~ 01 July 2003 to 31 March 2004

Suburb	
ACTON	2
AINSLIE	9
ARANDA	1
BELCONNEN	32
BONYTHON	3
BRADDON	15
BRUCE	1
CALWELL	4
CAMPBELL	1
CASEY	3
CHARNWOOD	6
CHISHOLM	2
CITY	44
CONDER	1
DICKSON	8
DOWNER	1
EVATT	1
FISHER	2
FLOREY	4
FLYNN	3
FRASER	2
FYSHWICK	2
GARRAN	7
GILMORE	1
GORDON	5
GOWRIE	4
GREENWAY	12
GRIFFITH	9
HACKETT	3
HAWKER	1
HIGGINS	2
HOLDER	2
HOLT	10

ISABELLA PLAINS	9
KALEEN	3
KAMBAH	7
KINGSTON	7
LATHAM	2
LYNEHAM	9
LYONS	2
MACGREGOR	5
MACQUARIE	3
MAWSON	1
MELBA	1
MICHELAGO	1
MITCHELL	1
NARRABUNDAH	9
O'CONNOR	3
OAKS ESTATE	2
PAGE	3
PALMERSTON	3
PEARCE	1
PHILLIP	7
PIALLIGO	1
RED HILL	8
REID	16
RICHARDSON	3
RIVETT	1
RUSSELL	1
SCULLIN	2
STIRLING	3
SYMONSTON	4
TORRENS	1
TURNER	15
WANNIASSA	12
WATSON	7
WESTON	9
YARRALUMLA	4
Other*	23
Total	**392**

Source: PROMIS database as at 10 May 2004.

* This refers to those jobs where the suburb field was not filled in.

Driving offences (Question No 1543)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 13 May 2004:

(1) How many people in the A.C.T. have been booked by police for (a) dangerous or negligent driving incidents and (b) speeding in (i) 2001-2002, (ii) 2002-2003 and (iii) 2003-2004 to date;

(2) How many people have lost their drivers licence in the A.C.T. as a result of loss of demerit points in (a) 2001-2002, (b) 2002-2003 and (c) 2003-2004 to date;

(3) What is the breakdown, by each A.C.T. suburb, of people being booked by police for (a) dangerous or negligent driving and (b) speeding, in 2003-2004 to date.

Mr Wood: The answer to the member's question is as follows:

(1) (a) The number of people in the A.C.T. who have been booked by police for dangerous driving or negligent driving incidents are as follows.

(i) From 1 July 2001 to 30 June 2002 – 576 Traffic Infringement Notices were issued by police for dangerous driving or negligent driving incidents.

(ii) From 1 July 2002 to 30 June 2003 – 775 Traffic Infringement Notices were issued by police for dangerous driving or negligent driving incidents.

(iii) From 1 July 2003 to 30 April 2004 – 483 Traffic Infringement Notices were issued by police for dangerous driving or negligent driving incidents.

(b) The number of people in the A.C.T. who have been booked by police for speeding are as follows.

(i) From 1 July 2001 to 30 June 2002 – 9,792 speeding related Traffic Infringement Notices were issued by police.

(ii) From 1 July 2002 to 30 June 2003 – 11,798 speeding related Traffic Infringement Notices were issued by police.

(iii) From 1 July 2003 to 30 April 2004 – 7,820 speeding related Traffic Infringement Notices were issued by police.

Note: These statistics do not include speed camera Traffic Infringement Notices issued by the ACT Traffic Camera Office.

(2) The number of people who have lost their drivers licence in the A.C.T. as a result of loss of demerit points is as follows.

(a) From 1 July 2001 to 30 June 2002 – 783 people.
(b) From 1 July 2002 to 30 June 2003 – 952 people.
(c) From 1 July 2003 to 24 May 2004 – 737 people.
Note: Statistics provided by ACT Department of Urban Services.

(3) (a) The breakdown, by each A.C.T. suburb, of people booked by police for dangerous or negligent driving from 1 July 2003 to 30 April 2004 is depicted in the following table.

