DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

29 June

2005

Wednesday, 29 June 2005

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

Environment Protection (Fire Hazard Reduction) Amendment Bill 2005

Mrs Dunne, pursuant to notice, presented the bill and its explanatory statement.

Title read by Clerk.

MRS DUNNE (Ginninderra) (10.31): I move:

> That this bill be agreed to in principle.

The Environment Protection (Fire Hazard Reduction) Amendment Bill 2005 is very straightforward. It makes it easier for our front-line firefighters to do the vital hazard reduction work necessary to protect our community. At present the process that firefighters, either from the Rural Fire Service or the land management agencies, must go through to get approval to conduct hazard reduction burns is cumbersome. There is a lot of red tape, especially around the conditions under which firefighters can actually carry through with a hazard reduction burn once they have received permission.

Of particular concern are the conditions that often attach to an authorisation to burn relating to smoke pollution. Most burns are at present subject to the smoke management guidelines for prescribed burning. I am not sure how long the document has been created. Truth be told, its genesis probably goes back to when we were in government. As is the wont of bureaucracy, what should be a simple concept to experienced firefighters with on-ground knowledge of fire behaviour has become unnecessarily complicated by rigid and complex guidelines about when a burn can and cannot proceed because smoke may drift or may annoy people.

This bill essentially requires officers of the land management agencies not to consider the inconvenience of smoke pollution and smoke drift when planning a hazard reduction burn or deciding whether or not to proceed with a burn. Hazard reduction work is critical to preventing the catastrophic impact that bushfires can have on our community. As such, we are of the view that the imperative is to conduct burns in the limited amount of time, or windows, available to conduct such burns and that associated mitigation in the threat of bushfires should prevail over concerns about inconvenience caused to the community by smoke drift.

As all members are aware, the levels of fuel reduction in the ACT have been the focus of much attention, both in the McLeod inquiry and the select parliamentary committee inquiry into recent bushfires. It is important to note that the McLeod inquiry found that, "Something more substantial than the present program is warranted in those areas unaffected by the 2003 fires." Indeed, the McLeod report states that fuel is the only element of a bushfire that human endeavour can influence.

I have been told by many firefighters with memories that reach way back that one of the reasons why there was inadequate hazard reduction work done before 2003 was that burns were consistently cancelled because of concerns about smoke pollution. Unfortunately, the same legislation and guidelines that govern the authorisation and conduct of burns have not been changed since then. I am consistently told by firefighters on the ground, firefighters from the parks brigade, ACT Forests and firefighters from the Rural Fire Service that the current guidelines are too restrictive. They have in the past attended important burns that were postponed or cancelled simply because the wind was blowing one kilometre more than was permitted in their burn permit or because the wind direction was such that the washing on somebody's line might have a bit of smoke blown over it.

The fact that smoke drift from a burn may inconvenience someone, may interfere with their view or may blow over their washing line or upset their sensibilities is not a sufficient reason to postpone the burn. Not three years after the devastation of the 2003 fires, some people are already complaining about smoke pollution caused by hazard reduction burns. At the end of the day, the question boils down to this: are we prepared to put up with the inconvenience of a tiny bit of smoke pollution if it is necessary to stop half of Canberra being destroyed again? The opposition says yes. We have very little time for complaints about smoke. We would prefer to work for the safety of ACT residents and the firefighters.

Often volunteers have to put their lives on the line and fight fires where there are tonnes of fuel on the ground because they have been unable to conduct effective burns. The only criterion for halting a burn should be whether or not the burn has a real potential for public harm. For example, the burn might break its containment lines or the smoke might be so intense that there is a real potential for it to cause respiratory or health problems or other dangerous outcomes. That is the test embodied in this bill, and it is this test that should be applied by experienced firefighters on the ground with an appreciation of prevailing conditions and variabilities at the time the burn is to be conducted.

By way of a simple example, if the firefighters on the ground reasonably believe that smoke pollution caused by a burn could interfere with the visibility of planes landing at the airport, they might decide not to proceed with the burn. That is a reasonable approach to take. Or if authorities were planning, say, a burn on Gossan Hill and the smoke could blow over Calvary Hospital, they might decide not to burn because of the impact on Calvary Hospital and the childcare centre associated with it.

I should point out in fairness that the unseasonable weather that Canberra has experienced in the past few months has meant that many of the problems of changing weather conditions affecting smoke drift and the small window open for the conduct of such burns have not been present and land managers have been able to get on with the very good work that they do, and I congratulate them for that. Notwithstanding the unseasonable weather this year, the imperative is for our firefighters to conduct this important hazard reduction work without overbearing restrictions. I hope members will see fit to pass this bill and enable our firefighters to get on more effectively with the job of protecting our community. I commend the bill to the house.

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

Public Sector Management Amendment Bill 2005 (No 2)

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

Title read by Clerk.

MR BERRY (Ginninderra) (10.38): I move:

> That this bill be agreed to in principle.

Mr Deputy Speaker, a fundamental feature underlying all Westminster style parliaments is the separation of powers doctrine. Under that doctrine, the Legislative Assembly Secretariat is separate from government agencies. But, currently, the Public Sector (Management) Act in some respects does not recognise this. From the appointment of the Clerk to the conduct of reviews, the powers currently reside with the executive.

The need for these amendments was identified in the last Assembly when we went through the arrangements to appoint the Clerk. At that time I undertook the process in close consultation with the administration and procedure committee, but found that after the merit process had been concluded we were required to seek the approval of the executive. Clearly, we needed to change this requirement, so drafting instructions were given and a number of other amendments were identified at the same time.

The bill was drafted to reinforce the separation of powers and to improve the administrative efficiency of the Assembly Secretariat. The features of this bill include:

- enhancing the legislative expression of the separation of powers doctrine by removing executive powers in relation to the Clerk's appointment, suspension, dismissal or retirement and instead vesting those powers in the Speaker;
- providing a formal legislative basis for the Legislative Assembly Secretariat;
- a requirement that the Public Service Commissioner seek the approval of the Speaker before a review can be conducted in relation to the Secretariat;
- amending the provisions of the act in relation to acting appointment as Clerk; and
- extending the disclosure requirements in relation to the Clerk.

This bill addresses these issues and amends the Public Sector (Management) Act in a number of ways. It gives new separate definitions for the Clerk and Secretariat of the Legislative Assembly. It then provides that reviews of the Assembly cannot be conducted unless agreed to by the Speaker, a change from the previous situation where reviews of the Assembly could be conducted with the approval of the Chief Minister.

The need for these changes has been around in one way or another since self-government. We do not appoint clerks that often, so it does not come to notice, but it did in the case of the appointment of the current Clerk. The power to appoint the Clerk is, under my proposed amendment, vested in the Speaker, rather than the executive. Under the provisions of this bill, the Speaker will make the appointment on the advice of the relevant committee and in consultation with the executive and the Leader of the

Opposition. Similarly, the power to suspend the Clerk or end the Clerk's appointment will reside with the Speaker. This will ensure the autonomy of the office of the Clerk since clerks of the parliaments work for the parliament as a whole, not for governments, something that is already reflected in the act at subsection (46) (3), which provides:

> A clerk is not subject to direction by the executive in relation to the performance of his or her duties.

Section 53 of the act allows the Deputy Clerk to be appointed as the acting Clerk. This bill simplifies arrangements when the Deputy Clerk is unavailable, enabling the appointment of other Secretariat staff to act in the position of Clerk. These amendments also clarify the requirement for the Clerk to provide and maintain a statement of interests. This will bring the Clerk's disclosure requirements into line with that for MLAs and other executives of the ACT Public Service, thus improving transparency.

The bill I introduce today makes minor but significant changes that reaffirm the independence of the Assembly from the executive. I commend the bill to the house.

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

Court Procedures (Protection of Public Participation) Amendment Bill 2005

Dr Foskey, pursuant to notice, presented the bill.

Title read by Clerk.

DR FOSKEY (Molonglo) (10.45): I move:

> That this bill be agreed to in principle.

I am pleased to introduce the Court Procedures (Protection of Public Participation) Amendment Bill 2005, or what I will refer to as anti-SLAPP legislation. SLAPP is shorthand for strategic lawsuits against public participation. These lawsuits, seemingly on the rise in Australia, are intended to silence and intimidate activists, activist organisations, investigative journalists or any outspoken individual or group on matters of public interest, including, according to last Monday's *Media report*, octogenarian gardening show hosts.

Charges are most commonly laid by corporations. The "McLibel" case is well known, and charges against 20 individuals and organisations delivered just before Christmas last year by the Gunns corporation is the most recent Australian example. Most SLAPP cases are lost in the courts, but before that happens it can take years, considerable dollars and emotional strength out of the defendants while discussion about the real public policy that started the public debate in the first place is displaced.

This legislation provides a mechanism to assess whether a lawsuit is bona fide and to deter strategic lawsuits against public participation, or SLAPPs. At the outset, I would like to acknowledge that this legislation is based substantially on the legislative model proposed by Brian Walters his 2003 book *Slapping on the writs: defamation, developers*

and community activism. In turn, his legislation is based on successful North American legislation. By way of background, Brian Walters is a Melbourne barrister. He is Vice-President of Free Speech Victoria, and Vice-President of Liberty Victoria. He stood as a support candidate for the Victorian Greens in the November 2004 City of Melbourne council election. He has assisted many forest activists who have been forced to face the courts for breaking laws designed to exclude them from, for instance, logging coupes.

Also, at this early point, I will point out that a key intent of anti-SLAPP legislation relates to defamation law. However, we have taken the defamation section out of this particular bill as it is addressed in part by the exposure draft currently before the Assembly. I foreshadow that I will be seeking changes to that bill to strengthen anti-SLAPP measures. However, we still need this legislation to provide broader protection to public participation. For example, there is a range of law under which SLAPP litigation can arise, such as economic torts, contract law, trade practices, fair trading provisions and even the law of conspiracy. Fundamentally, though, this bill is about democracy.

The ACT Greens put forward this legislation because we have a longstanding commitment to protection of the community's right to participate. But this is not just a Greens issue. In fact, I would say that all members in this chamber have been motivated by concern that members of the community have the right to get involved in a range of activities without fear of retribution, physical, financial, or legal.

The Court Procedures (Protection of Public Participation) Amendment Bill 2005 aims to encourage public participation by protecting the right of the public to participate in social and political activity on a range of issues. It aims to protect the right of the public to act in support of social, community and political causes without fear that they will be attacked through the courts by spurious but nonetheless debilitating court action. The bill does this by allowing a defendant to apply to the court to have a case dismissed if it intervenes with public participation; there is no reasonable expectation of the case succeeding or the intent of the case is to silence public participation, to divert resources from public participation to legal proceedings or penalise for engagement in public participation. Where a case is dismissed on such grounds, the court may order the plaintiff or the person who started that court process to pay costs and damages to the defendant.

Public participation is defined as publication or conduct aimed at influencing public opinion on issues of public interest. It does not include unlawful behaviour. Over recent years there has been a worrying development where parties, particularly corporations and institutions, seek to suppress public participation thorough the use of the courts. These legal actions have a secondary objective. They can serve to dissuade and distract members of the public from continuing to campaign on the original issues. As one commentator states, "They 'win' the court cases when their victims are no longer able to find the financial, emotional or mental wherewithal to sustain their defence." They win the political battle even when they lose the court case if their victims and those associated with them stop speaking out against them. The term strategic lawsuits against public participation, or SLAPP, was defined by Penelope Canan and George Pring, who are academics at the University of Denver in the United States.

Characteristics of SLAPP suits involve: active and public defendants on the particular issue; technical legal grounds on which the case will be heard, such as defamation, conspiracy, nuisance, invasion of privacy or interference with business or economic expectancy. Of course, individuals or corporations cannot deny the democratic right to speak, so they find other grounds and excessive damages claims.

SLAPPs can use many parts of the law. Most cases use defamation law to stop or punish protestors from expressing views. The Trade Practices Act has also been used. The SLAPPs not only discourage those who are SLAPPed, but also those who are more peripheral to the proceedings but sympathise with the aims of the defendants. The weight of the proceedings, the number of claims and the length of the legal cases are usually intimidating. Essentially, SLAPPs play a significant role in silencing public commentary.

SLAPPs are also a major distraction. Individuals or organisations campaigning on an issue are not usually geared, nor do they have the resources, to have a legal team available to monitor progress, maintain correspondence and make appearance, as is required in many of these cases. Imagine the financial and emotional stress for a local farmer, for instance, who finds himself up for costs of thousands of dollars he can ill afford, and ignorant of the niceties of law. A large corporation has the dollars and the legal resources to grind down its opponents and divert attention away from the corporate activity that originally inspired the campaign.

But, going back, while the impacts on individuals and organisations are significant, do silence, are extremely stressful and should not be ignored, it is important to remember the broader impacts on democracy and public participation. The South Australian Environmental Defender's Office sums it up well:

> Such lawsuits transform what is and what should be a matter of public debate into a private legal dispute. Thus, instead of a public discussion, the issue is debated in a private legal hearing; and instead of the focus of debate being the citizens' concerns, the dispute becomes focused on the perceived legal injuries of the plaintiff. This leaves the question of who is right in the underlying public debate unanswered and indeed, largely undiscussed. The use of litigation in response to public participation therefore directly subverts and suppresses the democratic process of public debate.

I will give some examples of where these SLAPPs have been used. SLAPPs emerged in the United States in the 1980s and built to a level where eventually they were being lodged against thousands of people each year. In recent years these numbers have reduced as anti-SLAPP legislation has been adopted in various jurisdictions. Of course, one of the most famous SLAPPs was in the United Kingdom where McDonalds took two unemployed activists to court, suing for defamation over a leaflet the pair had been handing out. The resultant case became the longest in UK history and, ironically, a million of those leaflets were distributed world wide after the case was lodged.

While McDonalds won many of its claims and the British Court of Appeal ordered the defendants to pay £40,000 to the $40 billion company, the case was overturned recently in the European Court of Human Rights, which ruled that the British Court of Appeal's decision breached the European Court of Human Rights Article 6, the right to a fair trial, and article 10, the right to free expression.

Australia also has a history of SLAPPs, but I will only mention a few here. In 1993 members of the Helensburgh District Protection Society near Sydney were taken to court by developers over actions, including forwarding letters to the local council over rezoning proposals. The action was later suspended, but it still hangs over the heads of those people, even though their campaign dates back to 1986.

In 1993, again, a forest activist was summoned to the New South Wales Supreme Court by the New South Wales Forestry Commission over comments made in a media interview. The undertaking sought was that the activist and "unnamed persons" be restrained from "conduct for the purposes of and having, or likely to have, the effect of soliciting unknown persons to trespass" in the forests in question. That case was rejected by the court, but not before the forestry commission had used the proceedings to subpoena 32 defendants.

The most recent well-publicised SLAPP is that by the powerful Gunns company, the world's largest export woodchip company, which has taken out a writ against 20 individuals and organisations. On 14 December 2005, Gunns Ltd sued the Wilderness Society, five of its staff, Senator Bob Brown and 13 other groups and people for what it alleges are a series of wrongful acts. Gunns claims that the defendants engaged in a campaign against Gunns which constituted a conspiracy to injure Gunns by unlawful means and that the defendants illegally interfered with their trade and business, thus causing economic loss. Gunns is claiming a total of $6.4m in damages from all these claims. The claim against the Wilderness Society alone is $3.5m.

While the defendants will, of course, vigorously defend the claims and are likely to win in the court, they all face enormous costs in money, time, stress and worry. Gunns is the largest hardwood woodchipper of old growth forests in Australia. On 14 January 2005 the fightback by the Gunns 20 started with the filing of appearances in the Victorian Supreme Court. Peter Pullinger, defendant No 18, a Burnie dentist, said:

> We are united here today to declare our intention to vigorously defend ourselves against this writ from Gunns—a massive export woodchip company.
>
> We will continue to defend Tasmania's ancient forests. We will continue to defend our clean air and water. We will continue to defend public health and to speak out in the interests of the Tasmanian community.

While the Gunns action is not particularly strong legally, one of its main intentions is to intimidate those who are opposed to its actions as the largest destroyer of Tasmania's forests. It is also a major distraction for Gunns' opponents. Even if the case is eventually dismissed by the courts, it will take up the time and resources of the defendants and potentially take away the ability of Gunns' opponents to focus on their real issue, protecting old growth forests of Tasmania.

There are a number of ways in which people who have been SLAPPed can respond. They can withdraw from the public debate and do the best they can to defend themselves for a number of years against the legal resources that are thrown against them. People can SLAPP back, using the courts to make a case against the party that challenged them in the first place. This would seem to be a recipe for making Australia a more litigious place and does not have a good chance of success. The best way to deal with SLAPPs is

to try to make sure that the law provides an even playing field, that the rich and powerful are discouraged from using the law as a sledgehammer. This is why I am putting forward this legislation.

The Court Procedures (Protection of Public Participation) Amendment Bill 2005 is a measure to ensure that groups and individuals have the freedom to speak about corporations, the freedom to speak on matters of public interest and the freedom to speak without fear of unspecified damages. It does not endorse or support illegal activity. The courts will still deal with cases where the law has been broken and remedies will still be available to corporations and others through the courts. This bill does not encourage people to protest or undertake public campaigns on issues of concern. This bill instead removes some of the potential impediments to public participation in such campaigns.

The Court Procedures (Protection of Public Participation) Amendment Bill 2005 will go some way to levelling the playing field so that when members of the public come up against the rich and powerful, as is inevitable in a democratic society, wealth and power will not have an unfair advantage. I am sorry there is no explanatory statement with this bill. I will endeavour to table an explanatory statement in the August sitting weeks. I conclude by saying that I commend this bill to the Assembly.

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

Crimes Amendment Bill 2005

Debate resumed from 6 April 2005, on motion by **Mr Pratt**:

> That this bill be agreed to in principle.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (11.01): One of the big issues for all of us in this place is that, every now and again, we get a challenge thrown down to us. Most of the time we can pick them up and bat them back, and it is pretty easy; but some of the others require an enormous amount of thought. We sometimes have to dive into the inner depths of our hearts to find out whether or not something sits well with our consciences. We sometimes look at the way in which an argument is presented to see whether or not we believe the argument is something we could go with or whether it is opening the doors to something else we will have to deal with. That was the tussle I had when dealing with the legislation being put forward by Mr Pratt.

I do not doubt Mr Pratt's motives in this instance one bit. I guess if I have worries, they are about whether or not we have opened the door to something else without covering that off. I am a bit concerned because, in respect of unborn children, I am sure each and every one of us has a different view. Some of us are closer than others. I am on the record here as having said—and I reiterate this—that my belief is that life begins at conception. Some people disagree with that, and that is their right. It is their right to represent that view in this place.

When I was looking at the legislation I was very keen to make sure it did protect the life it was purported to be protecting and that it was not a cover for another debate. We have

been through the angst of debates in this place about abortion law reform. My colleagues on the other side who participated in those debates would remember how horrid those debates were. I think it would be pretty awful if, in this debate, we were to descend into that arena again. I am just looking about the place to see how many members were here during that debate. I know Mr Smyth was here; he would remember the difficulties. Whilst we have a position of our own and that is something we are tied to and totally committed to, the pressures that were brought to bear on us, both inside and outside this place, were pretty horrendous. I would not want to see us get into that particular discussion again.

I think that has been dealt with but I did feel, in looking at the way the legislation was constructed, that there may have been a temptation to get into the area of abortion; that, even though there is an assurance within the context of what Mr Pratt said that that is not what it is about—in the explanatory statements and all the rest of it, that is not what it was about at all either—I wonder sometimes, in looking at it, whether or not it does open the door to that.

At the end of the day I do not believe this legislation is talking so much about the protection of the life, it is what we do about it when it is threatened, when it is harmed and when it is terminated. I am reminded of the publicity—I think it was Mr Pratt who highlighted it in this place—about a woman who was involved in a car accident and the child died.

Mr Smyth interjecting—

MR HARGREAVES: Thank you very much, Brendan. The issue was whether or not this was a deliberate attempt to harm the mother, a deliberate attempt to harm the child or a deliberate attempt to harm both of them. I think the conclusion was that the whole issue was about the child. There is a need, I believe, in our society to fix that up and to try to protect the child a bit more.

I am really concerned that the way in which we go about this may open up the debate. I believe, as I have mentioned in this place before—and I have said this today—that we have to move somehow to protect the kids. We cannot allow a person to deliberately harm a woman who is pregnant, with the direct and deliberate result of killing the child, and get away with it under the guise of its being just an accident. I do not think we can do that at all. I am concerned that we get it right.

As I have said to Mr Pratt before, I support very sincerely what he is trying to do. If we have a difference today as a result of this debate, I need it to go on the record that the worry I will have is a procedural one. It is the way in which our protections are expressed, and the way in which the legislation protects those expressions. I want it recorded for all time that I find it unacceptable and that, if I have a difficulty at all in the context of this debate, it is because of the way in which the legislation is presented.

I also would like to express my appreciation—not on behalf of my group because that is up to them to do; they are big boys and girls—to Mr Pratt for inviting us to discuss the legislation. I think that is worth noting. It does not happen all that often in this place and I appreciate Mr Pratt's willingness—indeed can I say almost pushiness—in saying, "Let

us discuss it." If I have not taken the offer up enough I apologise for that, but I have given the legislation considerable thought.

I think it is fair to say that my record in this place on this sort of issue is that my vote will be cast because that is the way I feel about it and not because of any other instructions. Any other suggestion anybody might have in their mind can be put to rest right now. We are not dealing with a choice issue here; this is about deliberate acts of violence; this is about killing; and we need to consider it in that context. Let me say, though, that I will be watching and listening carefully to this debate to see how people can articulate for me that what we are talking about here is not a re-opening of that debate. If I get a smell of the re-opening of that debate, then I will vote against the legislation. If I can be convinced that it is not, then we will see how we go. I urge all members to consider this legislation particularly seriously; it is not a frivolous piece of legislation at all.

MR SESELJA (Molonglo) (11.11): I wholeheartedly support this bill and commend Mr Pratt for bringing this important piece of legislation before the Assembly. In his opening speech some time ago Mr Pratt went through a lot of the detail of the bill. I am not going to do that but would like to briefly say what I think the bill does and does not do. That might assist Mr Hargreaves in his consideration of this matter.

