DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

3 AUGUST

2004

Tuesday, 3 August 2004

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Presentation of mace
Statement by Speaker

MR SPEAKER: Members, at the 35th Presiding Officers and Clerks Conference, held in Melbourne on 9 July 2004, I had the pleasure of receiving on behalf of the Legislative Assembly of the Australian Capital Territory the Assembly's new mace, which was a gift from the Australian region of the Commonwealth Parliamentary Association. I express to all presiding officers present the Assembly's appreciation of this significant gift.

By now members would have had the opportunity to view the mace which, when not in use, will be permanently displayed near the members' entrance. The mace has a stainless steel spine shaped with a Y-section representing Canberra's distinctive urban design, the Y-plan. The spine is enclosed in yellow box timber, which was salvaged locally, and has been decorated with images of the ACT's floral emblem, Wahlenbergia gloriosa.

The mace is fairly hefty; it weighs about 8.5 kilograms; and it gives a new import to any Speaker's request for the Sergeant-at-Arms to take the member out! The mace was designed and manufactured by Design Craft, a local design and fitout company, which has done a magnificent job of this lasting symbol of parliamentary democracy, in consultation, and through me, with the administration and procedure committee over the last 12 months. A local craftsman, Mr Miles Gostelow, beautifully carved the Wahlenbergia gloriosa design into the timber. I believe this mace successfully embodies the authority of the Speaker with the modern forward-looking feel of today's ACT Legislative Assembly.

I will finish with a note of caution. This mace is a symbol of the authority of the Speaker and, through him, the authority of the parliament. It is an impressive and appropriate symbol, but it is not a magic wand. You will have noticed that the sergeant has been kitted out with gloves. That is not because, if the bare skin touches the mace, there is an electric shock or some other mysterious happening; it is merely preventative maintenance, because the mace will be around longer than all of us, and I suspect even longer than the clerks at the table.

As I said, the mace is just a symbol. It can only ever be representative of the trappings of this place; it cannot replace the true spirit of this Assembly and our democracy. That spirit rests within each of us and with our commitment to serve the people of the Australian Capital Territory. If we ever make the mistake of becoming obsessed with the trappings of democracy we will risk degrading the very parliamentary authority that this mace purports to symbolise.

MR CORNWELL (10.34): I seek leave to make a short statement.

Leave granted.

MR CORNWELL: I would like to join with you in welcoming the mace. It is some 15 years since this place came into existence. We alone among Australian parliaments did not have a mace up until this time. In fact, I think there was only one other Pacific country—Tonga—that did not have a mace. It received one some 12 months ago. I could stand corrected there. I think it is a significant development for the ACT Assembly. I take your point, sir, about the trappings. Nevertheless, I think it is important that the traditions of parliamentary democracy be observed by the presence of the mace. I think it is another step in the maturity of this Assembly and I certainly welcome it.

MR STEFANIAK: I seek leave to make a short statement.

Leave granted.

MR STEFANIAK: As someone who was Deputy Speaker in the first Assembly and Acting Speaker for a while I too join with you and my colleague Mr Cornwell, who was the Speaker for many years, in welcoming this mace. It is timely; it is a great symbol of parliamentary democracy. It is very appropriate; it has been tastefully done, to represent the Australian Capital Territory and I too congratulate the craftsman who did it.

Whilst tradition is important I do agree with you, Mr Speaker, having gone through some suggestions in the first Assembly that we might go overboard with trappings such as wigs and gowns, that it is important that we recognise tradition but do so in a sensible and forward-looking way. I think this mace is a perfect example of recognising the great tradition of parliamentary democracy, the forward-looking nature of this Assembly and also the youth of this particular Assembly.

Planning and Environment—Standing Committee
Report 32

MS DUNDAS (10.36): I present the following report:

> Planning and Environment—Standing Committee—Report 32—Draft Variation to the Territory Plan No. 235—Conder Block 2 Section 228 (Conder Group Centre)—Proposed supermarket site, dated 23 July 2004, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

This report was tabled out of session. It refers to the government's intention to make a direct grant of land to Aldi to build a supermarket in the Conder shopping centre. The committee has reviewed the draft variation to the territory plan and has agreed that the territory plan should proceed. But we again make comment in relation to how territory plan variations are put forward and information provided therein, especially in relation to

a direct grant of land when we are looking not only at a planning imperative in respect of a particular site but also at a commercial imperative—because we know what is going to happen to this piece of land. We ask the government to take heed of those other recommendations whilst proceeding with this draft variation. That way, in the future, we will not have committees being curtailed by a commercial need as much as looking at the planning picture.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny Report 53

MR STEFANIAK (10.38): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 53, dated 20 July 2004, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 53, which was circulated to members when the Assembly was not sitting, contains the committee's comments on 11 bills, 10 pieces of subordinate legislation and three government responses. I commend the report to the Assembly.

Legal Affairs—Standing Committee
Scrutiny Report 54

MR STEFANIAK (10.39): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 54, dated 3 August 2004, together with the relevant minutes of proceedings.

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

Leave granted.

MR STEFANIAK: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR STEFANIAK: I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 54 contains the committee's comments on six bills, three government responses and one private member's response. I commend the report to the Assembly.

Statute Law Amendment Bill 2004

Debate resumed from 1 April 2004, on the motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MS DUNDAS (10.40): The Democrats will be supporting the Statute Law Amendment Bill 2004. Generally these bills cover only minor issues in legislation, but they remain an important element of our legislative system by ensuring that our statute books remain up to date. The constant generation of these bills ensures that there is a sustained reassessment of the language and clarity of legislation to both assist the interpretation of laws by the courts and enable ordinary Canberrans to read and understand the laws that govern our territory. There are a number of issues dealt with in particular in this bill.

The bill allows dentists to prescribe fentanyl, a short-term pain relief drug that may assist in the treatment of pain after dental surgery. The bill restores the power of the Conservator of Flora and Fauna to sign off on land management agreements as part of rural leases. This power was given to ACTPLA as part of the planning and land bills debated in late 2002. The bill responds to concerns raised during the Canberra bushfires about access to medicine in an emergency. The bill allows dispensing of some medicines by pharmacists during emergencies under certain conditions. If a prescription has been lost or a person, for some reason, does not have access to their medication—for example, because it was destroyed by fire—people can still access potential lifesaving drugs without the need for a prescription.

There are numerous other small changes to the legislation to ensure that our laws are kept up to date, which are clear in their meanings. I thank the staff in the parliamentary counsel's office for their hard work and continued vigilance to ensure that the ACT statute book remains the most accessible and understandable body of legislation in the country.

MR STEFANIAK (10.42): The opposition will be supporting this bill. It is interesting to note that there are no repeals in this bill. There are several minor technical amendments which I think are quite sensible—firstly an amendment to the Drugs of Dependence Act to enable dentists to administer fentanyl. That will bring our law into line with that of other states.

There is a sensible amendment to the Magistrates Court. It is pointless issuing an infringement notice after the period to bring a prosecution has expired—that is a waste of time and effort for everyone. It is also very sensible to allow pharmacists to supply a small quantity of certain prescription medicines to a person who does not have a doctor's or dentist's prescription in an emergency, in a case where it has been stolen, lost or burnt. We witnessed this during the bushfires. I think that is terribly important because, in some instances, it has the potential to save life. Apart from that, there is nothing particularly remarkable in relation to this bill.

MS TUCKER (10.43): This reform bill includes some technical tidying up changes and some policy changes. I will comment on a few parts of note. The Magistrates Court changes will clarify that there is a 12-month limit for the court to deal with infringement notices. The whole point of infringement notices is that they are a means of dealing simply and quickly with instances where the rules have been broken. The law as written on this point is messy and this amendment serves to tidy it up.

The amendment to the Pharmacy Act gives a statutory basis to the emergency actions taken by many pharmacists after the fires last January. Some people who lost their houses also lost scripts for essential medicines that were restricted substances. Pharmacists who had records of their regular medicinal needs were in the position where they could choose to supply that medicine but technically, without a script, they were not legally allowed to do so. This amendment is to cover emergencies only. Having scripts from a doctor who is or should be across the person's whole health situation, including the medicines they are taking, is an important part of our medical system. Pharmacists also play an important role in keeping an eye on combinations of medications but normally would not be dispensing except on the order of a qualified doctor.

Changes to the Drugs of Dependence Act substitute references to "medical practitioner" with "doctor". This is to modernise and simplify the language. "Doctor" is already defined in the dictionary of the Legislation Act as "a registered medical practitioner". The Land (Planning and Environment) Act is amended to correct an error made which removed the power from the Conservator of Flora and Fauna to authorise land management agreements under section 186C (3). In the making of the new agency this power was incorrectly removed from the conservator, leaving it with the new Planning and Land Authority.

I also note the amendment to section 127 of the Drugs of Dependence Act replacing the word "officer" with "offender". In the Legislation Act the bulk of this section of amendments relates to having the definition of "law", for the purposes of commencement, amendment and repeal, include all statutory instruments. This flows on to remove specific references to "notifiable instruments", "instrument" and statutory instruments.

The point of these amendments is to make one easily found and easily understandable set of rules, with specific exceptions where necessary for the different types of instruments. This enables us to move on from the slightly tangled web of rules and, in some cases, common law for each specific type of law. Subordinate laws are listed and defined in the front of the Legislation Act and include regulations, rules and by-laws and, in their different forms of disallowable instruments, notifiable instruments. Then there are the non-registrable instruments such as appointments and delegations of power.

Commencement rules are all amended to clarify that commencement is on the day after a law is made, or after it is approved in the case of instruments, which must be approved after they are made. The situation for non-registrable instruments is clarified in the same way. Importantly, this will remove the possibility of non-registrable instruments coming into effect retrospectively by default from the beginning of the day on which they are made. Some registrable instruments may have prejudicial effects, so the same rules on retrospectivity should apply to this body of law as apply to others—that retrospective

operation can be made to happen only if that is expressly stated and a prejudicial part of a law can be made to commence only if section 76 (2) of the Legislation Act is displaced by, or under authority given by, an act.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.47), in reply: This bill carries on the technical amendments program that continues to develop a simpler, more coherent and accessible statute book for the territory through minor legislation changes. It is an efficient mechanism to take care of non-controversial, minor or technical amendments to a range of territory legislation while minimising the resources needed if the amendments were dealt with individually.

I would like to highlight the more significant amendments to the bill. An important feature is the amendment of the Poisons Act 1933, the need for which emerged during the January 2003 bushfires. The amendments allow pharmacists to supply a small quantity of certain prescription medicines to a person without a doctor's or dentist's prescription if an emergency makes it impractical for the person to obtain a prescription for the medicine. The amendments do not authorise the supply of drugs of dependence or anabolic steroids. The Drugs of Dependence Act 1989 has also been amended, which will allow dentists to administer fentanyl, a pain medication.

Schedule 1 amends the Magistrates Court Act 1930 to make it clear that the act's infringement notice scheme does not allow an infringement notice to be served for an offence, or for an infringement notice offence to be prosecuted, after the end of the one-year period within which prosecution must normally be brought for a summary offence. The amendments are technical in nature and resolve some possible uncertainties about the operation of the scheme in favour of the individual.

Also worth mentioning are the amendments to the Legislation Act 2001 to ensure that the overall structure of the statute book is cohesive and consistent, and kept up to date with best practice. In particular the act is amended to provide that if the parliamentary counsel adds a name to, or amends the name of, a registrable instrument the parliamentary counsel may also make related changes to the instrument's explanatory statement or regulatory impact statement. This addresses concerns raised by the Scrutiny of Bills and Subordinate Legislation Committee that discrepancies between instruments and their explanatory documentation may cause confusion to people when tracking legislation on the register.

Finally, I would like to express my ongoing appreciation for members' continuing support for the technical amendments program. It is another example of the territory leading the way and striving for the best—in this case a modern, high quality, up-to-date, easily accessible statute book. Legislation of this sort, and other legislation, is a credit to our parliamentary counsel and his officers. I thank members for their support of this bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Crimes (Sentencing) Bill 2004
Exposure draft

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.50): For the information of members I present an exposure draft and explanatory statement for the Crimes (Sentencing) Bill 2004. I seek leave to make a brief statement.

Leave granted.

MR STANHOPE: Currently our legislation dealing with sentencing law is contained in 12 different acts and a number of subordinate laws. The current diverse sources of sentencing law reflect the disjointed manner in which sentencing law has been made over the years in the ACT. These diverse sources fail to provide easy access to the statutory provisions relating to the principles and procedures of sentencing. This contributes to a risk of error in sentencing decisions and makes it difficult to ensure a consistent approach to sentencing issues.

The government committed to reviewing sentencing procedures and the criteria used by the judiciary when setting sentences. In early 2002 a full sentencing review was announced and the sentencing review committee was formed shortly thereafter. The purpose of the committee was to formulate direction and provide advice to the Department of Justice and Community Safety. In September 2002 an issues paper was published and nine submissions were received. Further consultation with key stakeholders resulted in two more written submissions and a number of oral submissions. The consultation to date has modelled the direction taken by my government. I am very pleased today to table the Crimes (Sentencing) Bill as an exposure draft and would like to briefly highlight the major changes and initiatives proposed in the bill.

Overall the bill deals with sentencing principles and policy. The objects of the Crimes (Sentencing) Bill include the promotion of respect for the law and the maintenance of a just and safe society; provision of a range of sentences suitable for the appropriate punishment and rehabilitation of offenders; maximisation of the opportunity for imposing sentences that are constructively adapted to individual offenders; the promotion of flexibility in sentencing by providing for combination sentences; and the consolidation of the statutory law relating to the imposition of sentences.

The proposed objects of the bill draw upon traditional sentencing principles to ensure that the offender is adequately punished for the offence in a way that is just and appropriate; to prevent crime by deterring the offender and other people from committing the same or similar offences; to protect the community from the offender; to promote the rehabilitation of the offender; to make the offender accountable for his or her actions; to denounce the conduct of the offender; and to recognise the harm done to the victim of the crime and to the community.

The bill includes new orders that formalise the "Griffiths" remands or bonds currently used by the courts. Frequently the courts provide opportunities for offenders who have

pleaded guilty to demonstrate their motivation to address their offending behaviour by extending bail orders for a period of time, generally with supervisory conditions. Positive progress during this period often results in a lesser penalty ultimately being imposed than that originally envisaged by the court. These remands are often referred to as "Griffiths" remands or bonds after the case of Griffiths v the Queen.

Following the period of remand a report is usually provided to the court and the sentence determined. There is some ambiguity surrounding the ability of corrective services to supervise offenders on bail during this period. This practice has been revised and it is proposed to give it legislative basis. These orders will be known as "pre-sentence orders" and will allow for an adjournment of sentencing proceedings for up to 12 months to require and enable an offender to complete certain programs, as well as submit to supervision.

Pre-sentence orders provide an offender with an opportunity to do something positive and rehabilitative about his or her offending behaviour. The court can indicate the penalty the offender is likely to receive if he or she complies with the order and a likely penalty if he or she does not comply. Non-association and place restriction conditions will become available as a new sentencing option for the court. A non-association condition prohibits the offender from associating with a specified person for a specified time. A place restriction condition prohibits the offender from frequenting or visiting a specified place or district for a time. Unlike the New South Wales provisions for non-association and place restriction, the government's provisions will not impose any restrictions on the imposition of these orders. They will ensure the achievement of better sentencing outcomes that effectively deal with offending behaviour and address the causes of crime, while protecting the community.

The bill applies non-association and placement restrictions as conditions of good behaviour bonds, periodic detention orders and home detention orders. This streamlines the process of enforcing the order if the condition is breached. The government's bill modernises community service orders by linking community service with good behaviour bonds. Community service orders were stand-alone orders. The new arrangements enable the courts to impose community service as a condition included in a good behaviour bond. This change simplifies breach proceedings and will harmonise all community based sentencing options. The number of hours that can be ordered has been increased to 500.

The calculation of ensuring actual time served has been modernised to the nearest hour. The court will be able to order combination sentences. The bill will abolish the current restraints on a court to combine particular penalties on one charge. The changes will maximise flexibility in sentencing and enable the court to take account of individual offenders and specific crimes. For example, a court may now choose to sentence an offender to both some sort of sentence of imprisonment and community service at the same time. This takes into account general and specific deterrence and the protection of the community, and also allows for something to be given back to the community.

The terminology used for sentencing is modernised and simplified. For example, "recognisance" will become "good behaviour bond". An order currently made under section 402 of the Crimes Act 1900 will be called a "non-conviction order". An order suspending a sentence currently made under section 403 (1) (6) of the Crimes Act will be

called a "suspended sentence order". Other important innovations include the fact that the option of incorporating a rehabilitation condition in an order has been formalised into a rehabilitation program order; reports and assessments requested by the courts can be provided in short or long form and can be delivered in both verbal and written form; and criminal proceedings can be reopened to correct penalty errors.

The government's sentencing reform program is an innovative and exciting undertaking. It is the most substantial review and rewrite of sentencing laws the territory has ever seen. The package maximises sentencing effectiveness and removes anomalies and inconsistencies in the current legislation. It replaces a patchwork of laws, developed in a piecemeal manner, with a coherent sentencing regime giving clear guidance to the courts, to offenders and to the community. This is a very important policy for the community to consider. For this reason it is highly desirable for the community and key stakeholders to be given the opportunity to comment on the proposals before the introduction of the bill.

There are also a number of significant and complex human rights issues relating to sentencing that must be considered. Release of the bill as an exposure draft creates a unique opportunity for a detailed and full consideration of these issues and allows us to draw on the broad expertise of practitioners to ensure that rights are properly considered and balanced. It is for these reasons that I table the bill as an exposure draft.

Again, before concluding, I will take the opportunity to comment and acknowledge the significant work that has been involved in the undertaking of this sentencing review. It has been a massive effort; it is a massive piece of work; and I acknowledge the enormous contribution officers of the department of justice have made, in concert with parliamentary counsel. I commend all officers involved in this major review of sentencing law in the ACT. It is a significant piece of work that has required enormous focus and commitment. It is a credit to them and will be an enduring legacy of the work those officers have done.

Revenue Legislation Amendment Bill 2004

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

> That this bill be agreed to in principle.

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

> That debate be adjourned.

The Assembly voted—

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

Question so resolved in the negative.

MR SMYTH (Leader of the opposition) (11.02): The opposition will be supporting this bill. This bill implements some important provisions governing the behaviour of corporations and their directors. As the Treasurer noted in his presentation speech, the provisions in the bill arise from the report of the Cole royal commission. An interesting feature of the provisions in this bill is that they will not be activated if directors and corporations behave in accordance with the law and deal appropriately with their obligations, in this instance, particularly their taxation liabilities.

It became evident from the Cole royal commission into the building and construction industry that major problems were identified particularly within that industry in relation to fraudulent conduct and evasion of taxation responsibilities. The commission recommended that all states and territories adopt provisions similar to those implemented in New South Wales to impose liability on directors and former directors, and on members of groups of companies to help reduce the incidence of fraud and tax evasion.

This bill goes further, however, in trying to tackle the problems of successive company structures—so-called phoenix companies—being interposed in a group with the intention of evading payment of taxes and other obligations. The provisions in the bill will therefore enable current and former directors to be pursued in relation to outstanding obligations and in relation to any fraudulent conduct.

There is one aspect of this bill that requires some additional comment. That concerns the use of the word "corporation" in division 7.2 in this bill. As I understand the use of "corporation" in this bill, it means that the provisions of the bill will apply very broadly. We need to consider the definition of "corporation" in the Commonwealth's Corporations Act 2001 to appreciate what is being proposed.

Under the definition in the Corporations Act the corporations encompassed by the bill we are debating today include companies, any body corporate and any unincorporated body that may sue or be sued or that may hold property. The implications of the coverage of corporations in the present bill, therefore, are that all people who are in positions of public trust, and who have accepted positions of responsibility in a wide range of organisations, are required to act honestly in performing their duties. It is worth emphasising that, provided that office-bearers perform their duties honestly, the provisions of this bill will have no impact on them.

The provisions in this bill are intended to be used in situations where office-bearers attempt to evade their responsibilities. The opposition has no difficulty with the premise that office-bearers must be honest and must accept responsibility. This is a premise that all people who accept positions of trust and responsibility must accept. This premise must apply irrespective of whether the organisation is a large publicly listed corporation or a relatively small charity. Honesty and responsibility must be the hallmarks of people who are office-bearers in all of these organisations. For these reasons the opposition will be supporting the bill.

MS DUNDAS (11.05): I wanted this bill to be adjourned today because I have ongoing concerns that it may have unintended adverse impacts on the community sector. This bill

was not meant to target them, yet it does affect them. I think more time was needed to work through the implications of that. The legal entity of a limited liability corporation was developed to make it more attractive for people to invest in business ventures and make it simpler for many people to share an interest in business.

There are different views about how well this model has served us. However, the model has served us very well in the non-profit sector where people have been able to serve voluntarily on the boards of incorporated charitable and community entities, knowing that they will not be personally liable if something goes wrong and it is not due to their own wrongdoing. This bill removes that protection that directors of corporations have enjoyed up to this point.

I support the intention of this bill. I think most people would find it hard to argue that a director who has presided over a string of company collapses, each leaving unpaid tax debits, should be able to escape liability. The situation is grey where a company goes bankrupt simply because its creditors default. Chains of bankruptcies in the construction sector can be triggered by the fall of one major building company that folds with large debts to a number of small suppliers. The suppliers would not be at fault, but this law would catch them if they also went bankrupt.

It is worth remembering that the ACT taxation component of a company's overall liabilities would be small, and there has been a general shift towards personal liability of company directors for tax debts. However, the situation can be considered differently for community organisations. I do not think there is a major problem in the territory with fly-by-night community organisations starting and then winding up without paying due taxes. There is not the same scope for profit in the non-profit sector, so there is not the same scope for corruption. However, this law will apply to directors of community organisations and the government has failed to consult with the community sector to learn of their views on this proposed change. My main concern is that the existence of a risk of personal liability will serve as a disincentive to people to serve on boards as volunteers of non-profit organisations. That would be an unfortunate and unintended outcome that I was hoping to allay.

Despite the limited intended scope expressed by the Treasurer in his tabling speech, this is a sweeping bill that catches every director of every community organisation with a corporate structure. Although the government stated that the bill is primarily targeted at payroll tax debts, which are rarely, if ever, incurred by not-for-profit organisations, it does cover all taxes. That means taxes on insurance, duties on assets transfers and rates bills. Non-profit organisations could be liable for substantial liabilities in these different categories.

For example, a charity may be bequeathed a building. If they occupy only part of it and lease the rest to provide an income stream they are liable for rates on the part of the building that is leased out. That may result in a rates bill of many thousands of dollars. A voluntary director can then be made to pay every cent of the rates bill if the organisation is wound up and there are outstanding debts. So there are certain concerns that I think need to be worked through.

On balance, it may be that this legislation in its current form has no need for amendment and that the community sector is willing to take it on board as part of the conditions of

the directors of non-profit organisations. However, I believe a little more thought was needed, especially as many organisations are incorporated under ACT incorporations law. I see ongoing problems with this legislation that need to be worked through. Unnecessary questions are created for the community sector. I would like to have worked through those concerns with the non-profit sector and maybe come up with amendments. Those issues could have been worked through to avoid the situation where people, I guess through fear, do not take up voluntary positions to help the community sector with their management structures.

MS TUCKER (11.10): This legislation reduces the ability of company directors to avoid responsibility for debt incurred by companies under their charge even if they are no longer directors. As members have said, it comes from the Cole royal commission. The bill makes every member of a company jointly and severally liable for the payroll tax debts of every other member. It also addresses so-called phoenix firms that are used by companies to avoid liability for debts. This bill makes the ACT law consistent with New South Wales, which should simplify compliance and help avoid cross-state avoidance of tax debts. These goals of the bill are worthy of supporting.

I know Ms Dundas' concerns and I was prepared to support her motion for adjournment. We have also found ourselves caught a bit short on this and I have only started consulting fairly recently with the community sector. I acknowledge that we have had this bill since May, but it seems as though the government did not consult with the community sector on this. So I have sympathy with the move to adjourn. However, it is obvious that this bill is going to get up today, so I will just note a couple of points.

Basically while any community sector organisations and their directors who are avoiding paying a tax debt should be made liable for their debts, there is a possibility that some community organisation directors may not be aware that the organisation is not paying the tax owed. It is entirely possible that the directors may be deceived by the staff managing the organisation. In such a case the directors may not be aware that they have not paid the taxes owed. However, the other side of that concern is put clearly by the Treasurer's office. There are protections in this legislation. The main points are that not-for-profit organisations can be exempt from some taxes such as payroll tax, but this does not necessarily include all taxes. New section 56E that is proposed in this bill states:

> It is an defence to a proceeding for recovery of an assessment amount from a director or former director of a corporation if the director or former director establishes that he or she took all reasonable steps in the circumstances to ensure that the corporation paid the assessment amount.

So arguably that is one protection. Also, of course, finally the Treasurer has the power to waive fees and fines and to approve act of grace payments under the Financial Management Act. I put on the record today that the Greens have been told that these protections are in place to avoid any unwanted negative impacts of this on important community initiatives and organisations—initiatives through setting up and running organisations—and that the intention of this legislation is not to catch good people working for the community in the ACT. It is about the issues that were identified in the Cole Royal Commission. Protections are there to avoid people being unfairly caught up in this law.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (11.13), in reply: I thank the opposition for their support. I thank Ms Tucker. I think this is relatively simple legislation, consistent with the report of the Cole commission and consistent with legislation in New South Wales. There has been some discussion about not-for-profit organisations or charities. Let us look at the layers of protection they have. First of all, they are not subject to most of the heavy taxes anyway. Second, there is the protection that has been built into the legislation under proposed section 56E, which provides a defence for directors, and, third, there is the capacity under the Financial Management Act for a waiver of tax to be considered by the Treasurer.