Dangerous or Negligent Driving Traffic Infringement Notices Issued by ACT Police 1 July 2003 – 30 April 2004

Suburb	#	Suburb	#	Suburb	#
Acton	14	Fyshwick	11	Mitchell	4
Ainslie	3	Garran	3	Monash	2
Amaroo	1	Gilmore	8	Narrabundah	5
Aranda	7	Giralang	3	Ngunnawal	6
Banks	2	Gordon	6	Nicholls	9
Barton	5	Gowrie	6	O'Connor	6
Belconnen	21	Greenway	10	O'Malley	2
Bonython	3	Griffith	9	Palmerston	3

Suburb	#	Suburb	#	Suburb	#
Braddon	26	Gungahlin	4	Parkes	7
Bruce	11	Harman	1	Phillip	11
Calwell	5	Hawker	2	Pialligo	5
Campbell	4	Higgins	2	Red Hill	3
Capital Hill	1	Holt	4	Reid	3
Charnwood	3	Hughes	2	Richardson	5
Chifley	3	Hume	5	Rivett	1
Chisholm	6	Isaacs	2	Russell	5
City	25	Isabella Plains	2	Scullin	2
Conder	2	Kaleen	5	Stirling	5
Cook	4	Kambah	16	Stromlo Forest	9
Crace	1	Kingston	3	Swinger Hill	1
Curtin	2	Latham	2	Torrens	1
Deakin	2	Lawson	2	Turner	7
Dickson	10	Lyneham	5	Wanniassa	26
Downer	4	Lyons	1	Waramanga	1
Evatt	2	Macarthur	2	Watson	7
Fadden	4	Macgregor	2	Weetangera	1
Fisher	2	Macquarie	1	Weston	7
Florey	7	Majura	1	Yarralumla	10
Flynn	2	Mawson	3	Other*	8
Forrest	4	McKellar	3		
Fraser	2	Melba	2		

* Other: This figure represents suburbs entered in error and unspecified rural locations in the A.C.T.

(b) The breakdown, by each A.C.T. suburb, of people booked by police for speeding from 1 July 2003 to 30 April 2004 is depicted in the following table.

Speeding Traffic Infringement Notices
Issued by ACT Police 1 July 2003 – 30 April 2004

Suburb	#	Suburb	#	Suburb	#
Acton	302	Fraser	13	Mitchell	185
Ainslie	46	Fyshwick	700	Monash	17
Amaroo	9	Garran	21	Mulangarri	11
Aranda	81	Gilmore	88	Narrabundah	304
Banks	10	Giralang	18	Ngunnawal	7
Barton	200	Gordon	35	Nicholls	97
Belconnen	108	Gowrie	40	Oaks Estate	238
Bonython	66	Greenway	113	O'Connor	118
Braddon	23	Griffith	154	O'Malley	3
Bruce	77	Gungahlin	77	Oxley	26
Calwell	57	Hackett	1	Page	64
Campbell	202	Hall	11	Palmerston	88
Capital Hill	3	Harman	115	Parkes	172
Chapman	2	Harrison	1	Pearce	3
Charnwood	23	Hawker	113	Phillip	32
Chifley	46	Higgins	120	Pialligo	69
Chisholm	38	Holder	9	Red Hill	104

Suburb	#	Suburb	#	Suburb	#
City	215	Holt	84	Reid	124
Conder	9	Hughes	26	Richardson	45
Cook	122	Hume	256	Rivett	4
Crace	20	Isaacs	15	Russell	14
Curtin	144	Isabella Plains	47	Scullin	38
Deakin	137	Kaleen	322	Spence	16
Dickson	40	Kambah	64	Stirling	37
Downer	5	Kenny	11	Stromlo Forest	56
Duffy	5	Kingston	64	Symonston	53
Dunlop	8	Kowen Pine Forest	5	Theodore	29
Duntroon	12	Latham	67	Throsby	32
Evatt	33	Lawson	3	Torrens	7
Fadden	45	Lyneham	60	Turner	192
Fairbairn	13	Lyons	31	Wanniassa	84
Farrer	25	Macarthur	47	Waramanga	24
Fisher	6	Macgregor	26	Watson	137
Florey	40	Macquarie	16	Weetangera	31
Flynn	6	Majura	86	Weston	34
Forde	1	Mawson	14	Williamsdale	26
Forrest	31	McKellar	22	Yarralumla	80
Franklin	4	Melba	12	Other*	98

* Other: This figure represents suburbs entered in error, unspecified rural locations in the A.C.T, and Traffic Infringement Notices issued by ACT Policing in NSW.

