DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

FIFTH ASSEMBLY

WEEKLY HANSARD

18 AUGUST

2004

Wednesday, 18 August 2004

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Wednesday, 18 August 2004

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

Petition

The following petition was lodged for presentation, by **Mr Cornwell**, *from 215 residents:*

School speed zone

> TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the absence of a 40 km school speed zone on Strangways Street Curtin is placing the students of Holy Trinity School in danger when arriving and departing from school.
>
> Your petitioners therefore request the Assembly to call on the ACT government to as soon as possible place a 40 km school zone on Strangways Street Curtin to ensure the safety of the students of Holy Trinity Primary School Curtin.

The clerk having announced that the terms of the petition would be recorded in Hansard and a copy referred to the appropriate minister, the petition was received.

Land (Planning and Environment) (Unit Developments) Amendment Bill 2004

Debate resumed from 30 June 2004, on motion by **Ms Tucker**:

> That this bill be agreed to in principle.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (10.33): Let me say that while the government has some sympathy for the sentiments behind this bill, we will not be supporting it. This bill has the potential to create poor planning outcomes and poorly built form outcomes. It will create a de facto taxation regime and could and probably would have adverse impacts upon the ACT economy.

The bill seeks to impose both mandatory inclusion zonings through the proposed requirement to provide affordable housing and a mandatory development levy through the proposed requirement to transfer completed properties to the government or make an equivalent financial contribution to affordable housing funds. This bill will require the ACT Planning and Land Authority to grant a lease authorising use of land for major unit development only if the lessee has entered into an agreement with the territory to dedicate at least 10 per cent of the development to provide affordable housing.

The bill includes rezoning to enforce affordable housing as an infrastructure charge or a de facto betterment tax. This tax will impact heavily and unfairly upon a narrow segment of the ACT economy and developers may consider exiting the ACT property market due to the tax which would place further pressure on a residential housing market that may well be softening and slowing down. We have seen very significant developments across our border—developments that would obviously be encouraged by the existence of this particular requirement.

What's more important as well, I think, is that this is bad legislation in as much as it is going to confuse a couple of objectives. Where, on the one hand, we have objectives and decent planning and built form of a high standard—and we have all in this place discussed sustainability—this bill would cross-fertilise that objective with objectives relating to affordable housing. And that just does not strike us as good management. In fact, that is a recipe for bad management. So we are concerned as to the confusion that this bill would create between the objective of decent planning and presentation versus the objective of providing affordable housing. Both are decent objectives in themselves but both of them would become suboptimal if they were interdependent, as this bill would require.

It is as well to remember that the ACT economy, the ACT's capacity to provide a whole raft of community services, including affordable housing, public housing and the highest level of public housing in the nation, depends upon a thriving economy. That economy, whether we like it or not, at this stage depends on actual growth. We have a high level of dependence upon taxes associated with land use, land development and of course revenue derived directly from land sales. Should we place impositions and conditions upon development of land, we will quite obviously be providing an inhibition to that level of growth, that level of revenue generation and of course the level of revenue that can then be redistributed within the community. It is probably an economically inefficient way of achieving objectives. As I have said from the start, we have no argument, of course, with the objectives and their nobility; we just believe that this is somewhat naive confusion or an attempt to confuse a couple of basic objectives.

So there is a possibility that there will be distortion within the housing market, pushing developers across the border. Of course, at the end of the day, any developer is still going to want to protect the profit margin, if the market can actually sustain it. The cost of this provision is going to be factored into the rest of the housing prices anyway, which will either be a cost to the house buyer and therefore the community or to the community itself and could have, as I said, that negative impact upon the housing market itself.

Quite clearly, in any enlightened economy, government has to interpose itself in various processes to make sure that there is balance, equity and fairness. But, at the same time, governments ought still continue to work for the maximum amount of choice for people within that community. It is a balancing act that the government would always have to take. But I do believe there should be allowed the capacity for developments to be developments of choice and developments that satisfy a particular market.

That is not to say that the government is not interested in the concept of a portion of a development being dedicated to affordable housing. As far as we are concerned, that should be contained to those developments in which the government is involved. The

City West master plan does provide for about 5 per cent affordable housing, which we intend to carry through. But it will be a development in which we will be involved.

We have, through the Canberra spatial plan, set out objectives in relation to affordable housing. I think you would have to agree that generally what this government has put into public affordable housing, what it is doing, what it intends to do in relation to the initiatives set out in the Canberra spatial plan, means that that area is being addressed.

Like everything the government does in relation to community need, it is never enough. I do not claim that the answer we have is perfect and will satisfy every need, but it certainly is a stronger contribution than has been made in probably any jurisdiction in Australia.

Unfortunately, although there is a noble sentiment backing this particular proposal, it does unnecessarily reduce choices in our community; it would set up a parallel taxation regime which I do not agree ought to be there; it would probably distort the housing market; and it would probably have negative impacts upon the housing market, which is a revenue generator for the territory—a generator of revenue that goes to finance many of the other services that the government delivers to the community. So it may, in the long term, have a net negative impact and I doubt very much whether it would have any positive impact in the long term.

MRS DUNNE (10.42): I agree with everything he said, actually, but I will expound. I congratulate the acting minister because I think he has actually given a very good analysis of why we cannot support this bill.

I understand Ms Tucker's concern. She has spoken at length and passionately about the need for integrating public housing into a range of other developments for a very long time. While these are laudable sentiments, I think that the mechanism proposed by Ms Tucker is not the right one. It has to be a policy-driven, case-by-case proposal rather than a blanket one-size-fits-all. It does distort the market. One of two things will happen: people will go about developing 19-unit developments to avoid paying the money or they will develop 20-unit developments and will develop at the back, in the third basement, with no solar orientation, two affordable housing units. So we will have A-class and B-class units within the one complex. Neither of those is a good outcome.

As the Treasurer and acting minister said, any of the costs associated with that would be borne by the people who buy the other units in the complex. For those reasons—while I understand the sentiment and I understand the need that Ms Tucker raises for integrating affordable and public housing into the general mainstream and having a salt-and-peppering effect across the territory—this is not the means to do it. It is a very hard thing to do.

We were discussing this matter this morning. My memory was refreshed that, under the previous government, one of the housing ministers approved the purchase of properties in housing developments in the newly revitalised part of Braddon, and the housing tenants do not like it; they do not feel that they fit into what might be characterised as a yuppie development; they do not like to live there. There is a high turnover of housing trust tenants in those places. In some cases, it just does not work. In other cases, like the City Edge development where the government, through community housing, had an

involvement in the development, it did work; and it has worked well. That is what we need to say. Yes, we do need to have a policy that says that there needs to be integration of public and affordable housing into a range of developments and a range of housing styles across Canberra, but it needs to be a carefully managed policy to ensure that it meets the needs of the people that we are looking out for.

If someone is building 25 units in Barton overlooking the lake and has to devote two or 2½ of those to government housing and he is selling half-million dollar units, many of the people who might be moved into government housing will feel out of place there; they will feel uncomfortable. It may seem wrong and patronising, but they may feel uncomfortable having to keep up with the Joneses, their neighbours, because they are living next door to $500,000 units and they may feel more comfortable living in more modest accommodation in more modest surroundings.

The sentiments are great, but it is the wrong answer to an important piece of policy and the Liberal opposition cannot support the bill.

MS DUNDAS (10.47): Mr Speaker, without a doubt we do have a chronic shortage of public and community housing, so I strongly endorse the intent of this bill proposed by Ms Tucker which is to increase the community asset of community and public housing. Of course, this asset was run down by previous governments.

However, I am concerned about the impacts this bill would actually have on the property market in the territory. I see it imposing a very large share of the cost of new public and community housing on a small section of the new housing market and I do not think that this distortion in the market would be likely to succeed in its main aim, which is increasing the supply of affordable housing.

As Ms Tucker has put forward, this bill will require all developers of large multi-unit developments to set aside 10 per cent of their development for affordable rental housing or make an equivalent payment to government. I am confident that a big additional cost imposed on large multi-unit developments would simply drive developers away from large multi-unit developments and into greenfields developments, free-standing housing and smaller unit complexes.

We could see greater subdividing happening and a plethora of smaller developments actually occurring on the same block of land. So we would see a movement away from large-unit developments. We could then possibly see as a side effect more urban sprawl, a less effective use of available inner-city land and fewer dwellings suitable for the one and two-person households that are becoming the norm in the territory.

Currently new and public community housing is paid for by all ACT residents through our taxation system. This bill would then put part of the cost of new affordable housing onto developers, which would be forced to accept lower margins if they decide to push ahead with a large multi-unit development, but most of the cost would then be borne by buyers of the new units.

We would have those people who are trying to enter the housing market themselves, with their stamp duty concessions, with their first home buyers grants, actually seeing the cost of the units that they want to buy being increased. People who are trying to move out of

the rental market, people who are trying to move into the ACT housing market, are actually going to see the situation getting a little bit harder if this legislation in this form is passed. I agree that we do need to look at how we better share the load of the cost of public and community housing and that we do need to find ways to make sure that there is the right amount of public and community housing for the demand in the community.

Most people in housing distress spend years on the waiting list for public and community housing, but I do not think the answer is to force the property development sector to give the government a huge chunk of each new development. I think we need to look more at how we can spread the cost burden more fairly. I actually welcome this debate because it provides us with the opportunity to look more closely at this issue. Ms Tucker has put forward one idea. It is not an idea I can support but at least it is an idea that is out there, that is getting debated.

A couple of weeks ago I was talking about the idea of getting ACT Housing actually to use their resources to build more houses as opposed to competing on the open market with other people who were trying to buy houses, to get ACT Housing, maybe in conjunction with the Land Development Agency, to start building their own so that we could look at how to address the housing shortage that way. I thank Ms Tucker for bringing this debate forward. I support her intention but, considering the practicality of how this legislation would work, I cannot support it.

MRS CROSS (10.51): Mr Speaker, I rise today to comment on the reasons for my choice not to support this bill. I am very much aware of the problems that the territory faces with respect to affordable housing.

The Chief Minister recently raised further concern over the issue by his collaboration with student groups over the availability of student accommodation. However, students are not the only concern here. Families and individuals across the territory struggle to pay for a roof over their heads, especially younger families. Whether they are renting or purchasing their homes, dwelling prices continue to move out of reach of many in our community. When, in the territory, average housing and rental prices are growing at multiples of average weekly ordinary time earnings growth, we simply and quite obviously do not have a sustainable situation. With housing affordability in the ACT in decline it is no wonder that household debt levels are on the rise.

However, by agreeing with Ms Tucker's intention, I do not necessarily agree with her method. I note that industry inclusionary zoning was one of the recommendations of the report of the ministerial task force on affordable housing. However, expecting the development industry to bear the costs of a problem that needs to be tackled on a number of fronts is not the way to go.

This bill does not make mention of the number of planning concessions or bonuses mentioned in the report that could be utilised to effectively deliver affordable housing. We cannot be too gung-ho in the implementation of an affordable housing scheme in the private sector without the appropriate measures to help developers cope with the impacts of such a scheme. That would be irresponsible and unfair. Government needs to cooperate with the private sector to bring about mutual gains. I suggest we head back to the drafting room and take these recommendations from the report more seriously and view them in their entirety, not in a cursory manner.

Shelter is a basic necessity, and affordable housing is an issue that must be considered with seriousness and some urgency. Providing affordable housing, especially for young families, single-adult and single-income households, is an imperative. These people need to be able to pay their mortgage, afford their rent and be able to live with dignity at the same time.

We need a better scheme but this is just a half-better scheme and cannot be implemented in parts without placing the burden unfairly in one party's lap. This is my reason for not supporting the bill, though I do believe that it was founded on a just cause, and I thank Ms Tucker for bringing this issue to the fore. I would expect the government to look further into this important matter. It is important for the sustainability of Canberra and I would expect the government to act on a pending problem on which, by its own admission, we could do better.

MR HARGREAVES (10.53): It is a really vexed question about how we actually approach the issue of lower cost accommodation for people. I am a bit worried sometimes when I hear the term affordable housing. I know there are academic definitions of affordable housing but I just do not know whether or not the definitions are particularly shared by everybody.

Is it a relative term—affordability—in terms of its relationship to our annual median salary, for example, or disposable income or what? What does it actually mean, particularly as it applies to unit developments? Does it mean that there will be lower rents in that development? Does it mean that there will be a lower price to buy the things? Does it also imply perhaps an acceptance that some units within a development have a lower standard than others—a lower standard of fittings—and therefore, Mr Speaker, are we actually saying to people, "Because of your financial circumstance, you can live in something which is less acceptable to someone with a higher income"? Therein lies part of the problem that I have with saying that you have to have a certain percentage of the unit development being made available for so-called affordable housing.

It also occurs to me that Ms Tucker is quite right to bring the thing forward. I actually pay her that courtesy and point out that she has been struggling with a solution to this issue for many years, publicly and privately. Whilst I might disagree with her on this particular one, I actually applaud her attempts to try to find the solution. What we have here is a social problem and it needs a social solution. It concerned me a bit that what we are asking for here is a smaller segment of our society to carry the burden of this solution.

Mrs Dunne made the point that developers will actually cut corners, if you like, and will shove people out the back, as it were; they will create a hovel within the unit development, that sort of thing. I think she is right because, unless there is a shared commitment to the solution, then you are going to get these corners that are cut; you are going to get lower standards. At least we have this shared commitment within the community as a whole, between all the stakeholders in the community, saying, "Yes, this is a solution; we can all embrace it." That is fine, but if we just want to say to one segment, the risk-takers who are putting their money into a unit development, "Oh, it's your responsibility; we're fine; it's your responsibility to make sure there is a certain

percentage in your development," then we are asking that particular person to carry, I think, much more of the burden than would be appropriate.

I think Ms Dundas actually touched on it a bit too. She was saying that—if I can paraphrase it a bit, and I agree with her—it is actually the differential cost of the reduction of those couple of units in a unit development that will be carried by the people buying the rest of the units. So what we are saying is that, if the developer is not going to carry the lower costing, then those people who are going to be in the rest of the development will do that; the other 19 will specifically be carrying the subsidy for these people, not the community at large. It is also true, I think, that that will happen within certain suburbs but not on a planned basis. I do not think that is quite the approach that we should take.

I am also concerned about the stigmatisation of public housing tenants. Having been one myself in my youth, I know that if you live in a block of government housing there is a label attached. That is why I rather supported the spot buying initiative that Mrs Dunne was talking about. Predominantly, those public housing tenants are fantastic, and you have only got to see the tenant of the month awards to see just how fantastic they are. But occasionally you get tenants that are not so wonderful. There is a stigma that goes with that.

I do not think it is a really crash hot idea to have, let's say, a 20-unit development where 19 of the people have bought their place and a public housing tenant is in there at a subsidised cost. They are going to be saying to me, the other 19—and I have heard this said with respect to residential streets in my electorate—"Having that person in the street brings the value of my place down." So what happens is that the social opportunity for these people to just get on with their life and make a success of it actually is detrimentally affected. If it is well known in advance that that is going to be the case, then it will actually happen; it will come about.

I am a bit concerned that having an actual ratio of unit developments for this so-called affordable housing will not actually achieve the right social outcome. Certainly it will address somebody's housing issue. There is not a problem with that—the security of having a roof over one's head—but I do not know if it will address the total social issues facing people who are in a difficult situation with respect to their accommodation. I would rather see our supply in line with a more global solution where the community actually carries more responsibility for this through the government of the day leading the way and then having a shared commitment to doing this from industry—the building industry, the housing industry—and the community generally.

One of the other things that I am concerned about here—and the last one, I suppose; and Mrs Dunne is quite right—is that if you impose a regime on people then what you are going to get is a reluctance to comply. These people are smarter than most of us, and they will not comply and will end up making sure that their investment is protected. You can bet your life on it.

I am very much reluctant to support something that imposes a particular percentage on a unit development. I know that the unit development that I am involved with in Kippax has a good mixture of public housing tenants and private tenants. I have to say, the private tenants are not all high-income ones either; there are some low-income people in

there. They are all in there because they want to go in there; it is not because that is the spot you have to go to.

When I was on the housing list back in the 1970s—and I waited for three years—I was told, "You have three choices; they are all in Holt and they are all in the same street." As it turned out, the one I got was a delightful place, but I did not have any choice there. So when I moved in I stuck a sign out in front of my house saying "I am a poor person", and it did not do my own sense of worth a lot of good.

I would like to say thank you very much to Ms Tucker for actually putting a solution forward, even if we do not agree with it, and I would like to encourage all members to continue to go down that path.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, Minister for Arts and Heritage, and Acting Minister for Health) (11.03): Ms Tucker's bill presents a great idea, and I am sure she must be considerably encouraged by all the favourable comments she is getting here today, none of which go as far as to say this can work. An idea needs to be more than an idea. We considered this. Ms Tucker's proposal came out of the housing affordability task force report. You can bet your bottom dollar that, as part of that consideration, I, as minister, have explored every issue and every means to be able to do this. The idea is there and we have accepted the concept.

Mr Quinlan mentioned the 5 per cent affordable requirement in City West. Let's look and see how it works in practice. We do not have many examples on this, but go to Burnie Court. When we auctioned off a site there on the northern edge of where Burnie Court used to be, we put in a requirement for 5 per cent affordable housing. That was in the auction documents—5 per cent. I do not know whether that was a factor, but that did not attract the sort of bid that we expected. Burnie Court did not sell. It may have been a factor. I think the more likely reason is that it was the market conditions at the time—the market was very well supplied with unit developments—and that the developers at that time said, "We don't know that the market can sustain another development."

At that time the Metropolitan development just across City Hill was stalled, as was another one down Northbourne Avenue. In those cases it was considered the market was stalled. I hope that is the reason that Burnie Court did not sell and that the fact that we had written in 5 per cent was not an issue that the prospective bidders had in mind.

The point has been raised through all of this that there is a transferral of costs. I can live with that; that does not worry me particularly. But remember this, just to balance that thought: these are responses to the affordability crisis that is a factor here in the ACT as it is across Australia and in other places around the world. In attacking the affordability problem we should not take a measure that will increase the problem by increasing the price of houses. When we put 5 per cent on, we were prepared to do that in very careful measure. But to have a blanket 10 per cent across every development of more than 20 units is going to have one inevitable outcome, that is, the cost of units will rise. This would increase the cost of houses.

So you are introducing a negative aspect to it. That is how carefully this process has to be worked. That is why, with Burnie Court, we very carefully put in 5 per cent as a good

way of doing that so that we would not necessarily impose a higher cost on housing. That is why we did it that way. As we go through City West we need to do it in the same careful way. And I make that point.

Ms Tucker's proposal goes across every development of 20 or more units. It needs to be done in a different way; it needs to be done on a case-by-case basis. I think just a blanket description of 10 per cent is wrong. It will have a more detrimental impact as a result. Let's look at it case by case.

As well, I have examined places in Sydney where this has happened—and I do not claim to have enormous knowledge in this area; it relates in many circumstances, not all in my mind, to areas of very intensive development, with great pressures and very high property values. In those circumstances you can take a stronger line than you can in a place like Canberra where the intensity is much less.

To attack the problem, it needs to be done carefully. Ms Tucker, I am afraid your bill just is not careful enough; it just does not do the task in the way it is supposed to do. We are redoing the issue on the Burnie Court site; we are reforming the way we are doing things; and we will still have, as it goes through, certainly if I am minister, a 5 per cent affordability claim. But it will be done carefully. The way that we can work that in just will not be a bland statement; it will be a careful process. The concept of a target is fine, but the practicality of working it through has to be very carefully done.

If you will allow me a few minutes to boast, I think we have taken steps in this government—long neglected by former governments—to attend to the significant housing issues that we face. Attracting capital is always difficult, and I think we are working through that issue. Housing and Treasury are working through issues here. We were able to attract $33 million, which is a major boost to public housing, one that is long overdue. I will not be in the next parliament. I will be looking for that every year, I have to say. That is the order of what we need to do. But let's give credit that we have received that to date.

We have also injected $13 million into homelessness. That is a level of funding that has never been available. That is new funding for homelessness, additional funding. Like that $33 million, that is a level of new funding into those areas that has not been done before in the life of this Assembly.

We have also committed 500 affordable blocks of land to be released over the next five years, again, in a very careful way, to help people, while balancing the other factors involved. We have given stamp duty concessions for first home buyers; we have re-instituted the rental bonds scheme for low-income earners; and we have made the public housing system more accessible to people in need. I believe that we have been taking very positive measures in a difficult area where it is not easy to impact on the markets. We have taken sensible steps. Five per cent, with careful process, I think, is sensible; a blanket 10 per cent is not sensible.

Ms Tucker, you and I will not be able to debate these things in this place for much longer, but I would encourage thinking and good action in this area. The debate, I think, has been useful. I can assure you that the Labor government will continue to work assiduously to attend to the problems of the high cost of housing.

MS TUCKER (11.11), in reply: I thank members for their comments, although I think they are pretty disappointing. I will go through the comments, starting with the Treasurer. I do not want to misrepresent him, but one of the first points he made was that he thought this was bad legislation because it confused a number of objectives—decent planning and affordable housing. I do not see that as a contradiction or a confusion of objectives; I see those two things as absolutely integrated and consistent with each other.

The ACT's capacity to provide affordable housing depends upon a thriving economy and a high level of growth. That is the argument that often comes in any attempt to bring social and environmental considerations into the economy. Obviously the key point that I would have to stress again in this place is that there is no way that you can assert in this place that a thriving economy will actually produce social or environmental outcomes. The fact is that if we do not structure into that economic system some way of dealing with those social and environmental objectives they just do not happen. The myth of the trickle-down effect is seen to be a myth and recognised as such, whether it is local, state, national or international government, and that is why we have the concept of triple bottom-line reporting; that is why gross domestic product is now discounted as any really meaningful analysis of the wellbeing of a community.

The assumption of course, though, that Mr Quinlan and other people have made in this place—that this is going to have a seriously detrimental impact on our economy and that people are going to run away—is based on a really basic misunderstanding of what our legislation does. I am surprised that everyone in this place, including the Democrats and Mrs Cross, has said that this is a blunt object. That is basically the sense that was coming from what a lot of people said.