If this legislation was weakened in any way to compensate for the very unlikely situation that has become a point of difference, that would allow the legislation to be exploited. This is about closing loopholes and eliminating exploitation of the law and the phoenix companies that are deliberately created, do not pay tax, fold, and rise again—particularly labour hire companies. I doubt very much whether this legislation will become a disincentive to directors. It does not matter so much whether you are a director of a for-profit or not-for-profit organisation; you do have fiduciary responsibility. You will be governed by ASIC, which is a far stronger control than this legislation represents. So, all in all, this is good sensible legislation and the objections that have been raised are not valid.

I understand that the Democrats brought up consultation. My office spoke to their office and asked who they know who has any objections coming from out of left field on the charitable organisations. We did not get a response. I do not know that that is a problem. Also I defend the amount of time that members have had to look at this. It is reasonable and it is quite consistent with time we have with other legislation, given that it is not particularly complex. I think the whole thing has been quite reasonable. I commend the bill to the House.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Mental Health (Treatment and Care) Amendment Bill 2004

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

That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (11.17): This bill seeks to set up a distinct pathway in the act for involuntary treatment for people with a mental illness and for people with a mental dysfunction. While the bill makes no major changes in how the Mental Health Tribunal deals with people suffering from a mental illness, the changes in the way one deals with people who have a mental dysfunction are very significant.

Currently the act makes provision for mental health treatment orders for the involuntary treatment of those with a mental illness and gives powers to the chief psychiatrist to restrain, confine and seclude people on an order.

The act also makes provision for community care orders for those with a mental dysfunction. The community care co-ordinator performs similar functions as the chief psychiatrist in the administration of these orders. However, currently, the act does not allow for community care orders to restrain, confine and seclude people with a mental dysfunction. The bill before us will make provision for these powers.

There is an ethical question here. I think we all acknowledge that it is an unfortunate reality that people suffering from mental illness may on occasion need to be restrained, confined or secluded in order to protect themselves and others from harm, as well as to aid their treatment. In this case we agree that the right to liberty is tempered by the harsh reality that the person is not able to exercise that liberty safely. In our society we rightly believe that people should not be confined against their will unless they have committed a crime. We make an exception for those with a mental illness who pose a threat to themselves or others.

This bill sets before us another class of people whom we would be willing to confine against their will if the bill is passed. This is something we must consider very carefully before we proceed. With confining the mentally ill the argument is made that once treatment occurs there is the likelihood that the person will be released as they will be more able to consent to further treatment. With confining the mentally dysfunctional, we must also accept that the treatment for these people is much less likely to be successful, as treating a dysfunction is often more difficult than treating an illness.

In passing this legislation, we must consider that there is a possibility for confinement of those with a mental dysfunction to last much longer. While the bill makes it clear that a community care order can be only for a maximum of six months and that the Community Advocate must be involved in the management of those on an order, the reality is that we may well be confining for long periods of time people who have committed no crime. The ethical implications in this bill are profound, and weigh heavily upon the Liberal Party.

In the 2003-04 Appropriation Bill (No 2), provision was made for a sum of $650,000 to provide "secure accommodation and appropriate programs that will contribute to an existing client and community safety program". Without going into specifics of this case, it is clear to me that this type of client of Disability ACT is the sort of person who would be confined under this bill. Certainly I acknowledge that the options available under this bill would make for better handling of this type of client, but the ethical principle still remains.

After deep consideration, the opposition will be supporting this bill, as we consider that the public interest outweighs the ethical issue. However, we will closely monitor its application to ensure that the new options available under this bill are not used as an end in themselves, but as part of a wider treatment regime for those with a mental dysfunction.

MS TUCKER (11.22): The Greens will be supporting this bill, the only condition being that when the act is reviewed over the next year, the impact of the specific provisions of this bill, both in effect and in human rights, be assessed and reported on. That is a reasonable request and I understand from the department and the minister's office it is a commitment that they have already made. However, I would like to hear that on the record as well.

The key purpose of this bill is to give the Mental Health Tribunal the power to order a person found to have a mental dysfunction and to be at high risk of harm to themselves or others to live in a particular place or be detained in a particular facility. It also authorises the involuntary use of medication. There are safeguards in regards to scrutiny in the exercise of that power, such as the requirement for the Community Advocate to be advised within 24 hours of any involuntary restraint or medication and for comprehensive reporting and recording requirements.

It is increasingly the case that people who do the work or who care for affected people use the law to guide them. It is important that such legislation is clear. This bill more clearly separates the psychiatric treatment orders and the community care orders as they apply to people living with mental illness and with mental dysfunction. The argument as to the need for the Mental Health Tribunal to have the power to make these orders and to require the community care co-ordinator to ensure they are followed has been clearly made in the presentation speech, so I will not recap on what has already been said.

We are all aware that a small number of members of our community do not have a mental illness but rather have disturbed thinking, behaviour or moods to a disabling extent and are or can be at high risk of harming others or themselves and have been incredibly disruptive. Clearly, it is not acceptable to treat such people for illnesses they do not have, or to charge them with crimes that they cannot be held accountable for. However, we cannot leave them unsupported or unhindered. While the act has been able to support and help in the management of most people living with mental dysfunction, it has not given the tribunal or the care co-ordinators sufficient authority to deal with these most difficult situations.

However, there are some ongoing concerns, no matter how carefully the legislation is written. Some say mental dysfunction is not an illness. It is often congenital or the permanent consequence of head injuries. Ordering someone with such a condition to undergo involuntary medication does not always offer the same promise of recovery or remission. I am aware that there is no generally accepted model for managing the high-risk end of mental dysfunction, and that other states will be watching this regime. It is for these reasons that a close assessment of the impact and effectiveness of this approach will be important.

The other point I want to make is that the most consistent thing said to me by people who work with these sorts of people who have this mental distress or dysfunction, as it is called, and who are part of our community, is that rather than go to these kinds of lengths, we should be putting much more focus on ongoing therapeutic relationships with them. While the Greens are supporting this bill, it is qualified with that concern. It is still easier to have this kind of response than it is to invest in the ongoing support for people who suffer this distress and mental dysfunction. It comes up in our debates on health and

mental health over and over again. I make the point that whenever we have this discussion about how we can take control of people's lives, we have to look at how we can avoid having to do that.

MS DUNDAS (11.26): The ACT Democrats will also be adding their support to the bill today, but we do it very carefully, with consideration of the human rights of the people that we are talking about potentially detaining. We need to ensure that when considering this kind of legislation we are limiting any infringement of the human rights of the mentally dysfunctional to the minimum degree necessary for their care and protection.

The aim of this bill is simple. It is to allow the Mental Health Tribunal to order a person who is mentally dysfunctional to be detained in a specified place in order to prevent harm to that person or harm to the community, or a continued deterioration of that person's condition. This bill also makes a number of structural changes to the Mental Health (Treatment and Care) Act to make it more accessible to workers in the sector and to clarify the intention of the act. In addition, it clarifies the relationship between the Powers of Attorney Act and the Mental Health (Treatment and Care) Act to remove any potential for conflict between those two pieces of legislation.

These clarifications recognise that the bill must not only be interpreted by those with a background in law, but also by health professionals who are required to abide by the provisions of the act when administering health care to people. The clear separation of the roles of the chief psychiatrist and the care co-ordinator in this bill is a recognition that the current act can be confusing, and that the roles of these two statutory positions in our mental health system need to be separated in order to facilitate greater understanding of their distinct positions.

I acknowledge that the bill has been drafted in response to a number of concerns in the mental health sector. For example, there are reserved beds in a secure facility for the treatment of somebody with a mental dysfunction, but they are unable to be properly utilised due to the wording of the current law. That being said, the bill raises a whole host of issues regarding human rights that the Assembly must consider carefully. The bill potentially infringes on a number of rights contained in the Human Rights Act, such as section 13, the right to freedom of movement, and section 18, the right to liberty and security of a person. At the same time, section 28 of the Human Rights Act states:

> Human rights may be subject only to reasonable limits set by Territory Laws that can be demonstrably justified in a free and democratic society.

The Scrutiny of Bills Committee has drawn to the attention of this Assembly these issues. In report 52 it made the following comments:

> No doubt the provisions of this Bill could be the subject of a very detailed study of whether its provisions conform to the standards stated in the Human Rights Act 2004. This is far beyond the time available to the Committee.
>
> The Committee appreciates that assessment of whether the Bill meets the general standards stated by bodies such as the European Court and the HRC cannot be carried out without the study of the Act as it would be amended, and knowledge of how the Act is carried out in practice.

It is of some concern that we have not been able to see a full human rights investigation of this bill, or the assurance of the Attorney General that the bill does not infringe human rights by way of compatibility statement, as this bill was tabled before 1 July. At first inspection, the bill as proposed appears to meet the criteria set out in international instruments. Of particular relevance are the Declaration on the Rights of Mentally Retarded Persons and the principles for the protection of persons with mental illness and for the improvement of mental health care.

The principles, which were adopted by the General Assembly of the United Nations on 17 December 1991, contain a number of elements regarding treatment for mental health problems. There are some conditions that I believe are of particular interest. Any decision that a person lacks legal capacity must be established by an independent and impartial tribunal established by domestic law. There should be a right to appeal such a decision to a higher court. Determination that a person has a mental illness shall be made in accordance with internally accepted medical standards and every patient has the right to be treated in the least restrictive environment and with the least restrictive or intrusive treatment appropriate to the patient's health needs and the need to protect the physical safety of others. Of special note is principle 16, which relates to involuntary admissions. It states:

> A person may (a) be admitted involuntarily to a mental health facility as a patient; or (b) having already been admitted voluntarily as a patient, be retained as an involuntary patient in the mental health facility if, and only if, a qualified mental health practitioner authorised by law for that purpose determines, in accordance with Principle 4, that the person has a mental illness and considers:
>
> (a) That, because of that mental illness, there is a serious likelihood of immediate or imminent harm to that person or to other persons; or
>
> (b) That, in the case of a person whose mental illness is severe and whose judgement is impaired, failure to admit and retain that person is likely to lead to a serious deterioration in his or condition or will prevent the giving of appropriate treatment that can only be given by admission to a mental health facility in accordance with the principle of the least restrictive alternative.

The bill appears to incorporate these ideas into the assessment and treatment of mentally dysfunctional people. It is important to note that the first objective of the act, stated in section 7, is:

> to provide treatment, care, rehabilitation and protection for mentally dysfunctional or mentally ill persons in a manner that is least restrictive of their human rights;

With the passage of the Humans Rights Act 2004, the provisions of the legislation must be interpreted in a manner that is most consistent with the person's human rights. We also need to be aware that international human rights thinking in the area of working with people with mental dysfunction is still developing. The most recent report of the Secretary-General to the UN General Assembly on the progress of efforts to ensure the full recognition and enjoyment of the human rights of persons with disabilities questions whether the principles are adequate for the protection of human rights. Section 47 of the report states:

> The criteria set forth in principle 16 (1) for compulsory institutionalisation should be reviewed. The serious likelihood of immediate or imminent harm to him or herself may not represent a sufficient reason to justify a measure that infringes dramatically on the enjoyment of several human rights, including the right to liberty and the security of the person and the right to freedom of movement. The consistency of the second criterion, which refers to the person's state of health, with existing human rights standards, should also be analysed. In accordance with the principle of the least restrictive alternative, the decision on involuntary admission should at the very least provide evidence on (a) the risk of serious deterioration in the person's health conditions and (b) the lack of viable alternatives, such as community-based rehabilitation. The decision on psychiatric commitment should always be subject to judicial review and reconsidered periodically.

We need to keep in mind that there are continuing questions about whether the provisions for detaining mentally ill or dysfunctional people are sufficient to protect their human rights and whether we are making the best judgments here. I understand the government has moved for a full review of the act beginning this financial year. Hopefully these considerations will be examined more closely, considering that these questions are being posed on an international scale.

That being said, it is clear that this bill has been brought forward due to genuine problems that were arising in the sector, so it deserves to be supported. But there are ongoing questions about how we deal with people with severe mental health problems and whether just detaining them is the best way to deal with their situation. We need to look at how we work with them in an ongoing way in the community. I urge the government to fully consider the human rights implications of the Mental Health Act when it does its review and takes into account the current movement in the international human rights scene in relation to these issues.

MRS CROSS (11.34): Mental health is a very sensitive issue. As legislators, it is important that we ensure that people suffering from mental illness receive the appropriate care, treatment and support to ameliorate their symptoms and to minimise any associated safety risks. In some instances cognitive function can be impaired to the extent that people affected are unaware of the harm they pose to others or themselves. In extreme circumstances, and as a last resort, involuntary interventions are needed to treat people who are demonstrably dangerous to themselves or others. I agree that it is an unfortunate form of mental health care, especially for the families of the people affected. However, it is necessary because it saves lives and protects people from harm.

On this basis I will support this bill, as it helps clarify the legal requirements for involuntary mental health care and the roles and responsibilities of the Mental Health Tribunal, the Office of the Community Advocate, the care co-ordinator, and other mental health care professionals in the implementation and development of community care and psychiatric treatment orders. Unlike the previous act, this bill ensures that people suffering from severe mental illness are detained or treated medically until the risk they pose to themselves or others has lessened, while having regard for the person's rights and dignity.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and

Heritage, and Acting Minister for Health) (11.36), in reply: Mrs Cross makes a valid point when she says that sadly some people are unaware of the harm they may cause themselves or others. Therefore, steps have to be taken to protect their interests and the interests of other people. Mr Smyth said that the public interest outweighs other concerns, and he will keep close watch—as we all will—on how this proceeds. It is a difficult area. It has become apparent that while community care orders have been of benefit to most people who have required this involuntary support, a small number of people—and it is only a very small number of people that we have to attend to—with mental dysfunction require closer supervision than currently is the case.

The act presently does not allow for people who are suffering a mental dysfunction who are assessed to be at high risk of harm to themselves or others to be detained in treatment or care facilities until that risk is lessened. So we must move. Often the alternative for these people with mental dysfunction and very complex needs, and who may be assessed as being at high risk to themselves, has been the justice system. In recent times we have heard people in the justice system speaking out, critical of the lack of options for these people. This has come through because there has not been an appropriate legal framework to institute involuntary care and support commensurate to the risk the person presents to either themselves or the community. This bill now provides that appropriate legal framework.

The Mental Health Tribunal presently makes community care orders that include care and support, counselling, training and rehabilitation. The addition to the existing regime is treatment and medication. While most mental dysfunctions are enduring conditions, medication can provide relief to a person when their ability to regulate their emotions is seriously impaired and prolongs their own distress. The involuntary use of medication for the amelioration of mental dysfunction can only be implemented where that medication is properly prescribed by a doctor.

The most significant amendment in this bill is to give the Mental Health Tribunal the authority to make a restriction order that, in addition to a community care order, authorises that a person is detained in a stated community care facility. The Mental Health Tribunal can only make such an order if satisfied that it is in the interests of the person's health or safety or public safety to do so.

The United Nations resolution on the protection of persons with mental illness and the improvement of mental health care describes the standard that is compatible with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights if a person's liberties have to be limited to treat mental illness. Principle 17, relating to review bodies, states that the initial review and periodic reviews of a person subject to involuntary retention shall be by a judicial or other independent body. The proposed amendments meet these standards.

A person subject to a mental health restriction order will have that order, and the treatment and care delivered under that order, including detention, reviewed by the tribunal on a three-monthly basis. Community care orders and psychiatric treatment orders are reviewed by the tribunal on a six-monthly basis. The person can at any time request a review of the order by the tribunal and can also appeal directly to the Supreme Court. The care co-ordinator co-ordinates and administers the implementation of the orders. At present the act does not describe the functions of the care co-ordinator nor

does it require the co-ordinator to make an annual report. Section 36A merely states that the minister must appoint a care co-ordinator and that person must be a public servant.

The bill describes the functions of the care co-ordinator. This includes the requirement to co-ordinate the provision of appropriate treatment, care, and support, the provision of appropriately trained staff, and the provision of suitable residential facilities for persons on community care orders. Once a person is ordered to be detained the person may be secluded or restrained if the co-ordinator or delegate is satisfied that is the only means in the circumstances to prevent the person from causing harm to themselves or other people. The amendments require the co-ordinator to inform the Community Advocate in writing within 24 hours of the involuntary administration of medication, or seclusion, or restraint. The event and the reason will be recorded in the person's record and a register of such involuntary administration, medication, or seclusion or restraint will be kept.

The Mental Health Act is not only a legal document; it is used on a daily basis by human service workers and should also be expressed clearly to facilitate understanding and utilisation of the act. To achieve this, the relevant sections have been rewritten in plain language and now also provide two clear pathways within the act—a pathway for psychiatric treatment orders and a pathway for community care orders.

Mr Corbell stated when he introduced the bill that the government is committed to a full review of the Mental Health Act. It is five years since the recommendations of the last review were implemented in the 1999 amendments. Mental health acts in particular require frequent review to be kept current with mental health and human rights best practice. The coming review will include a review against the Human Rights Act 2004. This will give stakeholders in the community a period of time to judge these amendments as they are implemented in practice. The review will then be able to analyse the strengths and weaknesses of the act as a coherent package. I commend this bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Visitors

MR SPEAKER: I welcome to the gallery year 5 and 6 students from Sts Peter and Paul Primary School, Garran.

Charitable Collections Amendment Bill 2004

Debate resumed from 1 April 2004, on the motion by **Mr Wood**:

> That this bill be agreed to in principle.

MR CORNWELL (11.44): I will be very brief. This is a minor amendment to the Charitable Collections Act that removes the need for a charity to establish a trust bank account and cuts the requirement back to a simple bank account. The opposition has no objection to this legislation and we will be supporting it.

MS TUCKER (11.45): The Greens will also be supporting this bill, which amends the Charitable Collections Act so that money raised by licensed collectors only needs to be deposited into a specific bank account operated by the signatures of at least two people. At present legislation requires collections to be deposited into a trust bank account that in some instances requires a deed of trust, which is a more cumbersome and arguably unnecessary procedure.

This amendment brings the act into line with arrangements in Victoria and New South Wales. In the context of charitable collections, it probably makes good sense to have similar interstate provisions for the collection and accounting of funds. Members might recall that there was some concern and distress when this act was first proposed. There was quite an exercise in drafting and negotiating regulations in order to ensure that small organisations such as pre-schools and parents and citizens associations were not caught up in a regime that was directed at major fundraising institutions. I have not heard from any of those smaller groups in regards to the impact of this act since it came into force last year. I trust, in this context, that no news is good news. If the minister has any information on the matter, I would be interested to hear it.

MS DUNDAS (11.46): The Democrats will also be supporting this bill. It is a simple piece of legislation. It makes it clear that a charity can use any bank account for the purposes of section 45 of this act, so long as it has more than one signatory for authorising withdrawals from that account. I point out that this is exactly the type of problem that was foreshadowed during debate on this act when it came before the Assembly two years ago. I raised the issue that the government was rushing the legislation through the Assembly without proper consultation with the not-for-profit sector, and that pushing through the changes without proper scrutiny would lead to problems. This is exactly the situation we have found ourselves in. This bill should serve as a reminder to government that ramming legislation through this Assembly results in poor administration that leads to future problems with laws.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (11.47), in reply: I thank members for their support. It is a pretty simple and technical bill. I have no information of the sort that Ms Tucker is interested in. The act is now widely accepted, and a simple adjustment keeps everybody happy. I thank you for your support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Roads and Public Places (Vandalism) Amendment Bill 2004

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

> That this bill be agreed to in principle.

MR CORNWELL (11.48): On behalf of the opposition, I rise to support this legislation. This necessary step will allow a number of things to be done. I accept the government's argument about the removal of graffiti from private property. I understand that difficulties have arisen because of the approval of the owner or the occupier being required. The owner of a rental property can often be out of town. The occupier, be it an owner or a renter, can often be at work. So on occasions it is extremely difficult for the government to obtain the agreement to remove graffiti from very visible places, and Hindmarsh Drive is a good example of this vandalism.

The legislation also seeks to reduce the time that the owner of an abandoned vehicle is given to remove their vehicle from seven to two days. After two days the government will oblige. I believe that both of these amendments are necessary and important.

It is important to note that whilst the government can remove graffiti there is no obligation on it to clean up graffiti on commercial buildings or, I presume, private property. The government has this option but people are still responsible for removing graffiti from commercial premises in particular.

I understand that property groups, including the Property Council and the Real Estate Institute, support this legislation and I see no reason why anybody else should be against it. I would, however, make the point that whilst this legislation deals with one side of the graffiti question, it does not address the very serious issue of graffiti in this city. Much more needs to be done than having the government clean up somebody else's mess.

It is perhaps unfortunate timing for the government that yesterday I received an answer to a question on notice on this very matter. Mr Wood would be aware of this. In my question on notice I asked how many graffiti offences were committed from 1 July 2003 to 30 June 2004. I was told that some 21 offences were recorded. The results of these offences are frankly appalling. There was one arrest. That person was convicted and his sentence was 24 hours community service—boy oh boy! A caution was given in the case of five of them and no further action was taken; three have been charged before the court, with one to be heard, one convicted with a community service order—that must have been terrifying—and one not proceeding; a diversionary conference with two of the offenders, with no further action; a summons for 10, seven yet to be heard, one convicted, two not proceeding.

This is simply not a good record for this government, which purports to be doing something about graffiti. I think you will find that most people in this city regard this issue as important. They certainly regard the vandalism out there as offensive and they want something done about it. Twenty-one offences recorded over 12 months is certainly not doing anything about this type of behaviour and it seems to me that it certainly gives the green light to vandals to continue their depredations around what I remind members

is the national capital of Australia but fast becoming the national graffiti capital of Australia.

So I would suggest, Minister, that you have done the right thing by amending the law to give the government the option to remove graffiti. But I would urge you to take action at the other end of the spectrum because these people are not going to stop their filthy habits simply because the government will come along and clean up after them.

The legislation also deals with the removal of abandoned vehicles. As I said, the legislation reduces the time from seven days to two days for an abandoned vehicle to be removed by the owner. I understand that some 1,500 to 1,600 vehicles are reported as abandoned each year. About 600 of these annually require towing and the budgeted cost is about $50,000 per annum. I am not suggesting for a moment, of course, that the cost will go down if they are removed within two days rather than seven. But, I think there will be some advantages. First of all, you will not have an unsightly wreck, as is sometimes the case, sitting around. But more to the point, perhaps, you will not have an unsightly wreck, full stop, because I would think the chances of an abandoned vehicle being wrecked in seven days would be considerably greater than if it were abandoned for merely two days. Therefore, I think that this is a step in the right direction. I repeat, the opposition will support the legislation.

MS TUCKER (11.55): This bill deals with two issues—abandoned vehicles in public places and the removal of graffiti on private property that is visible from a public place. I know that Roslyn Dundas intends to circulate an amendment in respect of the graffiti question, and I will be supporting that amendment.

I will speak to the graffiti part of the legislation first. Basically, the legislation provides that graffiti removal work can be carried out without the agreement of the occupier and whether or not the occupier has been notified, if the graffiti is visible from a public place. The Democrats and I are concerned that there could be an issue in that the owner may not mind graffiti being placed on their property. We could have a situation where a person does not want graffiti art removed from private property. I understand that Ms Dundas is going to substitute the words "at least 24 hours" for "immediately" in proposed new section 14A (4), which states:

> For subsection (3), an authorised person must, immediately before the graffiti removal work is to be carried out, take reasonable steps to notify the occupier that the work is to be carried out.

This still does not really properly deal with the issue because obviously it would be quite disturbing for someone to come back from holidays and find that the graffiti art that they like had been removed.

I heard Mr Cornwell talk about his concerns about graffiti in our community. He obviously speaks about this in quite a passionate way, and I understand his position. He has also said that he does not have a problem with graffiti art and that he sees that as something different. But I do not see in the legislation a definition that makes that distinction. If there is such a distinction, maybe someone could show me where it is. But at this point I have not been able to find a definition of graffiti, so there could be a concern there.

Of course, the Greens equally have said a lot in this place about graffiti. We have talked about the need to ensure that we do not just create an environment in which street art is lumped together with tagging. There needs to be an understanding that you can work with young people involved in graffiti to make it a socially positive activity. It is not in the interests of society to criminalize them. We also have to understand that you cannot totally separate young people who tag from young people who do graffiti art, because these practices are part of the spectrum. The Warringah project in New South Wales has clearly shown that if you work with the taggers they can become the street artists. So you are skilling these young people to become street artists, and in the Greens' view that is a much more positive and constructive response to the question of vandalism from graffiti in our community.

I am concerned that really special pieces of art, which graffiti art can be, could be painted over because an authorised person regarded it as graffiti. I do not know when this bill was tabled—and I have to confess that we have not done the work on it—but maybe it could have included a definition of graffiti. So I just express those concerns on behalf of the Greens.

The provisions regarding abandoned vehicles looks all right. However, I would like to make one point. Some time ago I made representations on behalf of a constituent whose son, who lives in public housing, had parked his car in a public housing garage or parking area, whatever it was. The car, which was probably one of the most important things in that young man's life, was being repaired and the wheels had been removed. However, the young man did not have the time to repair the vehicle, get it roadworthy and register it. I cannot remember the detail, but basically there was a threat that the car would be regarded as an abandoned vehicle and removed. I intervened, the minister's office was very reasonable about it and the young man did not lose his car.

Mr Wood: I am always reasonable.

MS TUCKER: Mr Wood said that he is always reasonable. That is a matter of opinion sometimes but very often, yes, that is probably true. In some areas I would say just never, but we won't go into that now.

I want to put on the record that I do not know what the definition of a public place is. I would be worried if a public place included public housing properties. There needs to be an understanding of what is involved. Right to property under the Human Rights Act and all sorts of other things could come into it if vehicles were taken away in those circumstances.

MS DUNDAS (12.01): The Democrats will be supporting this bill, although we do have serious concerns about the rights of individuals who may wish to have graffiti or street art on their property. I support the increased powers to remove abandoned vehicles, which I think is an appropriate response to dealing with an identified problem. However, I think we have gone perhaps a little too far in respect of the powers to remove graffiti in that this could represent a significant invasion of property and have a significant impact on the art culture here in the ACT.