The bill recognises the serious nature of unlawful actions that lead to the death or serious injury of unborn babies and seeks to provide some form of legal deterrent to such actions occurring. It recognises the vulnerability of both pregnant women and their unborn children. It says to pregnant women that attacks on them or their child are unacceptable and that the law will recognise this by attaching serious penalties to such offences. That is a basic summary of what this law is and what this law will do if it is passed. The bill does not affect the law in relation to abortion. What Mr Hargreaves has said is right; there are no doubt many differing views in this place on the issue of abortion, but this bill does not deal with abortion. It mentions it, but this bill does not affect the law on abortion. Clause 5 of the bill specifically states, "This section does not apply to a lawful abortion." That is what I think the bill does and does not do.

I was a bit surprised to hear Mr Stanhope in the media some time ago, when the bill was introduced, saying that it was re-opening the abortion debate. I think Mr Stanhope is wrong on two counts at least: one, the bill does not apply to abortion, as I have said; and two, the abortion debate is something that will no doubt go on in the community. I do not think that debate is going to be stopped or started by what we do or say in here necessarily, or by what our laws say, as there are very strong feelings in the community on both sides of this debate.

Referring to the suggestion that this is re-opening the debate. Firstly, it does not affect laws on abortion; secondly, it is a debate that will go on regardless of what we do in this Assembly, in my opinion. There are strong enough views on both sides for this to always be an issue of contention. I can inform the Assembly that that is not what we are debating today. We are debating whether pregnant women—women who want to give birth to a baby—should receive any protection from the law. Where a pregnant woman, through an unlawful act, loses her baby the law will recognise this most serious of losses.

I can understand Mr Stanhope wanting to muddy the waters on this—and this is often the case in situations like this—because he does not want to argue the issue on its merits.

I think that is unfortunate because we should look at this bill on its merits. I was heartened when Mr Hargreaves said he is going to look at it closely. I was not aware that this was a conscience vote for the Labor Party but, if that is the case, I would certainly support that and encourage all members across the chamber, including those on the crossbench, to look at it very closely and consider the merit of this bill.

I want to say a few words about why I see a need for this legislation. Violence against pregnant women has long been recognised as a significant problem. I commend anyone who is interested in this issue to read the report entitled *What a smile can hide: a report on the study of violence against women in pregnancy*. The report makes disturbing reading. I have lifted a few figures from the report that members of the Assembly may be interested in. Twenty per cent of women in the study sample reported experiencing a substantial level of physical violence during pregnancy. Of this group, 6.2 per cent reported that the violence had increased during pregnancy and 13.7 per cent reported that the violence had stayed the same. US research suggests that 21 per cent of pregnant women had experienced physical violence. Women who experience violence in pregnancy were four times more likely to have miscarriages and four times more likely to have low birth weight infants. In addition, a 1994 US study found that women abused during pregnancy were more likely to have pre-term labour and other serious labour-related complications than women who reported no abuse.

A 1996 ABS survey entitled *Women and safety* found that 20 per cent of women who experienced violence by a partner stated that the onset of violence occurred during pregnancy. A Western Australian study that focused on the impact of domestic violence on young girls found that, of pregnant girls aged between 12 and 17, 29.2 per cent suffered from violence during pregnancy—higher than the rates reported for the general community. It was also reported that babies born to the abused group were diagnosed with significantly more neonatal problems than the non-abused groups.

A 1992 US study revealed that domestic homicide was the single most significant cause of death by injury to pregnant women during that timeframe. Thirty-nine per cent of maternal deaths in currently or recently pregnant women were attributable to injury and, of those, 63 per cent were the result of homicide. These figures indicate that pregnant women and their unborn babies are vulnerable. I think the question is: will we, as an Assembly, do anything to protect them?

Of course, statistics only tell part of the story, but personal stories put a human face to the issue. Take the case of Kylie Flick, whose abdomen was stamped on several times by Phillip Nathan King, the father of her baby, after she had refused to have an abortion. Her baby died. Kylie Flick had made the choice to keep her baby, yet that baby was taken away from her by the callous actions of the baby's father. Despite this heinous crime, the death of this woman's baby was not recognised by the law—and King was convicted and sentenced to jail for inflicting grievous bodily harm upon Ms Flick. There are some quite heart-wrenching comments from her. She says, "Ten years; that's what a child's life is worth. I'm sorry, but my children's lives are worth considerably more than that."

This is one that hits pretty close to home. At the moment my wife is 36 weeks pregnant. Under the current law, if someone assaulted my wife and that resulted in the death of our child, the law would not recognise that. It would recognise that there was an assault on

Ros, but it would not recognise the loss Ros and I would have suffered, and it would not recognise the loss of a sibling to my two boys. So clearly there is a gap. It is not acceptable to say, "Oh well, we recognise that there has been an attack on the mother." Sometimes it might be a relatively minor assault and, in legal terms, the perpetrator would be subject to a fairly minor penalty, yet the mother and the family will have suffered a significant loss. The law at the moment does not recognise this at all.

This brings us to the heart of the matter. Do we, as an Assembly, support pregnant women in their attempts to nurture and protect their babies? Where a woman loses her baby due to the reckless or malicious actions of another, do we recognise that mother's and that family's loss? If we do not, I would suggest we are not doing our job as an Assembly; we are not protecting the vulnerable people we are charged with protecting. I know there has been debate in this place before on this issue, and there was some talk about bringing in an offence of aggravated assault in such circumstances, which I think would be better than nothing. I note that nothing has been done on it yet but, as I was saying before, it does not recognise the loss. If you say to a mother who has just lost a baby, "That assault was aggravated; it was a little bit worse than a normal assault," she will say, "I've lost my baby. You are not recognising that in any way, shape or form."

The offence of aggravated assault, which would be welcome in and of itself, is not the answer. I think it is unfortunate that, despite talk when this was debated previously in the Assembly about aggravated assault, nothing, even on that front, has been done. Nothing has been progressed. It has been, I guess, put into the "too hard basket" because there is concern that it will reopen the abortion debate. That is the concern that is always put. It is absolutely clear from the wording of this legislation that that is not the case. Any other reading is not reading the legislation; it clearly delineates between the issues.

When we venture back into the electorate after this vote and talk to pregnant women, or if we were to talk to Kylie Flick or Renee Shields—Renee Shields lost her in utero child in a road rage incident—will we have the courage to tell them that their loss should not be recognised by law? Ask ourselves if we want to say to them, "We thought about doing something but it was a bit hard because there were some people who thought it would reopen the abortion debate."

See how that argument runs with those mothers. See how that argument runs with any pregnant woman if you tell her, "We were going to take some action to prevent heinous crimes against women and their unborn babies but it was a little bit difficult; we had a feeling that it might reopen the debate." See how that argument flies with those women and with your constituents. I would urge members to consider this closely. Have a look at it on its merits; have a look at what it does and does not do; try to think about what you would say to these women if you were asked about your position, and see if you would feel comfortable about the vote you are going to take, one way or another, today. Do give this due consideration. I commend this bill to the Assembly.

DR FOSKEY (Molonglo) (11.23): I have been reassured by Mr Pratt that the intention of this bill is to address the gap in the law, to deal with the situation where the criminal acts of one person cause death or harm to a pregnant woman's foetus, and that it does not threaten a woman's right to access abortion. Taking Mr Pratt's concerns at their face value. I can support the intent of this bill, but could only agree to it if some profound changes were made. I know that this bill is somewhat changed from the form in which it

was presented last year, but there would need to be more changes before I, as a woman concerned about women's reproductive and other human rights, could support it.

Let me explain my concerns. I understand the bill excludes abortion, medical procedures and any act by the woman herself from being considered a criminal act, and that Mr Pratt believes the bill has adequate safeguards against being used as a tool to restrict abortion. However, I am aware that similar legislation in the United States has been used as a back door to revoking abortion rights, and that some of the mechanisms by which this has been done include identifying a foetus as an unborn child, thereby strengthening the argument that it is a separate entity with rights and deserves the protections that we might give to any other child.

Despite Mr Pratt's attempts to separate the issue of abortion and crime against a pregnant woman, the way this bill is currently crafted sets up a series of offences against unborn children. In practice, this would assign legal status and rights to an unborn child as a separate entity from the mother. In my opinion this is extremely problematic. This could lead to arguments that the law assigns legal status to the unborn, and therefore the rights of the foetus can be set up in opposition to the rights of the woman. In addition, the bill, if passed, could lead to a situation where someone is charged with manslaughter, for instance, for a road accident that leads to a woman in the very early stages of pregnancy suffering stress that is then linked to the loss of the pregnancy. There appears to be some risk that we would be creating a very complex area of law.

I want to make it perfectly clear that I am not altogether opposed to legislation that introduces penalties for harm to the foetus when a woman who is pregnant is deliberately assaulted or harmed through the careless act of another. But I believe the law should recognise that the loss of a foetus, particularly in the later stages of pregnancy when there can be a strong bond between the woman and the foetus, and the loss of a pregnancy is likely to be a very traumatic experience.

I believe that applying penalties that recognise the loss of the woman and condemn any act of deliberate violence against a pregnant woman is an appropriate reflection of community values. I also have no objection to strengthening the penalties that might be applied to a case of domestic violence against a pregnant woman. The ABS women's safety survey in 1996 found that of all the women who reported domestic violence occurring at some time in their lives 42 per cent were pregnant at the time. Twenty per cent reported that violence occurred for the first time during the pregnancy. So it is clear that pregnant women have a special vulnerability.

The approach I would prefer is one that recognises that the harm is caused to the woman, rather than to the unborn child. This would be in line with other jurisdictions, which recognise the loss of a pregnancy as causing serious harm to the woman. For example, the NSW parliament recently passed the Crimes Amendment (Grievous Bodily Harm) Act 2005, put forward by the Labor government in response to the findings of the NSW Court of Criminal Appeal in *R v King*, where the court found that the loss of the unborn child may amount to grievous bodily harm to a pregnant woman, even where that woman suffers no other injury, because of the close physical connection between a pregnant woman and her unborn child.

The NSW legislation extends offences under the Crimes Act relating to the infliction of grievous bodily harm to the destruction by a person of the foetus of a pregnant woman, other than in the course of a medical procedure. NSW deliberately avoided creating the offence of manslaughter against an unborn child because this was highly problematic. I would support the introduction of legislation in the ACT similar to that adopted by the NSW parliament without hesitation, but I cannot support the bill.

I believe Mr Pratt is genuinely concerned about the right of a woman to safety during pregnancy but what I think is problematic about it is the way the bill assigns harm to the unborn child and not to the woman. I do not think Mr Pratt is deliberately attempting to restrict access to abortion. However, it is not surprising that there is a great deal of sensitivity about abortion rights at the moment. Those of us who feel very strongly about the right to safe, legal and affordable abortion have been alarmed by the so-called debate driven by members of the current federal government.

In this debate we have heard almost exclusively from male MPs bemoaning the number of terminations each year and using words to describe this as an "abortion epidemic". Inaccurate statistics have been used to fuel this argument, together with gross generalisations about women suffering psychological problems following terminations. It is my understanding that there are no reliable national figures on the number of abortions performed in Australia; however, we know the number has been falling. Health Insurance Commission figures show that the number of Medicare funded abortion type procedures fell from 76,000 in 1997 to 73,000 in 2004. Many of those procedures were for spontaneous abortions or unviable foetuses.

We have also heard misleading arguments about late-term abortions, with anti-abortion proponents suggesting that some women are having late-term abortions at the same gestation as surviving babies born prematurely. All evidence suggests that abortions performed in the third trimester are very rare and are overwhelmingly the result of foetal abnormalities. They are always the result of considerable thought by and consultation with the affected woman. We need to remember that no abortion is ever undertaken lightly.

Given this, many women have felt that they are under attack. Women's groups, and all other groups that are concerned about human rights, have been alarmed that hard-won gains in reproductive rights seem to be again under threat. It is therefore no surprise that legislation concerning pregnancy and harm to a foetus might set off alarm bells. I think we need to be very careful about protecting the rights of pregnant women to safety in carrying, bearing and delivering their child and their right to choice in the decision as to whether or not they will do that.

I believe this bill could have unintended consequences, and that there is an alternative route to achieve the desired outcome. I call on Mr Pratt—if he wants to continue down this road and have a third go—or the Attorney-General to produce legislation based on the New South Wales model, to discourage violence against pregnant women and send a clear message to potential aggressors without the complicated issue of assigning legal status to the unborn.

MR STANHOPE (Ginninderra—Chief minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.32): We have been through this debate several times. We went through it in relation to the Crimes (Abolition of Offence of Abortion) Act in 2002 and during the debate on the Human Rights Act 2004, in relation to the meaning of the right to life and choice debate—a bill almost identical to that introduced by Mr Pratt and which we debated last year—and yet the opposition is again insisting we revisit the debate.

Although Mr Pratt claims he does not wish to revisit the abortion debate, this bill does just that. As drafted, the bill opens the door and creates a real possibility to revisit the abortion debate and reproduction debates in general. It will create unnecessary angst and cause division within our community. Consistent with the 2002 proposal, Mr Pratt's bill creates a dichotomy between the pregnant woman and her foetus by defining an unborn child as distinct from its mother. As I have told the Assembly previously, a major fault line in the spiritual, philosophical and ideological conflict in relation to the rights of women during pregnancy is the issue of whether a nascent child has a separate personality. There is no consensus in the community on this issue.

Establishing a dichotomy between mother and foetus, in the context of the Crimes Act, creates a new forum to revisit the abortion debate because it objectively forces the question: when does life begin? I have previously told Mr Pratt, and advised this Assembly, that providing a sanction for violent attacks on pregnant women should not require an ideological debate; it is an insensitive topic for use to make an ideological point. Mr Pratt claims that the purpose of the bill is to overcome an anomaly in the Crimes Act, in that an unborn child is not recognised as a person against whom an offence can be committed.

Mr Pratt acknowledged in 2002 and still acknowledges today that, in cases of violence against pregnant women, the court can take into account any injury to the unborn child in determining the sentence to impose. He maintains, however, that this is inadequate because the court can only impose a sentence up to the maximum applicable for the offence against the woman. In some cases this may be appropriate; however, in other cases where, for example, the act is particularly malicious or the assault so severe that it would attract the maximum penalty under normal circumstances, the discretion to apply a more severe penalty is removed, and the penalty that is imposed may not accurately reflect the culpability of the offender's actions.

In his presentation speech Mr Pratt encouraged us all to look seriously at his proposal, or at least come up with an alternative, or amendments, to address the matter. The policy aim inherent in Mr Pratt's previous bill and in this bill can be achieved without creating a new platform for the community to debate the spiritual and ideological meaning of an embryo, foetus or unborn child. Rather than trying to create an offence that divides mother and unborn child, an approach that references the offence against the mother is currently being developed by the government, as I have previously announced.

The government will introduce to the Criminal Code a number of aggravated offences relating to the loss of a mother's pregnancy, serious harm to the pregnancy, or death or serious harm to the subsequent child. Where a factor of aggravation applies to an offence the maximum penalty for that offence would be increased. I will give some more detail

of where the government is up to in relation to this in a moment, but this is the appropriate way of dealing with the inadequacy within the current law which is acknowledged by Mr Pratt, and indeed acknowledged by the government, without revisiting reproduction debates or creating a new legal personality in the unborn, a personality that is not recognised, has never been recognised and should not be recognised by the law.

The approach is also consistent with the Human Rights Act, which explicitly states in section 9 (2) that the right to life applies from the time of birth. Introducing a separate legal personality creates the potential for a conflict of rights between a mother and her foetus. It also creates the potential for the mother's rights to privacy and freedom of thought, conscience and religion to be restricted against her will.

As I have previously advised the Assembly, work has commenced on the development of chapter 5 of the Criminal Code, which deals with fatal, non-fatal and sexual offences against the person. A considerable amount of work has been undertaken and continues to progress on its development. At this stage I expect to introduce chapter 5 in October or November. Chapter 5 will include considered provisions on the aggravation of offences relating to the loss of a mother's pregnancy, serious harm to the pregnancy, or death or serious harm to the subsequent child. It is critical that changes to the criminal law are progressed in an appropriate and considered manner. It is also critical that this important issue is considered in the context of the development of offences contained in chapter 5 of the Criminal Code.

In relation to that I am happy to give some further indication of the work that has been done and the approach the government will be adopting and which I will be tabling, as I said, in a few months time. However, I accept that this bill that Mr Pratt has tabled may be characterised as reflecting a community desire that offenders be appropriately punished for malicious acts that result in a woman losing her pregnancy. I have no argument with that but, as I have advised and stated just previously, the policy aim inherent in the bill can be achieved without creating a new platform for the community to debate spiritual and ideological issues concerning the meaning of an embryo or foetus.

Rather than trying to create an offence that divides mother and foetus, an approach that references the offence against the mother is the one the government will pursue. I announced this during the 2002 debate and I have previously announced it in this place. We will introduce into the Criminal Code those aggravated offences that I have just referred to. Where a factor of aggravation applies to an offence the maximum penalty for that offence will be increased. I am advised that the penalty for aggravated offences at this stage will be somewhere in the range of 25 to 30 per cent above the ordinary penalty. We propose to create those "aggravated features of pregnancy" for a number of offences, including dangerous conduct causing death; intentionally, recklessly or negligently causing serious harm; and intentionally or recklessly causing harm.

The aggravated offence provisions, and therefore the increased maximum penalty, will apply regardless of what the defendant knew or did not know about the pregnancy. To balance this, section 342 of the Crimes Act, which lists matters the court must take into account in determining the sentence to impose for an offence, will be amended in this context to include regard to the harm caused to the pregnancy, including the loss of the pregnancy and/or the harm caused to the subsequent child, including death; whether the

offender knew, or ought to have known, that the woman was pregnant; and whether the offender intended, or was reckless towards, causing the harm to the unborn child. In developing these provisions care is being taken to ensure that the following circumstances are covered as part of the offences we include within the Criminal Code:

- where the conduct causes the death of an unborn child or the loss of a mother's pregnancy;
- where the conduct causes harm that endangers, or is likely to endanger, the natural course of development of the unborn child;
- where the conduct causes harm that is, or is likely to be, significant and longstanding in relation to the unborn child, including harm that will affect, or is likely to affect, the development of the unborn child following birth; for example, conduct that causes the unborn child to develop or to be likely to develop epilepsy;
- where a person transmits a serious disease to the unborn child; and
- culpable driving that results in death or serious injury to the unborn child.

That is the approach the government will be adopting. That is the essential nature of amendments to chapter 5 of the Criminal Code that will be introduced by this government in a few months time, as foreshadowed previously. All of those changes to the Criminal Code, which go to the same extent to protect a woman and her unborn child, are achieved without creating a separate legal personality for an embryo or foetus, as proposed by Mr Pratt.

There is no need for this Assembly, this parliament, to introduce into the law a separate legal personality for an embryo or foetus in a way that the law has never previously felt the need to do, for very good reasons. It creates a disconnection between a woman and her embryo or foetus. The law is awake, and has always been awake, to the difficulties of adopting that approach. It should be resisted; this bill should not be supported. I will not be supporting it for those very good reasons. It is unnecessary and it is directed at achieving an ideological positional point in relation to the status of an unborn child.

MRS DUNNE (Ginninderra) (11.41): It was a shame that the Chief Minister came in and lowered the tone of the debate. Again the Chief Minister, who is incapable of arguing this issue on its merits, came in and opened up the usual hoary chestnut about re-opening the abortion debate. As Mr Seselja has rightly said, whether we like it or not, the abortion debate will proceed in this community while ever there are people in this community having difficulty with their pregnancies in one form or another. By saying we cannot possibly have an abortion debate, or we should not do anything that might open it up, is entirely the wrong approach. What we have here is a wrong-headed approach from the Chief Minister and, I am sorry to say, I am really disappointed in the contribution from Dr Foskey as well.

I think we need to go back and look at some of the cases that have prompted this. Mr Seselja touched on the case of Kylie Flick and Phillip Nathan King. When Phillip Nathan King beat and stomped on the abdomen of Kylie Flick, his principal intention was not necessarily to inflict harm upon Kylie Flick; his intention was to inflict harm on and preferably bring about the death of the child that she bore. We can hedge around and talk about a nascent child, a foetus, an embryo; but his intention was clear.

There may be other occasions when that intention is not as clear. There are the proposals put forward by the Chief Minister for aggravated offence. He has been gunna do that for as long as this has been the debate. I hope that we are not going to be holding our breath in October. I hope that in October we will see something.

Mr Seselja: Twenty-five per cent worse.

MRS DUNNE: But it is only going to be 25 per cent worse. When Phillip Nathan King pushed this woman to the ground and repeatedly stomped on her abdomen, if that happened here in the ACT under the Chief Minister's and attorney's regime, he would get possibly a 25 to 30 per cent higher sentence because of that, when his intention was clear. It was, in a sense, an unintended consequence, a concomitant consequence, that Kylie Flick was injured. His intention was clear. His intention was to do harm to another person who, quite rightly, as the Chief Minister says, has no legal entity, has no legal rights. Their legal rights, again today in this place, are being trampled on, in the same way as Phillip Nathan King trampled on his unborn baby and killed it.

Everyone in this place is very concerned about not transgressing too much into the abortion debate. I know that members opposite have been running away from this argument for a very long time. They think that, because of what was passed in 2001, we do not need to revisit this.

Mr Seselja: It is never to be discussed again.

MRS DUNNE: It is never to be discussed again. It does not matter what community opinion is, it is scripsi quod scripsi; it is all done; it is all over; and nothing else may be said about it. Really this is the cowardice of the Labor Party, running away from the argument. They are so committed to the idea that we cannot talk about abortion that they cannot countenance that babies in the womb are separate individuals and are worthy of support. The child of Phillip Nathan King and Kylie Flick was a separate individual, recognised by both parents, wanted by one and not by the other.

I have a bit of discomfort with Mr Pratt's bill because, in a sense, what we are doing is bestowing humanity on a child on the basis of whether or not this child is wanted by the mother. If a child is wanted by the mother, what happens to this child, through this bill, is important; and, if the child is not wanted by the mother, what happens is not important. But what Mr Pratt's bill does is very important. It addresses the issue. It address the issue brought about in a number of cases. There is the road rage case that brought about the discussion of Byron's law, and there is this rather heinous crime that we have talked about today.

