DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

17 AUGUST

2004

Tuesday, 17 August 2004

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

Cleaning contracts
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) (10.31): I seek leave to make a statement.

Leave granted.

MS GALLAGHER: On Thursday 5 August 2004, during my response to an answer to a question on the contract cleaning long service leave fund, I made the following statement:

> The former directors of Endoxos have also been informed of the board's decision but they have not made any comment.

Subsequent to making that statement I have been advised that the former directors were formally notified on 5 August, following that question, although there had been correspondence prior to that date. My comments were based on advice given to me by the contract cleaning industry long service leave fund and from the Office of Industrial Relations. I table that advice in order to have that correction noted by the Assembly.

Community Services and Social Equity—Standing Committee
Report 7

Mr HARGREAVES (10.32): I present the following report:

> Community Services and Social Equity—Standing Committee—Report 7—*One-way roads out of Quamby: Transition options for young people exiting juvenile detention in the ACT*, dated 13 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR HARGREAVES: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR HARGREAVES: I move:

That the report be noted.

Today I table the Standing Committee on Community Services and Social Equity's second report on its inquiry into support services for families of people from the ACT in custody. This report is on the inquiry's second term of reference, which was to look at the availability and effectiveness of services to assist young people in the transition from Quamby into the community. An evaluation of a nationwide program for young offenders noted that, typically, the most disadvantaged young offenders are those who have progressed furthest through the juvenile justice system and spent time in custody. In re-engaging with the community these young people are often confronted with a myriad of difficulties. The challenge for many is to break out of a deepening cycle of unmet needs, drug dependency and crime.

Sadly, this picture is as true here in the ACT as it is elsewhere in the country. The children and young people in Quamby are some of the most disadvantaged in our community, and the committee heard concerns that they cycle in and out of Quamby. The term "revolving door" was used. The thrust of the recommendations in this report is that we need to be giving these marginalised children and young people more support. In giving them that support, there needs to be more coordination and cooperation between government agencies, and also between government and non-government agencies. The key words there are "more coordination and cooperation".

In summary, this report recommends making young people exiting Quamby a priority target group for access to government services; establishing a reference group to bring together Quamby and the community agencies supporting young people; funding ongoing outreach support for all young people exiting Quamby; expanding the range of accommodation options for these young people; reviewing the appropriateness and adequacy of the programs being offered in Quamby to make sure that they come out as well-equipped as they can be to live in the community; exploring the possibility of a mentoring program at Quamby; and looking at how to include the voices and wisdom of the young people who have been in Quamby when we evaluate the success of transition programs.

In addition, this report reiterates an earlier recommendation from the committee's general inquiry into the rights, interests and wellbeing of children and young people. That recommendation is that, where a child or young person is known to family services prior to entering Quamby, then family services must maintain responsibility for their case management and overall welfare. We are seeing family services pull away for the duration of a young person's stay in Quamby. The committee is saying that that cannot persist.

The committee also investigated the proposed upgrade of Quamby at some length, and has come to the conclusion that it would be more cost-effective and appropriate to build a new juvenile detention centre on another site, with a new name, rather than proceeding with the upgrade.

I would like to draw the Assembly's attention to an area of serious concern to the committee—the ongoing use of the time-out room at Quamby. When, as part of the justice and community safety standing committee under the chairmanship of Mr Osborne, nearly six years ago, I first visited Quamby the thing that struck me as being the most draconian and most reflective of the seventeenth century was the time-out room at Quamby. That has been on my hit list since that time.

There has been concern about the safety and appropriateness of this room for a long time. For some years the answer has been that it would be fixed in an upgrade of Quamby. The committee is of the view that this situation can continue no longer. The committee has taken the unusual step of calling on the government to direct Quamby to cease using this room until it has been refurbished and is considered safe and appropriate by the Office of the Community Advocate and the Official Visitor. In making this recommendation the committee would like to make it quite clear that the onus is now on the government to find the funds to fix it urgently.

I want to thank members of the community who participated in the inquiry. I also thank my colleagues on the committee for their work in finalising the report. We must take a moment to pause and think about the investment the community has in coming forward in issues like this. These people come before the committee and put their hearts, their souls, their problems and their aspirations on the table in front of us. It takes an enormous amount of courage for people to do that. I never cease to be amazed by the strength of some of these people; were I lucky enough to have that strength.

I also thank the members of the committee for their commitment to a better world for the disadvantaged members of our community. In doing that I refer members to all of the reports this committee has provided to this Assembly since we came together from the inquiry into services for homeless men with children in their custody. We did a whole range of them. All of the reports have had an impact in the community and interstate. I thank members very much for their commitment to that.

This report and others presented by the committee would not have been possible without the professionalism of the committee secretary, Jane Nielson—and, before her, Judith Henderson. The ability of those officers to encapsulate what is in the minds of four politicians—all eager to do the right thing and do lots of good things—and then have it come out in a document that makes sense to anybody is a skill I think they should be congratulated on. I believe the ACT community owes an enormous amount to those two officers. I commend this report to the Assembly. I urge all members to read the report and to read each and every one of the recommendations.

MS DUNDAS (10.42): I rise to echo Mr Hargreaves's words in the tabling and presenting of this report in relation to how Quamby is working for our young people in the community. This is a very timely report and, as Mr Hargreaves has indicated, I think it rounds off quite nicely the inquiries the community services and social equity committee have been undertaking over the term of this Assembly. One thing that has become clear in relation to this report is that there needs to be more done to turn the rhetoric into action when we are talking about young people and their involvement with the juvenile justice system.

The government, in their submission, provided us with an amazing breakdown of the role of Quamby and what they saw as all the different services and supports that can be provided to young people who come into contact with the juvenile justice system. However, when we spoke to community organisations that work with young people, either when they are in Quamby or upon their release, it became quite clear that the rhetoric is not being matched by the action. There are still a number of gaps. A lot of work still needs to be done in respect of our services and support for young people to ensure that these young people are directed back onto the right track when they leave the justice system.

I think one of the most important recommendations made in this report is in relation to the involvement of family services with children and young people already known to family services when they enter the juvenile justice system and come in contact with Quamby. From other inquiries the committee has undertaken it has become apparent that, if somebody has contact with family services as a young person, their chances of having contact with the juvenile justice system are astronomically high. That being known, I think it is important that family services continue to try and work with young people when they are involved in the juvenile justice system, as part of the continuity of care.

We say in the report that there are situations with young people going through case conferencing at Quamby where family services are invited to attend because there are no other family contacts present—family services have been responsible for supporting the families of these young persons before they were incarcerated—but they do not turn up. In that sense a young person is without family. That can be quite detrimental to the young person because it builds the problem that follow-through does not occur. They are not receiving the family support that we know can be so important in working through issues and supporting young people. I quote from the report. It says:

> information provided to the Committee by the Office of Children, Youth and Family Support, in the 2002-2003 financial year, Family Services did not attend 23 conferences when requested to do so by Quamby.

In its response to this committee's report on the rights, interests and wellbeing of children and young people the government said:

> Sole case management by any one section of the Office of Children, Youth and Family Support is not supported within the new organisational structures as such processes do not take into consideration the most appropriate outcomes for children and young people.

The committee would like to make it quite clear that they do not accept this explanation from the government, and would like to know why there cannot be clear lines of accountability. It continues:

> The committee does not believe that family services can carry out its ongoing role in caring for these young people and effectively assume case management responsibility if they do not maintain a high level of parental involvement while these young people are incarcerated.

We talk about the responsibility of the Territory as Parent. The responsibility of the Territory as Parent must continue while these young people are in Quamby. We cannot walk away from our parental responsibilities just because somebody is incarcerated in the juvenile justice detention system. It is at that point that parental responsibility becomes incredibly important for the provision of ongoing support to the young person during their rehabilitation.

The committee questioned how we can provide guidance or adult support for these young people. There has been a lot of research into mentoring programs which can provide a very positive support mechanism for these young people. I hope the government picks up on the recommendations where we call for transition support for young people so that the support work in Quamby is able to be continued when they leave. We also recommend that a mentoring scheme be established for young people who are either on remand or have been committed to Quamby.

One of the other issues I would like to draw the Assembly's attention to relates to how we support young people when they have finished their time at Quamby and are moved back into the community. Unless there are ongoing court orders, contact with the young person often just disappears and they do not get any ongoing support—possibly up until the time they re-offend and end up back in the juvenile justice system. If we are going to try and break that cycle and support young people in the community, we need to look at ways in which we can facilitate a young person receiving ongoing contact and ongoing support once they finish their term.

We note that there are no clear mechanisms for providing young people with guaranteed ongoing support if they are not on further court orders. That places a great demand on the community sector, and young people often fall through the cracks. I urge the government to seriously consider the recommendations we make there to ensure ongoing support for these young people so they do not re-offend because they see that as the only way to access help.

We also looked at how we can measure success. We often hear the sad stories that come out of Quamby, where things have gone wrong and young people have gone off the rails. We also need to look at how the programs we are implementing are supporting young people, how they are turning young people's lives around, and how we can promote the successes of the work being done.

The Office of the Community Advocate has been undertaking research into young people's experiences of exit planning and post-release support. We recommend to the government that, when that work is completed, they look over what the Office of the Community Advocate has done, look over this report and work with stakeholders in order that performance measures can be established. That will allow us to focus our resources into areas that most need them.

In conclusion, I turn members' attention to the snapshot of the young people who are incarcerated at Quamby that is provided in this report. The vast majority of young people in Quamby have complex needs. The lives of many are characterised by a history of abuse, drug and/or alcohol addiction, poverty, family breakdown, homelessness, discrimination and alienation.

We heard evidence that on one particular day, when 13 residents had been identified as having drug and alcohol issues, all residents were classified as being at risk of self-harm, requiring 15-minute cyclical observations. On another day, 50 per cent of the children and young people in Quamby were known to family services. Following on from that, on a given day, 63 per cent of the young people at Quamby had been there at least once before—and probably many more times than that—and 31 per cent of those young people had been there exactly one year ago to the day. But that did not mean that they had stayed there for a year. These kids had been there a year before; they had been released and had re-entered; they had again been released and had again re-entered Quamby. That evidence was provided by the Office of the Community Advocate.

I think that evidence alone—those stark figures which look at the complex needs of those young people and the lives that have led them to Quamby—clearly highlights the fact that more work needs to be done in the interests and wellbeing of children and young people. I believe we need to provide more support, both inside and outside Quamby, to make sure young people do not get stuck in a cycle of contact with the criminal justice system.

MR CORNWELL (10.53): I shall be brief. I think the matter has been adequately covered by you, Mr Chair, and Ms Dundas, but I would like to refer to a couple of recommendations we made. The first is recommendation 2, which is to "establish a clear protocol for children and young people in these circumstances to continue to have a single case manager from Family Services."

I do not expect the government to do anything about this recommendation, because they did not in the first report that was brought down—*The Forgotten Victims of Crime: Families of Offenders, and Their Silent Sentence*. To some extent this particular report flows on from that major report, which was brought down some time ago in this house. I would, nevertheless, appeal to the government and I would appeal to commonsense. I believe that for adults, children and young people in such circumstances, a single case manager from family services is essential. I would hope that the government would reconsider their comments in relation to adults and adopt this recommendation of the committee with regard to children and young people.

I would also like to refer to recommendation 7, where we talk about a working group to establish the adequacy and appropriateness of programs currently available in Quamby. I think it is important to draw attention to some of the points we made in the body of the report—that, whilst there are programs in relation to sex offenders and anger management and there is also a health and a hygiene focus—there is not a focus on life needs. I would commend to the government the comment made at 5.51. It says:

> In Western Australia (WA) the South East Metropolitan Youth Association presents a 'Life skills program' pre release for detainees in the state's youth detention centre. This four week program 'Making it on the outside' is run at the detention centre and aims to provide detainees with skills to be able to live independently. The four key areas are accommodation, budgeting and finance, life skills and jobs.

Finally, I support the decision that a juvenile detention facility on a new site should be considered and that that facility should be separate and away from any adult correctional facilities. With some reluctance I also support the recommendation that responsibility for

the young people in Quamby, and for youth justice services, including custodial services, should be maintained within the Office of Children, Youth and Family Support.

That body does not have a very good track record in a number of other areas. I would hope that they have the opportunity to improve their services in this crucial area. I would like to thank my colleagues on the committee and I would like to thank Jane Nielson, our secretary, for the work put into this. I too commend the report to the Assembly.

MS TUCKER (10.57): I will speak just briefly to this. Obviously, I have not read the full report but we will not have another opportunity in this term. I want to commend the committee on their work, and on the recommendations in this report. When I look at it, it seems a bit sad that we still have committees making these recommendations about an integrated approach to case management for people who, for various reasons, are struggling in our community.

Once again, a number of the recommendations stress the need for good relationships and communication between the various agencies supporting, in this case, young people in Quamby. There are a couple of recommendations about how those matters could be improved. I note that there is reference to the Turnaround program which, as I understand it, is working very well in providing that case management model, making sure that the young person is not seen as a young person in a particular physical location and therefore having a different set of circumstances and case management around them depending on where they are, but having the person as the centre of interest regardless of their physical location—whether they are in Quamby, out of Quamby, doing a community service order or whatever. As I understand it, the Turnaround program is being conducted with quite a strong evaluative process, which I think will be very useful for future decision-makers in deciding how best to bring about an integrated approach to service delivery.

Accommodation comes up once again. A big issue is exit options—that comes up over and over again. It is all about having supported accommodation as well as affordable housing. I am pleased that the committee recommended that there be a new detention facility built with a new name, separate from any adult correctional facilities, on a new site. I do not know about the new name, but certainly the feedback from the work I have done in this area would support that recommendation. I am also pleased to see the recommendation that responsibility for youth justice services, including custodial services, remains within the Office for Children, Youth, and Family Support. I certainly support that recommendation.

I notice that recommendation 2, regarding continuity of care, was in previous reports of this committee into the rights and interests of young people. Even though my recollection of the revised government response to that recommendation of the previous committee's report was not positive—it was in disagreement—I am interested to see that the committee is still stressing it as an important aspect of support. It links with the other comments made about having an integrated approach from the various service agencies, as well as the need to bring in service standards and performance standards, which is something that has come up often in committee reports. I commend the report and hope this is something that is picked up in the next Assembly with enthusiasm.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 33

MS DUNDAS (11.01): I present the following report:

> Planning and Environment—Standing Committee—Report 33—*Variation to the Territory Plan No 225 Section 129 and part Section 34 Narrabundah*, dated 16 August 2004, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MS DUNDAS: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS DUNDAS: I move:

> That the report be noted.

I am happy to present this report. It relates specifically to the section of Narrabundah currently leased by Animals Afloat. This variation is the result of a debate in the Assembly on 10 April 2002 in which this Assembly asked the Minister for Planning to explore initiation of the variation to the territory plan to allow this block of land, which is currently under a short-term grazing lease, to accommodate dwellings.

In the first instance I would like to thank the committee and the secretary very much for the speediness with which they considered this report. Recognising that there are only five and a half sitting days left and that there are statutory requirements in relation to variations to the territory plan, the committee thought it was important to deal with this issue as quickly as possible. We received the information from the acting minister's office very late last week, so I compliment members of the committee again for their ability to deal with this issue quickly.

Of course, it was an issue we were all familiar with, having been aware of the Assembly debate in 2002. The draft variation itself was self-explanatory. Work had been done to look at what would be the best planning use for the site. Submissions were received from a wide range of people in relation to the site and what could be achieved on that particular block of land.

One of the main issues raised in the submissions to the ACT Planning and Land Authority related to the ownership of the lease and how the land might be reissued. Whilst the committee is not in the position of endorsing individual business enterprises, we have concerns in relation to the issue of rural leases generally, the potential for such leases to be resumed at short notice and reissued as 99-year leases through a public

process, and the potential impact on the rights and obligations of existing rural leaseholders.

We go on to note particular issues raised by submitters to ACTPLA. We make four recommendations, and not just simple ones such as, "We support variation 225 to the territory plan going forward"; we also recommend that the rights and obligations of the government and current rural leaseholders be clarified and advised to all current rural leaseholders. It came through in the submissions to ACTPLA that the debates that have been happening with regard to this block of land have caused a lot of concern for other rural lessees throughout the ACT. This is something that needs to be clarified immediately so that the future tenure of those blocks of land can be clarified.

We recommend that the government be aware of the rights and obligations of the current leaseholders and that these be considered fully when looking at what will happen to the land after variation 225 comes into effect. The committee was also quite concerned to hear that the Actew substation is being considered for this particular block of land.

There are many factors relating to the major electrical substation being built on this site. It is envisaged that the substation will not be required before 2005 but alternate sites are being investigated. The final location of the substation is yet to be determined. There would need to be a detailed planning approval and separate preliminary assessment for the impacts this facility would have. There was concern that this site was being considered prematurely for an Actew substation without necessarily looking at sole use of the site as urban open space for restricted recreation, broadacre and any of those other planning considerations.

The committee therefore makes another recommendation that the final identification of a site for the Actew substation take place prior to variation 225 taking effect and therefore prior to the disposal process for the land that is subject to this variation. The government can then proceed in good faith with the land disposal process without unnecessarily disadvantaging current leaseholders.

I commend this report to the Assembly and ask that the government take heed of the recommendations. Hopefully, we can work through this process in a speedy manner because it has been on the agenda of the Assembly for quite a while now. If we can work through these issues and see this variation move forward, I think that would be supported by both the community and the Assembly.

MRS DUNNE (11.08): I wish to make some comments on the 33rd report of the planning and environment committee. This report has been a long time in the making. It had its genesis in a motion that was passed in this place in April 2002. I feel I have to put on the record, as I have on a couple of other occasions, the dissatisfaction of the opposition at the delay that has taken between the decision of this Assembly to institute a variation of the territory plan and its arrival. I commend the acting minister for acting fairly expeditiously to get it in to the planning and environment committee so that it could be resolved in the life of this Assembly because up until now the owners of the lease and the proponents of an enterprise on that site have been subject to unconscionable delay at the hands of the planning minister over this.

It is reprehensible that a simple straightforward variation to the territory plan that resulted in a simple 10-page report to this place has taken 2½ years to get through the planning processes because they were delayed by the minister, who was pretty unhappy that the Assembly had the temerity to require particular things to happen. In April 2002, the Assembly required that a draft variation be instituted and the minister delayed that for over a year, for nearly two years, by instituting a number of planning studies that he decided would have to come before that. It was flying fairly much in the face of the will of the Assembly. It was a very narrow adherence to the will of the Assembly.

So, I am glad that we have finally got this here and that the planning and environment committee has done its part. I urge the government to do its part and confirm this variation as soon as possible so that the Assembly can be finished with what should have been a very simple piece of work before it expires at the end of next week. I also want to make some comment about how the government might dispose of the land once the variation has taken place. From time to time the proponents and the current leaseholders have expressed to me, and I am sure to other people, a high level of anxiety that they might be cut out of the process because of the handling of this by the planning minister.

I place on the record that I think it was the clear intention of the Assembly when it debated this in April 2002, and it is the clear practice in relation to the disposal of rural leases, that if leases change in some way or other that the occupying leaseholder has first dibs on taking up a new lease. I put it on the record that it is the expectation of the Liberal opposition that the current leaseholders will be so treated in this case. I have had some preliminary discussions with the acting minister's office about the nature of the lease. While I understand the view of the government that perhaps a 99-year lease may not be entirely appropriate, I am concerned that manoeuvres are still going on that may constrain the occupiers and the owners of the lease from making a reasonable investment in this.

I think that at the moment the government might be considering issuing a 20-year lease. I think that a 20-year lease is entirely unacceptable. If someone wants to make an investment in buildings, be they residences, which the study says that people should be entitled to build there, or any other buildings, they may need to obtain a mortgage. It is very difficult to obtain a mortgage when you only have a 20-year lease on a property, because a lot of mortgages run for more than 20 years.

I am not quite sure what the magic number is. While I understand the government's concerns about 99-year leases, I am very concerned that it might be considering only a 20-year lease, which would constrain the occupiers from building a residence. The clear implications of the land study, and the clear wish of this Assembly from the outset, are that if the leaseholders, whoever they may be, wish to build a residence on that place they should not be prohibited from doing so. That is why we set out in the first place to change the land use policy so that that would allow the building of a residence. At this stage I do not want to find another set of constraints put in the path of potential leaseholders.

If the government thinks that in 25 years this is an enormously valuable piece of land and it might have another need for it, by all means put a withdrawal clause in the lease, but do not constrain what people can do on the lease in the meantime. I have been told by

officials that this is a very valuable piece of land and some day we may want to do something. But it is a very constrained piece of land. As Ms Dundas has said, at some stage it is highly likely that it will have on it an ACTEW substation, which will impede access to the block. I cannot see in any way that this could ever become a suburban paradise of condominiums and villas, because of the constraints upon the block. I dispute publicly on the record the value of this block for anything other than broad acre. I put on the record the wish of the Liberal opposition that the leaseholders not be constrained by having a ridiculously short lease on their land.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (11.14): I still believe that the initial decision of the Assembly was a wrong-headed decision taken for the wrong reasons, but it is a decision of the Assembly. The government is working on an appropriate solution to a problem with a very valuable piece of land, a very obvious piece of land, on the corner of Hindmarsh Drive and Monaro Highway, to become a petting zoo. It is possible that this could have been handled better some time ago, yet I recall the petting zoo was quite intractable about where else it might go, where there were probably more appropriate pieces of land for what it is doing.

I assure the Assembly that the government will pursue resolution of this matter within the framework of the recommendations of the committee. At one stage this issue became somewhat emotional, and a matter of who in this Assembly cared most. There needs to be some common sense in the solution and some restrictions on how the land might be used next, and the lease conditions will protect the territory from inappropriate use of that block of land in the long term.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report 55

MR STEFANIAK (11.17): I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 55, dated 17 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 55 contains the committee's comments on five bills, 71 pieces of subordinate legislation, four government responses and one regulatory impact statement. My committee colleagues want me to make a couple of statements. Firstly, we have received our first regulatory impact statement and I thank the government for that. It is something we have been after and have commented on before but we now have received our first one. So, thanks for that. Secondly, we still do not have a government response to subordinate law 2004-21 Australian Crime Commission Act Regulations 2004. We would be grateful if we could receive that at the earliest possible opportunity. I commend the report to the Assembly.

Heritage Bill 2004

Ordered that order of the day No 1, executive business, be postponed until a later hour.

Suspension of standing and temporary orders

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

> That so much of the standing and temporary orders be suspended as would prevent order of the day No 13, Private Members' business, relating to the Drugs of Dependence Amendment Bill 2003, being called on and debated cognately with order of the day No 2, Executive business, relating to the Criminal Code (Serious Drug Offences) Amendment Bill 2004.

Criminal Code (Serious Drug Offences) Amendment Bill 2004

[Cognate bill:
Drugs of Dependence Amendment Bill 2003]

Debate resumed from 24 June 2004, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MR STEFANIAK (11.20): The opposition welcomes, and obviously will be supporting, the government's bill. We have a couple of amendments and I will get to them later. I will also speak to a couple of amendments in relation to my bill, which we are debating cognately. The government's bill continues the reform process of the model criminal code, something I have spoken on at length before, something we were happy to start the process with, and something I am pleased to see the government has continued. In this case, I am pleased to see it has adopted pretty faithfully the recommendations of the officers' committee.

I understand a number of other states are in the process of doing this already. The Commonwealth is about to, Victoria has largely, and I think South Australia, Tasmania and the Northern Territory will by the end of this year. The principle of uniform legislation in the criminal law across Australia is to be welcomed. Crime knows no boundaries, and hopefully at some stage in the future we will have uniform criminal laws

dealing with all aspects of the criminal law. That would be good for our country generally.

This bill also is significant in that it takes away some of the provisions in the old Drugs of Dependence Act. Over the years I have prosecuted under various provisions of that act and defended some. The criminal law evolved in an act, which fundamentally, as much as anything, was about legal drugs. So you had a bit of a mishmash. Codifying this, and putting in the criminal code, takes out from the Drugs of Dependence Act a lot of the criminal provisions, especially in relation to very serious offences. So, we welcome that. We also welcome some of the additional offences, which make it fairer, easier and better for society, and certainly simpler for the prosecution to bring relevant offences before the court and not to have to rely on less appropriate offences or catch-all offences. So, that in itself is to be welcomed.

In his introductory statement, the Attorney stated that the bill is directed against the illegal drug trade. We certainly have absolutely no problems with that. The illegal drug trade, not only in the ACT, but in Australia and worldwide, is a most insidious trade. It is an evil trade. People involved in it, deliberately trafficking drugs to the detriment of others, deserve to receive the full force of the law. Accordingly, a number of elements in this bill seek to do that. That is something we welcome.

I note that the bill provides for some additional offences. It specifically provides for more consistent maximum penalties determined on the amount of the drug involved. Over the past couple of decades there were a number of problems in the way the law operated in relation to that. So, if a person illegally manufactures a large commercial quantity, say a drug like amphetamines, or cultivates a large commercial quantity of controlled plants, the maximum penalty available for that most serious of offences is the same. It is life imprisonment. We certainly have no problem with that. As I said, many people die as a result of illegal drugs pedalled by some very nasty criminals in our society and overseas.

There is also a maximum penalty for manufacturing, trafficking or growing in commercial quantity a drug or plant. It has been made 25 years' imprisonment for each. The bill also has a greater emphasis on organised crime, and encompasses a much broader range of criminal activities than does the old Drugs of Dependence Act. Again, that is something to be welcomed. There are some offences in relation to receiving money, the property of crime. Again that is something that we would welcome.

There is a new offence in relation to supplying drugs to a child, as well as using children to traffic in drugs, with a significant maximum penalty of 25 years' imprisonment. It is particularly heinous to use young children. I have heard of cases in Australia—I am not sure we have any in Canberra yet—of totally unscrupulous adults using children as young as about six or seven to supply drugs, so that is a welcome addition as well. The Attorney talked about precursors. I will not go into that, but that is a useful addition in relation to people who manufacture controlled drugs.

An important improvement relates to drugs that are often sold in a diluted form and drugs that are sold in a more pure form. There are some welcome clarifications there. In my experience that was something that would often confuse a court, especially as to an appropriate penalty to give someone who had about two kilos of cannabis, of which he

could use only 300 or 400 grams. The way that has been set out is also to be welcomed, and assists in ensuring that expensive and scarce resources for analysing purity are not wasted.

I also like the provisions whereby the prosecution will be allowed to prove the quantity of the drug involved in an alleged offence—for example, a large commercial quantity—by aggregating the amount of drugs trafficked over repeated transactions and aggregating different kinds of drugs involved on one occasion. That is to enable the infliction of severe penalties on those who deal in bulk by an accumulation of small-scale dealing. So, a number of welcome additions in this bill target the most serious of offenders.

I hope that the courts listen to what is being said in relation to this bill. This is aimed at the top of the scale, the very serious operators. There are some very significant penalties for good reason. The community would expect significant penalties to be imposed on those who are found guilty of these most heinous offences. In a recent case, following a good police operation, three people were charged with importing drugs into the territory, and only one did some time in jail. That is not what the community expects. The community expects significant penalties to be imposed on serious drug pushers, and that is exactly what this bill proposes. I am happy to put those comments on the record and hope that when courts consider this bill they take that into account.

The bill also takes into account concerns by police in relation to hydroponic manufacture of cannabis and the number of plants one can have. There was a big problem with our laws. They allowed someone to have five plants and still be subject to a simple cannabis offence notice—in other words, an infringement notice. Dropping that to two is much more realistic. We have no problem with that. It overcomes the legitimate concerns of the police and sends a message to a large number of people who think it is okay, legal, to have a reasonably small number of cannabis plants or to grow their own.

One of the main purposes behind my bill, which I will now speak to, is to bring home to people that it is not legal to smoke cannabis, even in small quantities. It is not legal to possess cannabis, even in small quantities. It is not legal to have one, two, three, or four plants and use them yourself. That is still illegal. The infringement notice system was simply a convenient way of ensuring people could be dealt with without having to go to court for possessing very small quantities. But the use of this drug—a very dangerous, damaging drug that has dreadful effects on people—is still illegal even in small quantities.

A lot of people in Canberra get confused about that, especially young people. If nothing else, I hope this debate reminds them that using any amount of cannabis is illegal. It is just that there is an infringement notice scheme for simple, minimal cannabis use. That is what my bill seeks to do. As a result of the Attorney's bill, which came down after it, I seek to make a number of basic amendments. The first will ensure that my simple cannabis offence bill, the Drugs of Dependence Amendment Bill, commences on the same day as the Criminal Code (Serious Drug Offences) Amendment Bill. A couple of clauses will be now superfluous, so I will not be proceeding with them, specifically clause 4.

To qualify for the infringement notice scheme, one will now be able to have a maximum of two cannabis plants, so that needs to be amended. Rather than a maximum fine of

$500 for having all five plants, I propose amending one of the sections of the Criminal Code (Serious Drug Offences) Amendment Bill to make it $200 a plant. That would be my criticism of the government's bill. Whilst I support all the other things I said, I was disappointed to see it did not take the opportunity to increase penalties at that lower end of the scale. The penalty for simple possession is still one penalty unit, $100. That is lower than most parking fines. The lowest parking fine is $66. There are a few parking fines of $212.

The penalty of $100 is lower than the basic infringement ticket for being between one and 15 kilometres over the speed limit. For travelling 15 to 30 kilometres over the speed limit—for doing about 16 kilometres over—one will be pinged with a $300 infringement notice. That sends a wrong message. This is a dangerous drug. We do not want to encourage people to use it or to minimise and downplay even simple possession for personal use. We still have to send a message. I urge members to support the increase in penalties from one unit to two units which would make it $200. This is still fairly light compared to traffic infringement notices, but it is somewhat more realistic.

For some reason people have 60 days to pay an infringement notice for cannabis possession. That has caused all sorts of problems in the courts. Often those who do not pay quickly tend to forget. The other significant part of my bill would allow 28 days to pay, which is the normal regime for any type of infringement notice. So, I remind members of those elements of my bill and advise them that I will not be proceeding in a couple of areas because the government's bill has superseded them.

I commend the government for bringing in this bill. It is terribly important to have good, strong legislation, legislation that provides significant penalties for this most heinous of offences—supplying drugs and pushing drugs to others. However, it is crucially important to take steps to encourage people, especially young people, not to take up drugs. I still do not see any campaigns that effectively aim at that. I recall a number of pretty effective campaigns to try to stop people smoking, and they had some effect.

Some very good campaigns about protection against AIDS had some good effect. But we do not see from this government any really good campaigns or any good actions to stop people, especially young people, from going down the path of drug addiction and using these most dangerous of substances. We need to see a hell of a lot more of that. It is disappointing after nearly three years we see very little, if anything, from this government in prevention programs and steps that would help people not start using drugs, or to help them get off them if they start using them. That is equally as important as having strong and consistent laws such as this.

So the Opposition will be supporting the government's bill. I commend my amendments to the Assembly. If members do not support them they are not serious and are making a mockery of the infringement notice system, keeping penalties at such a low level. It almost downplays the illegality of people still using drugs and does nothing to discourage people from using them. So my amendments will send a message, and an educative message, that even at that lower end it is illegal and some penalty will be imposed if you breach the law. That being said, I commend those comments to the Assembly and look forward to the rest of the debate.

MS DUNDAS (11.34): The ACT Democrats will not be supporting either of these bills. We will not be supporting the government's proposed legislation because we believe it is heading in the wrong direction for drug law reform in the territory. While I think everyone generally agrees that there is a role for law enforcement and prosecution for the sale of illicit drugs, particularly at the very high end of the market, the government's proposal achieves that aim by very questionable means. We already have legal penalties for the supply of drugs and the government has not put forward a case that the current regime is inadequate.

The Attorney-General has not brought forward this legislation with any investigation of its impact on drug users and has not tried to ensure that harm minimisation principles will not be compromised by the adoption of this legislation. I also believe there may be human rights implications that have not been adequately addressed by the government, not even in its response to the scrutiny report questions. However, I make it clear that that is not to say the Democrats oppose all the provisions of the bill. I particularly point out that the Democrats generally support the new offences aimed at reducing the role of children in distributing drugs. However, they have been placed in legislation that takes the wrong approach to the use of illicit drugs.

Currently the territory has one single piece of legislation, the Drugs of Dependence Act 1989, to deal with a whole range of drug issues in one place. Through this Act there is an attempt to try to deal with drug issues with a holistic approach; trying to combine enforcement with harm minimisation and keeping a health-based focus. I will not deny that there are problems with the Drugs of Dependence Act, but the proposal put forward today by the government of moving away from a holistic approach is not the answer. It is not helpful to try to split up drug laws into a whole host of different acts, ramp up the penalties without any consideration of how that will affect the use of drugs in the territory, and ignore the health of drug users.

The criminal code project has been a long time in development, but the territory should not be blindly implementing the code without considering the needs of the ACT community. When the Assembly first debated the criminal code, the Democrats argued that while there was merit in more closely aligning the criminal provisions between the states and territories, this should not be done at the cost of arbitrarily increasing penalty and reducing the rights of defendants. Sadly, that is what is occurring with these bills.

Once again, co-operation between states and territories on the criminal code seems to have hit a wall. While different jurisdictions have been incorporating parts of the code into their existing criminal laws, only the ACT and the Commonwealth are introducing a completely new code into legislation. This bill will not necessarily result in greater harmonisation of state laws, as this requires other states to follow the same path, and they have chosen different ways. This section of the code is particularly problematic as it has been substantially altered since the first round of recommendations.

My understanding is that the original proposals for drug law reform were rejected by some jurisdictions as they did not fit with those governments' desired "tough on drugs" image. So the code was changed to ramp up the penalties and make defending against charges more difficult. I do not understand why the ACT needs to follow this path. The Democrats do not want the territory to go down the path of a "law and order" option, yet

this is what this type of legislation is making us do. With the regressive amendments to the Bail Act that have already been passed by this Assembly, the Government is heading down the well-trodden path of trying to win public popularity by ramping up penalties, removing defences to prosecution and making it harder for those charged with offences to defend themselves.

There is no evidence that locking up more people for longer reduces crime. We only have to look at the United States to see that despite having the highest prison population of any OECD country, they continue to have the highest crime rates. This is particularly the case with drug users and small-time drug dealers, who are simply replaced the second they are imprisoned. The market continues even though they are in jail. The prison environment is hardly conducive to reducing drug dependency, and is far more likely to make these matters worse, as well as putting addicts and small-time dealers in the perfect environment to strengthen their drug supply networks when released.

I refer the government and the opposition to the work that the community services and social equity committee has done, looking at what happens to families when someone is incarcerated for a crime, or when people have contact with the criminal justice system and the impact it has on that person and the impact it has on their families. We also looked at why people are being incarcerated in the first place. It is disappointing to see this legislation progressing without any reference to the work that has been done by that committee and also by the health committee in this Assembly in looking at these issues.

The government bill before us is clearly a one-sided approach to dealing with drugs, with the focus solely on the supply of drugs. Once again, the government has failed to do anything about the demand side. This legislation does nothing to address the issues of harm minimisation, nothing to reduce drug addiction and nothing to reduce the risk to drug takers. The government is trying to create an artificial distinction between drug users and drug suppliers. It is trying to say that you can somehow divide drug issues into simple stand-alone segments and use a different policy response to each part. That is simply absurd. The rationale for this bill is that drug supply is somehow a different issue, completely divorced from drug use, and that a policy of zero tolerance for drug supply can be combined with a policy of harm minimisation in relation to drug use.

This is an inconsistent approach that will ultimately lead to failure. For the past century a "tough on drugs" approach or a "zero tolerance" approach to drugs has failed in this country and around the world, and it will fail again under these laws. We had an opportunity to refocus how we are approaching drug laws, to look at what has gone wrong over the past century and try something new, but all we have is this Criminal Code (Serious Drug Offences) Amendment Bill. So it is ironic that despite all the talk about harm minimisation measures, the only thing the government will do to tackle drug abuse is legislate harsher penalties. We have no heroin trial, no safe injecting room, and no real discussion about how to move harm minimisation forward. We just have higher penalties. The bill is a clear admission of failure to tackle drug problems in the territory, and the government's bill will sentence more Canberrans to wasted lives with little hope for recovery or treatment.

I also draw the government's attention to its own Human Rights Act. While the government has made a great deal publicly about the Human Rights Act, when it comes to following this law its record is questionable. We do not have the Attorney-General's

assurance in the form of a statement of compatibility that the government's bill is congruent with the Human Rights Act. I also point out that the government is not tabling a report on the human rights implications of the bills it puts before the Assembly, but just a one-sentence statement of compatibility. If the Attorney-General were serious about the implications of the Human Rights Act, he would fully inform the Assembly of all the issues before proceeding with a government bill. I understand that is the case in the United Kingdom. This is something the government needs to do more work on, and possibly something that the Assembly needs to revisit in its next term.

The bill also raises a broader question about the interaction of the criminal code and the Human Rights Act. Being the only jurisdiction with a bill of rights, the ACT is in a different position to other jurisdictions concerning the application of these laws. The Stanhope government has said that it is committed to the implementation of a model criminal code. It also said it wishes to abide by the new Human Rights Act. However, it appears that these two commitments are in conflict. So I pose the question to the Attorney-General: which commitment will prevail?