Crime prevention (Question No 1544)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 13 May 2004:

(1) Further to the response to Question on notice No 1380, will the remaining $400 000 be spent by the end of the financial year;

(2) If so, what will those funds be expended on; if not, why not.

Mr Wood: The answer to the member's question is as follows:

(1) As at 18 May 2004 invoices had been received for project expenditure totalling $703,000. It is expected that the budget will be fully allocated this financial year, but some of the 2003-04 funding may also be rolled over into the 2004-05 year.

(2) Invoices are expected to continue to be submitted until the end of the financial year for on-going payment in support of the following existing programs:

Crime - What Can I do?
Crime Prevention Road Shows;
Neighbourhood Crime Prevention – Answers Where You Live;

Constable Kenny Koala;
Children At Risk;
Aboriginal and Torres Strait Community Liaison Officer;
Sexual Assault Research;
Bushfire Arson Research; and
Turnaround Evaluation Consultancy

A decision has now been taken to divert the sum of $143,000, previously allocated for the purposes of funding the Emergency Services Bureau (ESB) personnel who staff the Council on the Ageing's in-home security assessment Community Liaison and Advisory Safety Program (CLASP). The funding was originally allocated to help ESB maintain staffing resources to the program in what looked like being a difficult year, budget-wise, as a result of the 2003 bushfires. However, additional funding has been allocated from elsewhere to ESB and it has been able to continue its support to CLASP without the crime prevention allocation.

Instead, the $143,000 is to be diverted to support the recently announced major review on policing needs for the Territory. The review is investigating ACT crime trends and other demographic and environmental features to help determine more accurately the policing needs for the ACT; it will inquire into the financial and human resources (including police numbers) required to service those needs; and examine governance frameworks to support the relationship between the Territory, the Australian Government and the service provider, the Australian Federal Police.

It is unlikely that the review will be completed before 30 June 2004 and some of this funding will need to be rolled over into the 2004-05 financial year.

Students—dress standards (Question No 1545)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

(1) Does the Department of Education, Youth and Family Services have guidelines for dress standards for students;

(2) If so, what are these guidelines;

(3) If they are different for each school, what are the common guidelines for dress standards for students across A.C.T. government schools;

(4) If there are no guidelines, whose responsibility is it to ensure that students are appropriately dressed when at school and when doing school sporting activities;

(5) Have there been any complaints to schools, the Department or the Minister about students' dress standards in (a) 2002-2003 and (b) 2003-2004 to date;

(6) If so, how many complaints were there and what action has been taken as a result of these complaints being made.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) The Department of Education and Training has guidelines for standards of dress for students which are published in the School Management Manual 2001, section 5.124.

(2) & (3) These guidelines are available from the department website.

(4) The principal is responsible for ensuring that students are appropriately dressed when at school and when doing school sporting activities

(5) While there have at times been discussions between school principals and schools about the promotion of appropriate dress standards including school dress code, I am unaware of written formal complaints to schools about poor dress standards in (a) 2002-2003 or (b) 2003-2004 to date.

(6) Should a complaint be received, it would be actioned according to the department's Complaints Resolution Policy.

Teachers—dress standards (Question No 1546)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

(1) Does the Department of Education, Youth and Family Services have guidelines for dress standards for teachers;

(2) If so, what are these guidelines and/or standards;

(3) If not, whose responsibility is it to ensure that teachers are appropriately dressed when teaching students;

(4) Have there been any complaints to schools, the Department or the Minister about teachers' dress standards in (a) 2002-2003 and (b) 2003-2004 to date;

(5) If so, how many complaints were there and what action has been taken as a result of these complaints being made.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) The Department of Education and Training does not have guidelines for dress standards for teachers in ACT Government schools.