Mr Stanhope does not really want to address the issue because it would be inconvenient to him. It would be inconvenient that in any way there would be constructed, within the law, the notion—we all know it in our hearts, whether it is convenient to us or not—that when there is an embryo in the womb, whether or not there is a legal case or whether or not it is supported by law, that is a separate individual. The conflicting rights of those individuals are often inconvenient for us. Because things are inconvenient, and it means that we have to make hard decisions, it does not mean that we should shy away from those decisions.

Mr Stanhope does not want to create a conflict of rights between a woman and the child, the embryo that she bears. He does not want to do anything that might break down the legal fiction that children in the womb do not have rights. But there is nothing in our experience that tells us that these people in the womb do not have rights. We know in our hearts, if we thought about it, that they do have rights.

The progress of science tells us that these people have rights. Once upon a time we could content ourselves by saying, "It is not really a human being." But we now know that, through the miracles of IVF, these human beings can be conceived outside the mother's womb—they are definitely separate from the mother—and they can be conceived from genetic material that does not belong to the mother. It put paid to the notion that a human embryo is just part of its mother's body and does not have rights separate from the mother.

I could say that we would have a legal fiction. Mr Stanhope would call it a longstanding tenet that should not be tampered with. But what we see is a progress in our thinking, a progress in our understanding of what happens. What Mr Pratt's bill does is draw attention to the heinous end of the scale, where people willingly, negligently, recklessly inflict harm on someone that results in the death of a wanted baby. And that is a huge loss.

Mr Seselja touched on the issue of a huge loss. We all know someone who has wanted a baby, who has lost it through miscarriage or through an accident, or the child has died. We know what that is. We know what that loss is. There is not one person in this room who has not experienced that, either at close hand or, somewhat removed, through their circle of family and friends. We know what loss these people experience. Imagine, if you experience that loss in the way that Kylie Flick did, how much more that loss is exacerbated. There is no recourse for Kylie Flick and for her family. And there is no justice for the baby that was killed.

We have all sorts of strange anomalies. It is possible for someone who is born and who has suffered damage because of a botched attempt at an abortion to sue for damages for that. Those rights only seem to accrue because that person was born. But the damage was inflicted and the damages are paid as a result of something that happened when this person did not have, according to Mr Stanhope, a legal, separate identity.

There are already a vast number of inconsistencies in the law. Mr Stanhope's wanton look—"We cannot discuss this because it is too difficult, it is too inconvenient and it gets in the way of a good argument, and I really do not want to have that argument"—is not a reason. We have been sitting here, time and again, having Mr Stanhope, when we passed the Human Rights Bill, saying, "I'm gunna fix up chapter 5 of the Criminal Code." When we debated a similar bill to this one in the previous Assembly, he was gunna fix up chapter 5 of the Criminal Code. He comes in here today and says, "I'm still—

Mr Stanhope: We do it with every chapter of the Criminal Code, one by one.

MRS DUNNE: Whatever the chapter is. "I'm gunna fix up the relevant chapter of the Criminal Code. I'm gunna do it." He comes in here today and says, "I really need to

share with you what we are going to do in this regard." He talks about a 25 to 30 per cent greater penalty. That is a scandal. The life of a child who is wanted by its parents is not important to Jon Stanhope. The people who lose their children through acts of recklessness, through acts of violence like the act of violence inflicted by Phillip Nathan King, are not worthy of support by this government. That is what he is saying. These people are lesser people and therefore their offences will be treated in a lesser way.

What Phillip Nathan King did was deliberately set out to kill the child that his girlfriend was bearing. That is a premeditated crime and he was not punished for it. Jon Stanhope's approach—

Mr Stanhope: Not punished?

MRS DUNNE: He was not punished for that. He was punished for beating up his girlfriend. Jon Stanhope's approach will be just like that. If a person does this in the ACT, after Mr Stanhope gets around to doing what he's been gunna do for ages, if somebody does that in the ACT, they will be prosecuted for the injuries to the girlfriend, with a bit on top. But we will not be able to consider the fact that that person may have premeditatedly gone around and stomped on that woman's belly to kill the child. It does not matter. You can feel comfortable because you might get a 25 to 30 per cent increase in the penalty, but that will not solve the problem; it will not do away with the crime; it will not be a deterrent; and it will not be of satisfaction to the people seeking justice as a result of that crime.

MR QUINLAN (Molonglo—Treasurer, Minister for Economic Development and Business, Minister for Tourism, Minister for Sport and Recreation, and Minister for Racing and Gaming) (11.53): I have to record that I occasionally feel a certain level of fear at the unbridled nastiness of Mrs Dunne towards Mr Stanhope. It is unique.

To the question at hand, let me say: I have a son who will turn 40 on Saturday. He and his wife have been married for a very long time. They are expecting a child in November, after more than a decade of having given up hope. If something happened by deliberate act to that unborn child, I could not be responsible for what would happen—what I would do, let alone what my son might do. But I find myself in this debate in about the same camp as John Hargreaves and Deb Foskey in as much as we certainly recognise the points made and the sentiment behind the bill that is being put forward. I certainly do have that concern.

Mrs Dunne just gave a speech that went for about 12 or 13 minutes. It was about one case—and that was all—and the fact that she did not like Jon Stanhope a lot. But what concerns me about the broad sweep of this bill—and I think what concerns John and Dr Foskey—is all the other cases, the hypothetical cases, that are not being put forward and that would also be caught up in this bill. The unintended consequences that Dr Foskey mentioned must lead us logically to the conclusion that we recognise that we all have concern. All the people in this Assembly, I am absolutely certain, share the same concern but just do not share the selection of the solution.

Those cases not being mentioned and not being milked in support of the bill concern me as well. We have recognition of a problem, but I do not think we have got the right solution in front of us. The Chief Minister has stood and said this government recognises

that problem and will move to bring forward appropriate legislation that we all can accept and will address the problem that we see without necessarily having, as Dr Foskey quite adequately put it, unintended consequences. That is the concern of members on this side of the house.

Words fail me, I am sorry. But I do not think it confers much honour on Mrs Dunne to draw the conclusion that, because any person does not support this bill, they do not care. I think that is a fairly unworthy conclusion to draw. Everybody in this Assembly, I think, shares the concern; it is just we have a further concern. At the end of the day there are a number of us that will defend a woman's right to choose and will defend women against assault against that and any thing that leads to an assault against a woman's right to choose. If defending a woman's right to choose is cowardice, then put me down as a coward.

MR STEFANIAK (Ginninderra) (11.58): Following on Mr Quinlan's points: I think Mr Pratt has been at pains, when introducing not only this bill but also a not dissimilar bill in the last Assembly, to stress that this has got nothing to do with the abortion debate about a woman's right to choose or not to choose. He has specifically included in clause 5, proposed section 42A, provisions to ensure that this does not refer to legal abortions, anything done by a pregnant woman in relation to her own unborn child or a number of other things. It specifically removes it from the abortion debate.

It is also not about one single case, albeit the particularly horrendous case in relation to the matter of Phillip King, which my colleague Mrs Dunne has mentioned. Sadly, there are occasions—and I can recall one in the ACT, but I am not sure there were necessarily tragic consequences for the unborn child—when some particularly nasty individuals will assault a woman with the specific intention of trying to bring about the killing of an unborn child or, by injuring the unborn child, to somehow get at the woman.

You might come up with another type of aggravated assault in law. Obviously this bill is going down. I wait with interest to see what you are going to come up with. I suspect one additional section is not really going to cover the gamut of offences that we have seen in the past in relation to deliberate or totally reckless attempts either to kill or seriously injure an unborn child and perhaps in that way get to the woman or whatever.

I think one of my colleagues mentioned that, whilst we already have a significant number of offences against the person, men or women, an assault such as this is not necessarily going to cause grievous bodily harm to or intentionally wound a woman. It is not inconceivable that a woman might effectively be assaulted and have the defendant charged with assault occasioning actual bodily harm in terms of the injuries the woman receives, whereas the child might well be killed or severely injured as a result of the attack. Quite clearly, the law is not adequate there. What we are looking at is someone deliberately trying to hurt an unborn, formed child, do serious harm to them, and the law is defective.

I understand that in some jurisdictions in the United States there are laws covering this, and they have worked quite well. New South Wales has either introduced very similar laws or may well have passed a not dissimilar law already in relation to this type of offence or series of offences in relation to assaults on women with a view to killing or seriously injuring an unborn child. These offences would add a significant new,

hopefully, deterrent to what is a particularly nasty crime, a particularly gutless crime, which is reasonably uncommon but not that uncommon in our community.

I can recall at least a couple of cases in our local courts where some particular lowlife deliberately tried to harm an unborn child, either to get at the woman because they were jilted or for some other spurious reason, or whatever. But it is particularly nasty, and I think it is important that there are appropriate offences to fit the crime so that appropriate punishment, if need be, can be meted out by courts. That, after all, is what our justice system is largely about; it is about protecting society; it is about protecting victims; it is about having appropriate offences for appropriate actions.

We in this place have frequently passed new laws providing new offences, ranging in severity from certain things like industrial manslaughter, which we do not necessarily agree with—we had a perfectly good manslaughter law—down to more misdemeanour-type things. Nevertheless, there are new offences. So there is absolutely nothing wrong with what is being proposed here.

Mr Pratt, indeed, has been incredibly careful in how he has crafted this. He has worked very closely with Mr Seselja and me. We have been in on it with him. He has sought opinion not only from both Mr Seselja and me, and had us in on meetings, but also he has worked very closely with Parliamentary Counsel. He has crafted legislation to ensure that it hits the spot, that it does not have any unforeseen consequences, that it does relate just to these matters, that it has got nothing to do with the question of abortion or the woman's right to choose or not to choose. Those things are irrelevant. This homes in specifically on where a person intentionally assaults a pregnant woman and knows or reasonably ought to know that she is pregnant, intending to kill a child or to inflict serious harm on that unborn child.

There are also offences in relation to culpable driving. I think it has been mentioned earlier in this debate, either today or on a previous occasion, that there are a number of culpable driving cases that fall within the generic area of this particular crime.

I think it has been crafted very effectively. It certainly does counter one of the nasty areas of crimes in our community, albeit not a very common one—nothing like burglary or the common or garden variety assaults you get in the street or anything like that. Nevertheless, it is a very serious crime and one I think that civilised society has an understandable abhorrence to but which is not adequately covered at present. I think that has probably answered some of the issues raised by Dr Foskey.

Mr Stanhope mentioned section 92 of the Human Rights Act. I remember that was a problematic debate in its own right. That act says life begins at birth. That probably is another issue. That probably was deliberately put in there simply because of his views and his party's views in relation to abortion. That is in there in that act. I think that was criticised by a number of people. He could have perhaps gone the other way there. I do not think that is necessarily an argument to bring up here—the problematic discussions that welled in relation to that—that, in itself, being a controversial decision, as it were.

What we have here is good, sensible legislation; it is carefully crafted. It is not a new, trail-blazing piece of legislation on its own. There have been moves in other states. There have certainly been moves in other jurisdictions and effective legislation in other

jurisdictions that deals with these types of matters. If we are serious about protecting a woman, who wants her baby to be born, from some person who deliberately wants to harm that woman, through harming her unborn child—which I think all of us would agree is a particularly nasty type of offence—then this legislation is entirely appropriate. It covers the range of situations in which that will occur and, I would say, covers it far better than any aggravated assault provisions that the Chief Minister might bring in later this year.

MRS BURKE (Molonglo) (12.07): I stand to strongly support Mr Pratt's bill. Obviously, as we have heard from members in this place, Mr Pratt has fought long and hard for the rights of the unborn child. Much debate has gone on about where life begins. As legislators, we are surely charged with protecting the rights of every individual. I must say that it is a quite strange case that the Greens put forward today.

Surely any woman who wants to keep her baby would be devastated at the premature loss of that baby through unlawful killing or murder of that unborn child, but it seems now that, in some quirky debate, it has got around to the fact that we have a position being taken that you can have a choice, as long as it is abortion. The legislation, carefully and considerately thought out by Mr Pratt, does not remove that right of choice for women regarding pregnancy and abortion.

At the moment what we have is no protection for the rights of women who lose their baby through intentional injury, manslaughter, unlawful killing or murder of an unborn child. Surely one must have to ask: who, of any of us, can stand and say who is and who is not a human life? I think the people best placed to make this call are pregnant women. It is our job, as legislators, to ensure that we protect the rights of unborn children.

Mr Stanhope says this bill would cause angst. I put to the Chief Minister: what about the rights of that woman who was stomped on? Where were her rights? It is not for the Chief Minister or any of us to decide for a pregnant woman whether the child that she is carrying has rights. I add a side note here. I presume that when a man and a woman have sexual intercourse a baby is the result; it will not produce a puppy dog. It is a baby. They produce a baby, and a baby grows up. It is a baby. It is quite easy for a pregnant woman to know when life begins, therefore. I would suggest that the Chief Minister does not have the authority, with respect, to stand in this place and make that call.

Mr Pratt cites many examples in his original tabling and subsequent speeches about one of the tragic outcomes for Byron Shields, who lost his life less than two months from his expected birth, following a hit-and-run on his mother by a drink-driver. As we have heard, the driver escaped a conviction for manslaughter because the court ruled that a seven-month old foetus was not human. How would that leave that woman feeling?

We have a gap in the legislation. I understand that the government is well aware of the gap in legislation. But how sorrowful and woeful is it for women out there who have suffered that it has taken this government over three years to get something done about it. Their inaction is just astounding.

Mr Stanhope's position on this matter is very obvious. He sits there laughing, jibing and sniping at the opposition who stand up for people's human rights. He simply has demonstrated, by his comments today, his disregard for and his opinion of the unborn or

what even constitutes a child. Until we, as a society, start to reverse, by way of strong legislation, the total disregard for human life, we will continue to see unnecessary and tragic consequences for the unborn child and the impact this has upon the pregnant woman.

We have said, and we realise, that we do not believe this bill will get up today. It will be defeated, sadly. But I, like my colleagues, will certainly be closely scrutinising the proposed changes to the Criminal Code, which have been three years in the making. It is going to be a pretty darn fine document by the time it gets tabled, I am sure. We, on this side of the house—and Mr Pratt has our full support—want to ensure that the unborn child is valued and recognised far better than it currently is under law.

MR PRATT (Brindabella) (12.11), in reply: Mr Speaker, while I disagree with Dr Foskey's very narrow interpretation of one or two of the salient aspects of this bill, I do thank her for the comments that she made. I also thank Mr Hargreaves for his rather calm and considered approach to the issue in what he had to say this morning. But I must say I was quite disappointed by the Chief Minister's elevating what should have been a very important and sensible debate to one which was a bit vitriolic. I will perhaps come back to a couple of comments that he made and address those shortly.

I recently tabled, and now today I have sought to debate, in the Legislative Assembly this bill to protect an unborn child in law following an assault on its mother. That is the purpose of why we are here. Why did I design this? Because I believe that there is an anomaly in law as a consequence of the abortion bill introduced in the ACT, which allows an assault on a pregnant woman resulting in the death of the unborn to go unpunished. My motive has been to extend our laws to provide protections to and defend the rights of a woman who seeks to carry her unborn child through to safe birth, by creating a deterrent to violent and/or reckless behaviour. That is the sole motive for this bill.

The Crimes Amendment Bill 2005 makes it an offence to injure or kill an unborn child through assaulting or poisoning a woman who is known to be pregnant and who, as a direct result of the offence, loses her child. I appeal to all members to support this piece of new law as, logically, in all fairness, nobody here could fault that. I have heard no argument here today that defeats the logic or fairness of this proposed law.

The passing of the Crimes (Abolition of Offence of Abortion) Amendment Bill 2001 did create that loophole, as I pointed out earlier, which would allow the injury, manslaughter, or unlawful killing or murder of an unborn child during an assault on its mother to go unpunished. That is a fact. That is a fact that has to be dealt with.

I have heard no argument advanced here today that supports the proposition previously put by someone in the government—and, I must say, really only put again here today by one person, that is, the Chief Minister—that this proposal is some sort of Trojan horse aimed at getting inside and then defeating the abortion bill. I cannot stress too much that the Crimes Amendment Bill 2005 is not an attempt to revisit or undermine the decision made by the Assembly in relation to abortions.

I point to the quite sensible remarks made by Mr Seselja and Mrs Dunne that the abortion debate will always continue, whether we in this place like it or not. It is a salient

feature of the social landscape of this country that this debate will go on, and it will go on. This particular bill today has got little to do with that. That is a very important point to be made. It is simply precautionary legislation to cover the protection of unborn children, at least to a certain degree.

To reiterate: the bill enshrines the acknowledgment of lawful abortions in the Crimes Act. I say again, Chief Minister: it enshrines the acknowledgment of lawful abortions in the Crimes Act, whether we like that or not. That is what it does. Secondly, the bill also provides that it does not apply to anything done by a pregnant woman in relation to her unborn child. To the Chief Minister and to Dr Foskey, who were concerned about the separation between woman and foetus, I stress that. This bill does not seek to criticise a woman in relation to her unborn child. It is designed to make sure that we take those issues away from this debate, so as not to muddy the primary concern and objective of this bill. Those are discussions for another day and in another place.

As I have explained in my tabling statement—and it is probably worth noting again—I have reworked this legislation to meet some of the concerns raised by the government previously when I first tabled a similar piece of law. I am now hopeful that the bill could be supported. This legislation only applies to wilful acts intended to cause injury or death to the mother or unborn child.

In New South Wales we have seen the introduction—I think the New South Wales parliament is calling it Byron's law—of a very sensible piece of legislation. It is sensible and warranted and is based on that particular case. We have heard Mrs Dunne talking about a number of cases, and I do not need to go through those again today.

This bill is not just about recklessness in terms of road incidents and other actions. It is also about protecting women in cases of domestic violence. It is important that we, as members of this Assembly, send a clear message to the community that violence against women is not acceptable and holds penalties and that violence against pregnant women is an abomination that holds more serious penalties than simply a charge of assault.

At this point, all I can see from the other side of the chamber is this: as far as they are concerned, an assault on a woman is about as far as it goes and the intended or unintended consequences, in terms of injury or death to the unborn, does not matter. It does not seem to matter to the Chief Minister.

Let us have a look at the Queensland law. The Queensland Criminal Code, section 313, provides:

> Any person who, when a female is about to be delivered of a child, prevents the child from being born alive by any act or omission of such a nature that, if the child had been born and had then died, the person would be deemed to have unlawfully killed the child, is guilty of a crime and is liable to imprisonment for life.

That is the Queensland initiative. The code also provides:

> Any person who unlawfully assaults a female pregnant with a child and destroys the life of, or does grievous bodily harm to, or transmits a serious disease to, the child before its birth, commits a crime—maximum penalty, imprisonment for life.

That is the Queensland code. We are not going that far. But the legislation we are presenting here today provides different degrees of assault and separates the offences, based on whether the perpetrator had prior knowledge, or ought reasonably to have had the knowledge, that the woman was pregnant or whether the perpetrator had an intent to kill the unborn child.

I have just described the initiatives taken in the New South Wales parliament by a state Labor government. I have just described the law put in place some time ago by a Queensland state Labor government. Why cannot the Chief Minister at least look at those initiatives and take action himself? He has not. All he can do is sit here and call our intent to table this bill some sort of ideological attack.

If I could just refer to a couple of comments made: firstly, Dr Foskey said that this bill does not give the mother as much protection as the unborn child. I do not see how she comes to that point. The argument is that the mother's protection is already looked after under the current legislation, the Crimes Act. This unborn legislation simply enhances the mother's protection and her right to carry her child to term. So it builds on the protections that the mother currently has. It does not separate out mother and the unborn.

This is the smoke-and-mirrors comment we get—particularly from the Chief Minister, but not so much from Dr Foskey. She did express a concern. I would like to put her concern to bed so that she could perhaps revisit this issue and take a more constructive approach.

Dr Foskey's comments about the sensitivity surrounding the abortion question are noted. However, again have a look at the proposed law and you will see the instrumentalities in place to ensure that existing abortion laws and rights and the rights of women are not interfered with by this law. I think there is perhaps too much nervousness about the question of abortion being expressed here today. It is simply being used as an excuse to blockade what is otherwise sensible legislation.

The Chief Minister has talked about the unnecessary debate and the matter being raised purely as an ideological attack. I find the hypocrisy and the irony breathtaking. It is he today who has launched an ideological attack on this piece of legislation, simply because there is an opportunity to launch an ideological attack. The Chief Minister has said that this bill, again, divides mother and child. That is an outrageously negative position to take. Indeed, the opposite is the case. It binds them; it binds the mother and child in terms of the protections to the mother and the protections to the unborn.

The Chief Minister has said that he will be introducing new elements to the Criminal Code. He said so in 2002. We have not seen any action taken yet. In fact, let me refer to a comment the Chief Minister made last year. On 10 March 2004, in relation to the Criminal Code and the issues surrounding the protection of the unborn, the Chief Minister said:

> I will discuss with my department whether we might advance chapter 5—

Government members interjecting—

Mrs Burke: On a point of order, Mr Speaker: I am sorry; I am getting very distracted by the government members. They should give Mr Pratt the courtesy to wrap up. Discipline, Ms MacDonald, discipline.

MR SPEAKER: Order! Mr Pratt has the floor.

MR PRATT: Thank you, Mr Speaker, as I was saying, the 10 March 2004 announcement by the Chief Minister relative to the question of protection of the unborn, said:

> … I will discuss with my department whether we might advance chapter 5 ahead of the other timetabled introductions of chapters of the model criminal code, to deal with the aggravation of assault offences as a result of the impact of an assault on a woman who is pregnant.

He said that on 10 March 2004. That was going to be an advancement of other initiatives being looked at. Fifteen months later the Chief Minister is here talking about it again today. Christmas might come!

Mrs Dunne: And hell might freeze over.

MR PRATT: That is right. The Chief Minister also talked about a human rights bill—a human rights bill that protects the rights of the woman. I do not even know why that was raised in relation to this issue. We have gone to great pains—and if he reads the legislation, logically he will understand—to stress that there is no separation out between the unborn and the mother; nor is there any impact on the mothers' rights. Again, Chief Minister, I say to you, "What the hell is the worth of a human rights bull—

Opposition members interjecting—

MR PRATT: Sorry, that was a Freudian slip—a human rights bill that does not identify and determine the rights of the unborn, relative to the rights of the mother?" A human rights bill that does not identify and determine that is simply not worth the paper it is written on. But then again the Human Rights Bill probably is not anyway.