This bill gives the extraordinary power to the Department of Urban Services to remove graffiti from private property without the permission of the owners. I am concerned about the wishy-washy provisions that relate to seeking permission. The bill provides that an authorised person must immediately, before the graffiti removal work is started, take reasonable steps to notify the occupier that the work is to be carried out. I think that provision could be used to remove street art rather than genuine graffiti.

I am not in any way trying to downplay the fact that there is a genuine issue around tagging and graffiti in the ACT, and I understand that there are community concerns about how that problem is dealt with. But we also need to recognise the ongoing presence of street art and public murals within the ACT. Because of their style, a wide array of this work across the territory could be identified as graffiti but they are actually legitimate pieces of public art. There is no doubt that graffiti can be destructive and offensive but to many it is a legitimate form of art. We have had many debates in this Assembly about graffiti; I think the last one was about the sale of spray cans to minors.

The intention of this bill is to reduce graffiti, but the overseas evidence is that banning spray cans has seen an increase in more destructive and expensive forms of graffiti. So I think we need to look at how we are approaching this whole issue. We need to work with the young people who may be looking at ways—ways that might be seen by some people as destructive—to express themselves.

To allay the concerns that I have in relation to graffiti, I have an amendment that seeks to omit the word "immediately" from proposed new section 14A (4). I would like to see at least 24 hours notice given, so that there is at least some attempt to have discussion with the owners of a property to ensure that the work is not legitimate street art. I fear that this bill has unintended consequences that go beyond what the government has intended. It is not hard to envisage that it could be a misuse of power to remove street art rather than graffiti, which is the core problem that we are trying to tackle.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (12.04), in reply: Graffiti does cause considerable disquiet in this community because there is simply far too much of it—there should not be any of it. I think Ms Dundas has more clearly established the difference between the strands than Ms Tucker has. There is perhaps a relationship between street art or aerosol art and tagging, but I think that strand or connection is not strong necessarily. There are two different forms and very often two different strands or groups of people—one very much in the tagging game and one in the street art game.

Ms Tucker has often raised in this place the question of diverting people into aerosol art and, indeed, we have put money into programs to do just that. There are programs up and running about that. I have to say I am not overly impressed with street art but that is a personal view. I do not see it progressing; I do not see artistic development anywhere, and it is all rather repetitious. Maybe if there were growth in that area I would be more impressed.

The Urban Services people list sites in this city where you can put your street art and you do not see any short supply of that. So let us separate street art very carefully from

tagging—perhaps we should not use the word "graffiti" at all—and recognise that tagging is quite undesirable.

Mr Cornwell said that we are not accepting responsibility for removing tagging from commercial or private premises. We may do so but we would be very cautious because we do not want to accept the responsibility. We could not remove the tag that appeared on the National Bank just across the road from the Assembly. I would not want the bank to say, "It is your responsibility to remove that tag and to see that the paint is exactly the same colour and, if necessary, paint the whole wall or the whole darned bank." We would not accept that. I do not mind saying that we anticipate that we will move a tag on someone's back fence that they have objected to. So we have to be careful, we have to be judicious.

Mr Cornwell mentioned the blight along Hindmarsh Drive. Some of that is what might be loosely defined as street art, yet it is an eyesore. I would see this legislation as empowering our people—and we spend $1 million a year—to remove that. Of course, it could emerge again but you keep removing it. The tagging game is about painting a recognisable sign. However, we have been told that constant removal is the most significant way of getting rid of tagging.

Ms Dundas wants 24 hours notice to be given for the removal of street art. The government will not accept her amendment but I can give Ms Dundas an assurance that she may like to accept. All officers in bureaucracies work under the direction of that bureaucracy. A more sensible approach that does not negate the whole idea of this legislation is that tagging removers will be given the direction that if there appears to be a significant street artwork that might have been produced at the request of the owner, that will be removed only after notice has been given. We will undertake to do that.

But bear in mind that the main attack here is on tagging, not on street art. There may be circumstances where street art needs to be removed. If it is on a private property, Ms Dundas, we will give you an assurance that notice will be given and people will be asked, "Do you want to keep it or do you want us to take it off?" Bear in mind again that this is a bit of added flexibility. This is not a total program to remove tagging from every private premises in the city. It cannot be that. I think that is the best way to approach the amendment, Ms Dundas.

I thank Mrs Cross for her written words on this subject. The whole program this morning, strangely for this Assembly, has been moving faster than expected, not slower than expected. So I thank her for her support. Mrs Cross wants to see the graffiti removed faster, thereby making Canberra a cleaner and more beautiful place. I think those are the points that you wanted me to highlight.

Mrs Cross: Great, Bill.

MR WOOD: All right. I thank members for their support and I express reservations about Ms Dundas's amendment.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MS DUNDAS (12.12): I move amendment No 1 circulated in my name *[see schedule 1 at page 3380]*.

I think the major issue that we are debating is the difference between graffiti, street art and tagging, and that has become quite apparent in this debate. Looking through the current roads and public places legislation and the amendment bill before us today there is no definition that covers graffiti, there is no definition that talks about the difference between street art and tagging, and I think that is something that we need to explore further.

When we have had these debates in the Assembly there has been discussion about the viability of street art and the difference between it and tagging, and there has been some discussion about working with the ministerial youth council on how we can work through these issues. So considering that there is no definition of graffiti, no definition of street art and no definition of tagging in the law, I think it is important that the government does not have the power to immediately remove something—graffiti that could be street art, or it could be tagging—without at least asking the owners of the property whether they believe it is street art and if they want it to remain.

The minister said that he will be focusing on giving directions to tag removal contractors to maybe have further discussion with owners of property about whether something is street art. I welcome those moves from the minister and I hope that they are followed through. But I think it is important that we start to have the discussion about what we are targeting here, what we are recognising as legitimate street art and what we are not. This legislation does not provide any scope for that broader discussion. I think the wording that it will immediately be removed without discussion limits the ability for street art to take its legitimate place in our community.

I have moved my amendment so that there can be at least some discussion before street art is removed and so that there is at least some protection in ensuring that street art has a legitimate part to play in the community. Maybe we need to go further and look at the difference between tagging and street art so that tagging, as the major problem that we are seeing, can be removed efficiently and immediately.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (12.14): The government will not agree to the amendment. I think it is a mistake to expect that you can just absolutely do everything in legislation. I know people like to tie things down, make it firm, make it secure, but it is a mistake to think you can do everything in legislation. Ms Dundas, I would say to you that this amendment does not achieve anything other than saying no to the bill that is before us. If you want to say no to the bill, say no.

The problem we face is you could walk up to a property, see the owner pretty well straight away and be told that it was not needed. But it does not work out like that. This

is a time-consuming exercise. The owner may not live in the property. It is just too difficult to try and tie it down by these means and the government cannot support the amendment.

MRS CROSS (12.15): The Helen Cross Independents will not be supporting this amendment, which we have just received. I concur with Mr Wood: I think you either have the bill and do what needs to be done or you do not have it. You cannot have middle ground in this issue, which has caused the community much anxiety and concern. Frankly, I would have liked to have seen this bill two years ago. But at least the minister has done the right thing and the bill will be passed today. So, I cannot support this amendment.

MR CORNWELL (12.16): The opposition will not be supporting the amendment either, Mr Speaker. I am a bit puzzled in that when the government introduced this amending legislation they pointed out the difficulties of contacting people who were the owners or perhaps the renters of a property. How is this amendment going to assist the problem? If you cannot contact them immediately, how are you necessarily going to contact them within 24 hours? I am flummoxed by this. I do know, however, that in so many cases we are fast approaching a situation where this city is becoming the cotton wool capital of Australia, where everything seems to be controlled, everything seems to be checked and rechecked, and community consultation is taken to an absurd degree.

I think we need to recognise when we are dealing with these issues that street art is not something that some local Leonardo da Vinci decides to put on a wall. It is quite often done by agreement with the owner of the wall. The fact is that you do not go out and put things on walls without asking permission and, indeed, this has happened on a number of occasions. There is one at Hackett—a large dragon—and I do not think anybody would imagine that this is graffiti. It looks very nice.

My colleague Mrs Burke tells me that Pappas, J in Civic were approached to put something on their wall and they agreed. Okay, I do not have a problem with street art but I do not accept that we can justify amending proposed section 14A (4) to delay by 24 hours the removal of unauthorised graffiti from fences and walls. It just seems to me to be an absurdity. People must accept that if they are going to indulge in this sort of activity they might like to consult the owners of the buildings, the wall, the fence, whatever, first, and then perhaps we might get some commonsense into this. But at the moment it seems to me that this amendment would only be yet another sop to the graffiti vandals in this city.

MS TUCKER (12.19): The Greens will support this amendment. I do not quite understand Mr Cornwell's argument. How is urban services to know whether consent has been given if they can immediately remove what is on the wall of a private building? So basically we have a situation where urban services can remove what is on a wall without having any idea, it appears to me, about whether it was authorised and whether the owner was happy for it to be there. All Ms Dundas's amendment is doing is allowing at least 24 hours in which an attempt can be made to contact a person.

I raised in my initial response the difference between graffiti art, or street art, as people are calling it now, and tagging. I heard the minister say that they do not particularly want to target street art. But the obvious point that I raised in my initial response was that this

difference is not clear from the way this bill is written. We hear from the government that they do not treat tagging in the same way as street art, and hopefully those statements will be noted by the people who have to implement this law. But this lack of detail is definitely a shortcoming in this piece of legislation.

Mr Wood says that he does not agree with the diverting proposal that I always put, that people who are taggers can move to being street artists. I have given Mr Wood and his officers evidence that the most successful graffiti campaign to reduce the amount of graffiti—

Mr Wood: We are doing the same thing here.

MS TUCKER: Not to the extent that they do in Warringah. In no way is it supported in the way it is in Warringah. I would ask the minister to have another look—

Mr Wood: Have you been there to see how all the tagging is still around?

MS TUCKER: They got a local government award for their project. The evaluation is really interesting. The tagging decreased, the clean-up costs decreased, the community environment improved, the relationship between young people and police improved and the relationship between young people and the community generally improved as they became involved in civil action, if you like, on the committee that was managing the graffiti issue.

There was a clean-up in Warringah and I am not suggesting there was not. But I think it is important to respond to the minister's comments that he does not really think that my support for the possible diversion of taggers into graffiti artists is being supported by evidence, because it absolutely is.

Mr Wood: We paid attention to you.

MS TUCKER: Mr Wood said he paid attention. I do not think we have seen the effort that we need to see. We need to see really much better art projects where the materials are provided in the youth centres.

Mr Wood: We've done that. We did that, yes.

MS TUCKER: Okay. Mr Wood said he has done that. I am interested to hear that.

Mr Wood: We had an open day. I must get you a briefing on it.

MR SPEAKER: Order! This is a debate, not a conversation.

MS TUCKER: The question I have then is over what period of time do you think this will make a difference? The evaluation that occurred in Warringah was not after a month or two. I am really interested in seeing how we can improve how we are supporting young people. It is really easy to make it a black and white argument, as I have heard some people do.

Mr Cornwell: That's part of the problem—black on white.

MS TUCKER: Black and white, Mr Cornwell says. No, there are lots of colours and, quite honestly, I think sometimes this city could do with a bit more colour. Some people in the community when being interviewed on radio stations have a disturbing tendency to say certain things. In fact, Mr Cornwell used offensive language again today about "their filthy habits" or something like that.

We are talking about young members of our community. If you talk to youth workers you will understand that each one of those young people who is tagging has a story and each one of those young people who is tagging has the potential to become a contributing member of our community. What we need to do is work out how to do that. It is really stupid to use language like "pathetic imbeciles" or "filthy habits", as I heard Mr Cornwell say here, if you are interested in developing our community. This is not acknowledging that we have a responsibility to look at how we work with young people. I will not repeat the offensive words that I have heard on the radio.

We have an opportunity to work in a more compassionate and constructive way. It is true that right now we see tagging around Canberra, and we will always see tagging around Canberra. But I think we need to realise as a society that we can do something much more positive than some people in this place would suggest.

MS DUNDAS (12.25): Mr Speaker, it appears that some people are confused about what I am trying to achieve in this amendment, so I might just clarify the matter. We are seeking to find a balance between no discussion and at least attempts at real discussion. Mr Cornwell talked about people consulting before art is put up on their walls, and I am talking about people consulting before that art is removed.

There is no way the Department of Urban Services would know whether every piece of street art was legitimately put up after consultation with the building occupiers. If, immediately before removing that street art, they do not find anybody to talk to, then without consultation they can take it away, even though there might have been a long consultation process that led to that art being put up. That is the concern that I have.

Twenty-four hours is not a long time. It does not put a lot of demand on the department or the contractors to try to find somebody to talk to, but it at least provides some time. I am working to achieve some balance between immediately stripping something away and at least giving somebody the opportunity to say, "No, I believe that this is legitimate street art and I want it to remain."

If we continually get people who are putting street art offside, then I think our graffiti problem will continue to rise. We need to work more constructively for better outcomes, as opposed to just tagging the taggers as bad people.

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Sitting suspended from 12.27 to 2.30 pm.

Visitors

MR SPEAKER: Order! Before we move to the first question, I welcome year 5 and 6 students from Sts Peter and Paul Primary School, Garran, who are sitting in the gallery.

Questions without notice

Canberra Hospital—emergency policy

MR SMYTH: My question is directed to the Acting Minister for Health. Last month the Canberra Hospital was full to capacity with every bed occupied. In fact, nurses at the hospital wanted to change to what they call "internal disaster mode" because the hospital could not safely take more patients, but hospital management refused this request. I understand that staff wanted a hospital policy set down to cover these situations. Obviously, they anticipate that this government's policies will continue to increase pressure on the hospital.

Indeed, Ms Goodwin, an industrial officer for the Australian Nurses Federation at the Canberra Hospital, is anticipating a vicious circle when elective surgery resumes: beds in the hospital become full and the emergency department becomes blocked. Why was the hospital not put into internal disaster mode, as requested by the staff?

MR WOOD: The administrators did not so decide. The government and I take great interest in the wellbeing of the hospital and pay very careful attention to it. In the three years of this government, we have continually put more and more money into it, as we did in the last budget. The budget figures show the very greatly increased expenditures at the hospital, for a whole range of reasons.

Let me give an account of a meeting I had just last week. I was out of town at a meeting of health ministers. It was very interesting and very instructive, part of the reason being that over the last couple of meetings they have invited clinicians from around Australia—one from each state or territory—to come to address health ministers. This is a good process. I was interested to hear their words. One or two of them spoke of a crisis in hospitals and in health care. At the end of that session, which took an hour or so, one of the ministers got up and said, "Let's stop this talk about crisis in health care and in hospitals. It's a word too easily used." Of course, it is frequently used over there.

Mr Smyth: Mr Speaker, I rise on a point of order. It is nice to hear stories about a health minister's conference, but the question was about the policy that the Nurses Federation was requesting be put in place in the Canberra Hospital. Perhaps the minister could come to his answer.

MR SPEAKER: Minister, come to the point of the question.

MR WOOD: I will give Mr Smyth the punchline. The minister who made those comments claiming that hospitals and health care in Australia were the best in the world was Mr Tony Abbott. I might not always agree with Mr Abbott, but I certainly did on this occasion.

Our hospital system here compares more than favourably with hospital systems anywhere. Indeed, just recently it was awarded, through the Australian government, credit for having the best emergency department in the nation. So when Mr Smyth cries "crisis", I point him to the words of Mr Tony Abbott.

Mr Smyth: Mr Speaker, I rise on a point of order. The question was about internal disaster; it was not about Tony Abbott or awards. It was about a request from the Nurses Federation for something to be done. Perhaps the minister could address the question.

MR WOOD: I have answered the question. If you have a supplementary, go with it.

MR SMYTH: Mr Speaker, I have a supplementary question. Minister, when will you produce a hospital policy document to cover the hospital approaching and entering what the staff is calling "internal disaster mode"? And, given that the vicious circle has been predicted to continue under this government, will that document be produced soon?

MR WOOD: In fact, I gave Mr Smyth the answer in the first sentence of my reply, when I said the administrators did not call such a mode. I will say that again. The fact is that a disaster mode—as you would expect—relates not to pressures on the hospital. Let me concede that there are immense pressures on the hospital. It is always busy; sometimes it is very busy; and occasionally it is up to capacity. So it is always busy. But a disaster mode relates to some dreadful event, over and beyond anything else.

Mr Smyth: So you're not going to listen to the staff. Ignore the staff.

MR WOOD: No, we pay attention to the staff: we have just increased their salaries by a very large amount. Did you see the amount by which we increased those salaries? We had to do that.

Mr Smyth: But you're not listening to them or their needs. You're not listening to them.

MR WOOD: This is an interjection, Mr Speaker.

MR SPEAKER: Well, do not respond to interjections. Mr Smyth, do not make them.

MR WOOD: We had to do that. This opposition, when in government, decreased those salaries. So we brought them up to standard. As to one point in the supplementary question: the hospital has all its processes in place, I have no doubt. As acting minister, I have not seen all those. But I am sure that there are set procedures in place for calling a disaster mode. I will see what I can provide for the member about that.

Corrective Services—injecting equipment

MS TUCKER: My question is to the Acting Minister for Health, and relates to injecting room equipment exchange in the ACT corrections system. The health committee recommended two things in relation to this. We recommended that the government, in line with its harm minimisation approach, adopt a policy of injecting equipment exchange in the ACT corrections system and that the government as a matter of urgency initiate round table discussions with all current corrections officers and relevant health

experts to define the safest way to implement an injecting equipment exchange program in the ACT corrections setting, including the Belconnen remand centre, periodic detention centres and the Quamby youth detention centre. In its response, the government said that although the adult correctional facility environment has been identified as at high risk of blood-borne viral infection due to the high rates of injecting, tattooing, unsafe sexual practices and the high prevalence of hepatitis C in correctional facilities, the extent of these problems in some or all ACT facilities is unclear; and that the government would examine the costs, benefits and feasibility of this recommendation.

At the forum run by ACT Corrections on developing a human rights framework for corrective services on Friday 2 July, James Ryan said that a proposal for a pilot trial for exchanging syringes and injecting equipment in prison was put at the Australasian Police Ministers Council in Hobart and was rejected unanimously. My question is, who represented the ACT at this meeting and was this response informed by the committee report?

MR WOOD: I take it Ms Tucker is asking me as Minister for Police and Emergency Services, not so much as Acting Minister for Health. I was at that meeting in Hobart. Yes, I take note of Assembly committee reports. I do not necessarily agree with everything in them, but I am aware of them and the import of them.

Mrs Dunne: Do you read them?

MR WOOD: Yes indeed, as assiduously as you do, Mrs Dunne. In Hobart we got the other perspective on this. It was a perspective that was emerging here, although as corrections minister I was not closely involved with it. Understandably, those working in corrections institutions are very nervous about the availability of needles in those institutions. They are used often in the community—too often—as weapons. So, there are great concerns about them. I know some of the background of the debate about syringes with retractable points on them, and one would not be surprised that at the meeting of police ministers that concern was part of the thinking. It is a difficult area to work through, Ms Tucker.

MS TUCKER: I ask a supplementary question. Has the government initiated round table discussions with all current corrections officers and relevant health experts to deal with this issue?

MR WOOD: On behalf of the Chief Minister, we will take that on notice. It is not something that has emerged in my time as acting health minister, and I think it is more to do with corrections.

Bushfires

MR PRATT: My question is directed to the Chief Minister. Where were you on the evening of Friday 17 January 2003, and what were you doing? Can you confirm that you failed to ask any questions about the approaching bushfires on the evening of 17 January?

MR STANHOPE: On the evening of Friday 17 January I was in Canberra.

MR PRATT: I ask a supplementary question. Why did you fail to come clean about your actions on the evening of 17 January 2003 and the morning of 18 January 2003? Was your failure to warn the community in time a direct result of your lack of concern? Is your shyness about this issue the reason why your chief of staff, Mr Friedewald, told my senior staffer today, when she rang your office out of courtesy, to "Go and get … "? The expletive has been deleted.

MR STANHOPE: No.

Real estate agents—licence fees

MRS CROSS: My question to the Chief Minister relates to the renewal of real estate agent licences. Chief Minister, on 28 July a constituent of mine received a letter from the ACT Office of Fair Trading advising that the constituent's real estate agent licence was now due for renewal and that the determined fee for renewal of the licence was $500, which, apart from being a dramatic increase in the $156 fee paid in 2003, was not the subject of any consultation or prior warning on the part of the ACT Office of Fair Trading. Chief Minister, why is it that a rise in agent licence fees of this order is decided and advised to agents by the ACT Office of Fair Trading without prior consultation or warning?

MR STANHOPE: I thank Mrs Cross for the question. At the end of each financial year the ACT government and, indeed, every ACT government agency review the full range of licence, application and other fees. It is something that happens every year and it has happened every year since 1989 when self-government was vested in the people of the ACT. It is a normal incident of business. On 1 July this year, hundreds of fees and charges and licence fees changed, as they did on 1 July last year, as they did on 1 July the year before—as they have done on 1 July for the last 15 years. Every year fees and charges across the board are reviewed and changed—every single one of them.

It is the case, Mrs Cross, that on 1 July this year I would hazard a guess that across the ACT somewhere between perhaps 500 and 1000 licence fees and charges changed. I guess it would be a matter of no surprise for me to suggest—and I would have to verify this—that not only did they change but also in fact every single one of them increased.

MRS CROSS: I thank the Chief Minister for his answer and I ask a supplementary question. Will this increase in fees of in excess of more than 300 per cent be standard practice annually without warning to or consultation with these businesses in the ACT?

MR STANHOPE: Mr Speaker, I will have to take some advice and look at the particular fee that Mrs Cross referred to. I cannot remember the detail of it. I know that I did approve an increase or a change in fees and charges across the board. In fact, during June, I approved an increase in probably 200 charges but I cannot remember the specific detail of each and every one of them. I am more than happy to have a look at that.

In relation to the real estate industry and the licensing of real estate agents, it needs to be acknowledged, Mrs Cross, that we have instituted a major new scheme in relation to the licensing of such agents, a scheme that was long negotiated with the industry and which has the full support of the industry. That came into effect on 1 July. There were some

issues in relation to the changeover from the old scheme to the new. Those have now been ironed out and, of course, that is relevant to the letter that your constituent received in relation to this. But as to the specific detail of the fee or the charge that you raised, I will have to take some advice on that.

I cannot mention specifically any of the range of charges that changed on 1 July but it is certainly the case that fees and charges across the board have changed.

Emission standards

MR STEFANIAK: My question is to the Minister for Environment. Can the minister please advise whether the underground car park at Woden Plaza currently meets Australian emission standards? If not, what emission standards are exceeded in the car park? What are you doing to ensure that it complies with these standards?

MR STANHOPE: No, I cannot say, but I am more than happy to have the issue investigated and provide full details to the Assembly in relation to the issue the member raises.

MR STEFANIAK: I ask a supplementary question. Whilst you are doing that, Chief Minister, could you also take on board what other underground car parks in the ACT exceed Australian emission standards?

MR STANHOPE: I am happy to take that on notice.

Procurement guidelines

MRS BURKE: Mr Speaker, my question is to the Minister for Children, Youth and Family Support. Hopefully, the minister is aware that the ACT government's procurement guidelines 2003 requires ACT government agencies to seek three quotes for the procurement of works over $5,000 and put out to public tender all works over $20,000. Minister, these arrangements are, I believe, in place to ensure that the ACT taxpayer receives best value for the money paid.

However, your department does not follow these guidelines. Totalcare is a select contractor to perform repairs and maintenance. Work is automatically allocated to them without these procedures being put in place. In other words, it is an inside job.

Minister, why is your department failing to follow the ACT government's procurement guidelines for selecting contractors to perform repairs and maintenance?

MS GALLAGHER: I know that Totalcare has had a long history with the education department, which relies on Totalcare to provide maintenance and support for its buildings. But Totalcare is inside the public service now; they are with the Department of Urban Services. Since they have returned to government, they have been the preferred provider of those works in schools. But I don't think anything has changed from what happened beforehand.

Mr Wood: They're employees; they're our work force.

MS GALLAGHER: Exactly, they're our work force.

MRS BURKE: Minister, why is it that your department quite clearly considers that it doesn't have to follow the law or the rules set down for everyone else? Is this yet another example of a failure of leadership by you as a minister?

MS GALLAGHER: No.

Mrs Burke: You don't have to follow the law?

MS GALLAGHER: No, I answered your question, which was: was it a failure of leadership?

Women—multicultural

MS DUNDAS: Mr Speaker, through you, my question is to the Minister for Community Affairs. Minister, as you would be aware, the Multicultural Women's Advocacy Service lost their federal government funding at the end of the financial year. In response to concerns about this, I understand that the head of the ACT Office of Multicultural Affairs indicated on radio that funding for the Multicultural Women's Advocacy Service was being considered by the ACT government but that there were concerns about overlaps with services that could be delivered by the new ACT multicultural centre.

Will the new multicultural centre provide a dedicated support service for multicultural women?

MR STANHOPE: Mr Speaker, it is the case that the Liberal Party federally chose to defund the Multicultural Women's Advocacy Service in the ACT and, of course, that is the attitude of the Liberal Party to a multicultural Australia and to multicultural affairs generally. It is no surprise to learn that the Liberal Party federally and, certainly within the ACT, has no regard for the building of an inclusive society or community. The fact that they are now defunding women's multicultural advocacy groups comes as no surprise to this government.

One of the great difficulties with federalism, of course, is that the Liberal Party, having abandoned both women and, particularly, multicultural women, now looks to the states and territories to pick up the tab because they have chosen to abandon the multicultural communities of the ACT and have refused to fund a multicultural women's group. It was not a particularly significant amount of funding and I think it shows the pettiness and meanness of the federal government that the—

Mr Stefaniak: On a point of order, Mr Speaker: standing order 118 states:

> The answer to a question without notice:
>
> (a) shall be concise and confined to the subject matter of the question …

MR SPEAKER: The Chief Minister is remaining on the subject matter of the question, which related to the advocacy service and the funding of it.