The Scrutiny of Bills Committee raised the question of whether the bill was compatible with the Human Rights Act and, in particular, with section 6 (2), the right to be judged innocent until proven guilty. The government's bill is eroding this concept in ACT law, as this bill reverses the onus of proof onto defendants, requiring defendants to prove that they were not selling drugs. In effect, the bill instructs the court to assume that a person is guilty of a drug trafficking offence until they can prove themselves innocent. This is an incredibly dangerous precedent to set in the criminal law of the territory. It is contrary to the Human Rights Act and goes against centuries of our criminal justice system, which is based on the principle that you are innocent until proven guilty.

I am also extremely concerned that this Assembly appears willing to pass legislation without seeing the proposed quantities required for a drug offence to be a trafficable offence. In the past the opposition has made a great deal of noise about the content of regulations. We have even debated a motion to try to ensure the government does not develop subordinate legislation without the scrutiny of the Assembly. However, when it comes to one of the most extreme cases of criminal justice legislation we have seen in this Assembly, the opposition is silent on this issue. The government has stated that the intention of the regulation is to set prescribed quantities at a level that would not normally catch just users.

However, this is a fairly subjective exercise and I have fears that this legislation will catch drug users who are caught with just a slightly larger than usual amount of drugs. Equally, there is a great deal of research on the concept of user dealers—the little fish in the drug trade who deal small amounts of drugs to support their own habits—who will be uselessly captured by these laws. Locking these people up does not necessarily break the cycle of drugs in our community and does not support these people to deal with their addiction.

At this point I thank Family and Friends for Drug Law Reform, members of whom have joined us in the Assembly today, for their work in relation to this bill and the stark case studies that they put forward yesterday that illustrate the real life impacts of these bills. The government and the opposition should take those stories to heart when they vote on this legislation today. The government's Criminal Code (Serious Drug Offences)

Amendment Bill moves this territory away from a harm minimisation approach, and the impact of it will be to make the drug situation worse, not better.

I turn briefly to Mr Stefaniak's bill. I point out that the opposition bill also heads down the same tired old path that higher penalties will somehow solve our drug problem. It appears that Mr Stefaniak has only one idea in this Assembly and this bill is just one more in a long line of private member's bills that do nothing other than to increase penalties. It appears that there is a fantasy world where there are two types of people, evil criminals and law-abiding citizens. If only we could lock up all the criminals for the rest of their natural lives, society would enter a new state of peace and harmony.

This is ridiculous rhetoric that the opposition continues to pedal in this place and it deserves the contempt of the Assembly. The opposition should know full well that the simplistic and insulting policies it pushes in the vain hope of electoral popularity do not work. They do not make the situation better for the community in the ACT. The determinants of crime include poverty, drug addiction and self-esteem inclusiveness issues. These people are incredibly disadvantaged in our society. We need to address these issues if we are to truly tackle the crime problem, not just continually ramp up penalties in the hope that it will act as a deterrent. Throughout history we have seen that it does not act as a deterrent. We need to address the underlying causes of criminal behaviour in our community and work with the community to deal with these problems.

I find it ironic that in its current form the opposition's bill would wind back some of the government's proposals, including the proposal to reduce from five to two the number of cannabis plants that could be dealt with. I note that the opposition has now circulated amendments because this probably was not Mr Stefaniak's intention, but it clearly demonstrates how aggressive the Labor Party has become when it presents us with a bill that is more virulent than the Liberal Party's original proposal.

The law and order option is truly upon us and it will disadvantage the people of the ACT more than the government and the opposition realise. It takes us one step away from a harm minimisation approach and heads us one step further down that simple lock them away approach that has failed us in the past and will continue to fail us in the future. If we do not turn around the way we approach criminal justice issues, we will just repeat the mistakes of the past.

MS TUCKER (11.48): Whilst having uniform laws under the criminal code is a useful goal, it is dangerous to hand over our responsibility totally without considering carefully whether the approach proposed nationally meets the policy goals we have here. The aspects of the bill dealing exclusively with high-level trafficking and organised crime are one thing but, as Family and Friends for Drug Law Reform has pointed out, the problem is that the bill is not careful enough to avoid drawing in users and low-level trade associated with using.

I will concentrate in my speech on the dangerous aspects of this bill. Mr Stanhope has claimed that this is basically scaremongering, but I think that we would be kidding ourselves if we believed that, once set in law, the definitions and penalties will always be interpreted in the way the people here today might imagine. The government has misrepresented the scope of this legislation. They have described it as a bill concerning

serious drug offences. In the words of the minister, it is "a modern regime of offences to deal more effectively with serious drug crime in the ACT".

Who does oppose having tough laws against serious drug offenders? I do not oppose them. But serious offenders are only part of what this bill is about. "Serious" has a plain meaning. Ask anyone in the street and they will tell you that "serious" refers to those making serious money out of drugs or dealing in big quantities. Under this legislation, that is not true: a teenager who on sells a small amount of cannabis or an ecstasy pill is a serious drug offender.

The legislation applies in a big way to users in ordinary situations—look no further than subclauses (5) to (8) of clause 603. If the home grower of cannabis has sold any amount at all, even if it is less than the standard 10-gram deal, he or she will face a penalty of $30,000 or three years in prison, or both. That is nothing to what the user-dealer of heroin or even the teenage party raver will face. They will be looking at a penalty of $100,000 or 10 years in prison, or both—a tenfold increase in the fine and a twofold increase in the length of imprisonment.

The explanatory statement is clear about that. Subclause 603 (7) applies to trafficking in any amount of a controlled drug other than cannabis and subclause 608 (8) applies to any amount of cannabis. The informal transactions that I mentioned are defined as trafficking under clause 602. The use of that term is a distortion of the language.

That is standard practice in the bill. It labels a wide range of common behaviours of grassroots drug users as serious drug offences. It is standard practice for those higher up in the pyramid to use the desperation of users and ingenuousness of children, the very people that the law should be designed to protect, as gofers. The bill transforms all these people into serious criminals.

I will give a few examples of action into which users are commonly sucked that could leave them facing 25 years or more in prison. Users who assist in packing, handling, storing or transporting drugs for payment in kind are traffickers. The explanatory statement admits that these are "comparatively minor figures".

Part 6.5 of the bill concerns drug offences involving children. Children are excluded from liability for the offences of this part, but they are exposed to other draconian penalties of the bill. The explanatory statement explains that children above the age of criminal responsibility—10 years of age—remain liable for the offences in other parts. For example, a child who sells to another or engages in other trafficking activities will be liable for trafficking under clause 603.

A couple of cannabis plants grown by a user would not normally amount to a serious drug offence, but when harvested could well expose the user to such a charge. The report of the Model Criminal Code Officers Committee that this bill is implementing notes that an average cannabis plant, 1.6 metres tall with a one metre girth, will yield an average of 250 grams of dry, usable cannabis. It adds:

> There is an obvious and clear discrepancy between the potential liability of the cultivator before and after harvesting. The small number of plants, once harvested, will almost always exceed the trafficable quantity and may exceed the commercial quantity of 2.5 kilograms.

Under clause 629, the prosecution can aggregate quantities of drugs sold over any length of time by a habitual user, the only limitation being that each occasion was not longer than seven days apart from another of the occasions. The MCCOC report admits that aggregation of small transactions has the potential to amplify the liability of habitual users who engage in frequent small sales to sustain a habit. Therefore, they could well be charged with trafficking in a commercial quantity of drugs for which the penalty is $250,000 or 25 years in jail, or both.

This legislation is not confined to big time drug offenders. This legislation will also catch our young people. The minister has misrepresented its scope. Are the minister and the government prepared to justify to families of this territory who are desperately trying to help their kids with addictions and other drug problems that they could be liable to be sent to jail for the next 10 years?

It is hard to believe that this bill has been proposed by a government that prides itself on its defence of human rights. Addiction is a health condition. How does the government reconcile this bill with the right of everyone, recognised in the International Covenant on Economic and Social Rights, to the enjoyment of the highest attainable standard of physical and mental health?

I understood that the government was committed to harm minimisation. That term is not mentioned once in either the presentation speech or the explanatory statement. There is nothing to show that the government has even attempted to reconcile what it is proposing with its drugs policy. Instead, we are carrying on with the model criminal code work, even though its philosophical basis does not include a good understanding of harm minimisation.

The MCCOC report said in response to the extensive submission from the Families and Friends for Drug Law Reform:

> A number of submissions which addressed the issue of harm minimisation proposed more radical measures such as decriminalisation of use and the provision of licit supplies of controlled drugs to dependent users. It is possible that some alleviation of existing social problems associated with illicit drug use might be achieved by introducing regimes of controlled availability of heroin or other illicit recreational drugs. It is also possible that such measures would result in an unacceptable growth in the population of habitual or dependent users. The resolution of this debate is beyond the scope of the Committee's brief and expertise.

At least they admit it. The report continues:

> The issues are, moreover, largely irrelevant to the issues involved in the preparation of trafficking legislation. In any conceivable regime of control, it will be necessary to protect licit systems of supply from attack by commercial predators.

I think that anyone who had done some basic work on harm minimisation and who was a member of Parliamentarians for Drug Law Reform could see the flaws in that reasoning. This is just the sort of failure to think through the causes, impacts and effects of criminalisation that we are trying to overturn. Indeed, it throws doubt on what was thought to be the government's approach. Only last sitting week, the government finally

put out its drugs strategy. I have not yet been able to read all of it in detail but, as far as I can tell at this stage, the strategy maintains the harm minimisation approach.

The minister in his presentation speech has used language that I would expect to hear in another place. He said that the bill would promote the war on drugs. Waging a war on drugs has seen more than 5.6 million Americans having experienced prison. Spending more money on prisons than schools came out of Nixon's election campaign in the 1960s. Is the minister concerned to ensure that the ACT prison is full of ACT prisoners from the day it opens?

This Assembly and this government need to be clear on the objectives that drug laws should serve. The overriding principle is that these laws should promote the health and wellbeing of the community. In particular, the laws should minimise the access, particularly by young people, to harmful drugs, promote the recovery and social reintegration of those who have become dependent or are otherwise harmed by drugs, and not add to the harms of users or the rest of the community.

You will note, Mr Speaker, that these objectives are socially conservative. I am seeking to articulate what I understand to be objectives shared by both sides of the Assembly. I am not here advocating implementation of the libertarian principle that people should be permitted to engage in behaviour that harms them but not others.

Let's look at how this bill measures up to the objectives I have just read out. The first one related to minimising the access to harmful drugs. We are not stopping drugs getting to our children. In fact, the minister told us the reverse. He said:

> … the trade in illicit drugs has increased dramatically and grows ever larger, reaching deep into the Australian population with incalculable costs in human suffering and scarce resources.

He tells us that, magically, this is going to change with the passage of the legislation, saying, "This bill has the potential to dramatically improve the overall effectiveness of the war on drugs." I call on the minister to explain the rational grounds for his optimism. For years this territory and the whole of Australia have applied some of the toughest penalties of the criminal law to drug offences. Those laws may not have been as uniform as the ones now proposed, but there is no gainsaying their severity. Why haven't they been successful?

I put it to you that one measure of their success is a big factor in their failure: law enforcement seeks to make drugs less available by raising their price. In the words of two respected American researchers, professors Jonathan Caulkins and Peter Reuter, cannabis is quite literally worth its weight in gold and cocaine and heroin are even more expensive.

Whatever dampening effect the high price has on demand is countered by the dynamic at the level of users. Addicted users are desperate for the commodity. Unlike the generality of crimes, they have no more interest in complaining to police about their purchase than the supplier. At this grassroots level, users sell to users and peers distribute to peers. There is thus an insistent demand. Users are prepared to pay an exorbitant price. Big time criminals are only too willing to meet that demand.

I agree that those profit-seeking criminals deserve to be treated with severity and their profits attacked, but it is not enough to lash out in our anger. In the words of the MCCOC, the criminal law has an obvious role to play in any rational ensemble of measures designed to minimise the use of illicit drugs. But where is this government's rational ensemble of measures that will produce this result? How does this bill fit into that ensemble? The government owes this Assembly a detailed explanation.

The minister notes that the problem of amphetamines has become particularly acute over recent years. Families want the government to come up with ways that reverse that and effectively protect young people from some of the worst consequences of their actions. Increasing levels of seizures and other indicators of market size show that this is not happening.

The AFP commissioner told us in 2001 that Asian drug barons made a decision to push methamphetamines rather than heroin, an injected drug. He said that their research told them that there was a new and much bigger market of people prepared to use methamphetamine pills. A big boost in potent methamphetamines like crystal meths roughly coincided with the 2001 heroin drought. The Prime Minister was quick to claim credit for that on behalf of law enforcement but not, of course, for the stimulants that are flooding the drug scene. In the words of the then New South Wales police commissioner, despite large heroin seizures in the past 18 months there was a rise in cocaine use and an enormous spread of amphetamines.

The marketing decision to push the stimulants rather than heroin was made following a string of bad seasons in Burma between 1997 and 2000 that reduced opium production by 54 per cent, at the time of a huge increase in demand for illicit opiates in nearby China. A booming Chinese demand alone had led the Office of Strategic Crime Assessments to forecast the heroin drought and flood of stimulants as long ago as 1996.

I mention these facts because they are at the heart of the rationale for this bill. In the depths of the heroin drought, the New South Wales commissioner concluded that we were losing the war. We are still losing it. We should not, therefore, be including among the worst criminals in this country the very young people we are trying to protect. I would add that across Australia there are different levels of penalties and responses to the use of cannabis, for example, but there is no difference in usage, even with the different legal responses.

The second point related to promoting the recovery and social reintegration of those harmed by drugs. I hope that there is no dissent in the Assembly about this objective. It is at the essence of harm minimisation. Virtually every measure adopted in this country that is proven to benefit users has involved a retreat from the usual rigour of the criminal law. They include: police no longer attending overdoses because that deters drug users from seeking help; the SCON system for minor cannabis offences that this bill would undermine; distribution of sterile syringes; and alternatives to sentencing, such as drug diversion and diversionary conferencing programs that provide early intervention and treatment options for people with drug problems.

I stress that drug users are human beings with a range of both problems and strengths. We must not define them by their problems, much less by just one. Overcoming

addiction is important, but attention to it should not be at the expense of other aspects of the health and welfare of either the users or those around them. The criminal law as embodied in this bill gives no recognition to this need.

The third point is that laws should not add to the harms of users or the rest of the community. Let me quote from the report of the committee that drafted the uniform criminal code on serious drug offences. *(Extension of time granted.)* The report states:

> … in the years since the 1980 Williams Royal Commission, it has become increasingly apparent that significant elements in the harm which results from the habitual use of illicit drugs are a consequence of criminal prohibitions and their effects on the lives of users. Quite apart from the risks of arrest and punishment, there are risks to health or life in consuming illicit drugs of unknown concentration and uncertain composition. The circumstances in which illicit drugs are consumed and the widespread practice of multiple drug use add to those risks. Medical intervention in emergencies resulting from adverse drug reactions may be delayed or denied because associates fear the criminal consequences of exposing their own involvement. The illicit consumer's expenditure of money, time and effort on securing supplies may lead to the neglect of other necessities. It will often impose substantial costs on the community, and the user, if the purchase of supplies is funded from property crime. Further social costs result from the stigmatisation of habitual users as criminals and their alienation from patterns of conformity in employment, social and family life. Risks are inherent, of course, in habitual use of most, if not all, recreational drugs. But criminal prohibitions amplify those risks. They amplify, for example, the risk of death from overdose.

I should have thought that this catalogue of harms would have caused the government to review very carefully legislation such as it is now proposing. I am concerned that, rather than doing that, the government appears to regard these consequences as a virtue of its proposal. I draw this conclusion because that is what the committee, on which the ACT was represented, did. It added:

> The greater the risks, the greater the deterrent effect, both on those who are habitual users and those who might otherwise be tempted by the lifestyle. Mark Moore, a leading American authority on drug law policy, refers to the "effective cost" of heroin use—the effective cost of use is an amalgam of all those factors which make the life of the habitual user dangerous, arduous, frightening and expensive. To the extent to which criminal law prohibitions have as their object an increase in the effective cost of heroin use, they counter the requirements of humanity with the logic of pure deterrence.

That is wrong. It is as if, in proposing this legislation, the right side of the brain of this government was not talking to the left. I thought it wanted to make drugs less available. It has provided no evidence that the bill will do that and there is much evidence that it will not. I had thought that the government wished to promote the recovery and social reintegration of those harmed by drugs. It has said that it supports harm minimisation, yet it supports this bill based on the principle of deterrence designed to make the life of the habitual user dangerous, arduous, frightening and expensive. That is inhumane and irrational.

Professor Collins and Dr Lapsley estimated that government outlays on police, criminal courts and prisons attributable to the abuse of illicit drugs were $1,427 million in 1998,

of which 97 per cent was borne by the ACT and other state and territory governments. We are foundering under the costs of these and other problems linked to illicit drugs.

Illicit drug problems are a key factor in the most costly and intractable problems facing this territory—issues such as child abuse, failures in the mental health system, crime and youth suicide. The commendable objectives of the government's social plan will remain pie in the sky until these problems are dealt with.

I have mentioned in passing that the bill will seriously undermine the ACT's expiation or SCON system for minor cannabis offences. It will do that by reducing from five to two the number of ordinary plants for which such a notice may be given and removing hydroponically grown plants so that not even one hydroponically grown plant would henceforth be eligible. That is another example of the government not acting in the interests of this territory.

The ACT introduced this system for several reasons. If a young person can obtain cannabis from his or her own plant or from a friend's, it is less likely that such people who dabble in the drug will get sucked into a criminal subculture using more dangerous drugs. A criminal conviction can blight the employment prospects, travel plans and future generally of young people.

The SCON system was thoroughly reviewed in 2000 by a committee of this Assembly and it recommended that with some finetuning the system should continue. The government has ignored that Assembly committee's recommendations. We have to ask: why has it done so and why is it now seeking to undermine the existing system?

According to the explanatory statement, the change:

> … is warranted because the current amount of five plants is considered to far exceed an individual's reasonable requirements for personal use, which gives rise to a serious danger that home-grown cannabis will be redirected for sale on the street. This is particularly a problem with hydroponically cultivated plants because they are generally much larger, have a higher concentration of THC and are capable of yielding up to five crops of cannabis per year.

Even if correct, those arguments do not address the reasons for the SCON system. Contraction of the scope of the expiation system will mean that more backyard and/or indoor user-growers will be caught up in the harmful processes of the criminal law. That is crazy. Studies have shown that the expiation system has not led to an increase in cannabis usage in the ACT or elsewhere in Australia. Moreover, cannabis usage is declining in the ACT and across Australia.

In a media release of 24 June, the Chief Minister said that he was acting on the advice of the Australian Federal Police. My officers were given a copy of that police advice. I am pleased to have received it and thank the minister for that. However, I am not convinced that this change is necessary.

The main fear that this change is meant to address is that the ACT will have an increase in the nodal system of cannabis growing that has been found in South Australia; that is, that a dealer organises a group of people to grow up to the limited number of plants in

their homes and then pools those plants. It is, in effect, a decentralised plantation. Drastic changes to the SCON system are unnecessary to deal with this problem.

Under the law as it stands, police already have the discretion to use the criminal process when they suspect that plants are being grown for profit. The police will still need to gather the evidence of the threads of the major operation if the intent is really to go after the Mr Bigs. The change to the SCON system will only allow easier prosecution of the little people in the scheme, likely to be users themselves. This additional criminalisation comes without any apparent advantage, since it is discretionary.

The Greens do not support this bill; neither should a government committed to harm minimisation. Also, I will not be supporting Mr Stefaniak's Drugs of Dependence Amendment Bill, which would further meddle with the SCON, increase penalties and reduce the amount of time available for a person issued with a simple cannabis offence notice to pay the fine for that before more criminal system action is taken against them.

The Greens do not support that bill. It is basically another law and order response from Mr Stefaniak. Both bills are meddling with a system which has been effective in keeping users out of the criminal system, which would only lead to increased criminal activity and greater human and community cost. It is being done for very poorly argued reasons.

MR PRATT (12.11): Mr Speaker, this bill goes a long way towards developing a deterrent. There is a great need to help those who are drug dependent. This bill is part of a mosaic of strategies that will do that. The bill goes in that direction. Therefore, I must disagree wholeheartedly with the approach that the Democrats and the Greens have taken in this debate.

It is very important to lay down clear law that reminds people firmly of their responsibilities. You cannot rest all of your strategies simply on harm minimisation, which is what the Democrats and the Greens seem to want to do. Yes, harm minimisation is an important component of the broader strategies for dealing with drugs and intervening on behalf of our youth who are going down the wrong pathway, but you cannot succeed always simply by appealing to the better nature of people when those people are not interested in pursing their responsibilities. I think that the Democrats in particular are insulting the community with some of the points that they have put forward this morning. I think their call, and that of the Greens, for the scrapping of this bill is purely irresponsible.

We must help people get off drugs, not sustain their drug habit. The Greens were saying here this morning that this bill will catch some of our young people. Of course it will. Perhaps it is necessary, though, to catch some of our young people who have a strong habit to jolt them into some sort of sense as part of a broader strategy of trying to intervene and save these kids from going down the wrong pathway. The bill has an important role to play in that broader strategy. The Greens and the Democrats, with their overdependence on harm minimisation, are exercising irresponsible concepts. You cannot pursue only that line. That line is soft on crime.

It is very important to send a message to our impressionable youth that the community will not tolerate drugs and that these habits are antisocial. At least this bill does that, although I must say that I am very concerned that the means of informing the

community—our youth in particular—are ineffective. Whilst I congratulate the government on putting forward a sensible bill, I have some concerns. I am concerned that, whilst we have an effective bill, we do not have effective preventative programs. To my mind, you need to have both. You need to have a bill that spells out clearly the responsibilities of people, but you need also to have in place preventative strategies for intervening to make sure that young people do not go down the wrong pathway.

For example, I am concerned that the drug education program in schools is not adequate. I know that a number of schools carry out drugs programs effectively. There is a policy that says that if a school wants to get into a drugs education program it can and there are some tools available to help those schools do that. But there is no departmental benchmark. There is no clear ACT standard whereby there is a directive to schools to carry out drug education to a certain level. Lots of teachers I have spoken to privately have reinforced the view that drug education is random. There is very little in the way of external assistance to schools to help them carry out drugs education effectively.

I was talking to a teacher who said that in her class of 16-year-olds she heard a couple of boys say, "Let's go out and do some cones," and they just left the classroom. A little bit later these two boys were caught by police smoking bongs in an underpass on school property. The police were looking for a missing bicycle and caught them only by accident. It seems to me that that teacher and that school did not have the support mechanisms available to try to intervene with those kids, who were known to have a strong drug habit.

There is no intervention program for schools to target those kids who are known to have a strong habit. Some schools have sufficient counselling services for them to try to intervene, but there is not a broad standard to make sure that all schools have this type of support. Not only do we not have that sort of support for those particular kids who are known to have a habit, particularly kids from broken families, but also there is not a reliable, effective, general education program to make sure that all the kids in those classes, particularly those in the early high school years, are continually taught the concerns about drugs and how not to go down that wrong pathway.

Whilst we have here an effective bill, we do not have effective preventative programs, and you cannot have one without the other. You have to have a whole-of-government program. For example, I have not seen in schools a composite program being run by education, family services and the police to properly engage youth at risk and to engage their parents. I have seen lately a couple of high schools which do have some good programs like that and a fair effort is made by those high schools to engage with parents of children at risk, but when I investigated further I found that there is no standard, there is no benchmark, for all schools to be provided with sufficient support to make sure that that happens.

As I say, you cannot go down this pathway of making sure that we have a bill in place which clearly extols the virtues of proper community behaviour and which clearly outlines the responsibilities of youth about not taking up a drug habit without having preventative programs in place. Whilst this bill is effective, it will be undermined if this government does not ensure that the realities of the penalties and the responsibilities on youth not to engage in drug taking are enshrined in obligatory values education and drugs education in schools. Unless that happens, the bill will not be supportable. The bill

is useful, but the bill needs to be partnered by effective preventative programs and, as far as I can see, it is not. I call upon the government to ramp up its preventative programs to make sure that this bill which is supposedly aimed at looking after the broader interests of the community will be able to do that effectively.

MRS CROSS (12.18): Mr Speaker, I am very pleased that the government has presented the Criminal Code (Serious Drug Offences) Amendment Bill 2004 that we are debating today. It represents a significant step in the curtailing of organised drug trafficking in the ACT by outlining more extensively and clearly illegal drug-related activities than are to be found in the Drugs of Dependence Act 1991.

I am very concerned about the deleterious effects that prohibited drugs have on our society and the individuals within it. Drugs destroy lives and families, take away children's innocence, and are commonly associated with acts of criminality beyond activities related to drugs.

To my mind, the purpose of this piece of legislation is twofold. First, the bill attempts to define clearly the two distinct purposes of two different though related pieces of legislation, originally dealt with in one. That is most important for the efficient attainment of each objective. Secondly, the bill attempts to provide a simple and straightforward approach to combat the most serious offences involving illicit drugs—supply, manufacture, cultivation, and offences involving children.

It is important in our battle against drugs that we distinguish between the regulation and distribution of illicit drugs and illegal recreational ones. In order to achieve these two objectives, we need two instruments. This is a matter of clearly defining what are, in essence, separate objectives, allowing a greater degree of consistency within the legislation.

Such a need is most apparent, as pointed out by the Chief Minister in his presentation speech, when considering the seemingly contradictory section 162 (3) in the Drugs of Dependence Act proscribing more lenient penalties for manufacturing an arbitrary amount of amphetamines compared with cultivating a commercial crop of cannabis. Such an inconsistency arises from the pursuit of two different but not unrelated objectives by the one act. The addition of chapter 6 to the criminal code is an attempt to remove these inconsistencies.

However, the primary objective of the bill remains the circumvention of drug-related activities that are organised and undertaken largely for profit. That can be done effectively only by the promulgation of custom-built trafficking legislation. This point was recognised a quarter of century ago, in 1980, by the Australian Royal Commission of Inquiry into Drugs, headed by Mr Justice Williams.

Drugs have been associated with criminality, violence, intimidation, the corruption of our law enforcement agencies, and the destruction of families and individuals. Illicit drugs cause considerable harm to society; that is undeniable. I am sure that everyone here was absolutely astounded and appalled to see the recent footage of schoolchildren openly smoking cannabis on school grounds, of all places, as though it were part of everyday culture. I am pleased to see that appropriate measures have been taken within this bill to keep drugs away from children. Children are the future, and we must work

hard to ensure that illegal drugs do not end up in the hands of children, only to have these scenes perpetuated.

These drug cultures pose massive risks to the general health of the community through the natural side effects of substance abuse, such as neurological damage. But there also remain dangers for drug users due to the unpredictable nature of the concentration and composition of various illegal recreational drugs. Whilst drug-induced deaths Australia wide constitute only about 1 to 1½ per cent of all deaths each year, the tragedy of this statistic is that the overwhelming majority of these deaths are well before their time. Constantly, around 70 per cent of these deaths are of people between the ages of 15 and 44. But that is just the half of it. Many more live in the torment of addiction. These people have just as much to add to their families and communities in their own way as all 17 of us here, but are constrained by their addictions.

The destruction of the illegal drug trade, and nothing less, is the primary aim of drug trafficking legislation. The Criminal Code (Serious Drug Offences) Amendment Bill 2004 provides what we all hope will be an efficient and effective mechanism for achieving just that. It is for these reasons that I will support this bill.

I shall be supporting Mr Stefaniak's Drugs of Dependence Amendment Bill 2004 for similar reasons. Mr Stefaniak's bill increases the penalties for minor cannabis offences. Whilst the changes are only minor, they are important in sending the right message that cannabis use is dangerous and unacceptable in our society.

Cannabis is a gateway drug that often leads to the use of harder and more dangerous drugs and therefore cannot be viewed as acceptable in any way. In Canberra, there is a general belief that cannabis use is acceptable because the possession of small amounts of cannabis has been decriminalised. Simply put, cannabis is used more freely in the ACT because possession and use in small amounts is allowed under law. There is no legal deterrent against cannabis use in the ACT. Mr Stefaniak's legislation goes a small way to remedying that and re-establishing the attitude that cannabis use is not acceptable in the ACT.

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

Sitting suspended from 12.24 to 2.30 pm.

Questions without notice

Mental health

MR SMYTH: Mr Speaker, my question is to the acting Minister for Health, Mr Wood. Minister, the federal Human Rights and Equal Opportunity Commission held a community consultation yesterday at Old Parliament House, with general agreement reached that Canberra's mental health system under Labor is very bad. Professor Brian Hickie, a national expert in mental health, said he was alarmed by reports that the mental health system was turning away mentally ill people, because they presented too early, and telling them to come back later when their problems were more acute. He said, "It's a nonsensical system that will inevitably lead to tragic outcomes." Why is the ACT

mental health system telling patients who present with early symptoms to come back later when their symptoms are more acute, rather than treating the problems early?

MR WOOD: I am not sure that that is what they would be told. I have not heard that. I would be surprised if it is the case. But, specifically on that issue, I will undertake to find out what the story is. I suspect the story is probably somewhat different from that.

With regard to that seminar yesterday, generally, I understand it is one that is being held by that gentleman around Australia. If a number of people attend a seminar on mental health issues, or any sorts of issues, and are asked, "How's the system going? What's wrong with it?"—you are going to hear quite a deal. So it is not surprising that you get comments arising from such a seminar that are perhaps reportable.

I could spend some time running through all the improvements that have occurred to the mental health system since we have been in government. There has been an argument about funding but there is no argument about the significantly increased level of funding since this government came to office.

MR SMYTH: Mr Speaker, I have a supplementary question. How is it that we now have 13 specialists from emergency medicine, the college of obstetricians and gynaecologists and experts in mental health saying that your health system is failing?

MR WOOD: I don't know that that is the same question. You are talking about a seminar yesterday and a statement put out a fortnight ago.

MR SMYTH: Are you afraid to answer the question?

MR WOOD: You pull us up every time you think we get off the track!

MR SPEAKER: Order! Mr Wood, if you are going to answer the question, get to your feet.

MR SMYTH: It is the supplementary question, Mr Speaker, unless you rule it out of order.

MR SPEAKER: Your supplementary question went to the issue of other specialties dealing with the question of mental health, and the question-in-chief went to the issue of a seminar at Parliament House.

MR SMYTH: It is up to you, Mr Speaker. Is it out of order, or not?

MR SPEAKER: As I do not think the supplementary question is relevant to the question, I will rule it out of order.

Bushfires—coronial inquest

MR STEFANIAK: My question is directed to the Attorney-General. The *Canberra Times* report of 10 August 2004 on further delays to the coronial inquest into the 2003 bushfires states:

> Coroner Maria Doogan reluctantly agreed to allow the adjournment and criticised the ACT Government Solicitor's Office for a "lack of foresight" which contributed to causing delays to the inquiry …
>
> "I have been critical about the lack of appreciation from the start of this inquiry for the need for separate representation for certain persons and the delay that was resulted to this inquiry, that I thought was a lack of appreciation by the Government Solicitor" …
>
> The coroner said that by the Government Solicitor's Office "withholding funds until this date for counsel to have access to experts and to be able to obtain second opinions from experts" showed "a lack of foresight" that "again has resulted in a delay to this inquiry".

Why have you until recently denied funding for counsel to have access to experts and to be able to obtain second opinions from experts, thus resulting in delays to this inquiry? Why has the planning by your department for this coronial inquest been so poor, which, in the coroner's opinion, has led to significant delays in the inquest?

MR STANHOPE: In relation to the question being asked, I once again draw the attention of the Assembly to the sub judice rule and the degree to which the sub judice rule really should be relevant to questions asked in this place about the coronial inquest into the bushfires; also to the standing orders that relate to questions involving the judiciary.

Mr Stefaniak has asked a question about a report in the *Canberra Times* involving comments made by the coroner. It may very well be that neither the ACT Government Solicitor nor I, as Attorney-General, accept the comments made by the coroner. What am I to do? Am I now to stand here, as Attorney-General, in the face of a question asked of me about a matter currently before the court, and respond to criticisms made by a magistrate, the coroner, of ACT government officials? What am I to say? Am I to attack the coroner? Am I to attack the magistrate if I disagree with her? Am I to say why the court is wrong? These are dangerous questions. These questions are quite inappropriate.

Mr Smyth: Mr Speaker, I rise on a point of order. Standing order 118(b) states that the minister is not allowed to argue the subject. The matter that he refers to is not sub judice, it is not subject to a coronial inquiry; it is about the administration by him of his department. It is a totally relevant question that he should answer.

MR SPEAKER: I think he was asking himself the rhetorical question of how he should respond to criticism of law officers by the coroner. I think that he is entitled to continue with his remarks in that context in four or five minutes, provided that he sticks to the subject matter of the question.

Mr Smyth: Mr Speaker, on the point of order: he is not allowed to ask himself rhetorical questions. If he wants to talk to himself, he can go outside and do it. He is obliged, under the standing orders, to answer Mr Stefaniak's question. I ask you to direct him to do so.

MR SPEAKER: Chief Minister.

MR STANHOPE: I take this issue very seriously. Unlike the opposition, I take seriously the question and the importance of ensuring the integrity of our courts. I take seriously the separation of powers. I am gravely concerned—and have been concerned ever since the coronial inquest started—that the opposition has unrelentingly asked questions around a matter being dealt with in a court. It needs to be said that, during the hospital implosion inquest, we as the opposition did not ask a single question on that inquest.

Mr Smyth: Mr Speaker, I rise on a point or order. Under standing order 118(b), the minister is not allowed to argue the question. The question is about funding. He is talking about the coronial process; we are talking about the funding of the coronial inquest. I ask you to direct the minister to answer the question within the bounds of the standing orders.

MR SPEAKER: Minister, come to the subject matter of the question. But, Mr Smyth, it is legitimate to ponder issues around sub judice in the context of this question.

Mr Smyth: Mr Speaker, on the point of order: if it were sub judice, you would have ruled it out of order, and you have not done so. It is not sub judice.

MR SPEAKER: I said that the Chief Minister, in giving his answer to the question, is entitled to ponder the question of sub judice—surely.

MR STANHOPE: I regret that the opposition will not take the point about the extent to which questions such as this do impact very much on the separation of powers; do impact very much on the relationship between the parliament and the courts. These are very serious issues.

As to the criticism of the ACT Government Solicitor in relation to experts' reports, on my understanding of what the coroner said, I believe her comments were completely misplaced.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Minister, why did you make these decisions despite advice from the coroner, right from the start, that it would be likely to delay her inquest considerably, meaning that she will not meet her target date of the beginning of the bushfire season? Do you accept responsibility for this failure and for the subsequent delays in implementing the findings of her report?

MR STANHOPE: To deal with the misstatement of the facts in the question is always a difficulty. The opposition asks questions that start with statements that are not true, as Mr Stefaniak has just done. It is always very difficult to answer a question when it is based on a false premise. Mr Stefaniak asked his question on the basis of something attributed to me—that the coroner suggested that I had refused to make a decision—that is absolutely false. It is very difficult to answer a question, such as Mr Stefaniak's, posited on a falsehood—as are many questions asked by the opposition. The underlying assumption that I made decisions to deny anybody funding is just not true. I do not know whether I can answer a question based on such flagrant falsehood—a falsehood that—

Mr Quinlan: A flaw in your logic, a fundamental flaw in your logic—a disconnect. Dope.

MR STANHOPE: It is. We used to call it being "Gary-ed". It was called the "Gary"; I call them the "Liberals". The question is, "Attorney, accepting this fact—which is not a fact at all; it is not true—do you do this?" The difficulty of course is that the whole assumption, the basis of the question, is false: it is not true; it is made up; it is confected; it has absolutely no basis in truth at all. One is then asked to answer a question on the basis of the falsehood.

It is an important issue. The question goes to this relationship between the parliament and the courts. We have a live issue before the coroner's court—an inquisitorial process, a judicial inquiry into the bushfires. I think there are a dozen or so barristers representing a range of parties, including the territory. The coroner is assisted by counsel. The matter is being argued. There is examination. There is cross-examination. There is a vigorous and forensic investigation of every single aspect of the matter under investigation, namely the fire. And the opposition comes in here, day after day, and basically wants to relive an issue that has been run through the court. Those opposite ask me to respond to matters being put by the coroner in a process that I am not directly involved in, other than to support the territory.

Mr Smyth: You're responsible for the funding. It's about support.

MR STANHOPE: No, it is not. The point is that the question is about a statement made by the coroner criticising my officials. As to the criticisms about my officials, the shadow attorney re-writes it—puts words into the coroner's mouth—and suggests that it is a criticism of me and that it is something that I did or did not do, in a matter that I knew nothing about.

They overcome those minor issues around telling the truth or otherwise. Over the last day or two, we have seen some ripper examples in the papers of how the leader and mentor of the Liberals—their national leader—deals with the truth. We see it being replicated here today: near enough is good enough.

It is difficult. I do not want to get into a slanging match with the coroner. But, as I said to the substantive question, I will not stand here and necessarily accept that the criticism that the coroner made of my officials was well placed. If you want me to go into greater detail about that in defence of the office and in defence of my department, I can do that. I have not looked at the transcript. I have taken the decision that I, unlike the opposition, will let the court process run. I will let it be handled by those charged with that responsibility. But I understand from the—

Mr Smyth: So you're not responsible?

MR STANHOPE: I am not responsible for running a coronial inquest; no I am not. It is called the "separation of powers". You might want to come to some understanding of what "separation of powers" means, because you quite clearly have no clue at all. Nor do you understand the essential inappropriateness of what you are doing in relation to the coronial inquest. It is essentially inappropriate—it is wrong—that you, through this forum, seek or wish to rerun a judicial process. It is just wrong. It is wrong as a matter of governance and process. It is wrong that you should seek, through this place, to second-guess a judicial process. I do not accept the criticism. I will not get into

a slanging match with the coroner; I will respect the court. But I do not accept her criticism.