The new amendments to the Criminal Code are welcome but, as I say, Chief Minister, they have been a long time coming. It is three years now since those issues were raised. What about this issue that the Chief Minister has raised about the legal entity. The creation of a legal entity for the unborn is not an attempt, through some godlike intervention, as you would probably infer, to create a new type of being or to separate out the unborn from the mother. That assertion by the Chief Minister is too colourful to mention. Perhaps it exposes a certain sensitivity for defending his ideology at any cost. I would like to stress again that the creation of a legal entity is simply the development of a legal protection, a legal instrumentality, that allows a fuller and more realistic set of prosecutions of those who would seek to assault the unborn or to recklessly assault a pregnant woman.

If anybody is playing ideology it is the Chief Minister, who, I think, perhaps takes a rigidly narrow approach to the attempts that we are taking to define the unborn. I would like to see the Chief Minister take a broader approach. He has a duty of care. He has

a duty of care as Chief Minister to provide the maximum protections to everybody in this jurisdiction, and that includes a duty of care to provide protections to the unborn. I would like to see you revisit this proposed bill and support it.

If you do not, then I will support you if you come back here with another piece of legislation that has the same objectives. There will be bipartisan support. If you cannot support this, then put your money where your mouth is; come back here and put something constructive on the table, rather than what we are seeing now—a lousy 25 per cent improvement in relation to offences in the Criminal Code. The protection of the unborn is worth far more than that.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 7		Noes 10	
Mrs Burke	Mr Smyth	Mr Berry	Mr Hargreaves
Mrs Dunne	Mr Stefaniak	Mr Corbell	Ms MacDonald
Mr Mulcahy		Dr Foskey	Ms Porter
Mr Pratt		Ms Gallagher	Mr Quinlan
Mr Seselja		Mr Gentleman	Mr Stanhope

Question so resolved in the negative.

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Hospitals—access block

MR SMYTH: My question is to the Minister for Health. Minister, health strategic indicator No 1 of the budget papers shows that your government has set an appalling target, whereby only 50 per cent of patients admitted to hospital via the emergency department will receive a bed within eight hours. Today in the *Canberra Times* you conceded that access block was too high in our hospitals. Minister, is it acceptable for 50 per cent of patients who have been admitted via the emergency department to wait more than eight hours for a bed?

MR CORBELL: No, it is not acceptable. That is why the government is putting in place a range of measures over time to decrease the level of access block in our public hospitals. As Minister for Health, I acknowledge that this is a complex issue and one that requires a range of responses.

I am pleased to say that the government has put in place a range of measures designed to address this situation. Indeed, from 1 July I anticipate that we will very quickly have an additional 20 beds online in our public hospitals, which will be aimed specifically at improving access from the emergency department into our wards. This is the fulfilment of an election commitment by the government and one that I know is both fully funded

and achievable, unlike the completely unrealistic and absurd promises made by the Liberal Party during the ACT election campaign.

In addition, a range of other measures continues to be funded in the budget process. Those include funding for our discharge lounges, which are proving very effective at freeing up more beds more often for people who need them following their admission or their being seen in our emergency departments of our public hospitals. In addition, we continue to focus on acute care for elective procedures. Additional money is also made available in this year's budget to address that particular issue, with another $2 million per annum being made available for elective surgery.

The government has a comprehensive range of measures in place. I outlined these measures in some detail in my ministerial statement to the Assembly a couple of months ago about access to acute care. Whilst over time our objective is to reduce the level of access block, we have established a target that, in the first instance, reflects the pressures that our system is under and how we expect over time to reduce that level of blockage.

MR SMYTH: Mr Speaker, I have a supplementary question. It is interesting to see that 20 beds are coming because they were obviously promised for the frail and elderly. The question is: how can you say the trend will go down, when the rate of access block has doubled from 22.4 per cent in 2002-03 to 45 per cent in 2004-05? Is it not true that all the reforms that you and Mr Wood put in place have failed so far?

MR CORBELL: No, it is not.

Auditor-General's Office

MR MULCAHY: My question is to the Treasurer. The Auditor-General says that—and I quote from estimates—her office is "underfunded to the point it cannot do its job properly and government agencies are going unscrutinised, in some cases, for years". This leads to difficulties such as undertaking efficiency reviews of the collection of fees and fines, as well as the statutory obligation of the Auditor-General to report on public interest disclosures. Mr Rod Nicholas of the audit office told the estimates committee:

> We have not really got the resources to devote to our public interest disclosures. We are hoping that the additional staffing we could have got would have provided us a better capacity for that. It is problematic.

In light of those comments, I ask you, Treasurer: as that means that people making public interest disclosures may not have their concerns followed up because the government has failed to provide the audit office with sufficient funds, what confidence can people have that their complaints will be thoroughly and promptly investigated?

MR QUINLAN: It was only yesterday that I pointed out in debate that the Auditor-General, for next financial year, will have something in the order of $1 million in resources more than they had in the last year of the Liberal government. As best I can think, $2.855 million was the estimated final figure in 2001 of the budget for the following year, versus $3.85 million that will be available this year. We have seen something in the order of a 25 per cent increase in the resources provided to the Auditor-General in that space of time.

You can draw some conclusions from that. If the Liberal opposition believes that the Auditor-General is underfunded, then I am presuming that they are admitting that the Auditor-General was grossly underfunded in their time. On a request from the Auditor-General in the last budget we brought down, this government increased the resources for operational audits by $300,000. I think we gave some resources for equipment, re-equipment or increased equipment and some additional resources for accommodation and in this budget gave some $75,000, I think, for increased accommodation or accommodation expenses.

The Auditor-General, as of next financial year—next week—will be the best resourced Auditor-General since self-government. I think it is fairly reasonable. The position is that virtually every agency head will say they have not got enough resources to do their job. You do not blame them for that. We expect managers to manage within reasonable resources. I do not think any reasonable person would—

Mrs Burke: What are reasonable resources?

MR QUINLAN: You are mooing, Mrs Burke.

Mrs Burke: On a point of order, Mr Speaker: I apologise for interrupting Mr Quinlan. Would he please retract what he just said?

Mr Seselja: It is offensive.

Mrs Burke: Thank you. It was an offensive comment.

MR QUINLAN: I will qualify it by saying that you sounded like you were mooing.

MR SPEAKER: I think you should withdraw.

MR QUINLAN: I withdraw that. I think we could say that, given we have an audit office now that is better resourced than any of its predecessors, we should accept that it is in a reasonable position. I do have a concern that the Auditor-General's Office made these statements in estimates.

Mr Smyth: What do you do about it?

MR QUINLAN: We will follow it through. We cannot run a process whereby any chief executive, no matter how important their job and how significant their role, can define the resources they want, and that is the end of it. We have a situation now where we have an Auditor-General who is resourced to the tune of about $1 million better in operational resources, as well as equipment and accommodation expenses that have been met, than the audit office was when we came to government. I think that is a fair and reasonable position for the auditor to be in.

If the auditor wants to write to us and ask us to look at the case, we will look at the case. We might even get our expenditure review committee to take a look at how the audit office runs.

MR MULCAHY: My supplementary question is to the Treasurer. How will you address the $14.4 million backlog of uncollected fines if the Auditor-General is unable to review the effectiveness of the fines and collections process in the near future?

MR QUINLAN: In fact, we have imposed, in our budget, virtually across the board, a requirement for efficiency savings. That applies to every area and certainly applies to my area of Treasury and all of the areas under all of our control. The one area in Treasury where we are allowing for additional resources and additional revenue is in the collection of outstanding debts. The current Under Treasurer, as one of his immediate objectives, is addressing that question and reducing the level of outstanding debt—in the budget.

Education—preschools

MS PORTER: My question is to the minister for education. Minister, in the lead-up to the last election, you promised that the number of hours of preschool education would increase. Could you inform the Assembly as to whether this promise has been met and how it is being implemented across the territory?

MS GALLAGHER: It is great to be able to talk about the $8 million initiative that the ACT government has introduced in the way of additional resources for the preschool sector. This was a key initiative of the ACT government going into the last election campaign. We campaigned strongly on it and, as members would know, we won the election with a significant majority of the votes. I do not have any doubts that our education policies in relation to the election were a factor contributing to that victory.

This initiative has been funded in this year's budget and money is there to implement the initiative should the appropriation bill be passed tomorrow. We are well under way with implementing the initiative in preparing the work that needs to be done to ensure that we can move from February 2006 to full implementation across all the preschools in Canberra and we will be moving from offering 10½ hours of free preschool education a week for eligible four-year-olds to 12 hours a week.

In terms of how this initiative came about, we have undertaken considerable consultation with parents and had feedback annually in the parent satisfaction survey. It confirms that the current arrangements for sessional preschool do not really meet the needs of families. As members will know, particularly those with young children, the 10½ hours of preschool at the moment is provided over three sessions of around three to 3½ hours each in either the morning or the afternoon, not necessarily fitting in with school timetables and people's working commitments and other family commitments.

Mr Speaker, a working party was established with key stakeholders in early childhood. It was formed in February of this year and the working party meets fortnightly to develop the models to deliver the 12-hour preschool week and plan the implementation of this initiative. We know that access to early education puts our children in the best possible position on their entry to formal and compulsory schooling aged five. In recognition of that, any opportunity that the government can give to increase the capacity of those children, particularly those aged four, and to increase our commitment to those children is being met through this initiative.

We will be having a partial implementation of this program, starting in July of this year, where we will have more than 30 preschools across the ACT moving to the 12 hours a week. That will be across geographical areas and it will be a mixture of two longer days a week or three longer sessions a week, depending on the needs of families. This is to try to establish the level of demand for two days a week, the long two days a week over 9.00 am to 3.00 pm, and make sure that when we roll out the full implementation we will be able, as much as possible, to meet the needs of those families.

Mr Speaker, if there are families that are concerned about the increase in preschool hours—that is, they think that 10½ hours of preschool is enough for their children—the option remains for them to continue to access the 10½ hours per week but for those families that are keen to have it the extra 1½ hours will be available. It has taken a lot of implementation. There have been some industrial relations issues that we have needed to look at in recognition of the way that the preschool teachers' certified agreement operates, the hours of work and how relief arrangements are provided for them, but we have managed to work though all of those with the support of the AEU, teachers and the preschool society.

It is not as simple as it sounds to increase the hours from 10½ to 12 a week. There has been a lot of work done, but we are well on track to commence this program in July across just under half of our preschools and there will be full implementation, as I said, from 2006 and, as much as possible, we will meet the needs of families in terms of their preference for two days of longer hours or three longer sessions per week.

Planning guidelines

MR SESELJA: Mr Speaker, my question to the Minister for Planning relates to his failure to prepare A10 core area guidelines, despite his commitment to do so prior to the last election. Minister, in notifiable instrument NI-2004-370, which is your direction to ACTPLA to prepare core area guidelines, your letter to Mr Savery, the Chief Planning Executive, dated 9 September 2004, states:

> Before giving the direction I considered the Authority's comments on my proposed direction, as required under section 12 of the Act.

Minister, in response to a freedom of information request, the authority stated on 27 May 2005 that, in relation to comments on your proposed direction:

> The Authority made no comment on the direction. Therefore, no documents exist.

Minister, if the ACT Planning and Land Authority made no comments on your proposed direction, how could you consider their comments?

MR CORBELL: Mr Speaker, I had a verbal discussion with the authority—that is, with the Chief Planning Executive. The Chief Planning Executive is the authority for the purposes of the act. I had a discussion with him about his views on my proposed direction. I took those into account in making a direction.

MR SESELJA: Mr Speaker, I ask a supplementary question. Minister, given that Mr Savery and ACTPLA have said that they made no comment on the direction, did you mislead the Assembly in stating that you considered the advice of ACTPLA?

MR CORBELL: Mr Speaker, as I have indicated, the authority did provide comments to me. They were in the nature of, as I have just indicated to Mr Seselja, a verbal discussion between me and the authority. I sought the authority's view—that is, Mr Savery's view as the Chief Planning Executive—prior to making the direction.

Therapy services

MRS BURKE: My question is to the Minister for Disability, Housing and Community Services. Yesterday, the Treasurer advised the Assembly that $500,000 has been converted from a government payment for output to capital works within the Department of Disability, Housing and Community Services. Minister, why did you agree to redirect these funds for the refurbishment of the Therapy ACT facility in Holder? Why didn't you request funds from the capital works program to upgrade occupational health and safety and security issues at the Holder facility, rather than transferring funds that are desperately needed to recruit more qualified staff for therapy services?

MR HARGREAVES: Mr Speaker, as Mrs Burke may have known, if she had turned up to the estimates committee hearing, the nature of therapy services is being enhanced into two hubs. This is part of that process and this was the most appropriate method of directing funds to enhance that program.

MR SPEAKER: Supplementary question.

MRS BURKE: Thank you, Mr Speaker. Minister, if there are difficulties in recruiting qualified staff for therapy services, why is it not a priority to expend the allocated funds in ensuring that the right staff are selected, thus enhancing the delivery of therapy services in the ACT?

MR HARGREAVES: Mr Speaker, it is our judgment that we need to do both.

Quamby Youth Centre

MR STEFANIAK: My question is to the Minister for Children, Youth and Family Support. Minister, it was stated during estimates and reported in the *Canberra Times* on 1 June this year that the ACT government was in the final stage of negotiations to secure a new demountable building that would help separate accused from convicted inmates at Quamby and that the ACT would pay the Queensland government $1.6 million for the building. Can you inform the Assembly how this figure was arrived at for the purchase of a building that the Queensland government was going to demolish? Why was a more realistic peppercorn price not negotiated for that building from the Queensland government?

MS GALLAGHER: I will have to check the *Hansard*, but that is not an entirely correct reflection of the discussion we had at estimates. I said that we are in the final stages of negotiations for a demountable building coming from the Queensland government. In

fact, I think we have finalised those negotiations and we have made a payment of $90,000 for that demountable. In addition to that, the cost of transporting that demountable down to Canberra on, I think, 29 trucks in convoy is going to bring that price up to $1.6 million.

The transport is the huge cost. We have looked everywhere for a demountable that is suitable for the needs of Quamby. It is a demountable that will provide 24 secure rooms for young people at Quamby and considerably increase the accommodation options at Quamby. We have also looked at our capacity to build a temporary facility like that at Quamby in the short term, and those prices by far exceeded the total cost of buying the demountable from Queensland, transporting it to the ACT and rebuilding it or putting it together on the site at Quamby. It is the most cost effective and the speediest way to get increased accommodation options at Quamby to ensure that we can offer some alternative accommodation arrangements within the constraints that we find at that facility.

MR STEFANIAK: I have a supplementary question. Thank you for that, minister. I note what you say about the transport cost. Does that also include the necessary reconstruction and refit at Quamby? If not, could you provide me with those costs? In fact, could you detail all the costs you have actually expended, including the refit and reconstruction of Quamby?

MS GALLAGHER: Sure. I will take that on notice and provide all those costs. We have made a number of changes to the Quamby budget in relation to fencing, in relation to some of the monitoring of young people in there in terms of cameras, in terms of refit of some of the staff areas and better accommodation for staff and, of course, some increased facilities through this demountable. There have been a number of things we have done. I understand that is the information you want, a breakdown of that? I will provide that to the Assembly as soon as I can.

Water—abstraction charge

MRS DUNNE: Mr Speaker, my question is to the Chief Minister. I refer to an article in today's *Canberra Times* in which a Canberra lawyer suggests that the water abstraction charge may be an illegal excise because all the money collected is not being directed to water management. In the article your spokesman is reported as saying that "the ACT could demonstrate that the charge covered only the cost of providing water". Can you demonstrate how the charge only covers the cost of providing water, here—now—for the Assembly?

MR STANHOPE: I could not do that in the five minutes available to me. I think we are all aware of the very significant work that is done to ensure that the ACT is provided with a secure and high standard of water through the infrastructure that is necessary to ensure that. I think it is fair to say that an enormous level of resourcing has been applied, most particularly through Actew, in relation to some of the infrastructure that has been a feature of our response to the circumstances we find ourselves in as a result of the devastation to the Cotter catchment, as a result of the fire and the difficulties that have been experienced as a consequence of the drought.

That enormous expenditure has been undertaken by Actew and, indeed, through agencies of the ACT government to ensure that we restore and protect our catchments, in the first instance, and also our capacity to ensure that the water we provide meets the very high standard we set ourselves and which is required of us under the Australian Standards, which we meet in relation to the purity and quality of our water.

It is easy to demonstrate. It can be demonstrated through our budget papers, if in no other way—those are available to the opposition and I refer them to those for the purposes of their interest in this particular issue—that the cost of maintaining our catchments, the cost of ensuring the quality of our water and the cost of ensuring that the water is treated to an appropriate standard, are costs of an order that certainly meet and justify the claim that was made.

MRS DUNNE: Mr Speaker, I have a supplementary question. Seeing you cannot demonstrate it here, now, for the Assembly, will you table the documents in the Assembly by close of business on Thursday that demonstrate that the water abstraction charge covers only the cost of providing water?

MR STANHOPE: The information that shows the extent to which the investment we make through our various agencies in provision of water and water supply for the territory are documents that are currently available to the opposition, and I refer them to those.

MRS DUNNE: Mr Speaker, I wish to raise a point of order. The question was about the water abstraction charge, not about general revenue.

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

Policing—victims of crime

MR SPEAKER: Mrs Pratt—Ah, Mr Pratt.

MR PRATT: Thank you, Mr Speaker. I don't think I have gone that far yet! My question is to the Minister for Police. Minister, why did you refuse to answer questions last week about police treatment of the victim of an alleged rape, which has caused widespread community concern, including from the ACT Rape Crisis Centre.

MR HARGREAVES: Because, Mr Speaker, unlike Mr Pratt, I had some concern for the feelings of a 16-year-old, a minor who has been put through the ringer. And I did not intend to have this put into the public arena, and I have no intention of putting it into the public arena. Mr Pratt, if you want to troll around and find little bits and pieces here and make this young girl's life even more miserable then you go right ahead. At the moment, it is my understanding that all of the activities that applied in that particular incident is in fact in the body of the evidence that has been given to the court and is therefore sub judice. Even if it were not, I am not about to discuss the case of a 16-year-old girl in this place.

Mr Quinlan: Hear, hear!

Mr Pratt: And we can't be transparent, can we?

Mr Quinlan: Grub!

Mrs Burke: No, we can't be transparent.

Ms Gallagher: You guys are sick.

MR SPEAKER: Supplementary question, Mr Pratt?

MR PRATT: Mr Speaker, my supplementary question is this: minister, why do you wrongly claim that the matter is sub judice when the questions focus on police treatment of a victim of crime, and not on matters before the court.

MR HARGREAVES: Mr Speaker, I am always amazed at the depth of Mr Pratt's knowledge that he is aware of all of the matters before the court in this instance. I remain amazed at his knowledge.

ACT Policing

MS MacDONALD: Can the Minister for Police and Emergency Services please inform the Assembly of community reaction to the recent announcement of the appointment of the Assistant Commissioner, Audrey Fagan, as the new ACT Chief Police Officer?

MR HARGREAVES: I am very excited to welcome incoming Chief Police Officer Audrey Fagan to the position. Audrey is returning to ACT Policing after beginning her career here. I am sure she will offer the same dedication and professionalism that we have come to appreciate from ACT Policing.

My excitement is shared by the community, whose reaction to the appointment has been extremely positive. I have received a great deal of enthusiastic feedback from the community in the days since that announcement. This has included a welcome from the local indigenous community, who worked extremely well with John Davies over the past 18 months or so and who welcomed Audrey at a morning tea I attended last week. They acknowledged that she had very big shoes to fill and they welcomed her comments so far that she believes very strongly in working together with the community.

I have also been approached by a number of people who have worked with Audrey throughout her time in Canberra. They have commented on what a fantastic choice she is for leading the ACT Policing into the future. I was also pleased to receive good feedback from the Police Consultative Board, who are looking forward to working with her. I also note the Opposition's welcome to Audrey.

Audrey Fagan is very reflective of the modern AFP. Not only is she the first female Chief Police Officer for the ACT but also her academic qualifications and depth of operational experience working at senior levels within government and the community will equip her well for the new role. She is a highly respected officer of the AFP and the broader law enforcement community.

Ms Fagan started her policing career in 1981, where she worked in Canberra at the City police station before transferring to the fraud squad and then on to general crime investigations at Woden station. She also enjoyed a community policing post to Christmas Island. She is very well equipped to take on this role. She has also displayed a lot of enthusiasm for consulting and speaking with the Canberra community as she begins her new role.

In welcoming Audrey, I take this opportunity to pay tribute to outgoing Chief Police Officer, John Davies. Mr Davies has been the Chief Police Officer of ACT Policing since January 2004 and he is retiring after more than 30 years with the AFP. Canberra is one of the best and safest places in the country to live and work. This is, to a large extent, thanks to the excellent work done by ACT Policing and led by John Davies.

We saw the latest report card on crime from the Australian Bureau of Statistics just last week, which showed Canberra to be one of the safest cities in Australia. The Canberra community is currently reaping the rewards of our highly effective and efficient police force with significant drops in the level of crime in our city. Between January 2004 and April 2005 there has been a 13 per cent reduction in total offences reported in the ACT. This includes reductions of 41 per cent in reported burglary offences and 14 per cent in theft offences over the same period.

It is worth reflecting on the comments of AFP Commissioner Mick Kelty that Mr Davies was leaving ACT Policing in a very strong position, after forging close links with the community and delivering soundly on policing outcomes. Mr Kelty said:

> During John's term as Chief Police Officer we saw the continued success of Operation Halite which has significantly reduced the impact of offences like burglary, car theft and armed robbery on Canberra residents.

John Davies has overseen these outcomes and so it is with sincere thanks from the ACT community that he can enjoy his retirement. On 1 July we will see a significant change in policing in the ACT. It is with the support of the ACT government that incoming Chief Police Officer Audrey Fagan takes over. I know Ms MacDonald will share our delight that we now have, for the first time since self-government, a female Chief Police Officer. It is a fantastic thing for this territory.

Stromlo Village

DR FOSKEY: My question is to the Minister for Planning. Noting the government's aim to achieve a "world class example of sustainable redevelopment" in the Stromlo settlement, could the minister please advise the Assembly of the energy efficiency and sustainability criteria against which tenders to design and build the settlement will be assessed and how architects and energy efficiency professions with a track record in environmentally sustainable design have been able to guide the process?