MS DUNDAS: Mr Speaker, to clarify, the question was: will the new multicultural centre provide a dedicated support service for women?

MR STANHOPE: Thank you, Mr Speaker. As I was saying, it is true, as the member indicated in her question, that the Liberal Party has chosen to defund a women's advocacy group within the ACT. It is relevant that we look and focus on the pettiness of that decision and the fact—

Mr Smyth: The hackles are up!

MR STANHOPE: No, the hackles are not up; it is simply a statement of fact that the Liberal Party defunded it, I think to the tune of $7,000—that is what we are talking about here.

Mr Smyth: On a point of order, Mr Speaker: the member has already raised a matter, but that is not the question she asked. She asked whether or not it would be in the new multicultural centre. The Chief Minister avoids answering it; he does not want to answer.

MR SPEAKER: Come to the point of the question.

MR STANHOPE: Thank you, Mr Speaker, I will. As I say—

Mr Quinlan: It is necessary background.

MR STANHOPE: That's right; it is quite relevant. We need to understand what we are dealing with here. We are dealing here with a decision of the Liberal Party to defund a multicultural women's group. We are now dealing with the result of—

MR SPEAKER: Can we come to the point of the question?

MR STANHOPE: We are now dealing with the question, which is: will the ACT Labor government pick up a removal of funding by the Commonwealth of multicultural women? Of course, we will do everything within our power, in the context of the next budget, to ensure that women within multicultural groups in the ACT are not abandoned, as they have been by the Liberal Party.

Mr Smyth: On a point of order: you directed him to come to the answer to the question, not go on with these tirades. He has abused you; he refuses to acknowledge the authority of the chair.

MR SPEAKER: He did come to the question.

MS DUNDAS: Thank you, for the appropriate action, Mr Speaker. Minister, will the new multicultural centre provide a dedicated support service for women? Considering that you just indicated that you will do everything you can in the next budget to support the Multicultural Women's Advocacy Service, will you be doing any work to ensure that there is no break in advocacy services for multicultural women between now and the undetermined time in the future when they may or may not receive ACT government support?

MR STANHOPE: Mr Speaker, let it be said that my government—this Labor government—will not abandon multiculturalism, multicultural organisations or women in the way that the Liberal Party has. We will do everything we can to ensure that women within multicultural organisations and groups and women from a non-English speaking background receive the support that they need and deserve. It is actually a record that I am proud of; my government is proud of our support for a multicultural community.

The multicultural centre, of course, Mr Speaker, has been funded through the last budget—I think it is to the tune of $2.6 million of support—to ensure that we can develop a dedicated multicultural centre within the ACT. That is an exciting project; it is a project that the multicultural communities of Canberra have been looking to see supported by a government for some time. My government has responded to that need. The work is currently being undertaken.

To go to that aspect of Ms Dundas's question: Ms Dundas would probably be aware that even now the Ministerial Advisory Council on Multicultural Affairs is, on behalf of the ACT government, engaging in community consultation on the form, fit-out and operational nature and aspects of the multicultural centre. I do not propose to pre-empt the outcomes of that community consultative process; it is being led by Dr Hua Wang, deputy chair of the ministerial council. The consultations have commenced. The first meeting—

MR SPEAKER: Chief Minister, would you resume your seat, please. It is becoming very difficult to hear the response to the question above the chatter and interjections from the opposition. If it continues, I will have to issue some warnings.

MR STANHOPE: Thank you, Mr Speaker.

Mr Pratt: Rather than look in the opposite direction, you might—

MR SPEAKER: That goes for you, Mr Pratt.

MR STANHOPE: I will conclude on the basis that issues around the operation and nature of the multicultural centre are currently the subject of detailed community consultation. The consultations are being led by Dr Hua Wang, Deputy Chair of the Ministerial Advisory Council on Multicultural Affairs, on behalf of the ACT government. The first consultative session was held last week—I believe, last Wednesday—at the Migrant Resource Centre. It was attended by representatives of 45 separate multicultural organisations from within the community. Those consultations, directly by the ministerial council on behalf of the ACT government with representatives of the broad number of multicultural groups in the ACT, will, of course, inform the final nature of the operations of the multicultural centre.

In terms of bricks and mortar, the multicultural centre was funded to the tune of $2½ million in the last budget. We are establishing the centre; we are negotiating directly with the community about what they wish to see the role and function of the centre to be. I am not going to pre-empt those outcomes; I am going to allow that consultation to proceed, as one should.

Schools—canteens

MR CORNWELL: My question is to the minister for education, youth and family services. During 2002-03 Totalcare, which I think in answer to an earlier question you referred to as a preferred provider, upgraded four canteens in ACT government primary schools. After the work was completed by the preferred provider, 80 defects were recorded, mostly regarding poor quality and manufacture of fittings, and potential OH&S breaches. This compares with one breach recorded by the previous contractor. Why were there so many defects recorded on the upgrade of these canteens? Why were these breaches not detected earlier during the site inspections?

MS GALLAGHER: That question is very technical. I do not have the detail on those four canteens but I am happy to undertake to get back to you with an answer to your question in full.

MR CORNWELL: I ask a supplementary question. The minister might also like to tell me, when she returns with the answer, how much it cost to fix the defects in the canteens and who paid that cost.

MS GALLAGHER: Yes. I am happy to provide that.

Procurement guidelines

MRS DUNNE: My question is directed to the Minister for Education and Training. I understand that an informal arrangement, without any contract, has existed for some time between the minister's department and ACT Procurement Solutions to conduct maintenance on educational facilities. Eventually, in 2003 a memorandum of understanding was prepared to formalise that arrangement. Was a memorandum of understanding or a contract eventually developed between Procurement Solutions and her department? If so, when was that document signed? Why has the minister allowed agencies supposedly under her control to break the ACT government's procurement guidelines?

MS GALLAGHER: Obviously opposition members know something and they believe that it will lead them somewhere.

Mrs Dunne: We know only what you know.

MS GALLAGHER: Before I answer the member's question I would like to obtain a full briefing from my department. I will then return with answers to the questions that were asked by Mr Cornwell and Mrs Dunne, which are obviously linked.

MRS DUNNE: I ask a supplementary question. As the minister said she intends to obtain a full briefing, how much money has her department paid to ACT Procurement Solutions without a contract or a memorandum of understanding having been put in place? Why has her department failed to keep under control those procurement issues?

MS GALLAGHER: As I said earlier, I will obtain a briefing and get back to the member with an answer to her question.

Economy—outlook

MR HARGREAVES: My question is to the Chief Minister. Is the Chief Minister aware of comments on WIN television last night by the former Liberal candidate for Molonglo and well-known small business operator, Mr Manuel Xyrakis, that the ACT economy was so strong that he intended to open another store? Does Mr Xyrakis have a sound basis for his optimism? Has the Chief Minister heard similar expressions of confidence from other ACT business people or organisations?

MR STANHOPE: Yes, in fact I did see Mr Xyrakis, Liberal Party member and candidate, on WIN television last night extolling the strength and vibrancy of the ACT economy. I did hear Mr Xyrakis, Liberal Party member and candidate, indicating that the Canberra economy was so strong and doing so well that he has been moved to open an additional business. He indicated that this was the view of many. I think it needs to be said—

Mrs Burke: Don't you take any credit for that!

MR SPEAKER: Order! Mrs Burke, I warn you.

MR STANHOPE: Mr Xyrakis, of course, is not alone in his very optimistic outlook about the ACT, the strength of the ACT economy and how well this government has done in managing the economy over the last three years. You just have to look at the latest Hudson report, for example, which is compiled from a quarterly survey that focuses on the hiring expectations of businesses over the coming three months. The survey is based on responses from more than 7,000 employers and is regarded as perhaps the best barometer of business confidence throughout Australia. The ACT results are based on responses from 400 employers within Canberra. The survey results for July 2004 to September 2004 show a 12.2 per cent improvement in business optimism in the ACT. The results included the following:

- Compared with other jurisdictions surveyed, the ACT remains one of the most optimistic with regard to job opportunities in the coming quarter.
- Of the ACT employers surveyed, 47.6 per cent are expecting to increase staff, compared with only 4.4 per cent who anticipate a reduction from current staffing levels.
- The net result for the ACT of 43.2 per cent is the highest anywhere in Australia.
- The net result for the ACT is 14.8 per cent higher than national expectations. We lead the nation not just in relation to business confidence but also in the expectations of businesses to increase employment over the next period.
- Of the ACT industries surveyed, Professional Services recorded the most optimistic outlook at 51 per cent and the government sector was also very optimistic.

That is a fair indication of the views reflected by well-known member of the Liberal Party and Liberal Party candidate Manuel Xyrakis about the ACT economy. Manuel Xyrakis did not need to read the Hudson report and its surveys of optimism and confidence in the ACT community. He works here, he is committed to the town and he is

prepared to stand up and say, "Yes, Canberra is doing extremely well; the strongest economy in Australia. This economy, under this government, is so strong and so well-managed that I am prepared to continue to invest in this community because of the management of Ted Quinlan and the management of this government."

It is a fantastic economy, enormously strong. As I say, Manuel Xyrakis, well-known member of the Liberal Party and Liberal Party candidate, did not need to read the Hudson report to know how well this town is doing under this government. He is out there saying it; he is talking the town up; he is prepared to work with the government. He is talking the town up; he is not talking it down like his colleagues in the Liberal Party; he is out there talking the economy up and talking Canberra up. He knows how strong the economy is, and he is prepared to acknowledge what a great job this government has done in managing it.

There is a whole range of indicators other than those expressions of opinion by well-known member of the Liberal Party and Liberal Party candidate Manuel Xyrakis about the strength of the economy. We do not need just that opinion or the opinion of the Hudson report. Look at the range of other indicators about what a wonderful job has been done over the last three years.

- Unemployment—3.3 per cent in June—is the lowest by far in Australia.
- Job ads rose 8.4 per cent in June—8 per cent higher than the national average.
- The latest retail trading figures, for June, show a 3.6 per cent increase.
- CPI is running at 2.9 per cent.
- Property was still running strongly in the budget. In his budget speech the Treasurer indicated that whilst there will be a downturn in housing we were hoping that the landing would be soft. The latest figures in relation to property in the ACT indicate, at this stage, that the landing will be soft.
- Building approvals for June numbered 288—up 5.5 per cent from May—the fifth consecutive month to record a rise, and the second-best result in Australia. That is an absolutely fantastic result for the people of the ACT.

We know that the strength of Canberra is our small business sector. There are 20,000 small businesses that, under this government, are growing in strength and importance. I have to say that it is small business operators like Manuel Xyrakis, who are prepared to get out there, prepared to talk the town up, prepared to invest in the town and prepared to continue to show their confidence in the town and to work with this government, who are the future of Canberra. Well done, Mr Xyrakis.

Economy—outlook

MS MacDONALD: My question is directed to the Minister for Economic Development, Business and Tourism. Recently, as part of its July edition, the *Business Review Weekly* published its review entitled "State of the States". Will the minister inform the Assembly what the BRW found and how the ACT compares to other states and territories?

MR QUINLAN: I have more good news. Following the glowing endorsement in May of this government's budget by the *Australian Financial Review*, we now have the balanced

review of the *Business Review Weekly* entitled "State of the States". Not everything in that review is complementary. The *Business Review Weekly* said that the ACT economy is going strong and that the ACT is shaking off its image as a town devoted to servicing our federal government colleagues. The article vindicates the government's policy direction in relation to the economy and to economic development.

The strengths of the ACT economy that are identified in the article include: a highly skilled white collar work force; business clusters in ICT in the aerospace and defence industries; the fastest ICT employment growth in Australia—at 8.2 per cent—highly regarded educational and research institutions such as the ANU and CSIRO; growing biotechnology and medical service sectors; and a supportive local government, which is us.

Mrs Dunne: You are just carrying on the rosy glow.

MR QUINLAN: I am glad that members referred to the strengths of the ACT economy. Some people would say that the results in the BRW are a flow on from the management of the former government. I hope that those who say that also say that the emergency service and child protection structures that this government inherited are a flow on from the management of the former government. Hypocritically, opposition members want it both ways but they might be trying to make a good point. The article in the *Business Review Weekly* recognises what this government has done.

For the benefit of members, let me catalogue some of the things that this government has done—things that the former government did not do. Since 2002 this government has provided 254 development grants to ACT businesses and 117 grants under the knowledge fund. It established the small business employment ready program. To date 342 businesses have had access to that program, resulting in over 160 new jobs. This government established the high-tech start-up program to assist businesses to development management skills. To date 31 businesses have had access to that program.

This government established the business acceleration program to assist businesses to meet strategic development needs on a dollar for dollar basis. To date that program has supported 101 businesses. This government supported 39 businesses on a dollar for dollar basis through the export growth program to establish export growth markets. This government funded and established NICTA. The former government talked about it but provided nothing for it in its budget or in its forward estimates. This government established that body.

This government provided $1.3 million over four years to establish the Canberra partnership, which focuses on building private-public partnerships to leverage the region's economy and its social, economic and educational strengths. This government signed formal memoranda under the Greater Washington initiative to give businesses additional avenues for export. It has held interviews with the London Development Agency and with the University of California in San Diego in relation to the southern Californian initiative. This government has not just talked about it or claimed credit for things that have happened in the economy; it is out in the community leveraging the economy and doing something for the community.

MS MacDONALD: I ask a supplementary question. Are there any other initiatives that are not covered by the BRW report?

MR QUINLAN: It is not enough for this government to take into account what has happened and to say, "Those are our initiatives." This government has announced the Canberra-California Bridge program in which 12 or more Canberra businesses, through distance learning, will be put through a developmental process similar to the process through which embryonic businesses in San Diego or Los Angeles are put.

Mrs Dunne: Point of order. Is this an announcement of a new initiative? If it is, it is out of order.

MR SPEAKER: The question that I heard related to initiatives that were not mentioned in the *Business Review Weekly* report.

Mrs Dunne: Is this issue an announcement of a new initiative?

MR SPEAKER: If it is, it is up to the minister. A member cannot ask a minister to announce policy.

MR QUINLAN: I have announced this initiative before. This government will be putting 12 or more agencies or companies through a process similar to the process through which they would go if they were embryonic companies in San Diego or Los Angeles. They will go through a very rigorous process through distance learning in association with the LDA and UCSD CONNECT. Three or four companies that will be selected will go to the United States of America and go through that full program.

I hope that those companies will be scrubbed and polished and presented to the world of partners, businesses and venture capital financing. This government is doing positive things that were not done by any former government. As I said earlier, this is an amazing juxtaposition. On one hand opposition members are claiming that the benefits that have been implemented by this government are something that they did previously. On the other hand they are saying, ironically, that any problems that are being addressed by this government emerged only recently and they knew nothing about them.

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

Supplementary answer to question without notice
Canberra Hospital—emergency policy

MR WOOD: Just to elaborate on the answer to a question that Mr Smyth asked me: as you would expect, a disaster mode in the hospital is used for things such as a power failure, a building collapse, a chemical spill or a bomb hoax or a bomb scare. As I have indicated, a plan is in place. If you want to see it, write me a letter.

Answers to questions on notice

Question No 1579

MR PRATT: Mr Speaker, I rise to ask the whereabouts of a couple of answers to questions on notice, please. The first is 1579, asked on 23 June of the police minister, on police corruption.

MR WOOD: Mr Speaker, that is in my office at this time. The police have gone into a great deal of detail in relation to complaints about policing, might I say, lest the question itself, as it does, suggest there is something more sinister going on sometimes.

Question No 1632

MR PRATT: Mr Speaker, I have another question on notice, please, 1632. I asked it on 30 June of the education minister re class sizes.

MS GALLAGHER: I will check out where it is and get it to the member as soon as I can.

Question No 1628

MR CORNWELL: I have one to the acting planning minister, 1628, which was due on 30 July, regarding street lighting in rural settlements.

MR QUINLAN: You will understand, Mr Cornwell, that I have not actually seen that question as yet. I have to say, Mr Speaker, it is the first time I have risen to explain the tardiness of an answer to a question, but I think it is relevant to note that it was question 1628 from a conga line of untidy minds.

Question No 1656

MR STEFANIAK: I have one question, on 1 July 2004 to the Minister for Sport, Racing and Gaming, question 1656, in relation to money spent by the government on the Academy of Sport programs.

MR QUINLAN: I thought that had been answered, but I'll check.

Question Nos 1712 and 1713

MRS BURKE: I have two unanswered questions from the housing minister: 1712 in relation to occupancy of Fraser Court and Northbourne flats; and 1713 in relation to the amount spent on fire protection in appropriation 2002-2003.

MR WOOD: I think that is on its way. I want to give credit to the opposition; they have got only one great achievement and that is more questions than anyone asked ever before. Congratulations.

Question No 1605

MR SMYTH: I have also got an overdue question, No 1605, concerning energy efficiency evaluation from the planning minister. It was due on 23 July and perhaps Mr Quinlan can explain why it has not been answered.

MR QUINLAN: Well, I will just say ditto to that one.

Question No 1410

MR SMYTH: Mr Speaker, I wonder if you have a facility to ask this. I notice that your question 1410, which expired on 29 April, has also not been answered. The government might explain to you and the Assembly why they do not answer your questions.

MR SPEAKER: I will manage that.

MR SMYTH: It is just, Mr Speaker, that much was made of unity at the weekend at the conference. Perhaps part of the unity is that you are not getting your questions answered.

Delays in answers

MRS DUNNE: I would like to raise again, Mr Speaker, standing order 118A. It says that we may ask for an explanation and it also says that basically the minister responsible should provide an explanation. Saying, "I'll chase it up with my department," Mr Speaker, is not an explanation. Members standing here in this place asking for an explanation are being fobbed off with "I'll chase it up." I do not think that this is satisfactory.

MR QUINLAN: In response to that, Mr Speaker: may I clarify my explanations by saying it is my true belief that the number of questions asked in this Assembly is at a ridiculously high level. I do not know whether it is some schoolboy plot—

Mrs Dunne: You're out of order. Mr Speaker should be responding to my point of order.

MR QUINLAN: I was just trying to explain. I am trying to explain the workload that departments have. That is an explanation.

MR SPEAKER: The standing order to which you refer provides you with a solution if you are dissatisfied, Mrs Dunne.

Auditor-General's reports Nos 4 and 5 of 2004

Mr Speaker presented the following papers:

> Auditor-General Act—Auditor-General Reports—
> No 4 2004—Data Reliability for Reporting on the ACT "No Waste by 2010" Strategy, dated 2 August 2004.
> No 5 2004—Leave Management, dated 2 August 2004.

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

> That the Assembly authorises the publication of the Auditor-General's Reports Nos 4 2004 and 5 2004.

Review of the safety of children in care
Papers and statement by minister

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (3.20): Mr Speaker, for the information of members, I present the following papers:

> The Territory as Parent—Review of the Safety of Children in the Care of the ACT and of ACT Child Protection Management—The Territory's Children—Ensuring Safety and Quality Care for Children and Young People—
> Report on the Audit and Case Review, dated July 2004.
> Government response, dated August 2004.

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

Leave granted.

MR STANHOPE: Mr Speaker, I move:

> That the Assembly authorises publication of the Report on the Audit and Case Review.

Question resolved in the affirmative.

MR STANHOPE: I seek leave to make a statement in relation to the report and the government response.

Leave granted.

MR STANHOPE: Mr Speaker, I am pleased to table the audit report *The territory's children—ensuring safety and quality care for children and young people* and the government's response to the report.

When the Commissioner for Public Administration, Ms Cheryl Vardon, presented her report, *The territory as parent: review of the safety of children in care in the ACT and of ACT child protection management* on 17 May 2004, the audit review was not complete. The government requested that the commissioner exercise her powers of review under the Public Sector Management Act 1994 in order to tackle a very difficult task. The terms of reference of the review sought assurances about the safety of children and young people in the care and protection system in the ACT.

The commissioner engaged Ms Gwenn Murray, an independent reviewer of child protection matters, to lead an audit team. Ms Murray's experience in conducting the audit of child protection files for the Queensland government in 2003 has proved invaluable. I might say at the outset, Mr Speaker, how fortunate the ACT was in being

able to attract or engage Ms Murray to undertake this particular audit report. Ms Murray is acknowledged for her experience and the depth of her understanding of these issues, and I extend my gratitude and the gratitude of the ACT government to Ms Murray for the very significant work that she has done in the production of this very important audit.

It needs to be said also, Mr Speaker, that this is the first time, not just in the ACT but the first time perhaps nationally, that child protection information data found by an audit of this sort, a rigorous investigation of individual cases, has been made available as it is now being made available through the tabling of these reports.

The territory's children report provides a detailed review of the files of those children and young people who were the subject of a child protection audit during the period from 10 May 2000 to 31 December 2003; that is, over the concluding 18 months of the previous government and in the period after this government assumed responsibility within the ACT. The audit team identified and reviewed the files of 150 children and young people. These children and young people represent 22 per cent of all children and young people who were, at one time or another, in the care of the chief executive. The report includes case examples that, in many instances, are distressing. They illustrate the quality of care that vulnerable children and young people in our community have experienced during the past four years.

My government is committed to making sure that children and young people in our community are not subjected to this level of abuse or neglect. The audit team worked closely with child protection workers during the audit. Following a review of each case, the Office for Children, Youth and Family Support received a report on each child or young person and, where necessary, a request for action. A case plan was put in place to address those concerns requiring action, and the audit team was kept informed.

The audit report makes 66 recommendations, which focus mainly on practice, policy, procedures and training within a child-focused framework. The areas for reform are consistent with the 47 recommendations in the territory as parent report. We need to better support children and young people who are Aboriginal or Torres Strait Islanders; improve training, recruitment and support for workers and carers in the care and protection sector; develop best-practice policy and professional practices; improve administration and record-keeping; and develop new family support services and placement options.

Both reports emphasise that these matters are not unique to the ACT. Growing workloads, mandatory reporting, changes in service arrangements and staff turnover are impacting upon effective service delivery here and across the nation and internationally. The recommendations set the directions for reform over the coming years; they reinforce the outcomes of the territory as parent report. And the government supports that direction.

The government has agreed or agreed in principle to all but three of the recommendations. The three recommendations that are not agreed to include recommendation 3(10), establishment of a public foster care program; recommendation 7(12), providing additional services to Jervis Bay; and recommendation 8(3), recording information about children and young people self-harming and absconding as a report.

The government is acting to improve services to children and young people, their families and carers. We accept this responsibility and that it will take some time. The 66 recommendations of the audit report will be added to the 47 recommendations in the implementation strategy for the Vardon report that the Minister for Children, Youth, and Family Support will table.

This government recognises that the reform process requires a partnership approach across the care and protection sector; we are working closely with key stakeholders; we will continue to work together to ensure that the reforms in the audit report are implemented. In some instances, of course, the necessary reforms will take some time.

Further analysis is required to develop programs and services for our community. Recruitment campaigns are under way. Attracting qualified people to the ACT, it has to be said is the challenge in a highly competitive market, following major recruitment programs and drives currently being instituted particularly by both New South Wales and Queensland.

My tabling this report today, Mr Speaker, reinforces the commitment of this government to accountability and transparency. The community is being informed about issues concerning the care and protection of children and young people. The support and involvement of the community are crucial in helping the government put in place reforms that would put children and young people in need first.

Once again I thank both the commissioner and Ms Murray and the audit team for bringing forward a confronting report about the vulnerable children and young people in our community. A report of this type clearly shows that our community needs to offer a safer way of caring for individuals most in need.

The need for us to work together as a community to deal with this most distressing and difficult issue confronting our society has to be reinforced. In that regard, I urge all members of this place to work with the government, with the community and with the community sector and community agencies to ensure that we do reform and rebuild the child protection system in the ACT. This is a task confronting us all; it is a task in which we need genuine partnerships; it is a task in relation to which we need genuine cooperation from not just the community sector and not just those whom we employ to seek to protect our children through our agencies. It is, indeed, a task that requires the full support and commitment in a constructive way of every person in this place.

Mrs Burke: Mr Speaker, I respectfully request that the Chief Minister move that the report be noted.

MR SPEAKER: That is really up to the minister.

MR STANHOPE: I am happy to move that the report be noted, Mr Speaker. I move:

> That the Assembly takes note of the report on the audit and case review.

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

Executive contracts
Papers and statement by minister

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

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
>
> Long term contracts:
> Philip Mitchell, dated 8 July 2004.
> Martin Hehir, dated 15 April 2004.
> Kathleen Melsom, dated 7 July 2004.
> Jeremy Lasek, dated 1 July 2004.
> Gordon Lowe, dated 1 July 2004.
> Penny Shakespeare, dated 28 June 2004.
>
> Short term contracts:
> Lincoln Hawkins, dated 14 July 2004.
> Lois Ford, dated 11 June 2004.
> Lois Ford, dated 7 July 2004.
> Maureen Sheehan, dated 17 June 2004.
> Meredith Whitten, dated 30 June 2004.
> Adam Stankevicius, dated 22 June 2004.
> Peter Johns, dated 6 July 2004.
> Diane Kargas, dated 20 April 2004.
> Leanne Power, dated 14 June 2004.
> Helen Strauch, dated 14 July 2004.
> Andrew Taylor, dated 19 April 2004.
>
> Schedule D variations:
> Elizabeth Kelly, dated 20 June 2004.
> Julie McKinnon, dated 27 April and 3 June 2004.
> Julie McKinnon, dated 28 June 2004.
> Anne Thomas, dated 9 July 2004.
> Francis Duggan, dated 19 July 2004.
> Michael Bateman, dated 9 July 2004.
> Peter Johns, dated 27 February 2004.
> Peter Johns, dated 17 April 2004.
> Stephen Ryan, dated 18 July and 20 July 2004.
> Anne McGrath, dated 7 July 2004.
> Anne McGrath, dated 19 July 2004.
> Frances Brown, dated 7 June 2004.
> Ademola Bojuwoye, dated 21 June 2004.