In fact, the reality of our legislation is that it is not a blunt object; it is actually a very flexible piece of legislation that allows a number of ways to meet this social responsibility of the private sector in partnership with government. The flexibility that exists within our legislation is in terms of the forms of the contribution that can be made, whether it can be in the form of public housing, community housing, a donation—as occurs in New South Wales—to affordable housing, affordable rent and, of course the capacity for government to actually work with the industry to provide issues such as some kind of reduction of betterment, change of use, land tax, whatever. What this is about is actually putting up some kind of practical measure to meet the objectives that I have been hearing about in this place since 1995 that no government has done anything practical to achieve. I think it is really a gross misrepresentation of our legislation that has been made by every speaker so far in this debate.

It is not, as Mr Quinlan said, a naive confusion of basic objectives; it is an understanding of the need to actually integrate social, environmental and economic objectives and to do that in a way that actually takes into account the reality for the development industry, which is exactly what we have done in this legislation. We have acknowledged the need for a conversation; we have acknowledged the potential and the need for there to be an acknowledgement of the situation of developers through the various mechanisms that I just outlined.

I was just looking back at the debate that we had on the land authority. Some of the things that were said, I think, are also ironic. I note that, in my speech on the Land

Development Agency, I said that both the Kingston Foreshore Development Authority and the Gungahlin Development Authority are required to exercise their functions consistent with the social and economic needs of the territory; in accordance with prudent commercial principles; in consultation with residents of the ACT; in a socially responsible way, having regard to the community; and in compliance with the principles of ecologically sustainable development, which is defined.

I was pleased to see that Minister Corbell's budget press release regarding land development reform said that the new Land Development Agency would exercise its functions on the same principles. The idea that I understood the government had with the Land Development Agency was exactly this issue; it was about getting more involved in what we are doing in the built environment in the ACT in terms of the environment and social objectives. And we have an opportunity to have a partnership to actually achieve those objectives. But of course, what we have seen instead is, on the whole, very mediocre development or totally handing back to the private sector and just reneging on any of those commitments that were made when we had the debate in the Assembly in June 2003.

Canberra West has been spoken about by a number of speakers, in that there is a 5 per cent commitment. There is a really important point that always has to come up in the debate about affordable housing, which is: are we talking about, for example, initiatives such as the grants to first home buyers? Of course, that is a useful thing, although it has caused speculation and an increase in house prices.

I was interested in Mr Wood's statement that it was a problem with my legislation. In fact, I think it is a lot less of a problem than the grants to first home owners, which has certainly been shown to be a factor in the housing boom. But the other thing, of course, that is a problem with those kinds of initiatives is that they are not providing permanent affordable housing. In a way, it is a windfall gain for the people who benefit from that concession or subsidy for purchasing their first home. So the question of affordability and affordable housing has to be framed in terms of permanent affordability or not. That is another layer of the debate that has been totally missed in this conversation today as well.

The Treasurer also said that the objectives in the Canberra spatial plan are there and it is an important area, and they are working on it. Mr Wood said that too. Well, I am sorry, I do not think you have worked on it. You have produced documents but we have not seen any results. I think we have seen, over the years, an increase of 10 more public houses in the stock or whatever it is, and we are seeing an increasing crisis in housing affordability in the ACT and very little improvement to the overall position for people on low incomes in the ACT.

Mrs Dunne once again referred to laudable sentiments and so on. She made the point that it has to be a case-by-case basis, once again referring to the blunt instrument argument. That is what other members have said. As I said, our legislation absolutely allows for a case-by-case basis in terms of how this social obligation is delivered. I have already pointed that out.

Mrs Dunne also said she was concerned that you would end up with A-class and B-class units. That already happens to a degree. If she has talked to anyone in public housing in

private units, it is already an issue, and I do not know how you address that. I know one tenant at the moment whose unit is over the garbage area of a block of units, and that is the public housing unit in that particular development. That is already a problem.

What is the answer? This is an interesting thing that has come up in this debate for me. People are basically challenging the notion that we want to actually spread social housing around the suburbs. They are saying, "People will not feel comfortable; they'll be in a posh place and they'll feel stigmatised." Well, I will take members back to debates we had in this place years ago when the Liberal government started to tell us that social public housing was not social public housing—this was of course from the federal government as well—it is targeted welfare housing.

The obvious response to that from all social commentators is: "Oops, you are creating targeted welfare housing; there is going to be a problem with stigma." Let's go right back to the beginning of this debate about the role of public housing and social housing in our community, and it should not be targeted welfare housing. Of course we should be able to have an environment in which we understand that housing, as a basic human right, is something that really has to be given a higher status in any government's social policy.

But we have got a situation right now where, yes, we have got both Labor and Liberal saying, "Targeted welfare housing. Not possible to do it any other way." I could argue for the next half an hour about how you obviously can set up systems with full paying rent, subsidising those who are on low rent, et cetera. We had all that debate through the inquiry of the public housing committee, but I will not go over that on the record.

But just getting back to that position that has been put by a number of people here that the public housing people will not like to be in a posh place: I talk to a lot of public housing tenants. There are various views about that. It is true to say that some people do not like the idea. I would say debates like this in this place do not help with the stigma of public housing. "Anyway, it is going to bring down the tone of the neighbourhood," and so on. But there are different views about that.

Some people in public housing definitely do not want to be in a situation where there are a lot of other public housing tenants, because there can be social issues of putting together a lot of people who are on a very low income and struggling with social isolation, which they often are, which is often because of issues such as mental health problems, disability, substance abuse, unemployment, et cetera. Basically, the social system has failed a lot of these people in different ways, whether it is through support for their disabilities or disadvantage or social isolation. People coming here as immigrants, refugees and so on, can also be, obviously, extremely disadvantaged.

There are now different theories as well in academia about whether or not you put people all together, but I think the general consensus is that you have to have choice; you have to have options; and if you do have a lot of people brought together in one environment, you have to have very strong social support of all kinds, including within the buildings, community centres and so on, development workers and broader social services to support them. In regard to some of the things that I have heard said today, I think this has been a very superficial and quite scary debate.

The Democrats say that there is an impact on the housing market and a distortion. I have already pointed out that that does not have to happen at all—we have got a very flexible model here—and that many of the developers I have spoken to are quite interested in it if there is that potential for the conversation to occur and flexibility about how it happens and, of course, if there are discussions about betterment and so on.

You actually need to work to achieve the objective with the private sector together. Many people in the private sector are not against this because they have an interest in taking social responsibility. They are not all totally profit driven to the degree that people are claiming here today.

The notion was that somehow—this was a Democrat argument as well—we will have greenfields development. It has also come up with other speakers. I find that a really strange argument. We actually have, in the territory, a strong planning system now, which I supported, which has increased density around facilities, public transport, something called core areas and a plan.

Mr Hargreaves, I think it was, said, "Oh, no, no, this will not work because it will just happen anywhere where there are developments; they only get high-density developments in certain areas." The notion that you are going to have people doing 19 developments out in the suburbs and the notion that somehow 19 will solve the problem for developers will not happen. How many developments? Look at these unit developments that have occurred more recently. How many of them are around the number 20? Okay, if you are actually going to tell me they are going to go from 70 or 75 units down to 19 so they do not do this, I do not think that is a very practical response or at all likely.

Mrs Cross—I think I have answered her, basically. She did not raise many points but the ones she raised I think I have already covered, except that she said at the end, "But I expect the government to do more because this is a good idea." Mrs Cross, do not expect the government to do more. I have been expecting the government to do more since 1997 when I first started seriously looking at this, when Mr Wood, in opposition, supported a target of 10 per cent in the Kingston Foreshore Development Authority.

The affordable housing task force—I have not invented this idea; as Mr Wood acknowledged, and I think Mrs Cross referred to—did recommend that there be a target, albeit less. Of course I would have been happy to accept an amendment to reduce this 10 per cent to 5 per cent in this debate if that was the issue for people, but no-one was interested in doing that, obviously.

In Sydney, inclusionary zoning requirements are now up to 4 per cent. This is a quote from the affordable housing task force:

> … the market appears to be able to absorb that level without major concerns. For the ACT, a starting figure of 3 per cent seems reasonable.

I would be happy to accept that amendment if someone wanted to put it—

> In larger developments (10 units or more) this would probably facilitate the provision of one dwelling at a discounted price that an affordable housing provider could cover by borrowing against projected rental income.

One of the flexibilities in my bill of course is low rent. You have permanent affordable housing. The owner, the landlord, still has the capacity to get regular rent; they just will not get quite as much. *(Extension of time granted.)* Of course you can have an affordable housing rent set for units in a particular development. So the capacity for that to be covered is obviously there and that is a flexibility that exists.

To continue quoting from the affordable housing task force:

> To meet expected needs for affordable housing in the medium-longer term, the inclusionary zoning requirement would probably need to increase progressively to between 5-10%.
>
> If accompanied by a more broadly-based levy, inclusionary zoning could be limited to larger developments of 10 units or more, where it is likely that affordable dwellings could be provided within a development. This would have the desirable effect of scattering affordable accommodation across the city, and also facilitate the application of offsetting bonuses in a way that is directly linked to provision of affordable dwellings.
>
> Payment of cash contribution in lieu needs to be available as an option.

Et cetera, et cetera. We have not invented this; this was the result of this idea and of a lot of work that was done.

Mr Hargreaves made the point—I think I have already responded to this—about the social problems he thought that were there: a small sector of society is carrying the burden. I have already dealt with how that can be accommodated and compensated for. The stigma, I have already dealt with that. He wants a more global solution with government having a shared responsibility. That is exactly what this legislation allows to occur. He said that if you impose a regime people will not want to comply. Well, we could just get rid of all regulation in that case.

Mr Wood basically accepted the concept. I have made most of the points, I think, to respond to his points.

I think I have responded to all the arguments. In conclusion, I think this is a really disappointing response. I do not think people have really given it serious consideration; they have not actually understood what our legislation is doing; they could have amended this to reduce the target. Basically I hope people in the next Assembly are prepared to take a little bit more initiative and show more courage on this critical social issue.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 1	Noes 12	
Ms Tucker	Mr Berry	Mr Hargreaves
	Mr Cornwell	Ms MacDonald
	Mrs Cross	Mr Pratt
	Ms Dundas	Mr Quinlan
	Mrs Dunne	Mr Stefaniak
	Ms Gallagher	Mr Wood

Question so resolved in the negative.

Assembly sitting hours

MS MacDONALD (11.33): I move:

That this Assembly:

(1) recognises the impact late night sittings of the ACT Legislative Assembly have on Members and staff and their families;

(2) notes that the effectiveness of work and the quality of debate diminish during late night sittings;

(3) agrees that a time limit and alternative sitting patterns need to be considered to ensure quality debate and effectiveness; and

(4) requests that the Standing Committee on Administration and Procedure inquire into this issue.

This is a simple motion but if it is agreed to it would make a big difference in this place. Not only would we as members of parliament benefit; our families, our staff and their families would also share in the benefits of implementing set sitting times. I believe that the ACT community would also benefit through a reduction in sleep deprivation and work-related stress for its elected representatives, their advisers and staff. It has become common in this place for members and their staff to work increasingly longer hours.

We can see proof of this in the longer sitting days of this Assembly. Members and staff generally begin their working day at 9 am; though there are often exceptions, for example, I know Mr Wood starts earlier than that. For the purpose of this motion I will calculate the working hours based on that time. If our staff work 7.21 hours each day, anything over that is considered to be overtime. If staff commence work at 9 am and they work for 7.21 hours, they should finish work at 4.51 pm with half an hour taken for lunch.

As members of the ACT Legislative Assembly we cannot expect to work set hours as do other professions, but we should not be expected to work 16-hour days or more on a regular basis. I will not select the time that I believe the Assembly should adjourn on sitting days; I will leave that up to the Standing Committee on Administration and Procedure. In order to make the Assembly more family friendly and work conducive

I believe that members should not have to work for more than 10 hours. Mr Speaker, I am being distracted by all the noise in the chamber.

MR SPEAKER: Order! There are too many audible conversations. Ms MacDonald has the call.

MS MacDONALD: If members were allowed an hour for lunch it would mean that the Assembly would adjourn at about 8 pm. Based on that figure, since the recommencement of the sitting of the Assembly this year, it has sat past 8 pm on 16 occasions and past 10 pm on 15 occasions. From February until today that equates to the Assembly sitting past 10 pm at night on more than half the sitting days. Last night was no exception, with an adjournment time of 10.15 pm. Late sittings in the ACT Assembly are not new but they have become more common, especially in the past 12 months. In 2001—from 13 February to 13 December—the Assembly sat 11 times past 8 pm and eight times past 10 pm, with the latest being 12.22 am on 15 June.

In 2002—from 19 February to 12 December—the Assembly sat seven times past 8 pm and five times past 10 pm, with the latest time being 11.41 pm on 21 August and 11 December. In 2003, however, the Assembly sat 11 times past 8 pm and nine times past 10 pm, the latest being 1.11 am on 24 June. As I said earlier, the Assembly had already sat 16 times past 8 pm, including 15 times past 10 pm this year—from 10 February until 17 August—with the latest time being 1.42 am on 14 May.

These hours are completely unrealistic and untenable. Essentially, they equate to members and their staff working up to 16-hour days and more, just in this place. Arriving home at 1.30 am and then having to come back to work by 9.00 the same morning is not a sustainable option for anyone. But that is increasingly becoming the norm for members and staff. The remaining five sitting days of the Assembly are likely to follow that pattern. Partners and children are well and truly asleep by that time. What little quality time is left in the morning is affected by sleep deprivation and stress.

I think it would be safe to say that some staff and members in this place see their children only for a few hours over a three-day sitting period. Because they are rushed and stressed that is not quality time at all. It has been proved that these types of working hours and conditions place an enormous strain on relationships and family networks. Extensive studies have been conducted on the effects on families of these sorts of long working hours. Dr Barbara Pocock, Associate Professor in the Department of Social Inquiry, who has conducted several inquiries into this issue, has revealed that overworked parents and partners often feel guilty and stressed about not spending quality time with family members.

A report entitled, *The effect of long hours on family and community life*, which was released in August 2001 by Dr Pocock, identified a close relationship between long hours and feeling overworked. The report found that feeling overworked was associated with significant personal and work effects. The more overworked people feel, the more work-life conflicts they experience. The less successful they feel in relationships with their spouses or partners, children and friends, the more likely they are to neglect themselves and the more likely they are to lose sleep because of their work. Those feeling overworked also experience worse health effects and are less able to cope with everyday life events.

Dr Pocock suggested that lack of household time for women with children in paid work created a constant feeling of juggling, not balancing, and sick children caused high stress and represented a repetitive pressure point in working women's lives. Research also found that parenting was associated with a greater time crunch for both husbands and wives ranging from a total of 20 to 40 hours more work per week than their child-free counterparts. Child free wives and husbands work about 8½ hours a day in their various labours, whereas mothers work 14-hour days and fathers work 11-hour days.

Research conducted by Jacobs and Gerson in 1998 found that jobs that require very long hours are not family friendly, which is no surprise. Long hours restrict the time that parents can spend with their children, which may have an impact on the emotional and intellectual development of a child. Children revealed that while they accepted parents' hours of work, stressed and busy parents were impaired in their capacity to offer children what they wanted most—unstressed, unrushed parents with time on their hands and the energy to give them focused attention.

Long hours place particular stress on women with families who work double shifts in paid and domestic labour. Extended hours at work undermined relationships with partners through loss of time spent together and loss of intimacy. Long hours at paid work may also result in role conflict and work overload and exacerbate awareness of inequities in the division of housework. The erosion of leisure time as a result of long hours in paid work can also lead to family tension as the hours spent in restorative activities decrease. The loss of time for restorative activities also has implications for and impacts on a person's performance in paid work.

We all know the old saying, "All work and no play makes Jack a dull boy." Research has also found that long work hours can lead to reduced concentration, decreased understanding of complex ideas and a reduction in work effectiveness and quality, which is not what we want to see in any of our workplaces. Extended hours in paid work also affect the social life and citizenship of the individuals who work them. Long hours mean that employees cannot devote time to voluntary activities that help to sustain sporting clubs, schools, care of the extended family and social institutions.

Dr Pocock's research revealed that components of the fabric of the community—such as the extended family, community resources and the capacity for voluntary work—were being undermined by the growing paid work commitment. While there is plenty of scope for more study on the effects of long and unreasonable hours on the Australian community, the existing body of evidence provides a convincing argument that long work hours damage society, families, children and individuals. Changes in the composition of the Australian labour force, with a growing role for women and those with dependants, mean that these issues will become more, not less, significant in coming years.

In light of that, they demand policy responses that directly address the effects of unreasonable hours on family and community life. What better place to start than in the ACT Assembly? We do not want our families or the families of our staff to suffer from the effects of long work hours, nor do we want our community to suffer from rushed decisions or hastily decided policy. In that light, it is imperative that members agree to this motion. I believe we are all guilty at some time or another of waffling, filibustering

and speaking purely for the sake of speaking in order to make a point. What we want to achieve is quality, not quantity, of speech. It does not necessarily mean that we would get better quality speeches if debates went on for a long time.

Mr Cornwell: Hear, hear! I have the answer myself.

MS MacDONALD: If the Assembly had set adjournment times I believe that debate would be more concise. I am not surprised that Mr Cornwell interjected as he has long advocated restricting our sitting hours. It was his idea to restrict the amount of time allocated to ministers answering questions in question time. That move, which is a start, should be applauded. If ministers cannot say in five minutes what they wants to say they probably should not say it. The more time that a member has available to debate an issue, the more likely it is that he or she will use that time.

Staff in my office who researched this issue did not find any jurisdiction in Australia with set adjournment times, though there has been some discussion about the fact that Queensland might have some set adjournment times. However, the New Zealand parliament does have set adjournment times. On Tuesdays and Wednesdays the parliament sits from 2 pm to 6 pm and then from 7.30 pm to 10 pm, and on Thursdays it sits from 2 pm to 10 pm. I am not proposing that the ACT Assembly adopt that exact model, but I believe the set adjournment times in New Zealand have some merit.

The Standing Committee on Administration and Procedure could investigate the possibility of the ACT Legislative Assembly commencing earlier at, say, 9.30 am, thus enabling it to rise earlier. Lunch breaks could be restricted to an hour or to 1½ hours. Adjournment times could be set and extensions could be granted only under extenuating circumstances. In that way late sittings would become the exception rather than the norm. After leading the world on working time reduction in the nineteenth century, Australia's pattern of hours now most closely resembles that of the United States of America. It is now amongst those countries that have the longest average working hours in the industrialised world.

Many people who want to work fewer hours find that their hours are not only longer; they are also more pressured and more demanding. I think all members would agree that their families, their staff and their families could relate to the findings that longer working hours place more pressure and stress on family members and the community. If we decrease and limit the hours the Assembly sits, I believe we can reduce those problems and make the ACT Legislative Assembly a more family friendly and people friendly place. That, in turn, could open the door for many people who would like to begin a career in politics, or who would like to work in the Legislative Assembly as a staff member but who in the past were restricted by family commitments.

We would also have a happier and more conducive workplace and more succinct and valuable debates. I have a single mother working for me in my office. Fortunately, she has an extended family which to an extent is supportive of her. At times we have pressures in the office when Lisa's little girl is sick, as we have to ensure that she is cared for. That places a great deal of pressure on Lisa. People sometimes say to me, "You do not have a family at the moment. It is hard enough dealing with these hours when you have no children, but what will you do when you have children?" My response

is always to say, "I do not know what I will do at that point." I do not know whether members of parliament get maternity leave. I commend my motion to the Assembly.

MRS DUNNE (11.49): I commend Ms MacDonald for her concern for the family. I will not say that it is belated concern and I will not be churlish and draw attention to the voting record of the member on issues affecting families in the ACT. However, I will chide Ms MacDonald for not taking this opportunity to make a submission to the Standing Committee on Administration and Procedure, which has had available for some time its review of standing orders. As a result of that the Liberal opposition will not be supporting this motion.

Such a mechanism is already before us. The Standing Committee on Administration and Procedure conducts an ongoing review into standing orders. It is incumbent on all members who have views about changing the standing orders to make a submission to that committee. I racked my brain wondering whether I had seen a submission from Ms MacDonald. On checking I realised that Ms MacDonald had not made a submission to the Standing Committee on Administration and Procedure relating to its review of standing orders.

That is a typical Labor response to this issue. It takes Labor members three years to discover that there is a problem and then they institute another review, regardless of the fact that there is a current review into standing orders. The standing orders are there to set the times that we sit. There could be some discussion about the fact that we should sit a little earlier than 10.30 am each day, but Ms MacDonald has not said a word about that to the Standing Committee on Administration and Procedure. With six sitting days still remaining and two private members' days before the end of this Assembly, is this the most pressing matter that Labor backbenchers can bring before the Assembly?

Surely there is something more pressing than this—for example, the environment, fire prevention, water supply, child abuse, school funding, sexual slavery, police on the beat or the state of our hospitals? The answer to that question is that none of those things is more pressing than making life a little more comfortable for members in this place. If we are talking about making this place more family friendly I suppose that, as a mother of five, I am probably the person who would benefit the most. I do not know whether any member or staff members have as many children at home as I do. However, there is more to it than that. I would stand to benefit quite nicely if we limited our sitting hours.

When we sign up for the job and we sign our nomination form for the Liberal Party or the Labor Party and pay $250 to the Electoral Commissioner to be allowed to run for election in this place, we know that it is not a nine-to-five job. This motion is just confirmation of the fact that this government is a nine-to-five government. Ms MacDonald said, "We all start work at 9 o'clock." Let me just run through what I did this morning. I started at 6 o'clock, did my first media interview at 6.45 am, was at the baker by 7.10 am, had the school lunches ready by 7.30 am, and was in my office at 8 am having got breakfast for my children. This morning I did not have very much time to talk to my children. However, I did last night. We work around these issues because we sign up to serve the community, not to look after ourselves. When we sign up we do so with the agreement of our families.