MR CORBELL: I thank Dr Foskey for the question. It is quite specific. I have to say that I am not, as minister, responsible for the detailed implementation of the tender process currently being undertaken by the LDA to assess the successful tenderer for the redevelopment of the Stromlo Village. The objectives of the government have been

outlined in the tender documentation and, more importantly, in the territory plan variation, which was recently approved by this place for the Stromlo Village.

The specifics of the tender process are confidential to ensure that appropriate probity is maintained throughout the tender process. If Dr Foskey has particular issues of interest, I would be happy, wherever possible, to provide her with a briefing on those issues from officers of the Land Development Agency. But, as I am sure Dr Foskey would appreciate, a range of these issues are currently being addressed through the tender process. That is a confidential process to maintain probity and due process, and I am sure Dr Foskey would appreciate the importance of that whilst the tender process is under way.

DR FOSKEY: I have a supplementary question. Since misconceptions in the sustainability study do not appear to have been corrected in the final variation, could the minister please tell me who advises the government on the technical applications for sustainability design for Stromlo? Have any attempts been made to correct these misguiding misconceptions?

MR CORBELL: I am not aware of what misguiding misconceptions Dr Foskey is referring to.

Refugees

MR GENTLEMAN: My question is to the Chief Minister. Chief Minister, can you outline for the Assembly how the ACT government will be welcoming the Rahmati family to the ACT? What is the basis on which the government generally supports refugees?

MR STANHOPE: Thank you Mr Gentleman for the question. This is a very pertinent question to be asking today, the day on which a further family of refugees from Nauru arrived in Australia and, indeed, in Canberra to make Canberra their home, at least during the period of their temporary protection visas, which I understand are for three years. So at least they have that degree of certainty—the security of knowing that for the next three years they can live in a civilised way amongst people, amongst friends, and that they will not be required to endure any longer the purgatory that has been imposed on them by the federal government.

This family of five, including three children under the age of 15, have for 3½ years been required to live on a very isolated, quite desolate island in the Pacific as a result of the asylum seeker or refugee policies of the federal government. So it was with great pleasure that I was able to at least acknowledge that this particular family have chosen Canberra as the place to spend the period in which they are allowed to remain in Australia under the insecurity and uncertainty of the visas; certainly for at least the next three years here in Canberra. I think it a great credit to us—something that we should be proud of as a community—that this particular family have chosen us as the people amongst whom to live.

I had looked forward very much to personally welcoming the Rahmati family to Canberra. I had been invited to do so by Marion Le. I had accepted that invitation and I was looking forward with some genuine excitement to the prospect of welcoming to

our town, to our community, this family of five, with three cousins—an extended family of eight—who have chosen Canberra as the place to come and live with the friends that they had made on Nauru, and with the particular friends that they would hope to make here in Canberra.

But, unfortunately, I was not able to welcome them because the Liberal Party, through their whip and presumably on the basis of a decision supported by their leader, decided that there was no advantage in the Chief Minister doing that; that it was not relevant or appropriate for the Chief Minister of the Australian Capital Territory to welcome a group of refugees to this town in those circumstances—people who had spent 3½ years in a form of purgatory, arriving with a view to the future, with freedom in their hearts and minds, to be amongst people that they hope would care for them.

They were advised on their arrival that the Chief Minister, the person that they had been advised and informed would be at the airport to meet them, would not be there because the Liberal Party did not think there was any value to be gained in the head of this jurisdiction, the head of this government, being involved in their arrival; that there would be no representative of the people of the ACT there to greet them. The Liberal Party did not think it important enough that there be a representative of the people of Canberra at the airport to welcome them, after 3½ years in a concentration camp, to our town; that there was nothing to be gained; that they were not worthy of a welcome.

It was private members day. There was nothing that required my particular attention here within the Assembly; nothing that could not have been achieved through the gracious granting of a pair for 45 minutes to an hour to allow me, as the head of this government, to welcome this family into our community, to embrace a family that had suffered the appalling trauma of 3½ years in a concentration camp in Nauru. An amazing exhibition of mean-spirited, spiteful personal politics of the first order.

In fact, I think it is the saddest incident of petty politics that I have experienced in the seven years that I have been in this place—that a family, including three young children, who had been told that the Chief Minister, that the head of this jurisdiction, would be there to greet them, to welcome them to this community, to hold out the hand of friendship, would not be there.

MR SPEAKER: The minister's time has expired. Supplementary, Mr Gentleman?

MR GENTLEMAN: Can the Chief Minister advise what services the ACT government will provide to temporary protection visa arrivals in Canberra?

MR STANHOPE: Yes, I am more than happy to do that. The first, of course, is to extend the hand of friendship, to seek to explain and to show that the treatment that has been meted out to them over the last 3½ years is not treatment that is representative of the feelings of the majority of Australians; it is treatment that is representative of the views, the attitude and the behaviour of the Liberal Party, which we see confirmed here today.

One should go to why it is that the Liberal Party in this place felt the need to send this expression of continuing animosity towards this Afghan Muslim family arriving within our town. Why did the Liberal Party in the ACT Assembly feel the need today to

maintain the rage, to cement their commitment to John Howard's refugee policies? Why did the Liberal Party in this place feel the need to stand in concert with, to stand beside, John Howard and his refugee policies? Why could they not distance themselves from that appalling, inhumane policy that saw this family, with its three children, spend 3½ years on Nauru?

Why did they have to stand in ideological purity with their federal colleagues on this inhumane policy that is a feature of John Howard's prime ministership and send, on this day, this direct message to the heart of this family that yes, there are many here who stand ready to embrace and welcome you as fellow human beings into our community and are ready to nurture you but be aware that there is, within the Liberal Party and within the ACT Assembly, a group who would wish you to understand what they think about you and of you? They do not accept your legitimacy; they do not want you here; they do not want the ACT government to be involved in your welfare or to embrace you or to extend that hand of friendship; they want to maintain their hatred for and of you and everything you stand for.

Mrs Burke: On a point of order, Mr Speaker: there is an imputation that the Chief Minister is speaking on behalf of the opposition. I ask him to withdraw that. We are not not welcoming people. "We are not welcoming people like this to the city." He needs to withdraw those comments.

MR SPEAKER: He is responding legitimately to a question.

Mr Smyth: On a point of order, Mr Speaker: the supplementary question was about what services the ACT government have to offer. If the ACT government does not have any services, under standing order 118 (b) he cannot argue the question. And you know that.

MR SPEAKER: He can mention the issue of welcoming these people, because that is one of the services that I think was going to be provided by the Chief Minister.

MR STANHOPE: And it was. It is vitally important that we extend the hand of friendship and provide those forms of services.

There is a whole range of other assistance that we will be providing. We will provide short-term accommodation, as needed. We will provide assistance with private rental bonds and provide access to public school education. We will provide free childcare for those learning English. We will provide access to English language classes at the CIT. We will provide access to interpreting services. We will provide access to financial support for dependent children. We will assist them in their integration into our schools. We will provide ambulance care, treatment and support. That is what the government will do.

That will stand, I think, against the enormous support that I know the good-hearted people within the Canberra community will show. We are blessed with so many people that will flock to support this family, as they do other refugee families that I believe have done us, in choosing our home to be their home, an enormous service. They pay us, I think through that, a real vote of confidence.

It is a pity that on this day, on the arrival of this family, the Rahmati family, that they have received what to them would probably be a particularly rude shock that there are, within this community, those that look at them through different eyes; they look at them and see not just human beings in need; they see what their leader has always seen—people that in some way represent this appalling threat to them. It is to do with the fact that they are different. It is to do with the fact that they have no respect of their rights as individual people.

I ask that all further questions be placed on the notice paper.

Personal explanations

MR SESELJA (Molonglo): Mr Speaker, I seek leave to make a personal explanation under standing order 46.

Leave granted.

MR SESELJA: I believe the Chief Minister, in his long-winded answer just then, misrepresented all of us, and certainly me, by saying that we maintain rage against refugees. I put on record that I have no rage against refugees but that Mr Stanhope did not appear to have a problem with locking up children when he was in government in 1992, working for a Labor government that implemented that policy—

MR SPEAKER: Order! Resume your seat, Mr Seselja. If you abuse the leave that I give you to make a personal explanation, you will find that you will not get leave to make them.

Mrs Dunne, I have something I would like to say to you as well. During question time you raised a point of order, which a person of your standing and experience would know was not a point of order, and I ruled accordingly. But I want now to draw your attention to page 187 of *House of Representatives Practice*. At the bottom of the page it reads:

> The opportunity to raise a point of order should not be misused to deliberately disrupt proceedings or to respond to debate.

And it goes on. I draw your attention to standing order 202A, which relates to the issue of persistently and wilfully obstructing the business of the Assembly. I am not a humourless man, and I do not mind a little bit of fun and games from time to time when it comes to humour in points of order, but I will not have the business of the Assembly disrupted by points of order which are not points of order but merely efforts to enter the debate. Mrs Dunne, you wanted to say something?

MRS DUNNE (Ginninderra): Yes, Mr Speaker. I seek leave to make a personal explanation under standing order 46.

Leave granted.

MRS DUNNE: In answer to a question today Mr Stanhope has misrepresented the reasons why I did not approve a pair today. The longstanding policy of the Liberal Party,

which I reinforced today when Ms MacDonald asked for a pair, is to give pairs for a range of personal reasons—someone is ill or a member of the family is ill or members need to attend a funeral, et cetera—and in order for members to attend their parliamentary and ministerial responsibilities. I took the view that Mr Stanhope does not have responsibility for refugee matters. If anyone does, it is Mr Hargreaves. Also, under orders of the day, the first item, resumption of debate, was in Mr Stanhope's name. We considered it an important matter and we decided not to give a pair—or I decided not to give a pair and my party reinforced that view. I also put on the record that the Rahmati family was here because of a change of policy—

MR SPEAKER: Order! Resume your seat.

Papers

Mr Corbell presented the following papers:

> **Subordinate legislation (including explanatory statements unless otherwise stated)**
>
> Legislation Act, pursuant to section 64—
>
> Architects Act—Architects (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-111 (without explanatory statement) (LR, 27 June 2005).
> Building Act—Building (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-112 (without explanatory statement) (LR, 27 June 2005).
> Community Title Act—Community Title (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-114 (without explanatory statement) (LR, 27 June 2005).
> Construction Occupations (Licensing) Act—Construction Occupations Licensing (Fees) Determination 2005 (No 2)—Disallowable Instrument DI2005-115 (without explanatory statement) (LR, 27 June 2005).
> Electricity Safety Act—Electricity Safety (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-116 (without explanatory statement) (LR, 27 June 2005).
> Land (Planning and Environment) Act—Land (Planning and Environment) (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-117 (without explanatory statement) (LR, 27 June 2005).
> Surveyors Act—Surveyors (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-118 (without explanatory statement) (LR, 27 June 2005).
> Unit Titles Act—Unit Titles (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-119 (without explanatory statement) (LR, 27 June 2005).
> Water and Sewerage Act—Water and Sewerage (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-120 (without explanatory statement) (LR, 27 June 2005).

Fire Safety

MS MacDONALD (Brindabella) (3.21): I move:

> That, in light of the recent tragic deaths and increased discussion on the issue, this Assembly:

(1) recognises that the risk of house fires increases significantly during the colder months of the year;

(2) acknowledges that smoke alarms significantly reduce the incidences of house fire deaths;

(3) notes the importance of fire safety public education programs;

(4) urges the community to be vigilant regarding fire safety in the home; and

(5) requests that the government investigates the issue of compulsory smoke alarms for all residential dwellings.

Each year in Australia an average of 170 people are killed in residential fires. This year there has been an especially tragic start to winter with, in New South Wales alone, 13 people, including seven children, losing their lives in house fires in just over a fortnight in late May and early June. On Monday, a child was killed in Queensland. I am sure I speak for all members when I extend the Assembly's sympathies to the families and friends of all these victims. While thankfully no-one in the ACT has lost their life to fire this winter, several properties have been severely damaged and the threat was there and still remains.

Recent research conducted by the fire investigation unit of the ACT Fire Brigade found that the number of house fires in Canberra rises by 16 per cent during the winter months. This can be attributed to a number of factors. With the onset of winter, many people take out heaters and other equipment that has not been used for a long time and which may have developed faults. We are all familiar with how cold Canberra can become in winter. Heaters become essential to keep warm and too often clothes need to be dried in the clothes dryer or on the rack in front of the heater, which, if placed too close, can start a fire in a matter of minutes. Many Canberrans also use electric blankets throughout the colder months that, if left on unattended, can again cause a fire.

According to the AAMI fire screen index published in June this year, more than a quarter of Australians, or 26 per cent, have experienced a home fire at some time in their lives. More than half of those fires started in the kitchen, and 44 per cent were caused by a cooking incident. A further 16 per cent were due to electrical equipment that was faulty or used carelessly. As we have seen recently, children, sometimes inadvertently, cause fires and suffer the tragic consequences. Children playing with matches and lighters accounted for 3 per cent of home fires, as did candles, oil burners and other flammable liquids or gases. In 78 per cent of cases the fire was confined to the area where it began. However, in 5 per cent of cases the fire destroyed the entire home.

With the number of house fires in Canberra rising by 16 per cent in winter, and in light of the recent tragic deaths, it is timely for the government to investigate the issue of smoke detectors in all homes, not just new ones or ones that have been extended by 50 per cent.

A sleeping person is unable to smell smoke and therefore cannot detect a fire. Nine out of 10 fire victims are killed by smoke or toxic gases before the fire brigade is even called, long before the flames reach them. That is why having working smoke detectors

on each level of a home makes such a difference. Smoke detectors act as early warning systems that help save lives by waking occupants and alerting them to the dangers of fire and smoke.

Published reports indicate that the risk of death in a house fire is reduced by 60 per cent if a smoke detector is installed and that the installation of detectors can reduce death and property loss, the latter because emergency services arrived at the scene earlier. Smoke obscures vision and causes intense irritation to the eyes. This, combined with the effects of the poisons in the smoke, can cause disorientation, impaired judgment and panic, reducing the victims' ability to find an exit. And of course people waking from a deep sleep will not be as sharp as they normally would when awake.

Laws in every jurisdiction now require that smoke detectors be fitted in all new houses, but nationwide it is estimated that only 20 per cent of homes are fitted with the portable devises. Governments are working to increase this figure, and smoke alarms are now compulsory in Victoria and South Australia. In February 1998, it became compulsory for all South Australian residential buildings to be fitted with a smoke alarm; and, likewise, in February 1999, building regulations in Victoria made it compulsory to install smoke alarms in all residential buildings, including houses, units, flats, boarding houses, motels and special accommodation houses.

On 14 June this year, in a bid to prevent more tragedies as a result of house fires, the New South Wales government announced measures that include proposed laws to make it compulsory for homes to be fitted with smoke detectors. The measures will include community education, new radio and television ads and expanding the smoke alarm battery replacement for the elderly program. I would say at this point that the issues surrounding making the installation of smoke detectors compulsory are complex. Cost and how to police installation are all part of the issue.

Under proposed changes in New South Wales, from 1 May 2006 all existing homes, flats, boarding houses, motels, hotels and hostels must be fitted with either battery-operated or hardwired smoke alarms. Landlords will be required to fit smoke alarms to all rental accommodation, and all properties will need to be fitted with smoke alarms before they can be sold. The Queensland government is also in the process of reviewing its fire safety measures, which could result in smoke detectors being mandatory in all residences by the end of this year.

In the ACT smoke alarms have been compulsory in new homes since 1994, as they are in homes that have been extended by 50 per cent or more. But this still leaves a significant proportion of dwellings without smoke detectors. As I alluded to earlier, smoke alarms, correctly located in a home, give early warning of fire, providing residents with precious minutes or seconds that may be vital to their survival. Smoke detectors can give people time to respond and alert others to evacuate, to summon the fire brigade and more time for firefighters to save life and property.

Of course the installation of smoke detectors must also be backed up by the development of a home fire escape plan that is practised and understood by all occupants. Unfortunately, the AAMI fire screen index revealed that just over half of all Australians, or 56 per cent, had a fire escape plan. Most people, or 85 per cent, also believe that they would know the best response to a fire that started in their home. But, disturbingly, one

in 20 people, or about 5 per cent, did not know to call 000 in the event of a fire in their home.

While it has been proven that smoke detectors can and do save lives, the devices are only effective if they are maintained correctly. Residents need to ensure that smoke detectors are not painted over, as this may restrict the airflow into the alarm; that they are not located where there are continual draughts—dust or lint may cause the alarm to activate; that they are located away from the bathroom and laundry, as steam may activate the alarm; and that they are not disconnected from the electrical supply to overcome the nuisance that the alarms cause from cooking or smoke from an open fire.

When making the decision about the position of smoke detectors it is important to remember that they are intended to detect smoke before it reaches the sleeping occupants of the building. They should be installed on or near the ceiling, with special care being taken to avoid dead-air spaces. Of course a dead-air space is an area in which trapped hot air will prevent smoke reaching the alarm.

Studies have shown that 85 per cent of sleeping children do not wake to the sound of smoke alarms; so houses with segregated children's rooms need interconnected alarms linking to an alarm near an adult's bedroom. Smoke detectors need to be regularly tested to ensure they are operating correctly. Most smoke alarms can be readily checked by pressing a button on the outside of the alarm. The battery in most smoke alarms will also need to be renewed on an annual basis. Some smoke alarms will emit a warning sound when the battery needs replacing.

The new battery, of course, should be of the type specified by the manufacturer, as installation of incorrect batteries can seriously affect the operation of the smoke alarm. Under its new measures, I believe the New South Wales government will run specific campaigns to encourage people to change their smoke detector batteries when they change their clocks for daylight saving. The detectors should also be cleaned annually. This usually involves careful vacuuming to remove dust particles that may affect the operation of the unit.

Smoke detectors can mean the difference between life and death. Australian statistics show that, in the last decade, 88 per cent of fire deaths occurred in dwellings with no smoke alarms. Almost 59 per cent of deaths occurred between 9.00 pm and 6.00 am, when people can reasonably be assumed to be asleep. The elderly have a disproportionately higher fire death rate compared to the rest of the population, with those 65 years and older accounting for 25 per cent of the victims.

There are no specific figures available on how many ACT homes have at least one smoke detector installed but it is believed that the number of homes has increased in the past decade. While it appears that most people have heeded the vital fire safety message that smoke detectors save lives, there is still a need for the installation of these devices in the remainder of the residential properties.

Recent comments from emergency services minister, John Hargreaves, indicate that the government is considering legislating to make alarms compulsory in all homes but, as I said earlier, there are many complex issues around it and so it needs to be investigated.

This motion supports the issue of compulsory smoke detectors and that the ACT be properly investigated and considered before any decision is made. In other words, let us not have a knee-jerk reaction to some horrible events but let us make considered decisions based on investigations.

It is important to note, however, that compulsory smoke detectors are only one aspect of what needs to be a multi-pronged approach to reducing house fire deaths and property damage. Comprehensive public education campaigns play a vital role in raising awareness about fire safety in homes. The ACT Fire Brigade runs several programs to educate the community about fire safety, including the fire ed program, the juvenile fire awareness and intervention program, fire warden training and fire safety and extinguisher training.

The fire ed program is presented to kindergarten children in all ACT schools by station crews and consists of five parts which aim to teach young children the dangers of fire and what to do in an emergency. The juvenile fire awareness and intervention program delivers tailored awareness sessions to children between the ages of three and 16 who are already exhibiting dangerous fire-lighting behaviours. The ACT Fire Brigade's web site also provides the community with extensive information on fire safety and the various services available. But there is only so much that governments and fire brigades can do.

There is also a need for the community to be vigilant when it comes to home fire safety, particularly during the winter months. More than half of all Australians, or 52 per cent, keep appliances running when they leave the house; about one quarter, or 27 per cent, leave their dishwasher on; 41 per cent leave their washing machine going; and 13 per cent leave their clothes dryer on. Electrical appliances should not be left running while unattended, especially heaters and clothes dryers.

Canberrans need to ensure clothes and flammable materials are placed at least one metre away from heaters, and lint filters need to be regularly cleaned. In the kitchen, where more than 50 per cent of all fires begin, food cooking on the stove should never be left unattended. The proximity of electric cords, curtains, tea towels and oven cloths needs to be checked to ensure they are a safe distance away from the stove, and care needs to be taken with long, flowing sleeves. Candles, oil burners and open fires should never be left burning unattended. Smokers should not smoke anyway, but smokers should ensure all cigarettes are properly put out before disposing of butts. It is also important not to overload power points and power boards as well as to check electrical appliances regularly for faults.

While deadlocks are an important part of household security, people should not deadlock their doors when they are inside their homes as it could be impossible to escape during a fire. More than half of Australians, or 54 per cent, do not leave the keys in their deadlocks. Many people caught in house fires, especially the elderly, have been found dead near doorways with deadlocks. If residents have a deadlock on any door, they need to leave the key in the door or, if this is impractical, install a key holder close to the door. People need to remember that they may be disoriented during a fire or emergency; so ease of escape is vital.

There are thousands of house fires in Australia every year. About a third of these occur during the winter months, when people are using fires, heaters and other electrical equipment. We usually do not hear about most house fires and that is largely because, thanks to the efforts of our fire brigades, the fires are controlled before they result in fatalities. Thankfully, the vast majority of people escape with their lives. Smoke detectors play a vital role in reducing house fire fatalities and can mean the difference between life and death.

I urge all Canberra residents not to wait for legislation but rather to install a device as soon as they can. They are relatively inexpensive. Battery-operated models retail for about $15 to $20 and I understand they are easy to install. It is a small investment when you consider the lives it can save, as well as the property. Every family in the ACT should ensure that they have taken basic precautions to ensure their homes are as fire safe as possible. I commend the motion.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (3.36): I thank Ms MacDonald for the motion. Fire safety and prevention are very important topics and, hopefully, by discussing them, Canberrans will become more fire aware. It is timely that we are discussing these topics because, as mentioned by Ms MacDonald, the number of residential fires attended during the winter months in the ACT rises dramatically. During the height of winter in 2003-2004, July and August, that is, the ACT experienced a 62 per cent increase in structural fires, compared with summer, January to February. I know I am not telling you anything much, Mr Speaker, but there are members here who do not have your vast experience in fighting fires.

The number of fatal house fires across New South Wales and Queensland in recent weeks serves only to highlight the increased danger faced by the Canberra community as the cold weather sets in. It is an interesting statistic—because everyone is very fire aware in the summer, when we are all on the alert for bushfires and we are all feeling the soaring temperatures—that what a lot of us forget is that winter is a danger time when it comes to leaving on electrical appliances such as blankets and heaters.