Bushfires—warnings

MR PRATT: My question is to the Chief Minister. At 7.15 pm on the evening of Friday, 17 January 2003, Mike Castle, the head of the ESB, tried to give you a call. On that evening, all three of the bushfires had broken containment lines and were racing towards Canberra suburbs. The Bull's Head station had to be evacuated because it was under threat. Mr Castle and Mr Lucas-Smith had warned you the previous day that there was a 40 per cent to 60 per cent chance of a declaration of a state of emergency. On that evening, you were also acting as Minister for Police and Emergency Services. The call from Mr Castle was clearly a most important and urgent call, yet you did not take it or call him back. Why were you not in a position to take Mr Castle's phone call on 17 January 2003 at 7.15 p.m.? Why did you not return his call later that evening?

MR STANHOPE: I was not aware of the call.

MR PRATT: I ask a supplementary question. What exactly were you doing on the night of 17 January 2003 somewhere in north Canberra that had greater priority than receiving urgent information about the bushfires that would threaten suburban Canberra? Why did you place personal activities ahead of doing your duty as acting minister and Chief Minister on that fateful night?

MR STANHOPE: I did not.

Canberra Hospital

MS DUNDAS: My question is to the Acting Minister for Health. I understand that until recently the Canberra Hospital had a dedicated ward for adolescents. I have been informed that this ward has now closed. Minister, can you tell me why this adolescent-specific ward has been closed?

MR WOOD: I do not have the detail as to why. I will get back to you on that question.

MS DUNDAS: I have a supplementary question. Minister, are adolescents who are admitted to the hospital managed differently from adult patients? Are efforts made to allocate nearby or shared rooms to them so that adolescents are able to work through their health issues together, separate from the adult population in the hospital?

MR WOOD: I will incorporate the answer to that in my reply to you.

Child protection

MRS BURKE: My question is to the minister for education, youth and family support. Gwenn Murray states at page V of the foreword of the July 2004 audit and case review report:

> … the information held on files about this small group of 150 children at greatest risk was in such disarray, it raises concerns about the records of all other children who have come into contact with the child protection system in the ACT.

Are you now completely satisfied and confident that all reports of suspected child abuse were definitely made available to her, especially as it was a matter for your department to decide which files to provide? How can you be so confident, given that the records were in such disarray?

MS GALLAGHER: A very comprehensive audit of files of children in the care and protection system was commenced under this government's review of child protection services in its entirety. That is not relating just to the children who were subject to allegations of abuse in care. There has been a safety audit of every child in the care of the territory this year. It is fair to say that it is no secret that there has been criticism of the way reports have been handled, the way records have been kept and the fact that in some cases reports about certain children have been kept in various locations in a number of files—sometimes in manila files in people's drawers. That is entirely inappropriate, but that was uncovered through this audit. There is a bit of an implied accusation that the department did not co-operate with Ms Murray in providing her with all the information she needed. That has not been raised with me by Ms Murray. She had working with her a team that was taken from the Office of Children, Youth and Family Support.

Mr Smyth: Did all the files go?

MS GALLAGHER: If you would let me finish, Mr Smyth, I have not finished the answer. I am getting to it, but I am providing the background that is needed. In relation to the team that worked with her, she had a team of eight that went across. It could have been six, but from memory I think it was eight, because four returned when reports of child abuse were increasing all the time and we needed them to return. She was given full co-operation and every piece of material that she wanted and that the audit found. As much as I can give the assurance that every report relating to those children was given, I can say yes, there was 110 per cent co-operation with the retrieval of files, and the reviewing of those files, in whatever form they were in, be it on our computer system, written on a piece of paper, in a case file, in several case files or in sibling case files. As far as I can give that assurance, that is certainly my understanding.

I have met with Ms Murray. She said to me that it was a very comprehensive audit. I think they saw more reports and bits of paper in those file audits than they even imagined having to look at themselves because of the number. There were so many different types of recording of information, their work was much more extensive than they had originally thought it was going to be. So, my understanding is that all of that information was provided and was analysed during the audit, and that there have been improvements in the management of recording of information—probably since February, but certainly since both the Vardon review and now the subsequent Gwenn Murray review have been released.

MRS BURKE: I ask the Minister a supplementary question. Do the Minister's assurances extend to the files described as "in transit" or "managed cases," which I understand were not provided to Ms Murray and Ms Vardon?

MS GALLAGHER: Ms Vardon and Ms Murray looked at children who were subject to allegations of abuse in care, a particular group of young people. I have never heard of "transit" files.

Mrs Burke: We are talking of files that were not made available to those people.

MS GALLAGHER: I am not aware of any file that was requested by the audit team or Ms Vardon that was not made available. I have never heard of the term "transit file" or "managed file". I have heard of the title "unallocated cases" or "unallocated files," which we moved immediately to fix, and there are no more unallocated files, but transit or managed files are new terms to me. Certainly in any discussion I have had with the commissioner and with Gwenn Murray, they did not raise any concerns about information not being provided to them or mention the words "transit file" or "managed file." So I do not know where you are getting your information from for that. As far as I am aware, there was no problem with co-operation or providing any of the information that both of those reviews sought from the Office of Children, Youth and Family support.

Child protection

MR CORNWELL: My question is to the Minister for Children, Youth and Family Support. On Friday, 5 August, the Chief Minister, Mr Stanhope, announced that the government would not renew the contract of your chief executive, Ms Fran Hinton, due to government failure in child protection. Her contract, I understand, expires in September and she has gone on recreation leave. Minister, you have stated since May that it would be unfair to hold any individuals accountable for the gross failures that have occurred in recent years. What did you advise the Chief Minister when he consulted you about this matter?

MS GALLAGHER: I stand by those comments that no one single person should be held responsible for the failure of the system. I do not believe that the Chief Minister advised on Friday that it was because of failings in child protection that Ms Hinton's contract was not being renewed. I had a discussion with the Chief Minister, as is appropriate. The contract of a senior executive, a chief executive, was coming up for renewal and the government decided not to renew that contract.

MR CORNWELL: I have a supplementary question. So the Chief Minister did not consult you before the decision was made?

MS GALLAGHER: No, if you had listened to my answer, I said that I had had a discussion with the Chief Minister about the contract that was up for renewal and that the government decided not to renew that contract.

Gungahlin Drive extension

MS TUCKER: My question is to Mr Wood and regards the government's commitments to protecting wildlife on the site of the Gungahlin Drive extension. In particular, the government has committed to ensuring that all trees, rather than just randomly marked ones, will be treated as potential nesting spots for animals and that the biodiversity

consultants will be on site to inspect for wildlife before, during and after felling. Can you tell the Assembly how you are ensuring that, in fact, those commitments are being met?

MR WOOD: To the best of my knowledge, the commitments are being met. I have had no comment from either the community or the Department of Urban Services of their not being met. Given the interest of many people in the community, and particularly in that area, I would have thought I would be told fairly quickly if they were not being met. From my last report, I understand that two people are on hand from the prevention of cruelty society—whether they are there all the time I do not know—and that the designated officers are marking and noting the trees. Ms Tucker, you may have something else to tell me. I will be interested to hear it.

MS TUCKER: I was interested in how you are monitoring it. I have a supplementary question. Can you take this on notice? There have been concerns expressed that, on—

MR SPEAKER: Come to the question, please, Ms Tucker.

MS TUCKER: The question is: can you confirm whether on 5 August 2004 no checking had happened for over five days, despite trees being felled? Can you confirm whether on 14 August the consultant left the site before carers arrived, leaving the latter unable to check the freshly felled trees themselves; and that, after carers signed off, machines were filmed felling trees—with no spotters, consultants or carers on site?

MR WOOD: Yes, Mr Speaker, I will do that.

Schools—bullying

MRS DUNNE: My question is to the minister for education. Minister, on 19 February 2003, you wrote to a constituent who had complained to your predecessor about bullying, humiliating and overbearing behaviour towards members of a faculty at an ACT government high school by a newly promoted senior teacher. In the letter to this constituent you said that the new principal and staff of the department of education would be working to "ensure that good support structures would be put in place to assist" the victimised teacher's return to school after stress leave. You also said that you were satisfied that the department had put in place appropriate processes for dealing with the matters raised.

Minister, if that is the case, why has there been since then a series of teachers who have sought to remove themselves from the direct supervision of this bullying teacher? Why, after the assurances that you gave to this constituent that the problem would not arise again, has another teacher in the employ of the ACT government been forced this year to take leave without pay from the ACT government teaching service and seek employment elsewhere to avoid contact with this bullying teacher?

MS GALLAGHER: In some ways, I think that with questions like that it would be useful to give a bit more detail before you come to the Assembly if you are wanting an answer to your question. It relates to a letter I signed on 19 February. I sign lots of letters. A lot of them are to do with the education department and quite a number are to do with human resource issues for teachers within the Department of Education and

Training. It would be helpful to do that. I will take this question on notice. I will have to get back to you on the specific school. You have not even raised the school with me.

People raise issues with me in writing and I send them off for advice from the department. That usually comes back in the form of a brief, with a letter attached for me to sign. Sometimes I amend it if it is not satisfactory or I want something added. Usually the advice from the department is very comprehensive and a minister has to rely on that advice. If the advice that comes back details plans that are being put in place to manage a certain situation, a minister has to accept that it is being managed and that is the basis on which you correspond with a constituent.

You test that advice. Usually, if that advice or that situation does not satisfy a constituent, the constituent will write back to you and if another situation occurs at that school you will hear about it. I cannot remember—I will have to check, because I do not have the name of the school; I will review that letter—being written to in the last little while about any bullying teacher. There are about 4,000 teachers in the ACT government service. There are lots of teachers and we get lots of inquiries about teachers from parents, school communities and other teachers, so I will need to look at this situation. I will come back with whatever information I can get. Obviously, you have a bit more information on that matter from that constituent than has been given to my office.

MRS DUNNE: I have a supplementary question, Mr Speaker. I will be quite happy to provide the name of the school to the minister's staff. Minister, as the minister for eduction and industrial relations, why have you allowed this unsatisfactory and dangerous working environment to continue in ACT government high schools? Or is it just another symptom of your not caring about what is going on in departments for which you are responsible?

MS GALLAGHER: You have really got to work out your questions a bit better before you ask them so that they are not wrong and I can just say "no" in answer. This is ridiculous!

Mrs Dunne: You gave assurances to people that it would not happen again.

MS GALLAGHER: Yes, and I stand by that, as I do when I am given advice by my department about a rigorous process that is put in place. You are now telling me either that that rigorous process was not put in place or not followed or that there is another teacher affected by a similar situation who has gone on leave. I do not know about that. Someone has come to your office and told you that. I am not just accepting that that is the case. To say that I would knowingly allow a situation like that to occur, considering my portfolio responsibilities, is simply incorrect. It is simply incorrect. You have to get a bit smarter with your questions so that they are not actually wrong before you ask them. I will take further advice.

Visitors

MR SPEAKER: Order members! Before I go to Mrs Cross, I would like to welcome to the gallery a group of ACT teachers from government and non-government schools who are visiting us today—

Members interjecting—

MR SPEAKER: Order members!

Economic white paper

MRS CROSS: My question is to the Treasurer and acting planning minister, Mr Quinlan. Treasurer, did your economic white paper address the negative effect that the ACT government's change of use charge, or betterment tax, had on major redevelopments in the nation's capital? What figures has the Treasury provided showing the loss of revenue due to the lack of stamp duties on sales and ongoing rates and employment?

MR QUINLAN: In terms of background, I will have to take that on notice. Off the top of my head, I would have to say that they would be purely speculative figures. There would be no way of objectively measuring any loss—if there was any—remembering that all the change of use charge does is levy the actual real value of property, so that an absence of change of use charge would be a subsidy. There is no way we could objectively measure it, but I will see if anybody has had a crack at it.

MRS CROSS: Mr Speaker, I have a supplementary question. Minister, will the government look at the introduction of an infrastructure tax to replace the cumbersome and outdated change of use charge?

MR QUINLAN: It is your opinion that the charge is cumbersome and outdated. I know that a number people do not like it, but they are people who are paying the real value of a property they wish to exploit. I do not see anything unjust in that, and I do not think that there is anything outdated in that proposition at all. However, we are always open. The next time we discuss infrastructure charge will not be the first time.

Olympic Games—local participation

MR HARGREAVES: I notice that the Chief Minister is a little bleary eyed at the moment. Is this because, since the games of the XXVIII Olympiad got under way in Athens over the weekend, he has stayed up until the wee hours, eyes glued to the television, monitoring the progress of local athletes against the best in the world? If that is the case, will he give the Assembly an indication of how our locals have performed and what we might expect in the days and nights to come?

Mrs Dunne: On a point of order. I would like to know to which of Mr Stanhope's responsibilities the question is directed?

MR HARGREAVES: On the point of order. Mr Stanhope's capacity is as minister in charge of everything to do with the ACT.

MR SPEAKER: Order! The Chief Minister is entitled to answer that question.

MR STANHOPE: I have to say at the outset how incredibly mean spirited it is of members of the opposition and just how typical it is that they are not interested in

hearing about Australian athletes in Athens. It is really and truly remarkable. We can be grateful that that mediocrity is not part of the attitude of our athletes. Our athletes are tuned to perform at a high peak and they are people we should be enormously proud of. I am proud to be an Australian and a Canberran. Yes, I do enjoy the Olympics and, yes, I have sat up quite late watching the Olympics over the past few nights.

We Canberrans, as a result of the role being played by Canberrans, should be particularly proud of what is occurring in Athens at the moment. Currently, 473 Australians are competing in these Olympics, spread across the broad range of sports that makes up the day's Olympic program. However, it is interesting that of those 473, 32 are nominated as being from the ACT—that is, 7 per cent of the entire team. Thirty-two athletes nominate the ACT as home. As Canberrans, we can be enormously proud that 32 of our citizens—7 per cent of the entire team—are competing in Athens on our behalf.

Of course, that 32 does not include a range of athletes that we Canberrans call our own—athletes such as Lauren Jackson, certainly the pre-eminent woman basketballer in the world today. To the extent that we can make comparisons between sports, Lauren Jackson probably deserves the title or claim to being the greatest individual sportsperson in the world today. She dominates her sport in a way that almost no other athlete does. Lauren Jackson is one of the proved sporting stars of the world.

Other Australian athletes include Luke Adams, the race walker, who lives in Canberra, and David Barnes and Tim Cuddihy, both archers, who train at the AIS, as does Amber Bradley, the rower. These are just a few of the Australian Olympic team with very close ties to Canberra. As I say, these Canberrans are certainly doing us proud. Even to date, we have seen the significant impact that Canberrans, as Australians, have had in Athens. The Matildas, the women's soccer team, has a one-nil record at the moment. It had a fantastic win over Greece. In that team we have a significant Canberra connection through Sacha Wainwright, Rhian Davies and Gill Foster, who all played strongly—three Canberrans in that team.

The Olyroos had a significant victory over Serbia-Montenegro after drawing against Tunisia, and we have a Canberran in that team in Carl Valeri, who plays for Inter Milan in Italy and who played against Tunisia. We saw what I think will prove to be one of the highlights of the Games, the most stirring of events, the golden moment, the women's road race, won by an Australian, Sara Carrigan, but supported so significantly by a Canberran in Oenone Wood. It was a fantastic event, a credit to sport and a credit to women participating in that event. It was a great example of teamwork, a complete lack of selfishness, with one team member essentially sacrificing the opportunity to win to ensure that her team-mate was first across the line. In the women's road race we witnessed one of the great inspirational moments in sport, and we Canberrans should have regard to the central role that Canberran Oenone Wood had in that. Another Canberra cyclist, Michael Rogers, is one of the favourites for the men's time trial.

Long-time Canberra resident—someone else we have come to call a Canberran—Petria Thomas, whom I see regularly around the shops, has already won two gold medals. Once again, that is a great credit to our community. I have already mentioned Lauren Jackson, and I hold Lauren in the greatest esteem. I am a very keen follower of sport and I repeat that I believe Lauren Jackson is the greatest individual sportsperson in the world. I do not think anybody can match her as an individual sportsperson in a particular sport. She

deserves that accolade. These are some of the Canberrans participating at Athens. We should be proud of them.

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

MR HARGREAVES: My supplementary question to the Chief Minister is whether there is any local connection to the athletes you have just mentioned?

MR STANHOPE: Yes, there is, and I thank Mr Hargreaves for the question. One of the other aspects of Australia's participation in the Olympic Games—a fact of some relevance and a great credit to the ACT public school sector—is that 43 Australian Olympians have attended Lake Ginninderra College. That must almost be something of a world record—that a single college in the ACT has educated a total of 43 Australian Olympians. That really is quite significant. It is a great credit to Canberra, it is a great credit to public education and certainly a great credit to Lake Ginninderra College that over the years it has educated a total of 43 Olympians. That is something about the public school sector that we can be enormously proud of. Currently, three Lake Ginninderra College students are part of the Australian Olympic team—Tim Cuddihy, Melissa Munro and Sarah Paton. It is a little-known fact that one of the schools in the ACT, part of the public school system, plays such a role in partnership with the Australian Institute of Sport. It is simply remarkable that a single school has now educated 43 Olympians.

I do not think I have mentioned that Katrina Powell, the Hockeyroos captain and a Canberran, yesterday represented Australia for the 240th time in an international. It is an interesting commentary on an issue we face in relation to women's sport and the recognition that women athletes achieve, and perhaps it bears some closer analysis—we do not want to look too closely at it—that many significant Australian performances we have witnessed in Athens to date have been achieved by women athletes. It is interesting, as we brace ourselves for George Gregan's 102nd cap and the media that has accompanied the fact that George Gregan is about to represent Australia for the 102nd time, that at the weekend Katrina Powell, captain of the Hockeyroos, represented Australia for the 240th time.

It is interesting in the context of the debate about the recognition that women athletes achieve, that Katrina Powell will not receive that same level of recognition or support that George Gregan most certainly deserves. There is not doubt about that, and I do not suggest that George Gregan is not entirely worthy of the accolades and recognition that he receives as the greatest captain of the greatest provincial rugby team in the world. He certainly does.

Mrs Dunne: He is not the captain. Sterling Mortlock is.

MR STANHOPE: I just mentioned the captain of the greatest provincial rugby team, why do you not listen? I did not say country, I said provincial. Is he the captain of the Brumbies or not?

Mr Smyth: No.

MRS DUNNE: No. Sterling Mortlock is. Remember, you welcomed them home? You said they were doing a fantastic job. Your speech was turgid as.

MR STANHOPE: Anyway, the greatest captain of the greatest team, the Wallabies. It is an interesting debate, the extent to which as a nation and as a community we still do not have that capacity to ensure that women get the same level of recognition and the same level of support that we provide to male athletes. The comparison between Katrina and George is moot in relation to that. I make the point too in relation to Lauren Jackson, who—and I will repeat it—is the greatest sportsperson in the world bar none.

Schools—information technology

MS MacDONALD: Mr Speaker, my question is to the Minister for Education and Training, Ms Gallagher. Minister, could you outline to the Assembly what steps the government has been taking to improve access to information and communication technology in our schools to ensure that our educational system is provided with contemporary facilities and training?

MS GALLAGHER: I thank Ms MacDonald for the question and acknowledge her long-term interest in all matters to do with education in the territory. As members would be aware, one of the major features of this government's commitment to education in the ACT has been investment in IT facilities and training. Over the life of this government we have provided laptop PC access to teachers, replaced and upgraded all school servers, delivered broadband rollout to almost all schools as part of a rolling program, fully upgraded school IT administration systems to meet future requirements, provided multimedia software to government schools, provided PCs to our preschools, provided online IT training for all teachers and educational staff, and provided additional funding to the non-government sector for upgrading of infrastructure and facilities in their schools. In this year's budget particularly—and Assembly members may be interested to see how these initiatives are being rolled out—the amount of $11 million was provided for improvements in IT in schools.

The student digital passkey initiative will provide students in government schools with an electronic identity for their entire school life to permit them and their parents to securely access online services. The system architecture for the initiative has been designed and staff have been employed to proceed with this initiative.

The school website enhancement initiative will create customer-centric websites for government schools and provide enhanced, secure and convenient web-based information access to the school community, including students, parents and teachers. The improved services will be integrated with the existing Canberra Schools on the Net service, currently used by 97 ACT government schools. The request for tender for this initiative will be issued later this month.

In relation to the initiative for technical support for student computing initiative of $4 million over the next four years, technicians are now being employed to provide schools with competent technical support for classroom computing networks. For the first time we will have IT professionals working alongside teachers in schools to support their infrastructure.

The schools IT infrastructure fund initiative of $3.6 million will provide ACT government schools with the capacity, on a shared cost basis, to purchase and upgrade IT resources including hardware, software, communications equipment and related facilities. Implementation of this initiative is also under way. Of course there is the amount of $2.49 million over the next four years for the non-government schools ICT initiative, with a tied per capita grant to improve student ICT technology in those schools and allow for resources to deliver information and communication technology for students, irrespective of school size and financial capacity. The wireless broadband to schools will provide broadband access to those schools that cannot be connected by TransACT cables.

Members will also be interested to know that, just last week, I launched a CD ROM of digital curriculum content developed by The Le@rning Federation, for use in all ACT schools. Over the next few weeks all schools will be provided with that CD ROM, which is a fantastic curriculum initiative if anyone gets the opportunity to play on it.

In an increasingly digital society, students need access to engaging, interactive programs at school. The learning will enable teachers to engage students, support the different ways in which they learn and, importantly, prepare our children and young people to become future citizens of the world.

The ACT is one of the first jurisdictions in Australia to launch the new digital curriculum content as part of a joint initiative of the Australian, New Zealand, and state and territory governments. The teachers and students who trialled "Learning Objects" last year were excited about them and are keen to start using them as soon as possible. "Learning Objects" on CD ROM will be distributed to all ACT government and non-government schools during the coming months.

The ACT government has shown leadership in ICT initiatives in schools. We will make sure that all of our schools remain right at the forefront in terms of delivery of facilities and programs so that our students have access to the best possible curriculum content, access to the best equipment and access to the best technology we can provide to enable them to take full advantage of their lives after they leave school, fully equipped with all the skills they need these days.

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

Supplementary answers to questions without notice

Canberra Hospital

MR WOOD: I provide an additional response to a question asked earlier by Ms Dundas. During the Christmas and January period the adolescent ward is moved into the children's ward but, apart from that, it does not close.

Schools—asbestos

MS GALLAGHER: On 5 August Mr Stefaniak asked me a question about asbestos audits in schools. I can now provide the member with the information he was seeking. There have been two asbestos material audits in schools. The first audit was carried out

in 1983 and the second audit was completed in 1990. Asbestos was found in several schools and action was taken at that time to remove any material that posed an immediate risk. The material that remained was confined to wall and ceiling material and to floor tiles.

The ACT Chief Health Officer has advised that asbestos contained in sound and stable material does not present a health risk. Damaged sheeting that releases fibres therefore presents a risk. At the time, a register of all asbestos in schools was produced. In October 2003, as part of the department's school building condition assessment program, a review of asbestos material was commenced to update the asbestos register. That periodic review is consistent with recommended practice in managing asbestos in buildings.

In relation to the specific schools mentioned by Mr Stefaniak, an upgrade of the Yarralumla primary school was undertaken as part of the 2001-02 capital works program. Asbestos material in poor condition was found and removed in accordance with accepted practice. It was discovered in the ceiling linings and eaves of the behavioural management unit that is located next to the preschool wing. In 1998-99 Narrabundah College received a major upgrade and asbestos material was found. Work was suspended until the buildings were investigated and reported on by Robson Laboratories Pty Ltd.

Its report highlighted only one item for immediate action, that is, damaged asbestos cement sheets. Other asbestos material was found to be in a stable condition. The damaged sheets were removed and since then the college has maintained a program to replace damaged sheets. In 2003, during an older schools upgrade at Dickson College, licensed operators removed toilet partitions containing asbestos material. The work that is done as part of contracted works during major upgrades is normal practice when material in poor or deteriorating condition is found. That action is consistent with advice and recommendations that have been received from Robson Laboratories.

Child protection

MS GALLAGHER: On Thursday 5 August Mr Cornwell asked me a question about the child protection recruitment process. I have been advised that no applicants applying for child protection casework positions have been rejected because they were overqualified.

The selection of applicants is carried out in accordance with the definition of merit in section 65 of the Public Sector Management Act 1994. In short-listing for interview and in making overall selection decisions the panel considers the relevance of any qualification to the duties of the position. Frontline child protection positions require relevant tertiary qualifications. Current members of staff have a wide range of relevant qualifications ranging from social work and psychology to nursing, teaching and community development. This government is not in the practice of ruling out candidates with relevant qualifications and strong claims to the position.

All candidates are encouraged to seek feedback from the selection panel regarding its selection decision. That offer has remained open to any candidate seeking a position in recent months. Panel chairpersons for recent recruitment rounds have confirmed that they have provided detailed feedback to unsuccessful candidates reflecting on the

strength of an applicant's claims against respective selection criteria. The term "overqualified" has not been used in that feedback

Answers to questions on notice

Unanswered questions

MS DUNDAS: I seek explanations as to why I have not received, or have unable to find, answers to a long list of questions taken on notice in whole or in part during question time. On 14 May 2002 I asked the Minister for Health a question relating to tobacco use by young people. On 25 September 2002 I asked the Chief Minister a question relating to the ACT public service and to indigenous employees.

MR SPEAKER: Are these questions that were taken on notice?

MS DUNDAS: They are questions that were taken on notice during question time. On 20 November 2002 I asked the Minister for Planning a question regarding the Gold Creek joint venture. On 11 November 2002 I asked the Minister for Planning a question regarding the sale of land. On 12 March 2003 I asked the Attorney-General a question regarding the youth legal service. On 18 June 2003 I asked the Minister for Health a question regarding anti-smoking measures. On 20 August 2003 I asked the Chief Minister a question regarding green power.

On 24 September 2003 I asked the Minister for Disability, Housing and Community Services a question regarding employment for disabled people. On 10 March 2004 I asked the Chief Minister a question regarding green power. On 23 June 2004 I asked the Chief Minister a question regarding executive staff. I note that that question was taken on notice during estimates committee hearings. On 30 June 2004 I asked Minister Gallagher a question regarding children in playgroups. I should be given either an answer or an explanation as to why answers have not yet been provided.

MR STANHOPE: I have no explanation for or idea why the questions Ms Dundas suggests that I took on notice have not been answered. I will seek a response.

Question No 1605

MR SMYTH: I have not received an answer to a question that I asked of the Minister for Planning relating to energy efficiency ratings—question No 1605. As the answer to that question was due on 23 July, I ask the Acting Minister for Planning to establish why it has not been answered.

MR QUINLAN: The system that we have in place, which is the dumbest system, should be looked at and amended. A member refers to one of 1,600 questions and then asks a minister to explain why he or she has not answered that question.

Mrs Burke: You don't like it, do you, Ted? It means work.

MR QUINLAN: I am happy to be called to account but this is just stupid. A member asks a minister to explain why he or she has not answered a question when ministers have been sent about 16,000 questions.

Mr Smyth: No, 1,600.

MR QUINLAN: But how many parts are there to each question? I do not know and cannot say why the member has not received an answer to his question.

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 paper:

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
>
> Long term contracts:
>
> Greg Williams, dated 4 August 2004.
>
> Short term contracts:
>
> Megan Smithies, dated 2 August 2004.
> Colin Adrian, dated 3 August 2004.
> Roslyn Hayes, dated 23 June 2004.
> Bronwen Overton-Clarke, dated 21 July 2004.
> Sue Ross, dated 21 July 2004.
> Mick Kegel, dated 29 July 2004.
> Greg Kent, dated 4 August 2004.
>
> Schedule D variations:
>
> Sue Birtles, dated 30 June and 4 July 2004.
> Gordon Davidson, dated 14 July 2004.
> Sue Ross, dated 18 July 2004.
> Andrew Rice, dated 26 July and 2 August 2004.
> Geoff Keogh, dated 26 July and 1 August 2004.
> Rod Nicholas, dated 29 July 2004.

I seek leave to make a statement.

Leave granted.

MR STANHOPE: Today I have presented another set of executive contracts. These documents are tabled in accordance with section 31A and section 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 3 August 2004. Today I presented a long-term contract, seven short-term contracts and six contract variations. The details of these contracts will be circulated to members.

Crimes legislation
Papers and statement by minister

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

Crimes (Sentence Administration) Bill 2004—

Exposure draft.
Explanatory statement to the Exposure draft.

Crimes (Sentencing Legislation) Consequential Amendments Bill 2004—

Exposure draft.
Explanatory statement to the Exposure draft.

I seek leave to make a statement.

Leave granted.

MR STANHOPE: Currently, 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 piecemeal manner in which it has developed and fail to provide easy access to the statutory provisions relating to the principles and procedures of sentencing. That contributes to a risk of error from sentencing decisions and makes it difficult to ensure a consistent approach to sentencing issues. The government is 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 that committee was to formulate direction and to provide advice to the Department of Justice and Community Safety. In September 2002 an issues paper was published and nine written submissions were received. Further individual consultation with key stakeholders resulted in two additional written submissions and a number of oral submissions. To a large extent the submissions that were received have modelled the direction taken.

Today I am pleased to table as exposure drafts the remaining exposure drafts of the government's sentencing reform package. The package consolidates the legislation of two bills, the Crimes (Sentencing) Bill that I tabled on 2 August and the bill that is being tabled today, namely, the Crimes (Sentence Administration) Bill. As a result of the introduction of this reform package a number of consequential amendments are also required and these are contained in the Crimes (Sentencing Legislation) Consequential Amendments Bill 2004.

I would like, briefly, to highlight the major changes and initiatives proposed in the sentencing reform package. Firstly, the two main bills, as is indicated by their titles, divide the laws relating to sentencing into two categories—those dealing with sentencing principles and policy in the Crimes (Sentencing) Bill and those dealing with the administration of sentences in the Crimes (Sentence Administration) Bill.

The proposed objects of the Crimes (Sentence Administration) Bill include: provision for the safe, humane and secure detention, supervision and management of remandees and offenders in correctional centres; provision for the effective administration of correctional centres and programs for offenders; provision for the effective supervision of offenders serving home detention or other sentences in the community, including early intervention strategies to reduce breaches of sentences and obligations under the bill; promotion of the rehabilitation of offenders and their reintegration into the community through the provision of programs, supervision and effective case management; and a reduction in the repetition of criminal and other antisocial behaviour by offenders.

Currently, the courts determine allegations of breaches of home detention and periodic detention orders. There is a high rate of non-attendance and a low rate of cancellation with respect to periodic detention orders. Both periodic detention orders and home detention orders are sentences of imprisonment but the method that is used for the serving of those sentences differs from an ordinary, full-time custodial penalty. It is proposed that administration of home detention and periodic detention orders be transferred to the Sentence Administration Board.

The entire foundation for creating sentence administration or parole boards is to provide offenders who have been sentenced to periods of imprisonment with a degree of support and supervision so that they are not being set up for failure by having to address problems on their own. The aim is to assist them to reintegrate successfully into society. While completing their sentences offenders can be provided with support and guidance, particularly with respect to rehabilitative programs. Positive action could be taken and offenders could be required to appear before the board after failing to report for periodic detention on the first occasion rather than waiting for formal breach action to be taken after an extended period of time and after a number of allegations of failing to report.

Offenders could then be required to explain their absence, any issues would be identified and, if necessary, appropriate guidance and assistance would be provided to ensure compliance with the order. The administration of these orders is to be structured in a fashion similar to the one that presently operates for parolees. In addition, reducing the number of failures to report from three to two has strengthened the provisions. The option of suspending the sentence after an order has been cancelled has been removed.

It is also proposed that home detention suitability assessments be carried out prior to the imposition of a sentence of full-time imprisonment in circumstances where the court indicates it is likely to impose such a sentence. Reaction times to breach proceedings have been reduced. The availability of court attendance notices and the capacity for the Sentence Administration Board to require an offender to appear before it prior to formal cancellation proceedings have been commenced are designed to address breaches at the first available opportunity.

Powers of arrest with and without warrant have been strengthened and the availability of warrants for arrest for breach allegations has been extended. The new concept of court attendance notices is included in the bill to deal with allegations of breaches of court orders. They give police and corrections officers the ability to ask an offender to sign a notice to agree to attend court or the Sentence Administration Board within a specified

period to answer an allegation of breach or to deal with an application for cancellation in the case of home detention and periodic detention orders.

A failure to attend in accordance with a notice constitutes grounds for the immediate issue of a warrant for arrest. This will allow for early intervention when it appears that offenders, for whatever reason, are having difficulty complying with the terms of a court order. It also sends a strong message to those who believe they can breach court orders without consequences. Immediate consequences will follow for failing to meet obligations in a court order. For example, under the old regime an offender who failed an alcohol test when reporting for periodic detention would simply be sent home with a cross marked against his or her name.

No formal action would generally be taken until three strikes were made and at that time proceedings to cancel the order would be commenced. Under the new system, when offenders fail an alcohol test they can be asked immediately to sign an agreement to attend before the board to explain themselves. The board will then be in a position to inquire why the offending conduct occurred and whether anything could be done to best assist the offender to comply with and complete the order. A number of chapters in the Crimes (Sentence Administration) Bill relate to matters that have application in any future prison built in the ACT.

Matters such as detention in correction centres generally, case management and security classification, separate custody of detainees, correctional centre discipline, searching and testing of detainees and leave permits are all addressed. These provisions have equal, although sometimes modified, application in remand centres, temporary remand centres and periodic detention centres. Inclusion of these provisions now will ensure consistency when a new correctional centre is built in the ACT. The sentencing reform package, an innovative and exciting undertaking, is the most substantial review and rewrite of sentencing laws that 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 that has developed in a piecemeal manner with a coherent sentencing regime, giving clear guidance to the courts, offenders and the community. These bills are significant. Matters relating to sentencing involve complex issues and a number of competing interests that need to be balanced. This is important community legislation and, for this reason, it is highly desirable for the public and key stakeholders in the community to be given the opportunity to comment on these proposals before the bills are finalised for introduction.

A number of significant complex human rights issues relating to sentencing must be considered. Release of the bills as exposure drafts creates a unique opportunity for a detailed and full consideration of these issues and allows us to draw on the broad expertise of practitioners who specialise in these areas to ensure that these rights are properly considered and balanced. For those reasons it is with pleasure that I table these bills as exposure drafts.

Papers

Mr Quinlan presented the following papers:

Financial Management Act—Pursuant to section 26 (3)—Interim Consolidated Financial Management Report for the financial quarter and year-to-date ending 30 June 2004.

Australian Capital Tourism Corporation Act—Australian Capital Tourism Corporation—

Pursuant to subsection 28 (3)—Quarterly report—April to June 2004.

Pursuant to subsection 23 (8)—Business Plan 2004-2007, dated 27 April and 28 April 2004.

Territory plan—variation
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): I present the following papers:

Land (Planning and Environment) Act—Approval of Variation No 235 to the Territory Plan—Conder Block 2, Section 288 (Conder Group Centre)—Proposed supermarket site, dated 11 August 2004, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I seek leave to make a statement.

Leave granted.

MR QUINLAN: Draft variation No.235 proposes to allow a supermarket development on block 2, section 228, Conder within precinct C of the Conder Group Centre with a maximum gross floor area of 1,500 square metres. The variation was released for public comment on 19 February 2004 with comments closing on 5 April 2004. A total of five submissions were received during that period. The issues raised in the submissions were addressed in the "Report on Consultation with Public and Government Agencies." No revisions were made to the variation as a result of the consultation process.

The Standing Committee on Planning and Environment, in its report 32 of July 2004, made three recommendations in relation to the draft variation. The committee's first recommendation was that future draft variations relating to direct lease grants be required to provide in detail both the spatial and economic analysis that was undertaken and the criteria that were used to assess the proposals. The ACT Planning and Land Authority undertook detailed economic and planning assessments of the potential impact of the proposed development on the surrounding area. The draft variation proceeded on the basis of that analysis.

In preparing draft variations the authority needs to make a judgment on the amount of information to be incorporated in the document to ensure that it is both readable and presented concisely to the public. The ACT Planning and Land Authority will in future consider including more detailed information in draft variations where appropriate. The committee's second recommendation was that the government proceed with the

implementation of draft variation No 235. The committee's third recommendation was that the government place conditions on the direct sale of land to Aldi in that the lease requires the construction and operation of a competitive supermarket on the site.

The preparation of the lease conditions is not a consideration of the territory plan variation process. The Land Development Agency, in its preparation of the lease documentation for the direct sale of the site, will endeavour to include a condition to the effect of requiring the construction and operation of a competitive supermarket on the site. I now table variation No 235 to the territory plan.

Territory plan—variation
Paper

Mr Quinlan presented the following papers:

> Land (Planning And Environment) Act—Approval of Variation No 225 to the Territory Plan—Narrabundah Section 129 and part Section 34, dated 17 August 2004, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Environment—Standing Committee
Report 31—government response

MR QUINLAN: For the information of members, I present the following paper:

> Planning and Environment—Standing Committee—Report 31—Inquiry into the matter of the Karralika development and call in power of the Minister for Planning—Government response.

I seek leave to make a statement.

Leave granted.

MR QUINLAN: Report No 31 of the Standing Committee on Planning and Environment deals with planning and consultation issues relating to the Karralika development. The report contains 10 recommendations that are not specific to the Karralika development but that focus on broader legislative and consultative issues for planning and development approvals in capital works programs. I thank the committee for all its help.