Let us look at some of the issues that Ms MacDonald raised. Ms MacDonald said earlier that this year we have already sat late on many occasions. Fourteen of the 27 days that we have sat this year have been late sittings, and some of them have been very late sittings. However, if we refer to the figures for last year we see that 11 of the 43 nights that we sat were late sittings. In the first year of this Assembly seven of the 39 nights that we sat were late sittings.

On many occasions we did not sit until 6 pm or 6.30 pm. On most nights this year we have gone home before 6 o'clock because the government has not provided us with enough business. So this issue is not really about late sittings; it is about the government, the manager of government business and ministers getting their act together and scheduling business in an orderly fashion so that we do not have to sit inordinately long times. The government should not put, as it did a couple of sittings ago, three enormous bills on the program on one day and insist on getting through them.

There are real concerns about this motion. What we are really looking at is a government-imposed gag. Ms MacDonald said earlier that people spoke too long and that they spoke just for the sake of speaking. We have a right to speak in this place. That is our job. When this Assembly sits our job is to discuss the matters of the day and the bills that are placed before us. We have a right to speak in this place. Members of this government, who would like to get home, put up their feet and watch the footy should not gag us, which is what this motion boils down to. When we are not here doing our job we are out in the community going to community functions.

Last night I did not attend a meeting at Belconnen Community Council as I was doing my first and most important job as a member of parliament. If I had not been at the Assembly I would have been at that council meeting. That is true of all sorts of things. Ms MacDonald said that we should have more contact with our children. Today I am not at Miles Franklin Primary School listening to my daughter singing in the choir, as it is a sitting day. Last week I would have liked to be at Miles Franklin Primary School listening to my daughter singing in the choir but I discovered that parents were not invited to that government event.

Members and staff have a well-run office and they have more flexibility than do most people in general employment. Apart from the 40-odd days a year when we sit, we do have flexibility. We have the flexibility to say, "Do that at home", or "Do it tomorrow", or that sort of thing. We can encourage our staff to work at home so that the phones do not distract them. We can organise our offices so that we have flexibility and so that this place is family friendly. We are being told by some members that having to work 40-odd days a year is not as family-friendly as they would like, but that is what we sign up to do.

We must address this issue as it relates to secretariat staff, as they do not sign up to work long hours, which is what we do. Secretariat staff do not sign up to the political lifestyle in the same way that our staff or we do. Our staff come here in the knowledge that they have to work long hours, despite the fact that this government provides them with measly overtime. Secretariat staff are in a different and difficult position and we should be mindful of those issues. When we are sitting late we must be mindful of the fact that most staff are on overtime and that there are requirements under the EBA that we must

adhere to. For instance, when we sat from 8.00 pm on a Friday until 1.45 on Saturday morning, breaks were not enforced and they should have been.

There are many ways of addressing these issues to ensure that everyone is treated fairly. But this motion is an appalling waste of time from members of the government and backbenchers who are so irrelevant that, in the last two sitting weeks, they forfeit one of their items of business to deal with a motion that they say will make our lives easier. We are not here to make our lives easier; we are here to serve the people of the ACT. We should serve the people of the ACT by doing our job, which is not a nine-to-five job.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism, Minister for Sport, Racing and Gaming, and Acting Minister for Planning) (11.59): I would like to remind members of Parkinson's law, which effectively says that the amount of work we do in this place will expand to fill the available space. That is what has happened in here. I agree with much of what Mrs Dunne has said, with the qualification that I did not really sign up to listen to repetitive speeches—speeches with an information content and relevance index of zero. I have been in only two assemblies but, more in this Assembly than the last, we have witnessed whole periods of time taken up with particularly members of the opposition rising to give speeches that have already been given.

Mrs Dunne, you are right. Had we not been trapped in this place listening to that boring repetition, we might have been out in the community, and we might have been doing something positive. There seems to be, in the minds of some, a belief that the volume of contribution to *Hansard* will somehow be a measure of the amount of work they have done in this place. I do not accept that that is the case. As I have said, we have seen in this place an increase in the repetition. That is either some form of a "We'll wear 'em down tactic" or a sign of ill-disciplined, untidy thinking on the part of the opposition. Discipline in the time allowed might focus the minds on getting the points across and having a full and complete debate without necessarily having to repeat and repeat, as some form of demonstration that, "We are working harder than you are", or, "We are more passionate about this particular exercise than you are."

Similarly, we have seen an increase in the instance of tactical points of order in this place, turning questions without notice into debate, disrupting an answer that is not going the way the questioner would have liked. More of our time has been taken up in other than productive work. Mrs Dunne, I would be happy to stay here 24 hours around the clock if we are being productive!

The point behind this motion is the fact that there is so much unproductive time in this place; and I have to say that the opposition has been the major contributor to that unproductive time. From time to time we see extensions for people to deliver their speeches. That again is just a case of ill-discipline. Go to Capital Hill, sit in there for a while and ask for an extension!

What we are saying here is that if, as in other parliaments, there is a framework, a discipline is placed on members, and that will in turn focus the work of the place so that we get the essence and do what we need to do and not waste each other's time. I do not know about other members, but I have to confess that there have been times when

I have found it difficult to reconcile to myself why I am in this place while some other member is on his or her feet delivering a speech that adds nothing to a debate.

Mrs Dunne: As you say!

MR QUINLAN: It is repetitious! It is a speech that contains points that are—

Mrs Dunne: I wish to raise a point of order. Mr Quinlan has used the word "repetitious" five times in this speech. I think he is in breach of standing order 62.

MR SPEAKER: Mrs Dunne, if I were to apply that rule in this place, we would be going home very early on most days!

Mrs Dunne: We would be.

MR QUINLAN: Thank you, Mr Speaker. It was a point well made, Mrs Dunne, in your own way. I think we ought to look at the structure we allow, so that discipline is imposed on members. Everybody has a right to speak, but we also have a right not to remain captive to a conga line of irrelevance or repetition from time to time.

While I am on my feet I may as well have another crack at extending this philosophy to questions on notice. We have broken records with the questions on notice, the bulk of which have come to nothing. That again is an indicator and a confirmation that there is no discipline or focus in thinking. There is not, it seems to me, the ability to filter and discern relevance from irrelevance.

I will tell you how far these questions on notice go. I have a question on notice at the moment from the Leader of the Opposition that asks if I have ABS figures that show so and so—and if I can provide them. Just to confirm that the Leader of the Opposition could have obtained them himself if he were not so lazy, one of my staff accessed the attendants' computer to look up the figures in question.

During the course of this Assembly we have had a certain untidiness coming through. I do not know whether it was all part of a cunning plan to wear the government down, or to demonstrate to the world at large that, "We are really doing our job: look at us! We are doing our job—we are still here after midnight!" That convinces me of very little, other than that there are a number of people in this place who can bang on unnecessarily.

MS DUNDAS (12.07): I thank the Treasurer for his brief nine-minute speech on the topic of how long it takes us to get through the business of the day. I support the sentiment of the motion put forward by Ms MacDonald this morning, as I agree that sitting until the small hours of the morning does not necessarily improve the quality of decision making by Assembly members and, in fact, has the ability to hinder the decision-making ability.

I also agree that this Assembly will never be a family-friendly workplace while members cannot confidently predict when they will be able to finish for the day and leave to pick up their children, resume their caring duties, or spend time keeping their family together. Mrs Dunne put forward the point that this is the job that we sign up for; that we know we are signing up for long hours. I will not deny that but, if we stand here and say it is okay

to work long hours, then we set a very bad precedent; we are not working to build into all of our work practices a family-friendly nature, not just here in the Assembly but across ACT government departments and across all businesses in the ACT.

It is not okay for anybody to be working ridiculously long hours. It impedes decision making and it impedes the ability to deal with crisis situations that might arise. It is something we need to deal with in respect of health care and nurses who work extended shifts; it is something we have to deal with in a whole lot of professions; and I have no problem with the Assembly working to set a positive example.

I support changes to our practices that would make things more predictable for members with caring responsibilities, for members with health issues that are compromised by very late nights, and for members who are looking to see their families and spend time with members of their community. I would be comfortable with perhaps scheduling extra sitting days so that we take the overflow from long days. We could also look at sitting earlier in the day or taking a shorter lunch break.

I have some questions about the wording of the motion Ms MacDonald has put forward. I think there are problems in supporting a motion that implies that a fixed length of time should be set for debate on any given bill. I believe that everyone here has the right to put their position on the public record. Even if other members of this place think that a certain position does not add anything to the debate, we are elected by the community and we should have the opportunity to show the community what we think on all the different pieces of legislation or motions put forward for debate.

I think there are other reasons why debate becomes drawn out—perhaps due to repeated extensions of time because members are unable to express their feelings on an issue in a concise way. It has almost become accepted practice to grant extensions of time whenever requested. It does not seem that difficult to me. If we are working to a set time, why are we always extending it? There are situations where it is very important that the full reasons for a decision by a member go on to the public record. We have debated bills that have aroused great passion in the community. Most members have felt a duty to explain why they have made a decision and how they have reached that decision.

However, in most cases the constituents are not necessarily here in the public gallery to listen to what is being said directly. They find out what was said by researching *Hansard.* There is the option to seek leave to incorporate statements into *Hansard*. Maybe we need to look at using this option more often, when speeches are going beyond the set timeframe. If there are more points to be made, maybe they can be incorporated into *Hansard* so that more time is available for all members to contribute to the debate.

I think also that members should make a commitment to the legislative role we have as members of the Assembly. Members should put in the necessary time and effort and dedicate it to the hours set aside for making legislation. That does not amount to a lot of hours out of the entire time we serve as members of the Assembly. If we had that commitment, then maybe we could move through business a lot more quickly. We have not seen the Chief Minister this morning. That means that things due for debate in relation to environment and corrections will be delayed until later in the day because something more important is going on. I think that is quite a shame. We have

a responsibility to debate legislation, and I think all members of this Assembly should be aware of that commitment.

There are things we need to explore in making the Assembly a more family-friendly place, but I would like to point out that I do not think a new inquiry into late sittings is needed. As has been pointed out today, and as I am sure Ms MacDonald is already aware, there is currently an inquiry by the Standing Committee on Administration and Procedure into our standing orders. I believe the standing orders are the main tool for regulating debate in the Assembly. They talk about the time at which we commence and when our adjournment should be set down. I think that review is the appropriate place to tackle the issue of over-long sittings.

Whichever way this debate goes, I am sure members of the committee are aware of Ms MacDonald's views. Perhaps a submission to the committee would not go astray, to make clear what Ms MacDonald would like to achieve. We can then look at how we can set the example of predictable working timeframes for members of the Assembly and make the Assembly a more family-friendly workplace.

MR CORNWELL (12.13): Appropriately, I will be brief. This debate is interesting insofar as it is a bit like Parkinson: we do not have much on the paper today, so work is going to expand to meet the time available, I fear. This is a matter that quite properly should be looked at by the administration and procedure committee, not one that is debated five days out from this Assembly's rising for an election. There are many issues involved in debates in this chamber. The reading of speeches is an interesting one; there is the question of extensions of time; and organisation of the program so we do not end up with two or three very large bills for debate all on the one day. These are small issues, but they should be addressed.

I have been drawn into this debate by an exchange with Ms MacDonald. I substantially agree with a great deal that she has said. I would remind members, however, that this government would not even implement its own five-minute restrictions on answers by ministers; I, in fact, had to do it myself. So it comes with some irony that Ms MacDonald has put this notice on the paper when her government did not implement its own policy at the last election.

The point I am making is that this is a matter that should be looked at by the administration and procedure committee; I do not believe we should be addressing it at this point. I will therefore be voting against the motion. I hope the administration and procedure committee will have very serious concern for and interest in the submissions that have been put forward to the inquiry. I have put forward two submissions on ways that I believe this chamber's performance could be improved and time saved. I understand that only three members have made submissions but I commend those submissions to the committee. I hope the committee will implement them for the Sixth Assembly.

MS TUCKER (12.16): I have listened to the debate. I understand people are concerned that Ms MacDonald could have raised this before the administration and procedure committee, because they are looking at standing orders. But I think that she perhaps overlooked that process, or it did not come up as an issue for her before; so I do not think we need to be so concerned about that.

Ms MacDonald has raised an interesting debate. I do not think it is inappropriate in any way to raise it here just before an election. It is fundamental to how we operate as an Assembly, and that is fundamental to who will come into the place. We want to see good people coming into politics. The nature of the work of politics is obviously a big factor in how people make their decisions as to whether to go into politics or not.

Mrs Dunne said that you sign up for it even if it is a shit job, basically. You sign up for it and you do it. If you have no family life, tough; you do not get to speak to your kids at dinner or whatever. That is what you sign up to. I think that is a very negative response to the potential for improving the working conditions of this place for everyone who is in here. It has been the subject of a lot of debate internationally and in the Commonwealth Parliamentary Association, particularly with regard to gender implications of practices in parliaments. As we know, the Westminster system was developed around a male environment. There were no women involved at the time. It is very adversarial; it is a male domain; and it remains so, in many ways, in countries of the Commonwealth.

That is why we have the Commonwealth women parliamentarians association. I have been very honoured to have a strong involvement with them in the time I have been involved with the CPA. When I was the Australian and regional representative, I was very interested in the work of the Commonwealth Parliamentary Association's women's group. I could see how it came out of a real need of women in the Commonwealth. It is also certainly not correct to say that it is not an issue for women in this country.

When I was considering entering politics, that was a big concern for me—and it needed to be a big concern. My family life did suffer. My husband gave up his full-time work. I was lucky to have an arrangement like that. I know women who would love to be here—they would be fantastic—but, because of the working conditions, they will not enter this work.

In referring to the parliamentary sitting hours Mrs Dunne said, "Well, you go out and do community events, et cetera." It is true that you have to make those sorts of decisions, but sitting hours and the environment in parliament are big issues for people. It is not just the sitting hours, it is also the nature of the debate. I would, in no way, say that adversarial debate is a gender-related thing: I know that women can be as aggressive and adversarial as men. It is as much about getting gentle men and more women into politics. But that is a slightly different issue. As I do not want to be called up for relevance, I will get back to the sitting hours. In one of the background cases in the paper titled *Gender-sensitizing Parliaments in the Commonwealth*, the following points were made:

> Much international and Commonwealth attention has been focused on increasing women's representation in parliament. Commonwealth Heads of Government (Durban, 1999) and Women's Affairs Ministers (Port of Spain, 1996; and Delhi, 2000) set a target of no less than 30 per cent of women in decision-making by the year 2005. Countries already close to achieving the target were encouraged to strive for parity.
>
> The question of why we should strive for parity in politics has been the subject of major debate internationally, key aspects of which include the normative argument that there is no true democracy without equal representation of women and men; the pragmatic argument that women introduce policy changes that are grounded in

> a greater knowledge of women's realities and experiences; and the difference argument that women bring particular skills and perspectives to politics including a more constructive and less adversarial style
>
> In an IPU survey of 187 women parliamentarians from 65 countries (Marilyn Waring et al, *Politics: Women's Insight*, Inter-Parliamentary Union, 2000)—

Which is this document.

> —86 per cent indicated that their participation in politics had brought about positive changes in form, political behaviour, traditional attitudes, substance, processes and outcomes.

There was a working party set up in the Commonwealth Parliamentary Association looking at the question of gender-sensitising Commonwealth parliaments. It is a very good document. I recommend it to anyone who is even a little bit interested in questions of gender and democracy, but it relates particularly to this debate today. I will read out one section of that document on gender-sensitising parliaments. It says:

> During its discussions on cultural barriers, the Study Group found that, generally, the timing of parliamentary sessions does not take into consideration the many domestic duties faced by women. It was noted that, in many cases, the female Parliamentarian faces the burden of expectations from her own family and is assumed to be a super-human being: She must carry out her parliamentary responsibilities with breadth, depth and vigour; she is expected to be a better representative than her male counterpart; she must take care of her family, seeing to the care, protection and education of her children; she must ensure that the home is appropriate for her status in the society and certainly for that of her spouse; she must see to the well-being of her spouse, and she must, in the eyes of many, at all times be perfectly groomed. These are very high, if not impossible standards to be met at all times, and they are often standards not expected of their male colleagues.
>
> Although concerns related to family responsibilities also relate to men, in most societies, despite widely changing attitudes, it is still considered that the mother is primarily responsible for the care of the family. Therefore lack of maternity benefits, day care facilities for children and separate rest rooms for women in Parliament restrict the participation of women in the political arena. Some countries have made physical accommodation with appropriate rest rooms, changing rooms and day care facilities.
>
> It was the accepted view that across the Commonwealth, many women with young children have traditionally been deterred from entering politics for a number of reasons, including the lack of childcare facilities. In South Australia, for example, comparatively few women Members of Parliament have children of school age or less. Of the 16 women Members in mid-1995, 12 had no children or their children had grown up and had left school. However, of the 55 men, 26 of them had children of school age.

In contrast to this the study group noted as follows:

> The Study Group noted that the average age of women Parliamentarians in Finland is 42, which means that many of them are of child-bearing age or have young families. In common with all other mothers in that country, a female

> Parliamentarian can take a maximum of 263 week-days maternity leave whereas a male Member is entitled to three weeks paternity leave, all with full pay.

In summary, I think this debate is really important; it is quite appropriate before an election; it is about democracy. There are certainly gender issues related to this debate that should be brought into it.

The other brief comment I would make is that I agree that after-dinner debates are not necessarily distinguished by their rigour and quality. I can remember a couple of decisions made over the years at four o'clock in the morning—victims of crime comes to mind—when people were slightly tired and emotional, and all sorts of things were passed. That is a great example. Maybe that would have happened at 10.30 in the morning—who knows—but I do recall that, over the years, things have deteriorated after a dinner break. I do not see any reason why we are not prepared to look at this and take into account the implications thereof for everyone in the building—not just the members—as well as questions of democracy and gender.

I think it is a good point that has been raised that the administration and procedure committee could be proud to look at. We could broadcast to the general community that we are interested in this, because we want to attract good people to the Legislative Assembly. I can tell you that there are a lot of people who would not want to work here, for various reasons detailed in the gender-sensitising parliaments document I referred to earlier. The issue is a lot more than the sitting hours; it is the way people behave in parliaments as well.

MRS DUNNE (12.25): Under standing order 47, I seek leave to speak again. It is not a personal explanation; it is something that Ms Tucker said. I was misquoted in the debate, and I need to address that.

Leave granted.

MRS DUNNE: In the debate, Ms Tucker said that we sign up for the job; it is a shit job and we should just accept it. That is not what I said, or any of the sentiments I expressed. We do sign up for this job when we sign up for election but in no way did I imply that this is a shit job.

Mr Hargreaves: It is the best job in the world!

MRS DUNNE: I agree with Mr Hargreaves that it is the best job in the world. It is the best job I have ever had and I am proud to serve here. I think I need to place on the record that I do not think this is a shit job.

MS MacDONALD (12.26), in reply: I will go through some of the comments that were made, starting with those of Mrs Dunne, because she was the first up to speed. She started by saying that she would not talk about my vote in recent times on family issues and thereby draw attention to that very issue, as if to say that, because I had not voted the way Mrs Dunne had voted on an issue, that would therefore mean I was less inclined to support family-friendly measures. I think that is a false premise. It is a bit of a cheap shot on her part, to tell you the truth. The big reason for which Mrs Dunne says the Liberal

opposition is not supporting this motion is on the basis that I have not made a submission to the administration and procedure committee on the reform of standing orders.

There are a couple of points I want to make about that point. It is my understanding that if the matter could have been resolved purely by changing the standing orders—there is an inquiry into the standing orders that, as Mr Cornwell has pointed out, three members have made submissions to—then my motion would have been ruled out of order. I understand the question of whether or not the motion was in order was raised in the administration and procedure committee and that the clerk gave the advice that it was in order.

The point is that, if the matter could have been resolved purely through changing the standing orders, then there would have been no point in my putting this up. The fact is that we are talking not only about changing the standing orders but also about changing the nature of the way this place works. The second thing—and why I am bringing this on now—is that there is also the point to be considered that this is my first term.

I am on the backbench, and I have no issue with that. I have no issue with learning the way this place works, and I have no issue with taking on hard work. I think all members in this place work hard. I do not take away from any of the people in this place and the amount of effort they put in. I am on three standing committees. That takes up a considerable amount of time, and I do not begrudge giving that time. I certainly did not begrudge giving that time when I signed up for the job and I do not begrudge it now that I am in the job. I will continue to work hard.

The point of putting this motion up today was to raise the issue and get the discussion flowing. I appreciate the comments put forward by all sides in this place. I appreciate the contributions to the discussion and I think it is important that we have this discussion. Ms Tucker raised a number of issues that I think are very true. There are a number of women out there who would love to be in this place, or who would like to run for politics, who are put off by the fact that it is just not a place where they feel there would be a lifestyle which they could conduct.

Ms Dundas said she supported the sentiment of the motion. She also made the comment, in relation to some of the comments made by Mrs Dunne, that it is not okay for anybody to work ridiculously long hours. I could not agree more with what Ms Dundas said: it is not okay. What I am talking about is getting quality debate and getting quality decisions out of this place. That is what this should be about.

Mrs Dunne made the point that she did not go to the Belconnen Community Council last night because she was doing her first and most important job—being here in the Assembly. I do not take away from the significance of being in the chamber, because it is very important that we come along and participate in debate. We are elected to make contributions to the debate; but we are not elected to make ridiculous comments and get up and speak just for the sake of speaking.

Ms Dundas had an issue about the wording. I would be happy to see the wording changed, but nobody has put anything forward. I would have been happy to see an amendment to the motion. All I am suggesting is that this be sent off to the administration and procedure committee and that that committee consider the way this

place works and consider making the quality of the debate in this place better. You cannot get quality debate when you are sitting until all hours of the night.

I have lost count of the number of times friends and people I do not know have said to me, "What? You sat until 10 o'clock last night? You sat until 11 o'clock last night? Surely no decent conversation can be expected to come out of that! You can't be expected to make a contribution which is valid at that hour of night!"