Apart from the tragic deaths we have seen in New South Wales and Queensland in the past few weeks, there is also a huge financial cost to the community when a home is affected by fire. This includes the cost of response and support agencies and can also result in higher insurance premiums for the general community.

This government promotes the installation of fire alarms in all homes. Smoke alarms give residents a chance to evacuate a burning home safely and provide a warning in those first critical moments of a fire. They should be the first step in home fire safety plans. The government urges every single household to make a decision themselves to install one. It could mean the difference between life and death.

The value of having smoke alarms installed in residential properties was again highlighted last week following a house fire in Macgregor. The lone occupant was asleep when the blaze erupted inside the home, after a dryer caught alight. She was quickly woken by the noise of a smoke alarm and was then able to escape the blaze. This serves

to highlight the importance of having smoke alarms installed in all homes across the ACT.

As Ms MacDonald said, since 1994 it has been compulsory, through the Building Code of Australia, to have smoke alarms installed in all new buildings. Therefore, every house in Canberra approved since 1994 has smoke alarms installed. Under the code it is also compulsory to install alarms if extensions are done to more than 50 per cent of a home.

Where the ACT government is a landlord, that is, in all public housing properties, we take fire safety and awareness very seriously. We are currently undertaking comprehensive fire upgrade of all our major multi-unit complexes, at a cost of around $22 million. Currently 95 per cent of our properties have had hardwired smoke detectors installed.

In December last year, I joined with Housing ACT and the fire brigade to launch a new booklet that was given to all Housing ACT tenants, "Fire safety in your home—a guide for public housing tenants". This comprehensive, 11-page booklet outlines what to do in an emergency situation and, perhaps even more importantly, provides fire prevention tips around such things as cooking, electricity and smoke alarms. At the time, the chief officer of ACT Fire Brigade congratulated Housing ACT for their commitment to upgrade fire safety in their buildings. He also challenged other ACT landlords to follow the Housing ACT example and improve fire safety infrastructure within their buildings.

Housing ACT has progressively changed smoke detectors in its properties to hardwired smoke detectors, avoiding the necessity for tenants to change batteries. Tenants are encouraged to test their smoke detectors regularly and report any faults to the maintenance call centre for urgent repair or replacement.

As stated by Ms MacDonald, the fire brigade offers a service of installing battery-operated smoke alarms free to anyone in the territory. This can be organised by purchasing an alarm for $10 to $30, then contacting your local fire station. The dedicated men and women of our fire brigade are the ones that all too often see the consequences of houses not having alarms installed. I know they take every opportunity to keep pressing the point to our residents of the importance of smoke alarms through a range of public education initiatives. This includes school visits, community gatherings and events like the Royal Canberra Show, emergency services week, which is next week by the way, and through partnerships with various community groups such as the Council on the Ageing.

It is also something they highlight through the media after attending house fires, pleading with people to be sensible and install alarms to prevent unnecessary damage and death. We all saw the media coverage last week of the fire brigade congratulating a Macgregor resident for keeping her alarm batteries checked and charged; it saved her life.

The ACT Fire Brigade also continually encourages householders to prepare and practise a fire safety plan. Further advice on how to do this can be found on the brigade's website www.firebrigade.act.gov.au. This includes advice such as: in the case of your house catching fire you are likely to have only one or two minutes from the smoke alarm sounding before your life is seriously threatened; if you had been asleep you would be less likely to respond quickly and effectively.

It is essential that your family prepares and practises an escape plan. You should draw up a floor plan of your house, plan two ways out of each room and select an indicated meeting place outside the home, like around the letterbox. Also teach your family to check closed doors for fire before opening, using the back of your hand; to crawl low, because smoke and heat will build from the ceiling down; and to close doors behind them as they exit—this will slow the spread of fire and smoke. Practise your escape plan using these techniques.

We have seen our counterparts over the border recently announce the compulsory installation of smoke alarms in all homes, as outlined by Ms MacDonald. Currently the ACT Fire Brigade is preparing a brief for me on a number of increased fire safety options, including making smoke alarms mandatory in ACT households. This government will take the advice of experts in the fire brigade before making any decisions on whether or not to make smoke alarms compulsory and will also have a look at what New South Wales is doing, how they are doing it, and how other jurisdictions manage this issue.

There are many issues that need to be looked at and sorted through before making a decision on compulsory smoke alarms, not least of which is how to enforce retrofitting of alarms in properties. New South Wales, I believe, is planning to police it through the insurance system. It is open to insurance companies now to give a discount for, or require people to have, smoke alarms when giving insurance policies on home and contents, in the same way as we see them giving discounts if we have window locks and deadlocks. That raises the question as to whether we need to legislate at all.

I am also concerned at some of the issues that surface when we talk about any future compulsory retrofitting of alarms. For example, if a landlord is compelled to fit a smoke alarm in any future regime I think there is an inherent unfairness if the insurance is voided if the tenant does not check the batteries and the house burns down. These are the sorts of issues that need to be discussed and debated and on which we need advice before we legislate a change that will affect so many Canberrans. While there is no question as to the value of smoke alarms, there are still questions as to the effectiveness of any legislation, whether we in fact need it and how we would enforce it.

I again thank Ms MacDonald for her motion today, and I do assure her and all my colleagues that the government takes fire safety very seriously. However, decisions such as this cannot be taken lightly, and we will be looking at all associated issues before legislating any changes to the current regime.

I notice that Mr Pratt has circulated an amendment, requesting that the government report back to the Assembly in 90 days. I indicate that the government will not be supporting this amendment. Personally, I have indicated a range of initiatives this government is taking that indicate how seriously we take the issue. I give an undertaking in this place right now that we take the issue seriously. The only movement on the Australia-wide front at the moment is with New South Wales, and I do not propose to put a time limit of 90 days on the evaluation of the efficacy of their particular change in regime. It is an arbitrary 90 days to pull out of the air. I do not see any reason for it.

If there is a need to introduce legislation, as seems to be the case in New South Wales, we will have a good look at it first. We will get the fire brigade to check its efficacy to see whether it works. We will take some advice from the Insurance Council on whether or not we should be going down that track. We will take advice from other insurers in this town and will have some further consultation. I do not propose, in fact, to make up my mind within 90 days and come back in this place. I just foreshadow that, not only will the government not be supporting this amendment; we will not be talking any further on it either.

MR PRATT (Brindabella) (3.46): Mr Speaker, we certainly do not disagree with the spirit or the intention of this motion. The range of tragedies we have seen across a number of jurisdictions, particularly through winter, has been quite astounding. The community needs to take all steps to try to minimise that type of danger.

However, the question is: why do we need a motion anyway? To pick up on the point that the minister just made about whether there was any necessity to legislate to force changes—I think he said, "Let us beg the question; there may not even be a need for that"—certainly we do not see a necessity for the motion. What we simply say is: "The spirit of the details of the motion is quite right; but, come on, government, get on with it." What we want to see down here is an announcement made that there are steps being taken. It will certainly get bipartisan support to make sure that the matter can be expedited. Therefore, it is much more appropriate for the government to take action, move now, come down here, make the announcement; and you will get our support. We do not need to have a motion to debate such a fundamental issue.

As to the matter just raised by the minister about why we put this amendment up: minister, you might say that the need to report back in 90 days is of little interest to you or is contrary to your view. But of course Ms MacDonald, in her motion—if we are going to have to now talk to the motion and talk about the fundamentals in that motion—asked the government to investigate. What we are saying is: "If the government bows to the wish of that motion and goes off to investigate whether or not we need to put some sort of policy down about smoke alarms, we are putting a time frame on that," because we know that when this government goes away to investigate something you wait forever to get a response.

This is the government, after all, of never-ending inquiries, investigations, reviews and God-knows-what. So what we are asking the government to do is get out there, sort out what your policy ought to be and move fairly quickly, because there is a time urgency about this; and you will get our support. There is no question about that, minister.

The only point that we would raise about the motion that bears a little bit of checking out—and we would like to hear what the minister has to say about this—is the issue of retrograde fitting. I think you were talking about mandatory fitting of smoke alarms to all properties. Whether or not it is going to be practical and sound to retrograde fit alarms to old properties is a question that needs to be asked and then answered. We are not saying that it is not necessary, but we raise the question of whether it is going to be a practical policy to put in place. I would like to hear what you have got to say about that.

With respect to the review process: again we say, minister, "If you are going to go away and investigate, then let us have an answer back here within 90 days," so we know clearly that you are taking action and the matter is going to be expedited. We look forward to that. We look forward to your response and we look forward to clear-cut action being outlined in this place sooner rather than later.

I move:

> Add:
>
> (6) Requests the Government report back to the Assembly within 90 days to demonstrate its willingness to implement new measures as quickly as possible.

DR FOSKEY (Molonglo) (3.50): I support Ms MacDonald's motion. I certainly agree that the number of house fires in Canberra, with an increase of 16 per cent during the winter months, is worrying. The public does need to remain vigilant in their use of heating appliances and electric blankets. Every generation needs to be educated about these things. Certainly, I very vividly remember a picture that I saw, probably as a child, of a child's sleepwear catching fire from that child standing too close to a heater. I am not sure that we are seeing those images any more. I think that anything that we do has to be—

Mr Hargreaves: For the good.

DR FOSKEY: Yes. The ACT Fire Brigade has reminded residents of the importance of having a working smoke alarm and, should a fire occur in the home, a home escape plan. I must say that I was interested in Ms MacDonald's incredibly informative talk. I certainly realised that I do not have a home escape plan, but I do not have a deadlock either.

Mr Hargreaves: Do you have a smoke alarm?

DR FOSKEY: Yes. I am in a government house, Mr Hargreaves. Installing a home smoke detector is a quick and efficient way of ensuring the safety of a home.

I support Ms MacDonald's call to investigate compulsory smoke alarms for all residential dwellings. However, it is important that people know how to stop a vexatious smoke alarm going off. During the January 2003 fires, some friends of mine in a guvvie house had to call the fire brigade to turn the screech of theirs off at 3.00 am. Unless you have heard one of these things, you do not know how much it makes you feel like evacuating your home even when there is no fire.

When the same thing happened to me—I have got to say, by the way, that it was before they were electronic, when they had batteries in them—when my alarm used to go off every time the toast burnt, which was, unfortunately, a little too often, I found myself dismantling it, taking batteries out of it. I would say no battery-operated smoke alarms.

On the other hand, there is the desire to kill a smoke alarm that will not turn itself off and that, in fact, starts going for no reason at all. I can tell you they respond to broom handles

and they do not respond to a number of other items. I did not try a knife. What I have found does work—and what people need to be told about—is a vacuum cleaner. They will often go off because there is a little bit of dust in a place that, of course, triggers its very sensitive mechanism. So, smoke alarms, yes; but a smoke alarm that is turned off or otherwise interfered with will not save lives. So there is an education campaign required, too.

I know of several well-designed houses in Canberra that have been built with the correct solar orientation and other features that trap the heat in winter and dispel it in summer, where fires and heaters are only needed a couple of days a year—yes, I am talking about Canberra—and those are the times when skies are grey for several days in a row.

There is another way that we can prevent fire, by guiding people, through regulation, towards building houses that do not need heaters. Of course we have got a while to go with that. Many rental and low-income households are not able to make the investment. It is expensive to renovate homes to make the best use of solar and convectional energy if the house was designed poorly in the first place.

Until the time comes when a large percentage of the population are able to live in energy efficient households, fires will continue to be a problem because there are other causes of fire. There is, for instance, the issue of leaving the iron on, leaving a hot plate on overnight and, in fact, all kinds of careless acts that very ordinary people do. I must say that fire is one of things that I am absolutely phobic about, having lived in a neighbourhood where I saw two houses burn down when I was a child.

What I would like to say is: remember, smoke detectors only save homes if they are heard. They will not save an empty house. I guess the good thing about smoke detectors is that, if there are people in the house, they will save lives and may save the house. But if something occurs while the house is empty, that smoke detector will not save it. We must have education. We must remember that smoke detectors are, at best, only a partial measure. Nonetheless, they can be supportive.

I would also support Mr Pratt's amendment. While I support Mrs MacDonald's motion, I think it could have a little bit more of a hard edge to it. I think Mr Pratt's amendment gives it that.

Question put:

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

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Seselja	Mr Berry	Ms MacDonald
Mrs Dunne	Mr Smyth	Mr Corbell	Ms Porter
Dr Foskey	Mr Stefaniak	Ms Gallagher	Mr Quinlan
Mr Mulcahy		Mr Gentleman	Mr Stanhope
Mr Pratt		Mr Hargreaves	

Question so resolved in the negative.

Amendment negatived.

MS MacDONALD (Brindabella) (4.01), in reply: I would like to start by saying that I have been referred to just now by the Deputy Clerk as "Mr" and earlier by Dr Foskey on several occasions as "Mrs". I would like to point out for the record that I am a Ms. I am married, but I retain the title "Ms". I know it was just a slip of the tongue on the Deputy Clerk's part.

MR SPEAKER: Relevance.

MS MACDONALD: Yes, that is very true, Mr Speaker. I just wanted to get it on the record that I am not a Mr or a Mrs.

I would like to thank members of the Assembly for their contribution to the discussion. Of course I will not reflect on the vote that we just had, but I did not get a chance to respond to the amendment. I would say that, in my opinion, it would have been making policy on the run, which I understand Mr Pratt is very good at doing.

MR SPEAKER: That debate is over. And I am glad you said you would not reflect on the vote.

MS MACDONALD: I have moved on, Mr Speaker. I understand Mr Pratt is very good at making policy on the run. I am glad that he agrees with the spirit of the motion. He has made the comment that, rather than tabling a motion, we should just have an announcement. Once again, this would be policy on the run. What this motion was about was to say, "Let us have the discussion here in this place and let us go away and get the people who are authorities on these matters to investigate the issues properly, rather than having knee-jerk policy, rather than having policy on the run."

I would also point out that Mr Pratt picked up one issue. I was surprised to hear about retrograde fitting. I want to read the following from *Macquarie Dictionary* for Mr Pratt's benefit:

> retrograde: 1. moving backwards; having a backward motion or direction; retiring or retreating step ... 3. inverse or reversed, as order. 4. *Chiefly Biology* exhibiting degeneration or deterioration. 5. *Astronomy* denoting an apparent or actual motion in a direction opposite to the order of the signs of the zodiac, or from east to west.

I think what Mr Pratt might have been looking for was "retrospective", which means:

> 1. directed to the past; contemplative of past events. 2. looking or directed backwards. 3. retroactive, as a statute.

I wanted to point that out for your edification, Mr Pratt. If you like I can look up the word "edification" for you and give you the dictionary definition of that, too, in case you do not really know what that means.

Dr Foskey, I take on board the comments that you made about problems with some smoke detectors. I know that toast can set off smoke detectors and, at other times, there are other problems with kitchen smoke setting off smoke detectors. It is an issue, and that

is another reason why we need to look at the way we implement this. Seriously, we do need to. While they can be an annoyance, smoke detectors, as we know, do save lives. That is what this motion has been about. But it has not just been about the smoke detectors; it has been about increasing awareness and everybody needing to remain vigilant and having a responsibility to look after themselves, their family, friends and property as well. I commend the motion to the Assembly.

Motion agreed to.

Maternity services

DR FOSKEY (Molonglo) (4.05): Mr Speaker, I seek leave to amend the motion standing in my name on the notice paper.

Leave granted.

DR FOSKEY: I move:

> That the government formally adopt or agree to the 20 recommendations of the 8th report of the Standing Committee on Health entitled *A pregnant pause: the future of maternity services in the ACT* that was tabled in the last Assembly on 5 May 2004.

It has been over a year since the pregnant pause report was tabled in the Assembly. Prior to the election, the government was happy to talk about it and appeared to be broadly supportive. However, since the election, there has been a deafening silence and I understand that people with an interest in these issues have experienced difficulty getting a meeting with the minister. For some months we have been told that a response will be forthcoming, yet still we are waiting. Our patience was partially based on an understanding that the government was disposed to respond positively to the report. However, the lack of any funding for maternity services in the budget and other recent indications have us concerned that the government is backing away from this report.

The preface to the report says:

> It is time for the government to take a brave stand, listen to what the community they serve is saying and respond to it without bureaucratic obstruction.

By putting forward this motion today, I hope to spur the government into taking a brave stand and stop delaying its response to this important piece of work and allowing bureaucratic obstruction to prevent progress on this important area of need. The primary message of the pregnant pause report is that women should have control over the antenatal, postnatal and birth phases and that this has important individual benefits for women and their families. It is about women having the full array of choice of the style of birthing experience that they have.

It also has significant benefits for the health system and the broader community. We have a situation in the ACT where general practitioner and obstetrician care dominate the majority of maternity services. There is no provision for publicly supported home birth and there is only one midwife-led program, the Canberra midwifery program. While this

program does a very good job, it is constrained by the fact that it is controlled by obstetrics and is described in the report as "an add-on to an acute service".

The report argues the need to have some maternity services controlled by midwives, rather than doctors. Midwives are specialists in normal births. They offer care and support to healthy women with normal pregnancies from conception, through birthing to some weeks after birth when a care and feeding regime is well established. There is a plethora of research that demonstrates that midwife-led care substantially reduces the incidence of birth complications and the need for intervention. It is therefore hard for me to understand why the government has not responded with some urgency to the recommendations of this report.

We should not be treating pregnancy as a medical condition. It is a natural process that, in the majority of cases, does not require medical intervention. There is also research that demonstrates that supporting a woman's right to exercise choice and control over her care has significant benefits to her own wellbeing and that of her family. In particular, independent midwife-led services are often much more appropriate than hospital-based services for women who are vulnerable, and this includes young women, women from non-English speaking backgrounds and women who have had poor experiences with formal health services.

The pregnant pause report makes a number of very important recommendations, and I would like to highlight a few of them. I will start with the good news. Recommendations 16 and 17 call for recognition of midwifery as a distinct profession separate from nursing. This has been achieved as a result of the Health Professionals Legislation Amendment Bill. The bad news is that there are no independent midwives working in Canberra because of the problems with medical indemnity insurance raised in the report and not yet addressed.

The only other recommendation that appears to have been acted on is the upgrade of the neonatal unit at the Canberra Hospital, which received funding in the recent budget. The remaining recommendations are all important, but time prevents me from speaking to all of them so I have selected just a few. Recommendations 1 and 13 are concerned with the provisions of antenatal education and comprehensive information relating to pregnancy, birthing and postnatal care options available for women in the ACT.

It is important that women have information in order to have control during their pregnancy and to make informed choices. Currently, the antenatal education provided by ACT Health is offered towards the end of pregnancy, and that is unsatisfactory. For instance, women need to make choices about what kind of birth they want to have very early in the pregnancy, and I will mention this later, and therefore there needs to be at least one session for newly pregnant people to attend just to have those options, which are currently only available in a pamphlet, made clear to them. Community-based information sessions, such as the having a baby seminar which has been offered by the Women's Centre for Health Matters, go part of the way to fulfilling that, but that one is funded on a project basis and may not therefore have longevity.

Recommendations 3 and 4 are about undertaking a needs analysis to determine the actual level of unmet need for the Canberra midwifery program and increasing funding to meet that demand. This program is oversubscribed to such an extent that most women need to

register with the program by the fifth week of pregnancy or they will miss out. Many women are not even aware that they are pregnant that early in their pregnancy.

According to pregnant pause, just 6.7 per cent of women giving birth in the ACT have access to the birth centre. This leaves the majority of women with limited choices, either to give birth at home with no support—believe it or not, this is a choice that an alarming number of women are selecting simply because they do want to have a natural birth, so far as possible—or to give birth in a hospital setting under the ultimate care of obstetricians. The unmet demands suggest that a much higher proportion would choose midwifery-led care if it were available.

Recommendation 11 is about establishing a ministerial advisory council on maternal health. This is about giving women and midwives a real voice in the ACT. There is a known reluctance in the medical profession towards community-based midwife-led care and ministers, who are captive to the opinions of health departments and obstetricians, are disempowering women who seek a greater say in the way the maternal health services are provided.

Perhaps the most significant recommendations are concerned with moving away from medically driven maternity services towards community-based midwifery care. For example, recommendations 19 and 20 seek to have maternity services brought out from under the administration of hospitals and the establishment of independent primary birthing units. I understand that these recommendations may have caused some consternation amongst health professionals and administrators. However, I ask that the Assembly take note that these recommendations are strongly evidence-based and reflect the directions in which maternity services are heading in more enlightened jurisdictions.

The final recommendation I would like to highlight is 18. It calls for the ACT government to support tertiary education institutions in offering postgraduate and midwifery education in the ACT. We are facing a shortfall of midwives in the ACT no matter what we do. This will only get worse if we do not increase the supply by offering our own postgraduate midwifery education. I hope that, in responding to this motion, the minister will give us some indication of where the government stands on these recommendations and not just fob this off and give us the prospect of further delay.

I have not addressed the cost effective nature of standalone birthing centres. I want to pre-empt any possible objections that might be raised that this is something the government cannot afford. It is, in fact, something that will be cost effective and will actually reduce costs related to birthing. I just want to make that point before I cease. I know that there are a couple of amendments floating around. Actually, this motion appears to have aroused a deluge of amendments. I foreshadow that I will be tabling an amendment to Mrs Burke's amendment and Mr Corbell's amendment, if indeed they get up.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (4.17): I thank Dr Foskey for moving this motion today. I indicate that the government will not be supporting the motion as it is currently worded. However, at the end of my comments, I will be moving an amendment to Dr Foskey's motion.

The ACT government recognises that pregnancy and birth are transforming life events for women and their families. The ACT, I am proud to say, has a wide range of high-quality maternity services available to support women during this important time in their lives. These services range from the tertiary level care at the Canberra Hospital for high risk and emergency situations to the one-to-one midwifery care offered through the Canberra midwifery program.

Continuous quality improvement is now an accepted part of the health system. ACT Health has arranged the mechanisms to gain consumer and stakeholder feedback on services, including maternity services. The government welcomes any processes that contribute to an increased awareness and understanding of the issues that arise from consumers and other people with an interest in how the system operates. The government has welcomed the inquiry of the standing committee on health into maternity services and is pleased to have an opportunity to respond to the standing committee's report, *A pregnant pause: the future of maternity services in the ACT*.