In considering the government's response to the committee's recommendations it is important to emphasise that the government has already initiated a major review of planning with a view to amending the Land (Planning and Environment) Act 1991. The planning and land review is a significant project that, over the next two years, will comprehensively examine the effectiveness of the current planning and development approvals regime in the ACT. It will include a review of the Land Act and the appropriateness of existing consultative mechanisms for approval processes and it will deliver significant planning reforms.

The government is conscious of the need to provide protection for confidential services balanced with the need for community input into planning processes. Having said that, consultation will be directed to where it can best add value. It will also provide for those who may be materially affected and operate within an administratively tolerable resource allocation. In respect of the budget process the committee report fails to recognise that the government already undertakes comprehensive community consultation in developing its budget, including capital works.

In undertaking major project development, governments will always be challenged to identify the point at which effective community consultation can be undertaken. It is important to ensure that effective consultation is undertaken on clear and definable projects in order to avoid misinformation or misunderstanding in the community on the government's capital works program. That is a goal that this government will continue to work towards. It is also important to recognise that the government's capital works program is developed centrally with proposals brought forward by agencies. It is important to balance a centralised approach with a need to ensure agency ownership of projects and effective service delivery.

The government's response notes that the concept of a rolling program has already been adopted in part and will be further implemented in future budgets. Further refinements will improve the capital works program over the whole cycle—from needs analysis and conception to delivery and post-completion review. While the committee report does not include recommendations specific to the Karralika development I would like to take this opportunity to inform the Assembly that ACT Health will soon be commencing a broad community consultation process on the proposed expansion of the Karralika site at Fadden.

Demand for residential rehabilitation services in the ACT is growing. The government believes that some expansion of the Fadden site is needed to meet that demand. However, this proposed expansion would be limited in scale compared to the expansion proposed in May 2003. The consultation process will involve broad community representation. ACT Health will be seeking feedback from the community on this proposal. I now table the government's response to report 31 of the Standing Committee on Planning and Environment.

Land (Planning and Environment) Act
Paper and statement by minister

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming): I present the following paper:

> Land (Planning and Environment) Act, pursuant to section 229B (7)—Statement regarding exercise of call-in powers—Development application No 200402290—Blocks 3 and 4, Section 88 City, dated 11 August 2004.

I seek leave to make a statement.

Leave granted.

MR QUINLAN: On 20 July under section 229 of the Land (Planning and Environment) Act 1991 the ACT Planning and Land Authority was directed to refer development application 200402290 to the minister. When complying with this direction, the authority was required to give the minister the information and documents received by the authority relevant to the application. On 29 July 2004 I advised the Planning and Land Authority by instrument N12004-262 of 29 July 2004 of my decision to consider the development application. That instrument was notified on the ACT legislation register.

After considering the issues relating to the application, including the objections lodged with the authority during the notification period and the advice of the ACT Planning and Land Council, I approved the application on 11 August 2004 using my powers under section 229 (b) of the Land Act. The application sought approval for the construction of a 14-storey office building of 26,001 square metres, plus 2,140 square metres of space for child care and retail and basement storage on blocks 3 and 4, section 88, in the city.

The application also sought approval to vary the lease to purpose clause to delete club, hotel, motel and 110 dwellings, to increase the permitted gross floor area of the building from 21,000 square metres to a maximum of 28,250 square metres and to reduce the maximum limits on a range of non-office uses. In deciding the application I gave careful consideration to the provision of tree protection measures for those trees to be retained, the achievement of sustainability initiatives and the provision of a safe pedestrian network.

I have imposed conditions on the approval that require the provision of a tree management plan for those trees to be retained within and adjacent to the site, the provision of a report detailing how the building will achieve a four-star Australian building greenhouse rating, and a community safety report in respect of common areas within and adjacent to the site. This proposal is consistent with the requirements of the territory plan. In this instance I used my call-in powers because I considered the proposal would have a substantial effect on the achievement of objectives of the territory plan in respect of Civic Centre. The criterion in section 229, subsection (2) (b) of the Land Act is as follows:

> (2) The Minister may consider the application if, in the Minister's opinion—
>
> (b) the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the Territory Plan.

The proposal significantly contributes to maintaining and promoting Civic as the main commercial centre of Canberra and the region. The proposal is for a $100 million development with a number of beneficial consequences for implementation of the Canberra Central initiative which will ensure that Civic and the central area form a strong dynamic heart for the territory and surrounding region. This development would also ensure that a significant Australian government agency—the Department of Industry, Tourism and Resources—remains in Civic. At the same time, it would free up the department's current office space for other major tenants.

Section 229 (b) of the Land Act specifies that if I decide on an application I must, amongst other things, table a statement in the Legislative Assembly within three sitting

days of making that decision. As required by the act, and for the information of members, I table a statement providing a description of the development, details of the land where it is proposed the development take place, the name of the applicant, details of my decision and the grounds for that decision. As required by the Land Act, I also table the comments of the ACT Planning and Land Council on this matter.

Planning and Environment—Standing Committee
Report 31—statement in relation to government response

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): I seek leave to make a statement regarding report No 31 of the Standing Committee on Planning and Environment on the Karralika development.

Leave granted.

MR WOOD: As Acting Minister for Health, I felt that I needed to make a statement as a result of the statement that was made earlier by Mr Quinlan. I affirm the government's commitment to providing appropriate alcohol and drug rehabilitation services for the whole of the ACT community. The current Karralika rehabilitation facility, which is an excellent facility, is a core component of the drug and alcohol services provided in the ACT. As the demand for rehabilitation services in the ACT is on the increase the government needs to ensure that it has suitable facilities available to deal with that demand.

The government acknowledges the concerns raised in the community and in the Assembly in regard to the process of planning for the necessary expansion of services across Canberra. In order to address those concerns the government requested ACT Health to undertake a broad community consultation process under the auspices of a special Karralika consultative committee. The proposed terms of reference of the committee would be: to examine the potential role of Karralika in meeting the increasing need for drug and alcohol rehabilitation services in the ACT; and to examine and provide advice to the ACT government on the most appropriate improvements, if any, required to the physical facility of Karralika to meet those needs.

That analysis will include an examination of the impact that any of these improvements might have on the local built and natural environments and the amenity of the general neighbourhood. The government will soon announce the composition of the committee, which will include solid representation from the local community. ACT Health looks forward to working with the committee and awaits with interest the outcome of deliberations. Depending on the outcome of that community consultation, ACT Health may undertake a development application process, the scrutiny of which will be subject to the normal process. It might mean that no change is necessary as a result of that consultative process. However, if a draft variation emerges the government gives the community a clear commitment that it will not expand that facility by more than 10 beds.

Mr Smyth: Will the minister table that document so that members have a written copy of his speech?

MR WOOD: I will do that. As it is a hashed-around document I will render it in a clear form and give it to members.

Commonwealth-state housing bilateral agreement
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:

> Housing Assistance Act, pursuant to section 11A—2003 Commonwealth-State Housing Bilateral Agreement, between the Commonwealth of Australia and the Australian Capital Territory—2003-2008, dated 25 June 2004.

I seek leave to make a statement.

Leave granted.

MR WOOD: It is with pleasure that I table the bilateral Commonwealth-state housing agreement 2003-08. On 25 June 2004 the ACT became a signatory to the CSHA bilateral agreement. That followed the signing of the multilateral Commonwealth-state housing agreement 2003-08 in July 2003 and its subsequent tabling in November 2003. The bilateral agreement, which outlines the housing assistance to be provided over the five years of the agreement, was signed on 25 June by Senator Patterson, the Commonwealth minister responsible for housing, and me.

Sections 11A, 11B and 11C of the Housing Assistance Act 1987 require the minister responsible for housing in the ACT to table the CSHA multilateral and bilateral agreements in the Assembly within 15 sitting days after they have been signed; the Commissioner for Housing to prepare a notice in the form of a notifiable instrument about the commencements of the agreements, including indicating where they are available for inspection; and to ensure the agreements are available for public inspection.

Arrangements have been made to notify the making of the multilateral and bilateral agreements, in accordance with the Housing Assistance Act, on the ACT legislation register. Members of the public may obtain copies of these documents from the Department of Disability, Housing and Community Services. They will be also accessible on the department's web page.

Papers

Mr Wood presented the following papers:

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

Fair Trading (Consumer Affairs) Act—Fair Trading (Consumer Product Standards) Amendment Regulations 2004 (No 1)—Subordinate Law SL2004-28 (LR, 22 July 2004).

Land (Planning and Environment) Act—Land (Planning and Environment) (Fees) Determination 2004 (No 3)—Disallowable Instrument DI2004-175 (without explanatory statement) (LR, 5 August 2004).

Occupational Health and Safety Act—Occupational Health and Safety Council Appointment 2004 (No 6)—Disallowable Instrument DI2004-172 (LR, 2 August 2004).

Pharmacy Act—Pharmacy (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-116 (LR, 9 August 2004).

Public Sector Management Act—Public Sector Management Amendment Standard 2004 (No 6)—Disallowable Instrument DI2004-162 (LR, 29 July 2004).

Physiotherapists Act—Physiotherapists (Fees) Determination 2004 (No 1)—Disallowable Instrument DI2004-171 (LR, 5 August 2004).

Rehabilitation of Offenders (Interim) Act—Rehabilitation of Offenders (Interim) (Sentence Administration Board) Appointment 2004 (No 1)—Disallowable Instrument DI2004-173 (LR, 5 August 2004).

Road Transport (General) Act—Road Transport (Offences) Amendment Regulations 2004 (No. 2)—Subordinate Law SL2004-29 (LR, 22 July 2004).

Supervised Injecting Place Trial Act—Supervised Drug Injection Trial Advisory Committee Appointment Revocation 2004 (No 1)—Disallowable Instrument DI2004-163 (LR, 29 July 2004).

Tertiary Accreditation and Registration Act—Tertiary Accreditation and Registration Council Appointment 2004 (No 1)—Disallowable Instrument DI2004-165 (LR, 29 July 2004).

Dangerous Substances Act
Papers 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) (3.57): I present the following papers:

Dangerous Substances Act—Dangerous Substances (General) Amendment Regulations 2004—

Exposure draft.
Explanatory statement to the Exposure draft.

I seek leave to make a statement.

Leave granted.

MR WOOD: On 4 August, Mrs Cross introduced in the Assembly the Residential Property (Awareness of Asbestos) Amendment Bill, which will increase public awareness of the presence of asbestos in their homes by placing an obligation on home owners and lessors to have their buildings inspected for asbestos and asbestos-related products and to make that information available to prospective buyers and tenants of the properties. With the introduction of Mrs Cross's bill and the prominence of asbestos in the media recently, this issue has begun to rekindle—and properly so—community anxiety over the topic.

People have suddenly become aware that despite great efforts to remove loose asbestos from homes and buildings in the 1990s, asbestos and asbestos-related products may still be present in their homes. Undisturbed, those products pose little threat. However, as a result of the recent massive boom in home renovations that threat has re-emerged. For some years the government has been looking at further ways to ensure that community and personal safety are not compromised and that the relative harmlessness of the undisturbed asbestos products is maintained. To attempt to deal with the asbestos with a piecemeal approach unsupported by extensive research and empirical data could result in the creation of laws and regulations that do not adequately address the issues of asbestos.

Today I will table an exposure draft of regulations that will require the government to conduct a study on asbestos and asbestos-related products, to use that study to identify high-risk areas and develop strategies for monitoring and managing risks, and to increase public awareness through education. We know that there is still asbestos in some family homes but we do not know what risk it poses and, in some situations, we do not know whether there is a risk at all. It is crucial that any legislation on the matter be supported by empirical evidence and expert opinion, as the legislation will increase the safety of Canberrans. By requiring the government to conduct an in-depth examination of the matter, we can be assured that the steps taken to deal with asbestos are well informed and effective in increasing public and personal safety.

This study is essential as, currently, there is no empirical data on the number of properties that may contain asbestos or asbestos-related products. No data is available on the number of properties that were built before asbestos was phased out in the early 1980s. The ACT chief health officer has reported that, between 1997 and 2001, 20 residents in the ACT died from mesothelioma. However, no data is available to correlate those deaths with where residents came into contact with asbestos, or whether that occurred in the ACT. That data is essential to ensure that information is targeted appropriately at dangerous activities.

The regulations will ensure that the government, when conducting the study, identifies high-risk areas based on data and its assessment. The government must then develop strategies for monitoring and managing risks. Once the study is reported to the Assembly—on 31 August 2005, or sooner if that can be managed—the government is required to disseminate information and advice to high-risk areas about the dangers of asbestos and recommend options available to the community to ensure their personal safety. When these new regulations have been notified under the Dangerous Substances

Act I hope that we can get on with the job of properly studying asbestos and collecting data. We will then be able to pass on that information to members of the public to ensure their safety and peace of mind. I move:

> That the Assembly takes note of the papers.

Question resolved in the affirmative.

Domestic Violence and Protection Orders Amendment Bill 2004

Mr Stanhope, by leave, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (4.03): I move:

> That this bill be agreed to in principle.

I present the Domestic Violence and Protection Orders Amendment Bill 2004. The bill is the end product of an extensive review of the current domestic violence and protection orders legislation. The review was undertaken as a result of the legislative requirement to examine ACT domestic violence and protection orders legislation for consistency with model domestic violence laws, and to review the operation of provisions relating to domestic violence.

The review examined the scope of domestic violence and personal protection order provisions and sought answers to questions such as what should constitute domestic or personal violence for the purpose of the act, who is a relevant person for the purpose of making an application for domestic violence order, who may apply and when the court may grant an order.

The Domestic Violence and Protection Orders Amendment Bill 2004 provides a single consistent process for dealing with both domestic violence and protection orders. I would like to briefly highlight a few aspects of the bill.

The most obvious change made by the bill is the renaming of the Protection Orders Act 2001 to the Domestic Violence and Protection Orders Act 2001. The new name acknowledges the difference between domestic violence orders and personal protection orders and gives greater recognition to domestic violence as a particular form of interpersonal violence that requires a higher level of protective response.

The bill makes important definitional changes, with the expansion of the definition of domestic violence to include threats to, or acts against, pets and animals, burglary, and destroying and damaging property. The amendment is important as it recognises that threats of animal abuse or the abuse of pets and the destruction and damage of property are powerful tools often used by abusers to inflict fear and harm upon their victims.

The recognition of a wider range of harm associated with domestic violence is consistent with the definition of the United Nations Declaration on the Elimination of Violence against Women, which includes psychological violence. The bill also recognises that the right to protection from cruel, inhuman or degrading treatment in section 10 of the Human Rights Act 2004 requires effective legislative measures against domestic and personal violence.

The bill also expands the definition of "relative" to take into account the kinship and cultural ties of Aboriginal people and Torres Strait Islanders, members of communities with non-English speaking backgrounds and people with particular religious beliefs. This definition is consistent with the importance given to the protection of the family under section 11 of the territory's Human Rights Act 2004 and the broad meaning given to "family" under the international covenant on civil and political rights. The bill expands the definition of "relevant person" to include relationships with similar dynamics to domestic relationships. The definition of "relevant person" is central to the definition of "domestic violence". The new definition will provide greater scope for the application of the domestic violence provisions in the act.

The bill includes a clear statement of objects and principles. While the general object of the legislation is to facilitate the safety and protection of all people who experience interpersonal violence, it particularly recognises that domestic violence is a form of interpersonal violence that needs a greater level of protective response.

Another provision of the bill that I specifically draw to the attention of members is the provision relating to personal protection orders in respect of the workplace. Employers at kindergartens, childcare centres and similar organisations, and school principals will now be able to take out a workplace order against people whom they believe pose a risk to the children in their care and staff in their employment. This amendment provides greater protection for children against people who may pose a risk to them.

The bill also recognises that a person's behaviour will be domestic violence if it causes personal injury, and not just physical injury, to someone. This is an important amendment that means that the court can now make a domestic violence order where a person has suffered not physical violence but mental distress. Violence, harassment and intimidation are not acceptable in our community, and this bill is another step towards addressing this sort of behaviour.

I commend the bill to the Assembly.

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

Youth night shelter
Ministerial statement

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): I ask leave of the Assembly to make a ministerial statement concerning a youth night shelter.

Leave granted.

MR WOOD: Today I present the government's response to the issue of youth homelessness in the territory and the suggested need for a youth night shelter. Youth homelessness is a matter of deep concern to us all. We know that young people become homeless for a range of reasons, including family breakdown, abuse and violence, drug and alcohol misuse, and mental health issues.

The effects of youth homelessness are equally confronting. Early school leaving, risk-taking behaviour, petty crime, permanent family breakdown, prostitution and drug use are all potential outcomes. National experts on youth homelessness Chamberlain and MacKenzie argue that youth homelessness occurs as a process not an event. They call it a "homeless career". The longer a young person remains out of a home the more accustomed they become to being homeless. They mix with other homeless young people, begin to develop an identity as a homeless person, often sever ties with family and they see homelessness as a way of life. They become part of the homeless subculture.

Clearly, to respond effectively and act in the best interests of young people, we need to build coordinated and integrated service responses. We must encourage the service system to keep up with the changing nature of youth homelessness. It must provide prevention, early intervention and professional service responses, no matter at what stage of their homelessness.

One option proposed to address youth homelessness is a youth night shelter. In the most immediate sense a night shelter would provide a place where young people could take respite from sleeping rough and "doss" for the night. As winter temperatures plummet there is little debate about the need for overnight crisis responses for young people. However, our response must be proactive and informed, not reactive. A night shelter, if it is utilised as a doss house, will do nothing to address the causes and effects of young people's homelessness or improve their chances of good life experiences.

Night shelters do not engage in professional case management, which is the signature of Supported Accommodation Assisted Program services, as they work with people to break cycles of homelessness. The needs of young people who are out of home for the first time, who may be unable to return home because they have had a fight with family or are intoxicated, are vastly different from those who are chronically homeless. As Chamberlain and MacKenzie note, it is not desirable to colocate young people at the start of what could be a homeless career with those in its final stages.

Other jurisdictions have been moving away from the doss house model, in recognition of its many problems. In fact, Matthew Talbot Hostel in Sydney, perhaps Australia's best known shelter, has begun reducing bed capacity, providing private bedrooms and implementing case management in order to achieve better client outcomes, including moving people to independent units within the hostel.

Night shelters have traditionally been services in which minimal staffing levels result in low levels of safety and security. They are reported to have poor levels of engagement and consequently do little work to address issues associated with homelessness. They are

often places where drug and alcohol use are widespread and are areas prone to violence and rape, especially when they accommodate men and women together. They are places where the newly homeless mix with the chronically homeless.

In these contexts night shelters seem to contribute to the culture of homelessness. Such a place—a place where people are put at further risk—is not our vision for Canberra's most vulnerable young people. We are committed to addressing the causes and impacts of homelessness. Under the Canberra plan we have set a target of reducing primary homelessness—that is, people sleeping rough or living on the streets—to be as close as possible to zero by 2013.

The cornerstone of achieving this target is the 82 practical actions contained in *Breaking the cycle: the ACT homelessness strategy*. Much has already been said of the homelessness strategy. It was developed in an extremely effective collaboration between government and the community. The result is a whole of community response. We also know it was developed through rigorous consultation. Twenty community organisations and 145 people who had experienced homelessness provided feedback on areas for improvement and recommendations for future service responses.

Breaking the cycle has been underpinned by an additional $13.37 million funding allocation over four years. Nine new services were announced in July of this year to enhance the sector. These services will provide supported accommodation for families, sole parent fathers and single men; outreach services for young people, women and men; and a resourcing and development service to support SAAP-funded services in responding to client complexity. Two more services will be announced for Aboriginal and Torres Strait Islander people after further consultation. The strength of the strategy is that it provides informed actions that respond to complex needs.

The government's primary response to youth homelessness up to this point has been the SAAP sector. The number of young people able to access SAAP services in the ACT is the highest in Australia. The *Counting the homeless 2001* report identifies that 46 per cent of the homeless population in the ACT are aged 12 to 25, compared with national figures of 36 per cent. A further report titled *Young homeless people in Australia 2001-02* identifies that the ACT, per 10,000 people, has the highest rate of homeless young people aged between 12 and 15 in SAAP services. Fourteen and a half per cent of all people accommodated within the SAAP program in the ACT are young people in this age range. These figures are alarming.

Yet the fact that young people are accessing professional support is encouraging. The ACT has the highest rate of homeless young people in the country who continue with education. We need to consolidate existing, as well as build additional, professional service responses to support young people. We need to work together with these services to ensure they are provided within a quality framework that is outcomes based and able to respond to the complex needs of young people.

The government currently provides $3.64 million to youth SAAP services. These services include crisis, medium and longer term supported accommodation, as well as outreach and pre-vocational education and life skills development programs. There are 92 supported accommodation beds available to young people, 32 of which are crisis

accommodation, which can accommodate young people for up to three months, and 60 of which are medium or longer term accommodation for up to 12 months.

We recognise that there are gaps in service provision, and we have moved to fill those gaps. We have established diverse service responses throughout the 2003-04 financial year in line with the strategy. Aboriginal and Torres Strait Islander people are overrepresented amongst this population. This is also the case for Aboriginal and Torres Strait Islander young people. In July last year the Department of Disability, Housing and Community Services, in partnership with Aboriginal Hostels, provided funding to Winnunga Nimmityjah Aboriginal Health Service to provide a supported accommodation service for young Aboriginal and Torres Strait Islander women aged 12 to 17.

This service, with the name Dyirmal Migay, which means "proud young women", is an example of how innovation is achieved when the people and services with experience and understanding work together. After extensive consultation with the Aboriginal and Islander community, the service has been established using a house parent model. This is a culturally appropriate response that connects young women with family and community while supporting them to establish longer term and sustainable accommodation options.

After a tender process, Anglicare Youth and Family Services received funding to provide outreach case management for young people. The youth housing outreach service will target young people aged 16 to 21 who have moved on from SAAP programs to Housing ACT. This service will support them in maintaining their tenancy. In addition to these recurrent initiatives, two youth outreach services were funded in 2003-04, each receiving $20,000. The Barnardos Parenting Outreach Program received funds to provide additional outreach support to young parents under 25, and the Barnardos Transition Program received funding to expand the capacity of outreach support to young people exiting the program.

In addition to the range of service responses established, the Homelessness Advisory Group engaged Mr David MacKenzie, from the Institute of Social Research at Swinburne University, to review the youth SAAP sector. He was asked to provide evidence-based recommendations. The review sought to identify the mix of service models, size and location required to respond to the supported accommodation needs of young people. The terms of reference required that specific consideration be given to the need for a youth night shelter. This included addressing demand for such a service and how such a service might be configured.

Mr MacKenzie held 36 meetings with stakeholders, including youth SAAP services; government agencies, including Family Services and Youth Justice Services; community organisations; and peak bodies associated with the provision of services for young people who may be at risk. At least eight hearings were specifically devoted to young people, and a think tank with a core group of community and government stakeholders was held to work through potential strategies.

A draft report was provided in April this year. It contains 15 recommendations over four key themes. These themes reflect the need to enhance coordination within the service system to enable it to respond to young people at all stages of homelessness. They call

for early intervention and prevention and different accommodation and support options. They speak of the need for creating alternative pathways for homeless young people.

The Department of Disability, Housing and Community Services has worked closely with the Youth Coalition throughout the review. The coalition was invited to comment on the terms of reference. It assisted by identifying young people to attend hearings, and they were approached by Mr MacKenzie to provide their perspective on youth homelessness.

When the draft report was received, in consultation with the sector, it was decided to further test the report's recommendations. The Youth Coalition has been engaged to undertake additional consultation with stakeholders to test the MacKenzie report's recommendations with the people it would directly affect: the youth of Canberra. This important work is under way and is scheduled for completion in early September 2004.

Consistent with article 12 of the Convention on the Rights of the Child—that is, on a young person's right to express their views on matters affecting them—we have ensured that young people have been engaged to determine young homeless people's responses to the model proposed by MacKenzie. Young people have been trained to undertake additional research into the number of young people sleeping rough, the consequent demand for overnight crisis responses and recommendations for the most appropriate professional service responses to the needs of young people.

Over 50 young people have been consulted already, and two forums have been held with other stakeholders. Twenty-six different service providers have participated in these workshops, including the Ted Noffs Foundation and Quamby. This innovative work—young people consulting with young people—will continue the best practice in consultation established in the development of the homelessness strategy. It will ensure that the way forward will be informed and owned by the community and young people.

In addition to developing service responses, the department has been working closely with all stakeholders to improve outcomes for young people who experience homelessness. This includes conducting six-weekly forums with youth SAAP services to develop better responses to young people with complex needs.

We have worked with other government agencies: the Turnaround program, the Child and Adolescent Mental Heath Service and the Office of the Community Advocate. Other community service providers, including Marlow Cottage, Youth in the City, CEAS and Open Family, have also been engaged. The result is government and community services working together more effectively. SAAP services, with the support of the department, have extended accommodation periods for young people with complex needs, recognising that ongoing support improves the chance of a sustained outcome.

A work plan has been developed for the Office for Children, Youth and Family Support, which outlines the range of actions that will improve the interface between youth SAAP services and child protection agencies. This work predates the Vardon report and provides practical action to enhance collaboration, such as the provision of joint training and protocols among stakeholders.

We have committed ourselves in the Canberra social plan to "respect, diversity and human rights" for all people, and this must be particularly strong for young people. The Canberra community has an expectation that young people should be given the opportunity to reach their potential. As an entire community, we must work together to ensure that young people who are homeless, or at risk of homelessness, have the opportunity to participate.

The government has worked to respond to youth homelessness in many ways. We have improved service coordination and collaboration, and we have enhanced networking and protocols between government and community. New services have been implemented to respond to identified need. We have ensured that service responses are professional and are focused on breaking cycles of homelessness. We are considering new options and refusing to fall back on old ideas. We owe this to our young people.

Urban environment
Discussion of matter of public importance

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

> The deterioration of Canberra's urban environment and the look of the city.

MR CORNWELL (4.24): I was speaking to a constituent the other day who drew my attention to the fact that Northbourne Avenue looked like a Third World country: dirty, neglected and rundown. It occurred to me that, whilst this government runs around looking after bleeding heart issues, bills of rights, antidiscrimination, the Iraq war, illegal economic migrants, Boer War memorials, even reducing the road width for bike paths and—if I may say, Mr Speaker—taking 12 pages to talk about a response to calls for a youth night centre, the city is falling apart.

If you doubt that comment, I refer you to the Urban Services portfolio June 2004 quarterly performance report for the output Canberra Urban Parks and Places. The original target for the number of public reports regarding dead and fallen branches, dying or dead trees and other safety issues was 7,000. The actual result was 9,914, or 142 per cent against the target. Increased workload has resulted in some delays, which we understand.

The number of regulatory investigations has risen from 13,000 to 15,108, including December and March quarters, relating to abandoned vehicles in the Woden-Weston Creek area and an increase in public reports from inner north residents about overhanging trees and line of sight issues. For graffiti removal the original target was 95 per cent, and the actual result was 85 per cent. Why? It was due to increased graffiti activity around the Canberra region. I am not surprised. As figures from questions on notice indicate, requests for removal of graffiti have gone up from 130 requests between January and June last year to 215 in the July to December period.

The horticulture and cleaning original target was 95 per cent, and the actual result was 90 per cent. No explanation has been given. For tree maintenance service the original target was 70 per cent, and the actual result was 55 per cent. The increased workload was due to additional public reports of dead and fallen trees and lower timeliness due to higher than expected demand. This is from the Urban Services portfolio, output 1.4, of the July 2004 quarterly performance report.

Those examples have not mentioned litter, and I do not need to draw attention to this except to make the point that this government cracks down on littering offences to such an extent that we have had only 41 offences in the last 12 months. Equally, we only had 21 graffitists tracked down. In regard to lighting in older suburbs—Forrest, Griffith and Deakin—I have had complaints from those three suburbs about the appalling lighting. As to broken footpaths, plenty of them are marked around the place, but nobody ever seems to do anything about repairing many of these.

Finally, on the subject of kangaroos, did you know, Mr Speaker, that the carcasses of 48 kangaroos were counted from Theodore to Fyshwick on the city-bound lane alone on 13 August? What does this say about the capacity of the government to look after the city? This has got nothing to do with the drought, I hasten to add, or water restrictions. Litter and lighting and graffiti cannot possibly have anything to do with that, but it has everything to do with this government's priorities. The money is there and it should be made available. When I say the money is there, I am indebted to the June quarterly management report, which was tabled today for the financial quarter and the year to date ending 30 June 2004.

When we look at attachment "Bravo", we see that the total general tax—that is, payroll tax, general rates, land tax and debit tax—has risen $17.4 million on the budget forecast. Total duties—that is, stamp duties, conveyances, general insurance, hiring duty, leases, life insurance, motor vehicle registration and transfers—have a rise of $77.7 million. Gambling taxes—that is, licence fees for the TAB, bookmakers' turnover tax, gaming and casino tax—are up $1,070,000. Other taxes—that is, ambulance levy, general insurance levy, fire reconstruction—are up by $9.12 million. All of these are increases on the budget forecast.

What is this government doing with this money? It certainly is not putting it back into the appearance of the city, and I want to know why. Isn't it about time those of us—and I am talking about the majority of people in this city—who pay the rates, who pay the taxes, get something back for it? Aren't we entitled to something? Or is it all to be directed into bills of rights and various strategies to address homelessness and poverty, et cetera—perhaps addressed to banning legal things such as cigarette vending machines and endorsing illegal substances that you can get from syringe vending machines?

The majority of people in this city are entitled to something in return for the money they are paying out. If we are not to provide this funding and pour it back into the city, what will we end up with? It is all very well for this government to ease its social conscience with other people's money—and in doing this they of course concentrate on minorities—but I would suggest that the majority of people who live in this city who pay their taxes deserve to get some benefit from their efforts. And, may I remind you, so does Australia. This is the national capital. We cannot afford to have it looking run-down and grubby.

I repeat: look around, open your eyes, drive around. I know that the minister has recently introduced some litter and antigraffiti measures. But these things, Minister, will take time to get moving. We cannot expect to see these things happening overnight. In fact, the figures I quoted in relation to the infringements, fines and prosecutions give me no confidence that graffiti, litter and the various other things that make a city look untidy are going to improve.

I have no confidence that these things are going to improve simply because legislation has been passed in this place. It also takes a commitment from a government and a government department, and I do not have confidence that that exists. People are becoming concerned about the state of the city; they are also becoming very concerned about the increase in their rates. One would hope, I repeat, that some of the money that is raised here would go back into improving the city. What can you say to somebody who rings up and tells you that their rates have risen 74 per cent in two years or that the increase in the capital value of the place rose $57,000 last year and $102,000 this year?

Mr Wood: Congratulations on a fine investment.

MR CORNWELL: The Minister states that, but it is all very easy to say, "Yes—tremendous capital gain." That only applies if you sell the place, Minister, as you well know. I think it is reasonable that somebody who is paying this sort of money should get something back for it. The least we can do is to clean up the mess that exists in this city at the moment—the graffiti, the litter.

Why can't we address these questions and give the majority of people who live here something back? Why are you concentrating all the time on minority matters? That is an ideological hang-up that you people have. The fact is that ordinary, decent citizens who are paying their way deserve a bit more than what you have delivered to date. This city is not looking good. It is untidy; it is dirty; it is neglected. That does not apply just to the centre of the city. I am sure that my colleagues from Ginninderra and from Brindabella electorates would be able to echo my complaints.

Mr Pratt: You can't blame it on the drought.

MR CORNWELL: Thank you, Mr Pratt. You cannot blame the drought for the way that the city is looking run-down and dishevelled.

Mr Wood: Did I mention the drought?

MR CORNWELL: I do not believe it is. I remind members that, as my constituent said, we are not some Third World country. We are the national capital of Australia. We are custodians for the rest of Australia of this city. At the moment, you could be forgiven for imagining it is some sort of disease-ridden shantytown from a Graham Greene novel. That may be stretching it a little. But I urge you, the government, to do something about improving the look of this place, crack down on the people who are disfiguring and making a mess of it and have a bit of pride in what you people are governing.

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) (4.39): It is the case that Mr Cornwell said that Canberra is looking like a Third World country, and that bit of hyperbole puts into context the speech as a whole. Canberra does not look like a Third World country and never has. It does not even go close to it. To make this sort of claim suggests that this is more a bit of a beat-up to fill some time of this Assembly.

I do drive around with my eyes open—as Minister for Urban Services, as minister responsible for roads, footpaths and the like—and I pay close attention to what I see around. I think the city looks as fine now as it ever has. The city looks good, and all the comments I get tell me that.

DUS has the responsibility of looking after the built environment: the roads and the public buildings, as well as some 5,000 hectares of urban parkland, ranging from town and district parks to road verges and semi-natural open space. The standard of care of all aspects of Canberra—the hard surfaces and the natural surfaces—is comparable to the standard of care anywhere. Our community, when we assess what it says, reports high levels of satisfaction. Canberra Urban Parks and Places does an annual consumer customer satisfaction survey.

Since 1999, the level of visitor satisfaction with the experience provided in our parks has risen from 89 per cent to 96 per cent. That is a pretty solid performance. Interviews with visitors to these parks identified them as well presented, attractively presented and clean and well maintained. That is a significant achievement, considering that almost eight million people have visited them in the last year.

Another key finding from the survey—this is accurate data; this is not somebody's hyperbole—is a positive trend in satisfaction with the general cleaning and maintenance of open space facilities. That includes road verges and areas surrounding major roads, laneways, underpasses, dryland and irrigated grass areas, bus shelters, playgrounds and toilet blocks in parks and suburban shopping centres.

The general level of satisfaction has been mentioned. They are verified findings. The community, mind you, is also doing its bit to help. Currently, over 50 businesses and community groups are involved in adopt-a-road activities, and they will soon be recommencing their activities to reduce the amount of litter along our major roads, after a brief suspension, now that insurance issues have been resolved.

The government has been active in managing graffiti across the city, and I acknowledge that it takes a fair bit to keep up with it, but I think we are on top of it. Graffiti with offensive words, images and messages must be removed within 24 hours of notification, and in all other cases graffiti is removed within three working days. We are currently finalising a new management strategy that takes a holistic approach. It contains five elements and seeks to strike a balance between prevention, removal, diversion, awareness, education and legislation. I expect that this strategy will reduce the cost of graffiti removal. It has undergone detailed consultation, and the final strategy will be released shortly.

Mr Cornwell, I agree with your comments; we are not talking about the drought. The city is certainly looking dry, and we understand that. Our parks are feeling that issue, but they remain tidy and in general good condition. It is strange that you mentioned the drought.

The opposition at one stage suggested that the community should be asked to endure stricter water restrictions so that the government could maintain a higher level of water consumption, but we did not take that up.

There is a drought issue: maintenance of trees. I see branches coming down at various places around the town, and we have to remove those. Nevertheless, we have planted over 750 young trees in the last couple of years. We have had to reduce that program this year, but we are carrying on an extensive program of removing dead or declining trees in preparation for plantings in the future.

Another major project undertaken was the general clean-up of the numerous stands of pine trees within the urban area, reducing their potential fire hazard and improving the contribution to parkland amenity and also simply making the place look better. I suggest you drive along Dryandra Street some time to see how that is working. The work involved removing woody weeds, thinning the stands of trees to reduce their density and removing lower branches.

Landscape works have also been undertaken to refurbish shrub beds along road verges and adjacent to underpasses. Twenty roundabouts are currently being landscaped in Tuggeranong, and the two major roundabouts, at the airport and on the Federal Highway, are also being refurbished to improve the appearance of our major entry points. Ongoing environmental weed and feral animal control programs have been undertaken throughout the city. The foreshores of the Yerrabi and Gungahlin ponds and their islands have been planted to stabilise their banks and prevent erosion, and a Yarralumla Creek restoration project will commence shortly. I am sure you have admired the work that has been done by the wonderful group out Ginninderra Creek way.

Upgrading shopping centres and urban precincts is another way this government is contributing to the look of Canberra. I know we cannot do every shopping centre as rapidly as some of our constituents would wish, but we continue to work on it. The Mawson Centre is now a pleasant and safe precinct for shopping and socialising, since its recent refurbishment. New features include paving, lights, street furniture, shade trees, shade structures and a bus stop. The achievements of Douglas Mawson are celebrated in the form of art works that reflect the antarctic landscape and experience. The refurbishment represents the culmination of extensive public consultation, which addressed the needs of business, community organisations, schools and residents.

Take Hobart Place: a busy city space was upgraded to improve public amenity and safety and address some problems of several years standing. Collaboration between designers, building owners, traders, waste agencies and artists have resulted in new features that include a performance space, paving, grassed area, seating and a drinking fountain. A feature fountain named "Sweet Justice" is designed to be viewed from the ground as well as from surrounding office buildings, and I pay respect to the people in the private sector who contributed significantly, in money terms and in time, to the Hobart Place redevelopment.

In a totally new program introduced by this government, Canberrans are being encouraged to discover the features of many of our parks and open spaces. The "'round town" initiative is CUP's exciting program of free community events, just to keep our city areas lively. These events include the popular teddy bears picnics, live music in the

city and a range of suburban parks, films at twilight on the big screen in Garema Place, skateboard events and older peoples parties.

Considerable work has also been undertaken on the western edge of the city to restore the fire-damaged landscape. That is a significant achievement, given the extremely dry weather conditions we have experienced. During 2003-04 the government consulted with the community and replaced approximately 8,000 fire-affected plants, including 1,600 trees. This has restored most of the parklands and major road verges in Weston Creek, Woden and Tuggeranong.