(2) This is covered in part (1) above.

(3) The principal is responsible to ensure teachers are appropriately dressed when teaching students.

(4) (a) I am unaware of any complaints made to schools, the department or my office about teachers' dress standards in 2002-2003.

(b) I am unaware of any complaints made to schools, the department or my office about teachers' dress standards in 2003-2004 to date.

(5) This is covered in part (4) above.

Teachers—salaries
(Question No 1547)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

Further to the response to Question on notice No 1326, why is there a difference in the average gross salary for male and female teachers employed by the A.C.T. Department of Education, Youth and Family Services.

Ms Gallagher: The answer to Mr Pratt's question is:

ACT government school teachers' salaries are not based on gender.

However, average salary levels for male and female teachers vary according to a number of factors. These include: salary increments, classification, length of service, and the number of male and female employees at the respective salary points.

Education—Year 12 trends
(Question No 1548)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

Further to the response to Question on notice No 1399 which stated that the figure for Year 12 students participating in English in 2003 was 97.9%, why is it not compulsory for Year 12 students to participate in English classes.

Ms Gallagher: The answer to Mr Pratt's question is:

The policies for the Year 12 Certificate are determined by the Board of Senior Secondary Studies. The Board has a policy of "freedom of choice of courses for students."

The reason for this approach is to encourage students in the post-compulsory years to take responsibility for their own learning in a situation where guidance for course choice is provided by teachers. This, the Board believes, has contributed to the higher participation rates in ACT senior secondary colleges.

Teachers—agreements
(Question No 1549)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

(1) Has the Minister been presented with a copy of the teachers Enterprise Bargaining Agreement (EBA) by the Department of Education, Youth and Family Services;

(2) When was the most recent copy of this document handed to the Minister;

(3) When will the Minister sign off on the new teachers EBA;

(4) Why has the EBA not been signed off on before now;

(5) Has the Minister or the Department received any complaints from the Union or individual teachers about the length of time taken to sign off on the new EBA; if so, how many complaints have been received;

(6) Can the Minister confirm whether it is a possibility that teachers will not receive back payment if the EBA is not signed off in the near future; if so, why;

(7) What, if any, additions will be included in the new EBA in comparison to the current/former EBA;

(8) Will any details in the new EBA be deleted in comparison to the current/former EBA; if so, which sections and why.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) No. The agreement has not yet been finalised.

(2) Not applicable.

(3) The parties will sign off the EBA once a majority of the employees covered by the agreement have voted to approve it.

(4) The department and the Australian Education Union (ACT branch) are still negotiating to finalise the terms of this agreement.

(5) As at 13 May 2004, the Minister had received one letter, copied to the department, which raised concerns about the length of time taken to sign off the new EBA.

(6) Parties have agreed, on a without prejudice basis, that teaching staff will be paid the agreed initial increase from 1 October 2003. The timing of other increases has not yet been finalised.

(7) The department and Union are still negotiating the terms of this agreement.

(8) The department and Union are still negotiating the terms of this agreement.

Education—truancy rates (Question No 1550)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice, on 13 May 2004:

In the school years (a) 2001, (b) 2002, (c) 2003 and (d) 2004 to date, what was the (i) absentee and (ii) truancy rates for students.

Ms Gallagher: The answer to Mr Pratt's question is:

(i) Absentee rates for students in all schools are not available. The department monitors attendance data for government school students. Rolls are kept in hard copy in all government schools, primary, high schools and colleges. The reason for a student's absence is only entered into the MAZE database for high schools and colleges. Without the non government school data it is not possible to provide an absentee rate for all students.

The absence rate contained in the table below is for all government schools during the period 2001, 2002, 2003 and for term 1 2004. These figures are based on attendance data downloaded from MAZE.