In developing its response to pregnant pause, the government is considering the recommendations of the report in the context of, firstly, stakeholder submissions to the inquiry, stakeholder responses to the pregnant pause report, and, importantly, the current environment for maternity services provision in the ACT and Australia. One of the reasons the government's response has been delayed is that it has wanted to look closely at the recommendations of the report and the submissions and at the same time look at what other states and territories have been doing.

In December last year the Northern Territory, for example, announced a package of initiatives that the ACT government is currently examining. The Queensland government is currently consulting with the community about the recently completed independent review of Queensland maternity services entitled *Rebirthing*. The review developed a number of principles for maternity care in Queensland and made specific recommendations for improving the maternity services system. It is my view as minister that it is important that we take these developments into account in our own response to pregnant pause.

At the same time as the government has been developing its response to pregnant pause, it has also been working on a number of other maternity services initiatives. A key area of activity at present is the project of upgrading the antenatal shared care guidelines in consultation with stakeholders. This project has just begun and will be completed in the coming months.

These guidelines were released in September last year and were the culmination of a significant amount of work on the part of GPs, obstetricians, midwives and consumer representatives. These guidelines mean that the provision of shared care is now consistent across the ACT and help to make it simpler for women, GPs and antenatal clinics to work together. Since the release of the guidelines, GPs and other service providers have been encouraged to provide feedback on them. This feedback, along with other consumer input, will be incorporated into the updated guidelines.

Another area of work for the government has been its participation since July 2004 in an Australian Health Ministers Advisory Committee working group that is considering

opportunities for collaboration on maternity services issues at the national level. This working group has identified a shared interest in examining the development of national guidelines for maternity services. It will report to the Australian Health Ministers Advisory Committee, or AHMAC, as it is known, at its meeting in June this year.

Another government initiative has been the establishment of the maternity services planning and advisory group. This group was established in February 2005 and is made up of 25 members who have an interest in ACT maternity services, including consumer representatives, midwives, obstetricians and paediatricians. The group has met five times, with its last meeting in March this year. At that meeting the group discussed its role and function and decided not to schedule another meeting until there were further developments in maternity services for it to consider. Members have been invited to submit suggestions for agenda items that they believe the group should examine. In order to maintain the network that has developed through the establishment of this group, ACT Health is currently establishing an email list for people to share their views on maternity-related issues. This list will help facilitate information sharing amongst stakeholders and strengthen and maintain the networks that have been formed within the group.

I would like to put to rest a couple other things that have been propagated by Dr Foskey and others in the last couple of months. The first is that the government is in some way backing away from the pregnant pause recommendations. Dr Foskey does not know that and other members of this place do not know that because the government has not yet finalised its response. Until the government has finalised its response, it is simply mischief making to suggest that the government is backing away or is not interested in taking the recommendations seriously. Dr Foskey simply does not know that.

Secondly, organisations have not had difficulty meeting with me. Indeed, I met with the maternity coalition earlier this year to discuss the issues around pregnant pause. I gave them the opportunity to put their position to me in a very forthright and full way, which they did. I was grateful for their time and for their willingness to continue their advocacy on this very important issue.

Finally, I would like to stress that, whilst the government's proposed response is still under consideration, there are two things I can flag. First of all, the government will respond in the August sitting. That has always been the timetable that I have been working to, and we are on track to meet that. I will shortly be moving an amendment to that effect.

The second thing is that, regardless of what the government's response is, we will want to facilitate a framework for the delivery of maternity services that is a collaborative one, one which involves all elements of the health care system. We do not want to establish a framework that has one particular type of service delivery sitting on its own outside the continuum of care that should be available to all women in the ACT.

My goal as health minister is to seek to have all elements of the health system work more closely together. That is a very important outcome, to ensure quality of care for Canberra residents in the health system. Women who are pregnant and are seeking the assistance of ACT Health, regardless of the mode of care they choose, are entitled to a coordinated

and collaborative approach. That is something that will be very important in the government's response. So I thank Dr Foskey for moving this motion. I now move:

> Omit all words after "That this Assembly", substitute:
>
> "(1) notes the work undertaken by the Standing Committee on Health of the 5th Assembly in its report on Maternity Services in the ACT; and
>
> (2) further notes that the Minister for Health will table the Government response to this report in the August sittings.".

MRS BURKE (Molonglo) (4.25): Dr Foskey is quite right: I, too, have circulated an amendment. I think it might be helpful for members to see an audit trail of what has happened in regard to this report. I seek to amend Dr Foskey's original motion by calling on the health minister to table the government's response to *A pregnant pause: the future for maternity services in the ACT* of April 2004 on the first sitting day in August

The series of events today has been quite extraordinary. I tabled my amendment. The government then tabled its amendment. I then went on to amend the government's amendment. Later in the day the Greens came up with their amendment. This was after I had sought advice and pointed out the anomalies contained in the wording of their original motion. For the public record, I would like to mention that, as one of the three members of the committee of the Fifth Assembly, I am extremely concerned that there has been no response as this committee began this important work on 7 August 2003—2003, minister—and its report was tabled in May 2004. Let me remind the minister of his words on 17 March. He said:

> Mr Speaker, it is the convention that governments normally respond within three months of a report being handed down.

As we can see, the government's usual time to respond of three months came and went. On 17 March 2005, I asked the health minister a question on notice in relation to when we might see the response. The minister responded, "In due course." What is "in due course", I wonder? Three months later, still no response. Mr Corbell, the health minister, stated the obvious in many of his comments, but there is still no sign of the government response to the months of work by the former health committee.

The health minister said, "The government has not finished its response yet." Shame! This minister has now had some 12 months to respond. I believe it would be inappropriate for any of us to be adopting or agreeing to all 20 recommendations until the government makes its own position quite clear. Members of this Assembly would be in a much better position to debate this matter if they knew what recommendations the government has found to be acceptable and workable in practical terms.

It is extremely disappointing that we are forced to waste valuable time continuing to debate this matter. The government could, and should, have made public its response to the report. We could have been well on the way with the process of implementing the recommendations put forward by the committee. Let us not forget that we had some 24 submissions. These people now have been waiting nearly two years, or just about two years, for some outcome, some action, minister, action! Actions speak louder than words.

Once again, I would say that it is extremely disappointing for those people who took time out to contribute to this valuable report.

I understand that the Greens believe that, by the approach it is taking, the opposition is letting the government off the hook. I think that we are in agreement with what the Greens are trying to pursue. As I have said, I started this earlier this year. Firstly, I must make clear to the Greens that this is not the case. Secondly, and more importantly, this report and its recommendations belong to the Assembly and, as such, we cannot adopt or agree to any of them. This has to be the role of government. That was just one of the anomalies I pointed out.

I would also mention that, despite its being a unanimous report at the time, we now have a new Assembly and five new members, Dr Foskey being one of them. The government's response is therefore crucial to moving this debate forward. I am concerned that the lengthy delay indicates that the government may be facing some difficulty in adopting the recommendations of the report, and I would ask the minister to clarify his position as a matter or urgency.

We have heard nothing from this minister on what they are likely to adopt, what they might not adopt or what they are working on. We have had a bit of a rundown, but nowhere publicly has he given the people who made meaningful submissions to this report the courtesy of saying, "We're up to here with a certain amount." An interim report would have been very helpful, minister. I urge you not to just dismiss the report by indicating that a government is free to respond to a report in due course. How rude is that!

Just to refresh members' memories, the report was tabled in May 2004. Surely the government has had ample time to digest it. The minister would have us believe that delays in responding to the report are due to "a range of issues within the report" and that the report "suggests fairly fundamental change to the way in which family services are delivered in the ACT". That taken on board, I still maintain that, 12 months after the report was tabled and nearly two years after these submissions were made and when the matter was being talked about out in the public arena, we have a government that has been lackadaisical and really slack in coming forward with some sort of response to this very excellent report. Most of us would believe that more than 12 months is a sufficient time frame for a minister to fully consider proposed changes to current approaches to maternity services in the ACT.

I am cognisant of the fact that the minister may be grappling with issues in relation to any significant shift in maternity services, how costs and benefits may impact upon those services and what impact changes may have on medical indemnity insurance. But surely, minister, it would be pertinent to consider the commitment and injection of input from those involved in maternity services in the ACT. Their contributions should not be lost in this debate. It is imperative that we streamline services in the ACT. We must look at the cost-benefit analysis of all models in maternity care services and ultimately devise an approach that offers not only a first-class system, but one that allows women and their families to choose the model of care that best suits their needs. I close by calling on members to support my amendment that calls on the government to table its response no later than the first sitting day in August 2005.

MR DEPUTY SPEAKER: Mrs Burke, do you want to move an amendment to Mr Corbell's amendment? Is that your aim?

MRS BURKE: At this point, because there are so many amendments flying around, I will simply stick with my original comments. I have made my point about the date. I am concerned about the public knowing that it was due for tabling in August 2004. We have made that point. I was speaking to my proposed amendment. I seek your advice.

MR DEPUTY SPEAKER: We have to deal with Mr Corbell's amendment first. If you wish then to seek leave to move your amendment, you can.

DR FOSKEY (Molonglo) (4.34): I would like to respond to the government's amendment and to move an amendment to it. I am sure that Mr Corbell realises that one of the reasons I have moved this motion is that we have no reason not to believe that the government is backing away. This motion is an opportunity for the government to tell us what it is doing. That is why I have moved it, and that is why I am going to move an amendment to the government's amendment.

The minister has already had a year to respond to this report. I believe that there must be a draft response in train. People have been left wondering about the government's intentions long enough, and further delays suggests that the government does not recognise the importance of maternity services and the urgency of the need to improve women's choices. My preferred outcome from today was a clear endorsement of the recommendations or an indication of which recommendations the government would support and why it chose not to support others. However, if we are not going to get that endorsement or the reasons for any lack of endorsement, let us not have further delays and equivocation.

If the government is not going to endorse the recommendations, we have wasted all this time hoping for a good outcome and stringing along community groups when we could have all been working for change in another way. If he will not take a brave stand and endorse the recommendations of the report today, I call on him at least to release a draft of the government's response for the purpose of community consultation. At least, minister, this will let people know where you stand. I move the following amendment to the minister's amendment to my motion:

> Add:
>
> "(3) the Minister for Health table a draft of the Government's response by the end of the current sitting week.".

I also want to respond to what Mr Corbell said about a collaborative framework. A collaborative framework is exactly what we do want. What we do not want is midwives being forced to work under obstetricians. I am not sure whether this is the stumbling block here. This is what we do need to know. A collaborative framework is all very well, but we do need a different model. I do not think we are talking about people standing outside whatever model is set up. I certainly have not heard that from any of the midwives and other people that I have spoken to.

Okay, there is a delay. So what work is the government is doing in its response? Mr Corbell says, "We are looking at other states." The committee went to New Zealand. I think that was because they knew that there was good practice there. So is the government just duplicating the work that the committee has already done?

In the Northern Territory the ALP went to the election with two promises. One was to set up training for midwives. The other was to look at indemnity insurance so that midwives could practice. There is a real commitment there in that other state. If we are looking at other states, I am hoping that that is the lesson that has been learnt. Is the government preparing cost-benefit analyses comparing birthing in birth centres with midwife-led care with obstetrician-led care? Is it checking the unmet need for the birth centre?

If I had evidence that the government was doing those kinds of things, I would be much better able to accept this year-plus delay. I have moved this motion to indicate that we want a response one way or the other. We have just been told that we have to wait until August, and I have moved the amendment to Mr Corbell's amendment so that we can at least get a sense of the government's thinking towards a final response through the tabling of a draft response during this sitting week.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (4.39): The government will not be supporting the amendment proposed to my amendment to Dr Foskey's motion. The reason for that is that it is a nonsensical proposition. How can a government response be provided to the community in draft form? For example, what status does it have? Is it the position of the government or isn't it? Quite clearly, the government cannot release a draft response if the government has not considered what its response should be. How can it be the government's position? It is not the practice of any government to release a draft of its response for the public.

The role of the government is to respond and put its position to a committee report. As I have indicated to members, that is what the government is doing. I have outlined the reasons the government is taking the time it is taking to prepare that response. I appreciate that members, or at least some members, are unhappy with the amount of time that has been taken. But I would have thought, in particular from the Greens, that a comprehensive analysis of the issues was warranted prior to the government responding. Of course, the Greens usually require that on most other issues that come before this place. It is not a sensible proposition from Dr Foskey. It is not about providing a draft response. What purpose would a draft response serve? First of all, would such a draft response represent the position of the government? If anything, it would simply create more confusion: the government has sort of responded. It is a silly proposition.

I can only reiterate: the government's view is that the range of issues is complex and we are preparing a response. I have indicated to members in my amendment when I anticipate that response to be available. Then, obviously, members of the community and members of the Assembly can make their judgments about the adequacy or otherwise of the government's response. But I do not think it is appropriate practice or, indeed, serves any good purpose to release a draft response. It is something that has never been done before. Indeed, in my view, it would only add confusion to the debate when members already know that a response will be tabled in the next sittings of this place.

MRS BURKE (Molonglo) (4.42): I understand what Dr Foskey is trying to do and the frustration that both her office and my office have had over the way this health minister is treating this report. The contempt he is showing this report is absolutely phenomenal. As I have said before, it is over 12 months in the waiting. It has been two years since information was gathered to compile this report. I think this is a staggering comment made by this health minister—

Mr Gentleman: So you are supporting Dr Foskey's amendment?

MRS BURKE: I heard your colleague in silence, Mr Gentleman. I would appreciate your doing the same for me. I think that this is an appalling indictment of all of us in this place. It is an atrocious way to treat the public. It is disgraceful—quite frankly, disgraceful. Unfortunately, I know that we are going to go down in a heap. The Greens and the Liberal Party will go down in a heap. I cannot support that. To that end, I will stick to my original amendment, which calls on this government to table its response by no later than the first sitting day in August. I will so move my amendment.

MR DEPUTY SPEAKER: Mrs Burke, you cannot move that amendment. We are still dealing with the amendment to the amendment to the motion. You need to speak to that. Later you may seek leave to move your amendment.

MRS BURKE: Again, I would just say that I understand the sentiment of the Greens on this issue, the frustrations that we both share. Unfortunately, we have seen an arrogance about this whole approach by the government, a total lack of regard and an utter contempt for the community. Twelve months is long enough. However, I will not be able to go with this particular amendment. I will be moving my amendment, so circulated, in due course.

Dr Foskey's amendment to **Mr Corbell's** proposed amendment negatived.

Question put:

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

The Assembly voted—

Ayes 9		Noes 8	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Seselja
Mr Corbell	Ms Porter	Mrs Dunne	Mr Smyth
Ms Gallagher	Mr Quinlan	Dr Foskey	Mr Stefaniak
Mr Gentleman	Mr Stanhope	Mr Mulcahy	
Mr Hargreaves		Mr Pratt	

Question so resolved in the affirmative.

Amendment agreed to

MRS BURKE (Molonglo) (4.50): I seek leave to move the amendment circulated in my name.

Leave granted.

MRS BURKE: I move:

> Omit all words after "That", substitute "the Minister for Health tables the Government's response to the Standing Committee on Health Report (No 8)—*A pregnant pause: the future of maternity services in the ACT*—April 2004, no later than the first sitting day in August 2005.".

The reason I would not agree to the previous amendments put forward by members, particularly the government's amendment, is that the government still leaves itself very open. I appreciate, however, that the government does note the work undertaken by the standing committee and thank it for that. I do not like paragraph (2), which states:

> further notes the Minister for Health will table the Government response to this report in the August sittings.

I am sorry to be pedantic, health minister, but, as I said before, you have had more than enough time to do this. I would like to see "no later than the first sitting day in August 2005", not during that week. We need to have that report, hopefully before the sitting week. It could even be tabled out of session. Again, I call on the minister to expedite this matter. The community has waited long enough. Ms MacDonald and I, as members of the old committee, have to face people coming to us wondering where the response is, certainly I do. Maybe Ms MacDonald does not talk to people; I do not know. It is really pertinent that the government get on with this now. Obviously you are a fair way through. You admit you still have not finished, but I would like to see the government response to this report tabled no later than the first sitting day in August 2005.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (4.52): The government will not be supporting this amendment. Really, I have to say I just do not see how it adds a lot of value. There is a sitting week in August and the government has said it will table it during that sitting week. I really do not see the point in having an argument about a day. I think the existing arrangement is fine. There is a sitting week in August and the government is committed to table it during that sitting week. So we see no need to support the amendment.

Question put:

> That **Mrs Burke's** amendment to **Dr Foskey's** motion, as amended, be agreed to.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Seselja	Mr Berry	Ms MacDonald
Mrs Dunne	Mr Smyth	Mr Corbell	Ms Porter
Dr Foskey	Mr Stefaniak	Ms Gallagher	Mr Quinlan
Mr Mulcahy		Mr Gentleman	Mr Stanhope
Mr Pratt		Mr Hargreaves	

Question so resolved in the negative.

Amendment negatived.

DR FOSKEY (Molonglo) (4.58), in reply: I stand to speak to a shadow of my own motion. This seems to be one of the hazards of majority government. Nonetheless, the point is made.

Nothing that the minister has said has persuaded me that Canberra's women are going to end up with greater choice of birthing options or more access to midwife-led care. The preface to the pregnant pause report contains the following statement.

> Sadly, the committee heard anecdotally that midwives and members of the community, on finding out about this inquiry, responded by saying, "Oh, just another report that won't go anywhere."

How right they were, or could be! It is now more than 12 months since this report was tabled in the Assembly and we are still waiting for a response from the government. There has been no improvement in maternity services. Indeed, the waiting lists have had to be closed off even earlier so that women have to apply for the birthing centre at five weeks pregnant. We have lost a year of potential work and a budget cycle that would have given us the opportunity to address the recommendations.

I think this is a major insult to those who participated in the inquiry, including those who gathered and presented evidence and those who shared their personal testimony. Any objection that the government might have to these recommendations cannot be on the basis of women's safety. The report gives details of research to the effect that the OECD countries with the lowest perinatal and maternal morbidity and mortality rates are those with comparatively low rates of obstetric intervention in childbirth and where there is widespread use of midwives as the primary care givers of pregnant and birthing women.

There can also be no objection on the basis of cost. Firstly, recommendation 9 calls for a cost-benefit study into models of maternity services to be undertaken, and that is a study that could have been done while the government was preparing its response. Secondly, research evidence suggests that midwife-led services are actually less costly than obstetrics-led services.

A cost analysis research project in New South Wales conducted in 2001, and I am happy to give the government the reference if it wants it, compared the cost of a new model of community-based midwife-led maternity care with standard care in an Australian public hospital. The average cost of providing care through the community-based model was more than 25 per cent less per woman compared with standard hospital care—$2,579 compared to $3,483. These cost savings were maintained even after costs associated with admission to special care nurseries were excluded. The cost saving was sustained even when the caesarean section rate in the new model of care increased to beyond that of the standard care group. Further research conducted in 2003 proves that one-to-one continuous midwife care is not expensive and results in lower use of epidural and caesarean section. In contrast, the initiation of a cascade of obstetric interventions during

labour for low-risk women is costly to the health system and obstetric care adds further to the cost of care for low risk women.

We can look to practice examples, as well as research, for evidence of the benefits of independent services. The Ryde Midwifery Group Practice, the first service of its kind in Australia, has recently celebrated its first year of operation. Under this model, women are cared for throughout their pregnancy, labour, birth and early parenting days by one midwife. I would like to read a quote from a woman who used this service. She says:

> The relationship I formed with my midwife made an enormous difference, helping create a special bond of trust not only between the two of us but with my partner as well. She knew when I called in the middle of the night and told her she didn't have time for a shower that it was time to head straight to hospital. It really helped make the labour experience easier for my partner. He trusted her and did exactly as she told him. The other women in the hospital kept telling me how much better this was and how they couldn't work out why you would go anywhere else.

The New South Wales Minister for Health said the success of the Ryde service after 12 months of operation was a significant milestone. Since the successful establishment of the unit, similar midwifery models have been proposed for hospitals in Victoria, Newcastle, the Illawarra and at Camden in Sydney.

I close by saying that it is actually pregnant women who should be able to make decisions about their ante and prenatal care and birth, not men in suits in the department of health. So, with that in mind, I will vote for this very watered down version of a strong motion. I hope that in the period between now and the tabling of the government's response to the report there will be a really concerted effort by members of the government to make sure that the work that went into the pregnant pause report was not in vain and that we can hold our head up as a territory that cares about the conditions under which women give birth in this territory.

Motion, as amended, agreed to.

Quamby detention centre

MR SESELJA (Molonglo) (5.05): I move:

> That this Assembly:
>
> (1) expresses its concern over:
>
> (a) the failure of the Minister for Children, Youth and Family Support to ensure that the working group recommended by the Standing Committee on Community Services and Social Equity to examine the adequacy and appropriateness of the programs currently available in Quamby, was established in a timely manner;
>
> (b) the inability of the Minister or officials to indicate during Estimates Committee hearings whether the working group had been established;

(c) the misleading and evasive answers provided to questions on notice by the Minister in relations to this issue; and

(d) the ongoing breach of the Human Rights Act 2004 in relation to the treatment of inmates at Quamby; and

(2) calls on the Minister to table in the Assembly all relevant documents in relation to the establishment of the working group within the current sitting of the Assembly.

In my inaugural speech to the Assembly in December of last year I drew attention to my desire to serve the needs of the very vulnerable in our society. My shadow portfolio responsibility for young people provides me with the opportunity to deliver on that desire and to speak up for those young people vulnerable to the inaction of government whose rights under various bits of legislation may not be met and who may not have the access to representation in this place that other sections of society are able to have.

There can be little argument that the detainees of the Quamby Youth Detention Centre fall into this category. Report 7 of 2004 of the Standing Committee on Community Services and Social Equity stated, after being provided with information on detainees:

> The lives of many of these young people are characterised by a history of abuse, drug and/or alcohol addiction, poverty, family breakdown, homelessness, discrimination and alienation.

In August 2004, after a long period of inquiry and a number of submissions by government, non-government service providers and other stakeholders in the Quamby Youth Detention Centre, the Standing Committee on Community Services and Social Equity of the Fifth Assembly delivered 10 recommendations on the centre and the way in which it catered for those young people detained there. The committee, comprising members of the government, the opposition and the crossbench, was unanimous in its recommendations

One area of concern that the committee wanted addressed related to undertaking a review of the programs offered to young people in Quamby in relation to their adequacy and appropriateness. In relation to the programs, the committee report indicated that during 2003 the government released research on how to reduce young people's involvement in crime and went on to say that the research "suggests that the current range and emphasis of programs in Quamby may not be the most effective".