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

Leave granted.

MR STANHOPE: Mr Speaker, I present another set of executive contracts. These documents are tabled in accordance with sections 31A and 79 of the Public Sector

Management Act which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 29 June 2004. Today I present six long-term contracts, 11 short-term contracts and 13 contract variations. The details of the contracts will be circulated to all members.

Criminal Code (Serious Drug Offences) Amendment Bill 2004
Paper and statement by minister

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

> Criminal Code (Serious Drug Offences) Amendment Bill 2004—Revised Explanatory Statement, dated July 2004.

I seek leave to make a brief statement.

Leave granted.

MR STANHOPE: Mr Speaker, this revised explanatory statement is to the Criminal Code (Serious Drug Offences) Amendment Bill 2004. I advised Assembly members by letter on 21 July that some cross-references in the explanatory statement were incorrect. Accordingly, the explanatory statement has been revised.

Paper

Mr Quinlan presented the following paper:

> Totalcare Industries Limited (Fleet Business)—Disposal of Undertakings, dated August 2004.

Electricity (Greenhouse Gas Emissions) Bill 2004
Paper and statement by minister

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

> Electricity (Greenhouse Gas Emissions) Bill 2004—Revised Explanatory Statement.

This statement was circulated to members when the Assembly was not sitting. I seek leave to make a brief statement.

Leave granted.

MR QUINLAN: Mr Speaker, this bill was introduced into the Assembly on 24 June 2004. The revised explanatory statement provides a greater explanation of issues that have been of close interest to Assembly members in recent months, such as strict liability offences. It also addresses issues raised by the Scrutiny of Bills Committee report No 53.

In order to promote a constructive and meaningful debate, this revised explanatory statement has been circulated out of session so that members may fully consider the additional information. I hope that it assists members in their consideration of this very important bill and that we may all work together in order to promote a sustainable Canberra for the future. I commend the revised explanatory statement to the Assembly.

Alcohol, tobacco and other drug strategy
Paper and statement by minister

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health): For the information of members, I present the following paper:

ACT Alcohol, Tobacco and Other Drug Strategy 2004-2008.

I seek leave to make a tabling statement.

Leave granted.

MR WOOD: It gives me great pleasure to present the ACT alcohol, tobacco and other drug strategy 2004-08. The government convened the drug task force in August 2002. Its main task was to develop the draft strategy. The task force membership was broad and included links to a wide range of community organisations. An important part of the development of the strategy was the community consultations undertaken with the wider community. The task force also commissioned its own research and analysed the extensive data and research already available. Drawing upon these sources of information, the task force developed and refined this draft strategy. It presented the draft strategy to government in December 2003. The strategy includes a proposed list of actions that were prioritised by the task force.

Following preliminary consideration of the draft, the government made available $250,000 in 2003-04 to support the implementation of a number of high-priority actions identified in the draft. These included creating 100 additional subsidised places on the methadone and buprenorphine program, establishing a trial of vending machines for dispensing needles and syringes, increasing and improving support for peer based models of service delivery support and advocacy and community development, strengthening training programs across the sector, implementation of the findings of the national evaluation of pharmacotherapies for opiate dependence and distribution of resources and monitoring and evaluation of the strategy.

This commitment was further strengthened through funding made available in the 2004-05 budget. $562,000 over four years was allocated to identify and implement successful school alcohol and drug education programs. Peer education, including mentoring programs, will be introduced into ACT schools to prevent and address drug and alcohol problems. $642,000 over four years was provided to target the illegal supply of tobacco to minors and test whether tobacco retailers are complying with the legislation. $416,000 over four years was provided to strengthen and increase case-management services for clients with complex needs, particularly those utilising

pharmacotherapy treatments, and to develop and implement a case-management framework with protocols made within the alcohol and drug sector and across sectors.

$560,000 over four years was provided for two dual-diagnosis outreach workers to work with Aboriginal and Torres Strait Islanders. The funds will enable an outreach service to be established to assist people who have both a mental illness and substance abuse problems. Funding was provided to conduct a feasibility study into establishing a bush healing farm. The farm could target improved health outcomes for indigenous people by developing the most culturally appropriate prevention, education, rehabilitation and outreach programs to address drug and alcohol misuse within those communities.

The government made a commitment formally to respond to the draft strategy, and this response has taken the form of the ACT alcohol, tobacco and drug strategy that I have now tabled. The strategy outlines actions that the government will, in partnership with the community and non-government organisations, work to implement over the next four years. We have also made a commitment to establish a group to oversee the implementation of the strategy. Terms of reference and membership of the group are also tabled here today.

It gives me great pleasure to present this document to the Assembly. I thank members of the ACT alcohol and other drug task force, their constituents and members of the public who contributed to the development of the drug strategy. The government is committed to reducing the harm associated with the misuse of alcohol and other drugs and I look forward to a better future for those affected by alcohol and other drug misuse.

Papers

Mr Wood presented the following papers, which were circulated to members when the Assembly was not sitting:

> Calvary Public Hospital—Information Bulletin—Patient Activity Data—External Distribution—June 2004.
> The Canberra Hospital—Information Bulletin—Patient Activity Data—June 2004.

Mr Wood presented the following papers:

> Mental Health ACT—
> Response to recommendations on the Community and Health Complaints Commissioner, Mr K Patterson Report: The investigation into risk of harm to clients of mental health services, dated June 2004.
> Response to recommendations on the Ms K LaRoche and Mr R Mann Report: The review of the design and operational practice in the Psychiatric Services Unit, The Canberra Hospital—Progress report, dated July 2004.

Mr Quinlan presented the following paper:

> Land (Planning and Environment) Act, pursuant to section 216A—Schedules—Leases granted, together with lease variations and change of use charges for the period 1 April to 30 June 2004.

Child protection
Paper and statement by minister

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (3.39): For the information of members, I present the following paper:

> The Territory as Parent—Review of the Safety of Children in the Care of the ACT and of ACT Child Protection Management—Audit and Case Review Report—Implementation Strategy, dated August 2004.

I ask for leave to make a statement.

Leave granted

MS GALLAGHER: Mr Speaker, I'm pleased to table the implementation strategy of *The territory as parent: review of the safety of children in care in the ACT and of ACT child protection management*. On 22 June 2004, the Chief Minister tabled in the Assembly the report of the Commissioner for Public Administration, Cheryl Vardon, into *The territory as parent: review of the safety of children in care in the ACT and of ACT child protection management* and the government response.

The government has committed to working to put in place a new way forward for delivering a high-quality child protection system for children and young people in the ACT. The government has acted to implement its response to the Vardon report by: putting immediately in place the Office for Children, Youth and Family Support, aligned with the Chief Minister's Department; commencing recruiting for more care and protection staff; establishing an implementation team led by the chief executive, Chief Minister's Department, and a small unit to assist in fast-tracking the reform process; and allocating an additional $6 million to the Office for Children, Youth and Family Support in 2004-05, with an extra $68 million committed to child protection over the next four years. These initiatives are part of an overall strategy that is designed to introduce a new culture for the care and support of children, young people and their families in the ACT.

Mr Speaker, the measures introduced by the government have started to have effect. The Community Advocate has recently notified members that there is now compliance with section 162(2) of the Children and Young People Act 1999. This shows that the government is heading in the right direction, but more needs to be done.

To help the government deliver an effective response to the Vardon report recommendations, reference groups were established. Membership of these groups was drawn from government and community based organisations such as Barnardos, Marymead, the Foster Care Association of the ACT, CREATE Foundation and the Youth Coalition of the ACT. These community organisations provide an integral role in developing care and support for children and young people in the ACT and their families. They will continue to play an important role in delivering the high-quality services and programs that will be introduced by the government.

Each reference group has worked cooperatively together, and I would like to thank all those involved in the reference group for their effort and commitment and their willingness to participate. There was a strong commitment in the groups to put in place a service approach that will provide better care and protection for children and young people at risk.

The strategy that I am tabling today shows how the government has been moving to implement the recommendations of the Vardon report. The development of the response to each recommendation has focused around guiding principles which include: establishing a new system that provides care and support for children and young people at risk, their siblings and their families; strengthening accountability measures and developing new governance arrangements, including creating an independent commissioner for children and young people; increasing case-worker and carer numbers and improving caseloads and professional development; enhancing partnering between government and community sector agencies; strengthening community education and awareness about children and young people and child safety; improving service response for Aboriginal and Torres Strait Islander children and young people and their families; expanding prevention and early intervention programs and advocacy services; and strengthening participation of children and young people in decision making that affects their lives.

The government is moving to implement the recommendations as quickly as possible. In some instances the reform process will take longer. Recruitment campaigns are under way, although it is difficult to guarantee that the numbers of qualified people required will be attracted to the ACT. There are other jurisdictions seeking to attract similarly skilled workers.

The government's response to the Vardon report has been informed by the audit report on child protection from the Commissioner for Public Administration, Cheryl Vardon. A range of recommendations has been made arising from the audit and case review of the files and children in care to 31 December 2003. That report and the government response were tabled earlier today in the Assembly. The tabling of the implementation strategy shows the commitment of this government to keeping the community informed about the outcome of the Vardon report. It reinforces the government's commitment to accountability and transparency.

It is also important to keep the community and the Assembly aware of the ongoing progress being made in implementing the recommendations of the Vardon report. The government intends to provide the Assembly with a progress report on the implementation of the Vardon report recommendations every six months in 2005.

The way forward is challenging but the government accepts these challenges. We have a responsibility to provide high-quality care to children and young people within our community who are at risk. It does take a community to raise a child; the support and involvement of the community are crucial in helping the government establish the reforms that will put children and families first.

Mr Speaker, I commend the implementation strategy for the Vardon report to the Assembly and I move:

That the Assembly takes note of the paper.

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

Community Services and Social Equity—Standing Committee
Report 3—government response

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (3.45): For the information of members, I present the following paper:

Community Services and Social Equity—Standing Committee—Report No 3—*The rights, interests and well-being of children and young people*—Supplementary Government response, dated August 2004.

I ask for leave to make a statement.

Leave granted.

MS GALLAGHER: I'm pleased to table the supplementary government response to the Standing Committee on Community Services and Social Equity *Rights, interests and well-being of children and young people* report tabled before you on 28 August 2003.

The government has made a commitment to progress recommendations made in the standing committee report and the territory as parent report, and work is progressing on the implementation of these recommendations. The government is committed to establishing a commissioner for children and young people and is working on developing a model that will meet the needs of children and young people in the ACT. The government is also committed to developing a streamlined advocacy and complaint mechanism for children and young people.

The standing committee highlighted the need for children and young people to have access to information and participate in the development of policies and decision making concerning their wellbeing. The government supports these principles and they are reflected in the Children and Young People Act. The government also supports agencies whose role it is to advocate for the voice of children and young people and agencies or groups who represent or are determined by the children and young people themselves. The government has also committed in its response to the territory as parent report to develop a participation model that will enable all children and young people to be involved in a meaningful way in decision-making about their lives.

The government also supports developing specific services that promote the participation and inclusion of indigenous children, young people and their families. The government is developing a specific indigenous unit within the Office for Children, Youth and Family Support reporting directly to the head of the agency.

Communication between government and non-government agencies to improve the outcomes for children and young people is a strong focus of the standing committee report. The government is addressing this issue within many areas of practice, giving due

consideration to the issues of privacy and confidentiality which are the right of all people, including children and young people. The government is implementing the recommendations of the territory as parent report and is consulting with a broad cross-section of statutory and non-government stakeholders through the reference group.

The government works with non-government service agencies to provide care to children and young people unable to continue to live at home. Whilst providing options for children and young people and their families, they also share in the responsibility to improve and promote the rights, interests and wellbeing of children and young people. This partnership model is a focus of ongoing development.

I wish to acknowledge the dedication and commitment of staff working in these areas of government and community services. Their work is important to achieve positive outcomes for children and young people.

There have been significant changes in service provision for children and young people since the initial government response. The territory as parent report has also promoted changes, and the government is responding to them. Reviews by the standing committee, the commissioner, the review of statutory oversight and community advocacy agencies will further work towards improving and strengthening the provision of services for children and young people.

I thank the standing committee for their work in raising the issues through their recommendations. As the supplementary response outlined, many issues have been addressed or are priorities for the future.

I commend the supplementary ACT government response to the Standing Committee on Community Services and Social Equity's *Rights, interests and well being of children and young people* report.

I move:

> That the Assembly takes note of the paper.

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

Papers

Mr Wood presented the following papers, which were circulated to members when the Assembly was not sitting, with the exception of the Attorney-General's portfolio:

> **Performance reports**
> Financial Management Act, pursuant to section 30A—Quarterly departmental performance reports for the June quarter 2003-2004 for the following departments or agencies:
> ACT Health, dated August 2004.
> Attorney-General's Portfolio within Department of Justice and Community Safety.
> Chief Minister's Department, dated July 2004.
> Disability, Housing and Community Services, dated July 2004.
> Economic Development, Business and Tourism and Sport Portfolios within the

Chief Minister's Department, dated July 2004.
Education and Training, dated July 2004.
Environment Portfolio within Urban Services.
Industrial Relations Portfolio, ACT Workcover, dated July 2004.
Office for Children, Youth and Family Support, dated July 2004.
Planning Portfolio within ACT Planning and Land Authority.
Planning Portfolio within Urban Services.
Police and Emergency Services' Portfolio within Department of Justice and Community Safety.
Treasury, dated July 2004.
Urban Services Portfolio.

Petition—Out of order

Petition which does not confirm with the standing and temporary orders—Melba—Request for more car spaces to be located on vacant land next to the community hall and an upgrade of the shopping centre—Mr Wood (544 citizens).

Subordinate legislation (including explanatory statements unless otherwise stated)
Legislation Act, pursuant to section 64—
Adoption Act—Adoption (Fees) Determination 2004—Disallowable Instrument DI2004-138 (LR, 29 June 2004).
Adoption Act—Agents Act—Associations Incorporation Act—Births, Deaths and Marriages Registration Act—Business Names Act—Classification (Publications, Films and Computer Games) (Enforcement) Act—Consumer and Trader Tribunal Act—Consumer Credit (Administration) Act—Cooperatives Act—Instruments Act—Land Titles Act—Liquor Act—Magistrates Court Act—Pawnbrokers Act—Prostitution Act—Public Trustee Act—Registration of Deeds Act—Sale of Motor Vehicles Act—Second-hand Dealers Act—Security Industry Act—Supreme Court Act—Trade Measurement (Administration) Act—Attorney-General (Fees) Determination 2004—Disallowable Instrument DI2004-106 (without explanatory statement) (LR, 28 June 2004).
Animal Diseases Act—Animal Diseases (Fees) Determination 2004—Disallowable Instrument DI2004-108 (without explanatory statement) (LR, 24 June 2004).
Animal Welfare Act—Animal Welfare (Fees) Determination 2004—Disallowable Instrument DI2004-107 (without explanatory statement) (LR, 24 June 2004).
Architects Act—Architects (Fees) Determination 2004—Disallowable Instrument DI2004-93 (without explanatory statement) (LR, 30 June 2004).
Cemeteries and Crematoria Act—Cemeteries and Crematoria (Fees) Determination 2004—Disallowable Instrument DI2004-121 (without explanatory statement) (LR, 28 June 2004).
Civil Law (Sale of Residential Property) Act—Civil Law (Sale of Residential Property) Regulations 2004—Subordinate Law SL2004-25 (LR, 30 June 2004).
Dangerous Substances Act—Dangerous Substances (Fees) Determination 2004—Disallowable Instrument DI2004-141 (LR, 30 June 2004).
Domestic Animals Act—Domestic Animals (Fees) Determination 2004—Disallowable Instrument DI2004-128 (without explanatory statement) (LR, 28 June 2004).
Electoral Act—Electoral (Fees) Determination 2004—Disallowable Instrument DI2004-159 (LR, 15 July 2004).
Emergencies Act—
Emergencies (Fees) Determination 2004—Disallowable Instrument DI2004-152 (without explanatory statement) (LR, 1 July 2004).

Emergencies Regulations 2004—Subordinate Law SL2004-26 (LR, 30 June 2004).
Environment Protection Act—Environment Protection (Fees) Determination 2004—Disallowable Instrument DI2004-115 (without explanatory statement) (LR, 24 June 2004).
Fisheries Act—Fisheries (Fees) Determination 2004—Disallowable Instrument DI2004-109 (without explanatory statement) (LR, 24 June 2004).
Gungahlin Drive Extension Authorisation Act—
Gungahlin Drive Extension Authorisation 2004 (No 1)—Disallowable Instrument DI2004-143 (LR, 1 July 2004).
Gungahlin Drive Extension Declaration 2004 (No 1)—Disallowable Instrument DI2004-153 (LR, 2 July 2004).
Gungahlin Drive Extension Declaration 2004 (No 2)—Disallowable Instrument DI2004-154 (LR, 2 July 2004).
Hawkers Act—Hawkers (Fees) Determination 2004—Disallowable Instrument DI2004-127 (without explanatory statement) (LR, 28 June 2004).
Health Act—Health (Fees) Determination 2004 (No. 2)—Disallowable Instrument DI2004-135 (LR, 29 June 2004).
Legislative Assembly (Members' Staff) Act—
Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2004 (No 2)—Disallowable Instrument DI2004-124 (LR, 30 June 2004).
Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2004 (No. 2)—Disallowable Instrument DI2004-134 (LR, 30 June 2004).
Machinery Act—Machinery (Fees) Determination 2004—Disallowable Instrument DI2004-142 (LR, 30 June 2004).
Magistrates Court Act—Magistrates Court (Sale of Residential Property Infringement Notices) Regulations 2004—Subordinate Law SL2004-24 (LR, 30 June 2004).
Mediation Act—Mediation (Approved Agency) Declaration 2004 (No 2)—Disallowable Instrument DI2004-157 (LR, 15 July 2004).
Nature Conservation Act—Nature Conservation (Fees) Determination 2004—Disallowable Instrument DI2004-110 (without explanatory statement) (LR, 24 June 2004).
Occupational Health and Safety Act—
Occupational Health and Safety Council Appointment 2004 (No 1)—Disallowable Instrument DI2004-147 (LR, 1 July 2004).
Occupational Health and Safety Council Appointment 2004 (No 2)—Disallowable Instrument DI2004-148 (LR, 1 July 2004).
Occupational Health and Safety Council Appointment 2004 (No 3)—Disallowable Instrument DI2004-149 (LR, 1 July 2004).
Occupational Health and Safety Council Appointment 2004 (No 4)—Disallowable Instrument DI2004-150 (LR, 1 July 2004).
Occupational Health and Safety Council Appointment 2004 (No 5)—Disallowable Instrument DI2004-151 (LR, 1 July 2004).
Occupational Health and Safety (Fees) Determination 2004—Disallowable Instrument DI2004-144 (LR, 30 June 2004).
Pounds Act—Pounds (Fees) Determination 2004—Disallowable Instrument DI2004-111 (without explanatory statement) (LR, 24 June 2004).
Roads and Public Places Act—
Roads and Public Places (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-123 (without explanatory statement) (LR, 28 June 2004).
Roads and Public Places (Fees) Determination 2004 (No 2)—Disallowable Instrument DI2004-125 (without explanatory statement) (LR, 28 June 2004).
Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2004 (No. 7)—Disallowable Instrument DI2004-155 (LR, 8 July 2004).
Road Transport (General) (Fees) Determination 2004—Disallowable Instrument DI2004-126 (without explanatory statement) (LR, 28 June 2004).
Road Transport (General) (Numberplate Fees) Determination 2004—Disallowable Instrument DI2004-132 (LR, 29 June 2004).
Road Transport (General) (Parking Permit Fees) Determination 2004—Disallowable Instrument DI2004-131 (LR, 29 June 2004).
Road Transport (General) (Refund and Dishonoured Cheque Fees) Determination 2004—Disallowable Instrument DI2004-130 (LR, 28 June 2004).
Road Transport (General) Traffic Offence Detection Device Image Fee Determination 2004—Disallowable Instrument DI2004-129 (LR, 29 June 2004).
Road Transport (General) (Vehicle Impounding, Seizure and Speed Test Fees) Determination 2004—Disallowable Instrument DI2004-133 (LR, 29 June 2004).
Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares for Taxi Services Determination 2004 (No 1)—Disallowable Instrument DI2004-136 (LR, 29 June 2004).
Scaffolding and Lifts Act—Scaffolding and Lifts (Fees) Determination 2004—Disallowable Instrument DI2004-145 (LR, 30 June 2004).
Stadiums Authority Act—
Stadiums Authority Appointment 2004 (No 1)—Disallowable Instrument DI2004-139 (LR, 29 June 2004).
Stadiums Authority Appointment 2004 (No 2)—Disallowable Instrument DI2004-140 (LR, 29 June 2004).
Stock Act—
Stock (Fees) Determination 2004—Disallowable Instrument DI2004-112 (without explanatory statement) (LR, 24 June 2004).
Stock (Levy) Determination 2004—Disallowable Instrument DI2004-113 (without explanatory statement) (LR, 24 June 2004).
Surveyors Act—Surveyors (Fees) Determination 2004—Disallowable Instrument DI2004-97 (without explanatory statement) (LR, 30 June 2004).
Taxation Administration Act—Taxation Administration (Levy) Determination 2004 (No 2)—Disallowable Instrument DI2004-156 (LR, 8 July 2004).
Tertiary Accreditation and Registration Act—Tertiary Accreditation and Registration (Fees) Determination 2004—Disallowable Instrument DI2004-137 (LR, 29 June 2004).
Unit Titles Act—Unit Titles (Fees) Determination 2004—Disallowable Instrument DI2004-96 (without explanatory statement) (LR, 30 June 2004).
Utilities Act—
Utilities (Essential Services Consumer Council) Appointment 2004 (No 1)—Disallowable Instrument DI2004-118 (LR, 28 June 2004).
Utilities (Essential Services Consumer Council) Appointment 2004 (No 2)—Disallowable Instrument DI2004-119 (LR, 28 June 2004).
Utilities (Essential Services Consumer Council) Appointment 2004 (No 3)—Disallowable Instrument DI2004-120 (LR, 28 June 2004).
Vocational Education and Training Act—Vocational Education and Training Authority Appointment 2004 (No 1)—Disallowable Instrument DI2004-160 (LR, 15 July 2004).
Waste Minimisation Act—Waste Minimisation (Fees) Determination 2004—Disallowable Instrument DI2004-122 (without explanatory statement) (LR, 28 June 2004).
Water Resources Act—Water Resources (Fees) Determination 2004—Disallowable Instrument DI2004-114 (without explanatory statement) (LR, 24 June 2004).
Workers Compensation Act—

Workers Compensation Amendment Regulations 2004 (No 1)—Subordinate Law SL2004-27 (LR, 12 July 2004).
Workers Compensation (Fees) Determination 2004—Disallowable Instrument DI2004-146 (LR, 30 June 2004).

Caring for the ageing
Discussion of matter of public importance

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

Caring for Canberra's ageing population.

MR CORNWELL (3.50): Why do we need to stand in this chamber and speak in debate on this matter of public importance, namely, caring for Canberra's ageing population, when it should be obvious to everybody that we should be caring for them? Unfortunately, so far as this government is concerned, that is not the case. Much of Canberra's ageing population has been neglected as a result of the callous indifference of this government.

Three years on we are seeing slothful progress in the provision of aged care, inexplicable planning delays and the accumulation of in excess of 250 Commonwealth provided nursing home beds, which is a gross wastage of resources and which has cost ACT taxpayers dearly. It is interesting, however, that now that an election is pending we are suddenly finding that those beds are being released in some form or another, albeit not as fast as any of us would like.

Naturally, the opposition welcomes the release of those beds and the use of such expensive resources to ease the pain and suffering of our aged population and to lessen the concern of their families. Caring for our ageing population is not confined to those in need of medical and residential support; it also involves ensuring that their quality of life is as decent and as civilised as possible before physical and mental deterioration make inevitable controlled care, such as nursing homes and aged care facilities.

The government does not agree that the quality of life of our aged population should be as decent and civilised as possible, or that there should be compassionate fairness prior to their admittance to nursing homes. The government has applied selective restrictions to our mobile aged, in particular, to self-funded low-income retirees. The best way to make this position clear is to quote from a media release that was issued by Mr David Kibbey, the Liberal candidate for Molonglo, in the forthcoming election. He said that the perception that self-funded retirees were all wealthy and did not need access to seniors concessions was wrong and had led to unfair policies by the Stanhope government.

Mr Kibbey also said that he had received repeated complaints from self-funded retirees that they "needed and deserved to be treated just like other seniors". He then said that many couples who were living on less than the pension were bewildered and resentful that a lifetime of thrift and hard work was now being used to deny them access to benefits that their hard earned tax dollars were providing to others.

The release of the Liberal Party's concession policy resulted in a great deal of criticism from the government. Yesterday Mr Stanhope issued a media release. Before I refer to his media release I will refer to the fact that the Commonwealth recognises the needs of low-income self-funded retirees who are bewildered and resentful that they are not obtaining the benefits of a lifetime of thrift and hard work.

The Commonwealth made a deal with the states to contribute 60 per cent of the cost of extending pensioner concessions to low-income self-funded retirees, including reductions to energy, water and sewerage rates, car registration, transport and spectacle bills. The Stanhope government did not accept the Commonwealth's proposal. Mr Stanhope, in a media release issued on 2 August, proudly boasts:

> My government rejected the Commonwealth's proposal, as did other States ...

That is not entirely correct. South Australia and Western Australia entered into negotiations with the Commonwealth in relation to this matter. One of the arguments that Mr Stanhope put forward for rejecting this proposal was that there was no guarantee by the Commonwealth government that it would continue to fund the program. What an absurd comment! How can anyone promise that a program will be funded forever? That is no excuse and this government simply has no defence. Mr Stanhope also argued:

> An analysis undertaken by … shows that the ageing of the ACT population over the next ten years is estimated to add an extra $14 million to the current concessions bill.