Planning for the replacement of burnt street trees on residential verges has commenced, with the consultation of residents almost complete. Shrubs have been planted at the majority of fire-affected sites. To assist residents re-establish their own gardens, fire-affected households have been offered plants under the plant issue scheme. To date just on 500 residents have taken up that offer.

The garden regeneration project, a strong government and community partnership, has also been highly successful in supporting people's recovery from the bushfires through re-establishment of their fire-affected gardens. To date, volunteer helpers have replanted 200 fire-affected gardens at gardens days organised through this project. All fire-affected suburbs have had burnt municipal assets replaced, including playgrounds, street signs, regulatory and warning signs, guard rails, guideposts, log barriers and bollards, bridges and line marking. Extensive weed control programs have been undertaken and fire hazard reduction works have reduced fuel loadings.

So, the government has been very active, and it has been extra active in the last 18 months as we have also additional work to do in those fire-damaged areas. The city looks fine, Mr Speaker. If you walk from here down through the city, you will see the new paving and the new work being done—much of it, I might say, a continuation of what the former government was doing. That work continues. Civic looks fine.

The street cleaners are out there every morning. After a Saturday night it can be fairly messy at two or three in the morning, but by the time people come to work that same day, the place is looking spick and span. I pay credit to all those workers in CUP and CityScape, and the other people we hire to keep the city looking great. They are out there constantly working and doing everything they can. I think it is unfortunate that we are getting claims here today that it looks like a Third World country.

The place is respected by all its citizens and by the people in our departments who work to maintain the city. They respect it, they like the city and I would pay credit to them for the fine look of this city.

MS TUCKER (4.51): Mr Cornwell's matter of public important is an interesting subject. I notice he mentioned all his pet hates at the beginning. We ranged from asylum seekers, which he calls illegal immigrants, to the war in Iraq and bike paths taking up important road space. Basically he seems to be concerned that Canberra is looking untidy. My view of his comments is that he rather exaggerated the situation, but I am happy to join in the conversation about the urban environment and the look of our city. More particularly I am interested in talking about the way we are underpinning our city with social and cultural planning.

Canberra is a planned city of world standing, but it was corrupted in the 1960s by short-sighted transport planning which put longer-term social and environment considerations a distant second behind the desire for an economically buoyant, fossil-fuel dependent, neat and tidy future based around nuclear families in homogenous satellite suburbs and reliant on the family car. Canberra is a wonderful city but we need to be more thoughtful about planning for it. We have the opportunity to create a model city for all Australians to look to for environmental best practice and for social and cultural equity and amenity. It is disappointing that the ACT government does not seem to share these aims.

I note with significant concern that the role of social planning in the ACT Planning and Land Authority appears to have been downgraded over recent years. Most recently ACTPLA advertised to replace a senior social planner with a more generalist planning position. The ACT convenor of the social planning chapter of the Planning Institute of Australia, the peak national body representing urban and regional planners, has raised significant concerns with me regarding this issue. These relate to the gradual diminution of the role of social planning within ACTPLA over recent years and to the consequently reduced possibility for planning policy and legislation in the ACT to be informed by specialist social planners.

There are concerns that while there are opportunities for social impact assessments to be prepared as part of the consideration of development applications, there are no opportunities, due to the underresourcing and understaffing of the social planning function and ACTPLA, for the criteria used for social impact assessment to be reviewed. This has meant, for example, that social planners cannot currently assess the impacts of people moving into high density housing, their levels of social participation and ability to access services. Apparently, currently there is also no permanent cultural planner on staff at ACTPLA. I am very concerned that if this is the case cultural heritage issues may be receiving much less attention than they should be.

I put it to the Assembly that if we are going to take social planning for the territory seriously, we must have distinct and sufficiently resourced social and cultural planning functions within ACTPLA. The ACT government needs to have a strong vision for social and cultural planning in the ACT and ACTPLA needs to be resourced to deliver it. Strategic social planning issues should be considered automatically as part of all planning decisions being made for the ACT, not just as part of those that focus on the traditional social policy beacons such as access and mobility or aged care issues—important as these are.

In addition, we should ensure that there is capacity for specialist social planners to regularly review and improve the criteria used to assess the social and cultural impacts of planning and development decisions. These issues are too important to be reduced to just a tick in a box. I would like to see social planners making a significant contribution to urban design and to have the capacity to bring together the aims of the territory's crime prevention strategies, for example, with planning and design concepts that are meaningful for Canberra's youth. Currently, young people have very limited opportunities to have their interests and issues considered in urban planning and design. The territory's young people are missing opportunities to contribute to the cultural and economic life of the city and the broader ACT.

The Greens would like to see new urban developments spaces that are environmentally sound, that respect human scale and which facilitate human interaction. This is more than just focusing on sustainability or ticking the social and cultural impact spots. It is about making sure that the community can participate fully in urban planning and in the assessment of development proposals, and making sure that the spaces that result say something meaningful about us as citizens of the national capital and allow us to live in ecologically and socially satisfying ways.

The ACT Greens have significant concerns about the current state of planning in the ACT. We have two planning authorities but there is no real co-ordination between them. We would not support Labor's idea of just reducing the amount of land that we think is designated as important for the national capital, but we would like to look at how the two authorities can work together in a more streamlined, user-friendly way for the benefit of the people of the territory.

Recently we have seen the way the government's interest in maximising its return on the development and land has been allowed to take priority over its policy commitments to housing affordability and access to services for Canberrans on low to moderate incomes. I am very concerned that the newly announced development in Bruce, for example, leaves the provision of affordable public and community housing to the discretion of developers. It is of great concern because if we want to achieve what I agree are honourable objectives and goals as a social plan, we have to be prepared to resource ACTPLA to achieve these ends.

MRS DUNNE (4.58): Charles Landry, the author of *The Creative City: A Toolkit for Urban Innovators*, was a guest speaker at a government-sponsored Canberra ideas and innovation festival, ICAN, in May this year. Apart from a few comments like "the biggest risk for Canberra is the fact that it's risk-averse", which this government would do well to take to heart—perhaps the Chief Minister could have this engraved on a plaque over his desk—Landry gave us some advice. He said:

> Canberra needs to set itself goals such as 10 large projects ... This would involve 10 concept shifts. Also one major paradigm shift to the concept of green urbanism.

This paradigm shift to green urbanism was celebrated in a media release from the Chief Minister at that time—in May this year. It has not made it into any of the glossy planning documents that this government has put forward, but it is worth looking at what he said in May this year about green urbanism. The release stated:

> "As we breathe new life into Civic, Canberra will become the world's first 'green urban' city," Chief Minister Jon Stanhope announced today.

He went on:

> Green urbanism is a concept that suits Canberra extremely well.

He is right. The press release went on:

> "It captures the spirit of the bush capital, as well as our love of the city lifestyle", Mr Stanhope said.

> "We will have the best of both worlds—a lively city which, at the same time, is environmentally responsible. Respect for the environment will influence everything in the planning process—from the type of building materials we use to the way we manage public transport.
>
> "… I wholeheartedly support the concept of 'green urbanism'.
>
> "As we become a 'green urban' city—

What other sort of city can you have except an urban one—

> it will show—visitors will recognise that we do things differently in Canberra, and that the environment is at the forefront of all our decisions."

We certainly do things differently. We listened here to a litany from the Minister for Urban Services about all the wonderful things that the government does, all the money that it throws at things. But this is what this government always does. It always has measures for input. We are throwing X-million dollars of money at the problem, but we never measure the outcomes. The outcome, despite the buckets of money being thrown into it, is a pretty down-at-heel city.

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

MRS DUNNE: We had Mr Wood's litany, and you also opened the challenge, Mr Deputy Speaker, about issues in Ginninderra. I will raise a few. William Hovell Drive was recently duplicated but we did not manage to resurface all of it. So some of it is a 10-year-old bit of road that is pretty dodgy indeed. The Minister was extolling the virtues of what was done in Ginninderra Creek. The trouble is it was done under another environment minister—I think his name was Brendan Smyth. I think Mr Smyth might have done the funding for Hobart Place as well.

Let us not talk about Kaleen. When you go to the shops there people queue up to talk to you about the down-at-heel state of the suburb where the Chief Minister lives. They line up and say, "I know that he jogs somewhere but he must not jog here because he does not see the state of our paths. He does not see the fallen trees." The government might have spent $50,000 on the park, but it has not fixed up the dead trees all around it. Sadly, when the Chief Minister spoke in May this year about green urbanism, that was the end of it. It has never got a guernsey since and I think he thought that no-one would notice. Maybe this is because the Chief Minister thinks that the environment is an issue he owns. He is wrong. He can say what he likes about it; he is wrong again. Maybe he thinks his friend and supporter Ms Tucker has given him the environment or sold it or at least lent it to him for a while.

But this is not an issue about the look of the city. It is not only an issue for people who might be characterised as greenies. You do not have to be a greenie to want to live in a green city, to like greenery and to be concerned with other green issues generally. Some of the people most concerned about our trees have been associated with the building industry, as have some of those most concerned with green issues more generally. Let us

look at the proposed government tree legislation. However well intentioned, it ultimately works a bit like unfair dismissal legislation. You might think twice about acquiring an asset if you are going to get stuck with it for life.

There are a lot of cost-effective approaches to preserve trees, and the government has talked about them here. It says we are busily planting a whole lot of new tress and watering them, but what are we doing about the established trees in our parks, on our nature strips, on our roundabouts? They are dying across the town. We are encouraging people to spend money but then we do not allow them the luxury of watering to ensure the longevity of their asset. We are encouraging people to water street trees, but we need to be encouraging people to water streets trees without requiring them to stand around holding a hand-held hose during the limited times they have to water their gardens.

One of the issues raised in estimates and has been raised a number of times is what is Urban Services doing about maintaining our old trees around Canberra. Are we being a little innovative perhaps and going out with an auger and sticking a bit of Agpipe down so that people can effectively water trees so that they do not die? Mr Wood touched on it. But drive around, drive down Moynihan Street in Evatt and see how many dead street trees there are, and they are eucalypts. I shudder to think what will happen when the spring comes and we see how many deciduous trees have died over the winter. They made it through the past summer, but I doubt that they will make it through the next one. When the trees start to come out, as they should, in spring, we will see that we have a whole lot of problems.

There is an issue with the government requiring developers to landscape their development and then, after they hand it over, the government not watering it. Mr Wood spoke about Yerrabi and what fantastic work is being done there, but the developer at Yerrabi was required to develop a park. It has highly efficient in-ground watering, which is pumped out of Yerrabi pond, but what has happened? Since it has been handed over to the government, the government has turned off the sprinklers. So, the community paid for that investment when it paid for the houses in the estate, but it does not reap the benefit of it because the government turns off the sprinklers.

The look of the city is very important, as is how we address water restrictions and our water security. I have spoken at length about the irrational approach of this government to water restrictions. Contrary to what Mr Wood has said, I have never said, and members on this side have never said, that we should have tougher water restrictions so that the government can use more water. We are saying that water restrictions are needed but they need to be much more rational than the odds and evens, hand-held approach that we experienced during the past summer. That is a recipe for killing our trees. That is a recipe for killing our gardens. Reasonably mature trees cost thousands of dollars. Many larger trees are literally irreplaceable, at least in our lifetime.

This government is running on rhetoric about being concerned about trees with so-called tree preservation and tree planting days, but when it comes to the crunch, let us look at its record. Let us see what it has done about Nettlefold Street. Let us see what it did to Oakey Hill. If you want to see woody weeds, go to Oakey Hill and see what has happened since it clear-felled Oakey Hill. I was there on the weekend and there are innumerable woody weeds there that are not being addressed by the government.

It was interesting when I went to a lunchtime function at Regatta Point along with the Treasurer. I walked past Floriade in its formative times and wondered whether people would want to come to Floriade and see a green Commonwealth Park when the rest of the city is an urban desert. We cannot allow this city to become an urban desert because this government has not planned for our water security.

MS DUNDAS (5.08): I want to return to the original topic that has been put before us in this matter of public importance—the deterioration of Canberra's urban environment and the look of the city. We should agree that Canberra is a beautiful city. It is a great city. It is one that we are all proud to call our home. It is quite a good example of what could be done with a planned city. Of course, we all agree some things have not gone as well as they should, that improvements and repairs can be made. But to compare Canberra to a third world country is really drawing quite a long bow.

Yes, the Belconnen bus interchange is unsightly and in need of repair, but at least we have a bus interchange. The leafy entrance and garden beds around Civic are the envy of all those cities in third world countries that are suffering dire ongoing drought and a genuine lack of water. When I look out the window of my office I see a pleasant mall, a fantastic potential urban landscape, not a throng of lepers and a haze of pollution. Canberra does not have shantytowns. So we see public art and the construction of new units, not sweatshop factories or shantytowns. So that was a rather long bow to take when we talk about the deterioration of Canberra's urban environment and the look of the city. We need to remember how lucky we are to live in a beautiful country like this.

However, the debate then talked about the need to clean up graffiti. Despite the reforms that were passed just in the past few months in this place, it seems that some members still remain unsatisfied with what we are doing to tackle graffiti. Perhaps if we had a 24-hour curfew on young people Mr Cornwell would be finally satisfied, but then we would not have the vibrant culture that so many in Canberra appreciate. In the past fortnight the Assembly also passed new laws in relation to litter. At that time I commented on the government's lack of action in meeting the no waste by 2010 targets. Not only is the ACT's no waste program budget a small amount of the entire budget, but its budget has been static and will remain static for the next three years. So we get plenty of rhetoric and flash promotion but little action to divert our waste away from the waste stream.

We should also be talking about public art and street sculptures that we have in our town centres. Civic is well catered for but many of our other local shopping centres and town centres are not as well catered for in public art. So just as we need more employment and better public transport for our town centres, we need to make our town centres more beautiful, more full of those things that people flock to the city for. They should not be left behind when we talk about improving our city in a whole range of different ways. The unique model that is Burley Griffin's legacy can only be enhanced if we beautify all of our town centres—from those major arterial centres down to our suburban shopping centres where the community congregates.

The other thing that should be focused on in relation to our urban environment is access to public space. Our public space is often hard to access for pedestrians and those cycling. We seem still to be stuck in a planning mode that is solely geared towards transport by car. It is not only short-sighted but it also has long-term health impacts.

I have spoken before in this place about a study by the University of Western Australia that showed that people living in streets with no footpaths are 62 per cent more likely to be obese. It is a shame that many of Canberra's recent suburbs have had narrow streets with no footpaths. Because we are trying to fit in as many houses as possible in these developments, footpaths are only being built on arterial roads and this has a major impact on health. Also, because we have narrow streets we are hearing of problems in relation to buses being able to travel down these streets.

So if we do improve Canberra's urban environment and the look of the city, few people will be able to appreciate it. They will be zooming past in their cars because they cannot walk or catch public transport to those centres where we are looking at rejuvenating our public environment. I am glad to see that the government is still supportive of the way to go program, which encourages people to leave their cars at home and make more trips to school, work or shops or to visit friends by walking or by cycling, but we need to get the fundamentals right. That is, if it is not pleasant to walk or to cycle, if people are not doing that through a welcoming urban environment, people simply will not do it. So, there is some importance in the debate put forward through this matter of public importance but we need to keep a realistic focus on what we are trying to achieve here and the benefits that we already have by living in a city like Canberra.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.13): It is interesting to witness the continuing attacks by the Liberal Party on Canberra, on our home, the place we live. Canberra is a beautiful city—one of the most beautiful cities, if not the most beautiful city, in the world. I think that is the view of almost everybody who lives here. It continues to surprise me that for the sake of a political argument, for the making of a political point, the Liberal Party in Canberra continues and continuously talks down Canberra as the wonderful place it is. I have lived here now for 35 years. I will almost certainly live for the rest of my life here. I regard it without a doubt, without even having to think about it, as the ideal place in which to live. It is a wonderful city, not just for who and what we are, but for what we look like and for the ambience, look and amenity of the place.

Canberra the bush capital is something that every Canberran, or anybody who becomes a Canberran, lives and looks for. Certainly we have issues from time to time such as droughts. Anybody shaking their head or being concerned or feeling a little bit sad or blue about the urban environment or the look of the city, as the motion addresses it, is probably expressing some frustration, and even a tinge of sadness, that we have now entered a period that might be described as the worst drought recorded since the limestone plains were settled by European settlers nearly 180 or so years ago. From records, we are now on the verge or the cusp of entering a drier, or longer or more debilitating, drought than the drought of 1942, which until now was regarded as the worst drought that the ACT had experienced. That was 62 years ago.

The fact that we are in the grip of the worst drought, the lowest rainfall that the territory has experienced or suffered for 62 years at least—if not since European settlement of this part of Australia—will have some bearing on and some implications for the look of the city. It certainly has had some implications for the look of my home and my garden. It is certainly the reason my front lawn is dead and there is essentially more dust than grass—although, after the 20 millimetres or so that we have had in August, there is a little green tinge. So it is starting to spark up. The season is turning, the days are warming. Spring is

in a couple of weeks, and we can look forward to the look of the city improving fairly significantly, particularly its natural environment and its natural attributes.

I think Canberra is looking well, particularly in Belconnen and in some other parts, as a result of much of the work that has been done over the past two years in bush fire hazard reduction or preparation work. Some of our streets, urban parks and nature reserves are looking a little bit neater or tidier than they have looked for some time. Certainly, we could acknowledge and accept that the bushfire had a devastating impact on the southern parts of the ACT and the look of the city. Our urban environment has been severely affected by that but I do not think that is what the motion gets to. We need to acknowledge that the look of the ACT has been dramatically affected by the severe bushfire that we experienced nearly two years ago. It will take some time for Mother Nature to recover and to restore our forest and our nature reserves to their previous state. Some aspects of that will take decades.

Some other areas of our non-urban environment that abut our urban areas affect the look of the city and the urban environment. Much of the rebuilding work that we are now engaged in at places such as Mount Stromlo, Narrabundah Hill and parts of Deeks Drive or the Molonglo Valley will certainly take some time to restore and for us to regain some of the ambience that we have experienced now for most of the past century. The same can be said of all those areas skirting the Tuggeranong Parkway from Glenloch Interchange all the way through to Weston Creek. It has been devastated and the look has changed, but we will rebuild it.

We will rebuild a future for those areas of which we can all be proud and which will be a legacy for time to come. We have the capacity and determination to rebuild all of the environments of the Tuggeranong Parkway, all of Mount Stromlo and its environs, all of Narrabundah Hill and those parts that were so severely affected. But to constantly put down the look of the city or Canberra—our home—is quite pedantic and petty point scoring at a particular stage in our electoral cycle. There is no other explanation for anybody, particularly a political party, continually denigrating the city, the look of the city and our most beautiful home. Over the past couple of years I have travelled around Australia pursuant to my duties as a minister. I visit all the other capitals in Australia. I think the ACT is the pre-eminent and most beautiful city of Australia, and all of my visits confirm that.

From time to time issues are raised here that we regard as just so sinful and so outrageous, for instance, issues in relation to graffiti. I spent last weekend in Brisbane. I walked the streets of South Brisbane over Saturday and Sunday, and any comparison between our dedication and commitment to our streets and footpaths and South Brisbane does not bear making. Our determination to deal with issues such as graffiti are significantly different to the experience in other major urban centres such as the other capital cities and other major cities of Australia.

For this parliament to be constantly sending out this message that Canberra has somehow been trashed, that it is ugly, that it is not cared for or loved, that not even the people of the ACT or Canberra esteem Canberra, and that we do not acknowledge that Canberra is the most beautiful of the cities of Australia, is to be regretted. This continual talking down of the place, sneering at it and scorning Canberra and the look of Canberra, does not do the Liberal Party any credit at all.

Mr Wood, in his response to this debate, mentioned the significant work that is undertaken by the Department of Urban Services. That is the other point that has to be made in relation to some of the comments of the Liberal Party. For instance, I heard reference to kangaroos and dead kangaroos. Something like 1,600 or 1,700 kangaroos have been killed on the roads of the ACT over the past year. We have had more kangaroo kills in this past year than in any other year since we have started recording those sorts of incidents. There is significant pressure on the Department of Urban Services's capacity to continually clean and pick up in an environment where kangaroos are present, once again, as a result of the drought.

It is almost as if this motion condemns the ACT government for the fact that it has not rained. Perhaps we should expect to receive from the Liberal Party as one of its election commitments or its election manifesto a commitment that there shall be a minimum level of rainfall and that it is somehow going to deliver it. So we will not have kangaroos coming out of the bush and being killed on the roads, we will not have our front lawns dying as a result of drought, our ovals looking sad and forlorn as a result of the fact that through water restrictions we cannot provide them with the level of water that we want. Is that what the Liberal Party is seriously suggesting—that it is this government's fault that it has not rained and that we are in the grip of the worst drought, and, as a result of that, it has had an impact on the look of our city?

The motion really is a nonsense. As I say, I do not think it does any credit to anybody in this place—the ACT's parliament—to be constantly talking down Canberra. This is a beautiful city, the most beautiful city in Australia. It is a wonderful home for all of us, and we should be proud of it. We should not be putting it down or talking it down. We should acknowledge what a privilege it is for us to live in Canberra, the bush capital, the most beautiful city in Australia.

MR DEPUTY SPEAKER: The minister's time has expired.

MR STEFANIAK (5.24): We are not just talking about the drought, Chief Minister; we are talking about a number of other things—things such as graffiti, street signs and lighting.

Mr Stanhope: It is better now than it was when you were in government.

MR STEFANIAK: I do not think it is. It certainly is not. I do not think I have seen quite so much graffiti for some time. In relation to water use, I will just point out to the Chief Minister that it concerns me that the government is not listening to experts. Yes, we are in the middle of a dreadful drought, but there are things it could do better. Talking about ovals, I suggest you listen to the advice of Keith McIntyre, who is a world-renowned expert. For a much more efficient use of water, you could probably water another 57 hectares. There are things we can do smarter, and there are things that we need to do to keep our city going during the drought. There are a hell of a lot of things the government needs to do apart from just the drought-affected things.

MR DEPUTY SPEAKER: The time for debate has expired.

Visitors

MR DEPUTY SPEAKER: I welcome members of the Namadji Cub Pack from the Lanyon Valley Scout Group.

Criminal Code (Serious Drug Offences) Amendment Bill 2004

[Cognate bill:
Drugs of Dependence Amendment Bill 2003]

Debate resumed.

MR DEPUTY SPEAKER: I remind members that in debating order of the day No 2, executive business, they may also address their remarks to order of the day No 13, private members business.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.25), in reply: Mr Deputy Speaker, I acknowledge the contribution of other members of the Assembly to this very important debate in relation to the Criminal Code (Serious Drug Offences) Amendment Bill 2004, a debate, as you acknowledge, Mr Deputy Speaker, is being held cognately with proposed amendments to the Drugs of Dependence Amendment Bill. Mr Deputy Speaker, I've made it very clear at every stage of the process of this particular piece of legislation that this bill is about establishing a nationally uniform system for addressing the actions and activities of organised crime across Australia, including within the ACT.

There was much debate this morning—and I'll respond to that—particularly from the crossbench in relation to harm minimisation and their perceptional feeling that this particular bill and these particular proposals are in some way a derogation of or a walking away by this government without commitment to harm minimisation. There is nothing further from the truth than that, Mr Deputy Speaker. This legislation is aimed almost wholly and solely at organised crime; that's what it's about; it's about ensuring that our law enforcement agencies, we as a community and our criminal justice officers and officials have the capacity to deal effectively with organised crime.

The issue is around the extent to which any legal package that deals with organised crime, that deals with the hard end of organised crime and criminal activity in relation to drugs, does of course require us, in our responses, to provide a range of offences which certainly can and always will pick up the activities and behaviour of people who might be addicted to illicit substances and who are involved in the trade of illicit substances as a direct response to their need to fund that source of supply of the illicit substance to which they're addicted.

The serious drug offences report prepared by the Criminal Code Officers Committee of the Standing Committee of Attorneys-General, which we're implementing today, goes into real detail in explaining and dealing with the need for balance and dichotomy in relation to creating a legislative system or response which deals with the need and the capacity to confront organised crime and those who engage in the drug trade simply for profit and don't care how they do it.

We need to understand, I think in relation to this group of organised criminals—that criminal element that does deal in illicit substances—it can't be gainsaid that we're dealing with perhaps the ugliest group of criminals we have in our society. I think there's no doubt about that. I think it would be almost the pervasive view of the community that amongst the ugliest group of criminals that we harbour or that we spurn or that we produce are those that deal in the grim business of trading illicit drugs.

The community must have a response to that group of criminals. This is a group of criminals who will stop at nothing; they will murder as quick as look at you; they will maim; they will kidnap; they will cajole; they will intimidate; they will corrupt without thinking, without blush. We need to be able to respond. It is a fact that we need from time to time to adjust our responses in response to the innovation and the change of that group of criminals. We must be smarter; we must continually review; we must look for ways of dealing with that group of vicious criminals who unfortunately are part and parcel or our society and our community.

This legislation seeks to do that. It's a piece of legislation that's come out of a discussion paper that was first developed and released in 1997. It was released broadly. The inquiry wasn't trammelled. Consultation engaged all of the stakeholders, all of those involved in a consideration of drug law reform. This was not an inquiry that was held in secret or behind closed doors. It was open. It was open to the nation. Enormous steps were taken to engage and to consult. That was back in 1997, seven years ago, when the discussion paper was first released, when the discussion was held. It then progressed to a report, once again through a highly consultative and negotiated contexting process.

So you can't say that this has been sprung on anybody. It's a process, a report and a direction that was consulted. At the end of the day of course there are always a range of views and a group of people who believe that the criminal process is not appropriate in our attempts to stamp out illicit drug dealing. It's an argument we're all alive to. We all know the pros and cons.

This is a jurisdiction that's committed to harm minimisation. There's a view around that there's only one definition of harm minimisation and that harm minimisation just goes to that element of support or humanity for those people within the community who have become addicted to illicit substances. There's a view about that one can see that harm minimisation has a far broader focus and definition and that harm minimisation at its heart must include a determination to deal with the supply side—not just the demand side. It must also deal with the supply of illicit substances. I think it's the bulwark of a commitment to harm minimisation that you seek to deal with the supply of illicit substances.

That's what this piece of legislation does. It deals with that first element of harm minimisation. This is not a piece of legislation or a process or a policy that seeks to deal, attempts to deal, with that other aspect of harm minimisation that occupies much of the debate around drug law reform, namely, the appropriate way of treating or dealing with or responding to the needs of people who have become addicted to illicit substances. This is that part of the harm minimisation commitment that goes to stopping the whole-scale, untrammelled supply of illicit substances.

It is a good piece of legislation and is based on a report that came out of a good process. It's a position that has now been adopted by every head of government and every government in Australia through the COAG process. I discussed this at COAG with the Prime Minister, with the premiers of every state and with the Chief Minister of the Northern Territory. We agreed, as the Prime Minister, the six premiers and the two chief ministers, that we would support and sign up to a national response to organised crime. We acknowledged that organised crime flourishes through the trade in illicit substances. An agreement was struck by those heads of government that we would seek to work cooperatively and consistently to achieve a uniform national approach to a response to organised crime involvement within the illicit drug trade.

The issue was then referred by COAG, by heads of government, to the Standing Committee of Attorneys-General. I, as well as head of government, happen to be Attorney-General and attended the meeting of the Standing Committee of Attorneys-General where the Attorneys-General agreed that this was the appropriate approach and, yes, we could develop consistent national legislation and a national regime and that we would introduce new offences designed explicitly to deal with the behaviour of organised criminal gangs and organised criminals in relation to the supply of illicit drugs in Australia.

New offences have been created to fill some of the gaps that have been identified by law enforcement agencies and through courts in relation to the drug cartels, the mafias, the criminal bikie gangs that travel Australia, that infiltrate, that seek out people, that do do the murdering, the maiming, the kidnapping and the corrupting, so that we could better deal with them. And we've introduced new offences in this legislation of receiving money or property derived from a drug offence. These are new offences. These have got nothing to do with those at the bottom end of the supply chain that are the users.

We've introduced a new offence of concealing, transferring, converting or removing money or property from the ACT that has been derived from a drug offence because we've discovered that those involved in these major criminal enterprises cover up and deal with their ill-gotten criminal gains through a whole range of fancy financial and property schemes and we didn't have the capacity to deal with that. So we've introduced a new offence of concealing, transferring, converting or removing money or property from the ACT that's been derived from drug offences. How can you object to that?

We've introduced a new offence of possessing equipment, substances and instructions with the intention of manufacturing or cultivating controlled drugs or plants because of gaps that were identified in the suite of responses we had available for dealing with those people who do just those things—possess equipment which is designed for no other purpose than to grow drugs, to grow cannabis essentially, or to make amphetamines. There was no offence known for appropriately prosecuting for supplying others with such equipment and instructions.

There was no offence for selling the hydroponic set-up design to allow the growing in a warehouse of 100 marijuana plants. No, he didn't know what he was going to do with it; he thought he was going to grow tomatoes—somebody with a history of drug abuse, use and criminal activity and engagement in relation to the drug trade as long as your

arm, but no offence of selling hydroponic equipment for the purposes of growing marijuana.

We've introduced into this legislation an offence of procuring a child to traffic in drugs. How can you possibly be opposed to that offence? How can you possibly object? How can you possibly stand up here today and vote against a piece of legislation that puts into law for the first time an offence of procuring a child to traffic in drugs?

We've had reports in the last month or so of children as young as 10 or 12 being used for the sale and trafficking of drugs—children as young as 10 and 12 are now engaged by some criminal cartels for the purpose of selling drugs. They are forced to take them into schools and sell them to their schoolmates, forced to stand on streets and flog them in places around Sydney. And we have people standing up in this place saying, "No, we don't want laws like that; we don't need laws like that." We've introduced an offence of supplying drugs to a child for the child to sell. That's a gap in our law that we're now closing as a result of the introduction of this legislation.

We're introducing new offences in relation to dealing with those who manufacture, those who sell, possess or control the precursors to manufacturing controlled drugs—other gaps that we've identified in the suite of laws that we have available for dealing with major criminal gangs that deal in the supply of illicit substances around Australia.

This particular piece of legislation we're debating today is all about criminal gangs—as I said before, I think the most odious of the criminal element that any community spurns. This is not about walking away or derogating or winding back or minimising our commitment to harm minimisation. Any suggestion that that's what we're doing is an insult to the government in the first place and just denies and misunderstands completely the range of discretions that are utilised every day in the ACT by our police force and are utilised every week in the ACT by the DPP.

Those issue have been expressed as major concerns, namely, that we should ensure that we can deal with major criminal elements that deal in illicit substances—and we're talking here about extremely bad, evil people; people who do not hesitate to murder; people who do not hesitate to maim or shoot off legs; people who try assiduously to corrupt every official that they can identify as corruptible for part and purpose of their illicit drug trading. We're talking about extremely ugly people. And that's what this legislation is designed to attack—our capacity to deal with some of the ugliest people which we as communities nurture.

To suggest that in doing that we're walking away from harm minimisation or our determination to develop humane responses to people who have a substance addiction problem is, to put it frankly, insulting and completely misunderstands the nature of any legislative response to any offence. It completely misunderstands the nature of a legislative response, and I reject it. I reject it absolutely.

In relation to those issues around a user on a night out passing on an amphetamine or an ecstasy tablet: they will be dealt with in the future as they are now through the discretions available to the police, to the DPP and to the courts.

MR DEPUTY SPEAKER: The member's time has expired.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 13		Noes 2
Mr Berry	Ms MacDonald	Ms Dundas
Mrs Burke	Mr Quinlan	Ms Tucker
Mr Cornwell	Mr Smyth	
Mrs Cross	Mr Stanhope	
Mrs Dunne	Mr Stefaniak	
Ms Gallagher	Mr Wood	
Mr Hargreaves		

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.45): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 1 and 2 circulated in my name together *[see schedule 1 at page 3802]*. I present a table of supplementary explanatory statements to the amendments.

Mr Deputy Speaker, amendment 1 is a minor amendment to relocate the regulation-making power under the Criminal Code from chapter 5 to chapter 8 so that in accordance with usual practice the power will appear at the end of the code.

Amendment 2 is a transitional provision that clarifies the law that applies in cases where there's uncertainty about whether alleged criminal conduct occurred when the repealed offences of the new chapter 6 offences were in force. The amendment provides in effect that if the jury or judge sitting alone is satisfied that the relevant conduct happened but is not satisfied about when it happened the conduct is taken to have occurred when the repealed law was in force. This will ensure that a prosecution will not fail on a technicality and since the repealed law is deemed to apply there's no retrospectivity. The section will expire after five years.

Amendments agreed to.

MR STEFANIAK (5.46): I move the amendment standing in my name, Mr Speaker, which is one amendment to schedule 1, page 45, line 22 *[see schedule 2 at page 3803]*.

This would increase the maximum penalty for possession of cannabis for each plant from one penalty unit to two penalty units. I've already spoken on the need for an increase here in relation to these infringement notices. I just commend to members the points I made in relation to that. That would also be consistent with the amendments and the bill that I have before the Assembly which we are debating cognately.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.47): Mr Speaker the government won't be supporting Mr Stefaniak's amendment or the proposals of the Liberal Party in relation to the SCON scheme. We don't believe that the fine of one penalty unit of $100 in relation to possession of cannabis should be increased simply as a result of the effluxion of time, which essentially I think is the position that the Liberal Party puts in relation to this particular amendment, namely, since it is about 10 years since this scheme came into place it's time for us to increase the penalty that applies to the possession of even a minimal amount of cannabis from $100 to $200. I might just say now that associated with this particular proposal is the proposal to also reduce the time to pay the fine from 60 to 28 days.

The thing I'd say in relation to both of these is that you could stand here at any time and argue about penalties and the appropriateness of penalties. It's an argument that can go on forever and to which effectively there is no end. I don't believe the case has been made for increasing the fine from $100 to $200 for the possession offence. I don't believe the change from $100 to $200 will have any deterrent effect at all in relation to somebody that's using cannabis for recreational purposes. It doesn't have a deterrent effect if essentially it does impact the simple cannabis offence notice scheme in any way. Particularly, if it affects it detrimentally then it shouldn't be done. I just don't think the case is made that, just because it seems like a reasonable thing to do—without any basis other than that—it should be supported at all.

I'll just make the point now that I would make in relation to the next amendment in relation to the reduction in the time to pay from 60 to 28 days: I think that's a proposed amendment that I have stronger views in opposition to. I think that the likely outcome of a reduction in time is that fewer people would pay the $100; and if it were $200, then significantly fewer people would pay. In fact, we would see a response that we seek to avoid altogether in relation to the simple cannabis offence notice scheme, namely, we don't want people to go to court. That's why we've established and why we support the scheme—we don't want them to go there at all.

By increasing the fine to $200, and reducing the time to pay from 60 to 28 days, it seems to me that you're undermining the very principle of the simple cannabis offence notice scheme. If people have only got 28 days, and if it's $200, they're less likely to have the ready cash, are less likely to pay within the 28 days and are more likely to end up in court. This particular scheme, in relation to the recreational use of minor amounts of cannabis, is all about keeping people away from the courts, and these amendments should be opposed.

MS TUCKER (5.51): The Greens would not be supporting these amendments. Basically, Mr Stefaniak appears to want to make it harder not to have to deal with the courts. He wants to make it harder by giving people less time and making them pay more

money. I have no idea why he thinks that's helpful. He hasn't argued why he thinks it's more helpful. There's no evidence at all to show that it will have any effect in any way on the incidence of drug use.

As I made clear in my initial speech, if you look across Australia, there is no difference in the use of drugs, even though we have such a variety of legal responses and penalties. But what we know absolutely—and the evidence is there to show—is the harm that is created when you bring people into the criminal justice system. It is a failed social policy response from Mr Stefaniak.

Amendment negatived.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (5.52): I move amendment No 3 circulated in my name *[see schedule 1 at page 3802]*.

This is a minor consequential amendment to remove schedule 1 of the Drugs of Dependence Act 1989 which lists the plants that are prohibited plants under the act. The plants listed in the schedule will be revised during the development of the new regulations in chapter 6.

Amendment agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Drugs of Dependence Amendment Bill 2003

Debate resumed from 24 September 2003, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STEFANIAK (5.54), in reply: Initially, I was a bit worried that the government was not going to speak to this bill, but the Chief Minister had a chance to do so in relation to one amendment which was consequential to my bill. I do not think, for starters, that his arguments were terribly convincing, although I will say that, unlike his normal self, he did put them in a very civilised way, which makes me think that perhaps the government is merely opposing this bill because it is something that it should have thought of itself.

I think that the government is in a rather good position when it comes to bills like this one—indeed, lots of bills generally—in that, if the opposition thinks that the bill is a good bill it will support the bill. That is why we supported the government's bill in this regard. I think that members of the government have a rather nasty tendency to oppose things for the sake of opposing if they do not think of them themselves.

Let me go to two points that the Chief Minister raised in relation to this bill. Basically, it is about time the amount set out in the infringement notice was increased from $100 to $200. Chief Minister, there is a big argument for consistency and for putting all of these offences in perspective. Obviously, Ms Tucker was not listening when I spoke earlier

today in relation to this matter. I think it is rather incongruous in the extreme to have an infringement notice of $100 for a simple cannabis offence—using, smoking or producing cannabis, which is a very dangerous drug, as well all know—and to have parking fines that can go up to, I think, $212.