I think somebody made comment about not gagging the debate, but it is not about gagging the debate. I agree with what Ms Dundas said: everybody has the right, and every side has the right, to make a valid contribution to the debate—that is not what I am saying—but let it be valid and let it be quality debate. I commend the motion to the Assembly. I hope the Assembly will pass this motion because it is an important issue. There are plenty of other important things out there, but they in no way take away from the importance of how we run this place to make sure we are properly representing our electorates and the people who put us in here.

Motion agreed to.

Sitting suspended from 12.35 to 2.30 pm.

Questions without notice

Economy—June quarterly report

MR SMYTH: My question is addressed to the Treasurer. On Friday, 13 August 2004, you released the June quarterly management report. Four days later you released a revised report for the same quarter. Treasurer, when did you see the original management report for the June quarter? Was the expected operating result contained in that report a surplus of $202 million? Did you decide to reduce the operating result in that report by $117.5 million?

MR QUINLAN: I cannot recall seeing the full report as she was printed. I certainly had a briefing on the results. Over time we have had a number of discussions as to how we would treat the superannuation liability.

You will recall that a number of years ago there was, if you like, a windfall gain—a large sum of money that accrued to the balance sheet as a decrease in the superannuation liability. At that time, the government of the day chose to write that off over 12 years, coincidentally giving itself about a $28 million cushion per year for about 12 years, until the superannuation liability was reassessed under actuarial assessment. There was debate as to the appropriateness of that particular treatment.

At the time, the Auditor-General thought that that particular treatment was appropriate. We came to government and said, "OK. Well, if that's what the Auditor-General thinks." We had not thought it was appropriate. But the same Auditor-General did a 180 on us and qualified our accounts for the same treatment of the superannuation adjustment figures, if you like. These are all notional figures.

In the books of the last financial year you will see a few numbers that do not go to the operation of the Assembly: a large amount of superannuation that we have decided to

write off; bringing on to the books a very substantial amount of stormwater assets, I think. Overall, yes, at the end of the day, it is my decision that we should take the opportunity to write off that accumulated superannuation liability out of last financial year.

I have since heard the Leader of the Opposition saying that it was some sort of adjustment of convenience and that it might have been to hide money that might be spent in election campaigns. Let me assure you that the election campaign and the figures that we will be assessing in terms of your commitments, Mr Smyth, will relate to the budget that we have on foot at the moment. If you have a problem with that budget and you want to challenge it, I invite you to do so. But please remember the difference between windfall gains as opposed to regular consistent revenue flows that you can depend on to fund commitments that you make that it is assumed will go beyond your first year in office, should you attain office.

This is a process of saying, "Yes, the territory books are in good shape. We have suffered a qualification from the Auditor-General for a couple of years." Why would we want to do that again and have you ask me a question about that? Instead Mr Smyth is saying, "Are the books crook because they've been qualified by the Auditor-General?" At least they will not be qualified by the Auditor-General in relation to superannuation adjustments for the last financial year.

MR SMYTH: Mr Speaker, I have a supplementary question. Treasurer, why did you alter the operating result to take account of the adjustment for the superannuation account, when in April this year you stated unequivocally that you would not make this adjustment during the current financial year?

MR QUINLAN: I do not recall making an unequivocal statement. Mr Smyth, you have an inclination to embellish what I said or might not have said. I will check on what I said.

Chief Minister—telephone records

MR PRATT: Mr Speaker, my question is to the Deputy Chief Minister as the minister responsible for InTACT. Minister, as well as administering the government's IT system, InTACT manages telecommunications. Notably, InTACT also manages the mobile phone accounts of executive members, including those of the Chief Minister. As you will be aware, the Chief Minister's failure to respond to critical phone calls on 17 and 18 January is a matter of great concern to the community. Did you, or your office, ask InTACT for copies of the Chief Minister's phone records for 17 and 18 January 2003?

MR QUINLAN: Mr Speaker, that question is typical of Mr Pratt. It says there was a failure to respond; it says they were critical phone calls. He does not know that. He says this is a matter of great concern to the public. Mr Pratt, in that question you are very much embroidering a situation. I think we went through this yesterday. You do not expect me to answer a loaded question such as that, which you have embroidered to the point where it cannot be answered. It is a non-question now because it has three unproven presumptions in it which are, in all probability, false. I am sorry; I cannot answer a question based on falsehoods.

Mr Smyth: Mr Speaker, I wish to raise a point of order. The actual question is: did you, or your office, ask InTACT for copies of the Chief Minister's phone records? It is a very simple question and the minister should answer it.

MR SPEAKER: It is up to the minister. The question has been asked and the minister has responded.

MR PRATT: I have a supplementary question, Mr Speaker. Minister, did you, or your office, ask InTACT for copies of the Chief Minister's phone records for 17 and 18 January 2003? Yes, I expect you to answer the question.

MR QUINLAN: I was just about to do so. Let me say that I do not give a toss what you expect, Mr Pratt. I do not have a recollection of asking InTACT for Mr Stanhope's phone records, or mine, or yours, for that matter—or anybody's.

MR PRATT: Will you take it on notice?

MR QUINLAN: If there is a point to it, I will.

MR PRATT: There is a point to it.

Gungahlin Drive extension

MS TUCKER: My question is directed to the Minister for Urban Services, Mr Wood. In the landscaping section of the August Gungahlin Drive extension newsletter is the following claim:

> Some 55 species of locally occurring trees, shrubs, native grasses and ground overs will be planted. These will be propagated from seed collected from the road corridor prior to its construction.

For the information of the Assembly, can the minister confirm whether viable quantities of seeds from those 55 locally occurring trees, shrubs and native grasses were collected before construction?

MR WOOD: The member is asking whether seed was collected before construction?

Ms Tucker: That is what you have claimed here.

MR WOOD: If that is what is claimed in the newsletter I would have every confidence in what has been said.

MS TUCKER: I ask a supplementary question, which the minister will probably have to take on notice. Can the minister table, by close of business tomorrow or next week, details of when the contracts were let for the collection of the seed, what seed was collected, from where the seed was collected and how much was collected?

MR WOOD: I will examine the question and determine in what manner I should respond to it. There is considerable interest in the regeneration of roadside verges along

Gungahlin Drive. Mrs Dunne and I received a letter from the Friends of Aranda Bushland which is somewhat related to the question that Ms Tucker just asked. Officers in my department and I believe that we can respond substantially to the questions that were asked by the Friends of Aranda Bushland. We think that those questions can be comfortably accommodated.

A question was asked about the replacement of soil, or using only local soil. I do not know whether that means that another hole will have to be dug somewhere. The letter, which I believe to be genuine, sought to ensure that, so far as possible, the verges in that area are returned to the condition in which they were, bearing in mind that a road is going through the area. The government is keen to ensure, so far as it is possible, that that is what will happen.

Child protection

MR CORNWELL: My question is directed to the Minister for Children, Youth and Family Support. Minister, yesterday you told the Assembly:

> 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.

That contradicts what the Chief Minister said when he announced the decision. I quote his words:

> I can't pretend the decision I've made today isn't related to the issues raised, which found major failings within the system. I do believe there is a need for the community to have absolute confidence that children are receiving care from a system that is world's best practice.

Minister, in the *Canberra Times* of 7 August 2004, you stated in relation to the Murray report:

> For the first time, we saw the full extent of the impact of those system deficiencies on individual children and it was pretty devastating.

You continued:

> It was a decision about the future—to reappoint her she would have needed the full confidence of Cabinet and that was just not the case.

Minister, why did you advise the Assembly yesterday that you did not believe that the decision on Ms Hinton's future was caused by her failings in child protection when, obviously, you told the opposite to the *Canberra Times*—that Cabinet lacked confidence in Ms Hinton due to the devastating impact of the Murray report? Why did you provide advice yesterday that directly contradicted what the Chief Minister also told the *Canberra Times*?

MS GALLAGHER: My answer yesterday was correct. The decision not to reappoint Ms Hinton was about confidence in a chief executive appointment to be decided from 10 September for a number of years into the future. Both the Chief Minister and I commented that that chief executive position needed to have the full confidence of the

government and that was the reason the decision was taken not to reappoint Ms Hinton. The decision was not based solely on the fact of the child protection review.

Mrs Dunne: Oh, solely. So there were other deficiencies.

MS GALLAGHER: That was the question yesterday, Mrs Dunne, if you do not like it. The question yesterday alleged that Ms Hinton was not reappointed because of the child protection review. I did not say that that was not a factor in the consideration. In fact, you have just read out some very articulate quotes by me and the Chief Minister relating to that, but the issue about the appointment of a chief executive takes into account a number of considerations. They were considered. A decision was made not to reappoint her.

MR CORNWELL I have a supplementary question, Mr Speaker. If, therefore, the information you provided to the Assembly yesterday was correct, why did you mislead the *Canberra Times* on 7 August?

MS GALLAGHER: I have not misled the *Canberra Times* and I have not misled the Assembly. Both answers are consistent. I have explained it in my answer to the first question.

Calvary Hospital—patient treatment

MRS CROSS: My question is to the Acting Minister for Health. You will probably have to take this on notice. The aunt of a constituent of mine was admitted to Calvary Hospital on 19 July with liver failure. Her condition deteriorated rapidly and she died on 23 July. As the aunt's condition declined and it was apparent she was going to die, the family remained vigilant by her side all night. On her final night, the nurses came in to turn and change her while the family waited outside. When the constituent returned to the room the nurse asked her who she was and what she was doing there. As she approached her aunt, she realised her aunt had passed away, so she immediately called her family in.

They were all very distressed because they were not there when the aunt had died. The nurse told them that any movement close to death could end a person's life. They were alarmed to hear this and asked the nurse why they had come in to turn her in the first place, knowing what the possible consequence might be. A doctor was called in and pronounced the aunt dead a few minutes later. The doctor treated the aunt's body roughly and insensitively, exposing her body in the presence of the family, which caused them great distress and, in their opinion, offended against dignity. He proceeded to ask questions about her illness, as he did not have any notes.

Minister, could you look into this case with a view to ascertaining whether the sort of behaviour and attitude experienced by this family at Calvary Hospital on the night of their aunt's death is typical of the palliative care provided there and, if it is, take steps to ensure that it changes so that the grief people suffer is not made worse by an absence of compassion amongst staff?

MR WOOD: I am sorry for the family and for the death of a loved member of that family. It is always a difficult time, so I feel for them as I feel for others in similar circumstances. I do not have intimate knowledge of Calvary Hospital. I have the general

knowledge from what many in the community tell me— that its care is outstanding, that it is a wonderfully sympathetic hospital and it is particularly careful, I understand—"understand" is the word I use—in matters of palliative care. It is always a difficult time, because families are upset.

I am not sure this is really a matter for question time, but since Mrs Cross asks, I will ask the hospital if it would care to provide a response, perhaps directly to you or perhaps you would rather have it in the documents. I will see that there is a response. I will ask the hospital about its response.

MRS CROSS: In my supplementary question I seek clarification from the minister. Minister, you said in your answer: if the hospital cares to respond. Are you saying that you cannot insist that the hospital gives you an answer to this concern and that it is really optional? I ask so I can understand and advise the family.

MR WOOD: Mrs Cross, I have absolutely no doubt that the hospital cares deeply. I have no doubt about that. I state that emphatically. If you go into its mission statement—I cannot tell you its mission statement off the top of my head, but I know it has been sent to me—I bet there is caring or heavy implications of that in its mission statement. I am not prepared in this forum to make any suggestion that there is no caring at that hospital. I do not believe that this government needs to tell it to care, because I have no doubt that it cares very deeply.

Mrs Cross: So, you are getting back to me on this issue?

MR WOOD: Yes.

Totalcare Industries

MRS BURKE: My question is to the Minister for Education and Training, Ms Gallagher. Today's *Australian* contained an article concerning serious problems with a $2.25 million dollar contract with Totalcare—that is, the project management of a DEYFS 2003-04 minor works program, contract No DEYFS 3257. The contract was entered into between your department and Totalcare Industries on 15 September 2003. Your department approved 93.7 per cent of the contract expenditure within the first nine months of its life.

The opposition has asked you several questions about this contract this month. Can you now please advise the Assembly on the following points? Did the contract run to budget? Are you satisfied, as the minister responsible, that the initial negotiations and the signing of the contract complied with the ACT's procurement guidelines? Why did the contract conclude on 30 June 2004 and not on the original date of 30 June 2005? Finally, are you satisfied that the contract as of 30 June 2004 was fully executed to your satisfaction?

MS GALLAGHER: I was driving my daughter to school this morning when the dulcet, droning tones of Mrs Burke came on the radio as usual, alleging a whole range of things against me—alleging incompetence and making some quite serious statements. At worst, Mrs Burke is a liar and at best she is badly advised.

Mrs Dunne: Point of order, Mr Speaker.

MR SPEAKER: Withdraw that, please.

MS GALLAGHER: I withdraw that, but at best she is badly advised. I have the article from the *Australian* here, and it does not contain any of the details—

Mrs Burke: You've got the details.

MS GALLAGHER: Mr Speaker, this is where Mrs Burke is a liar. I will withdraw that, but she is saying something that is completely untrue. She alleges that I have information that she has, and I do not have that information. She needs to stop saying that I have the information and saying on radio, and to other people, that I have information that she has. She has just read contract numbers, prices and dates that I have never seen.

I believe this matter relates to a public interest disclosure made against the Department of Education and two other government agencies. If Mrs Burke had taken the time to understand the legislation that surrounds that, she would understand that I cannot be briefed on that matter, other than to say that a public interest disclosure has been made to allow for the full process of natural justice for all of those involved to be thoroughly investigated through the process that has been established by law.

If, on the other hand, Mrs Burke has been handed information that has given her all the details in the question that she has just read out, that is another matter. In relation to any information that I have about that, I do not have the information, and I have never had the information. Don't sit there with your big eyes and go, "Oh, I don't believe you"! I am sick of this woman. For eight months I have put up with this woman alleging things about me that are completely incorrect.

Mr Stanhope: The lies, the deceit—that aren't true.

Mrs Dunne: Mr Speaker, on a point of order, I ask the Chief Minister to withdraw the word "lies".

Mr Stanhope: I didn't direct it at anybody; I was just supporting—

Mrs Dunne: In that case, I invite all my colleagues to stand up and demand a withdrawal.

Mr Stanhope: I did use the words "the lies, the deceit", but I didn't direct them at anybody, Mr Speaker.

MR SPEAKER: I think there is an imputation there. You should withdraw an imputation.

Mr Stanhope: I withdraw any imputation. A point has been very well made about truth not being told publicly and not being told constantly.

Mr Quinlan: Hear, hear!

Mr Stanhope: There has been no honesty in relation to this issue.

MR SPEAKER: It has to be dealt with by way of substantive motion.

Mr Stanhope: That's what we'll have to do then.

MS GALLAGHER: All care, no responsibility from Mrs Burke. She is just out there, on the airwaves alleging a whole range of stuff. As usual she jumped on one side of the story. We have seen in other areas of Mrs Burke's portfolio where she has jumped on one side of the story and accepted it as gospel—it has to be the truth! This has to be the case. There is no need to have any natural justice in any of the allegations that have been raised. She could just go out there and say, "This is the truth. I know it. I am Mrs Burke! Someone gave me this, so it is true." Don't worry about law, process and natural justice. Who cares about the personal ramifications of her allegations? It is absolutely ridiculous. There is a process in place. The matter Mrs Burke refers to is being handled through a very thorough process. When that process is finished, that is the point at which I will be able to be briefed on the matter. If there is any impropriety or a problem with any of the issues that you have raised, that information will be given to me and it will be acted upon.

MRS BURKE: Mr Speaker, I have a supplementary question. Minister, why did your department approve 93.7 per cent of the contract expenditure within the first nine months of a two-year agreed contract period?

Mr Hargreaves: Mr Speaker, on a point of order, that was an integral part of the previous question.

MR SPEAKER: I think that is fully answered, Mrs Burke.

Schools—industrial safety

MR STEFANIAK: Mr Speaker, my question is to the minister for education. Minister, during last sitting week, Mrs Burke asked you a question about a child who went missing from the special needs area of Gowrie Primary School, due to the negligence of Totalcare. You took the question on notice and said that you would get back to her but, so far, you have failed to do so. Today's *Australian* states that Gowrie Primary School sent a letter of complaint to your department about this serious issue. The *Australian* also cites your spokesman as saying that the minister had not been made aware of the allegations.

It seems to be par for the course that your department does not tell you about serious problems. Why did your department not make you aware of these very serious allegations, when you state that you have reporting processes in place to keep you informed about serious incidents?

MS GALLAGHER: In relation to the situation at Gowrie, I did not undertake to get back to Mrs Burke, if you read the *Hansard* closely—I checked that myself. I have subsequently been briefed by the department on the matter. There was an issue where a child ran away from the school, due to an alarm bell going off, not due to any work being done at the school. The child was missing for about 40 minutes, from memory. During

that time appropriate processes were immediately put in place to find the child, call the police and notify the parents.

The child was located within 40 minutes and the matter was reported to the department. Because the child had been found and no serious incident had occurred—it is my understanding that it was not due to anything to do with Totalcare; there was work being performed at the school at the time—there was no matter that needed to be referred to WorkCover. There are proper processes in place to brief me. I am satisfied that those processes have been met.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Thank you for that, Minister. That was not too bad, was it? But when were you briefed?

MS GALLAGHER: On the matter raised in the Assembly, consistent with my answer in which I said I was not aware of that situation, I was briefed, at my request, following question time.

Child protection

MRS DUNNE: My question is to the Minister for Children, Youth and Family Support. Minister, in response to the child protection scandal, you recently bleated, "The department could have done a better job briefing me."

Mr Wood: Point of order. As with Mr Pratt, this is the emotive language being put into these questions. I ask that that statement be withdrawn.

Mr Stanhope: It's just beyond the pale; it's just personal, vindictive viciousness, is what it is; petty-minded nastiness; a bloody suppurating boil.

Mrs Burke: What?

MR SPEAKER: Order! Mrs Dunne, I have to say that it is not helpful to use that language. Other people will have to judge how much it adds to the debate. I do not think that it is out of order.

Mr Stanhope: No, it is just nasty.

MRS DUNNE: I take your point, Mr Speaker. Minister, in response to the child protection issue you recently said, "The department could have done a better job briefing me." You were present at the hearing of the Standing Committee on Community Services and Social Equity when committee members asked questions about your department breaking the Children and Young People Act. You claimed to have read the report in August that specifically stated your department was failing to meet its responsibilities.

These events should have prompted a competent minister to ask searching questions of his or her department. It should also have prompted competent staff to highlight those events for their minister. In contrast, Minister, you did nothing until Ms Hinton sent you a facsimile on 11 December 2003. Why did you not raise concerns with your department in February when this matter was raised in the committee? Why did you not ask

questions of your department when you read the report of the Standing Committee on Community Services and Social Equity?

MS GALLAGHER: I have answered that question a number of times. I refer the member to the ministerial statement I made in the Assembly in February this year that answers all those questions.

Trees in Nettlefold Street, Belconnen

MS DUNDAS: My question is to the Minister for Environment. A freedom of information request has indicated that on 15 October 2003 an Environment ACT officer contacted the developer of the Nettlefold Street site to ask when construction and removal of trees on that site would take place. Minister, is it normal practice for Environment ACT to hurry up developers about when they will undertake environmental destruction and construction work, and is this part of its core business?

MR STANHOPE: I am not sure whether you would describe it as core business, but certainly Environment ACT has a healthy, enduring and continuing interest in all aspects of the ACT environment. Certainly there was a very lively debate regarding trees in Nettlefold Street. I would be surprised if Environment ACT did not take an interest in the progress at that time. I think it is quite unremarkable that officers of Environment ACT would continue to take a keen interest in an issue that excited considerable community interest. So, I commend Environment ACT for its diligence.

MS DUNDAS: I have a supplementary question. Considering that answer and given that it has now been seven months since the trees in Nettlefold Street were removed, has Environment ACT been in contact with the developer of the site since those trees were removed to find out when further construction will take place? If not, what contact has the government had with the developer of that site about the ongoing development on the site?

MR STANHOPE: I do not know the detail or the time lines in relation to the involvement of ACT officials in a significant development in Belconnen. I applaud the fact that we have significant corporate citizens in this town—small and significant business—prepared to continue to invest. It is really pleasing to see that we have a well-established Canberra and national business investing in Belconnen. We can be very pleased about the level of economic activity and the level of construction and development that is going on. It pleases my heart whenever I move around Canberra to see the level of activity, the level of investment and the level of confidence there is in the Canberra community, generated of course by the very significant management of this government over the past three years. We have a vibrant economy—

Mrs Cross: On a point of order. It is relevance. This is irrelevant to the question. The Chief Minister should stick to the issue.

MR SPEAKER: No, it is about development on a site in Belconnen.

Mrs Cross: He is talking about business in Belconnen. It has nothing to do with the trees.

Ms Dundas: Mr Speaker, for clarification, the question was about the contact that Environment ACT or other government officials had with the developer.

MR STANHOPE: The question was about the range of contact by government officials in relation to a very significant and important development being undertaken in Belconnen. As I say, something that continues to please me and gives me pride in our community and pride in the efforts and endeavours of this government over the past three years is the degree of economic activity that we are generating. We have the strongest economy in Australia. The strength of this economy and the confidence there is in this economy are represented through all the development that is currently going on. So, of course, I am particularly pleased to know that ACT government officials are dealing with those people around this town who have confidence in this town—unlike the opposition, which talks the town down continuously.

It is unlike some members of the crossbench who talk the town down continuously, who do not like to see development or to see the economy expanding, who have no interest in small business, no interest in investment and no interest in development. They do not like to see the town progressing and humming, or that the people of Canberra are happy. I am particularly pleased that we have such a strong, vibrant economy and that the business community is pleased and confident and is continuing to invest. The strength of the economy, the level of confidence and the fact that the place is booming and humming cause me enormous pleasure. The fact that the people of Canberra are enormously happy is a sign of the enormous success of this government.