Again, that is no reason why we should not accept the concessions that have been offered by the Commonwealth government. This government put forward no excuse for its failure to accept the Commonwealth government's offer to contribute $2.1 million, or 60 per cent, towards the cost of extending pensioner concessions to low-income self-funded retirees. One has to ask why the Stanhope Labor government rejected the Commonwealth government's offer.

The Stanhope government put forward a figure to justify rejecting the Commonwealth government's proposal. It stated, for example, that the amount of $10 million was concessions offered by the opposition. However, that figure includes concessions that are already being paid. We accurately calculated the additional cost of concessions to be approximately $2 million.

Why did the Labor Party reject the Commonwealth government's offer? It comes down to an ideology. On 29 March, Mr Quinlan stated in the *Canberra Times* that the ACT government was more interested in extending concessions to "those who really need it". As a result of its ideology this government is seeking to penalise low-income self-funded retirees who have looked after themselves and have been provident all their lives. The opposition has approached this issue in a slightly different manner. Self-funded retirees are entitled to the Commonwealth seniors health card but, as members would be aware, that card is not available to everybody.

We believe that our proposal is fair. The Labor government's petty approach to the ageing in our community does not stop at not allowing concessions to low-income

self-funded retirees; it includes even those whom Mr Quinlan referred to as really needing those concessions. This Labor government even denies pensioners and self-funded retirees interstate and local transport concessions. Referring to interstate transport concessions, yesterday Mr Stanhope also said in his media release that his government:

> … had already indicated its willingness to support the Commonwealth/State/Territory reciprocal transport concession scheme ...

On 14 May the Chief Minister, in answer to a question that I asked, stated:

> The ACT Government has not accepted the offer at this time either.

All that this government has done is enter into negotiations and some initial discussions with officials in the Commonwealth Department of Family and Community Services. It is news to me that this government has indicated its willingness to support that scheme. So far as the ACT is concerned, this is a fairly generous offer by the Commonwealth government. We would have received $49,000 in 2003-04 and we will receive $50,000 in 2004-05 and $53,000 in 2005-06 to help fund that initiative.

I refer to our local bus service. Mr Stanhope, in his media release yesterday, stated that his government "would consider extending bus concessions to peak hour travel in the next budget". That is a promise that the Labor government made at the last election. Three years have passed and it has not yet delivered on its promise to pensioners, or to anybody else for that matter. It is as though it is concerned that thousands of pensioners will invade peak hour buses in order to travel at that time.

If government members had bothered to talk to pensioners they would have found that the only reason pensioners engage in peak hour travel is that they have doctors' appointments, dental appointments, or something of that nature that obliges them to travel at that time. Very few pensioners would be in the category of those who travel regularly. The government, in a desperate attempt to justify why it will not allow a concession that it promised at the last election, stated that it would cost half a million dollars.

I do not accept that absurd figure of half a million dollars for pensioners travelling on peak hour buses. It does not make any sense whatsoever. One can only assume that the government has other reasons for refusing pensioners the opportunity to engage in peak hour travel. This government is going out of its way to alienate 8,000 low-income self-funded retirees and heaven knows how many pensioners in relation to bus travel and other concessions. I do not know what is driving this government.

If this government had some sort of compassion or concern—and it keeps telling us that it does, even if it is restricted, in Mr Quinlan's words, to those who really need it—I imagine that it would have done a lot more to address these concessions. We are only three months away from an election. If this government does not do something over the next few months it will have missed the bus on these issues and no pun is intended. This government certainly has not demonstrated that it cares for Canberra's ageing population.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (4.05): I am pleased that this matter of public importance is being debated today. I have great pleasure in being able to speak about the achievements of this Labor government since it came to office in caring for Canberra's ageing population. It is something that this government has taken seriously. Referring to the achievements of my government in caring for the ageing population exposes the inertia created by the former Liberal government in caring for Canberra's ageing population.

The issues surrounding an ageing population did not emerge this week, last month, or last year for that matter. For those who have been genuinely concerned about the wellbeing of our seniors they have been on our radar for some time. In the lead-up to the last election we outlined in our policy statement, "The Plan for Older Canberrans", that the implications of an ageing population for all levels of government and the broader community were huge. We highlighted the fact that people in most areas of Canberra would age significantly over the next decade and that population data showed that people in the ACT were ageing faster than those in any other part of Australia.

We stated that this increase in the age profile meant that the government needed to look at providing different services, and more of them, to older Canberrans. We have set about doing that. We also indicated that, over the next 10 years, the number of people in the 50 to 64 age group would increase to more than 63,000—a significant proportion of the population. Given that the life expectancy for males in the ACT is 77 and for females 82, the group of people aged over 50 will be around for a long time.

We drew attention to the fact that the age profile would be compounded by the so-called baby boomer generation—those people born between 1946 and 1961—who are expected to have greater demands for services and facilities than their predecessors. When the baby boomers reach retirement age they will be the largest number of older people ever alive. They are also a group that has traditionally challenged ideas about society and they have assets and money and are generally healthy.

We highlighted the need to put the right framework and strategies in place to plan for the changing demographics. Moreover, we are committed to creating an inclusive community in which older people feel safe and valued and in which adequate services are available for all their needs. I would like to speak about the key strategic and proactive approach this government has developed and the initiatives that it is implementing to respond to the dramatic changes that will take place in Canberra's population landscape.

The impact of an ageing population in the broader community was confirmed through the market research we undertook as part of the development of the Canberra social plan. That plan is an expression of the government's vision that Canberra becomes a place in which all people reached their potential, make a contribution and share the benefits of our community. It is a plan for all Canberrans, including older Canberrans. While there is a heavy emphasis in the plan on looking after our children and young people the needs of older Canberrans are most prominent.

The plan establishes long-term priorities over the next 10 to 15 years, medium-term goals, and immediate term actions. All of its seven priorities go directly to address the concerns of ageing Canberrans, for example, providing a safe, strong and cohesive community, improved health and wellbeing, and housing for a future Canberra. The goals, which are real, commit the government to: recognising the valuable contribution made by older people in the community; meeting the diverse needs of our ageing community, including their health needs; promoting and supporting the role of carers, many of whom are older Canberrans; preventing and reducing crime; and creating a safer environment for every member of the community, in particular our seniors.

I remind members that key seniors stakeholders across the ACT have welcomed those goals, which were unanimously endorsed by the Assembly. We have put our money where our mouths are by supporting positive ageing initiatives and aged care services. In the 2004-05 budget we fundamentally recognise and provide funding for many of the commitments that we have made in the plan. We have provided additional new funding of more than $16 million over the next four years to specific programs aimed at increasing the quality of life for seniors in the ACT.

Some $31 million was allocated to health initiatives that predominantly assist older Canberrans. One of the particularly exciting initiatives contained in the budget is the provision of new funding of $1.4 million for a range of positive ageing initiatives to enhance the quality of life of older Canberrans. This is the first time that there has been any funding of that order by an ACT government. That program and that funding were directly informed by the strategic plan of the ACT Ministerial Advisory Council on Ageing and after extensive consultations with Canberra's peak seniors organisations.

The new ageing program that the government has established, which is multifaceted and comprehensive, seeks to promote positive ageing in the community through a whole-of-government approach. The program includes: strategic analysis of Canberra's ageing population to better inform service planning; the establishment of a seniors information service which will provide a one-stop information shop for seniors and their families about government and community services; and the establishment of a new seniors grants program to assist community organisations to develop and implement healthy ageing initiatives.

The program also includes seed funding to assist the establishment of an annual seniors expo that will enable government, business and community organisations to promote their goods and services to seniors in the broader community; new funding to implement the recommendations of the review of the ACT seniors card program that seek to provide improved benefits to existing and new members; and additional funding to assist the ACT Council on the Ageing and other seniors organisations to promote and increase the level of activity of the annual ACT Seniors Week program.

Finally, the program includes additional new funding to grow and enhance the ACT seniors awards program and the rollout of the actively ageing framework. Since self-government this government is the first government to take a whole-of-government approach to ageing issues in the ACT. On coming to office this government was quick to establish, within my department, the ACT Office for Ageing to provide strategic advice

to me and to the executive and to facilitate a whole-of-government approach to the ACT government's strategies, policies and programs relating to positive ageing.

The work of that office complements the work of ACT Health, which is responsible for implementing the government's health-related aged care policies and services. The office consults widely with seniors organisations and the broader community to ensure that the positive ageing interests and needs of seniors are identified and catered for. The office provides a one-stop shop for seniors groups to engage with. This government is also the first government to establish the Ministerial Advisory Council on Ageing. The council assists the ACT government to advance the status and interests of older people, it undertakes research, and it provides advice on issues that are referred by me, or raised by community consultation.

The council's key role is to ensure that the needs of older Canberrans are met and to advise the ACT government where there are gaps and shortfalls. The council comprises a membership of local people who were selected through open public nominations. These members have extensive knowledge of the issues affecting older Canberrans. The council has a broad focus and provides advice on issues such as positive attitudes towards ageing and older people, housing, accommodation, lifelong learning, mature age employment, and provision of services for older people.

As I stated earlier, Canberra is going through a demographic transition. Life expectancies are increasing and birth rates are declining. The ageing of our population poses significant challenges for the territory, not only in relation to the impact on future budgets but also in respect of the work force. An analysis of population projections in the ACT, which was undertaken by the demographics unit in my department, indicates that in the last 10 years Canberra's labour force has grown by about 22,000 people or, on average, by about 2,000 workers a year.

However, in the decade 2015 to 2025 that figure is projected to shrink to about 4,000 or fewer than 400 new participants in the paid work force each year. Falling birth rates and an increased number of retirees have raised concerns about the ability of governments across the nation to fund the necessary services from a shrinking number of taxpayers. While an increasing number of these retirees may be self-funded in whole or in part, there are concerns that increasing life spans could lead to at least some retirees outliving their superannuation savings.

One way of addressing the issue of a declining work force is to encourage—and by that we mean encourage and not compel—mature age workers to remain in the work force for longer periods and to encourage those that have left to return, perhaps on a part-time basis. The challenge, of course, is how best to achieve that. The ACT faces a number of issues. While we are typical of Australia in many respects, in many others we differ significantly. Canberra has little employment in primary and secondary industry, with most jobs in the service sector. Education and income levels are higher. Consequently, it cannot be assumed that solutions that have been developed in other parts of Australia can be adapted to the ACT.

Last year we conducted a mature age employment summit that involved representatives from seniors organisations, ACT and Commonwealth governments, unions, business organisations and volunteering organisations. Following the summit we established

a working group with representatives from the same broad areas to develop options for the government's consideration. I look forward to considering a broad range of strategies and initiatives once they have been finalised by the working group.

The government has also been proactive in relation to concessions to seniors. In addition to the $20 million that it provided last financial year for concessions to support essential services for low-income earners, including pensioners, in this year's budget it has allocated a further $5 million to assist pensioners and low-income earners with their water and sewerage payments and energy bills, including new assistance for gas charges.

With regard to the proposal to introduce a national reciprocal transport concessions regime, I am pleased to say that the ACT government is currently in close negotiations with the Commonwealth government, other states and the Northern Territory to bring that matter to fruition. I note that yesterday the Liberal Party promised to do something that essentially has already been concluded by this government.

Notwithstanding the fact that the Commonwealth government has been dragging its feet in relation to this matter, the states and territories have been persistent in keeping the initiative on the national agenda. We are hopeful that the Commonwealth will eventually come to the party in relation to reciprocal transport concessions. I recently agreed to senior officials in my department taking part in a national working group to bring that matter to a conclusion. I look forward to the Commonwealth accepting the importance of that initiative.

This government has also been proactive in its prevention of elder abuse. It is now acknowledged by experts in the area of ageing and elder abuse that the ACT leads Australia in those areas. In September 2002 the government tabled its response to report 11 of the former Standing Committee on Health and Community Care entitled "Elder Abuse in the ACT", and it agreed to fully implement all its recommendations. I point out that although the Assembly provided its report on elder abuse to the former government, that government did nothing. My government has implemented, or it is in the process of making significant progress in the implementation of, all the recommendations in that report.

In the 2003-04 budget this government allocated $4.5 million to enhance all areas of respite care and it provided a further $411,000 to support the implementation of an elder abuse prevention information and referral service. During the 2003-04 financial year the government also accomplished the following. It established the elder abuse prevention information telephone hotline, which was complemented by a website dedicated to elder abuse prevention information; it printed brochures in 15 languages; and it established a database for recording non-identifying statistics.

The government engaged a permanent officer to undertake elder abuse prevention training and information for professionals and interested community groups; it established Betty Searle House, a boarding house providing long-term accommodation for older women, including those women who are victims of elder abuse; and it produced a comprehensive training resource kit for home and community care service providers. The government also conducted a series of protocol development workshops relating to elder abuse issues involving 127 people representing 58 government and non-government agencies, and it commenced the review of the Powers of Attorney Act.

In the 2004-05 financial year the government proposes to develop a multidisciplinary training and resource manual, including audiovisual material. The government will also implement a range of actions in relation to respite care, implement a broad range of initiatives in relation to social isolation and implement a communication strategy to raise awareness of elder abuse prevention and available services. This government has made enormous progress in implementing all the Assembly's recommendations. As I said earlier, the ACT is acknowledged as being at the forefront of elder abuse prevention in Australia. In that context this government is taking a leading role in the establishment of a national elder abuse prevention working group.

The ACT government recognises that older people have diverse circumstances and needs. While some older people need additional support for themselves, many also provide support for others, including their partners or adult sons or daughters with a disability. According to data from the Australian Bureau of Statistics, in 1998, 4,300 carers in the ACT were aged 65 and over, which represents 10 per cent of all carers. That number and proportion are likely to grow as the population ages. In response to that, in December 2003 Mr Wood tabled a comprehensive Caring for Carers policy, which seeks to recognise and support all carers in the ACT, but in particular it acknowledges the special circumstances of the 4,300 carers in the ACT who are aged 65 years and over.

Mr Wood, through his department, is managing the implementation of the Caring for Carers policy. Community consultation on a draft implementation strategy was undertaken from 31 May to 7 July. The government expects the final strategy to be released shortly. In the 2004-05 budget this government allocated $830,000 to support the implementation of the Caring for Carers policy. The first round of funding, which was advertised on 24 July, is targeted at projects that aim to improve the capacity, skills, knowledge and networks of carers and former carers.

Older carers have been identified as a particular and special target for the development of improved social and recreational opportunities. Disability ACT funds mature carers programs with three non-government agencies, Koomarri, Centacare and Community Connections, and those agencies assist 88 families in the ACT. In the 2003-04 budget the government has also allocated $1,700,000 for a range of programs under the mature carers program and it is committed to continuing funding for mature carer initiatives into the future.

The government also supports generic services utilised by mature carers, including a number of recently established respite programs for people from culturally and linguistically diverse backgrounds; two respite homes administered by Disability ACT that provide respite for adults, essentially mature carers; and individual support packages funded by Disability ACT. That is just a summary of some of the initiatives that I am proud to say my government has initiated and supported in the ACT for the older population. Mr Quinlan will refer later to other initiatives.

MS DUNDAS (4.20): The ACT Democrats recognise the important contribution of older people in our community. Older people should be able to participate in community life, such as employment, with assistance from government to overcome any barriers presented by reduced mobility, health issues and reduced incomes. The proportion of

Canberra's population aged 65 and over is expected to treble over the next 50 years—from around 8 per cent to around 24 per cent by 2050—so we must begin planning to ensure that necessary services and accommodation are available when they are needed.

We must also be aware that we are not dealing adequately with our current population. We are planning for 2040 but we should also be planning to resolve our current backlog of issues. Older people are active volunteers who contribute considerably to the community through unpaid work. They are carers and grandparents who assist and protect the most vulnerable in our community. The ACT Democrats believe that governments must recognise the value of and respect for older people in our community. The ageing of our population is a great opportunity for society and should not be seen as a threat.

The elderly people to whom I have spoken want to remain in their homes and in their communities. They are afraid of being sent away to die. They need and deserve support but, ideally, it should come in a format that enables them to remain in the community. Because of that a number of elderly people make regular trips to Sydney to get specialist treatment that is often unavailable or difficult to get in Canberra. More often than not they choose to make those trips by train, so we need to focus on our transport situation and on what is happening at the moment with the Canberra to Sydney rail link.

Last year I spoke about the need for more recognition to be given to the skills and abilities of older people in the work force. Those who are in need of aged care can still play a role in our employment sector. Older people often have the experience and skills that businesses need but employers do not offer them suitable jobs. Many older people have carers' responsibilities that prevent them from participating in full-time work, or they are simply looking for better work or life balances that part-time work could provide. Business, government and the community sector all serve the whole community. To be successful, all organisations need to understand the preferences of older people as well as younger people. That is a good reason for workplaces to reflect the diversity of the wider community and for government to assist organisations to do that.

It was interesting to hear the Chief Minister talking today about self-funded retirees and the extension of concession schemes to them. Back in June 2002 we originally debated a motion that was passed by this Assembly calling on the government to move away from its position of not accepting the federal government's reform and to ask the then Minister for Education, Youth and Family Services to establish how we could help pensioners and low-income self-funded retirees in the ACT.

Only now, in August 2004, are we starting to establish where that debate has gone and what the government is doing about it. It was good to hear that there is some movement in that area, but it is unfortunate that it has taken the government over two years to get anywhere. A lot of work needs to be done in the provision of aged care. I will be careful not to wander into the purview of the current inquiry of the Standing Committee on Planning and Environment into the planning of aged care.

I refer to the services provided in aged care facilities and to the general lack of services provided for couples, in particular, same sex couples. This government has repeatedly said that it is committed to stamping out discrimination. That commitment must be

extended to our older population so that more couples, be they different sex or same sex couples, can grow old together. That is one issue that is generally not debated when we are considering our ageing population.

MR SMYTH (Leader of the Opposition) (4.25): This afternoon an important matter of public importance has been put on the agenda: caring for Canberra's ageing population. Of course, a very important part of caring for the ageing population is the provision of aged care facilities. As you, Mr Deputy Speaker, have pointed out, and as others have mentioned, keeping older Canberrans active in our fair city is very important. But for many older Canberrans there comes a point where the only alternative is to go into an aged care facility. At this stage, for most of them there is a very long wait.

The provision of places for aged care accommodation represents one of the most pressing of the current policy issues but it has been neglected and abandoned by the government. It is quite interesting, at this late stage in the term of the government—it has been in office for some 33 months—to see the Chief Minister, the minister for ageing, racing around the territory making announcements to create the impression that this is a government—and I want to quote him because it is such a fabulous line—"that is determined to stay ahead of the game by increasing the supply of aged care accommodation".

In case you missed that, we have a Chief Minister and a minister for the ageing who is determined to stay ahead of the game by "increasing the supply of aged care accommodation". In his speech the Chief Minister said, "It's the Commonwealth that's dragging its feet—the Commonwealth". It is always the Commonwealth's fault when something is wrong in the ACT. It is interesting because he goes on in the next paragraph in his press release of 20 July to say, "The ACT government has acted quickly to respond to the allocation of aged care funding by the Commonwealth government." I repeat: "The ACT government has acted quickly".

Let us look at how quickly it has acted. A number of cases spring to mind. The one that comes immediately to people's minds is the development of the aged care facility at Calvary Hospital by the Little Company of Mary. On 20 July at Goodwin Homes we had the most unedifying sight of the Chief Minister—buoyed by his own importance and the fact that he had just opened up probably the first 20 aged care beds that he had had the opportunity to open since becoming Chief Minister—saying that it was the fault of the Little Company of Mary that nothing was happening at the Calvary site—"It is their fault; the government made the allocation; it offered them land; it was up to the Little Company of Mary to suddenly make a decision".

It was up to the Little Company of Mary to suddenly make a decision after 32 months of inactivity by the Stanhope Labor government! It took 32 months to finally make an offer on the lease on the block. And all of a sudden it was all the fault of the Little Company of Mary—the people who operate the Calvary Hospital—that nothing was happening on that site.

This is a rush to stay ahead of the game. This is the ACT government that acts quickly. On that day on 20 July the Chief Minister pointed out that, as well as opening the 20 aged care beds, of course, they had also given Goodwin Homes the nod, the go ahead for the room—it says here in the Chief Minister's press release—"across the road" from

the Monash Village. To the best of my knowledge, across the road is all built up. If he means on the vacant block behind the existing Goodwin Village perhaps he would be more accurate. He said, "We will give them land to build an 80-bed residential aged care facility and 150 independent living units."

He creates the impression—the Chief Minister is good at this; he is always out there doing this—that he is determined to stay ahead of the game and that he is acting quickly. What he did not tell people was that it had taken Goodwin Village two to 2½ years to secure that commitment—more than two years; 24 to 30 months—to get a commitment from the government that they could have that block.

This is the government that is determined to stay ahead of the game. It fills you with enthusiasm, does it not? The impression that the Chief Minister created in giving the interviews and in his speech—I do not think too many people were fooled—was that it was all okay because the government had fixed it.

We also have to look at how long the process will now take. The Chief Minister continues in his press release to say, "My government is fully supportive of this proposed development and will work hard to ensure that it goes ahead without any difficulties." They have been working with Calvary for 33 months to make sure it goes ahead without difficulty. They worked with Goodwin Homes for almost 30 months to make sure something went ahead without difficulty.

But the difficulty in this territory with getting anything done in regard to aged care accommodation is the ACT government. For more than three years we have had an allocation of some 255 beds. In this year's federal budget 505 beds have been allocated. It is not the Commonwealth dragging its feet on the allocation of aged care facilities; it is the ACT government—its lack of drive, its lack of ability to make a cabinet decision—and it is the terrible planning system that it has put in place that is slowing this down.

Let us not be fooled. I do not think anybody was fooled. There was a lot of head shaking at the Chief Minister's rhetoric. I do not think the aged care community was fooled by what he was saying. Those who have been waiting certainly are not fooled by the dedication of this government to make things happen.

I am aware of a number of other aged care facilities. There is one at the golf course at Holt that could have well and truly gone ahead by now. But no, the government is against that. It is interesting. A resolution was passed at the last ALP conference—the one before last weekend—that called on the government to assist clubs wanting to restructure or change the way in which they operate: if they need a draft variation, such variation should be facilitated and facilitated quickly. Of course, the club at Holt has not got that and I suspect that the Murrumbidgee Golf Club in the electorate of Brindabella will not get that assistance. Why? Because this government is not committed to aged care.

Apparently the theme—from the Chief Minister's perspective—at the Labor Party Conference was Canberra. I am lucky—I am absolutely honoured—to be holding in my hands a copy of the Chief Minister's press release with his speech attached. I checked through the press release. It states that the government knows that it has to pass the test to be re-elected. On the front page the Chief Minister states, "I believe we will pass this

test, that we will win the endorsement of the community. I believe this because our record over the past three years is a proud one. Consider some of the highlights."

I looked for the highlights on aged care. I knew that there would be some there because they are proud of all their achievements. Guess what? Aged care does not figure as one of the highlights of this Chief Minister's first term in office. Many things happened immediately upon their coming to office.

Mr Quinlan: Just too many.

MR SMYTH: "Just too many" interjects the Treasurer. Just too many people out there are saying that you have not done enough and what you have done you have done too slowly and, in the main, has been irrelevant. But I thought that it would be in the speech. This is such an important issue. They cannot trivialise it by putting it in the press release; it will be in the Chief Minister's speech. After all, the Chief Minister is committed to Canberra!

I looked at the speech. I went through page 1 and saw nothing about aged care. I got to page 2. Again, here are some of the highlights of the last three years. But again, aged care did not rate. I went through the speech and saw a lot of rhetoric: there was talk about lights on the hill. Watson, Fisher, Scullin, Chifley and Curtin all got a mention, but aged care did not.

Apparently Ben Chifley knew about leadership, because he gets a guernsey. We talk about the light on the hill, but the light is not shining for aged care under this lot. When you get to the detail stage you see: "Delegates, we will have much to say over the next 11 weeks about the detail of our second term agenda. The first test is to articulate our record." I thought: I must be getting close to aged care now; I must be getting close.

We looked in health. Health and aged care go together—the Chief Minister mentioned that. But clearly there is no mention of aged care in health. I thought there may be something in education—keeping them in the workforce, university of the third age—but it was not mentioned under education. There is a lot of talk about keeping older Canberrans in the workforce, so when we got to the industrial relations section I thought that there may be something there. But there was nothing about aged care there, nothing under justice and law reform, nothing under economic management, nothing under sustainability and nothing under bushfire recovery.

We then get to the section about planning for the future. I thought for sure that there would be something under planning for the future, given that we are "acting quickly and determined to stay ahead of the game". I thought that aged care would be mentioned there. But alas, aged care does not get a guernsey in the section about planning for the future.

Clearly one of the highlights of the first term of the Stanhope government is its failure to act on aged care; it does not rate a mention. It is not part of the planning for the future. Certainly we have not had action to show that this government is committed to delivering those beds that are available now—which have in some cases been available for up to three years—or that there is enough forward planning going ahead to accommodate not just the 505 beds coming in the next three years but also the beds that

will come after that. People will look at this press release to say that the government is determined to stay ahead of the game. But no, it is not true.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (4.35): You will have to forgive me because I am only acting in the planning job, so I am acting under advice here. I am advised that the process of the establishment of places through to actual occupancy does have quite a substantial gestation period. I am advised that it is probable that, even if the system were working, about 200 beds would be in the pipeline at any given time.

One of the first questions that needs to be answered—I will certainly be doing the homework on it—is this: what was in the pipeline in October 2001 when we came to government? For all the rant and the childish presentation of Mr Smyth, he has not claimed, "We were doing this and you stopped it."

Given that there is a considerable gestation period between the establishment of places, the planning, the building, the establishment of the facility and bringing it into operation, I would expect to hear the opposition tell us all the projects that it had in the pipeline that we held up. That will be my first piece of homework. I will be doing that.