Year	Average attendance rate	Average absence rate
2001	96% *	4%
2002	92%	8%
2003	92%	8%
2004 (term 1 only)	94%	6%

* 2001 was a trial year for the collection of attendance data in government schools. The data for 2001 may not provide an accurate indication of actual figures

(ii) Truancy rates for all students are not identified therefore the information is not available.

LaserWrap artwork (Question No 1552)

Mr Stefaniak asked the Minister for Arts and Heritage, upon notice, on 13 May 2004:

In relation to Laser Wrap, did the launch of this artwork take place on Friday 7 May as the Minister indicated in his response to Question on notice No 1368; if not, why not and why has there been further delay with this project.

Mr Wood: The answer to the member's questions are as follows:

(1) LaserWrap, a new public artwork for the ACT Health Building, was successfully launched on Friday 7 May 2004.

Belconnen Arts and Cultural Facilities study (Question No 1553)

Mr Stefaniak asked the Minister for Arts and Heritage, upon notice, on 13 May 2004:

(1) In relation to Belconnen Arts and Cultural Facilities Study, was the entire Budget of $60,000 expended on this project;

(2) What was the final amount spent on this project;

(3) Has the study been completed;

(4) If so, where may copies be obtained; if not, why not and when will it be completed;

(5) What influence will this study have, if any, on the feasibility study funded in the 2004-05 Budget.

Mr Wood: The answer to the member's question is as follows:

(1) The final budget for this project is $59,363.

(2) The project is being finalised and the final payment has not yet been made.

(3) No. An Options Paper was completed and released on 9 March 2004 and press releases were sent to all major print, television and radio media. The Paper was direct mailed to all stakeholders consulted in the first stage of the project, was available at all Canberra Connect Shopfronts and through the artsACT website.

(4) Refer to answer (3). Copies can be obtained by contacting artsACT on 6207 2380. The consultants are working on the final stages of the project and are expected to submit a final report soon.

(5) $200,000 was allocated in the 2004-05 Budget to support site selection and forward design of a Belconnen community arts centre. The Belconnen Arts and Cultural Facilities Study will have a significant influence on this project.

Transport—hire cars (Question No 1554)

Mr Cornwell asked the Minister for Urban Services, upon notice, on 14 May 2004:

When might I receive a reply to my letter of 16 March 2004 concerning action against illegal operators in the hire car industry.

Mr Wood: The answer to the member's question is as follows:

(1) I am advised that the reply to your letter of 16 March was hand delivered to your office on 14 May 2004.

Evatt Primary School (Question No 1556)

Mr Stefaniak asked the Minister for Education, Youth and Family Services, upon notice, on 25 May 2004:

(1) Did community consultation take place in relation to the construction of a fence around Evatt Primary School;

(2) If so, (a) what was the format of the consultation, (b) what process was used, (c) what section of the community and (d) how many people were consulted.

Ms Gallagher: The answer to Mr Stefaniak's question is:

(1) Yes, community consultation did take place regarding the construction of a fence around Evatt Primary School.

(2) (a) A consultant was appointed and a questionnaire was developed as a basis for undertaking a formal process of consultation with the community. The questionnaire was developed through a focus group comprising six members of the school and the general community.

(b) The questionnaire consisted of 17 questions covering a number of matters designed to assess community views about security around the school, the degree of community support for fencing the school, preference for type of fencing and other options the community felt should be explored to enhance security and safety at the school. There were 150 face-to-face interviews conducted on a door to door basis.

(c) The residents that were door knocked were those that would be visually most affected by a fence. That is, those living in the immediate vicinity of the school, which included Clancy Street, William Webb Drive, Owen Dixon Drive and Copland Drive.

(d) The school community has strongly urged the department to install fencing around the school for many years and are very supportive of the fence. In addition, 150 local residents were formally surveyed on a door to door basis to ascertain their view about the installation of a security fence. Based on the results of the questionnaire the consultant concluded that there was strong agreement among the local community for a fence to be erected at the school.