Water

MR HARGREAVES: My question is to the Minister for Environment. Can the minister advise the Assembly of the progress made in meeting the government's water reuse target in the "Think water, act water" strategy?

MR STANHOPE: I thank Mr Hargreaves for that very important and very timely question. It has given me tremendous pleasure today to inaugurate the new water treatment service. It has now come on line. It is something that was in gestation for some time. It was with great pleasure that I started the pumps today and began the pumping of treated water from the Fyshwick treatment plant to Russell for distribution throughout the northern suburbs of Canberra.

This is a very significant development. It is a $4 million investment by Actew in a water treatment plant that delivers to us water that now meets the highest Australian standards in relation to health, environmental and other aspects. Water will now be provided for significant and major customers within the ACT, namely, Canberra Urban Parks and Places, ADFA, the ANU and the Australian Rugby Union. Very significant ovals and very significant infrastructure will now be the beneficiaries of the water that will be treated by this new treatment plant.

It is a very significant plant. It is cutting edge. It is state of the art. It is a water treatment or filtration plant that really does meet the cutting edge of technological advancement in relation to water treatment throughout Australia. I think that it is significant that we now lead the way in Australia. We are essentially testing and piloting this scheme. Work has

been done over the last year to ensure that it is refined and that we have it at an appropriate standard. It goes a long way to taking the next major step in relation to meeting the target that we have set ourselves in the "Think water, act water" strategy.

We undertook to increase the quantity of grey water recycled or reused within the community from 5 per cent to 20 per cent by 2013. Over the last two or three years, we have made enormous strides in regard to the quantity of grey water we are reusing or recycling. We are now on 9 per cent. Along with Adelaide, we lead the nation in major city use or reuse of grey water. With the coming on line today of the Fyshwick treatment plant, we have increased the percentage of grey water we use to 9 per cent. That is a very significant achievement. It puts us almost halfway to the target of 20 per cent by 2013.

Interestingly, the plant commissioned today, which is now providing water to nine ovals, has a capacity to double its output. It is only on half capacity in terms of the output and distribution of water now to most of north Canberra. What we need to do as the next step is to extend the network of pipes for taking water to additional ovals. For instance, we propose to extend the network of pipes for the distribution of grey water to places such as Glebe Park, for instance—perhaps through Civic even to the Lake Burley Griffin foreshore. Commonwealth Gardens and Floriade are some other very obvious examples of how we might extend the network of grey water use or reuse to other significant parts of Canberra.

I envisage next that in partnership, hopefully, with the NCA we will be able to extend the provision of grey water to some of the other significant areas of high water use that we have throughout Canberra, those areas that are watered as part of our commitment to Canberra as the national capital. The major thoroughfares and the lake foreshore are quite obvious areas that we might target next, in addition to a range of smaller ovals, particularly in the first instance throughout north Canberra. Hopefully, in the future we will extend into south Canberra and begin to ensure that we have the capacity to meet that target of 20 per cent, and move on from there and strive for greater imagination in our capacity to continue to enhance the use of grey water.

Today was a very significant day. We have now moved to 9 per cent. We are now, along with Adelaide, the highest users of grey water of any of the major cities of Australia. We are now the major recycler of grey water in Australia. It is a credit to Actew. It is also a credit to our water strategy. It is a credit to the targets that we have set and our determination to be the community in Australia at the leading edge of water use and reuse.

Canberra Hospital—obstetric unit

MS MacDONALD: Mr Speaker, my question is to the Acting Minister for Health, Mr Wood. Minister, I was very disturbed to see the headline in Saturday's *Canberra Times* that shouted, "Probe into ACT baby deaths." This was an alarming headline. Can you inform the Assembly of what the situation is and what is being done about it?

MR WOOD: It is the nature of headlines to be sensationist, isn't it? It was an unfortunate headline because the fact is that we have an excellent health system, not least in our obstetric services. As to the detail, it is the case that a letter was received some months ago from a Dr Graham Bates properly raising some potentially serious

allegations. These allegations have been taken seriously by the Canberra Hospital and by ACT Health. We have to take notice, and that is what we are doing.

The initial investigation undertaken in response to Dr Bates's letter indicates that satisfactory clinical governance arrangements and clinical outcomes are in place for the obstetrics service and for Canberra Hospital generally. That is the preliminary. But, of course, we will be absolutely careful and exhaustive in what we do so that more detailed work is now underway in ACT Health to examine the performance of the obstetric unit with regard to safety and quality, in order to form a view on the questions raised about the unit.

This work involves the obstetric unit, the clinical governance leadership group in TCH and the deputy chief executive of ACT Health. Existing performance data going back over several years is being examined, as well as the mechanisms in place for clinical review. The matter has been referred to the health complaints commissioner, who is also investigating. However, there is some contextual information that may be useful to members interested in understanding this matter more clearly.

I draw the Assembly's attention to the ACT Health publication entitled, "Perinatal deaths in the ACT 1991-2000." This report shows that the ACT's perinatal death rate differed from the Australian rate for only one year in the 10-year period 1991 to 2000. That year was 1998. What happened in 1998? I note that the most important risk factors for a perinatal death are low birth weight and prematurity. During 1998 there were nine babies born in the ACT with an extremely low birth weight—double the number born with a low birth weight in 1999. Unfortunately, but perhaps not surprisingly, most of these very low birth weight babies died, resulting in the high perinatal death rate in that year. Nevertheless, those babies received the best possible care, as do all babies born there. It should also be remembered that the Canberra Hospital regularly admits sick babies from Victoria and southern New South Wales. We work intensively with other areas to monitor and improve our performance.

There is a further contextual issue. Dr Graham Bates, who lodged the complaint, had a contract as a visiting medical officer at Canberra Hospital until the end of May 1998. Evidence was collected at this time that Dr Bates had performed an illegal act by charging public patients fees for performing services in a public hospital. Members will remember that. The health minister of the day acted properly to stop that practice.

The government is always concerned to guarantee the quality of the health services provided in our hospitals. If we have a complaint, we will act on it. What the government will not do—but this is part of the contextual background—is get involved in what may be a longstanding wrangle between a few health professionals arising from a dispute affecting the employment of one clinician. These are contextual issues that are not always mentioned when articles are written in newspapers.

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

Answer to question on notice
Unanswered question

MR WOOD: At the end of question time yesterday Ms Dundas referred to a number of

questions that she thought had not been answered. On 24 September 2003 I took a question on notice. Ms Dundas said she had not received an answer to that question. However, on 3 October 2003 two pages of facts and figures were hand delivered to her office. She has since been sent another copy in case she lost the earlier one.

Supplementary answer to question without notice
Gungahlin Drive extension

MR WOOD: Yesterday Ms Tucker asked me a question about wildlife monitoring on Gungahlin Drive extension. I am advised that the wildlife consultant confirmed that his representatives conducted checking inspections on 5 August and on each day over a five-day period when tree felling occurred. No tree felling occurred on 3 August because of rain and no work was done on Sundays.

I am advised that on 14 August the wildlife consultant witnessed trees being felled and conducted post-felling inspections. After the morning's tree felling the consultant completed his checking and left. Early in the afternoon a representative from the RSPCA and the site management consultant undertook further inspections of the morning's felling.

At about 3.30 pm some tree felling was undertaken in an area where pre-clearing wildlife checking had previously been undertaken. Also at about 3.30 pm two carers arrived as scheduled for the afternoon inspection. The site management consultant provided spotting for this activity and monitored the carers who left the site at about 4.45 pm, whatever that is all about.

Answer to question on notice
Unanswered question

MS GALLAGHER: Yesterday at the end of question time Ms Dundas expressed concern about the fact that I had not answered a question I had taken on notice on 30 June 2004. That question was answered on 1 July 2004, the following day, at the end of question time.

Unparliamentary language

MRS DUNNE: Mr Speaker I seek your ruling as to whether the term "suppurating boil" is parliamentary. If it is not, I ask the Chief Minister to withdraw that term.

MR SPEAKER: I do not know in what context that term was used.

MRS DUNNE: In the cut and thrust of question time today Mr Stanhope took exception to a word that I used—the word "bleated". I take his point. In responding to that I think he said that I was a suppurating boil, or he may just have said that opposition members were a suppurating boil. I did not hear all that he said, but I did hear the words "suppurating boil" and I would like them withdrawn.

MR SPEAKER: I did not hear it clearly. I will look at the *Hansard* and report back.

Corrections Reform Amendment Bill 2003
Detail stage

Clause 1.

Debate resumed from 10 December 2003.

Clause 1 agreed to.

Clause 2.

MR SMYTH (Leader of the Opposition) (3.20): I move amendment No 1 circulated in my name *[see schedule 1 at page 3893]*. This amendment will change the commencement date of the act. The original commencement date was somewhat naively slated for 1 July 2004, a year after I introduced the bill. This amendment will allow the minister to set a commencement date with a default date of 12 months from when the bill is passed. This simple amendment will put the ball firmly in the court of the minister to get things moving along.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (3.20): The government has made quite clear its position in relation to this legislation. We opposed it at the in-principle stage and we will continue to oppose it. Let me make clear the position the government has taken in relation to all clauses in this bill. To some extent this piece of legislation is unremarkable in so far as it simply repeats existing law. It makes no genuine attempt or effort at law reform.

We regard it as a mishmash. It adopts a completely ad hoc approach to significant issues around sentencing law and corrections law reform, and it should not be supported. Yesterday I completed the tabling of an exposure draft of a major and rigorous piece of work that has been undertaken by the government over the last two years. A major piece of law reform relating to sentencing and corrections is on the table.

Mr Smyth: Yours is bigger than mine?

MR STANHOPE: It is a rigorous piece of work that was consulted on broadly throughout the community, unlike this piece of legislation. That all-encompassing piece of work deals with all issues and aspects of sentencing and corrections in the ACT. For the first time ever it brings together 12 separate pieces of legislation in the ACT relating to sentencing and it consolidates them in a single, concise and rigorous piece of work.

It is genuine law reform; it is not just made-up law reform, or the law reform you have when you wish to be seen as a law reformer doing something in relation to anything. It is a genuine attempt at law reform in the ACT in relation to sentencing. It is the result of two years of detailed work by a sentencing review team in the Department of Justice. It involves enormous input from stakeholders across the community and it represents a far better, more consistent and more coherent approach to law reform, sentencing and corrections than does the package we are now debating. It is the view of the government

that this bill should either be adjourned and debated cognately with the government's sentencing package in the next parliament, or simply deferred.

Mr Smyth: You took too long.

MR STANHOPE: Essentially, this package does nothing. It will not change anything in relation to sentencing or corrections in the ACT. In large measure, it is a restatement of existing law and it is done untidily at that. That is the position of the government. This government has released and placed on the table an exposure draft relating to a detailed, rigorous analysis of sentencing and corrections. It is the benchmark in relation to sentencing and corrections and, as such, it should be supported. As it is an exposure draft it can be debated early in the term of the next Assembly. That is the appropriate position to pursue in relation to this important and serious issue.

So far as the government is concerned, the issue of sentencing and corrections is far too important to be dealt with simply in a throwaway and ad hoc way, as is proposed by this piece of legislation. I indicated all that and I gave a detailed analysis of what was wrong with this legislation in the in-principle stage. Having regard to the effluxion of time since we debated this bill in principle, I repeat the government's continuing opposition to its passage, particularly in light of the existence of the government's recently tabled reform package. I indicated at the commencement of this Assembly that the government was working on that package and that is another aspect about which we need to take note.

This government has put in place a rigorous reform process. Law reform is not something that can be achieved overnight. It is a long and, at times, tedious process particularly in relation to major projects such as this. Even with advice and in the knowledge that the government had a detailed process operating through the Department of Justice, the opposition went ahead and introduced a private member's bill to cut across the rigorous work being undertaken by the government. To that extent it is just political opportunism. That is not the way to make or reform the law. We are dealing with one of the most important aspects of the operation of the criminal justice system relating to sentencing. The government opposes all the clauses in this bill.

MS DUNDAS (3.25): This is a sensible amendment to the legislation as its proposed commencement date of 1 July 2004 has already passed us by. Some of the Chief Minister's criticisms are caught up in this amendment, which will allow the act to commence on a day fixed by the minister by written notice, otherwise it will commence within 12 months of notification. If the minister does not believe that a date can be fixed for this act to commence, there is time in those 12 months within which work can progress. What might result is a blending of some of the things from this legislation and some of the things from the government's proposal.

Commencing consultation on a 400-page document just as we are moving into a caretaker period is not the best way to approach corrections or sentencing reform. We can only vote for what is in front of us. What is in front of us today I believe is a sensible piece of legislation to reform sentencing in the ACT. When we had the in-principle debate I was happy to support the bill because, as I said at the time, the bill would dictate what type of jail was built. I stand by those comments. I am happy to continue to support this bill. When I was looking into the in-detail stage of this bill some people in the

community sector said to me that they do not want this important issue dealt with in a piecemeal fashion and that a lot of time has been invested in the government's process.

However, the government's process is not yet ready and, optimistically, it will not be ready in the near future—certainly not in the time of this Assembly. I do not want things like sentencing changes going unscrutinised, which is what could happen if we did nothing, or if we did not place some strong principles on the record as would occur as a result of this legislation. In the past the government's approach to issues relating to corrections and sentencing was to lock up anybody who had anything to do with drugs and throw away the key, which left a lot to be desired. This issue is too important to go unscrutinised. That being said, as we are dealing with the in-detail stage of this legislation the Democrats are happy to progress debate on this issue and to support the amendment.

MS TUCKER (3.28): The Greens support the first four clauses of Mr Smyth's bill which will set in place the objects required for an overarching approach to corrections. As I and other members said in debate in the in-principle stage, the preferred option would be to wait for the work set in train by the government via a large committee of practitioners, to review the corrections legislation in its entirety, and then to consider Mr Smyth's proposals in that context. I understand Mr Smyth's bill has been developed in consultation with a number of people, though the people on whose advice I rely prefer to consider it in that broader context.

Mr Smyth pointed out in discussions on this bill that the government has been slow in bringing back the results of that work. Last sitting week and again yesterday the government tabled two exposure drafts relating to sentencing legislation, which at least gives us the appearance that it is reacting to pressure. I am not sure yet why it has taken so long and I do not think we have been given any explanation. The question of whether or not to pass this legislation today does not depend on who has been bad or who has been slow; our decision about whether or not to support many of the sections in this bill is not based on some faith in the government per se.

It is not a matter of choosing who is the winner in a competition between the government and the opposition to be the first to develop an improved corrections system. People in the community, such as the ACTCOSS Corrections Coalition, have invested some faith in this process. They believe it is a worthwhile process and that it will ensure a good outcome. I do not think it is responsible to pass laws without doing this work. The government has been slow to get this work out, which is a separate issue, but it is irresponsible to pass legislation mainly on the basis of sending out a message. There has been some grumbling about the government's bill picking up some of Mr Smyth's proposals. I would have thought that was a positive step forward and I thought that was the idea of working together on two sets of legislation.

If we consider the good of the community as a whole, these proposals would be well done in the committee context. Assembly committees are usually places where we are beyond arguing about who is responsible for a piece of legislation. Having made those points, I support the enactment of the first part of this bill. It is important to have these principles in place before the prison proposal proceeds too much further. It is important to have these principles in law before the next Assembly debates consolidating the exposure draft sentencing laws that were tabled earlier. These principles incorporate

restorative justice as a philosophy not just as a program on the side. The corrections legislation includes the following objects:

> (a) providing for the secure and safe imprisonment, care, treatment, health management and rehabilitation of offenders;
>
> (b) reducing the repetition of criminal and other antisocial behaviour by offenders.

The bill then sets out the means of achieving those objects as follows:

> **338 Achieving the objects**
>
> (1) The objects of the corrections legislation are to be achieved by—
>
> (a) enabling courts to formulate sentences for offenders using a range of stated penalty options in each sentence that—
>
> (i) provide incentives and opportunities for offenders to progress through a number of custodial and other arrangements stated in the sentence; and
>
> (ii) can be reviewed by the sentence administration board; and
>
> (b) enabling the use of a case management approach to rehabilitation that—
>
> (i) has regard to the needs of the offenders and the community; and
>
> (ii) involves other government agencies and the community; and
>
> (c) enabling the provision of rehabilitation programs that—
>
> (i) combine with broader based community programs; and
>
> (ii) recognise the distinct needs of men and women, offenders of different ages, and cultural, ethnic and other disadvantaged groups; and
>
> (iii) involve, as appropriate, family and other support mechanisms; and
>
> (d) establishing the framework for the delivery of custodial and other correctional programs; and
>
> (e) ensuring the application of the highest standards of competency, professionalism and ethical behaviour in corrections management in the ACT; and
>
> (f) establishing a set of institutional, management and operational arrangements to achieve the objects in accordance with the principles of transparency and accountability.
>
> (2) Subsection (1) does not limit how the objects of this Act or the related corrections legislation may be achieved.

Those objects and the means of achieving them would apply only to eight of the acts in the corrections portfolio and to those parts of the Crimes Act relating to the conditional release of offenders and community service orders, which together are defined by this corrections legislation. The eight other acts to which these principles apply are: the Community Based Sentences (Transfer) Act 2003, the Parole Orders (Transfer) Act 1983, the Periodic Detention Act 1995, the Prisoners (International Transfer) Act 1999, the Prisoners Interstate Leave Act 1997, the Rehabilitation of Offenders (Interim) Act 2001, the Removal of Prisoners Act 1968, and the Supervision of Offenders (Community Services Orders) Act 1985.

Those objects would not apply to the existing general sentencing sections of the Crimes Act. I think that is an area that should be informed by these principles. One of the changes that I would like to see is this kind of overarching framework being applied to all sentencing options. Compare these principles with the principles in division 15.1, section 341 of the Crimes Act entitled "Purposes for which sentence imposed." That section reads:

> The only purposes for which a sentence may be imposed are—
>
> (a) to punish the offender to an extent and in a way that is just and appropriate in all the circumstances; or
>
> (b) to deter the offender or other persons from committing the same or a similar offence; or
>
> (c) to rehabilitate the offender; or
>
> (d) to make it clear that the community, acting through the court, denounces the type of conduct in which the offender engaged; or
>
> (e) to protect the community from the offender; or
>
> (f) a combination of 2 or more of the purposes referred to in paragraphs (a) to (e).

These principles are not well enough informed by an approach of restorative justice. That approach recognises that crime stems from hurt, ill health, disadvantage and brutalised lives. We need to deal with drugs as a health and a social issue. We need to deal with mental illness if we are to genuinely reform the corrections and sentencing system and genuinely reduce crime. Those are the things that have to be dealt with. While proposals might well be an improvement, we need to look at them in context and be sure that they are not just more sentencing options without the services to deliver them.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Clause 4.

MR SMYTH (Leader of the Opposition) (3.35): I move amendment No 2 circulated in my name *[see schedule 1 at page 3893]*. This amendment is one of several that came about as a result of extensive consultations held with stakeholders. One of the consistent comments on this bill by members of the legal community was that perhaps it gave too much power to the Sentence Administration Board. Their view was that the bill should more clearly state that the board acts within the order of the court. In my view, that criticism was incorrect. In order to ensure that we have the best possible bill, that we have confidence in the bill and that the bill relies on a consensus model from stakeholders, parliamentary counsel formulated this amendment so as to leave no doubt about the respective roles of the board and the courts.

Amendment agreed to.

Clause 4, as amended, agreed to.

Clause 5.

MR SMYTH (Leader of the Opposition) (3.37): I seek leave to move amendments Nos 3 to 7 circulated in my name together.

Leave granted.

MR SMYTH: I move amendments Nos 3 to 7 circulated in my name together *[see schedule 1 at page 3893]*. Amendment No 3, like the second amendment, deals with specific issues mentioned in consultation relating to the proposal in sections 366C (1), (2) and (5). For example, there was concern about the use of the term "varying penalties" and the term "changed" was used instead. This matter is further clarified in the notes under new section 366C (3) (b) about the extended meaning of this term given by the Legislation Act.

In addition, the amendment will clarify the operation of the section by tagging the relevant orders as review orders, thus distinguishing them more readily than at present from other orders mentioned in the section and providing one clear source of power, that is, in section 366C (1), for the making of review orders. Amendment No 4 through to amendment No 7 are consequential on the tagging of review orders under amendment No 3. In the case of amendment No 5, it will more correctly identify the source of the board's power to review and direct changes to penalties as being under the review rather than under section 366C.

MS TUCKER (3.38): I oppose this clause for the reasons I have already explained.

Amendments negatived.

Clause 5 negatived.

Clauses 6 to 14, by leave, taken together.

MS TUCKER (3.39): I oppose these clauses.

Clauses 6 to 14 negatived.

Clause 15 negatived.

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

MR SPEAKER: The question is:

> That the remainder of the bill be agreed to.

Question resolved in the negative.

MR SPEAKER: The question now is:

> That the bill as a whole, as amended, be agreed to.

MR SMYTH (Leader of the Opposition) (3.40): I take this opportunity to thank members for their support for the bill. It sets out a clear path forward that I think would take the ACT a quantum leap ahead of all other jurisdictions. In June 2003, over a year ago, I introduced this bill in the Assembly. The reaction in the community was overwhelmingly positive. The few criticisms that have been received from the community have been comprehensively addressed in the amendments that have been agreed to. I note that this bill received in-principle support. I am particularly pleased that in debate I shattered Ms Dundas's illusions as to the Liberal Party's lock them up mentality.

As it has taken us 18 months to get to this point we have to establish what the government has done in the corrections field. The answer is very little. There has been some juvenile swaggering about a prison site, but there has been no attempt to achieve corrections reform in the term of this Assembly. It is patently obvious in the exposure drafts of the Crimes (Sentencing) Bill 2004 and the Crimes (Sentence Administration) Bill that they got an airing only because the government knew I was bringing this bill back on for debate.