The government has established a land bank of aged care facilities. The first of the land bank sales will be section 87 Belconnen. It is to be advertised this week. Three other sites located in Gordon, Nicholls and Greenway have been identified in the government's land release strategy. They will be ready for release in 2005-06. These four sites are estimated to accommodate a minimum of 400 aged care beds and 600 independent living units.

The government has approved the direct sale—some subject to meeting planning issues—of blocks in Garran, Bruce, Monash, Page, Weston and Hughes, which are planned to house, when complete, 356 aged care beds and 265 independent living units. Some of these beds are yet to receive Commonwealth funding.

These total developments could provide more than 750 high and low care beds and 850 independent living units. These figures do not include plans by service providers to increase the numbers of beds or independent living units on their own land. The Land Development Agency is presently in discussion with aged care providers for further direct sales. And on it goes.

The Commonwealth has announced that it intends to provide funding for 370 provisional allocations over the next three years. Simple arithmetic would tell you that the land available is far in excess of the announced bed allocations. That is why we will continue to work with the Commonwealth to increase the number of bed allocations to allow every person in Canberra who needs aged care to be able to access it.

Financial assistance given to service providers by this government has been substantial. The concessions on land valuation provided to the Weston, Bruce and Garran sites total more than $3.8 million. Proposed land grants to Monash and Hughes will make the figure substantially higher—et cetera, et cetera.

If the opposition were fair dinkum it would tell us what it did before we came to government—either that or deny the advice that I am given that there is a long gestation period in this process; deny that there will always be about 200 beds in the pipeline, even with the best will in the world of every party involved.

Quite frankly, as usual, you are misrepresenting the situation. I understand that Calvary and the Little Company of Mary have come to an understanding with the Chief Minister. After making a number of announcements they have decided that they will get on with their part of that process.

Mr Smyth: So they've been dragging the chain?

MR QUINLAN: They have contributed to the delay; yes. Let us go to the wider question of aged care. A reference was made to self-funded retirees. We talked about quality of life, and compassion and fairness.

Mr Deputy Speaker, when I hear you talk of self-funded retirees, I immediately get a picture of the middle class. I feel you are talking—

Mrs Dunne: Usual stereotypical Ted.

MR QUINLAN: Yes, I know. I am trying to avoid that. There are two ways you can look at the world. Mr Deputy Speaker, you talked about people who have spent their lives being thrifty and providing for themselves. You spoke of thrift and hard work and quoted David Kibbey, who, I understand, is doing quite well on a military pension. Is that right? Did a lifetime of thrift and hard work provide that pension?

Mr Stefaniak: He's a self-funded retiree.

Mrs Cross: What's that got to do with it?

Mrs Dunne: What's that got to do with it?

MR QUINLAN: I just make the point that in this town there are hundreds and hundreds of self-funded retirees who are living on the taxpayer, not their savings. They are living on the CSS—the Commonwealth superannuation scheme. Unless you are a judge or a politician, this is probably the best superannuation scheme in the world. They did not come from a life of hard work, thrift and doing without; they got a pension.

Mr Stefaniak: We are talking about self-funded ones.

Mr Smyth: Public servants didn't work hard?

Mrs Cross: You have got no idea about the real world.

MR DEPUTY SPEAKER: Order! Mr Quinlan has the floor.

MR QUINLAN: There are two ways you can look at the world—the world of those who have ceased to work. You can look at those—

Mrs Dunne: Those people on CSS pensions and who were an ASO 3 all their life don't have a very big pension. It might be a CSS pension, but it ain't very big.

MR DEPUTY SPEAKER: Order!

MR QUINLAN: There are two ways you can look at the world, particularly the world of those who have ceased work. On the one hand, there are those who are being rewarded for providing for themselves in retirement because of, as you said, the thrift and hard work of their lifetimes.

On the other hand, you can recognise that some of those people have enjoyed a lifetime of advantage over many others. They have had the opportunity, because of their life of work, to receive a pension—to have a pension accrue on their behalf—or to earn enough money to be able to provide for themselves in the future. I gave the example of many Commonwealth public servants.

But there are so many other people in the community who never had that advantage. You, Mr Deputy Speaker, talked about fairness in your first sentence. Fairness, as far as this side of the house is concerned, is helping those who really need it. Mr Cornwell, in his speech, identified that phrase—attributed to me as being an ideological position—

Mr Smyth: It sounds like it.

MR QUINLAN: By his interjection Mr Smyth is saying that helping those who really need it is not part of fairness. That is what your argument comes down to. You talk about equality, but you want people to be treated unequally. You want people who are on reasonably comfortable incomes—

Mr Smyth: Did you say that, Mr Deputy Speaker?

Mrs Dunne: Did you say that?

MR DEPUTY SPEAKER: I don't think so.

MR QUINLAN: That is what the argument comes down to. Every now and then Mr Cornwell brings into his conversation the words "low income retirees" and those people on the Commonwealth health benefit card. You can have $50,000—you can have $80,000 as a couple—and get that card. That card entitles you to pharmaceutical benefits and that is it. Even the Commonwealth does not spread a whole raft of concessions to someone with that card. It qualifies you for about a $20 discount per prescription. That is what it sums up to.

You would have all of the concessions in Canberra go to people at that level. That is beyond what the Commonwealth will do and that would not be fair treatment. That would be money conceded to a group of people who do not need it as much as others in this community. If you call that fairness, you have a funny idea of fairness.

MR STEFANIAK (4.45): I always thought a self-funded retiree was someone who put money away to provide for his or her retirement; who was not the beneficiary of

a pension; who, for example, might have $300,000 stashed away in a super scheme; and who might have—in about 1989 or something—got 15 per cent and $45,000 a year, but now, with 5 per cent, would be getting about $15,000 a year or $300 a week. They are hardly well off. They have provided, with their thrift and hard work, for their old age. They do not have the benefit of a CSS scheme, a judges' scheme or some of the pension schemes—but not in this place—around other parliaments.

Mrs Dunne: Gee, if only we had that pension scheme, we'd be laughing.

MR STEFANIAK: Exactly. Effectively we here are self-funded retirees, Vicki. However, there are many people in that situation. That is what Mr Cornwell is talking about: people who might be getting only $300 or $400, despite the thrift—and I have met many self-funded retirees.

I was at a very interesting meeting not all that long ago at the golf club at West Belconnen. They had a perfectly sensible development of holes 19 to 27 for about 247 or 249 accommodation units for elderly people. This was a very sensible development in terms even of getting transport for those people so they could have some mobility, could move about. It was a well thought out scheme that was knocked on the head by this government.

It amazed me to hear some of the figures. There are currently about 7,500 people over 65 in Belconnen; by 2010 there will be 15,000. At present 12 per cent of the ACT population is aged 65 or over. In 2025 it will be 25 per cent.

In the last few weeks this government, after 2¾ years, finally acted in relation to accommodation for older Canberrans. Whilst they are absolutely pooh-poohing the idea that this was because of an election, I do not think that washes with the public. Two and three quarter years—they had ample opportunity to assist elderly people in our community into appropriate accommodation. When they have had the opportunity they have pooh-poohed it and knocked it on the head. They have raised all sorts of spurious—idiotic at times—excuses for not doing anything and they have not proceeded.

That is a real concern. It is burying your head in the sand. We will all get older; we are an ageing population. The birth rate is not as high as it was 20 or 30 years ago. There will be a significant increase in the number of aged persons. It is absolutely crucial that any government take steps to ensure that there is a regular and steady flow of beds and suitable accommodation for aged persons.

It is only fair. These people have been the backbone of this country. They have been the backbone of the territory. The elderly people we are now talking about, in many instances, went through the Depression as young people. They fought for this country in World War II and in the Korean War. Indeed, as we are getting older, many fought in the Vietnam War.

They have served their country well: they have worked hard; they have raised families; and they have been good, useful, productive members of society. If we have social justice, if we have any sense of decency, we will say, "These people really do deserve their government and the territory to look after them and do the best they can." Our elderly citizens have contributed so much in so many ways.

One of the worst points of this government—and there have been quite a few—has been its complete lack of attention to this. It has lacked imagination and initiative in identifying and developing sites. When they have a good site jump up and bite them in the face—

Mrs Dunne: Posterior.

MR STEFANIAK: Face, posterior, whatever—I was going to say, "arse". When a good site bites them in the posterior all sorts of excuses are made for them not to proceed. One of the few sites identified that seems to have raised the ire of some people in the community is the one at north-east Belconnen, near the lake. There are some points in relation to that. But problems have been pointed out with any other number of sites. They have tried to blame the Commonwealth. That is an absolutely spurious argument.

MR SPEAKER: The time for this debate has expired.

Litter Bill 2003

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

> That this bill be agreed to in principle.

MR CORNWELL (4.50): The opposition will be supporting the Litter Bill 2003. It covers a number of important upgrades in dealing with litter in this territory. It is important to remember that the last time this bill was before us the population of the territory was a lot less than 320,000.

Mr Wood: That long ago?

MR CORNWELL: It was certainly more recent than that, Mr Wood. Therefore the litter problem has increased. I notice for example that it is intended to deal with litter from private land. Anybody who has been out to Gungahlin, coming through from Mitchell, and seen the building sites in that area and the litter that has blown from them into various fences and such like, will realise just how important this aspect of this legislation is in cleaning up that mess.

Construction demolition waste is included, as are the old advertising leaflets under windscreens. An inclusion I particularly welcome relates to throwing litter from a vehicle. As members will be aware, I proposed to put forward legislation to control this matter. I was gazumped by the government with this particular bill. I do not bear any grudge. I am just pleased that the matter has come before us for action.

For far too long it has been an unsatisfactory arrangement. The driver, rather than the owner, of the vehicle had to be tracked down and prosecuted for throwing litter from a car or truck or whatever. Common sense would indicate that we should do the same thing as we do with parking fines and speeding fines; that is, fine the owner, initially at least. It is amazing how quickly they manage to remember who was driving the car at the time. When those people are spoken to their memory quickly returns.

I hope that this legislation will encourage more prosecutions. I do not say that in a nasty way. Once again, in response to question No 1630, Mr Wood has kindly provided me with details of littering offences in the last 12 months—from July 2003 to 30 June 2004. We find that the offences total 41. You have only to look at the litter around the city, around the territory, to realise that more than the 41 people prosecuted are committing offences. The convictions are not very good. There has been one arrest; the case has yet to be heard. There was one caution and no further action was taken. There have been two summonses: one convicted, one dismissed. Litter infringement notices issued by the city rangers total 37: 24 have been paid, the remaining have continuing action.

Again, the application of this legislation needs to be addressed. I hope that, as a result of this being passed, we will get much better results from fining people for what, after all, is another very grubby, dirty business. I think it sometimes comes from laziness. People cannot be bothered taking their rubbish to the right place. Therefore they just dump it beside the road.

It raises a few questions. I am unsure about, but heartened by the minister's comments. One of these relates to the distribution of free newspapers—not by pamphlet droppers, but by vehicle. This creates a small problem, as members would be aware. If you are tossing a free newspaper around, there is a good chance that you will throw it into some garden or an area where people do not want it—unlike paid publications, for which addresses are known.

I raise the matter, as Mr Wood would be aware, in relation to a pilot program that I understood was taking place in the suburb of Florey. The minister wrote back and said that it was not proposed to directly legislate to prevent drive-by delivery of newspapers; however the matter could be continued to be looked at. I am happy to accept the minister's comment on that. He qualified it by saying, "Should the above controls and proposals of this Litter Act to impose sanctions on littering from vehicles proceed, there would be a potential means to control the activity." Again, I will wait and see in relation to that. However, apart from that minor quibble, the opposition is happy to support the legislation.

MS TUCKER (4.57): A sophisticated response is required to manage a complex social problem such as littering. Enforcement measures are a big stick approach to litter abatement and prevention. However, a more holistic approach to litter abatement requires a shift in focus from litter clean-up programs to litter prevention programs. Avoiding the creation of waste is as important for governments to address as disposal and recycling of waste. To avoid litter, we need an effective framework to manage it, one that has clear vision, objectives, adequate legislation and sufficient resources.

I recognise that this legislation is to update the Litter Act and that some of the features of the bill are the addition of obligation upon individuals to dispose of litter in a way that prevents its escape onto public land. I have also prepared an amendment based on this idea; that is, to create an offence for the mass release of balloons. I will talk about that later.

There is the expansion of the definition of the meaning of public place to include any place that the public has access to versus the current definition, which is essentially

unleased territory land, roads, and road related areas. I notice that it will now become an offence for a person to put household or commercial rubbish in a litter bin placed in a public place.

The legislation also has a focus on littering by escaping materials during transportation. This clarifies responsibility for employers to provide for employees, meaning that they have to secure loads so as to prevent material escaping. In his tabling speech, the minister said that the new provisions would be properly publicised to maximise their impact on littering behaviour.

The Greens support a holistic strategy for dealing with waste. The territory's goal of zero waste is worthless unless producers are made responsible for used goods and packaging, and bans on illegal dumping are strictly enforced. The concept of extended producer responsibility is a strategy to move closer to a holistic strategy for waste management.

The OECD defines extended producer responsibility as a policy approach under which producers accept significant responsibility, financial and/or physical, for the treatment or disposal of post-consumer production. The key features of extended producer responsibility are the prevention of waste at the source, and enhancing product design for the environment; that is, taking into consideration potentially littered components of products and packaging at the design stage.

The intention is to transfer some of the costs and/or physical responsibility of managing litter back to the producers of commonly littered items. Actions that these ideas translate into include container deposit legislation, reduction of unnecessary packaging, product labelling, industry programs and support, and industry water reduction plans.

The economic system that we have profited from over the past 200 years has never built in the real costs of wasting resources or disposing of waste. Those costs are borne by an eroding of diminished physical environment and healthy rivers, and the frantic exploitation of resources around the world, with at times a destructive impact on the environments and the people who live there. It is an impact that will be carried by future generations. The national packaging covenant is only voluntarily and allows manufacturers to avoid—

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

MS TUCKER: The national packaging covenant is only voluntary and allows manufacturers to avoid responsibility for the packaging and containers they generate. Only South Australia has container deposit legislation with the incentive of a deposit to return containers. The beverage industry is strongly opposing the introduction of container deposit legislation in other states and territories. However, in the Cleanup Australia rubbish report 2003, more than 30 per cent of the rubbish collected was beverage containers. This emphasises the need for a national container deposit legislation.

I have spoken before in the Assembly about plastic bags and cigarette butts. The Greens have called for a levy to be introduced on plastic bags. A similar strategy in Ireland

introduced in 2002 has resulted in a 90 per cent reduction in the use of plastic bags. The debate continues about how we may address this issue.

It is commonly quoted that cigarette butts are more than 20 per cent of the litter stream. Clearly a lot more could be done to encourage smokers to responsibly dispose of butts. Additionally, manufacturers of cigarettes could also produce filters that biodegrade. I will speak to my amendments when we get to the detail stage.

MS DUNDAS (5.02): The democrats are pleased to add their support to this bill to bring our litter laws up to date and impose some tough penalties on litter in the ACT. Mountains of research has been done on the effects of litter in our natural eco-system. It ends up in our creeks and waterways, and creates dangers for flora, fauna and humans alike.

All Canberrans should have the right to a clean and protected environment. Yet littering causes significant problems as well as being an eyesore. Litter can enter the food chain of our native animals and have devastating effects, and the release of non bio-degradable products like plastic bags cause problems for generations. Efforts such as Cleanup Australia Day remove phenomenal amounts of rubbish from our streets, waterways and parks, and that includes the work that the Department of Urban Services does regularly in attempting to keep our suburbs clean.

Whilst the Democrats generally recognise that increasing fines and penalties has no net effect on the causes of illegal behaviour, we do not believe that excessive fines and the possibility of jail time for failure to pay those fines deals responsibly with the core issue.

However, because of the damaging impact littering has on our environment, we are supportive of these new punitive measures on littering. In particular, we need to have a strong disincentive to the illegal dumping of commercial waste. The disposal of rubbish is not an area where businesses should be able to take short cuts to save costs. We all have a stake in the environment, and it is up to everyone to see it protected.

It is good that we are having this debate. But to make this bill most effective, we need to see a significant increase in the government's commitment to not only the no-waste program but also litter removal. The "No waste by 2010" is very commendable program, but there appears to have been little new action coming through to see that the ACT meets this target. We seem to have a half-hearted commitment to implementing strategies to reach no waste by 2010. However, perhaps with this bill being passed, we will see a turn around in action.

If people are going to be faced with increased penalties for littering, there also needs to be an increase in the removal of litter. In the next budget I look forward to seeing the extra revenue created from this bill—from more people going to the tip—being put towards better effort in cleaning up Canberra. It is interesting to note that the Auditor-General's report put forward today indicates that there are problems in how we are judging the amount of waste that is going to landfill and how the no waste program is operating. There appears to be a need to re-focus our efforts in that area.

I note that there are amendments circulated and I will discuss them more in the detail stage.

MR HARGREAVES (5.05): I pose a question now—which I hope Ms Tucker might be able to answer when she talks to her amendment—rather than wait till she moves the amendment. She might as well address it at the time she does it.

The bill describes what litter is. It talks about the object of the act. It is really about not having the place untidy. Litter includes any material deposited at a place of a size, nature and volume that makes the place untidy. I wonder about whether sticking bills or posters on public places constitutes littering.

Mr Cornwell, quite rightly, makes much of graffiti around the place. I was wondering about the sticking of a bill or poster on a public place and whether it would make the place untidy. So whilst the debate was going I scurried off down the road to City Walk and discovered some bills and posters stuck on a public place. In fact, this was a rectangular structure, four sides of which had bills posted on it. Most of them had been torn down. It looked very untidy. Ergo, by definition, the putting of those things in a public place was untidy, and therefore in my view constituted litter.

They were a couple of advertisements for meetings to be held by the Socialist Alternative, curiously tomorrow at 1 pm and on Thursday evening. It also gives its website. So if this is in fact illegal, the website is available and they can be chased up and promptly dealt with.

I also recall that during the last election—and many times before that—there were very big green triangular signs stuck all over the place in the town. In the context of an election campaign that is fine. I think there is provision in the act that if it complies with the Commonwealth Electoral Act—

Mr Cornwell: Kangaroos crossing or something?

MR HARGREAVES: Yes, something like that—and something about dams occasionally. If it does not contravene the Commonwealth Electoral Act, that is fine—you can do things like that—put things in letterboxes and what not. But I believe that it constitutes littering if those things are not removed after the election.

I ask whether Ms Tucker's amendments will make it promptly illegal for the Greens to keep doing this sort of stuff and whether, in the context of the act, these activities of placing bills on public places will constitute littering. Will people therefore commit an offence? We note that this is a strict liability offence. So mitigating circumstances do not really come into it, as far as I am aware. I would like to know whether the Greens, in promoting these amendments, agree or disagree that sticking triangular green posters on public places constitutes littering.

MRS CROSS (5.09): I rise to support the bill. I will speak very briefly to the bill and to Ms Tucker's proposed amendments, which I will support.

Mr Speaker, if we are going to have new litter legislation, as I have said, I am all for making it as comprehensive as we can while the opportunity exists. It is very helpful to our efforts to control litter if, along the way, we can work to reduce the quantity of material that could potentially become litter. It seems to me that this is the general thrust

of Ms Tucker's proposed amendments. Personally I do not have a "No junk mail" sign on my letterbox. So-called junk mail as such does not worry me, but I do respect the wishes and the rights of someone who does not wish to receive this sort of advertising or promotional material. And if that someone indicates with a sign that junk mail is not welcome on their property, then that wish should be respected. In other words, it is offensive not to respect it. I also agree that the careless letting loose of quantities of balloons is environmentally unsound and should only be permitted under the conditions referred to in Ms Tucker's proposed amendments.

We are fortunate to live in a notably beautiful city and we should work to keep it that way and even enhance it. Sadly, parts of it have been looking a little grottier over recent years, particularly because of the spreading stain of, for example, mindless graffiti. And we must do what we can to arrest and reverse that trend. Ms Tucker's proposed amendments should be seen as a contribution to that general effort. So I support the bill as a whole and have no trouble in supporting Ms Tucker's proposed amendments.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.11), in reply: Mr Speaker, I thank members for supporting the proposed legislation. When we get down to the detail stage I will give, I think, reasonable grounds for not supporting Ms Tucker's amendments.

Just to talk generally about that: there is a broader issue. I remember some young student somewhere in south Belconnen did a very good research project. He gathered all the junk mail that came into his letterbox over a period, brought it up to a year's total, multiplied it by the number of letterboxes in Canberra and decided how many trees went in the process of junk mail. It was a quite remarkable exercise and it was quite notable just what a big impact it had. It was a quite interesting exercise. I forget the actual figures now, but I read it with quite a deal of interest.

I get concerned—I think I have said it before when we have discussed litter—when I buy the *Sydney Morning Herald* on a Saturday morning. I dispense with most of it. No doubt there are people in Canberra that look at the positions vacant or other things, but I think there is just a lot of material that is never attended to. Plus there is all the paper they use just to support advertising. I think there is a broader issue about how much material needs to be printed. But that is not what we are on about today, before Mr Speaker pulls me up.

Mr Hargreaves asked a question that I do not think I can answer. Notwithstanding, I have seen a little thing on walls around the city saying, "Bill posters will be prosecuted". But at this stage it is not part, as I understand it, of the Litter Act. I do not know if it has got anything to do with graffiti. I just cannot answer the question: under what authority would bill posters be prosecuted? Maybe I will do some more research somewhere for you with respect to that, Mr Hargreaves.

Ms Tucker said we should be as much about litter prevention. We talk about that. I have asked the question of officers: how many complaints have we received? Since 1 January 2003, that is, a year and seven months, none. That is specific to stuff going into letterboxes, I would think, because we can well see the litter lying around.

Specific to this legislation: the system of a voluntary code where 90 per cent of the junk mail is derived from whatever group it's called—the Distribution Standards Board—seems to be working. I have a "No junk mail" sign on my letterbox. I have an argument with my wife as to whether or not it should stay there because, like Mrs Cross, she does not mind the junk mail. If I get to it first, it just goes in the bin. But I have never had a thing in it.

Mrs Cross: See, we like retail therapy.

MR WOOD: Well, it is damaging, I can tell you, to the hip-pocket nerve. The voluntary code seems to be working because we are not getting complaints about litter in letterboxes. You can go to any hardware store in this town and get a sign, as I have, and put it up. "No junk mail". I find it very effective. It went up on my letterbox when I went away for a fortnight. I cancelled the mail and put that up and there was not a thing lying around anywhere. So it seems to work.

In respect to Ms Tucker's proposed amendments, speaking ahead of time perhaps: the system seems to be working quite well. So why would you tie it down so definitively? I know the Greens like to do that—they do want to tie things down so rigidly—when I do not think, on the evidence, it is necessary. I do not think it is a problem. I do not know if I will repeat those comments when we get to discuss the amendments.

In the main, I am pleased with the words I hear in this Assembly today. Mr Cornwell raises the point, following the question he asked on notice, about penalties and the people who have been prosecuted. Yes, it is not a vast number of people. This legislation will make it a little easier to prosecute people; that is what it is about. Education always is the thing. What disappoints me is that there is more likely to be litter thrown in Canberra than in other cities in Australia, and I do not think that says much for a city that I thought was pretty good on those sorts of things. But let's now get to the detail stage, Mr Speaker.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 9, by leave, taken together and agreed to.

Clause 10.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.16): Mr Speaker I move amendment No 1 circulated in my name *[see schedule 2 at page 3380]* and table a supplementary explanatory statement to the four amendments that I will be moving.

The first of these amendments is proposed to clause 10 of the bill which deals with commercial waste. It inserts a new clause 10 (1) (a) to make it an offence for an occupier

of commercial, industrial or business premises to fail to take reasonable steps to prevent litter from the premises being deposited in or on a public place. The maximum penalty is 50 penalty points, and it is a strict liability offence.

This amendment has the effect of replicating in the new Litter Bill section 5 of the current act. When the act was reviewed it had initially been considered that some of the new provisions would ensure a comprehensive scheme to address the various circumstances in which littering occurs and the retention of section 5 of the act would not be necessary. However, on further consideration of this matter the government is satisfied that the provisions of section 5 of the current act should be retained as they provide a useful enforcement tool by placing a positive onus on occupiers of commercial, industrial and business premises to take reasonable steps to prevent the deposit of litter. For this reason the new clause will reinstate the provisions of section 5 of the act in the bill.

MS TUCKER (5.18): I want to make a comment on this section. There are two sections where there are strict liability offences with imprisonment. The scrutiny committee, in scrutiny report 38, noted that there is a rights objection to such provisions. This does not fit within the basic principle that the Senate committee signed off on the use of strict liability; that is, you should not be sent to prison without the opportunity to explain or defend your actions. I can see that this is going to be supported but I want to put on the record my position on strict liability offences having imprisonment penalties.

MS DUNDAS (5.19): On the face of it, this amendment is quite reasonable in taking reasonable steps to prevent litter from the premises actually being deposited at public places, and that is something that we can support. But we also have the concerns of Ms Tucker as we have had in almost every situation over the last 12 months where we have discussed strict liability offences. There needs to be, I guess, greater care by the government in how they are using these offences and how they are actually implementing absolute and strict liability offences, especially in relation to that Senate report. It is disappointing to see it back in use.

MR CORNWELL (5.20): The opposition will be supporting the government.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage and Acting Minister for Health) (5.20): Mr Speaker, I note what Ms Tucker says about strict liability offences. I think I've heard her say that before in other circumstances. We understand it; it's a stronger means. If you read the response I provided to Mr Stefaniak and the scrutiny committee you will see a reiteration of the argument that the government uses at various times about this matter, which we treat carefully and, I think in this circumstance again, appropriately.

Amendment agreed to.

Clause 10, as amended, agreed to.