The most basic speeding fine is, I think, $118. That applies to people who are driving at between one kilometre and 15 kilometres over the limit. The fine is $300 for driving at 15 kilometres to 30 kilometres over the speed limit. Yet the infringement notice is for only $100 under a similar type of system for this quite significant offence. I am well aware of why we introduced the SCON system; in fact, I was quite in favour of it and suggested it when it was introduced. There were good reasons for that. The Chief Minister is probably right about that; it does take these things away from the courts.

I turn to the proposal to reduce the period for the payment of infringement notices to 28 days. In the previous Assembly, as the Chief Minister would be aware, Mr Rugendyke had major concerns about the payment period and produced figures to show that about 40 per cent of the people who actually received these notices did not pay them. I think you will find if you look back through history at the times shown for the payment of infringement notices that people simply forget to pay if the period for payment goes out to that extent.

A period of 28 days is consistent for the payment of most bills. I mention again for the benefit of the Chief Minister and Ms Tucker, if she is listening to the debate, that 28 days is the period set for the payment of a parking fine or a traffic fine. There are a number of other infringement notices that allow for 28 days to pay. Under the SCON system, the period is stuck out on its lonesome at 60 days. Far from having fewer people pay, if you decreased the amount of time for payment and brought it into line with everything else, I think you would be more likely to have more people pay because it would be on their mind. It would be something that they would realise they had to do reasonably quickly. By having such a lengthy period, they are simply going to forget about it. So there is a very strong argument for consistency there.

Effectively, this bill brings infringement notices under the SCON system into line with every other infringement notice and rationalises the penalty. The amount is still pretty piddly, pretty minor, in the sum total of things, but at least it is a bit more realistic and a small step forward, to paraphrase Mrs Cross, in terms of bringing home to people that the possession of a simple amount of cannabis is not legal. I think that it is wrong for our children to think that cannabis is okay, that it is all right to have a couple of plants and that nothing is going to happen if you smoke it or possess it as it is legal to do so.

I think that it is amazing how many young people especially actually think that it is legal to have a small quantity of cannabis. As much as anything, if this debate has raised the consciousness of people, especially young people, in our community that it is illegal, we have achieved something. I think that the sending of that important message through at the lowest end of the scale would be helped immensely in this Assembly—I single out the government especially—had the sense to pass these very sensible amendments to the bill. That would ensure, firstly, that the message is sent that cannabis is bad; two, consistency; and, thirdly, that the proposed penalty is somewhere in the middle of the range in terms of very serious parking offences and minor traffic offences. At present,

the penalty is ridiculously low and I do not think that it is sending a particularly good message in itself to anyone who is aware of that.

A pretty simple bill is again being knocked off by the government simply because it is being perverse about it and because of some amazingly spurious logic by Ms Tucker, whom I do not think was listening to what was being said, and Ms Dundas. Ms Tucker and I disagree on lots of things. I heard what she said today about both serious drugs and minor drugs. I would totally disagree with most of it. I agree with the comments of the Chief Minister on the Criminal Code (Serious Drug Offences) Amendment Bill. I think it is just a shame that the government cannot have the graciousness to concede that perhaps there is merit as well in the opposition's bill. Perhaps they simply forgot to do it themselves or there was a bit of an oversight, but they cannot give credit to the opposition. I think that is sad because there has been some pretty good legislation passed in this place over the years from both sides of the Assembly, opposition and government.

Either Ms Tucker or Ms Dundas, maybe both of them, said in regard to my bill that it was just a law an order response, a hang them high response. What arrant nonsense! We are talking about infringement notices. We are talking about increasing an infringement notice to $200 and reducing the period for payment. I do not resile from the fact that I believe that people who commit serious offences and endanger the community as a result should be treated seriously, should do time in jail, and major drug offences are the most serious and insidious offences you can possibly get. I see the Chief Minister nodding; he and I are as one.

I do not resile from the fact that I get concerned when I see, on the figures for 2003-04 supplied to me by the Chief Minister and Attorney-General, that seven people were dealt with by our Supreme Court for supplying, possessing and manufacturing drugs and only two of the seven actually went to jail. I think that is an amazing result and an appalling result. It also makes an absolute mockery of some of the issues raised by the Democrats and the Greens today about people being up for 10 years imprisonment under the other bill. That is nonsense.

The courts, the police and the DPP all use their discretion to ensure that that simply does not happen for not very serious offences. Of concern with our system is that not much happens either for serious offences. I hope that, if nothing else, as a result of what the government has done today and we have supported with the major bill, we have sent a clear message to everyone in the community, especially major drug dealers, that we are getting tougher at the serious end. I hope that we have sent a clear message to the courts that locking up only two out of seven people for supplying drugs to others simply is not good enough and that, if people commit serious offences, we expect them to be dealt with very seriously by the justice system.

At the other end of the scale, if people get caught, especially young people, with a bit of cannabis, we do need to send the message that that is illegal, that they are going to pay some sort of a penalty, and $200 is a small and quite reasonable penalty. Maybe it is too low, but the opposition thinks that, after such a passage of time, it is quite reasonable compared with the penalties for other infringement notices and the scheme should be the same as for other notices in terms of time to pay. It may bring home the message that possession of even small quantities of cannabis is illegal and they are going to pay some penalty as a result thereof. I hope that that will bring home to young people that this drug

is a very dangerous drug. It does dreadful things to you. It is something that you do not want to go down the path of using frequently because you will suffer very severe health consequences, mental health and physical health consequences.

Anything that brings home to people the consequences of that is important. That was the fundamental reason, as much as anything else, that I brought my bill before this Assembly. Despite the somewhat ludicrous and inaccurate comments in terms of opposition to it by both the government and the two crossbenchers I mentioned, I hope that I have at least achieved something in that a lot more people in our community will realise that even if you possess only one or two plants your are committing an offence. I hope that the government's bill will bring that home as well simply by raising debate about dropping the number of plants from five to two. I hope that at the bottom end of the scale we will be a bit more advanced than we were, but I do not think that that has been helped by the government, the Greens and the Democrats voting down this perfectly sensible proposition by the opposition.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 6		Noes 9	
Mrs Burke	Mr Stefaniak	Mr Berry	Mr Quinlan
Mr Cornwell		Ms Dundas	Mr Stanhope
Mrs Cross		Ms Gallagher	Ms Tucker
Mrs Dunne		Mr Hargreaves	Mr Wood
Mr Smyth		Ms MacDonald	

Question so resolved in the negative.

Heritage Bill 2004

Detail stage

Clauses 1 and 2.

Debate resumed from 5 August 2004.

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) (6.08): Mr Speaker, with the indulgence of the of the Assembly, I will speak to clauses 1 and 2, mainly to respond to the deferment of this legislation when it was last before us.

The Assembly debated an amendment asking me to go back and have some more consultation. I said then, and I say again, that this legislation is a result of perhaps the most exhaustive consultation process in the history of self-government, if not beyond that. It can be traced back to late 1998, when a review of heritage functions found that the legislation needed substantial review. A report on that review was released as a discussion paper by the previous government in June 2001 and legislation introduced,

but not passed, in August 2001. It was acknowledged that there was a great deal more to do with that legislation.

On the election of the Stanhope government, we took the 2001 bill and rewrote it. We took greater notice of public submissions and the views of a wide range of community and industry groups. This resulted in the Heritage Bill 2002 exposure draft. Rather than bringing it straight to the Assembly, we embarked on a consultative voyage of considerable proportions. We started with a series of public meetings, seven in all, and advertised in the *Canberra Times*. Those meetings were widely attended by community and industry groups, individuals and government agencies.

In addition, six briefings were held for Aboriginal organisations, including representatives of the House-Williams group, the Ngunnawal Aboriginal Corporation and the Bell group, as well as members of the interim Namadgi Advisory Board and the Aboriginal parties to the agreement between the ACT and the ACT native title claims groups. We also received 17 written submissions from key conservation and industry groups, as well as individuals.

Having conducted this extensive consultation, the government acknowledged that the exposure draft needed further work. Once the revised model was completed in mid-2003, we decided it would not be sporting to fail to offer another round of consultation on the revised legislation. From August to November 2003, consultation was undertaken across a very wide spectrum of interests. These included members of the Assembly and their staff, government agencies, heritage groups, property and development groups, and relevant Aboriginal groups, as well as an advertised public meeting, with invitations being sent to anyone who had been involved up to that point.

The Heritage Bill was tabled in the Assembly on 14 May 2004. We thought that we would finally see the end in sight; but, just to make sure, we met again, before coming back into the Assembly, let me emphasise, with the Property Council, the Aboriginal members of the interim Namadgi Advisory Board, and the Aboriginal parties to the agreement between the ACT and ACT native title claims groups. We received a thanks and get on with it letter from the National Trust.

In the past week, as a result of the Assembly requirement, we consulted again with those same groups, and I have met and other officers have met with Don and Ruth Bell. In a meeting that I had with seven, eight or nine people from the architects and property development, we again went through it and, I think, probably reinforced what was said before. We reinforced it and it was understood. They were picking up on a few points, but it was acknowledged that we had been down that path before. So there has been an extensive process. An elaborately consultative process began a long time ago.

I think I can say, as far as one can, that it is a generally agreed bill. Of all the organisations and people involved, I will not say that every one of those people agrees with every one of about 140 clauses. But the key thing is that there has been no significant change to the bill. I have added greater clarification to the amendments that were on the table a week or more ago, a couple of weeks ago, to be more specific so that these groups can be absolutely confident that the bill is going to do what they would like it to do. I am confident that what you have been told before—that this bill is broadly agreed to—is accurate. It is broadly agreed to. I find no significant dissension, I find no

real dissension, with the bill. I would suggest, as I think I have the nod, that we should now be able to get on with it and clear up this bill tonight.

MRS DUNNE (6.14): I take the opportunity to comment on the consultation report that the minister brought down today. Yes, it is a bill on which there has been consultation; but, just because you have a whole lot of input, it does not meant that the output is necessarily a good thing. During the consultation of the past two weeks, one of the things that I said to the people who said to me that they had reservations about the bill was, "If you decide that you do not have reservations about the bill, feel free to say so; it is not a juggling matter." All of them did eventually come back and say, "This has been taken into consideration and that has been taken into consideration and I am now comfortable."

I had to move the motion that I did last week, which, although it was not adopted, got the message through loud and clear. There were members of the community who were saying that they just needed time to understand this bill and there were staff of this place who were circulating emails saying not to worry about it as everyone was happy with it, whereas there were people who were not happy because they had not had an opportunity to absorb it and determine whether they were happy with it. Until they actually knew what was in it, they could not give it a definitive tick off. They have now had that opportunity and they are giving it a definitive tick off. The minister, Mr Wood, is right: consultation does not mean that you take on board everything that everybody says, but you have to ensure that people get a good hearing.

What has happened with this sorry saga is that the government has been saying, "Because we did it for a long time, that is good enough." If you really want a model in community consultation, Mr Minister, you should turn to the model that you commenced with the development in this place of the Environment Protection Bill. That did take a number of years. It took about four years for the whole consultation to come about. We ended up with a bill that sailed through this place without a murmur, without a whimper. There were people in the community who really would have preferred that certain things were not in that bill, and they do to this day. But it was a model in consultation; a model started by this minister. It is a shame that he could not take it up with this one as well. It was a model in consultation because it was done in a way that everyone knew that they had had their day in court. Everyone was heard and they knew that their issues had been considered and were not dismissed out of hand.

Mr Wood has got himself into a bit of a problem here. The consultation report is not about inputs; it is about outcomes. The outcomes that we had last week were very poor. They have been better this week, but we should never have been in a situation whereby we had to adjourn debate to go off and consult with people. As a result of that consultation, we have almost 20 more government amendments to this bill; so it was worth it to get the government to go off and sort it out. There are still things which are wrong with this bill, which will not be able to be fixed tonight and which will have to be revisited in the next Assembly.

Clauses 1 and 2 agreed to.

Clause 3.

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) (6.17): I move amendment No 1 circulated in my name *[see schedule 3 at page 3803]*.

I table a supplementary explanatory statement to the amendments. Amendment No 1 tidies up the previous drafting and makes clear that functions under the act must be carried out to conserve heritage places and objects and that actions that adversely affect the heritage significance of places and objects can only be approved if there is no prudent and feasible alternative.

Amendment agreed to.

Clause 3, as amended, agreed to.

Clause 4.

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) (6.18): Mr Speaker, the government will be opposing this clause in its own legislation and urging the Assembly to do likewise. This clause makes reference to the Tree Protection Bill 2004, which is not going to be passed in this Assembly, so we simply need to remove the clause because it is not applicable to anything.

MRS DUNNE (6.18): Mr Speaker, on the understanding that the tree protection legislation will not be passed—I have not had definitive advice from the Minister for Environment, although I have asked for it—the opposition will be supporting this amendment, simply because the tree protection legislation as it currently stands is flawed and needs to be held over. I am taking that as formal advice that we will not be addressing the flawed Tree Protection Bill.

MS DUNDAS (6.19): I am happy to oppose this clause. As the minister pointed out and as I understand, the Tree Protection Bill 2004 is not likely to be passed in the life of this Assembly. I hope that it will never be passed as it is a flawed bill of little substance. It is therefore important that the Heritage Council retain the ability to register individual trees. I only wish that this bill had been in place prior to the removal of trees in Nettlefold Street. The Assembly needs no reminder of the inaction of the government in sitting on the sidelines and just watching as five significant trees were destroyed on 26 February this year.

Clause 4 negatived.

Clauses 5 to 7, by leave, taken together and agreed to.

Proposed new clause 7A.

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) (6.20): I move amendment No 3 circulated in my name, which inserts a new clause 7A *[see schedule 3 at page 3803]*.

Mr Speaker, the new clause will ensure that those acting to fight fires and to save life and property under the Emergencies Act can do so. I do point out at the same time that, with the experience of the recent fires, firefighters will not be unaware of the heritage issues, but this amendment does give them some freedom of movement.

Proposed new clause 7A agreed to.

Clause 8.

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) (6.21): I move amendment No 4 circulated in my name, which relates to the tree legislation *[see schedule 3 at page 3803]*.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clause 9 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) (6.21): I move amendment No 5 circulated in my name *[see schedule 3 at page 3803]*.

This amendment is an addition to the heritage significance criteria. While the existing paragraphs include places and objects of importance in Aboriginal tradition, this amendment makes explicit provision for them.

MS TUCKER (6.22): The Greens support this amendment. It is important because it specifies that places and objects which are important to local Aboriginal tradition are given heritage significance and it makes the connection between Aboriginal culture and our heritage explicit and emphasises the value we place as a society on that heritage.

MS DUNDAS (6.22): This amendment is the first of many that have come out of further consultation that the government undertook with indigenous groups. I thank the government for undertaking that consultation and then drafting these amendments out of that. I believe that this amendment is particularly important as, for the first time in the ACT, our heritage values will recognise the importance of objects and places that have a significant place in Aboriginal tradition.

MRS DUNNE (6.23): The Liberal opposition will be supporting this amendment as it is one of those that have flown out of what we would have thought last week, if we had listened to the minister, was unnecessary consultation. As a result of the consultation forced on the government, we do have a suite of amendments like this one that for the

most part address the issues relating to indigenous heritage. I welcome the amendment but I think that it is a bit late.

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) (6.23): You have just made the point. This amendment is underlining what was in the bill, putting an asterisk against it and saying that we agree with it. It is added emphasis, but it does not add something to the bill that really was not there before.

Amendment agreed to.

Clause 10, as amended, agreed to.

Clauses 11 and 12, by leave, taken together and agreed to.

Clause 13.

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) (6.24): I seek leave to move together amendments 6 to 8 circulated in my name.

Leave granted.

MR WOOD: I move amendments Nos 6 to 8 circulated in my name *[see schedule 3 at page 3803]*.

These paragraphs ensure that a person who nominated a place for registration will be included in the consultation during that process.

MS TUCKER (6.25): Amendment No 6 ensures that a person who nominated a place for heritage registration is considered an interested person in regard to that place and will so remain informed as to its status, such as whether it is registered or whether it is deregistered. Such an inclusion is at the very least a courtesy and, on occasion, may make a real difference to the status of the heritage place. Amendment No 8 refers to an Aboriginal place or object and ensures that anyone who reports such a place or object is accorded interested person status. Again, that is because such reports might not automatically be nominated by the Heritage Council or referred to an Aboriginal organisation for advice and it seems reasonable that anyone making such a report ought to be kept in the loop so that they can become proactive themselves should that seem appropriate.

Amendments agreed to.

Clause 13, as amended, agreed to.

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) (6.26): I move amendment No 9 circulated in my name *[see schedule 3 at page 3803]*.

Mr Speaker, this is another one of the issues that arose in the last week. This amendment requires consultation. That, of course, was always an inevitable process, as demonstrated in the work bringing this legislation forward, but we are happy to write it in.

MRS DUNNE (6.26): This amendment is a most welcome improvement on what was originally a fairly flawed clause. The clear intent of that, as one indigenous member of the community said to me, was that a white minister was going to decide by himself what was a representative Aboriginal organisation. That is the clear reading of the words here. We have now actually worked in a mechanism to ensure that the white minister does not do that. I still have one concern; that is, that there is no overt scope here for an individual to be considered as a representative Aboriginal organisation. I need to place that on the record.

There are people who are most influential in the Aboriginal community and who are not members of any of the Aboriginal groups that have been referred to in Mr Wood's consultation document or elsewhere. They are still influential members of the community and I think that we should be ensuring that an individual who says that he or she wants to be a registered Aboriginal organisation for the purpose of the operation of this act should be able to do so, and that the minister's criteria should be able to be flexible enough to ensure that individuals can be registered as a representative Aboriginal organisation.

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) (6.28): If I am right, I have to table in this Assembly a list of those organisations. I suppose that it would be a disallowable instrument and capable of debate in this place. There are a number of organisations and sometimes one of the issues in all this work is the healthy competition between them.

MS TUCKER (6.29): This amendment ensures that the minister must invite Aboriginal groups to put themselves forward as representative organisations and that, in addition to informal circulation of such an invitation, it must be notified in the Assembly and be published in the daily newspaper. This protects groups who want to be representative Aboriginal organisations from being left out of consideration. This amendment ensures that RAOs, as they're called, are established under this act and that the process of identifying them is from the first instance an open one.

The latest version of the legislation also requires the minister to consult with Aboriginal people who have a traditional affiliation with the land, and with the Heritage Council, before setting the criteria for deciding who can be declared to be a representative Aboriginal organisation. Furthermore, the legislation will now state that the minister must exercise the power to appoint representative Aboriginal organisations.

It is not, however, simply a question of formally consulting with identified groups. In this instance, I note that the explanatory statement which accompanies these revised amendments also makes clear that the committee will be formed and resourced to support the process of consultation with representative Aboriginal organisations and the work of Aboriginal people on the Heritage Council.

Amendment agreed to.

Clause 14, as amended, agreed to.

Sitting suspended from 6.30 to 8.00 pm.

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

Clause 17.

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) (8.01): I seek leave to move amendments Nos 10 and 11 circulated in my name together.

Leave granted.

MR WOOD: I move amendments Nos 10 and 11 circulated in my name together. *[see schedule 3 at page 3803]*. These amendments relate to the wording of the list of disciplines that can be included on the Heritage Council. The wording does not explicitly recognise Aboriginal history as a separate discipline to other kinds of history.

Amendments agreed to.

Clause 17, as amended, agreed to.

Clause 18.

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) (8.02): I move amendment No 12 circulated in my name *[see schedule 3 at page 3803]*. This amendment will remove the reference to tree legislation.

MS TUCKER (8.02): I speak briefly in debate on this amendment to indicate that this issue is important, as we have not completed debate on the tree legislation. For the record, and as I probably will not have a chance to say this again, I am not happy with the government's legislation which I believe undermines tree protection. When the next Assembly debates this matter I hope that those issues are addressed.

Amendment agreed to.

Clause 18, as amended, agreed to.

Clauses 19 to 25, by leave, taken together and agreed to.

Proposed new clause 25A.

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) (8.03): I move amendment No 13 circulated in my name which inserts a new clause 25A *[see schedule 3 at page 3803]*. This new clause will ensure that the Heritage Council consults with the community before making heritage guidelines. In particular, the Aboriginal community will be consulted about guidelines that affect Aboriginal heritage. Inevitably that would have been the case, but the government is happy to include that provision in the legislation.

MS DUNDAS (8.03): This amendment is one of many that were formulated as a result of consultation with crossbench members in this Assembly. I thank the government for facilitating consultation on this legislation last week and for its commitment—which is obvious in these amendments—to transparency and increasing community consultation.

MRS DUNNE (8.04): This important amendment will add considerably to the provisions in the bill. Opposition members have pointed out that, on a number of occasions, they have been confronted with a large number of new pieces of legislation and that they might never see regulations relating to that legislation in the life of this Assembly. The opposition has attempted to ensure that there are checks and balances in this process. While I have never thought of this approach as providing checks and balances, it is a useful way of ensuring that governments do not come up with a number of disallowable instruments that run unchecked for a long period. That would be the case if these guidelines were formulated in the next month or so and they were not given much attention until February or March next year.

MS TUCKER (8.05): This amendment will ensure that there is public consultation in the determination of heritage guidelines. The presumption is that the Heritage Council and the unit will put together the guidelines, presumably as they are expert in those things. This amendment reflects the fact that heritage is a social and cultural construction and not the preserve of experts. In the identification and management of heritage places and objects there must be dialogue between those who have been given responsibility for these matters, such as council and the unit, and the Aboriginal or wider community.

Proposed new clause 25A agreed to.

Clause 26.

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) (8.06): I move amendment No 14 circulated in my name *[see schedule 3 at page 3803]*. This amendment relates to an earlier amendment that I moved to clause 3. The words in this amendment focus on the need for the government to comply with guidelines. The injunction to conserve heritage places and objects has been moved to clause 3, where it will have greater prominence.

Amendment agreed to.

Clause 26, as amended, agreed to.

Clauses 27 and 28, by leave, taken together and agreed to.

Proposed new clause 28A.

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) (8.07): I move amendment No 15 circulated in my name which inserts a new clause 28A *[see schedule 3 at page 3803]*. This new provision will clarify machinery for the Heritage Council, thus enabling it to deal with vexatious or repetitious nominations without further procedure. A person who is using the process to create a problem, or who will not accept the decision of council on a nomination, will not be able to force council through a pointless process.

MS DUNDAS (8.07): I support this amendment as I believe it gives the Heritage Council the important power to dismiss vexatious or frivolous nominations. It has been decided previously that nominations for a place or object that are not to be registered can also be dismissed if there are no new grounds for registration. The Heritage Council has an important job to do. At the moment the unit is frantically working through quite a large backlog of work. We cannot allow the council to be bogged down in the future under the weight of nominations that do not have any merit. To many people heritage is a value of significance. We must give the Heritage Council the power it needs and the opportunity to protect and preserve heritage for the whole territory.

MRS DUNNE (8.08): The Liberal opposition supports this amendment because, as Ms Dundas said earlier, it gives council the discretion to dismiss frivolous, vexatious or repetitious nominations. I hope this is a sign of things to come in relation to other sorts of frivolous, vexatious and repetitious complaints.

Proposed new clause 28A agreed to.

Clause 29.

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) (8.09): I move amendment No 16 circulated in my name *[see schedule 3 at page 3803]*. The existing wording in clause 29 requires the Heritage Council to consult with the Aboriginal community before provisionally registering a nominated Aboriginal place or object. This new wording will require council to consult before provisionally registering a place or object, even if such a place or object has not been nominated and council is provisionally registering a place or object of its own making.

Amendment agreed to.

Clause 29, as amended, agreed to.

Clause 30.

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) (8.10): I move amendment No 17 circulated in my name *[see schedule 3 at page 3803]*. This new clause will allow council to register places and objects without a nomination. Council may become aware of a place or object worthy of provisional registration that has not been formally nominated. This provision will allow it to act without waiting for a nomination, or formally nominating the place or object itself.

Amendment agreed to.

Clause 30, as amended, agreed to.

Clauses 31 to 38, by leave, taken together and agreed to.

Clause 39.

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) (8.11): I move amendment No 18 circulated in my name *[see schedule 3 at page 3803]*. This amendment will insert some clarifying words into clause 39—the provision under which council adds to the heritage register at the end of the registration process. The wording will clarify that council can make an entry on the register consistent with the decision of the Administrative Appeals Tribunal if an appeal has been successful to a degree.

Amendment agreed to.

Clause 39, as amended, agreed to.

Clauses 40 to 45, by leave, taken together and agreed to.

Clause 46.

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) (8.12): I move amendment No 19 circulated in my name *[see schedule 3 at page 3803]*. This amendment will make the same sort of change that was made in respect to the process for cancelling an entry on the register.

Amendment agreed to.

Clause 46, as amended, agreed to.

Clauses 47 and 48, by leave, taken together and agreed to.

Clause 49.

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) (8.12): I seek leave to move amendments 20 and 21 circulated in my name together.

Leave granted.

MR WOOD: I move amendments Nos 20 and 21 circulated in my name together *[see schedule 3 at page 3803]*. The amendment to clause 49 (1) (c), together with the amendment to clause 49 (2) (a) and clause 50, are made in response to an issue that was raised by the Scrutiny of Bills Committee that the offences in clauses 49 and 50 do not match up. The effect of these amendments is that places that are discovered should still be recorded within five days. These amendments will ensure that, if the time limit cannot be met, it will be sufficient to do so as soon as practicable after that.

Amendments agreed to.

Clause 49, as amended, agreed to.

Clause 50.

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) (8.14) I move amendment No 22 circulated in my name *[see schedule 3 at page 3803]*. As I said earlier, this amendment will ensure that clause 50 is reworded.

Amendment agreed to.

Clause 50, as amended, agreed to.

Proposed new clause 50A.

MS DUNDAS (8.14): I move amendment No 1 circulated in my name to insert new clause 50A *[see schedule 4 at page 3812]*. This amendment, which one hopes will never be used, will bring clarity to the process of reporting and nominating Aboriginal places and objects. Once the council receives a report, consultation must occur and decisions must be made. This amendment will remove the assumption that that will take place. It makes it crystal clear that the right thing will be done, that we will no longer be working on assumptions, and that this will be codified in law. This amendment is important for all parties concerned. When no clear process is in place sometimes our systems fall down and people are left in a state of ambiguity. I urge the Assembly to support this amendment, which I believe will remove any trace of ambiguity.

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) (8.15): This amendment relates to other similar clauses. The government supports the amendment.

MRS DUNNE (8.15): The Liberal opposition supports Ms Dundas's amendment. As was stated earlier, we do not want to work on assumptions. People constantly complain to me about planning and land management laws. Essentially, heritage is part of that suite of legislation. We lack certainty in this legislation. People might do something one way on the first day and depending on how they feel they might do it differently on the second day. People need certainty. This amendment will ensure that consultation takes place.

Proposed new clause 50A agreed to.

Clause 51.

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) (8.16): I seek leave to move amendments 23 and 24 circulated in my name together.

Leave granted.

MR WOOD: I move amendments Nos 23 and 24 circulated in my name together *[see schedule 3 at page 3803]*. The government is proposing a heading change for clause 51, the insertion of clause 52 (2) (a) and the removal of clause 52. Taken together, these changes will restrict information about heritage places and objects as already occurs for Aboriginal and non-Aboriginal heritage. Information will be restricted once council declares it to be so, and not automatically as previously advised. In the government's view it is better that way. The proposed arrangement in clause 52, of having information about Aboriginal places and objects automatically restricted, was not considered appropriate by some Aboriginal people as it would place the Heritage Council in charge of information about Aboriginal places and objects with which council really has nothing to do.

MS TUCKER (8.17): These amendments reflect some of the additional discussion and consultation that took place between the government and local Aboriginal groups. That seems to confirm the view that has been expressed in the Assembly in the last sitting week that the detailed and final stages of discussions with stakeholders, in particular, Aboriginal stakeholders, were inadequate. When I listened earlier to Mrs Dunne talking about a white minister deciding who would represent Aboriginal communities it reminded me of how a white minister—a minister with whom Mrs Dunne had worked—decided who would represent Aboriginal communities on the Namadgi interim management board.

Mr Wood would remember that rather unfortunate process. People who had an outstanding native title claim were told that they would be appointed to the board only if they gave up their claim, which was outrageous. It meant that the Ngunnawal group was excluded from making a formal input to the draft management plan. I commend Mrs Dunne for the role that she is playing in this debate and I wanted to put that bit of history on the record. I refer now to the government's amendments. Given that this legislation is not based on other indigenous heritage legislation—rather, it reflects contemporary white heritage practice in Australia—it does not reflect well on government.

Perhaps it reflects well on an electoral system that is likely to return minority governments that are then inclined to do the extra yards in order to ensure the passage of their legislation. I refer to the detail of these amendments as first drafted. Basically, the bill decrees that any information on Aboriginal places or objects will be restricted unless the Heritage Council determines otherwise. These amendments will turn around that process and ensure that council consults with Aboriginal groups before declaring such information restricted. Concern has been expressed about the fact that circulating information relating to Aboriginal places and objects can open them up to theft, vandalism and disrespect.

It would be more respectful of living Aboriginal culture if such decisions were made in consultation with representative Aboriginal organisations. The government's amendments to clause 53 make it clear that the offence of publishing restricted information does not apply in the same way to people with a traditional affiliation to a place or object. In other words, more of the responsibility will rightly rest with those who have a living relationship to the place or object.

Amendments agreed to.

Clause 51, as amended, agreed to.

Clause 52.

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) (8.20): The government opposes this clause.

Clause 52 negatived.

Clause 53.

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) (8.21): I move amendment No 26 circulated in my name *[see schedule 3 at page 3803]*. This amendment will refine the offence to publishing restricted information, which is already in the bill, and make it even clearer that those with a traditional affiliation to a place or object may publish restricted information about it to other Aboriginal people for the purpose of educating them about Aboriginal tradition and to protect such places and objects from harm.

Amendment agreed to.

Clause 53, as amended, agreed to.

Clauses 54 and 55, by leave, taken together and agreed to.

Clauses 56 to 59, by leave, taken together.

MRS DUNNE (8.22): The Liberal opposition opposes these clauses. Basically, part 10 of the bill creates parallel approvals for development applications. In the in-principle debate I drew attention to how this departs from accepted government policy, not just in this territory but also across the nation, when we are trying to move towards an integrated development approval process. That is not to say that we should do away with heritage councils and that land managers should do everything. However, when it comes to the process of approvals the Heritage Council should be consulted, its advice should be sought and accepted and the approval process should be a one-stop shop.

I have thought long and hard about better ways of improving the work that is done by the government. Quite frankly, all its attempts to make a silk purse out of a sow's ear have failed. As a result, it is most expedient that we oppose these clauses and revert to the provisions in part 6 of the Land Act for the approval of development applications. If these clauses succeed I flag that we will have to resubmit clause 26 (2) (a) and I foreshadow that there will be a consequential amendment. The process that has been set up by the government—a process that has been roundly criticised by all involved in development and building, and that includes not just bloated plutocrats but also people in the union movement who have spoken to me on this subject—is enormously cumbersome. That process goes against the spirit of everything that successive planning ministers have been working towards over a period of about five years through the Development Assessment Forum.

When officials asked me whether this process harmonised with the Development Assessment Forum it was patently clear to me that no-one had thought about it. It was painful and distressing to discover that I was not the first person to raise the issue of how this harmonises with the Development Assessment Forum. The Property Council, the HIA, the MBA, the Institute of Planning, the Property Institute and even Uncle Tom Copley have raised this issue. Anyone involved in property development and building, on either side of the fence, has realised that this is a problem. We have set up a system that will ensure that the Heritage Council looks at development applications and, within a period of 15 days, makes a decision in relation to them. However, there are no guarantees.

The Housing Industry Association approached the minister and asked for a deeming provision to ensure that, if there was no response within 15 working days, a development application would be deemed to have been approved, which has not happened. we have here is the potential for breaking down an integrated system. On other occasions Mr Corbell has spoken in this place about the importance of an integrated development approval system. We are breaking down that system, as we were going to do with the tree protection legislation, which thankfully has gone the way of all flesh and we might never see it in this Assembly again.

I hope that the process of finalising the Development Assessment Forum progresses far enough to ensure that no-one comes back with anything other than a one-stop shop for development approval. In this case the Heritage Council, or the conservator, can exercise many powers but only one land approval authority, in this case ACTPLA, should be able to sign off on any application. The process that is set out in part 10 of the bill is cumbersome. Mr Speaker, I have pointed out before that the flowchart in the bill is the

wrong one. Flowcharts with arrows and bits and pieces all over the place do not create clarity; they create the potential for more misunderstanding.

When we are in the process of trying to make legislation more streamlined that is a retrograde step and that is why the Liberal opposition opposes these clauses. I commend to the Assembly our views on this important matter. Most people in the territory usually come into contact with the heritage unit when they are looking at development applications. I think the heritage unit should be more helpful than it has been in the past. This legislation is not the way to make it more helpful; it will just slow down the development approval process.

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) (8.28): Mrs Dunne is wrong; she misunderstood the legislation. There is a deeming provision in the bill. I met with various groups of people and discussed this issue. In the end there was general agreement with the government's approach. Mrs Dunne either has not caught up with events or is misinformed. These provisions are acceptable to the community.

We simply cannot withdraw part of this legislation and still have a working document. The community has accepted these deeming provisions, so the member is not in a position to make those claims. The government opposes, and it will urge other members to oppose, the approach taken by Mrs Dunne. The government supports this provision but opposes Mrs Dunne's approach to it. She is simply wrong.

MS TUCKER (8.29): I do not support Mrs Dunne's approach to this issue. As I understand it, what she has suggested would basically change the whole process in this legislation. The Heritage Council has to work with ACTPLA within a certain timeframe.

Question put:

> That clauses 56 to 59 be agreed to.

The Assembly voted—

Ayes 10		Noes 5
Mr Berry	Ms MacDonald	Mrs Burke
Mrs Cross	Mr Quinlan	Mr Cornwell
Ms Dundas	Mr Stanhope	Mrs Dunne
Ms Gallagher	Ms Tucker	Mr Smyth
Mr Hargreaves	Mr Wood	Mr Stefaniak

Question so resolved in the affirmative.

Clauses 56 to 59 agreed to.

Clauses 60 to 73, by leave, taken together and agreed to.

Clause 74.

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) (8.34): I seek leave to move amendments Nos 27 and 28 circulated in my name together.

Leave granted.

MR WOOD: I move amendments Nos 27 and 28 circulated in my name together *[see schedule 3 at page 3803]*. Clause 74 was intended to ensure that public servants and those directly authorised by the government would be exempt from the offence provisions in clauses 72 and 73. These amendments will tidy up the drafting of those provisions and ensure that the exemption applies only when the actions in question are authorised.

Amendments agreed to.

Clause 74, as amended, agreed to.

Clause 75 agreed to.

Clause 76.

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) (8.36): I move amendment No 29 circulated in my name *[see schedule 3 at page 3803]*. This amendment is made in response to an issue raised by the Scrutiny of Bills Committee. The new wording will ensure that only public servants can be appointed as authorised officers for this legislation.

Amendment agreed to.

Clause 76, as amended, agreed to.

Clauses 77 to 92, by leave, taken together and agreed to.

Clause 93.

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) (8.36): I move amendment No 30 circulated in my name *[see schedule 3 at page 3803]*. The Scrutiny of Bills Committee raised issues about the power to give information discovery orders. One issue related to privacy and confidentiality of information being sought. These provisions will address that issue by ensuring that a person who complies with such an order does not incur any liability in doing so. The Privacy Act and the privacy principles apply to the Heritage Council in its treatment of material that it receives from the exercise of such power, so there is no need to make special provision for the way in which it treats that information when addressing this issue.

Amendment agreed to.

Clause 93, as amended, agreed to.

Clauses 94 and 95, by leave, taken together and agreed to.

Clause 96.

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) (8.36): I move amendment No 31 circulated in my name *[see schedule 3 at page 3803]*. This amendment addresses a concern raised by the Scrutiny of Bills Committee, that is, that a person who suffers loss as a result of compliance with an information discovery order has no recourse to compensation. This provision will ensure that he or she does.

Amendment agreed to.

Clause 96, as amended, agreed to.

Clauses 97 to 108, by leave, taken together and agreed to.

Proposed new clause 108A.

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) (8.36): I move amendment No 32 circulated in my name which inserts a new clause 108A *[see schedule 3 at page 3803]*. This amendment will insert a definition of "interested person" for the purpose of part 17 of the bill, which relates to appeals to the AAT. This provision will clarify the standing rules for appeal in respect of the various decisions that can be appealed. In each case, those with an interest in the decision that has been made will have standing—those whose interests are affected and those who have a connection with a place or object.

Proposed new clause 180A agreed to.

Clause 109.

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) (8.40): I move amendment 33 circulated in my name *[see schedule 3 at page 3803]*. The Scrutiny of Bills Committee raised concerns about the fact that there is no appeal to the AAT against inappropriate use of the power to give information discovery orders. This provision will ensure that there is an appeal to the AAT in relation to that power.

Amendment agreed to.

Clause 109, as amended, agreed to.

Clause 110.

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) (8.41): I move amendment 34 circulated in my name *[see schedule 3 at page 3803]*. The change to this clause clarifies that notice of a reviewable decision must go to those with standing to appeal.

Amendment agreed to.

Clause 110, as amended, agreed to.

Clause 111.

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) (8.41): I move amendment 35 circulated in my name *[see schedule 3 at page 3803]*. This final amendment, which is required to effect changes to the standing rule, will amend clause 111 so that only those defined in clause 108A can appeal.