What makes the government's slovenly approach even more reprehensible is the fact that the Crimes (Sentencing) Bill does almost nothing in the corrections field other than pinch a couple of ideas that have been taken out of my reforming bill. The 300 pages of the Crimes (Sentence Administration) Bill just show the incredibly turgid nature of this minister. On first blush it would appear as though the minister had to produce over 300 pages to accomplish what has been achieved in the mere 18 pages of this bill. That says a lot about the different approaches of the Labor Party and the Liberal Party.

As a result of this government's inadequacies, this bill represents the way forward in corrections. I thank members for approving of certain clauses today, as they are an important part of the reforming practice. They set down the principles that we want to achieve and how we want to achieve them. They should have been in place a long time ago. The Labor Party, in its election material, said that that is exactly what it would do. It would come up with programs that were required, it would design a jail based on that and then it would pick a site. Unfortunately, all it has done to date is pick a site.

I thank, in particular, two members of my staff who had an enormous input into this bill—Malcolm Baalman, who worked on the bill at an early stage, and James Lennane who helped to bring it to fruition. I thank all those involved in consultations that were frank in their appraisals and supportive in their suggestions, including those relating to proposed amendments. I thank them most heartily because I think that helped to make this a better legislative package.

I look forward to seeing this bill implemented in the next Assembly. This is an opportunity for the ACT. If we are to make a difference we have to address the things that many members mentioned in their speeches—how to deal with those who have mental health problems, drug problems and socialising problems. If we do not do that in the rehabilitation phase whilst they are in prison they will simply re-offend and we, as a society, will have failed. I thank members for their support for the bill and I look forward to this bill becoming an act, if not quickly, certainly within 12 months from today.

Bill, as amended, agreed to.

Nature Conservation (Native Vegetation Protection) Amendment Bill 2004

Debate resumed from 30 June 2004, on motion by **Ms Dundas**:

> That this bill be agreed to in principle.

MRS DUNNE (3.45): The stated aim of the Nature Conservation (Native Vegetation Protection) Amendment Bill 2004 is to protect patches of vegetation supporting endemic ACT species and it applies only to vegetation on patches larger than 0.2 of a hectare. The bill establishes a goal of no net loss of endemic vegetation in the ACT. It sets up a new regime of clearing native bush, a series of new offences covering unapproved clearing and new obligations placed on people who wish to clear native vegetation to regenerate other cleared areas or to rehabilitate a currently degraded area of native vegetation. The goal is that over the long term the area of native habitat in the ACT is not reduced as a result of approved clearing. This bill is, in some way, aimed to complement the tree protection regime applying in suburban areas and applies only to patches of endemic native vegetation and not to individual trees, as does the tree protection regime. It does not apply to vegetation in conservation areas.

The Liberal opposition is supportive, in principle, of the aspirations of this bill. I am sorry that I have to make another "good idea but" speech today. I think that the aspirations in this bill are very sound and very strong but we came to the conclusion that at this stage we cannot support the legislation as it currently stands. My views on this were crystallised by the publication of the Productivity Commission report only in the last week or so. The Commonwealth asked the Productivity Commission to conduct a review on the impacts of native vegetation and biodiversity regulation as a consequence of the introduction in 1999 of the Environment Protection and Biodiversity Conversation Act, a Commonwealth act, and some accompanying legislation in various jurisdictions—the principal one, but by no means the least, being that of Victoria on which I understand this piece of legislation proposed by Ms Dundas is modelled.

It was interesting to look at the findings of the Productivity Commission. It found, amongst other things, that:

> In most State and Territory jurisdictions, little formal consideration has been given to policy approaches other than regulation for delivering environmental goals.
>
> Regulation impact assessments or equivalent assessments in the absence of the formal RIS requirements do not appear to have been undertaken in relation to these sorts of regulatory schemes.
>
> In most jurisdictions there has been limited assessment of the likely economic and social costs of native vegetation and biodiversity regulatory regimes, while the benefits of the regime appear to be taken as self-evident.

The Productivity Commission made a very long series of recommendations, but the principal recommendation—the one that causes me to pull up and for the Liberal opposition to decide that we cannot support this legislation yet—is:

> Before introducing new or amending existing native vegetation and biodiversity policy a comprehensive regulatory impact statement or its equivalent should be prepared that includes an assessment of the problem being targeted, expected costs and benefits of the proposed policy and an assessment of alternative instruments. This assessment should be made public.

I think that is a very sound approach—not just for this but for just about anything that we do in government. A colleague used to have a sign over his desk—I do not think he still has it—to the effect that, every time this Assembly sat, the rights of the people of the ACT were being infringed in some way or other. It is something we have to be very careful about. We spend our time in this place regulating what people can do out there. When we do that it has to be done with a great deal of care. The Democrats, Ms Dundas and her staff, have done a fantastic job of putting this together but there is just not the capacity—and this is not criticism of Ms Dundas; it is a statement of fact—in an opposition member's or a cross-bench member's office to do the sort of regulatory impact statement that is required before the introduction of a piece of legislation like this.

This is very far-reaching legislation. I would like to see the next Assembly revisit this matter very early. I make the commitment that, if I am the Minister for Environment, we will revisit this very early and we will introduce a regime that has the regulatory impact statement underpinning it. I observed yesterday the snide comments of the Chief Minister to Ms Dundas. He said, "You don't do anything. Why don't you do it? I have got plenty of things to take up my time, but you, Ms Dundas, have got nothing to take up your time. You should do these things."

Those are snide comments—comments that are not, in fact, true. This is groundbreaking work for the ACT. It has been done not by the government but by the crossbenchers. It is great work, but we do not have the resources to do it to the extent that it should be done so that we can be confident that it really works in practice. That is a function of the sheer lack of resources of opposition and cross-bench members. The Chief Minister can make comments about how much work the opposition and the crossbenchers do not do, but, if we look at the record of the amount of legislation put forward here—successfully or

otherwise, but mostly successfully—by the opposition and the crossbenchers in this Assembly, it far outweighs the legislative contribution made by the then Stanhope opposition.

I think that there are sound principles in this bill. I believe that these are matters that must be taken forward by this territory, but I think that the execution of this bill is not sufficient for us to implement it at this stage.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (3.52): The government will not be supporting the Nature Conservation (Native Vegetation Protection) Amendment Bill 2004. The objective of this bill is to reduce the incidence of clearing of native vegetation within the ACT and includes provision for the rehabilitation of degraded native vegetation or the revegetation of cleared land to compensate for any native vegetation lost because of approved clearing. It is effectively a system of offsets.

Whilst the principle of green offsets has some merit as a mechanism for compensating for loss of vegetation in landscape protection terms, it has very limited application in a nature conservation context. It is certainly not a panacea for loss of intact native vegetation that contributes to functional and viable ecosystems. Ecological communities cannot be reproduced elsewhere by a planting program.

The ACT already has very good legislation for the protection of native vegetation. The Nature Conservation Act, the Land Act and the tree protection legislation comprehensively address conservation and protection needs. While there is always scope for improvement, we certainly do not need new, narrowly focused, administratively cumbersome and ill-thought through legislation—and that is all this bill offers. The path to success in the conservation of our native vegetation is best served by application of existing legislation in a strategic way through good policy development that is science based and implemented through sound planning and management. The ACT has an enviable reputation for doing this.

The spatial plan is supported by conservation strategies for grassy woodlands and lowland native grassland—examples where conservation outcomes can be achieved in a strategic and integrated way. I also point out that effective outcomes in areas as complex as nature conservation and land use planning cannot be achieved by unilaterally thinking up new laws. Any amending legislation needs to accommodate initiatives already in place and make any transition a smooth process.

This bill has very far-reaching implications for the Canberra community. Farmers and other land managers and the development and the construction sector would be particularly affected. We need to know, and it would be interesting to ask, what are their views? What are the implications for their businesses? What consultation has been undertaken?

The government is seriously concerned that, despite a laudable goal of no net loss in native vegetation, the practical implications of this bill for the Canberra community have not been properly thought through. Add to this an onerous administrative imposition for already busy government agencies and I think the fear is that the intent of the bill will be swamped by process at the expense of outcome.

The bill requires that all clearing of over 0.2 hectares of native vegetation be approved, under the Land Act, only when the Conservator of Flora and Fauna has approved the clearing and it is subject to a vegetation management plan. The proposed scheme would entail a significant workload on a busy administration. It would be resource intensive in staff, costs and timing. Before an approval to clear native vegetation could be given, the conservator must consult with and consider the views of the Flora and Fauna Committee about the draft plan. This vegetation management plan must set out the scope of the intended clearing and includes an undertaking to revegetate or rehabilitate alternative sites.

The proposed process has the potential for significant delay, given that the conservator must specify principles when deciding whether or not to approve a draft vegetation management plan. These are mandatory principles and their application is based upon a wide range of scientific information that may or may not be readily available. This scheme, if implemented as is, would have major implications in relation to the ACT Planning and Land Authority's ability to consider development applications in a timely manner. There would be extreme pressure on the conservator to give quick responses to the authority.

For this scheme to be implemented effectively, it would require significant resources and impose inevitable delays on decision-making processes surrounding a development application. Unreasonable delays of this kind impose very unreasonable costs on applicants. The costs involved, the evidence of a need and the implications for the community are significant factors that have not been addressed in this bill, despite its laudable objectives. Accordingly, the government will not support it.

MS TUCKER (3.56): Ms Dundas's Nature Conservation (Native Vegetation Protection) Amendment Bill 2004 seeks to protect what remains of the territory's native vegetation in rural and urban areas outside of the territory's nature reserves. This is important as the ACT is lagging behind other states in protecting threatened species and ecological communities from the impacts of land clearing.

In Western Australia, for example, the state government acted last week to protect government-owned, and other, urban bushland through the extension of its Bush Forever scheme. Even Queensland—until recently responsible for three quarters of all land clearing in Australia, killing 100 million native mammals, birds and reptiles each year—has beaten the territory in implementing land clearing legislation. That is a poor record for the "bush capital".

Ms Dundas's amendment bill also aims to impose a new requirement on the ACT government to seek approval from the Conservator of Flora and Fauna before commencing any new development. The aim is to ensure that the processes surrounding the approval of developments at East O'Malley, for example, and the Gungahlin Drive extension can never be repeated. The biggest threat to the ACT's remnant vegetation is not from agricultural clearing, as is the case in other states, but from urban expansion—as demand for new housing developments overtakes environmental concerns.

The ACT Greens, for example, are very concerned about the preservation of important remnant ecosystems in the Mulligan's Flat and Gooroo Reserves, which may be

impacted by the new suburbs of Forde and Bonner. Changes such as those Ms Dundas has proposed would offer an extra layer of protection for these areas. The Mulligan's Flat-Gooroo complex of native woodland, open forest and native grassland is one of the best remaining areas of habitat for two populations of threatened bird species, as well as others with declining populations. I understand that other members will not be supporting the proposed amendment bill. This is a pity, given that the territory's native vegetation will remain vulnerable and that the government will be able to sell off remnant vegetation without regard to the ecological consequences of its actions.

While I support the protection of remnant native vegetation in the ACT, I do have concerns around the concept of "no net loss of vegetation for the ACT" where this is achieved through "offset" replanting of damaged or destroyed vegetation in a ratio of one-to-one. It is not possible to "replace" native vegetation. Habitat for threatened species and ecological communities is irreplaceable. There is no way that we can achieve "equivalence" when we are talking about destroying old-growth tree hollows or viable, functioning ecosystems.

For example, no amount of plantings could begin to offset the damage done through the removal of the functioning ecosystem vegetation associated with the Gungahlin Drive extension. It is irreplaceable and now gone forever. You could plant 100,000 trees, and even throw in some understorey, and would still not have acquitted the damage done. However, there are occasions when the idea of offsetting could be useful as a last resort where there is no option for protection and retention of existing vegetation. For example, if a small number of trees have to be removed, there could potentially be an offset, but it should be an offset based on habitat values—not at a bargain basement rate of one-to-one.

There has been some interesting work done in Victoria, which aims to objectively and explicitly assess the quality of remnant vegetation through the "habitat-hectare" approach. Issues such as the number and size of habitat hollows, landscape values, social factors, the age, health and type of vegetation and other species affected, for example, must be considered against a native vegetation baseline. If this approach were implemented in the ACT, the Conservator of Flora and Fauna could then potentially make a recommendation as to the appropriate rate of replacement. In this way, we may be able to walk towards a "gain", or at the very least a "net gain", in terms of native vegetation in the ACT rather than settling for the concept of "no net loss", important as it is.

I am concerned also that any offset planting would have to be in an area that would not itself be damaged by intensive planting. Offset planting would need to be in areas that would support viable ecosystems after rehabilitation and which would be protected in perpetuity. Together with replacement planting, there should be provision to enforce recovery plans for threatened and endangered species. The conservator would need to be involved in this part of the equation and in more broadly monitoring the quantity and quality of remnant native vegetation in the territory too.

It is a concern that, in the last two ACT state of the environment reports, the Commissioner for the Environment has pointed out that there is no comprehensive database or long-term monitoring of biodiversity in the ACT. So, while I support this bill in principle, there are a number of amendments that the Greens would have proposed if

we had had the time and if there were more support from other members. I put it to members that the protection of native vegetation in the ACT is an important issue that will not go away and one that will need to be resolved in the next Assembly.

Regulation of land clearing is an issue facing all states and territories and one that has attracted a lot of interest in the last week, given the release of the Productivity Commission's inquiry into the impacts of native vegetation and biodiversity regulations. The Australian Conservation Foundation has noted that if the federal government is serious about conservation then it has to get serious about the scale of funding required. The National Farmers Federation and the Australian Conservation Foundation jointly estimated in 2000 that it would cost $3.7 billion per annum for governments to "repair the country". These are real and significant challenges for us as a nation. However, as I noted earlier, the main threats to native vegetation in the ACT come not from agricultural practices but from urban expansion—an issue that we can and should do something about right now.

While we do nothing and the ACT's remnant vegetation remains unprotected, we continue to put our threatened species and ecological communities at risk. The ABS has recently reported on the large rise in the number of species threatened and on the significant impacts likely from the deterioration of our rivers and from salinity on roads infrastructure by 2050.

In the last 10 years the number of terrestrial bird and mammal species listed as extinct, endangered or vulnerable in Australia rose by 40 per cent. In the ACT, the Commissioner for the Environment noted in the 2003 state of the environment report:

> … between 2002-03, 17 hectares of endangered Yellow Box-Red Gum ecological community were cleared for urban development. Along with some small areas of other woodlands, a further 85 hectares of paddock trees with little native understorey were cleared in Gungahlin, Dunlop and Tuggeranong.

As the Commissioner for the Environment noted:

> The ACT Government needs to carefully evaluate when it is time to forgo the time-limited benefits from further property development, land sales and rates, in favour of a broader economic base and upholding its regional and national environmental responsibilities.

The ACT Greens will continue to work to ensure that the impact of human activities repair and maintain rather than destroy the territory's biological diversity, including through the protection of ecological communities and broader ecological landscapes. This includes, as a matter of urgency, implementing measures to end the clearing of native vegetation and working to buffer high conservation areas through linking and restoring critical ecological fragments on both public and private land. Protecting the territory's native vegetation is important, as is ensuring that the processes surrounding the approval of the GDE can never be repeated.

MS DUNDAS (4.04): I thank members of this place for their comments on the Nature Conservation (Native Vegetation Protection) Amendment Bill 2004. I am disappointed that it has become obvious that this bill will not pass today. Neither the community nor the business sectors has raised concerns with me about this bill, especially not the

concerns that have been raised by other members today. So I guess I am at a bit of a loss to understand the arguments put forward by both the Labor and Liberal parties and why they are opposing it.

For the information of the Minister for Environment—this is something he would have discovered if he himself had been out consulting about this particular piece of legislation—the rural lessees have been consulted and involved in the development of this legislation and it has been discussed with other organisations such as the Property Council. The Conservation Council of the South-East Region and Canberra was also involved in the development of this legislation, as have been other interested members of the community from a range of different backgrounds. This work was not done in isolation; it was done in concert with the community. I thank all of those groups for their input into this particular piece of legislation. They helped to ensure that the bill I presented was a comprehensive one that dealt with a range of different issues.

In the Canberra plan, the Chief Minister mapped out a vision of the ACT as a sustainable territory. The defeat of this bill, which is imminent, shows that his words were just empty rhetoric. The ACT already has the second worst record on land clearing of all Australian states and territories. It is disappointing that at this stage neither Labor nor Liberal is willing to call off our race to the bottom on biodiversity protection.

For the record, some recent figures on native vegetation lost are 31 per cent in the ACT, 30 per cent in New South Wales, less than one per cent in the Northern Territory, 18 per cent in Queensland, 11 per cent in South Australia, 16 per cent in Tasmania, seven per cent in Western Australia and 60 per cent in Victoria, the only state that tops us. So we look pretty bad next to the other jurisdictions, despite having so much of our land area within Namadgi National Park. I really think that we need to pay greater attention to this issue.

We have seen the steady reduction of our native bush, leaving future generations to clean up the mess. This native vegetation protection bill was aimed at stopping future loss of bush cover by requiring new plantings to replace areas cleared. I recognise the comments made by Ms Tucker on how we need to look at that in relation to some biodiversity areas that could not be replaced. That was something that I thought was covered in the legislation. I quite welcome the comments that she made and would have been quite willing to work through amendments.

The decision to defeat this bill continues the tradition of developers being able to externalise the costs of their developments on to future generations of Australians. The Assembly has proved willing to move to a polluter-pays approach for air and water pollution, but clearing the native vegetation that filters our air and water and regulates our climate is apparently a different matter.

I believe that the land clearing that took place before we understood the importance of native vegetation could be morally excused. But allowing clearing to continue unabated now that we know better is shameful. It seems obvious to me that it will be necessary to restore a substantial amount of the vegetation that we have lost now and in the near future, but the major parties in this place feel comfortable with saddling future generations with the cost of replanting or bearing the cost of what happens if we do not replant and if we do not stop unnecessarily stripping away our native vegetation.

We cannot replace the irreplaceable but we need to mitigate the harm that we are doing. It is disappointing to see that the Labor and Liberal parties are planning to vote together to keep destroying our natural heritage. I put the question: when will enough be enough? Perhaps when we have lost the majority of our natural bush and many more of our native species, and only then, will many realise the mistakes that have been made.

A commitment to stopping the loss of native vegetation may sound radical, but it is a step that both New South Wales and Victoria are willing to make. Often we have the conversation about needing to be in step with what is happening over the border. This is one opportunity we have before us that is not being followed.

It seems that some members have made a decision to oppose this bill based on an inherent conservatism—a belief that we cannot make an overnight leap from 200 years of loss of native vegetation to a goal of no net loss. I believe that that shows a lack of vision. This is something that I am sure will be revisited by the Assembly in the future as we continue to see what will happen when we just clear native vegetation without any thought of recourse or on how that will impact on future generations.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the negative.

Papers

Mr Wood presented the following papers:

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

Charter of Responsibilities Bill 2004

Debate resumed from 23 June 2004, on motion by **Mr Stefaniak**:

> That this bill be agreed to in principle.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (4.16): The government opposes the passage of what it regards as unnecessary and confusing law. This particular charter, the charter of responsibilities, has been modelled on the proposed Universal Declaration of Human Responsibilities, a document prepared by the InterAction Council, a group of former heads of government from around the world.

Mr Stefaniak is wrong in stating that the United Nations has seen that a declaration of responsibilities is necessary. Despite moves to have the declaration adopted by the United Nations General Assembly, this has not happened because there is not enough support throughout the member states to adopt it. Criticisms have been raised, for example, that it is already covered by United Nations human rights instruments, and that by "complementing" fundamental rights, which apply to every person, it appears to limit those rights to those who undertake the designated responsibilities.

Indeed, the Special Rapporteur, appointed by the General Assembly to investigate the adoption of the declaration, reported that the majority of non-government organisations opposed the adoption of the declaration as a possible means of oppression and noted that any general statement of responsibilities should not be applicable at the level of legally enforceable obligations but at the non-legal level of ethics and morality.

The Commonwealth Joint Standing Committee on Foreign Affairs, Defence and Trade considered the declaration in 1997. It recommended that "The Australian government consider accepting the draft Universal Declaration of Human Responsibilities." However, it stated that "the final document should be seen to complement the Universal Declaration of Human Rights and should not derogate from it".

The original Universal Declaration of Responsibilities, which it is claimed forms the basis of the charter, was also not meant to derogate from the fundamental human rights set out in the international human rights covenants. Mr Stefaniak does not, however, want that. He intends that this charter would override the rights set out in the Human Rights Act 2004 where applying the charter in interpreting ACT law would give a different result to applying the Human Rights Act. As the Human Rights Act contains fundamental human rights similar to those in the Universal Declaration of Human Rights, this charter has the potential, and indeed is intended by the Liberal Party, to undermine those rights. Mr Stefaniak, on behalf of the Liberal Party, quotes the United Nations when it states that the inalienable rights set out in the Universal Declaration of Human Rights cannot endure without the commitment to the responsibilities that come with them. If these rights imply responsibilities, the question needs to be asked: why do we need to spell them out? The Liberal Party says that is because if we were concerned only with individual rights, society would go to pieces quickly. We would all become selfish and uncaring of others.

Is that true? When determining what form a bill of rights for the ACT should take, the ACT Bill of Rights Consultative Committee actively considered the argument that a selfish and individualistic society would result from the introduction of a bill of rights in the ACT. The committee concluded that that is not the inevitable result or even a likely result of a bill of rights.

The committee also considered whether a charter of responsibilities should either replace or accompany a bill of rights. It concluded, among other things, that rights in themselves create responsibilities and that to align a list of responsibilities with rights could create the undesirable presumption that the enjoyment of rights is only available to those who have shown "good citizenship". It could be used as an excuse to treat those who breach the code of conduct as unworthy of the same fundamental human rights as others.

The Human Rights Act tells people what they have a legal right to. It sets a standard for law-making and administrative action below which no person, no matter who they are or what they have done, is to be treated. Using a statement such as the charter to purportedly "complement" the rights in the Human Rights Act will also detract from the focus of the rights listed in that act, which is on fundamental and inalienable human rights, not on good behaviour.