Clauses 11 to 13, by leave, taken together and agreed to.

New clauses 13A to 13E.

MS TUCKER (5.21): I move amendment No 1 circulated in my name which inserts new clauses 13A to 13E *[see schedule 3 at page 3381]*.

These amendments are based on my Litter Amendment Bill 2002 and address the issues raised in scrutiny report 23. The committee had concerns about who carried the burden of proof in the original legislation. In this amendment the prosecution would be required to prove that the defendant failed to take all reasonable steps to prevent the offence. The defendant will only have to discharge an evidential burden in relation to the exceptions mentioned. This clarifies who will carry the burden of proof as mentioned by the scrutiny committee. It also reduces the burden in proposed section 13D (3) to an evidential burden and would appear to resolve the committee's concern.

But I will just briefly recap on the bill that these amendments have come from. Essentially, the bill was to address the large amount of unsolicited advertising material, commonly known as junk mail, placed in letterboxes every day. There are a couple of types of junk mail. The first is addressed by unsolicited material delivered by Australia Post containing advertising material from companies. This sort of mail is out of the Assembly's control as the Commonwealth has jurisdiction over postal services. The other type of junk mail is unaddressed advertising material, usually catalogues and fliers, distributed by private direct-marketing companies or even directly by the advertiser. This sort of junk mail the Assembly can do something about.

In my tabling speech in 2002 I spoke about some of the pitfalls of self-regulated industry and I would refer members to that speech for more detail. Basically, the bill set up a new offence if a person deposits unsolicited advertising material in a mail receptacle where there is an easily read sign to the effect that unsolicited advertising material is not to be deposited there—for example a sign that says "No junk mail". The penalty is similar to the penalties applying to littering offences. The company that employs a person to deliver junk mail would also be liable if it were demonstrated that they failed to take all reasonable steps to prevent the offence—for example, by having a clear company policy that junk mail is not to be distributed in "No junk mail" letterboxes.

The amendments include definitions of junk mail and provide exclusions such as public notices from government agencies, charities and community associations and election campaign material. I have actually amended my own amendment. For members' interest, in 13B (3) (c) I have removed the word "incorporated" before community associations because the Democrats were concerned that that could mean that community associations that were not incorporated would somehow fall through.

Mrs Cross: So you're amending that amendment?

MS TUCKER: So I have amended that, yes. It has not been circulated but I have amended it and signed it. The amendments also include provisions so that the junk mail cannot just be left on a doorstep or in a driveway.

On the question of balloons, I have also prepared amendments. Clause 13E creates an offence if a person intentionally releases or causes the release of a mass number of balloons at the same time. This offence is a strict liability offence. This legislation matches the New South Wales legislation. I and the Chief Minister have received a letter

from the Friends of Durras, a coastal environmental group, who are concerned that balloons released in the ACT will eventually reach the coast and litter the coastline. The letter states:

> Members of our organisation walk our beaches regularly picking up rubbish. Balloon ends, that is the string and the very end of the balloon, are a regular part of the beach debris.…
>
> Considering that our members pick up what constitutes perhaps only 10% of a balloon (and probably a very small percentage of the balloons released) a lot of latex ends up in the sea unaccounted for.

This amendment recognises that people should take responsibility for objects that they release into the atmosphere. Balloons can travel and land kilometres from the release site. There are major concerns that balloons often end up in rivers and oceans and that they can be ingested by animals that mistake them for food. The ingestion of balloons can choke or entangle animals or cause them to strangle to death.

The definition of mass release mirrors the New South Wales legislation; that is, mass release is defined as 20 balloons. This is for the sake of ease and consistency across the border. The definition makes it clear that for celebratory events it is not okay to release a large number of balloons. I recognise that the balloon industry does have some arguments that latex balloons break down a lot easier than is commonly believed. The Greens still believe that it is not responsible to release items that will become litter and that could cause a danger to animals. I would like to make it clear that this amendment is not banning balloons, just encouraging the responsible use of them.

Both of these amendments deal with the causal end of the litter equation. The Greens believe working to prevent litter is more effective than trying to manage it when it becomes a problem.

MS DUNDAS (5.27): The Democrats have no problem in supporting the Greens' amendment to prohibit the mass release of balloons. Most balloons are made of non-biodegradable material, releasing damaging chemicals into our soil base, and can be easily mistaken by some animals as a food source, often leading to fatal choking. So any action we can take to limit the number of balloons entering our ecosystem needs to be supported. There are, I note in the proposal put forward by Ms Tucker, provisions to allow people still to enjoy balloons but to ensure that they are kept out of the ecosystem, which I think is a goal worth supporting.

In relation to unsolicited advertising material and advertising material going into letterboxes that have a "No junk mail" sticker on them: I thank Ms Tucker for taking out the word "incorporated" because most Neighbourhood Watch associations are not incorporated. There could have been an issue there that non-profit groups such as Neighbourhood Watch could have ended up with massive fines under this proposal.

But I still have concerns in relation to this proposal. The example is a child who loses a puppy, prints up some notices and puts them in letterboxes. Under this law that child and their parents who helped them produce that flier are actually liable. That is, I guess, an unanswered question about the impact of the proposal put forward. As it is a strict liability offence, there is not actually room for much defence because of course there was

an intent by the child to put that notice in that letterbox. So there are ongoing questions there.

In that sense, why are we allowing politicians and sitting members of parliament the right to put something in a "No junk mail" letterbox when we are denying or not affording the same rights to some members of the community who are trying to, I guess, promote their business or find their missing dog?

I am generally supportive of the idea that Ms Tucker is getting at. If we have "No junk mail" stickers there should be a way of actually enforcing what the owner is trying to get out. They do not want this information coming into their letterbox. I think, even in my experience, those people who have "No junk mail" stickers consider that any notices coming from the territory, documents from charitable organisations or electoral matter are still junk mail in their eyes. They do not want anything but stuff that is addressed to them.

Whilst I support the intention of what Ms Tucker is trying to do in trying to work through a way of making sure that we actually can enforce people's wishes to not receive junk mail, I still have a few questions about how it will actually be implemented in relation to the broader issues I have raised today. One way, of course, to do that is to get the minister to issue regulations to exempt individuals with serious community concerns that they are trying to advertise. That is a possible solution. There are ways to work around this and still achieve the intention.

Yes, there are some questions with this law that need to be asked if we are to achieve the intention that I think we can see is trying to be reached here, and that is to make sure that we do not have unsolicited advertising material being put in "No junk mail" letterboxes.

MR CORNWELL (5.31): The opposition will not be supporting this amendment. Ms Tucker, in her speech, indicates, of course, that a significant proportion of the community does not like junk mail. In fact, I am of the view that the number of "No junks" is increasing. I tend to put that down to the increasing affluence of this city, thanks, of course, to the Howard Liberal government. But never mind. The increasing affluence seems to be a factor in people, to put it bluntly, who are poor or do not have a great deal of money, not really being able to afford to give up the opportunity to get cheap deals or things of this nature that we often find being circulated. That is the basis that I put it upon, and I do not think there is anything wrong with that. Equally so, however, I do believe that people have a right not to receive this type of mail.

I am afraid, Ms Tucker, I cannot accept your comments that you think the distribution of information about opportunities to be involved in community-building activities and the political process is very important and not something that people can simply opt out of. I do not accept that. I think that, if one lives in a democracy, you have as much right to opt out of that as you have to opt in. If I want to put a "No junk mail" sign on my letterbox—and I do—I should not be subject to all sorts of exceptions to that rule, including charitable organisations and political pamphlets.

I personally, if I am letter-boxing on behalf of myself, will respect "No junk mail". I will not put my pamphlet in there, because I have a "No junk mail" myself.

Mr Wood: It wouldn't be junk mail.

MR CORNWELL: Thank you, Mr Wood. You see, this is the conundrum that we face. To me, that may be not "No junk mail", but that is not the point. The point is the recipient is the person who makes that decision. I know we are never going to resolve an argument of this nature, except that we have to make that decision ourselves. Occasionally you will put things in a "No junk mail" and you will get letters or abuse or something from somebody.

But then the contra comes back when people say to you, "Hey, I haven't heard from you. Are you still standing?" You say, "Have you got a 'No junk mail' on your box?" They say, "Oh, yes." You can't resolve this problem.

I might add that I would make a plea to those—it doesn't matter to me now, but I would make a plea on behalf of all other people who may be pamphlet-dropping at one stage—who do have "No junk mail", Mr Speaker, and who live at the top of very steep driveways, with the letterbox at the top, to have the decency to say, "This is 'No junk mail'" down at the foot of the driveway. It is extremely frustrating to climb all the way to the top and find that you are blocked.

Nevertheless, it does not alter the fact that, whatever the minister said in relation to these matters, they are working satisfactorily now. There may be the odd complaint, as I say, about receiving something do not want or not receiving something that you did, but it seems to me that they are working quite well at the moment. I therefore do not see any need to enshrine in legislation further such restrictions. I repeat: if restrictions were imposed, I would certainly be against any exceptions to those restrictions such as set out in 13B (3) of Ms Tucker's amendment.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.35): I think I have spoken to this by reference to the fact that I said that the voluntary system seems to be working. We are not getting complaints from people about stuff that goes into their letterboxes; so this seems to me a particularly complicated way of handling a problem that I do not think is there. Why would we go down that path? There are technical problems, too, compounded by the fact that this is strict liability stuff and there are some issues there that have been raised. But that, in effect, is secondary to the fact that I just do not think we need this.

MR HARGREAVES (5.36): I rose because Ms Tucker was out and was on her way back. I just wanted to say that I accept, obviously, what the minister said, but it is a question of the crime and punishment fitting each other. I have to say, in relation to the argument Ms Dundas put about younger people putting something in the letterbox saying "Have you seen a cat?" "Have you seen a dog?" and all that sort of stuff, we need to treat those sorts of things, very carefully, because these are unintended consequences. We need to be very cautious about that. I have a great big bin at my house with a yellow lid on it, and that is how I deal with the stuff that I do not want in my letterbox, the same as everybody else does in town.

MS TUCKER (5.37): I thank members for their comments. I do not think this is implying that a communication between two members within a community, or the example Ros Dundas supports, would be seen as advertising material. We have a definition of advertising material, which means any paper products, with or without plastic covering, et cetera. I will not read it out; it is there for members to see. But it clearly would not fit into that category.

We have removed, in the exemptions I have made, "incorporated" from community association. I take the point. You could add to that "all communications between members of the community", but I think the intent of this amendment is pretty obvious. It would be a pretty bizarre interpretation to think that you would somehow make a communication between one or two members of the community, or talking about a street party or whatever the examples were, fit into basically the intent, which is about advertising material which is certainly defined here.

On the question of its being a problem or not—because it has been a while since we did it—we did actually do a survey on this. We surveyed members of the Greens. Yes, arguably you might say they are chiefly litter conscious people and people who probably have "No junk mail" stickers. But in that way, they are a good sample to actually be surveying. We did do a survey of that group before we reintroduced this. The response was that it is a problem. That is why we decided to do this. I think you are talking to different constituencies in what you are saying.

The strict liability is not related to imprisonment. I think that is also a really important point to make. I think I have covered all those points.

Actually, Mr Speaker, I am just wondering: can we have them separated? I think there may be support for the balloons amendment.

Mr Wood: No.

MS TUCKER: No? No-one is even supporting the balloons?

Question put:

> That **Ms Tucker's** amendment be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Amendment negatived.

Clause 14.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.43): Mr Speaker, I move amendment No 2 circulated in my name *[see schedule 2 at page 3380]*.

This amendment deletes section 14 (2) from the bill. Parliamentary Counsel's Office has identified that subsection 14 (2) is unnecessary as only public servants will be appointed as authorised persons under subsection 14 (1) of the act.

Amendment agreed to.

Clause 14, as amended, agreed to.

Clauses 15 to 20, by leave, taken together and agreed to.

Clause 21.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.44): Mr Speaker I move amendment No 3 circulated in my name *[see schedule 2 at page 3380]*.

Mr Speaker, this is a response to a matter drawn to attention by the scrutiny committee. It inserts new clause 21 (7) at the end of clause 21, dealing with a notice to remove litter.

Clause 21 (6) makes it an offence to fail to comply with the notice to remove litter. The scrutiny of bills committee in its report noted there was no provision to the effect that this was a strict liability offence. The new clause makes it clear that the clause is a strict liability offence.

Amendment agreed to.

Clause 21, as amended, agreed to.

Clauses 22 to 29, by leave, taken together and agreed to.

Schedule 1.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.45): I move amendment No 4, Mr Speaker, circulated in my name *[see schedule 2 at page 3380]*.

This is—I am told and I agree—of a fairly technical nature. It is an amendment to schedule 1 which makes consequential amendments to the Magistrates Court Act 1930 to

facilitate the issuing of infringement notices to the registered operator of a vehicle for vehicle-related offences such as where litter is thrown from a vehicle. Section 120 of the Magistrates Courts Act is amended by the insertion of the new subsection which clarifies that situation.

Amendment agreed to.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.47): Mr Speaker, I move amendment No 5 circulated in my name, which inserts a new amendment 1.1A to schedule 1 *[see schedule 2 at page 3380]*. I think these amendments we are dealing with now are of a technical nature and move the new definition of vehicle-related offences from section 131A of the Magistrates Court Act to section 117.

This amendment is necessary because, had the definition remained in section 131A, it would have applied only to division 8.2A. The definition has a wider application. The amendments through to amendment No 6 are doing that job.

Amendment agreed to.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (5.48): I move amendment No 6 circulated in my name *[see schedule 2 at page 3380]*. I have explained my reason for that, which we all fully understand.

Amendment agreed to.

Schedule 1, as amended, agreed to.

Dictionary agreed to.

Title agreed to.

Bill, as amended, agreed to.

Adjournment

Motion (by **Mr Wood**) proposed:

> That the Assembly do now adjourn.

National Missing Persons Week

MR SMYTH (Leader of the Opposition) (5.49): I wish to bring to the attention of members that this week is National Missing Persons Week. It is normally celebrated in the first week of August each year. This year it runs from Sunday, 1 August, to 7 August. The theme is pleas—a play on words, plea—missing: the right to know. And what this year's theme highlights is that many people choose to go missing, and many people do

not choose to go missing. But whatever the reason for them to be away from their friends, their loved ones, their families, it is the friends, the families and the loved ones who often also carry a burden, and that is of just not knowing what has happened to a partner, a friend, a spouse, a daughter, a son, a child, a grandparent—whatever the relationship. What it does is bring tragedy.

The statistics quoted over the last couple of days, at various functions I have been to, are quite horrific. Something like 30,000 people go missing in Australia every year. Thankfully, the majority of those are found within seven days. That comes as a great relief to their families.

There are a more serious number of people who disappear, who go missing, and from whom nothing is heard by their families. It comes down to a couple of hundred people but, for the families of those couple of hundred people, which I think is way too large a number, the burden is quite extreme. The irony for many of these families is that these people are elsewhere, they are known to authorities, but simply the authorities cannot reveal that. They might be known to a motor registry, through the health authorities or through Centrelink but, because of privacy legislation, that information is not available to their families.

On one hand, I think we have to balance the rights of an individual to be anonymous, to be where they are, in the circumstances that they want to be in, but I think we also have to acknowledge the rights of their loved ones and their families to actually know that they are safe. In many cases that is all they want to know. So the message is: please, we need to know where you are; please let us know. There are some free-call numbers that will allow that to occur.

The poster that was designed to go with it was in fact from a competition run at the CIT, in conjunction with the AFP. The winner this year was Maja Pietranik who won a small trophy and a small cash prize for designing all the work. I think it is tremendous that the AFP are going out in the community to get the community's perspective on what is happening out there and how best to relate to people. The second-year design students at the CIT were responsible. Many entered and Maja was the winner. Congratulations to Maja and to the AFP, in particular their missing persons unit.

It is important work they do—I suspect a lot of it is heart-wrenching work. I would like to congratulate the missing persons unit as well, who operate at the national level, and then of course have links with all the state police forces. To the officers involved with this particularly, in many ways, thankless task—it is often a task that does not bring a solution, does not bring an answer to folks—I would say, "Please keep up the good work; don't lose heart. You do a fabulous job, and it is very much appreciated by the community."

I would make a final plea to members of the community that we have a role to play here as well in making sure that, if we do know somebody who is missing or estranged from their family—for their own reasons—we encourage them simply to do their family, their loved ones or their friends the simple courtesy of contacting them and saying, "I'm okay." That is the whole theme of the postcard that has been designed. It simply says, "Dear"—blank; you fill in your blank—"I'm okay." Signed whoever it is. It is a simple

message. It would be great if we could solve some of the cases and if we could bring peace to a number of people who suffer daily, who live through this daily.

The other interesting thing that the AFP did, Mr Speaker, was that they actually commissioned a song. It has been written by a Queensland author. That will be played over the week, I understand, on all the commercial stations and certainly the ABC. It highlights some of the anguish that is caused to those who are left behind and who do not know and who need to know. To those of us who have an interest in this, please encourage anyone you know who is estranged from their family simply to make contact.

Rugby union

MR STEFANIAK (5.54): Mr Speaker, I rise to comment in relation to a problem that has been around for some time now, and that is the fact that the ACT is not represented on the board of the Australian Rugby Union. My colleague Mr Smyth had this brought home to him on Friday actually by the CEO of the Brumbies and the ACT Rugby Union, and they in fact wrote a letter to the chairman of the Australian Rugby Union, which I have here and fully support, requesting the board of the ARU to give urgent consideration to the ACT being given representation on its board.

Since the inception of the Kookaburras in 1995 and certainly since 1996 with the Super 12s and the Brumbies being part and parcel of that, the ACT team, namely, the Brumbies, have performed better than any other Australian side; it has been in five finals in its short history and won two of them. No other Australian team has actually made the finals. The last time any other team won anything like that was Queensland winning the Super 10 back in 1995.

I think it is certainly a ridiculous situation that the ACT is not represented on the board of the Australian Rugby Union because there are three distinct areas of excellence in Australia in the sport of rugby union, and they are the ACT, New South Wales and Queensland. New South Wales and Queensland of course are represented on the board of the Australian Rugby Union. I am not too sure whether this is just a type of Canberra-bashing, which does happen outside this territory from time to time.

I have certainly noticed that, in relation to sporting matters, people seem to think that Canberra is just federal politicians. Well, the federal politicians actually come largely from interstate and reside here only when parliament is sitting. But the ACT is made up of ordinary, average Australian citizens who happen to live in the national capital.

We are now, of course, a self-governing territory and even have a mace now; yet there is this attitude, I think, that pervades a lot of areas of Australia, including sporting areas, that the ACT is somehow different. I think that works often to our detriment. I detect that perhaps there is something in that because of the fact that we do not have, and we should have, a representative on the board of the Australian Rugby Union.

We see it in other areas of sport too. I think there were some big problems in relation to the Comets being given the toss from the cricket competition. We have often been a bit short-changed in a number of areas, but here I think it is really quite stark. The ACT and especially the Brumbies have contributed hugely to the sport of rugby union.

It is very much so that some of the players from the ACT were largely instrumental in our winning the 1999 World Cup. Who can forget the magnificent field goal by Steve Larkham actually to get us into the final, certainly the magnificent efforts of Joe Roff during that series and in the final Owen Finegan's magnificent try to put the issue beyond doubt? I do not think anyone can argue—and I do not think even the most biased New South Wales or Queensland supporter could argue—that the ACT certainly has not done more than pull its weight and has, in, fact punched well above its weight in terms of both the Super 12s and at the international level in terms of the players who represent Australia.

Therefore I commend my colleague Mr Smyth for taking up this issue with the ARU. I will do the same and I am more than happy to meet with them. It might well be sensible for this Assembly to consider doing something too because I think this is a stark instance of a grave injustice that is being suffered here to one of our premier sporting bodies which should be represented on this national body and which is not.

Question resolved in the affirmative.

The Assembly adjourned at 5.59 pm.

Schedules of amendments

Schedule 1

Roads and Public Places (Vandalism) Amendment Bill 2004

Amendment moved by Ms Dundas

1
Clause 9
Proposed new section 14A (4)
Page 6, line 20—

omit

immediately

substitute

at least 24 hours

Schedule 2

Litter Bill 2003

Amendments moved by the Minister for Urban Services

1
Proposed new clause 10 (1A)
Page 6, line 19—

insert

(1A) An occupier of commercial, industrial or business premises commits an offence if the occupier fails to take reasonable steps to prevent litter from the premises being deposited at a public place.

Maximum penalty: 50 penalty units.

2
Clause 14 (2)
Page 9, line 11—

omit

3
Proposed new clause 21 (7)
Page 14, line 4—

insert

(7) An offence against this section is a strict liability offence.

4
Schedule 1
Amendment 1.1
Proposed new definition of *vehicle-related offence*
Page 18, line 24—

insert

vehicle-related offence means an infringement notice offence that—

(a) involves a vehicle; and

(b) is declared under the regulations to be an offence to which division 8.2A applies.

5
Schedule 1
Proposed new amendment 1.1A
Page 18, line 24—

insert

[1.1A] Section 120

substitute

120 Service of infringement notices

(1) If an authorised person believes, on reasonable grounds, that a person has committed an infringement notice offence, the authorised person may serve a notice (an ***infringement notice***) on the person for the offence.

(2) To remove any doubt, an authorised person may not serve an infringement notice on a person under this section for an offence after the end of the time within which a prosecution may be brought for the offence.

(3) This section does not prevent an infringement notice for a vehicle-related offence being served on a person under section 131B (Service of infringement notice on responsible person for vehicle).

6
Schedule 1
Amendment 1.2
Proposed new section 131A
Page 19, line 5—

omit proposed new section 131A, substitute

131A Meaning of *infringement notice*

In this division:

infringement notice means a infringement notice for a vehicle-related offence.

Schedule 3

Litter Bill 2003

Amendments moved by Ms Tucker

1
Proposed new clauses 13A to 13E
Page 8, line 26—

insert

13A Depositing unsolicited advertising material other than in letterbox

(1) A person commits an offence if—

(a) there is a letterbox at any premises; and

(b) the person deposits unsolicited advertising material at the premises other than in the letterbox.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply to—

(a) anything of a size, shape or volume that does not make it possible or appropriate for it to be deposited in the letterbox; or

(b) anything deposited by a person acting with the permission of an owner or occupier of the premises; or

(c) anything else prescribed under the regulations that is deposited in accordance with the regulations.

13B Depositing unsolicited advertising material in letterbox contrary to sign

(1) A person commits an offence if—

(a) there is a letterbox at any premises; and

(b) on or near the letterbox, there is a conspicuous sign that can be easily read to the effect that unsolicited advertising material is not to be deposited in the letterbox; and

(c) the person deposits unsolicited advertising material in the letterbox.

Maximum penalty: 10 penalty units.

Examples for par (b) of signs to the effect that unsolicited advertising material is not to be deposited

1 no junk mail
2 no unsolicited material
3 no advertising material
4 no unaddressed mail
5 Australia Post mail only

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply to any of the following:

(a) a public notice issued by the Territory, a Territory authority or Territory instrumentality;

(b) a document deposited under the authority of a Commonweajlth or Territory law;

(c) a document from a charitable organisation or incorporated community association;

(d) matter that is ***electoral matter*** under the *Commonwealth Electoral Act 1918* (Cwlth), section 4, or the *Electoral Act 1992*, section 4;

(e) a document from a member of the Commonwealth Parliament or the Legislative Assembly;

(f) anything else prescribed under the regulations.

Examples for par (a)

1 notices about the holding of public consultations
2 police notices
3 notices about disruptions to public services

(4) In this section:

charitable organisation means an entity carried on for a religious, educational, benevolent or charitable purpose, but does not include an entity carried on for the purpose of securing financial benefits to its members.

Note ***Legislative Assembly, Territory authority and Territory instrumentality*** are defined in the Legislation Act, dict, pt 1.

13C Removing etc signs about unsolicited advertising material

(1) A person commits an offence if—

(a) at any premises, there is, on or near a letterbox, a sign to the effect that unsolicited advertising material is not to be deposited in the letterbox; and

(b) the person removes, changes or interferes with the sign.

Maximum penalty: 5 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply to anything done by or with the permission of an owner or occupier of the premises.

13D Obligations relating to commissioning or distributing unsolicited advertising material

(1) A person commits an offence if—

(a) the person is concerned with the distribution of advertising material; and

(b) the material is deposited at premises in contravention of section 13A (Depositing unsolicited advertising material other than in letterbox) or section 13B (Depositing unsolicited advertising material in letterbox contrary to sign).

Maximum penalty: 10 penalty units.

(2) An offence against this section is a strict liability offence.

(3) Subsection (1) does not apply if the person took all reasonable steps to prevent the contravention of section 13A or section 13B in relation to the advertising material.

(4) For this section, a person is ***concerned with*** the distribution of advertising material if the person commissions, authorises, arranges for or distributes the material.

13E Release of balloons

(1) A person commits an offence if—

(a) the person intentionally releases 20 or more balloons at or about the same time; and

(b) knows that 20 or more of the balloons are inflated with a gas that causes them to rise in the air.

Maximum penalty: 10 penalty units.

(2) A person commits an offence if—

(a) the person causes or permits the release (whether by 1 or more than 1 person) of 20 or more balloons at or about the same time by 2 or more people; and

(b) knows that 20 or more of the balloons are inflated with a gas that causes them to rise in the air.

Maximum penalty: 10 penalty units.

(3) Subsections (1) and (2) do not apply if—

(a) the balloons are released inside a building or structure and do not make their way into the open air; or

(b) the balloons are hot-air balloons that are recovered after landing; or

(c) the balloons are released for scientific, including meteorological, purposes.

(4) An offence against this section is a strict liability offence.

(5) In a prosecution for an offence against this section —

(a) it is not necessary for the prosecution to establish the exact number of balloons released; and

(b) evidence that a balloon rose after being released is, in the absence of any evidence to the contrary, evidence that the balloon was inflated with a gas that caused it to rise.