Amendment agreed to.

Clause 111, as amended, agreed to.

Clauses 112 to 129, by leave, taken together and agreed to.

Proposed new clause 129A.

MRS DUNNE (8.43): I move amendment No 1 circulated in my name on the green paper which inserts a new clause 129A *[see schedule 5 at page 3812]*. This important amendment relates to one of the issues of contention that was evident from the time this bill was first introduced in its present form—that is, what to do with the 2,500 or so unregistered Aboriginal places and objects which have been reported to the Heritage Council but that have not yet been registered. This matter has caused considerable concern across the community.

Some members of the indigenous community were desperately concerned that items of indigenous heritage would officially cease to exist and people would lose their memory of them. They said to me that this bill would create a huge amount of uncertainty for everyone in the community. They also said to me, "We want an orderly system so that we know where the heritage is. Anyone who purchases a block of land will know that there is at least a report about indigenous heritage on that site and, in a sense, they will know what they are buying. Indigenous heritage must be incorporated in an orderly way into the land management system."

Those are not my words, Mr Speaker; those are the words of members of the indigenous community who said that they want orderly incorporation of their heritage into the land management system so that everybody knows what is there. There are 2,500 reported but

not registered places and objects in the bill that has been presented by Mr Wood, but there are no transitional provisions to enable existing reports to be transferred to it, even though that was asked for and discussed at great length. Last week the government had 22 amendments to this legislation and this week it has a grand total of 39 amendments.

One of the pivotal amendments to this legislation had to be moved by the opposition. For reasons that I do not understand this government would not move this amendment. The government asked us to accept that a 13-year backlog of reported and unregistered places would somehow miraculously be processed in six months—between the passage and implementation of this bill. With all the best will in the world we have not been able to solve this problem in the past 13 years, so why would we suddenly be able to do it in the next six months? Roughly 2,500 sites and objects in the ACT would cease to exist if they were not processed between now and the commencement of this legislation.

I, and the staff of other members, have asked the government to address this issue. Quite frankly, I was not satisfied when I was told, "Do not worry. Trust us, we are from the government. We are here to help you and we will sort it out in the next six months." This transitional provision, which creates certainty for reported but, as yet, unregistered Aboriginal places and objects in the ACT, has the strong endorsement of the indigenous community. I commend the amendment to the Assembly.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for the Arts and Heritage, and Acting Minister for Health) (8.47): The government does not oppose the amendment and there is no reason why the provision should not be included in the bill. However, the government still asserts that it is not necessary. The explanations given to a number of people remain valid. This provision is not necessary but it will not do any harm if we include it in the bill. Mrs Dunne was not satisfied with the government's argument but that does not mean that it is invalid. The government will agree to the inclusion of this provision.

MS DUNDAS (8.47): I support this amendment, which I believe will speed up the process of dealing with Aboriginal places and objects as we move from the old heritage provisions to the new provisions in this bill. I think it is a commendable amendment.

MS TUCKER (8.48): As other members have said, this amendment will ensure that when the bill is enacted the 2,500 known but unregistered Aboriginal places or objects are included in the interim register. The government is prepared to argue that staff will list all those places and objects over the next six months but this amendment will ensure that they all have status. Because the legislation was poorly drafted those 2,500 reported or known objects and places could have fallen off the list. That has done more than anything else to engender distrust in relation to this bill. However, this amendment appears to address that problem. I asked questions about this issue in the last Assembly, so I am not surprised that Mrs Dunne is sceptical about the government's commitment to dealing with this backlog. She knows from experience that that will not happen.

Proposed new clause 129A agreed to.

Schedule 1.

Amendments 1.1 to 1.22, by leave, taken together and agreed to.

Proposed new amendment 1.22A.

MRS DUNNE (8.49): I move amendment No 2 circulated in my name on the green paper that inserts a proposed new amendment 1.22A *[see schedule 5 at page 3812]*. I refer to section 193, part 5 of the Land Act and to the subdivision relating to the management of public land. This amendment will add another category of reserved areas. It will add a heritage area to the list of existing reserves. Let us take, for example, a suburb in Gungahlin where it has been identified that some heritage needs to be maintained. Usually that heritage is incorporated in some way into a park or some other element of urban open space.

However, in the future somebody could build a tennis court on that site or place a barbecue on it. This is an issue of concern for the indigenous community because indigenous heritage is sometimes not as obvious as built European heritage. There is a concern that it may not be as well protected as it could be. The insertion of a further definition of what is reserved land and the incorporation of a heritage area gives planners, heritage people and land managers another tool for managing heritage places.

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) (8.51): The government agrees to and supports this amendment. However, I make the point that it does not clarify what has to happen in such a circumstance. It will probably be necessary to amend the Land Act in the future.

Proposed new amendment 1.22A agreed to.

Amendments 1.23 to 1.30, by leave, taken together and agreed to.

Amendment 1.31.

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) (8.51): I seek leave to move amendments Nos 36 to 38 circulated in my name together.

Leave granted.

MR WOOD: I move amendments Nos 36 to 38 circulated in my name together *[see schedule 3 at page 3803]*. Amendment No 36 clarifies that the council is to give its advice to the ACT Planning Authority on a development application within 15 working days. So the authority has to give clear notice of the fact that it has received a development application relating to a heritage place. That provision reflects the obligation of council under clause 58. Amendment 37 clarifies that the decision-maker for a development application may make a decision that does not follow the advice provided by the Heritage Council, but that can only be done in the circumstances that are set out.

Amendment 38 will make changes to the Land Act. This amendment follows other amendments that were moved by the government. The new wording in that provision clarifies that where a development may affect Aboriginal heritage there is an obligation on the decision-maker to seek and consider the views of representative Aboriginal organisations, even if the Heritage Council does not provide advice on the development application. That procedure would have occurred anyway, but for the sake of certainty this change should be agreed to.

Amendments agreed to.

Amendment 1.31, as amended, agreed to.

Amendments 1.32 to 1.38, by leave, taken together and agreed to.

Amendment 1.39.

MRS DUNNE (8.55): The Liberal opposition opposes this amendment which will allow the Heritage Council, after a decision on a development application has been made, to lodge an appeal with the Administrative Appeals Tribunal in relation to a decision of the ACT Planning Authority. Quite frankly, it would be absurd if one arm of government were able to take another arm of government to the AAT. That is the problem I have with such a fragmented approach to development applications. The Heritage Council, which is an arm of government and part of the land management process, basically will have its day in court. ACT Roads might be the next body to take ACTPLA to the AAT because it does not like roads in one subdivision, or Waste Management might take ACTPLA to the AAT because it does not like the current waste management system.

We might not like our current waste management system or the fact that ACTPLA does not take into account everything that the Heritage Council has to say in relation to a particular case. But it would be outrageous if one arm of government were able to take another arm of government through the AAT legal process. We should oppose this proposal because it will give one arm of government an unfair advantage and it will also unconscionably slow up the development application process.

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) (8.57): The government supports the bill in its present form and rejects Mrs Dunne's proposed amendment. This provision, which has been part of our general discussions, provides a safety valve. The government acknowledges that the events described earlier might not happen very often, but this provision provides the Heritage Council with a safety valve.

If something goes astray this provision will always provide the necessary protection. It is not the most common approach but, because of the way in which this bill has been formulated and because of discussions that the government has had, I believe these provisions compliment one another. The Heritage Council must be given the power to protect recognised places of heritage in the ACT.

Question put:

That amendment 1.39 be agreed to.

The Assembly voted—

Ayes 10		Noes 5
Mr Berry	Ms MacDonald	Mrs Burke
Mrs Cross	Mr Quinlan	Mr Cornwell
Ms Dundas	Mr Stanhope	Mrs Dunne
Ms Gallagher	Ms Tucker	Mr Smyth
Mr Hargreaves	Mr Wood	Mr Stefaniak

Question so resolved in the affirmative.

Amendment 1.39 agreed to.

Schedule 1, as amended, agreed to.

Remainder of bill, by leave, taken as a whole.

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) (9.02): As this is the last opportunity that I will have to speak in debate on this bill I thank all those who, over a long period, have been involved in its formulation. We have gone through a long consultation process. I commend those officers in the heritage area who, over a long period, put their hearts and souls into this legislation. As a result of their work with a large number of people we now have legislation that I believe is comparable to heritage legislation anywhere else in the country. I congratulate them on their dedication and their application to the job.

To them I say that we have a good bill. To the Assembly I say that it is particularly noteworthy in this contentious and much-debated area that the basic structure of the bill has remained intact. The processes have been refined but the principles have remained the same. We have added a few provisions that will make the bill more precise. The success of the work of those officers is demonstrated by the way in which the structure of the bill has remained unchanged. I congratulate all those officers on their hard work. The community and various bodies in the ACT can be happy and satisfied with this very good bill.

Bill, as amended, agreed to.

Residential Tenancies Amendment Bill 2004

Debate resumed from 24 June 2004, on motion by **Mr Wood**:

That this bill be agreed to in principle.

MR STEFANIAK (9.05): The opposition will be supporting this bill. We have a few amendments, which I will come to later. As I understand it, the bill is meant to be a clean-up bill, but it does make a number of policy changes. A number of people were consulted on this, such as the Real Estate Institute, the various groups there, and Peter

Jansen and the various tenant groups. I thank Mr Quinton for a couple of very good briefings in relation to this. We went through the four government amendments in some detail before I actually got them. Might I say at this stage that the opposition will be supporting them.

Three of the amendments were initiated by tenancy groups and one by owner groups. Despite the fact that the officials had some concerns, the amendments are not really necessary—except possibly the owner group one—in that the bill may well cover all that anyway. They put back in some words and terminology that various groups would feel a lot happier with, which clarify the particular sections better than the previous wording did. The amendments I finally received bore out exactly what I had been told, so I do not have a problem with them.

There are some improvements in this bill which are worthy of note. Not only do they cover residential tenancies but they also cover caravan parks, boarders, holiday homes and basically all tenancy-type matters. The bill saves people going to the Supreme Court by keeping the matters in the tribunal. That I think is a very good step. It is quicker and cheaper. You would probably get a better decision out of the tribunal than something as airy-fairy as the Supreme Court, which is probably a bit too far up the line for some of this type of stuff. That is a welcome change and is to be commended.

There are a few issues around things like commencement dates in caravan parks which the opposition will be seeking to amend. We have a number of amendments in that regard. My colleague Mrs Burke will also probably be speaking to those amendments. I take the opportunity to thank staff in her office for their assistance in relation to those, especially Dean Logan.

The bill does a number of other things, including the additional provision of allowing owners to retake possession through the tribunal. Owners can retake possession in certain circumstances, but this provision ensures certainty. The opposition will be supporting this bill, but we have amendments. As I have indicated, we have received the government amendments and we will be supporting those as well.

MRS CROSS (9.08): The rights and obligations of short-term occupants including, for example, lodgers and boarders are not recognised under the existing legislation. This bill has merit because it increases the scope of the act to include short-term occupancy agreements and provides minimum standards upon which such agreements can be premised. It also simplifies and adds clarity to the procedural and substantive aspects of the act. On that basis I will be supporting this bill.

MS DUNDAS (9.09): I am pleased to see the Residential Tenancies Amendment Bill. With this bill we see something coming out of the review of the Residential Tenancies Act that was started just a couple of months into the term of this Fifth Assembly. Boarders and lodgers are among the most vulnerable members of our community. They are often unemployed or have low-paid and insecure employment. They generally lack the cash reserves that are essential if they are forced to move house at short notice. They lack the cash to find a bond, cash to find often weeks of rent in advance, cleaning costs for the property they are moving out of, plus the money for removal and storage of their possessions.

The occupancy principle set out in new section 71E will give occupants greater confidence when asking the manager of their premises to fix defects in the property—as is their right—and some confidence that the manager cannot arbitrarily evict them for trying to enforce that right. If the manager does try to evict them, he or she can only do it with reasonable notice. They can then use the required dispute settlement process or, ultimately, the Residential Tenancies Tribunal to enforce those rights. Giving these vulnerable residents some protection against arbitrary eviction is a step forward, so I am quite happy to support these changes.

I welcome a number of other provisions in this bill such as the definition of "quiet enjoyment". I welcome the provisions relating to the tribunal and hope the changes mean that the tribunal starts serving to educate the community about tenancy law. However, I was disappointed that the bill did not contain any provisions to regulate the use of private tenancy databases known to many in the tenants' rights sector as "tenancy blacklists" because of the way they operate. With the current tight rental vacancy rates, tenants need to be protected against discrimination. It is not fair that real estate agents and private landlords can use either very old or inaccurate information to decide the outcome of an application to lease a property.

The New South Wales government has announced that it will regulate tenancy databases, and the Queensland government has already passed legislation to do so. ACT tenants deserve the same level of protection, so it is disappointing that this bill does not address that issue. I believe this is a lost opportunity to make some changes. The real disappointment lies in the fact that this was not picked up by the government in their review of the Residential Tenancies Act. We were therefore not able to have a discussion, during that review, to find out the best way to deal with regulating blacklists in the ACT. This is something that will have to be revisited in the sixth Assembly.

While supporting the provisions in the bill, there is concern that it has a severely delayed commencement date. I am glad we have an amendment on the table to bring that date back by a year. I sincerely hope that amendment succeeds. Tenants who have been waiting for these proposed changes will see them operating sooner.

MS TUCKER (9.12): The Greens will be supporting this bill, which is the result of a long and consultative workshop process to review the Residential Tenancies Act. Changes have been developed via a working group run by the justice and community safety law group, including a range of people with experience as stakeholders. The focus in this process has been on balancing the interests of the various parties—or, to put it crudely, the landlords versus the tenants. This has been the hallmark of this legislation to date. It has meant that some issues I would like to have seen brought in were not agreed. However, in the end, the people who represented the interests of tenants are satisfied with the results.

When the Assembly created the Residential Tenancies Act in 1997 a number of important matters were left unresolved. They included protection for boarders and lodgers and residents of caravan parks, and means to better look after victims of domestic violence. The bill deals with the first of these two points, and there is a promise of work underway to address the latter.

In the years of operation of the act, issues have been identified through experience and through tribunal cases. A number of the amendments are based on this experience. Lessons about the processes have also been developed into changes. Some of the amendments update language—such as changing "prescribed term" to "standard residential tenancy term", which is clearer because its meaning relates more precisely to this act.

I will not cover all of the amendments but would like to briefly mention some points. The bill will introduce an additional ground for protection of tenants against retaliation by landlords with the new ground of, "or had taken some other reasonable action to secure or enforce his or her right as a tenant". This protection is very important, as many tenants are reluctant to push their legal rights for fear of losing the tenancy altogether. In a tight market this fear is made more potent. While the legal protections may not entirely alleviate these fears, this broader term should be useful in removing any doubt about exactly what actions are protected.

There is what I suppose could be regarded as a balancing amendment, where the lessor is protected against damage, injury or intention to damage or injure. Where the lessor is a corporation this provision will now also apply to the corporation. Clause 21 puts into law an interpretation of the general right to enjoyment which was tested in the Supreme Court in the case of Anthony Worral v Commissioner for Housing in 2001. The arguments and precedents of the case are explained in the explanatory statement but the key point, I think, is that the case affirms as follows:

> It may be incumbent upon a lessor to exercise contractual rights over third parties in order to prevent a breach of quiet enjoyment.

The particular case, I believe, was to do with work being carried out in public housing and the hours of that work. The details I have may not be correct, but I think this shows the importance of having a court system to test these principles, the importance of using case law and the importance of having these kinds of reasoned judgments to enable us to, in turn, update our statutes. The importance of people of little financial means having access to courts to air their grievances is also illustrated here.

Skipping ahead along the lines of access to the court system, there is an amendment that requires the Residential Tenancy Tribunal to make its judgments available in writing soon after hearings are concluded. Although this is not as extensive as the full reasoning, it ensures that a recorded body of case law will be built up on cases which you could say advance the interests of tenants, as well as those that affect the interests of lessors. There has previously been some imbalance. This also ensures, as the ES points out, that there is a more detailed body of case law to refer to. On that basis, some cases may not require recourse to the tribunal.

One of the biggest steps forward in this bill is the creation of a system of rules for residential situations that do not fit the standard residential tenancy agreement mould. Boarders, lodgers, caravan park tenants and residents of many forms of supported accommodation are covered by this new section.

The new system, which runs parallel to the existing tenancy agreement system, is a core set of occupancy principles which can be enforced by the Residential Tenancies Tribunal. There is also a process established for developing more formal sets of core agreements by regulations, in consultation with stakeholders, to apply to the different short-term occupancies, along with a set of general principles, which I am essentially reading with slight paraphrases from the ES.

Those principles will reaffirm the rights of occupants under such agreements to maintain a reasonable standard of living conditions. There was some confusion in the community about whether they applied to caravans, and about the application of the principles to supported accommodation more generally. The answer on these points is that both these groups come under the occupancy principles provisions. I appreciate the willingness within the department to work with members of the community who came forward with concerns demonstrating recognition that the best outcomes are developed by genuine ongoing consultation, meaning that consultation with the community is more than simply asking for input at an early stage.

The act still does not apply in relation to a retirement village in which a person makes a payment to the entity administering the scheme, in consideration of being admitted as a resident of the complex. Nor does it apply to a nursing home or hostel for aged or disabled people conducted by an eligible organisation under the Commonwealth Aged or Disabled Persons Care Act 1954. The question of fair and respectful treatment, or relations, between residents and landlords, owners, management or even staff in these situations is dealt with to some degree in other legislation.

The fair trading legislation and code of practice cover the particularly described group of retirement villages. Whether it does it well is another question but, because of the other arrangements in place, they are left out of this bill. The second category, specifically exempted where there is a care relationship between the residents and the owners or managers, is covered—again at least in law—by Commonwealth legislation. There is also the capacity for exemptions to be applied in regulations.

The bill has refined definitions of what it means to be a lessor and a tenant, clarifying the chains of agreement that exist. For instance, where a company leases a property for the purpose of providing one of its staff with a home, the residential tenancy agreement is not between the owner and the company because it is not an agreement for the company to reside in the house. However, the agreement between the company and the staff member may be a residential tenancy agreement.

People who live in caravan parks have not previously been supported by residential tenancies legislation. The question of how to provide protection for van park residents has several times been not quite resolved. There was a reference to the Community Law Reform Committee in 1990 and, after issuing a discussion paper, it received submissions in 1999. But, as far as I know, there was never a final report and it was left out of the first version of this act.

New South Wales took the approach of establishing a code of practice and having particular clauses in their law on residential tenancies. According to the government, this one-size-fits-all approach has created problems because there are so many different

situations. It is true that people living in van parks have a range of different situations, wants and agreements. Some people own their own van and rent the site and electricity; some people rent on site; and some people pay for use of toilet blocks, while others do not. Then there is the group of retired people travelling around Australia who are having an impact on the demography and the market of van parks.

Van parks can be temporary homes for people whose lives have changed or they can be long-term low-cost housing. Some retire there, and some raise families in parks. This act opens the way for the different situations in van parks to be dealt with via regulations, as long as the particular classes of residents can be identified.

The work of developing specific agreements for the different groups, particularly for people who live medium to long-term in a particular van park, is very important. It is concerning that, over 10 years, even given the diversity, this area of protection has not been sorted out. I am a bit reassured by this process, particularly as I am aware that consultation with some residents of van parks living, I understand, in different situations is under way.

The other major outstanding issue is for victims of domestic violence who are left with the tenancy, and with liability for rent and possible damage to the house if the offending party leaves a residence or is legally forced to leave. The person who has been assaulted should not be left to cope alone with either the cost of the house or the cost of the damage. This issue is one we have pursued in public housing over the years. I understand that the new debt review committee process is empowered to make decisions on the basis of domestic violence. I am not sure how well that is working at this stage. I understand work will continue on this problem, which again is informed by problems that have arisen in New South Wales and the approach taken here.

The government has prepared amendments, again commendably, on the basis of feedback received from the community. Mr Stefaniak, via Mrs Burke, has also circulated some amendments. I have circulated an amendment to the government amendments but will speak to these in the detail stage.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.22): This bill makes a number of important changes to the Residential Tenancies Act 1997. The amendments are based on a review of the act undertaken by my department, and follow a number of recommendations from the review that have received general support from stakeholders. The most significant amendment in the bill is the extension of the act to apply to a number of short-term occupancies which are presently excluded from the jurisdiction of the act. The amendments will ensure that the act recognises a variety of less common occupancy arrangements, including boarder and lodger contracts and short-term caravan park arrangements.

The amendments that help to bring short-term occupancies under the jurisdiction of the act include the establishment of a set of occupancy principles that will help to ensure a reasonable standard of accommodation; bringing short-term occupancy agreements into the jurisdiction of the Residential Tenancies Tribunal; and development of new sets of prescribed standard occupancy terms that would apply to different short-term occupancies. The bill also makes a variety of other non-contentious amendments. For

instance, it clarifies that the terms endorsed by the Residential Tenancies Tribunal cannot be inconsistent with the act. The bill makes a number of other minor and technical amendments to the act which will help improve the operation of the law for the benefit of the ACT community, such as defining the concept of "quiet enjoyment".

I foreshadow that I will be making some amendments to the bill. These amendments have been formulated as a result of consultation with the community. They deal with access to premises for inspections, clarification of the definition of "tenancy dispute", clarification of the powers of the tribunal, and the exclusion of a lessor's liability to pay charges for gas supply. I thank members for their support of this important piece of legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR STEFANIAK (9.24): I move amendment No 1 circulated in my name *[see schedule 6 at page 3813]*. This amendment concerns a starting date which was stipulated as 1 January 2007. A lot of people associated with and affected by this legislation feel that this is too long. One of the reasons for that date is to allow some tenancy agreements now in place to run their course. The substantive aspects of the bill commence within the standard six-month period. We have been advised that it would not be terribly problematic to bring the 2007 date back to, say, 2006, which is what this amendment does.

One of the reasons for the date going out to 2007 is that there are about 30,000 tenancy agreements—that is just format—in stock, and that would run down. A longer date would save drawing up of new tenancy agreements, but that is going to have to happen. I am advised that a starting date of 1 January 2006 would be much more realistic and also much more consistent with the substantive aspects of the bill, which commence within the standard six-month period. I am advised that it would still effectively be close to 18 months before this got up and running, but that this would be a much more reasonable date, rather than 2007. I commend the amendment to the Assembly.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.26): The government will support this amendment. Affected as I was by Mr Stefaniak's outrageous claim in relation to the previous debate that, out of perversity, the government never supports Liberal amendment, the government is happy to support this amendment. The government made a decision around 1 January 2007. I am disinclined to argue that bringing it forward a year will be an impediment to the private sector and put them under a bit more pressure. To the extent that there is any difficulty for the private sector in relation to existing agreements, I imagine it would be minimal. Once again, these are matters for judgment and I am more than happy to accept this amendment.

MS TUCKER (9.27): We are happy to support this too. The earlier date will ensure that the effects of the changes can be enjoyed earlier. It seems a reasonable time to allow for the changeover period.

MS DUNDAS (9.28): I strongly support this amendment to bring the commencement date back by a year. I think the government took an unacceptably long time to prepare this bill. There were long periods where nothing appeared to be happening. Bringing it back to 2006 will mean that vulnerable tenants will not have to wait a year longer for protection. The government should get straight onto developing the standard agreement.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 22, by leave, taken together and agreed to.

Clause 23.

MR STEFANIAK (9.28): I move amendment No 2 circulated in my name *[see schedule 6 at page 3813]*. In speaking to this one I will also speak to my amendment No 3, which I will move after this. This particular amendment would add a note that, after six weeks, the occupancy agreement should be in writing. It then refers to section 71E (ba)—that is my amendment No 3—which would insert that an occupant is entitled to the certainty of having the occupancy agreement in writing if the occupancy continues for longer than six weeks.

We feel there should be a clause stating that, after a set period—and we think six weeks is reasonable—a caravan park owner, the grantor, should sign an occupancy agreement with a resident. This period would certainly cover medium to long-term tenants, but would be long enough to exclude, for example, holiday-makers staying in a caravan park. Again, I think that will give added protection to all concerned. I think this is something that people involved with caravan parks and medium to long-term tenants need. I commend the amendment to the Assembly.

MS TUCKER (9.29): This amendment seems reasonable. It is related to the next amendment of Mr Stefaniak's, which adds a specific requirement to the general occupancy principles that, after six weeks, an occupancy agreement should be in writing. The Greens will support this, but I am a bit concerned that, having received this amendment only yesterday, there has not been a lot of time to work through all the possible issues.

In essence, though, this amendment ensures the rights of residents to, at the very least, receive a clear written statement of the conditions of their occupancy, which is what is enjoyed by residents covered by residential tenancy agreements. It therefore at least gives this disadvantaged group of residents one of the prerequisites for having their conditions checked. I support the amendment and also the next one.

MS DUNDAS (9.30): I will talk to this amendment, and the foreshadowed third amendment of Mr Stefaniak's. The Democrats are comfortable in supporting these

amendments requiring that a written agreement be entered into if a boarder, lodger or caravan park resident is in occupation for longer than six weeks. Although the amended Residential Tenancies Act will impose an occupancy agreement governed by the occupancy principles of the act, without a document outlining these provisions, many residents may be entirely unaware of their rights. The manager of the premises may use the resident's perceived sense of insecurity to act unfairly. I note that there is no penalty for failing to comply with these provisions, but I suppose it is better to have this in the legislation than not to.

Amendment agreed to.

MR STEFANIAK (9.31): I move amendment No 3 circulated in my name *[see schedule 6 at page 3813]*. I have already spoken to this. It ensures that people are not operating on just a wing and a prayer.

Amendment agreed to.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.32): I move amendment No 1 circulated in my name and table a supplementary explanatory statement to the amendment *[see schedule 7 at page 3814]*. This amendment is to proposed section 71E (d) of the bill, which sets out the occupancy principles in relation to a grantor's access to the premises for inspections, repairs and other reasonable purposes. The amendment clarifies the need for reasonableness in the clause to ensure the prevention of arbitrary interference with a person's quiet enjoyment of the premises.

Amendment agreed to.

MR STEFANIAK (9.33): I move amendment No 4 circulated in my name *[see schedule 6 at page 3813]*. This amendment ensures that an occupant is entitled to eight weeks notice before the grantor increases the amount to be paid for the right to occupy the premises. I suppose one of the best analogies here is the fact that, in a normal lease-type arrangement, if the landlord wants to increase the rent they have to give eight weeks notice.

Rents can be calculated on a 12-month basis, and it is normal for a landlord to have to give eight weeks notice before the rent can be increased. In the types of situations covered by this particular section, that is not the case. I think it is only fair that that similar provision applies. I think this brings it into line with other parts of tenancy law. I think it is eminently fair, and I believe this is very much in line with the thrust of this legislation.

Amendment agreed to.

MR STEFANIAK (9.34): I move amendment No 5 circulated in my name *[see schedule 6 at page 3813]*.

This amendment tries to rectify a problem for long-term residents in a caravan park who, in this instance, own their own van. This amendment ensures that, if they occupy a mobile home which they own on land in a caravan park, the occupancy principle applies

to the land and any fixtures provided by the grantor, but not to the mobile home. It ensures that the grantor is entitled to enter the mobile home only with reasonable notice, only at reasonable times and only on reasonable grounds and for reasonable purposes.

We are probably all aware that this has not been done in the past and that the grantors, or people in that position, have entered privately owned mobile homes in circumstances that may not be reasonable. This amendment brings it much more into line with other tenancy-type arrangements. We think this is only fair, especially if the person owns their own home but happens to have it parked at a mobile home park.

MS DUNDAS (9.35): Although the provision is arguably redundant, I have no real difficulties with this provision regarding inspection of mobile homes owned by caravan park residents being included in the legislation. I understand that some park managers may use arbitrary inspections to intimidate residents, and some guidelines and appropriate conduct may well be helpful.

The occupancy principles that include a provision for inspections probably already apply to caravan park residents, but an explicit statement such as this may clear up that situation. It might have been more helpful to simply state that all the occupancy principles apply to long-term caravan park residents; however, the proposal put forward does no harm and does put some clarifying statements into the legislation; so I see no reason to oppose it.

MS TUCKER (9.36): The final amendment of Mr Stefaniak's is intended to provide some specific protections around landlord entry to the homes of particular groups of residents in caravan parks—that is, occupants of mobile homes on land in a mobile home park where the mobile home is not provided by the grantor. A group of residents of one of our local caravan parks has done a lot of work in detailing the situation in which they live which is, to be blunt, quite dreadful. The processes now available through this bill should go a long way to changing the balance of power, but it will take time.

This particular amendment further qualifies the reasonable access provision in the general principles. Some of the need for this amendment has been removed by the Attorney-General's amendment, which emphasised the reasonable nature of the access allowed. However, this amendment will still add an additional restriction for entry to the mobile home—that the grantor is entitled to enter the mobile home only with reasonable notice, at reasonable times, on reasonable grounds and for reasonable purposes. The only specifically new reasonable restriction here is for access.

Amendment agreed to.

Clause 23, as amended, agreed to.

Clause 24.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.38): I move amendment No 2 circulated in my name *[see schedule 7 at page 3814]*. *A*mendment 2 amends the proposed section 71H, which inserts the definition of a "tenancy dispute". The amendment simply ensures that the definition of a "tenancy dispute" does not differ from the current definition.

Amendment agreed to.

Clause 24, as amended, agreed to.

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

Clause 30.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.39): I move amendment No 3 circulated in my name *[see schedule 7 at page 3814]*. *A*mendment No 3 amends the proposed clause 30 of the bill, which inserts a new section, 102 (2), setting out when the Residential Tenancies Tribunal may amend or set aside an order it has made. Currently, the bill specifies situations where the tribunal may exercise such a power. These situations are specific in nature and do not provide for a general power for the tribunal to act at its own discretion.

Advice has been received that there is some concern that the proposed section 102 (2) will eradicate any power of the tribunal to make variations—for example, to interim orders. The inability to oversee, monitor and, where necessary, vary interim orders could lead to some harsh and unjust outcomes. This amendment ensures that the tribunal may amend or set aside an order it has made if, where the order was made under section 42, the tribunal considers it is appropriate to do so.

MS TUCKER (9.40): I move amendment No 1 circulated in my name which amends Mr Stanhope's amendment No 3 *[see schedule 8 at page 3815]*. This amendment takes a further step along the path the government amendments began. Again, this is the result of feedback. To begin at the beginning, the bill, because of case decisions in the tribunal, removed section 102 (e) from the act. This removed the power of the tribunal to vary or set aside an order of the tribunal, if appropriate.

At clause 30 the bill then establishes a more limited set of situations in which the tribunal may amend or set aside an order. This, however, did not necessarily cover interim orders. In response to this problem being raised the government then prepared Assembly amendment 3 to reinstate the power of the tribunal to open a termination and possession order, subject to a condition precedent.

A termination and possession order, subject to a condition precedent, is a particular type of interim order described in section 42 of the act. An example of this type of order, which I understand is not very common, is one along the lines of, "You will be evicted unless you repay the arrears at the rate of X dollars per fortnight." However, the government amendment would allow the tribunal to look at varying such an order only when a notice had been issued under section 42 (1). This is the eviction notice served when the registrar has evidence that the condition has been breached. It allows only two days for appeal. So, unfortunately, the crisis of receiving an eviction notice had to be reached before the tribunal could consider any changed circumstances. My amendment would set different conditions for the tribunal to have the power to reconsider this particular type of order. Specifically the amendment will omit from the government amendments the proposed new section 102 (2) (ba) and instead insert new section 102 (3). This proposed new section reads:

> The Tribunal may, on application by a party, while a termination and possession order subject to a condition precedent is in force –
>
> (a) vary the order, or
>
> (b) rescind the order; or
>
> (c) extend the order to a specified date;
>
> whether or not a notice has been served under section 42 (1).

The idea is to allow the terms of the order condition precedent to be varied before a crisis is reached. For example, if a tenant's income has unexpectedly dropped because of the loss of a casual job, they may know that they will not be able to meet a repayment schedule as required by the order. It makes sense for the tribunal to be able to look at the new circumstances and decide whether it is reasonable to vary the order before such a notice is served.

I do not think that, under the government Assembly amendment, in this situation the tenant could apply to the tribunal to vary the order until they had been served with a notice under section 42 (1). My amendment would allow the tenant to take responsibility for notification of the changed circumstances and at least having the chance to reach a new agreement that would work for everyone.

The agreements are reached in accordance with the tribunal's standard principles, which have concern for hardship for lessors, as well as for tenants. With the conditional "an unusual circumstance" in the first place, it seems reasonable to us to allow a little more flexibility and for a tenant to have the chance of avoiding the crisis of which comes when they say, "I'm about to be evicted!" I note also that the tribunal has a general power to refuse to hear a matter if it believes that someone is abusing the system.

MS DUNDAS (9.44): I am happy to support Ms Tucker's amendment. I agree it is much better if tenants who have a genuine commitment to honouring the orders of the tribunal have the ability to go to the tribunal and ask for a variation of a conditional order if they believe that they are going to go into breach. The cycle of eviction notices and tribunal orders I hear about often seems to involve unnecessary drama and grief. The ability to work with the tribunal to stop that cycle before it happens is a positive thing.

Amendment (**Ms Tucker's**) agreed to.

Amendment (**Mr Stanhope's**), as amended, agreed to.

Clause 30, as amended, agreed to.

Clauses 31 to 42, by leave, taken together and agreed to.

Schedule 1.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.46): I move amendment No 4 circulated in my name *[see schedule 7 at page 3813]*. The government has decided not to proceed with that particular amendment. This simply omits it. As I indicated, amendment 4—and I will

explain it—amends proposed clause 1.10. Clause 1.10 proposes to change the act to state that the lessor shall pay the annual supply charge associated with the supply of gas.

The government does not intend to proceed with this. Therefore, the amendment removes the proposed amendment from the bill. That means that lessors will continue to be liable to pay the annual supply charge associated with the supply of gas and sewerage as under the current law, instead of having to pay the annual supply charge associated with the supply of gas.

Amendment agreed to.

Schedule 1, as amended, agreed to.

Schedule 2 agreed to.

Dictionary.

MRS BURKE (9.47): I am very pleased to see this bill being tabled tonight, and also the amendments that are going through. I wanted to thank parliamentary counsel for their work. As members may know, on the notice paper at No 18, I have the Residential Tenancies (Assisted Tenants) Amendments Bill tabled. I am very hopeful that the amendments to this bill will deal with many of the things in my bill. I commend the government for the work. I also extend thanks for the input I have had from the community—from people who, obviously up until now, have been what would seem to be unfairly dealt with. I think that the words removing any doubt are quite crucial for people as a dictionary reference.

Dictionary agreed to.

Title.

MR STEFANIAK (9.49): I am not going to say much about the title, but I would like to dedicate the caravan park components of this bill to Cynthia Eliza Quinn, formerly of the Riverside Caravan Park, Muswellbrook.

Title agreed to.

Bill, as amended, agreed to.

Court Procedures Bill 2004

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

> That this bill be agreed to in principle.

MR STEFANIAK (9.49): This is a very important bill, but the principle behind it is quite simple and worthy of support. Basically, in 1997 the Community Law Reform Committee argued that uniform procedures would be very useful in our Magistrates Court and our Supreme Court. Consequently, a process was started and this is the legislative outcome of it. This very significant task will take some time. I am pleased to

see there will be a judge on the committee, a couple of magistrates, representatives of the bar, the DPP, and various people—the normal players in the court process.

Mrs Dunne: The usual suspects.

MR STEFANIAK: The usual suspects you would expect to have there in procedures between the Supreme Court and the Magistrates Court. Of course, the Magistrates Court is governed by the Magistrates Court (Civil Jurisdiction) Act 1982, and the Supreme Court basically makes its own rules and has done so since it was established in about 1933. So this is good legislation. I will watch with interest to see how the process develops. Certainly its aims are laudatory. It should ensure that costs are reduced by enabling lawyers to find the relative rules a lot more quickly, reduce the potential for confusion and speed up the process too.

That is terribly important. The old adage that justice delayed is justice denied is very true. It will reduce the costs that litigants will have to pay as a result of confusion. It will reduce some of the costs involved in running the courts, and also facilitate the transfer of proceedings from one court to another. All of those aims are very laudatory. I look forward to seeing how the process operates as the committee gets going, and we end up with one set of rules.

MS DUNDAS (9.51):The ACT Democrats are happy to support both the Court Procedures Bill and the Court Procedures (Consequential Amendments) Bill. They set up a framework for the development of a single set of court procedures for the ACT's two major court systems, the Supreme Court system and the Magistrates Court system. These two systems have developed independently and from different sources. In particular, the rules of the Magistrates Court have been placed in legislation, whereas the Supreme Court has been able to determine its own rules for many decades.

There has also been a concern that the Supreme Court has developed its rules ad hoc, whereas the Magistrates Court rules developed more comprehensively in the most recent review in the 1970s. This provides further inconsistency in the framing of the two systems. It has meant that the two systems have substantially different rules in place that relate to the commencement of proceedings, waiting for various actions or the presumptions that arise from submitting evidence. This means that lawyers need to be doubled up on learning on the procedures of the courts, and there can sometimes be confusion. It also has some implications for cases that are transferred between the courts.

While the object of these bills is relatively simple, the implementation of the concept is technically complicated, and involves substantial legislative changes, including relocation of a number of provisions and the repeal of many archaic pieces of legislation. The bill is also a further example of the simplification and modernisation that is happening to the ACT statute book to assist public access and understanding of ACT laws. So, these bills are an important piece of work and I commend the government for undertaking this project. It is not a hot political issue, but it is an important piece of work that will hopefully lead to better outcomes in our judicial system and in the efficient and fair administration of justice.