Respect for human rights means respect by each person for everyone else, no matter who they are or what they do. It is for the protection of all members of the community and is based on respect for their inherent dignity as human beings. It also provides a rational and principled framework in which to balance the interests of the individual and the wider community. Respect for human rights cannot exist if people are single-mindedly selfish and individualistic. This is well recognised in the International Covenant on Civil and Political Rights and is clearly set out in the preamble of the Human Rights Act.

When he introduced this charter, Mr Stefaniak stated that he thought it a shame that we have to go down the path of introducing a charter of responsibilities. He claimed that the Human Rights Act 2004 contains an "overemphasis" on rights. How often do we have to point out that rights cannot exist without responsibilities? Responsibilities are written into the Human Rights Act. Mind you, the Liberals are not alone in misrepresenting statements of rights. However, at least others, like the framers of the declaration, recognised that a statement of responsibilities should not have the same legal status as a statement of rights, nor should it derogate from fundamental human rights.

At a conference in February this year, Professor Jim Ife of the Centre for Human Rights Education at Curtin University of Technology said of those who believe that statements of rights undermine and even discourage responsibilities:

> … it is important to overcome these ideological blinkers, and to see that rights and responsibilities are both important and are necessarily related. Rights imply responsibilities, as there is no point in a person having something called a "right" if others are not prepared to meet their responsibilities to enable those rights to be protected and realised. They include the responsibilities not only of the individual, but also the responsibilities of the community, the private sector, and the government."

In fact, Mr Stefaniak concedes that there are already responsibilities written into rights. The charter itself, in the preamble, paragraph 3, acknowledges:

> Both the rule of law and human rights depend on the readiness of everyone to act justly. These rights cannot endure without the responsibilities that come with them.

Given that the rule of law and civil and political rights listed in the Human Rights Act 2004 are part of ACT law, responsibilities are already recognised. The Liberal Party admits that. When he introduced this bill, Mr Stefaniak conceded that many of the responsibilities listed are professional standards already in existence, set out in professional and other codes of ethics. While statements outlining moral and ethical principles and listing individual and community responsibilities are useful and may improve social cohesiveness, they are more appropriately contained in codes of conduct that apply to specific circumstances and activities. Morals and ethical guidelines do not function well as legislative provisions.

Using a statement such as the charter to purportedly "complement" the rights in the Human Rights Act will also create an expectation that only those who abide by the charter of responsibilities are entitled to those rights. It can be used to justify denying people their human rights because they are seen not to deserve them. Fundamental human rights are not dependent upon merit. They apply simply because you are a person. They are not simply guides to good behaviour and are appropriately the subject of legislative provisions. However, we should not be in the business of legislating ethics and morality. Ethical and moral behaviour in day-to-day activities are matters that should be based on appropriate consideration of the circumstances involved. They are the business of others, such as professional groups setting standards for professional people and church groups advising believers.

A list of what is considered good behaviour, while it might be considered desirable in itself, is not an appropriate subject for legislation. It is necessarily selective, as it cannot cover every kind of situation, and seeks to intervene in personal relationships. It is vague and general, intended to cover all situations at all times. This makes its enforceability questionable. Whilst the charter is supposedly based on the declaration mentioned above, it is much more far reaching, introducing a significant range of new responsibilities. It creates a whole page and a half of responsibilities of journalists and specification of other responsibilities for other professions that the declaration does not have. It substantially reframes many of the existing ones. Some responsibilities are already established by law. Clause 5 of the charter says, for example, that you may not rob or dispossess anyone else or any group of people. It also mentions assaulting police officers.

These offences are already provided for, in much more specific and useful detail, in the Crimes Act. I do not think we need this bill to tell people that they should refrain from robbery or theft, or, for that matter, assaulting police officers. Some responsibilities listed are at odds with legislative regimes established elsewhere. For example, clause 12, setting out responsibilities of employers and employees, ignores the industrial legislative scheme and enterprise agreements that govern the workplace. It is intriguing as to how the responsibility of employees to raise issues with their employers relating to conditions of work is to operate in practice. Is industrial action to be a civic responsibility? This is one of the examples of the fact that the charter will raise more questions than it answers.

The charter is selective. Some areas and professions are singled out and given uneven treatment and others are not. Journalists are subject to the most responsibilities, and teachers, lawyers and judges are also mentioned, with some responsibilities listed for each. Whilst it is stated that political power should not be "misused as instruments for

domination, but for humanity", I note that politicians are not individually singled out for special responsibilities. There is a confusion of sometimes conflicting responsibilities, but there is not provision for setting out how to deal with them. By invoking the authority of the Universal Declaration of Human Responsibilities, Mr Stefaniak is giving false authority to this charter, which changes and expands the responsibilities set out in the declaration and even creates completely new responsibilities.

An important example of subtle but substantial change to a declaration of responsibility is clause 2 of the charter. It is supposed to complement the Human Rights Act but provides a very different provision from the Human Rights Act. Section 9 of the Human Rights Act says that every person from the time of birth has the right to life and that no person may be arbitrarily deprived of life. The charter is must broader than that. It is proposed that everyone should respect life and that "no-one has the right to kill or injure except in self-defence".

As the charter is intended to prevail over the Human Rights Act, this raises the possibility, as it is intended to do, of re-opening the abortion debate. It does not specify what kind of life is to be respected or set any timeframe for when life exists. The clause does not specify that it applies to human life. Animals, vegetables—there is no end. This clause is so vague as to be virtually meaningless, and yet it can be used in ways that are socially divisive and potentially oppressive.

Whilst I do not think any of us object to the idea of establishing a code of good behaviour for all people to follow, codes of good behaviour should be appropriate to the circumstances to which they apply. I believe that this bill sets out a list of many vague, general and selective responsibilities which are intended to have legal effect that would allow them to take precedence over fundamental human rights set out in the Human Rights Act. It is inappropriate through its moral imperatives and confusing generalities. It is open to abuse through its vagueness and selectivity and it is potentially harmful in its legislative paternalism.

MS DUNDAS (4.29): The ACT Democrats cannot support the Charter of Responsibilities Bill 2004. This bill is one of the most ludicrous pieces of legislation that I have ever seen. I think it is apparent that the only reason we are debating this bill today is that Mr Stefaniak wants to make a political point about the Human Rights Act—that is that we should be legislating for individual responsibilities, not individual rights. However, as this bill clearly demonstrates, there are inherent difficulties in legislating for individual responsibility. This bill proposes that we legislate for people to have respect, for people to have ethical standards and for them to love each other. There does not seem to be the realisation that there are some things we cannot legislate for. We cannot force people, by the weight of the law, to trust, respect and love one another. We are not thought police.

I would also take issue with the idea that the Human Rights Act does not contain any responsibilities. It certainly contains many responsibilities for the government, for the judiciary and for this Assembly in how they make and interpret laws. It also encourages a general responsibility to uphold human rights in order to create a free and fair society. However, it does not go so far as to try to stipulate how people should think—unlike the bill before us today, which tries to set out people's attitudes and feelings towards each other.

The issue of whether the Human Rights Act should be accompanied by a charter of responsibilities was dealt with at some length in the report of the consultative committee on the Human Rights Act. They particularly quoted, for example, Uniting Care NSW/ACT, who said:

> There are serious dangers in including detailed responsibilities for individuals in a Bill of Rights. First, responsibilities are already detailed in the plethora of legislation … from paying taxes or sending children to school. … Second, a list of individual responsibilities would shift the agenda of a Bill of Rights from protecting citizens and may give the impression that government responsibility for the human rights of their citizens is conditional rather than absolute. … Third, the sorts of human rights that might be included in a Bill of Rights is clear, but there is no equivalent statement of responsibilities.

I think that is an ongoing problem with the bill before us today. This bill is not based on any international treaties, and there is no international law on which to guide their interpretation. This bill states that the courts must interpret laws to be consistent with the charter, yet there is no body of law by which the court can do so. Equally, Mr Stefaniak has stated that the bill was partially based on a draft declaration that has not even been accepted by the United Nations. It also clearly contains a certain number of individual flourishes.

Basically, the way I see it is that this bill is one man's perception of what responsibilities should be. There has been virtually no consultation in preparing this bill, let alone any attempt at trying to reach a community consensus on which responsibilities should be included. This stands in stark contrast to the Human Rights Act that was exhaustively consulted amongst the community, as Mr Stefaniak is very much aware.

I would now like to address some of the provisions in the bill that I find particularly concerning. It is extremely difficult to pick on particular cases because there are important problems with practically every clause of the bill. But I will focus on a few. Clause 1(2) says that everyone should respect people who hold a position of authority. I think we need to be careful about trying to legislate for respect. For example, in the last year we have all been shocked to see the revelations about child abuse and the child protection system in the territory. Most child abuse is perpetrated by people who hold a position of authority over the child. Should that child be told that they must respect people in this position, that they must follow every dictate that is given to them by somebody who is abusing their position of power?

I have a similar problem with subclause (5), which says that people must act towards one another in a spirit of goodwill, unity and kindred spirit. This is obviously an aspirational motherhood statement. I do not know how Mr Stefaniak would go about enforcing such a provision. He himself has commented many times about the support needed for victims of crime. Does Mr Stefaniak think that victims of crime should treat the perpetrators as kindred spirits? This is unclear and is one of the ongoing questions that I have about this piece of legislation.

Subclause (6) talks about the responsibilities of teachers and states they must maintain a politically neutral position in all aspects of their professional behaviour. Quite apart from its being incredibly unclear about what exactly a "politically neutral position"

means, there are, I think, quite a number of problems that can arise out of this particular phrasing. Does this mean that teachers should not be able to comment on their own wages and conditions, when pay plans and wages and conditions for teachers have been a constant political issue in this country? In fact, just a few months ago, we saw teachers protesting for a number of days out the front of this Assembly. They were, quite clearly, making a political statement.

I think that, with this particular clause, the position has been put forward that teachers should not be able to comment on their own working conditions. That is a terrible attack on the rights of teachers—people in our community whom we trust to educate our children and young people. It attacks their rights in determining their employment conditions and basically says that teachers do not have a right to free speech.

In a free democracy like the one that we try to espouse in the ACT, how could we possibly move to limit the freedom of speech of our teachers? This is one of the many reasons why I cannot support this bill. I particularly note clause 13, which states that no-one may disadvantage someone because of their sexuality. This is something that is already enshrined in our Discrimination Act. It is an idea that I support, but I find it an interesting proposal to come from the Liberal Party since they have opposed every attempt, or almost every attempt, in this Assembly to remove discrimination from people based on their sexuality. I think the Liberals need to go back and re-examine their justice policy. I understand that the policy is clearly abrogating the responsibilities that Mr Stefaniak believes should now be enshrined in law.

I find clause 17 also of concern. The bill states that a person who breaks the law has a responsibility to confess and accept appropriate punishment. Our legal system has always been based upon the common law right to silence in criminal proceedings and the presumption of innocence until proven guilty. The Scrutiny of Bills report on this bill goes into some detail about this issue, including the fact that it directly conflicts with the Human Rights Act. It appears that, once again, this bill is looking to fundamentally restructure our legal system, although, once again, there is no explanation as to how this responsibility would be enforced.

My final comment on this piece of legislation is that it contains no qualifications on who has to hold these responsibilities. Is the proposal that small children or the mentally ill are as equally bound by all these responsibilities as adults in this community, despite the fact that they may not be able to understand them? This is something that I think needs to be worked through. We recognise in our laws that there are people who have different levels of comprehension of the society around them and that means a different level of comprehension of the laws around them. That is something we have respected in our judicial system for quite a number of years. But it is very unclear whether or not that is to be continued with this charter of responsibilities.

Clearly, this bill is a knee-jerk response to the Human Rights Act. It is ill conceived and unworkable. My impression is that the Liberal Party has never seriously believed that this sort of legislation should be enacted in the territory. This whole exercise is a cheap political shot. If this is the type of wild and poorly written legislation that the alternative Attorney-General wants to introduce in the ACT, then I think the people of Canberra should be severely worried about what might happen at the next election and consider their vote very wisely.

MR PRATT (4.38): Reading back through some of the research that has revolved around the debate into the bill of rights and the bill of responsibilities and other issues, I picked up a piece written by the New South Wales Solicitor General where he was asked to comment on the then current debate about the introduction of the bill of rights to the ACT. The New South Wales Solicitor General listed the pros and cons for implementing a bill and made observations about the worthiness or otherwise of a bill of rights in any jurisdiction and the relevance to Australian life. He said:

> I also agree with those who argue that a Bill of Rights focuses too much on individual rights at the expense of social responsibility, community interest and social coherence, and that the proposed bill—

He was talking of the bill then being looked at for implementation here in the ACT—

> could encourage a culture where individual responsibility is discouraged in favour of claiming rights through litigation.

That was what the New South Wales Solicitor General thought about a bill of rights and what he thought about the erosion of a culture of responsibility. The point he was making was that the bill of rights proposed by the Chief Minister was not only irrelevant but it was not needed and it was unworkable. He was saying that such legislation would erode the code of responsibilities that underpin the workings of this society and any society. As if modern society needed a bill of rights right now to further erode that eons-old code of responsibilities that has underpinned the development of society and is still extremely relevant no matter how modern society becomes.

Erosion is occurring in the sense of responsibilities that any society is supposed to have. This is a wider western phenomenon, perhaps a by-product of modernisation, developing materialism and easier living, and also the rush to liberalisation. As we as a society become more spoilt, the harder edge of a living that once governed our existence and how we viewed our place in society as individuals has been seriously eroded: somebody else will take care of it; I do not need to pull my weight and, anyway, life is so damn fast I no longer have time to worry about pulling my own weight. The fight or flight syndrome that underpinned our sensibilities very rarely gets a run these days. Until recent times that regularly kicked in to remind us all of our vulnerability and therefore our dependence on others and the need for teamwork. All of that too has broken down.

A bill of responsibilities is surely more important now than ever. It is surely more important than the bill of rights that we have seen recently introduced to ACT society. The erosion in the sense of responsibilities means that such a mechanism needs to be put in place. A bill of responsibility needs to be put in place to shore up the sorts of erosion that I have just talked about. We all need to be responsible. Lawyers should be reminded of their responsibilities and this needs to be enshrined in a bill. That code needs to be there.

For example, lawyers need to know that they have a responsibility to protect the broader rights of society. They have a responsibility to protect common decency and the community interest as well as the rights of the individual that they may be representing. I lament the attitude of some lawyers in modern society, perhaps even too many now, who work quite irresponsibly in my view against the community interest. Come hell or

high water, what is most important—protecting the individual's rights? Is that more important than the community greater good, the community responsibility? Should there not at least be a balance to make sure that both the individual's rights and responsibility for the community's greater good are also protected?

Teachers are responsible for pursuing excellence and developing good character. Teachers are responsible for being role models. Teachers are responsible for inculcating values in schools, and these sorts of responsibilities need to be codified. The courts are clearly responsible for upholding the rights of the individual but the courts are also responsible for ensuring that victims are protected or that victims receive some sort of recourse. The courts are responsible for laying down, where necessary, deterrents to ensure that lessons are learnt and that crimes are not repeated. At times we wonder whether those sorts of issues are being dealt with closely enough.

A bill of responsibilities would enshrine the need for courts to make sure they take into account the community greater good in their determinations. What about all of us? We all have a responsibility to place our national and community interests, the essence of the collective good, well above our own individual rights, well above the perceived rights of any minority lobbies and at least on a par with the individual rights of others that we may be seeking to represent. So, if we are seeking to represent an individual, as officers of the court, as MLAs, as politicians, as policemen, as lawyers, as captains, as teachers or as coaches, we have a responsibility to make sure that the responsibility to protect the greater good is taken into account as well as the rights of the individual that we may be pursuing.

The Chief Minister's bill of rights has been a damned failure. It just was not made to fly. It is not designed to advance our society or to advance the true rights of each of us as individuals. How can the bill of rights protect the rights of the individual if it undermines the greater responsibility that we all have in protecting the greater good? This bill of rights allows the great weight of effort, often politicised effort, to go in the direction of selected individuals at the expense of the greater majority.

Today the Democrats, as usual, have demonstrated that they too are mesmerised by the bill of rights, and the libertarianism that this represents, as far more dazzling, far more exciting and far more important than the need for collective and individual responsibility aimed at advancing the community's natural interest. How naive and irresponsible are the Democrats when it comes to understanding and advancing the macro, the greater, good. Perhaps that is a function of their narrow, interest-based tunnel vision. What about the responsibility of all us to pull our own weight, to take care of the vulnerable, to protect the weak, to aim for the stars to advance our society? Where is the vision?

Given the irresponsible and careless inaction by this government, and the jaundiced view by the Democrats and others, on rights over responsibilities, clearly there is a need to legislate a code of responsibilities that enshrines our responsibilities so that when our kids go to school they learn initially, immediately, that they have responsibilities to pull their weight in society. In the rat race that we all live in, with the pressures that modernity brings, we do not have that same instinct to worry about the greater good. More than ever before a bill of responsibilities is required to keep reminding us that we all have responsibilities and that these responsibilities are far more important than individual rights.

MS TUCKER (4.47): I am going to speak really briefly to this. The Greens will not be supporting this bill. The bill starts with respect for others, that everyone should respect people who hold a position of authority. Sadly, I learnt as quite a young child, that you do not respect people unless they deserve and earn respect. People in positions of authority, men who wear robes, who have positions of power, often attempt to demand respect from people. Those people abuse that power. The abuse of power is such a well understood phenomenon in our society. I find it unbelievable that a member of this place would bring in a bill that demands that everyone should respect people who hold a position of authority.

Mr Stefaniak: Read the next clause.

MS TUCKER: Oh, the next line:

> People who hold a position of trust and authority in our community are required to show respect towards others, and must have ethical standards and serve truth.

So, Mr Stefaniak says subclause (3) qualifies subclause (2). In this legislation, part 1.1, clause 1 (2) says:

> Everyone should respect people who hold a position of authority.

Now Mr Stefaniak is explaining to me that that is not true. You do not have to respect people who hold a position of authority unless subclause (3) is being complied with. So, if subclause (3) is being complied with, and the person who holds the position of trust and authority is showing respect towards others, is not corrupt and not abusing that position of power, then subclause (2) applies. This is a really good piece of law, Mr Stefaniak.

The whole notion of the Human Rights Act is based on human rights conventions that have stood the test of time. The understanding of rights is equally wrapped up with responsibility. Mr Stefaniak continues to mislead the community that the Human Rights Act means that individual rights claim precedence over our community's rights. As Liberal tradition supports individual rights, it is ironic that the Liberals are the ones screaming foul about the bill of rights or Human Rights Act. Of course, they understand that the term "rights" is not as simple as rights; it is about responsibilities of the community as a whole and, in particular, the government elected to represent the overall interests of the community.

So the understanding of a rights framework is bound up with responsibility. That is a fundamental understanding we all have of human rights, even though it does not suit the Liberal Party's political agenda. It is not interested in overall responsibility being taken by the state and that is threatening to it. It was interesting to note in the developing days of human rights conventions that the conservatives opposed them. They said: this is about communism, be really careful. They were scared of the responsibility aspect of it. Now they talk about the need to bring in responsibilities in the most ludicrous way. I honestly do not think this bill deserves any more response than that. Try to understand what the rights framework is about, Mr Stefaniak, and you will see you can be comforted that it is absolutely about responsibilities.

MR STEFANIAK (4.51), in reply: First, I will refer to a number of points the Chief Minister raised and then I will get to some general issues. He said it was unnecessary and confusing. I hardly think that is the case. When a country like Australia or a state like the ACT—the first state to have a Human Rights Act—goes down the path of a Human Rights Act, it is absolutely essential that we have something like this as well. It has never stopped the Labor Party, the Greens, or the Democrats from introducing social experimentation or something new that no-one else has ever tried if it suits them. It should be no excuse for them to say that this was just a draft declaration of responsibilities and a lot of countries did not want to go ahead with it and it was not implemented. That is hypocrisy in the absolute extreme. They will always be the first standard bearers to put something in if it suits them. I find it quite incongruous that they now say that no-one else has done this, it is not in at the UN, it is only a draft, therefore we should not do it.

Saying that the Australian government is not going to go ahead with this is also quite ridiculous. It is a crazy argument. Of course the Australian government is not going to go ahead with this. At least the Australian government has the commonsense, along with the Federal Labor Party, Bob Carr, Peter Beattie, and a few other Labor leaders around the country, to see that we do not need a Human Rights Act. If you do not have a Human Rights Act, you do not need to go down this path.

This is about balance. It is about fairness. It is a question of balancing rights and responsibilities. If we have to have a Human Rights Act—and we have one in place now, and it has been operating since 1 July—we need responsibilities as well. We need something to counter any excesses in rights. A lot of people, a lot of former leaders in the United Nations, saw that. So even if they have not implemented it—and it takes a long time to get things implemented in the UN anyway—that surely is no reason.

The Chief Minister is concerned about this overriding the Human Rights Act. Well, Chief Minister, if you are concerned about that, you could amend it. I would not mind. If you want it to be compatible with the act, so both work together and neither overrides the other, go for it. Take out that clause. No. The Chief Minister talks about selfish individuals and society and how a bill of rights will not operate properly if everyone gets terribly selfish. He misses the point. Society is not going to fall apart. The trouble with a bill of rights in a place like Australia—and a number of practitioners have spoken to me about this recently—is that it engenders a culture of selfishness, a culture of me. As a result of our Human Rights Act, a fair amount of litigation over some rather strange issues is expected to clog up our court system.

A society that is not ideal, a society that is selfish and does not care for others and often victimises others, will not be stopped with a Human Rights Act. The Soviet Union had one of the best constitutions in the world in 1937, and Stalin was busily bumping off and sending to the gulags 90 per cent of everyone over the rank of colonel in the Red Army. France, Germany and Belgium have Human Rights Acts. Earlier I mentioned, and Ms MacDonald will remember speaking too, about some very nasty acts and an increase in anti-Semitism in those countries.

Recently in France or Belgium some woman was viciously assaulted. She was wearing a Star of David or something and some louts on a train gave her a really hard time and,

of course, no-one did anything. So much for a lovely caring society in Europe where, I would have thought, the scourge of anti-Semitism should still be foremost in the minds of a lot of people there—especially in Germany, with what was practised under the Nazis, but also in countries like France and Belgium. All of those countries have Bills of Rights.

Rights cannot exist without responsibility, says the Chief Minister. That is absolutely so. That is exactly what I am saying. They cannot, hence this bill. As I said earlier, if you do not like the clause about this taking precedence, change it. But rights cannot exist without responsibilities. I am saying that that is why you need this. The Chief Minister also states that codes of conduct are better for professions, that they should have just codes of conducts. You do not need those in here. They cannot be exhaustive, they cannot be inclusive of everything. You cannot put everything into a bill like this, and you cannot put everything into the Human Rights Act. Somewhere in the Human Rights Act it says that it is not exhaustive, that it does not cover all rights.

Neither does this. This does not purport to; this purports to have a go at some fairly sensible fundamental responsibilities people have—to be good neighbours, to be good citizens and to care for each other. People in the Labor Party, the Greens and the Democrats completely missed the point: you cannot govern good behaviour, you should have codes of conduct that are better elsewhere. I tend to agree with that but for the Chief Minister to use that argument against this bill is effectively to use that argument against his own bill because they are just so intertwined.

Rights and responsibilities should be so intertwined. If you cannot legislate responsibilities, you cannot really legislate rights either. That is why the opposition opposes the bill of rights and that is why with all our conventions, the way our laws have developed and the change in the nature of our laws, the ACT would be far better off without a bill of rights and we would not need to go down the path of legislation like this to balance it. The Chief Minister effectively has some real problems with his own act by using those very arguments against this bill. He also says it does not deal with humans. Well, it does. Clause 5 in part 2 states:

> Who has civil responsibilities?
>
> Individuals have civil responsibilities.

This deals with people, just like the Human Rights Act. Everyone has a responsibility to respect other people, et cetera. Then the Chief Minister touched on one thing that both the Democrats and the Greens started harping about as if it were some dreadful thing that we should all hate. That is, clause 1 (2) in part 1.1:

> Everyone should respect people who hold a position of authority.

When Ms Tucker raised it, I said read subclause (3):

> People who hold a position of trust and authority in our community are required to show respect towards others, and must have ethical standards and serve the truth.

Those statements are absolutely basic. People should respect people in authority and those in authority should do the right thing by the people they have to deal with. They

should be ethical. They are commonsense statements. If the Greens, the Democrats and Labor cannot understand that, and you are going to knock everyone in authority, it is a pretty sick society we live in. You people are the ones in authority. I would hope that you conduct yourself such that you respect others, and you should be deserving of respect from others as well. It is just the mark of a civilised society.

The Democrats called this a ludicrous piece of legislation and said you cannot legislate for this type of thing. On that basis, you cannot legislate for human rights either. After Ms Dundas' effort yesterday in relation to the criminal code, I am not sure about her interpretation of ludicrous. This legislation is not ludicrous. It is quite a sensible piece of legislation, given the fact that we have had a Human Rights Act since 1 July. Mr Pratt made a number of very good points about why this legislation is needed. What offence can people possibly take to no-one having the right to kill or injure others?

The time being 5.00 pm, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate resumed.

MR STEFANIAK: What possible objection could any reasonable person have to respect for life? It simply states that no-one has the right to kill or injure except in self-defence. Everyone should respect life. The Chief Minister thinks this is some subtle way of bringing in the abortion debate. It is just about respecting life, and respect for the rule of law. We live by the rule of law. We are rather proud of the rule of law. What on earth is wrong with respecting that? What on earth is wrong, as an ideal, with people assisting police and authorities in the course of their duties and in the exercise of their functions? Surely that is a duty of any ordinary citizen in a civilised society. What is wrong with opposing all forms of inhumanity, particularly fanaticism, hate and social exclusion? Yes, they are broad principles, but there are some very broad principles too in the Human Rights Act. The government's arguments in relation to this just show up the fact that they apply equally to arguments against the Human Rights Act, which, also, as is the nature of those acts, has to be very broad.

The bill provides that everyone has the responsibility to work for the greater good of humanity and everyone must be fair and honest in dealing with everyone else. It contains statements about people not dispossessing people. That has got nothing whatsoever to do with interfering with the very extensive criminal laws we have in this state. It is a statement of principle, a statement of morals, a statement of responsibilities decent people—indeed, all people—should have in a civilised society.

We have put a number of groups in there. It is not exhaustive. It cannot be exhaustive, just like your Human Rights Act cannot be exhaustive, Chief Minister. But it deals with the responsibilities of a number of groups very much in the public eye. I do not know if people possibly think politicians are professionals, but I suppose we are meant to be. So, clause 8 of part 1.1 would certainly cover what we are meant to do. Perhaps we have some additional duties as a result of the role we play in society.

The bill contains some general comments in relation to good relationships between employers and employees. Again, what is wrong with those general principles? The Chief Minister did not mention marriage, family and sexuality, but the principle there is that marriage should be characterised by love, loyalty and permanence, with a guarantee of mutual security and support. Who could reject that?

Most of these statements are taken from the draft declaration that took some time to do and which was a very good stab at a universal declaration of responsibilities to complement and work with a universal declaration in relation to human rights. It is not right to have one without the other. So the groups opposing this show their complete hypocrisy in their argument on their Human Rights Act. The arguments they have made against this piece of legislation are equally applicable against the Human Rights Act, which they were busting a gut to get in and make the ACT the first place to have such an act. We do have such an act. We are not going to have this bill, because of the usual suspects in this Assembly, the leftist groups of the Assembly, the Labor Party, the great standard bearers of one of the Chief Minister's pet projects, the Human Rights Act. No other Labor Party in the country is keen to go down that path, and for good reason. This one is.

Of course, the Greens and the Democrats are jumping on the bandwagon to introduce a Human Rights Act. I would not have attempted to introduce this bill if we did not have a Human Rights Act. That is why the Liberal Party has introduced it. It is a shame it is now going to be knocked out. We will now see how Mr Stanhope's act works without any countering act in relation to responsibilities. I am quite concerned to hear, it only being 18 August—Long Tan Day—and the act has been in now for one month and 18 days, that already a number of lawyers are saying that some very interesting cases will be taken to court. This is going to open up Pandora's box. It is not going to be good for the community. On balance it is going to be a lot worse. It will probably detract more from people's rights than it will enhance them. There is nothing really to counter that now in the form of an act like this.

We would not need this type of legislation in a place like the ACT if we did not have a Human Rights Act. We do not need a Human Rights Act. One thing in what the Chief Minister says I agree with: rights cannot exist without responsibilities. Everyone in a civilised society basically should work reasonably well together. You cannot legislate for that. He said you cannot legislate for certain things. Well, Chief Minister, if you cannot legislate for responsibilities you cannot legislate for rights. You have, and there are some double standards here in the argument by the ALP, the Greens, and the Democrats. That has been shown today in their opposition to this bill.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 5	Noes 9	
Mrs Burke	Mr Berry	Mr Quinlan
Mr Cornwell	Ms Dundas	Mr Stanhope
Mrs Dunne	Ms Gallagher	Ms Tucker
Mr Smyth	Mr Hargreaves	Mr Wood
Mr Stefaniak	Ms MacDonald	

Question so resolved in the negative.

Corrections Reform Amendment Bill 2003
Rescission and reconsideration

MR SMYTH (Leader of the Opposition) (5.12): I seek leave to move a motion in relation to the Corrections Reform Amendment Bill 2004.

Leave granted.

MR SMYTH: I move:

> That the Assembly:
>
> (1) rescind the resolution of the Assembly to agree to the remainder of the Bill as a whole and that the Bill, as amended, be agreed to; and
>
> (2) recommit the Bill at the detail stage and that the following questions be put in relation to the Bill:
> (a) that clauses 16 and 17 be agreed to;
> (b) that the Title be agreed to; and
> (c) that this Bill, as amended, be agreed to.

To expedite the finalisation of the bill we agreed that the remainder of the bill be dealt with as a whole. Of course, that included the title. As that was negated, the bill is now a bill with no title. It could go through as a bill with no title, which would be unique, but perhaps for clarity and the sake of those who might come after us we should agree to this motion so it will get its title back.

Question resolved in the affirmative.

Detail stage

Clauses 16 and 17, by leave, taken together and negatived.

Title agreed to.

Bill, as amended, agreed to.

Residential Property (Awareness of Asbestos) Amendment Bill 2004

Debate resumed from 4 August 2004, on motion by **Mrs Cross**:

> That this bill be agreed to in principle.

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

Adjournment

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

That the Assembly do now adjourn.

Totalcare Industries

MRS BURKE (5.15): At lunchtime today, just before giving an interview to WIN TV, Mr Quinlan chided that perhaps I was not providing facts. I would like to provide Mr Quinlan with the facts that are well known within the community in relation to the matter that we are talking about. These are some examples that we have already raised in this place but just so that Mr Quinlan is quite clear that I have my facts, I will run through some dates and things that people in the community will know about, people who have contacted me to say what the problem is.

- October 2001: security in Manning Clark Offices.

- December 2001: Belconnen High School, major concerns have been raised regarding Totalcare's profit margin and mark up on upgrade projects by more than one person.

- 2001: substandard upgrades at three special schools in Canberra—Cranleigh, Malkara and Turner.

- 2001: manipulation of budget submissions, 2001, 2002 and 2003, to cover expended areas of the previous year's budget. Funds where identified under specific items and when the funds were approved.

- February 2002—I wonder whether the minister and the Treasurer are aware of this one—Mount Rogers, the use of the time out rooms in schools, and the assault of a teacher by a student.

Mr Stanhope: On a point of order. The matter being detailed now by the member is the subject of a public interest disclosure under the Public Interest Disclosure Act. It is quite serious that legislation relating to issues around public interest disclosure is being used in this way. Over the past week we have seen in questions to the minister that the opposition has access to documents the subject of public interest disclosure—documents that have not been made available to the minister consistent with the public interest disclosure legislation. We have now what I regard as a very serious interference with the operation of a piece of legislation within the ACT. It is entirely inappropriate. I think you should rule that this is a real interference with the operation of a piece of legislation.

Mrs Dunne: I have a point of order on the point of order, Mr Deputy Speaker.

Mr Stanhope: I have not finished yet.

Mrs Dunne: I have a point of order on the point of order, and the member should sit down.

MR DEPUTY SPEAKER: We are getting into repetition here. Make the point of order please, Chief Minister, and then I will hear the next one.

Mr Stanhope: I am making the point of order.

Mrs Dunne: I want to know under what standing order he is making a point of order.

Mr Stanhope: No, I am making a point of order. Sit down.

Mrs Dunne: No, you have to do it in accordance with the standing orders.

MR DEPUTY SPEAKER: Order! The Chief Minister is taking a point of order. This may well be a matter for a substantive motion, not something that is to be debated on the adjournment. I am trying to establish where we are with this, Chief Minister.

Mr Stanhope: We have a member of this place interfering in the operation of a significant piece of legislation, namely the Public Interest Disclosure Act. Over the past week, accusations have been levelled at the minister in relation to a matter about which, as a result of the operation of that legislation, she has no notice, nor should she have. This place is being abused by the Liberal Party in relation to the operation of a significant piece of legislation. The public interest disclosure legislation cannot operate if people in this place are going to bring into this place and use information they should not have—which has been leaked to them inappropriately—to attack the government and a minister who quite rightly does not have access to that information. This is an appalling abuse of the law and of processes of this place. You should rule that it is completely out of order for a member to come in here and, I believe, quite deliberately undermine the operation of a significant piece of territory legislation.

MRS BURKE: On the point of order. I draw the Chief Minister's attention to a resolution agreed by the Assembly on 4 May 1995—exercise of freedom of speech—that the Legislative Assembly considers that in speaking in the Assembly or in a committee members should take the following matters into account: the need to exercise their valuable right of freedom of speech in a responsible manner. I believe this is a responsible manner. I say to the Chief Minister and the Minister for Education and Training that I will not be tabling this document. I will show the minister and the Treasurer if they wish. I received the same information as the minister. The public interest disclosure was given to me, Mrs Jacqui Burke, ACT shadow minister for family and community services; Ms Katy Gallagher, Minister for Education and Training, and Minister for Children, Youth and Family Support; the ACT Ombudsman; and the ACT Auditor-General. Mr Deputy Speaker, I put it to you that this letter is dated 19 January. Given processes that happen in this place, I understand the minister's concern that she is saying she has not seen the information. I find it extraordinary that six, seven, eight months have gone by—

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

Totalcare Industries

MS GALLAGHER (Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (5.21): I have not received any information to do with this matter.

Mr Stanhope: Just repeat that.

MS GALLAGHER: I have not received it. I have gone back through my mail register, right back to January 2003, to see whether I got anything relating to the allegations that the opposition has been levelling at me over the past week. I have nothing. The member can say it is not the truth, but I stand here very comfortably and tell her that nothing has come to my office, nothing at all, Mrs Burke. You are walking a very fine line here. You are accepting one side of a story that is going through a very thorough process, more thorough than anything you could do in this place. We have a process in place that is looking at all the allegations. It is protected by public interest disclosure legislation. When that investigation is complete I will then be briefed on this matter.

I was briefed by the department on 26 July to say that it has a public interest disclosure and that I could not be briefed on it, and that I could not know anything of what it is looking into. That is quite appropriate. For Mrs Burke to list the allegations that have been raised and which are subject to inquiry relating to public officers within departments, and just accept that that is the truth, is completely offensive and is interfering with a thorough process that should run its natural course—if it were not for Mrs Burke's interfering. All care, no responsibility.

Trees

MRS DUNNE (5.22): Yesterday, in an MPI, I referred to the potential tragedy of deaths of large numbers of trees in Canberra. While I will not revisit the arguments put then, I should make a couple of related points. The death of trees is not a direct result of government action or inaction. The direct cause of the death of most of the trees is drought. I suspect there is at least a subconscious view on the part of the government that drought, like fire, is what we might call an act of God and that others might call part of the great cycle of nature or part of the primordial and majestic Australian landscape. I will leave aside the vexed question of to what extent the Australia landscape is a natural system and to what extent it is the result of human intervention over the millennia. Such questions will doubtless entertain academics for years if not for millennia.

But I would say emphatically that we in Canberra are not living in a wilderness. It may be part of nature for trees to die in drought, for kangaroos to eat all the grass down to ground level and then starve in large numbers, and, arguably, for regular cleansing bushfires to occur in the wilderness. But if those things happen here, in and around our capital city, in what is very much a managed environment, it is a failure of that management. Human beings have been planting trees for millennia and those who live in areas where conditions are marginal for the trees they want to plant recognise that from time to time additional water may be required.

It is not beyond the ingenuity of much less technically advanced societies than ours to find ways to efficiently deliver water to trees in need of it. As a positive measure, and I have suggested it before, we should look at sinking a perforated pipe—some of us might call it ag-pipe—to get water down to the roots of our substantial investment in trees. As a negative measure, we might at least rethink the arrangement where, not content with charging people to water street trees, we prohibit most methods and times of watering. If we do this, it may still be too late. We may find, come spring, as I have said earlier, that many of these deciduous trees have already gone forever.

We may find that because of a failure to provide for water security earlier we do not have the water to save them, even if we can develop the techniques and remove the obstacles. In that case, we may have to erect another plaque in memory of Jon Stanhope similar to the one in St Paul's Cathedral erected to Christopher Wren and which says, "Lector, si monumentum requiris, circumspice" or, for the less educated amongst us, "Reader, if you seek his memorial, look around you."

Mr Steve Pratt—record
ACT honour walk

MR STEFANIAK (5.25): Yesterday I was a little concerned to hear a couple of comments directed at my colleague Mr Pratt, firstly from the Chief Minister who said, in what was becoming a heated debate on the adjournment, that Mr Pratt dobbed on his mates to secure his release. I think that is an extremely inappropriate comment. Mr Pratt suffered immensely at the hands of Slobodan Milosevic. He went through a number of mock dummy executions.

Mr Stanhope: Not as much as Hicks is suffering in Cuba.

MR STEFANIAK: You are showing your ignorance, Chief Minister. You probably do not know. Maybe you should talk to Mr Pratt, as I have, about his experiences there. He still suffers from a bad back. He was beaten.

Mr Stanhope: How do you think Hicks's back is going?

MR STEFANIAK: I do not think the United States carries out mock executions on prisoners like the Yugoslavs did with Mr Pratt. So get your facts right. Listen and you might learn something. Mr Pratt also has a very distinguished record on behalf of his country as an infantry officer, and a dammed fine one, with the Australian Defence Forces He has served in various capacities there together with his work for Care Australia. So I think that was particularly inappropriate, as was Mr Hargreaves in lumping Mr Pratt in with Mr Hicks, which is probably like lumping Erwin Rommel in with Colonel Blobble of Einsatz Commando Group 4 in the Ukraine. So, I did not particularly appreciate that. We are talking about two very different sorts of situations. I would like the government to get its facts right.

I was concerned to read in the Canberra *City News*—on a more minor point in a way—an article about what will be a good initiative, the ACT honour walk, which I understand is going to be in Civic Square. The Chief Minister referred to a new ACT honour walk on London Circuit. He said the existing Canberra Legends Civic Honour Walk will be extended to create a more inclusive honour walk which will pay tribute to people who contribute to all areas of the community, not only sport. I do not have a problem with that.

He said it will contain plaques to commemorate the achievements of the Canberra Raiders—it already does—as well as the current Super 12 champions and the ACT Brumbies. I take offence, however, at the next comment—I will proceed on the basis that he did not know; if he did know I would be very concerned—that the previous government had promised the Brumbies a plaque but failed to deliver and that the

Canberra Capitals and Canberra Cannons are also expected to be honoured as the winners of national basketball competitions.

For Mr Stanhope's benefit, I can tell him that the previous government, right at the end, commissioned that honour walk. Only one plaque was put down prior to that government ceasing, and that was for the Raiders. Other plaques were due to finish, and in 2001-02 there was about $27,000 in the budget that was not expended. I took up the issue on a number of occasions.

After the Capitals won in February 2003, on 4 March 2003 I put a notice on the notice paper of this Assembly—it is still there—calling on the government to commemorate the achievements and contributions made by the Cannons, Capitals, and Brumbies by means of honour plaques laid on London Circuit similar to the honour plaque already laid to commemorate the contribution made by the Canberra Raiders. Nothing happened.

In May this year I was listening to the Tim Gable show on a Saturday morning. Lo and behold, Ted Quinlan was saying in response to someone's comment, "What a good idea, we will do that. We should do that". I rang up at the time and said I am sorry, there has been a motion there for 14 months calling on the government to do it. There has been money in budgets for them to do something. Now, after nearly three years, finally it looks like something is going to be done. That was a very inaccurate statement by the Chief Minister, and I just draw that to his attention. I do not mind the argy-bargy in this place, but it is nice for people to occasionally get the facts right. Finally, on a pleasant note, I just offer my personal congratulations to two splendid athletes who have been in the ACT for many years, Petria Thomas and Craig Jones.

Question resolved in the affirmative.

The Assembly adjourned at 5.30 pm.

Schedules of amendments

Schedule 1

Corrections Reform Amendment Bill 2003

Amendments moved by Mr Smyth

1
Clause 2
Page 2, line 5—

omit clause 2, substitute

2 Commencement

(1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

(2) If this Act, or a provision of this Act, has not commenced within 12 months beginning on the notification day of this Act, the Act or provision automatically commences on the first day after that period.

2
Clause 4
Proposed new section 338 (1) (a) (ii)
Page 3, line 23—

omit proposed new section 338 (1) (a) (ii), substitute

(ii) if ordered by a court—may be reviewed by the sentence administration board; and

3
Clause 5
Proposed new section 366C (1) to (10)
Page 8, line 2—

omit proposed new section 366C (1) to (10), substitute

(1) A court that sentences an offender may, by order (a ***review order***) provide for the review of the sentence during its term by the sentence administration board, subject to this section.

(2) A review order may provide for 1 or more reviews of the sentence by the board, to be carried out within periods, or in circumstances, stated in the order.

(3) A review order may provide for either or both of the following:

(a) a penalty mentioned in section 366B to be imposed on the direction of the board, after a review by the board;

(b) the circumstances in which a penalty may, subject to any conditions stated in the order, be changed on direction by the board, after a review by the board.

Note ***Change*** includes change by omission, substitution or addition (see Legislation Act, dict, pt 1).

(4) Before making a direction under a review order, the board must ask the offender's case manager to make a written submission to the board about the proposed direction.

Note Case managers for offenders are appointed under the *Rehabilitation of Offenders (Interim) Act 2001*, s 97A.

(5) In considering whether to make a direction under a review order, the board must take into account any submissions given to the board under subsection (4).

(6) If the board makes a direction under a review order, the direction takes effect as if it had been made by the court in sentencing the offender.

(7) If a review order is made for an offender, and the offender breaches a penalty order, or a condition stated in the review order, the court may, by order, in addition to any other powers the court may exercise in relation to the sentence—

(a) change the review order to restrict or remove the powers of the board under the order; or

(b) revoke the review order.

(8) This section does not prevent the court, by order, otherwise than under subsection (7)—

(a) changing a review order (including a change to a condition of a review order); or

(b) revoking a review order.

(9) The court may not, by a review order, authorise the board to change—

(a) a nonparole period fixed in the sentence; or

(b) the overall term of the sentence.

4
Clause 5
Proposed new section 366C, example 1
Page 9, line 12—

omit

The court also orders

substitute

The court, by a review order, orders

5
Clause 5
Proposed new section 366C, example 2
Page 9, line 24—

omit

The court also orders

substitute

The court, by a review order, orders

6
Clause 5
Proposed new section 366C, example 2
Page 9, line 29—

omit

The court further orders

substitute

The review order also provides

7
Clause 5
Proposed new section 366D
Page 10, line 11—

omit

Supreme Court or Magistrates Court

substitute

Supreme Court and Magistrates Court