MS TUCKER (9.53): The Greens will be supporting this bill and its consequential bill. It essentially sets up an ongoing mechanism for the rules of the Magistrates Court along

with the Supreme Court to be worked out by practitioners and for the rules to be harmonised. There is a two-year time frame for this work to be done. Part of the problem now is that the complexity of rules is not necessarily related to the cases. They may be good reasons for different rules for different courts, but this will facilitate a recent update.

My one concern is that as the technicians work through the changes to the rules, they are very careful to consult with people who can understand and represent the interests of the range of court users. This includes people from non-English speaking backgrounds, people with mental illness, people living with disabilities, victims of crime, witnesses and people charged with offences. It also importantly includes procedures for cases involving violence, particularly domestic violence and rape. It is essential that we get right the details, such as separate entrances and separate waiting areas.

I have been convinced that it would not be practicable to include representative positions on the group to be in charge of reviewing and developing the rules. However, in the absence of such a representative position, the government and the group need to be particularly aware of the need to check the operation of rules with the people who will be coming into the court, the citizens for whom the court is their forum for justice, to make sure it makes sense for them and meets their needs as much as possible.

I note also that as one of the intents of this change is to increase efficiency of administration of the courts, it is possible that down the track it may lead to job cuts. Again, it is important that the government of the day ensures that any cuts in the number of people working at the courts does not in any way diminish the level of assistance that people coming to court can receive.

MRS CROSS (9.55): In the legal justice system it is important that we are able to deliver justice in the most efficient and cost-effective method possible. I believe that the Court Procedures Bill 2004 makes an attempt to achieve this goal. The establishment of a common advisory committee developing the procedural rules of both the Supreme Court and the Magistrates Courts will achieve a number of things. It will create a dynamic system for the creation of procedural rules for both courts to deal with contemporary issues. It will limit potential confusion over the relevant rules for the respective courts, thus minimising the potential costs from inadvertent mistakes.

It will facilitate a more seamless transfer of cases from one court to the other. At the moment this interoperability is to some extent discouraged given the different terrain that operates in each court. It will also eliminate the inefficiencies in the legal market due to the non-transportability of the skills of legal practitioners. While this is not the extent of the benefits to be gained from this bill, they are enough, and it is for these reasons, among others, that I offer my support to this bill.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (9.56), in reply: I think all members are aware that the territory's tort reform agenda is being dealt with in three stages. In the first two stages, which are largely complete, the government rebuilt and reformed the civil law about wrongs. The third and final stage, the subject of this legislation, which I introduced on 14 May, involves harmonising the practice and procedures of the courts to improve access

and the efficiency of the courts, particularly the Supreme Court and the Magistrates Court.

The practices and procedures used in our courts currently derive from different sources. As a result they differ significantly. There is no good reason for variations between the courts and the way they operate. It can result in confusion and may lead to procedural mistakes and inefficiencies, which in turn result in additional costs for the consumer, the courts, and the legal profession. Overall it impacts on the accessibility and ease of use of the courts. I described the content of these bills in some detail when I introduced them, and I will not repeat that now.

It is important though to consider the underlying outcomes the bill seeks to achieve by establishing a new rule-making system. These outcomes are: continuous improvement and simplification of the procedures of the Magistrates Court and Supreme Court; enabling inefficiencies in the Magistrates Court procedures to be remedied by rule, rather than awaiting legislative amendments; ensuring consistency through the harmonisation of the procedures in the Supreme Court and the Magistrates Court, and improving access to justice by making court procedures less complex and divergent.

The legislation establishes a rule-making committee and an advisory committee, and they will develop common rules determining the practice and procedures of the courts. The members of these committees will ultimately ensure the successful meeting of the outcomes that I have noted above. These committees include representatives from the courts, the legal profession and the government. The development of the legislation will lead to improved management of civil claims in the courts, and the passage of this legislation will make it possible for those responsible for managing the rules of the courts to proceed to develop harmonised rules. These rules will be subject to scrutiny by the Assembly.

I thank all those who have worked on developing the new rule-making framework, especially the courts themselves, and the legal profession, which was represented through both the ACT Law Society and the ACT Bar Association, and of course, officers of the Department of Justice, for another piece of very significant reform. As I indicated, this is the third arm of a significant piece of tort law reform that has been undertaken in the ACT, a jurisdiction which adopted a different approach and philosophy—and I believe a far better and more desirable philosophy and process than has been adopted in some other places. At the end of the day, I believe history will judge the tort law reform that has been achieved in the ACT very kindly, particularly when compared to the attitude adopted in some states.

So, I commend particularly officers of the Department of Justice and the Treasury for marshalling our approach to the difficulties that we faced in relation to tort and the operation of tort law within the ACT and indeed within Australia. It is a fine piece of law reform, a piece of law reform that in some respects we might have wished not to be involved in, but it has led to results such as the harmonisation of court rules and has led inexorably to these two pieces of legislation we are debating tonight. That will be to the good.

There is much work to be done in the future. A next-term agenda for this government—and I think it might be the same for the other side if it were to form government—is to

continue with legal professional reform. It is something we have started, we worked on it through SCAG, and there is work yet to be done to reform the profession as we move to a national profession. I have indicated that this government supports a thorough review of the operation of our tribunals, and in the context of a review of our tribunals we should take the opportunity to have a look at our courts as well. So I think work will be done in the next term that will involve scrutiny of the legal profession, the operation of the profession in the ACT and the operations of our tribunals and our courts.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Court Procedures (Consequential Amendments) Bill 2004

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

> That this bill be agreed to in principle.

MR STEFANIAK (10.02): I reiterate the comments I made in relation to the earlier bill.

Question resolved in the affirmative.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Chief Minister—multicultural portfolio

MR PRATT (10.03): I speak in the adjournment debate about the Chief Minister's misuse of the multicultural portfolio. We have seen the Chief Minister continually use this portfolio as a platform for delving into international issues and making highly inflammatory speeches which at best have offended a sizeable slice of the Australian community and at worse have offended a sizeable part of the Canberran multicultural community. I refer to the Chief Minister's September 2003 Multicultural Day speech so poisonously delivered in which he attacked this nation. He must be eternally shamed and damned. I refer to the many inflammatory and divisive statements spat out in this place, a place where the Chief Minister is required to be focusing on core ACT business.

Let us talk about one of his pet loves. The Chief Minister loves to tell the Liberals how ashamed we should be about the so-called treatment of David Hicks. As usual, when straying from his core duties into international matters about which he knows nothing, he has given succour and comfort to those who would act against the national interest, even

harm this country and let our troops down. Let us look at the real Hicks case for which the Chief Minister cares little. David Hicks, a foolish man, must bear responsibility for making the stupidest decision possible—to train with al-Qaeda Afghan Mujahideen fighters in the Drenitsa Valley in Kosovo in 1999.

His human rights must be protected, and they are, and he has received as much attention as any other Australian criminal detained overseas. The evidence is irrefutable that the mob that David Hicks joined and worked with in the Drenitsa Valley were operating murderously against Serb and Albanian civilians. Such was the courage of these mercenaries that, unlike the mainstream Kosovo Liberation Army with whom they were supposed to be serving, they developed a reputation for attacking more civilians than soldiers. This is who David Hicks operated and trained with. Let us not forget that David Hicks' mob also assassinated Kosovo Albanian leaders who were seen to be too democratic, particularly those of the Ibrahim Rugova political alliance. This is the man whom the Chief Minister would expend more energy on than he would on the victims of this man's hardline extremist faction.

This Chief Minister would spend more time complaining about David Hicks than he would making supportive noises and offering support and comfort to our troops or offering support to the likes of Peter Bunch and Diana Thomas, the two Australian missionaries who spent a harrowing time unjustly imprisoned by the Taliban in Kabul—Hicks' pals, of course—and who were close to being executed by the Taliban—the same mob, perhaps with David Hicks' involvement, who were killing, terrorising and suppressing Afghanis. I have never heard the Chief Minister speak at all, glowingly or otherwise, of Peter Bunch and Diana Thomas, who are honourable people and were doing honourable work in Afghanistan. There is nothing of substance in *Hansard* by the Chief Minister about Bunch and Thomas, but of course they are not as politically exciting as David Hicks.

David Hicks' trial should have been expedited and we are frustrated that it has taken three years to get to the point it has. Yes, this country has a duty to monitor David Hicks' rights and this country is, but the Chief Minister has fallen hook, line and sinker for the leftist anti-war propaganda on David Hicks by the rabble of lefty lawyers and activists who have unashamedly used David Hicks and his family as one of their personal political vehicles for their anti-war, anti-American and anti-Howard bashing.

The Chief Minister cannot keep out of it. He cannot stay above it all. He has to misuse the multicultural portfolio to dabble in international and national politics. The problem is that many people in the multicultural community are sick of the Chief Minister's inflammatory, divisive and naively propagandist statements. Defence force personnel residing in Canberra and veterans are simmering over the Chief Minister's support of these types of people who work against the national interest and who work against decency. The Chief Minister would be well advised to drop the lefty propaganda rubbish and to get back to core business. David Hicks' rights will be properly looked after despite what he has done. Meanwhile the ACT needs a Chief Minister who is focused on territory affairs, not one who is disgracefully working against the national interest.

Olympic Games

MRS CROSS (10.08): I speak about the Olympics in Athens this year. For quite some time now the legendary knockers in some sections of the Australian media have been part of a petty, mean-spirited campaign to seek opportunities to disparage the progress of Greece's preparations for the 2004 Olympics. No doubt, Mr Speaker, you have noticed this trend—this long run of cocksure comments about whether the Greeks were up to organising such an event, about whether the traffic would be improved, whether accommodation would be adequate, whether it would be too hot, too polluted, and, probably most of all, would the opening ceremony match the one Australia put on in 2000.

In essence, the knockers were no doubt hoping that things would go awry with the Greek event and that the opening ceremony in Athens would be a lesser event than Sydney's wonderful show. What is the reality? All through the half-baked criticism Greece said it would be ready on the day, but there were those who hoped it would not. The Greeks told us that all would work smoothly but doubts persisted. The Greeks told us that the opening ceremony of the games would be original, dramatic and spectacular in its presentation and its representation of the long history, the culture, and the enduring achievements of the Hellenic people.

Despite all the carping, the games were ready in the end as the Greeks said they would be, and the opening ceremony was truly spectacular. What I saw the other night exceeded whatever expectations I had. The opening event was marked by such a depth of imagination, creativity, humanity, innovation, surprise, delight and sheer skill that it awed me and uplifted me. It was simply wonderful and from what I have seen or heard of the games so far they seem to be running very well too.

I note a couple of special things about these games. First, we have for the first time the participation of the representatives of the new nation of Timor-Leste or East Timor, striding out with sheer delight on their faces. What a significant mark of their emergence as a nation of the world. There was the Iraqi team, obviously delighted to be there. I hear that their fairly large contingent included 27 competitors, which runs rings around the four that Saddam Hussein and his gifted sons managed to send to Sydney. That in itself is a strong, positive sign for the new Iraq.

I call on all members to join me in expressing the hope the games in Athens will go on in the happy, open and positive spirit that marked their beginning and in the secure and friendly competitive atmosphere. I congratulate Greece on the great Olympic Games it is putting on in the land where the games began so long ago. It has been truly moving to see them return to Hellos, not just for the Hellenes of the world, but I hope for the rest of the world.

Chief Minister—multicultural portfolio

MR HARGREAVES (10.11): In the last Assembly multicultural affairs got a sleeveless sweater rather than a full-on guernsey. It was not really high on the agenda. In voter land it was hardly on the lips of people at the dinner table. I cannot sit here and listen to Mr Pratt's pontificating about this Chief Minister's achievement without having some sort of

response. Members opposite can prattle away as much as they like and it will not make the slightest iota of difference.

What has been the difference between this Assembly and the last one? This Chief Minister has made it a major portfolio. This Chief Minister has pushed it into the lounge rooms and the dining rooms of everybody in this town. Contrary to that inarticulate, uneducated rabble across there, I walk around the community in my electorate and I know them. I will pay the courtesy to the Leader of the Opposition—he does exactly the same thing. The only thing is, he does not know when to control his gob. That is the problem.

When I do, many members of the multicultural community come to me to say it is really nice to have our issues considered, it is nice to have them put into perspective, to be seen to celebrate the uniqueness and oneness of being Australian and the uniqueness of being Lao or Greek or Italian and celebrating that. It is down to this Chief Minister, who has put it on the agenda.

Mr Pratt says there are divisions in the multicultural council. Mr Pratt is a bit of a new boy on the block. There have been divisions in that council since Pontius was a trainee Pilate. It is going to happen long after you have gone. That is because you and your Liberal cronies keep stoking the fire. Mr Pratt, why do you not try to control them and have them put the interests of the multicultural community above their own grandiosity? That would not be a bad start. When you talk about this Chief Minister's involvement with international affairs—

MR SPEAKER: Order! Members will be quiet while Mr Hargreaves continues with debate.

MR HARGREAVES: While this bloke over here rants and raves about the international state, this Chief Minister is getting on with it. This Chief Minister has looked after your human rights, Mr Pratt, and Lord knows you do not deserve it. This lad over here deserves none of the protections that this Chief Minister has delivered. I ask, why is it so? Because he has the temerity to come in here and push the case against David Hicks. We in this country believe that a person should not be convicted unless he has had a fair trial. You do not hang someone before they are found guilty.

Guilt by association would have had this little man in jail for the rest of his days. But no, who fought for his freedom? It was people who used that rule and said give the guy a fair go. What happens? You cannot apply the same thing to David Hicks. Well, shame on you, Mr Pratt, shame on you. You do not deserve to stand in this Chief Minister's shadow, and I am prepared to stand here and say so.

VISACT

MR SMYTH (Leader of the Opposition) (10.15): I bring to the attention of members VISACT, which is the ACT's organisation that wants to develop sporting opportunities for blind or vision impaired people and which has been finalising a number of plans for a tenpin bowling league in the ACT. ACT vision impaired bowlers do very well. Matthew Artis, VISACT's president, won the AMF's Treasure Island XXX competition on Sunday 6 August at Belconnen, in your electorate, Mr Speaker. Bowling in his first

tournament, Matthew was able to shoot some great scores and won with a two-game total of 598 out of a possible 600, which for a visually impaired bowler is much better than I can do. The XXX format is where the best frames over a three-game facility are used to determine a final score. Matthew qualified in third spot with a 301 game—that is 233 plus his handicap of 74. He needs to be congratulated on that.

VISACT also entered a number of bowlers in the ACT adult championship on the weekend of 6 and 7 August. Results are not known but they had a great time. Now, the interesting thing is that in England at the moment, the England blind cricket squad have just completed its preparations for its encounter with Australia in the inaugural Ashes series for the blind. England plays host to the inaugural ECB/Sport—which is the English blind sports association—England Ashes series this month, August. The series will consist of five one-day internationals of 40 overs a side. International blind cricket is usually played using the limited overs format.

Both squads will be based at the Bradfield College in Berkshire and meet on Thursday 19 August. So, on Thursday, visually impaired Aussie bowlers will defend the honour of their country. The Australians' visit to England kicks off with the Berkshire Trophy Centre seven-aside indoor cricket tournament. On Friday 20 August at Bradfield College, and on Saturday 21 August both squads will attend the British Blind Sport and Primary Club Knockout Cup at Lords cricket ground. The Ashes series then starts with the first game at Bradfield College at 10.30 on Sunday 22 August. Following the first game there will be a small ceremony where a stump from the first game will be burnt. A stump will be used as bails are not used in blind cricket.

The ashes will then be placed in the Ashes trophy and sealed. A ceremony will be performed by Peter Donovan, who is the chairman of the World Blind Cricket Council. The next three games will then be played at Lords on Monday 23 August, at the Rose Bowl in Hampshire on Wednesday 25 August and at the Horsham Cricket Club on Thursday 26 August. The final game of the series will take place at Bradfield College on Saturday 28 August. Following this game, the Ashes trophy, medals and other awards will be presented by Michael L'Estrange, the Australian High Commissioner, and representatives of the major sports. It is really impressive that Australians are participating in this way, particularly visually impaired Australians. It is particularly impressive that a number of them have gained a certain amount of encouragement from what goes on here in the ACT. VISACT is to be encouraged in the good work that it does.

Human rights

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (10.19): I will just speak just briefly in relation to the position that I have put around the quite illegal detention of Hicks and Habibi in Cuba by the Americans. It is simply outrageous and beyond defence, and it intrigues me that the Liberal Party seeks to defend that dreadful abuse of human rights that has been exhibited in the detention without charge for so long of two Australians. It is shameful that the Australian Government did not seek to intervene more strenuously to ensure that that dreadful abuse of the human rights of two Australians was not allowed to persist.

We can take some small comfort that some process is now moving, but the process is quite illegitimate and does not guarantee a fair trial, and that is what it is all about. Mr Pratt has rushed to judgment and has deemed Mr Hicks to be guilty of an offence that he has not been charged with. I assume the sub judice rule does not apply to courts or judicial process in other countries. It might be an interesting point. Standing in this place and simply assuming that Mr Hicks is guilty certainly offends the sub judice rule, but I do not know whether it applies internationally.

I find it ironic in the extreme that anybody would defend that sort of singular abuse of human rights and legal process and presumptions in relation to freedom, the issue of habeas corpus. I know Mr Stefaniak understands these things and must be offended that the rule of habeas corpus simply has no application. It is ironic that the Liberal Party defends that abuse of civil liberties, human rights, that total disregard for habeas corpus and for the rule of law and everything we stand for in this nation in relation to the rule of law. It is also ironic that Mr Pratt leads the charge on behalf of the Liberal Party. When Mr Pratt was arrested for spying and was detained—

Mr Smyth: On a point of order—

MR STANHOPE: He was arrested for spying.

Mr Pratt: On a point of order. The Chief Minister might be best placed if he was to use the term "allegedly spying".

MR STANHOPE: Mr Pratt makes my point. Mr Pratt was not arrested for spying, Mr Pratt was arrested for allegedly spying. Mr Hicks was not arrested for allegedly anything. It is interesting. Mr Pratt was not arrested for spying, he was arrested, in Mr Pratt's words, for allegedly spying. When it comes to Mr Hicks it does not matter, you do not even need to charge him, you can just arrest him. Not only do you just arrest him, you then kidnap him and transport him across the world.

When it comes to Mr Pratt being arrested for spying and detained by the Serbians, it is a different issue. It is one rule for Mr Pratt and the Liberals, another rule for Mr Hicks. So, how funny, how ironic that Mr Pratt rails in this place for five minutes about the guilt of Mr Hicks, who has not even been charged, and when I say, "But, Mr Pratt, do you not remember when you were arrested for spying, you did not like being detained," Mr Pratt jumps up and takes a point of order. He says, "I was not arrested for spying, I was arrested for allegedly spying. Get the terminology right." So when Mr Pratt was arrested for spying and then dobbed on his mates in order to achieve his release—

Mr Pratt: On a point of order. The point of order is about the definition that the Chief Minister was using, not what I was arrested for.

MR SPEAKER: That is not a point of order.

Mr Pratt: It is so.

MR SPEAKER: It is not a point of order.

MR STANHOPE: Anyway, Mr Pratt, out of your mouth you make my case. To stand in this place and attack Mr Hicks and assume him to be guilty and to defend the outrageous behaviour of this nation and the United States of America in relation to Hicks and Habibi really defies comprehension.

Cerebral palsy

MRS BURKE (10.24): I seek leave to speak.

Leave granted.

MRS BURKE: This is an important issue. I did not see any of us other than Mr Smyth at the launch of Cerebral Palsy Week last night. We need to have a greater awareness of cerebral palsy. It is estimated that in Australia every 18 hours a child is born with cerebral palsy. There is no known cure and the incidence of severe disability is on the increase. Cerebral palsy is a physical condition that affects movement. I am pleased to say that tomorrow in the Canberra Centre at about 11 o'clock, there will be two really brave young men who are sufferers of cerebral palsy. One is Mark Morris, who was a 2000 paralympian. It is a sitting day, but it would be good if members could be there or could tell family or friends.

Mark will be there. At the moment he is studying sports management and administration at the University of Canberra. The other is Tim James, who many might know as playing a keyboard outside many of the shopping centres. Tim is currently on his third CD and doing really well. These two young men are a tribute to what you can do with a disability. It is more the ability in the disability rather than the disablement of the disability. The launch last night was excellent. It was disappointing not to see many members from the government represented there. I am sure we all had invites to be there, and it was disappointing.

Mrs Cross: I would have been there. I did not get one.

MRS BURKE: If you did not get invited, I am sorry about that. Maybe it was just a select few. Most of the money Tim James raises when he is playing in the street is to go back into the cause, into the organisation. I ask members to think about that and spread the news about this debilitating condition. They should also remember that young people can make something out of their disability and that their slogan is "cerebral palsy is no barrier".

Question resolved in the affirmative.

The Assembly adjourned at 10.27 pm.

Schedules of amendments

Schedule 1

Criminal Code (Serious Drug Offences) Amendment Bill 2004

Amendments moved by the Attorney-General

1
Proposed new clause 3A
Page 2, line 17—

insert

3A Chapter 5

relocate as chapter 8 and renumber section 425 as section 800

2
Clause 4
Proposed new part 6.8
Page 39, line 6—

insert

Part 6.8 Application of ch 6

641 Uncertainty about when conduct engaged in

(1) This section applies if, in a prosecution for an offence against this chapter or the *Drugs of Dependence Act 1989*, part 10 as in force at any time before the commencement of this chapter—

(a) it is necessary for the trier of fact to decide when alleged conduct was engaged in by a person; and

(b) the trier of fact is satisfied beyond reasonable doubt that the person engaged in the conduct but is not satisfied beyond reasonable doubt that—

(i) the alleged conduct was engaged in before the commencement of this chapter; or

(ii) the alleged conduct was engaged in on or after the commencement of this chapter.

(2) The alleged conduct is taken to have been engaged in by the person before the commencement of this chapter.

(3) This section expires 5 years after the day it commences.

3
Schedule 1
Proposed new clause 1.47A
Page 53, line 5—

insert

[1.47A] Schedule 1

omit

Schedule 2

Criminal Code (Serious Drug Offences) Amendment Bill 2004

Amendment moved by Mr Stefaniak

1
Schedule 1
Amendment 1.13
Proposed new section 162 (1), penalty
Page 45, line 22—

omit the penalty, substitute

Maximum penalty: 2 penalty units for each plant cultivated.

Schedule 3

Heritage Bill 2004

Amendments moved by the Minister for Arts and Heritage

1
Clause 3 (2)
Page 3, line 3—

omit clause 3 (2), substitute

(2) A function under this Act must be exercised—

(a) to preserve the heritage significance of places and objects; and

(b) to achieve the greatest sustainable benefit to the community from places and objects consistent with the conservation of their heritage significance.

(3) If the exercise of the function involves conduct that would adversely affect the heritage significance of a place or object, the conduct may be engaged in only if—

(a) there is no feasible or prudent alternative; and

(b) all measures that can reasonably be taken to minimise the adverse effect are taken.

3
Proposed new clause 7A
Page 4, line 15—

insert

7A Relationship with Emergencies Act 2004

(1) This Act does not apply to the exercise or purported exercise by a relevant person of a function under the *Emergencies Act 2004* for the purpose of protecting life or property, or controlling, extinguishing or preventing the spread of a fire.

(2) In this section:

(a) ***relevant person*** means—

(a) the chief officer (fire brigade); or

(b) any other member of the fire brigade; or

(c) the chief officer (rural fire service); or

(d) any other member of the rural fire service; or

(e) any other person under the control of the chief officer (fire brigade) or the chief officer (rural fire service); or

(f) a police officer.

4
Clause 8 (2), note
Page 5, line 24—

omit

5
Proposed new clause 10 (da)
Page 6, line 28—

insert

(da) it is significant to the ACT because of its importance as part of local Aboriginal tradition;

6
Proposed new clause 13 (d) (v)
Page 9, line 2—

insert

(v) if the place was nominated under section 27—the nominator;

7
Proposed new clause 13 (e) (iv)
Page 9, line 6—

insert

(iv) if the object was nominated under section 27—the nominator;

8
Clause 13 (f)
Page 9, line 7—

omit clause 13 (f), substitute

(f) for an Aboriginal place or object—

(i) a representative Aboriginal organisation;

(ii) if the discovery of the place or object was reported under section 49—the person who reported the discovery.

9
Clause 14
Page 9, line 9—

omit clause 14, substitute

14 *Representative Aboriginal organisations*

(1) In this Act:

(b) ***representative Aboriginal organisation*** means an entity declared under subsection (7).

(2) Before declaring criteria under subsection (3), the Minister must consult—

(a) Aboriginal people whom the Minister is satisfied have a traditional affiliation with land; and

(b) the council.

(3) The Minister may, in writing, declare criteria for deciding whether an entity should be declared to be a representative Aboriginal organisation.

(4) A declaration under subsection (3) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(5) For this section, the Minister must, by written notice, invite expressions of interest from entities willing to be declared under subsection (7).

(6) The notice under subsection (5)—

(a) is a notifiable instrument; and

(b) must be published in a daily newspaper.

Note A notifiable instrument must be notified under the Legislation Act.

(7) The Minister may, in writing, declare an entity to be a representative Aboriginal organisation.

(8) However, the Minister may make a declaration under subsection (7) only if satisfied that the entity satisfies the criteria (if any) declared under subsection (3).

(9) A declaration under subsection (7) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

10
Proposed new clause 17 (4) (aa)
Page 11, line 23—

insert

(aa) Aboriginal history;

11
Clause 17 (4) (e)
Page 12, line 3—

omit clause 17 (4) (e), substitute

(e) history, other than Aboriginal history;

12
Clause 18, example 3
Page 13, line 18—

omit

13
Proposed new clause 25A
Page 18, line 26—

insert

25A Public consultation about heritage guidelines

(1) Before making heritage guidelines, the council must prepare a written notice (a ***consultation notice***) about the proposed guidelines.

(2) The consultation notice—

(a) is a notifiable instrument; and

(b) must be published in a daily newspaper as soon as practicable.

Note A notifiable instrument must be notified under the Legislation Act.

(3) The consultation notice must include the following:

(a) a statement about the effect of the proposed guidelines and the places or objects to which the guidelines would apply;

(b) details of how to obtain further information about the proposed guidelines;

(c) an invitation to make comments about the proposed guidelines to the council within 4 weeks after the day the notice is notified under the Legislation Act (the ***public consultation period***).

(4) If the proposed guidelines relate to an Aboriginal place or object, the council must give a copy of the consultation notice to each representative Aboriginal organisation in relation to the proposed guidelines.

Note Section 14 defines ***representative Aboriginal organisation***.

(5) In making heritage guidelines, the council must consider any comments made to the council about the proposed guidelines before the end of the public consultation period.

14
Clause 26 (1)
Page 18, line 28—

omit clause 26 (1), substitute

(1) A function under this Act that relates, directly or indirectly, to the conservation of a place or object must be exercised in accordance with any applicable heritage guidelines.

15
Proposed new clause 28A
Page 21, line 11—

insert

28A Dismissal of nomination

(1) The council may dismiss a nomination without further consideration if—

(a) the council is satisfied that the nomination is frivolous, vexatious, misconceived, or lacking in substance or was not made honestly; or

(b) the council has previously decided not to register the place or object nominated and is satisfied that the nomination shows no new ground for registration.

(2) If the council dismisses a nomination, it must give the nominator written notice of the dismissal, setting out its reasons for the dismissal.

16
Clause 29
Page 21, line 12—

omit clause 29, substitute

29 Consultation with representative Aboriginal organisation about provisional registration

Before deciding whether to provisionally register an Aboriginal place or object, the council must consult, and consider the views of, each representative Aboriginal organisation about the provisional registration.

17
Proposed new clause 30 (1A)
Page 21, line 21—

insert

(1A) The council also may decide to provisionally register a place or object that has not been nominated for provisional registration.

18
Clause 39 (2) (b)
Page 25, line 10—

omit clause 39 (2) (b), substitute

(b) any appeal has been finally decided and the registration is consistent with any decision on the appeal.

19
Clause 46 (2) (b)
Page 29, line 13—

omit clause 46 (2) (b), substitute

(b) any appeal has been finally decided and the cancellation is consistent with any decision on the appeal.

20
Clause 49 (1) (c)
Page 31, line 9—

omit

within 5 working days

insert

as soon as practicable

21
Proposed new clause 49 (2A)
Page 31, line 16—

insert

(2A) A discovery is taken to be reported to the council as soon as practicable if the discovery is reported to the council within 5 working days after the day of the discovery.

22
Clause 50
Page 31, line 18—

omit clause 50, substitute

50 Exceptions to reporting obligation

Section 49 does not apply to—

(a) a registered place or object; or

(b) a person who has a traditional Aboriginal affiliation with the land where the place or object was discovered.

23
Clause 51, heading
Page 33, line 2—

omit the heading, substitute

51 Declaration of restricted information

24
Proposed new clause 51 (2A)
Page 33, line 8—

insert

(2A) Before making a declaration in relation to an Aboriginal place or object, the council must consult, and consider the views of, each representative Aboriginal organisation about the proposed declaration.

26
Clause 53 (2) (c)
Page 34, line 7—

omit clause 53 (2) (c), substitute

(3) Also, subsection (1) does not apply to a publication about an Aboriginal place or object if the publication—

(a) is made by a person with a traditional affiliation with the place or object; and

(c) is—

(i) to another Aboriginal person; or

(ii) for the purpose of education about Aboriginal tradition; or

(iii) necessary and reasonable to avoid an imminent risk of damage to, or destruction of, an Aboriginal place or object.

27
Clause 74 (1)
Page 46, line 17—

omit clause 74 (1), substitute

(1) In this section:

(c) ***authorised***—see Legislation Act, section 121 (6).

(d) ***conservation officer***—means a person who is a conservation officer under the *Nature Conservation Act 1980*, section 8.

(e) ***governmental officer*** means—

(a) a public servant or conservation officer; or

(b) a person declared under subsection (3) to be a governmental officer.

28
Clause 74 (2) (b)
Page 47, line 5—

omit clause 74 (2) (b), substitute

(b) a governmental officer exercising a function for this Act or another Territory law or engaging in authorised conduct.

29
Clause 76
Page 48, line 19—

omit

a person

substitute

a public servant

30
Proposed new clause 93 (4) and (5)
Page 62, line 6—

insert

(4) A person does not incur any civil or criminal liability only because the person gives information, or produces a document, to the council in accordance with an information discovery order.

(5) The council must return a document produced in accordance with an information discovery order to the person who produced the document as soon as practicable.

31
Clause 96 (1)
Page 63, line 2—

omit clause 96 (1), substitute

(1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by—

(a) the council; or

(b) an authorised person; or

(c) a person assisting an authorised person.

32
Proposed new clause 108A
Page 70, line 1—

insert

108A Meaning of *interested person* for pt 17

In this part:

(f) ***interested person*** means each of the following:

(a) for a decision under section 38 (Decision about registration)—anyone who made comments to the council about the decision before the end of the public consultation period for the decision;

(b) for a decision under section 45 (Decision about cancellation proposal)—the following:

(i) anyone who proposed the cancellation under section 41;

(ii) anyone who made comments to the council about the decision before the end of the public consultation period for the decision;

(c) for a decision under section 54 (Approval to publish restricted information)—the applicant for approval;

(d) for a decision under section 60 (Heritage direction by Minister)—the person to whom the direction is given;

(e) for a decision under section 93 (Information discovery order)—the person to whom the order is given;

(f) for any reviewable decision—any other person mentioned in section 13 (d), (e) or (f).

33
Proposed new clause 109 (h)
Page 70, line 17—

insert

(h) a decision by the council to give an information discovery order under section 93.

34
Clause 110 (1)
Page 70, line 19—

omit clause 110 (1), substitute

(1) The maker of a reviewable decision must use its best endeavours to give a written notice of the decision to each interested person for the decision.

35
Clause 111
Page 71, line 7—

omit

A person

insert

An interested person

36
Schedule 1
Amendment 1.31
Proposed new section 231 (1) (e)
Page 88, line 6—

omit proposed new section 231 (1) (e), substitute

(e) any advice given to the authority by the heritage council under the *Heritage Act 2004*, section 58 (Advice about effect of development on heritage significance) within 15 working days after the day the council is given notice of the application by the authority.

37
Schedule 1
Amendment 1.31
Proposed new section 231 (2)
Page 88, line 11—

omit proposed new section 231 (2), substitute

(2) The relevant authority may make a decision under section 230 that is inconsistent with any heritage council advice under the *Heritage Act 2004*, section 58 only if satisfied that—

(a) the following have been considered—

(i) all applicable heritage guidelines;

(ii) all reasonable development options and design solutions;

(iii) any prudent and feasible alternative to the proposed development, or relevant aspects of it; and

(b) as far as practicable, the decision avoids or minimises any adverse impact on the heritage significance of the place; and

(c) on balance, the decision is consistent with the objects of the Territory plan.

38
Schedule 1
Amendment 1.31
Proposed new section 231 (3)
Page 88, line 19—

omit proposed new section 231 (3), substitute

(3) Also, if the proposed development would be affected by heritage guidelines relating to the heritage significance of an Aboriginal place or object registered, or nominated for provisional registration, under the *Heritage Act 2004*, the relevant authority must consult each representative Aboriginal organisation and consider any further comments by the heritage council about the development.

Schedule 4

Heritage Bill 2004

Amendment moved by Ms Dundas

1
Proposed new clause 50A
Page 32, line 3—

insert

50A Assessing heritage significance of reported Aboriginal places and objects

As soon as practicable after a place or object is reported under section 49, the council must—

(a) arrange consultation under section 29 with each representative Aboriginal organisation in relation to the place or object; and

(b) decide whether the place or object is to be provisionally registered.

Schedule 5

Heritage Bill 2004

Amendments moved by Mrs Dunne

1
Proposed new clause 129A
Page 80, line 3—

insert

129A Unregistered Aboriginal places and objects

Each of the following is taken to have been reported under section 49 (Reporting discovery of Aboriginal place or object):

(a) an unregistered place reported under the Land Act, section 67 (which is about reporting discoveries of unregistered Aboriginal places);

(b) an unregistered place to which an order mentioned in the Land Act, section 71 (Orders for protection of unregistered Aboriginal places—application of pt 6) applies;

(c) an unregistered object to which an order mentioned in the Heritage Objects Act, section 40 (Orders for the protection of unregistered Aboriginal objects—application of Land Act, pt 6) applies.

2
Schedule 1
Proposed new amendment 1.22A
Page 85, line 10—

insert

[1.22A] Section 193 (h)

substitute

(h) a sport and recreation reserve;

(i) a heritage area.

Schedule 6

Residential Tenancies Amendment Bill 2004

Amendments moved by Mr Stefaniak

1
Clause 2 (3)
Page 2, line 16—

omit

2007

substitute

2006

2
Clause 23
Proposed new section 71C (2) (b), proposed new note
Page 15, line 17—

insert

Note After 6 weeks, the occupancy agreement should be in writing (see s 71E (ba)).

3
Clause 23
Proposed new section 71E (ba)
Page 16, line 17—

insert

(ba) an occupant is entitled to the certainty of having the occupancy agreement in writing if the occupancy continues for longer than 6 weeks;

4
Clause 23
Proposed new section 71E (da)
Page 16, line 20—

insert

(da) an occupant is entitled to 8 weeks notice before the grantor increases the amount to be paid for the right to occupy the premises;

5
Clause 23
Proposed new section 71E (2)
Page 16, line 26—

insert

(2) If an occupant occupies a mobile home on land in a mobile home park and the mobile home is not provided by the grantor—

(a) the occupancy principle in subsection (1) (d) applies to the land and any fixtures provided by the grantor, but not the mobile home; and

(b) the grantor is entitled to enter the mobile home only with reasonable notice, at reasonable times, on reasonable grounds and for reasonable purposes.

Schedule 7

Residential Tenancies Amendment Bill 2004

Amendments moved by the Attorney-General

1
Clause 23
Proposed new section 71E (d)
Page 16, line 19—

omit proposed new section 71E (d), substitute

(d) a grantor is entitled to enter the premises at a reasonable time on reasonable grounds to carry out inspections or repairs and for other reasonable purposes;

2
Clause 24

Proposed new section 71H (1) (b)
Page 18, line 3—

omit proposed new section 71H (1) (b), substitute

(b) is about, arises from, or relates to, the agreement.

3
Clause 30
Proposed new section 102 (2) (ba)
Page 20, line 8—

insert

(ba) for a termination and possession order subject to a condition precedent—

(i) the registrar has given the person to whom the order was directed a notice under section 42 (1) (Conditional orders); and

(ii) the person cannot apply to the tribunal for a stay of the eviction proceedings; or

Note The tribunal may make a termination and possession order under div 4.4 (Termination initiated by lessor).

4
Schedule 1
Amendment 1.10
Page 29, line 6—

omit

Schedule 8

Residential Tenancies Amendment Bill 2004

Amendment moved by Ms Tucker to the Attorney-General's amendment No. 3

1
Amendment 3
Clause 30
Proposed new section 102 (2) (ba)
Page 20, line 8—

omit the proposed new section

insert new section 102 (3)

(3) The Tribunal may, on application by a party, while a termination and possession order subject to a condition precedent is in force –

(a) vary the order, or

(b) rescind the order; or

(c) extend the order to a specified date;

whether or not a notice has been served under section 42 (1).