The committee identified that there were gaps in relation to the general living and social skills programs, that social competence training was not offered to all detainees and that greater emphasis should be placed on therapeutic programs. Hence, there was a recommendation that a working group be formed to examine the adequacy and appropriateness of the programs currently available at Quamby, having specific regard for the need to have social competence training for all detainees, prerelease life skills programs and increased opportunities for therapeutic interventions. This was in August 2004. The government agreed in February 2005 to a number of the recommendations.

Ms Gallagher: Exactly, February. Finally you got it right.

MR SESELJA: I have not got it wrong at any stage, but we will look into how you have got it wrong as we go on. Mr Speaker, it appears that progress in this area would be of great benefit to detainees of Quamby. The committee heard that young people who had been in Quamby wanted something to do during the day, that they wanted an income and that they wanted to have their boredom alleviated.

Programs around the areas of social competence and life skills would assist young people, once released, to assert greater control over themselves and their abilities to have an income, find work, return to study or even just cope more easily with mainstream society and the responsibilities that they have as members of our community. It is also clear that these young people have a responsibility to the community, so the broader community has a responsibility to these young people.

Mr Speaker, I acknowledge that the Quamby centre is to be replaced with a new facility and that money is contained in the budget to address that. Hopefully, by the end of this government's term in office, the current facility, clearly unable to meet the standards required under the ACT's Human Rights Act, will be replaced. I am aware of some of the history of the centre and its inadequacy over the years.

The minister stated in the estimates process that the facility was built by the Follett government in 1992. I have also heard it said in the past by members of this government that "we inherited the facility from you", meaning the opposition. The classic way for this government of dealing with such issues is to say, "The Liberal government gave us this, but we are trying to change it." For too long in this area and in other areas of government, ministers of the Stanhope government have been seeking to blame the past Liberal government for issues they have failed to deal with. That is an old, tired and worn out line.

Ms Gallagher: Because you did nothing.

MR SESELJA: You blamed us for all of Quamby and it was your government that started it. We are just trying to draw a line in the sand. Maybe it is time you actually started taking responsibility for what happens under your government.

Ms Gallagher: You did nothing.

Mr Stanhope: You were there for seven years, mate.

MR SPEAKER: Order, members! There should be an orderly debate, not a conversation.

MR SESELJA: Mr Speaker, this government has been in office for almost four years and the time for buck-passing is over.

Mr Stanhope: After your seven years.

MR SESELJA: Mr Stanhope says that after seven years he might start taking responsibility. We look forward to that. We look forward to him starting to take responsibility at some stage during his time in office. It is time we saw some progress from the Minister for Children, Youth and Family Support. This motion is not about who built what and when; it is about achieving outcomes for young people in the current Quamby facility

Among the budget press releases from May of this year, the minister was keen to announce her commitment to the children and young people of the ACT. She went so far as to announce that they were a budget priority. She was keen to show just how much money she and her colleagues have devoted to the areas of children and youth, especially in relation to the Vardon and Murray reports. Expenditure around issues such as child protection is welcome. However, it appears as though the minister's failure to follow up on the report of the Standing Committee on Community Services and Social Equity is a demonstration of the minister's priorities when it comes to the young people in Quamby.

Mr Speaker, I want to give a bit of a chronology so as to set the scene for some of the basis for this motion. In August 2004, the committee that I have referred to made recommendations, including one about establishing a working group. In February 2005, the government finally got round to tabling a statement saying that it agreed with some of the recommendations, including the recommendation to establish the working group. On 31 May 2005, in the estimates process, neither Ms Gallagher nor officials present knew whether the working group had been established. No-one knew. The question was asked and they said, "I guess so, but we're just not sure." The minister said that it must have been, but none of the officials knew, which was quite odd. So, on 31 May 2005, no-one knew whether it had been established.

A question was taken on notice on 31 May as to whether the working group had been established. On 7 June, Ms Gallagher responded that the group had been formed and that the first meeting had been on 6 June, the day before. On 23 June, Ms Gallagher informed the Assembly that the group was formed on 1 June this year, one day after the question was asked in estimates, and members of the group were informed of their role on the same day.

The question was asked in estimates some nine months after the recommendation was made, on 31 May, and no-one in the department, nor the minister, knew whether it had been established. We can only assume that they were telling the truth there. I find it hard to believe that no-one knew, but I will give them the benefit of the doubt. They ran away and the next day they frantically formed this working group to comply with the recommendation that was made in August 2004, which seems a little bit odd to me.

Ms Gallagher: What are you implying?

MR SESELJA: I am implying a number of things.

Ms Gallagher: What are you suggesting?

MR SPEAKER: Order!

MR SESELJA: Mr Speaker, if Ms Gallagher would let me finish.

Ms Gallagher: Join the dots.

MR SESELJA: I am joining the dots. We have joined the dots.

Ms Gallagher: And!

MR SPEAKER: Order, Ms Gallagher!

MR SESELJA: The Oxford dictionary defines "misleading" as "causing to err or go astray, imprecise, confusing. "Mislead" is defied as, "Cause a person to go wrong in conduct, belief, et cetera." The question we asked in estimates on 31 May was, "Has it been established?" The minister came back on 7 June and said, "Yes, it has been established, don't worry about it. We've taken care of it." But when we asked the question it had not been established.

I will give an example of a similar situation. If the Chief Minister had been asked in estimates whether he employed anyone who was being charged with, say, graffiti offences and he took it on notice on 1 April and if on 2 April he went away and sacked the relevant person and came back on 3 April and said, "In answer to your question on notice, no, I do not employ anyone charged with graffiti offences," that would be ridiculous, that would be misleading, because the committee wanted to know of the position at the time. The relevant issue for Ms Gallagher was whether, at the time we were asking her, the working group that had been recommended nine months before had been established. The answer was no. It was established the next day, as soon as it came to light in the estimates process—

Ms Gallagher: The answer was, "I don't know."

MR SPEAKER: Order!

Ms Gallagher: Mr Seselja is accusing me of misleading the estimates committee, Mr Speaker. That is what he is arguing. He is misrepresenting quite significantly what I said at estimates and I think that he should be made to correct those statements and withdraw the imputation that I have been misleading.

MR SESELJA: You will have to point out how I am misrepresenting you.

MR SPEAKER: It is a serious matter to suggest that somebody has misled the estimates committee. I think you had better withdraw that and not persist with that line.

MR SESELJA: Mr Speaker, the motion, of which there was notice, refers to "the misleading and evasive answers provided to questions on notice by the minister in relation to this issue". That is what we are talking about here. Ms Gallagher could have objected earlier. I think she would have found that the Clerk would have said that it was quite appropriate.

MR SPEAKER: Mr Seselja is right. It is a substantive motion and it is up to the house to decide in due course. It is a point of debate now because it is a substantive motion. Ordinarily, I would be very tough on those issues, as you might have suspected, in my response to the point of order. Regrettably, you do not have a point of order.

MR SESELJA: Thank you, Mr Speaker. Ms Gallagher is saying to us that it is not misleading to go away, after being asked whether at a particular point in time the group had been established, do the work and then come back and say, "Yes, it's all taken care of." I put it to the Assembly that that is misleading. It was misleading to me, because we were under the impression that the work had been done at the time the original question had been asked.

Ms Gallagher is free to get up and tell us that it is not misleading and that it was maybe only coincidental that she went away and the next day, after nine months, established this working group that no-one knew about before the question was asked, but I put it to the Assembly that it seems like more than just a coincidence. We have here "next day Katy". We have seen that she has been embarrassed into action in relation to the working group. We had the walls of shame—

MR SPEAKER: Order! You have to refer to members and ministers in this place by their proper titles.

MR SESELJA: My apologies—"Next day Gallagher" was embarrassed into action. We had the walls of shame article of 12 April 2005 detailing the problems at Quamby. The next day, suddenly, we had the big announcement about lots of money for Quamby. Wonderful! The same thing for the working group. She was asked on 31 May 2005 about the formation of the working group. The next day the members of the working group were notified of their membership and the group was created.

Mr Speaker, it seems from the facts that I have put on the table here that not only have the conduct and the answers been misleading and designed to be misleading, but also in certain areas the minister seems to respond to issues only where they are publicly highlighted, where she is publicly embarrassed into action, and that is unfortunate. It is unfortunate that the recommendations of the committee could not have just been put into place. If they were that important, it could have been done immediately. If they were not important, it is odd that a day after being asked about it the working group was established. I do not think the minister can have it both ways.

Mr Speaker, I would also like to touch briefly on the breaches of the Human Rights Act that were admitted to during the estimates process. What we have in Quamby at the moment of particular concern is the mixing of remandees with inmates who have been convicted of crimes. This breaches subsection (19) (2) of the Human Rights Act. Mr Stanhope, when he was questioned about that, kept saying, "It's ironic that you guys raise it because you didn't support it." There is a thing called the rule of law, and that is what we support.

Whether we agree with the law or not at first blush—and we may well have agreed with particular aspects of the Human Rights Act—we expect the government, particularly a government that touts itself as having these fantastic human rights credentials, to comply

with its own laws; all of its own laws, but in particular the Human Rights Act, which the Chief Minister has touted as his great project for changing the face of Canberra and bringing human rights to all. It might be helpful if the government actually complied with its obligations under the Human Rights Act. Clearly, through the estimates process, it has been demonstrated that it does not. In addition, we saw section 76 of the Education Act being breached, not complied with. So there has been a bit of form here from this minister and a bit of form from this government.

In the 30 seconds I have remaining, I would like to point out that the minister is no longer on training wheels. With regard to the Vardon report, everyone was able to write it off by saying, "Katy is a new minister." It has been a few years now. There are serious issues here.

MR SPEAKER: Order! I brought the issue of titles to your attention a moment ago. Please do not persist with that.

MR SESELJA: Sorry. Everyone said, "Ms Gallagher is new." She is not new any more and it is time she started complying with her responsibilities as a minister of this government.

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (5.20): I thank Mr Seselja for giving us the opportunity to discuss Quamby in the Assembly today. Mr Speaker, the programs and the operations at Quamby should be at the forefront of the mind of everybody in this Assembly. It is where we have our community's most vulnerable children—not inmates, not detainees, but children—and young people housed for certain periods due to their own individual situations.

It is at the forefront of this government's mind in terms of making sure that we are providing the best possible services and programs within an environment that constrains us and presents some real challenges as to how to meet the needs of children and young people in Quamby. I am glad that we have the opportunity to go through that. I should say that we will not be supporting Mr Seselja's motion and I have circulated an amendment. I move:

> Omit all words after "That this Assembly", substitute:
>
> "acknowledges:
>
> (1) the $40 million commitment the ACT Government has made to building a new youth detention facility in the ACT;
>
> (2) the efforts being undertaken by staff at Quamby and from other organisations to ensure the individual needs of young people living at Quamby are being met; and
>
> (3) the significant increases in resources from the ACT Government to Quamby to address the challenges presented by the existing facility.".

The reason behind that is to acknowledge the efforts that are under way to meet the needs of children and young people at Quamby. The amendment is different from Mr Seselja's motion. Mr Seselja's motion, even though he said it is not about who has

done what to whom, just concentrates on procedural matters around the establishment of a working party to look at the programs that are offered in Quamby. It is not about what is going on in Quamby now. It is not about the investment we are making and the changes we are making to ensure that we are improving the life and opportunities of children and young people who are living at Quamby at the moment. This amendment seeks to recognise that.

We are not standing here and saying that Quamby is in any way an ideal facility that enables us to meet the rehabilitation needs of children and young people. It is far from that. I have said on a number of occasions that it is not the environment that we desire, which is why the government has provided $40 million to build a new youth detention facility in the ACT. It is why we have provided significant increases to meet the challenges presented by the existing facility, that is, challenges around the security fencing, the monitoring of children and young people, the use of a time-out room, staff amenity within the building, and the introduction of a demountable in the next few months to increase accommodation options at Quamby.

I note Mr Seselja is interested in the number of services provided to children and young people at Quamby. He seems to think that adequate programs are not being provided there. I have here a list of 47 services currently going into Quamby, government and non-government organisations delivering programs to children and young people in order to meet their individual needs and provide them with some program towards an opportunity for life outside Quamby and also to meet their needs within Quamby. I present the following paper:

Services provided to children and young people at Quamby Youth Detention Centre.

If you listen to Mr Seselja, you would think that the working party that he refers to—he has grabbed hold of this working party—runs Quamby, that nothing happens in Quamby unless this working party meets. In all the media releases he puts out about it he says, "Oh, my goodness, nothing is happening at Quamby because this working party has not met." You have to understand the role of the working party, Mr Seselja. What runs Quamby is not a working party. It is not vital to the ongoing work of Quamby. I am not demeaning the working party by any means in saying that. The programs on offer have 47 different organisations going into Quamby. That happens regardless of what a working party says or does.

You just have to put the situation in perspective, Mr Seselja. There are hundreds of working parties across government doing a range of things. To run the line that, because a working party was not established by a time that you saw fit to do what it needed to do, means that nothing is happening at Quamby and that we are not meeting the needs of children and young people in Quamby is not a logical step to take. It is not a logical progression and it is not a logical argument. The things that are happening in Quamby are things that are being managed by the Office for Children, Youth and Family Support. They are being delivered by staff at Quamby and by organisations outside Quamby and there are extra resources going in there that have been met by increased ACT government appropriations.

My record on Quamby is a proud one. When I came to this portfolio I got $13.5 million to rebuild Quamby. When that was not enough, I went back to cabinet and won another

$6.5 million, bringing it up to $20 million to rebuild Quamby to the level I was told. When I was told, "No, you can't rebuild Quamby on that site, you need a new facility," I went back to cabinet and won $40 million for Quamby. As well, we have an additional $4 million going into the existing Quamby to make the facility as best as we can make it for the time that we need to use it until the new facility is built.

At the same time, we have increased the resources of the Hindmarsh Education Centre. We have more organisations than ever going into this facility to make sure that the individual needs of children and young people are being met. That is not to say that there are not challenges that we still face, that we will still have to meet day-by-day as the group within Quamby changes and the needs within Quamby change. I am not ignoring those and I am not saying that the environment is problem free, nor am I saying that it meets the requirements of the Human Rights Act. I said that at the time and I have said that in estimates. There are some really difficult situations to manage in Quamby and credit should go to the staff and to the organisations that support our work for enabling us, as best as we can, to meet the needs of those children and young people.

In relation to the allegation of Mr Seselja that I misled the estimates committee, I strongly refute that, absolutely. I have my own little chronology that we can go through. The standing committee reported in August and there was the minor matter of the Fifth Assembly actually adjourning in late August, the caretaker period commencing, a new Assembly being elected, the Sixth Assembly, and the first sitting of that Assembly. Mr Seselja, when you are out there bagging me about nine months of inaction, you should just factor in about three months of there being no Assembly and no work done on this matter.

Mr Seselja has finally got it right and accepted that the government response to the Assembly was in February. I have heard him make the accusation numerous times that the government agreed to it in August. We agreed to it in February. My advice is that planning for the working group was under way during May, although I did not know that at estimates. My answer at estimates was correct. When I was asked a question at estimates about the working party I said, "I don't know if there has been a working party established." As to the work referred to about all the programs—I have tabled a list of 47 different organisations and programs going into Quamby—I said, "All of that work is being done." All of that work was being done because the work that was being referred to was the programs and services going into Quamby. But I was very clear that I did not know if the working party had been established.

On advice from my department, I responded appropriately and in a timely fashion to the question that we had taken on notice. The answer to that question is factually correct, much as Mr Seselja does not like it. Mr Seselja asked me here a follow-up question which was actually different from the question that he asked at estimates and I answered it correctly. So I do not know at what stage I misled you or the estimates committee. I challenge you to prove it, now that you have made the accusation. I know that Mrs Dunne has FOI-ed all the material relating to the establishment of this infamous working party, which is meeting in relation to Quamby. You will get all that information and you will find out that my answers have been factually correct every single time and that there is no story behind it, Mr Seselja. I think the only thing you can take from it is a belief that the working party was not established in time. That is your belief.

Our answers have always been correct and I cannot see what you are trying to run here. If you are trying to give yourself credit for establishing a working party, if that is what you want, you can have it. I will give it to you. I will say, Mr Seselja, that you got this working party started if that is what you want. There is no issue here. The working party was established in line with the recommendations. The recommendations did not say within what time the working party should be established. There is a small thing called a budget that occurs between February and May that actually takes a little bit of time. Mr Seselja, not having been in government, would not understand that. A working party has been established to do the work required under the standing committee report.

There is no story here, there has been not failure to implement recommendations and there is no way you can hang anything over my head. I have a proud record on Quamby and this government has a proud record on Quamby. The situation I inherited from your government was that nothing had happened for seven years. Mr Corbell, on handover from his portfolio to mine, said, and we were just moving into budget time, that some money was needed to upgrade Quamby, that that was a priority bid. That was his recommendation to me on taking over the portfolio. Mr Corbell had already started the work to be done on that bid, which was ultimately successful, but nothing had been done for seven years prior to that. There had been no changes, no extra resources going in.

We have had to ramp up the school, we have had to provide computers and put extra teachers in there to support the students. We have, as I said, 47 different programs going in there. We have young people from Quamby attending youth interact conferences on remission during the day, out and about, and we have young people successfully living independently in the community post their transition support from Quamby. Really good things are happening at Quamby and it is to the staff and the management of the Office for Children, Youth and Family Support that credit should be given.

I will take credit for getting the money, but that is about all I can take credit for. My job is to make sure that all the resources that are needed for Quamby are provided to Quamby and that I am fully briefed on all of the issues surrounding Quamby, which I am. At no point during estimates did I mislead the committee, did I answer anything incorrectly, and I really resent the imputation that I have done so. I am very clear on that. The whole reason for taking things on notice when you do not know something is so as not to mislead the committee. If I had said that the working party had not been established and then had to come back and correct the record by saying that it had and give the information, I would have been misleading the committee. But my answer was, "I don't know." At the time, that was correct and then you asked some follow-up questions which were answered.

The real issue here is that the mind of the opposition should be on supporting the children and young people at Quamby, not bickering over what date a working party was established—a working party which did not have a deadline or time frame to meet and which the recommendation did not say must be established immediately. The government is implementing the recommendations of that report, but it is doing far more than that. If you think that the standing committee report sets the limits on the work that can be done at Quamby you are mistaken because there is much more that needs to be done there and the position is reviewed almost on a daily basis, depending on the make-up of the young people within that facility at that time.

As I have said, we have a demountable coming down which will provide an additional 24 rooms for accommodation options, one of the most critical issues outstanding at Quamby, which will allow us to segregate certain population groups and which will allow for extra capacity to deliver appropriate accommodation options in line with our obligations. We have moved as fast as we can to get that demountable down here, but things take time. I am frustrated by the time being taken. I wish we had a new juvenile detention facility ready to open tomorrow, to move everybody in, and I know everyone who works at Quamby wishes the same. I have been there a number of times recently and I know all the young people would like to be living in a new facility as well.

This government has a good record. We have put in the resources. We have put the money where it needs to go to make sure that children and young people are given the opportunity that they deserve once they leave Quamby. The working party has been established. We are meeting the recommendations of that standing committee report, but we are doing much more than that. One day Quamby, or whatever it is named if it is renamed, will be a fine facility that meets all of our obligations under legislation.

DR FOSKEY (Molonglo) (5.36): While initially sharing some of Mr Seselja's broad concerns about the establishment of the Quamby working group, I cannot support this motion. I believe that Ms Gallagher has today provided a full explanation and a refutation of Mr Seselja's imputations.

In August 2004 the Standing Committee on Community Services and Social Equity released an important report titled *One-way roads out of Quamby: Transition options for young people exiting juvenile detention in the ACT*. The recommendation in question regarding the working group resulted from the standing committee's investigation into the effectiveness of programs being run for young people in Quamby and their need for social competence training, life skills and therapeutic programs. It was seen as important that a working group examine current and proposed programs so that young people in Quamby receive the most effective training possible to ensure that they have positive interaction with the community upon release. I note that on 17 February this year the Minister for Children, Youth and Family Support responded in the Assembly to the report and supported that recommendation.

I appreciate the point that Mr Seselja is making through this motion that the working group did not appear to be at the forefront of the minister's or her office's minds when Quamby was discussed in estimates hearings on 31 May. Interestingly, the working group had its first meeting on 6 June, just a week later. One would not want to read too much into this. Perhaps Mr Seselja chooses to read more into it than I do.

This motion expresses concern that it took the department almost four months to put the group together. In that context, it is ironic that it took only a week to do so once the matter had been raised in public—an observation that no doubt inspired this motion. However, without evidence to suggest that the group's work had not been successfully pursued in the previous months, I cannot see that we have grounds to pursue this matter further. I would be interested, however, in seeing an action plan or a work program for the group so that we know when to expect the assessment to be complete and can make an informed judgement on the quality of consequent programs.

With regard to the so-called misleading and evasive answers to questions on notice, I understand how frustrating the question and answer process can be in committee hearings and in this place but I do not believe that Ms Gallagher has been particularly evasive and I do not believe that her answers were misleading. However, it might have suited Mr Seselja's purposes to see it that way. There have certainly been several answers to questions that I have put which strike me as evasive and potentially misleading. However, I am not sure if private members' business is best spent complaining about the quality of answers to our questions. Indeed, the lack of an answer can be as informative in its way as an answer that actually addresses the question can be.

With regard to the ongoing breach at Quamby of the Human Rights Act, I believe there has been consensus on all sides of this Assembly about our joint concern. The government agreed during the estimates process that there was a breach of human rights at Quamby and outlined what they were doing to address the problem. This included building a new facility and having the Human Rights Commissioner conduct an audit of Quamby.

I think the next step for us as an Assembly is to focus on the results of the Human Rights Commissioner's audit, and to ensure that government takes responsibility for these matters and implements measures to ensure that, where possible, breaches will be resolved. I understand that we may not have the full ability to comply with human rights provisions until we have a new building. As the Chief Minister has already illustrated, only the construction of a new facility might address this breach of rights. There are inherent problems with the existing building, despite the best intentions of those who work there. Nonetheless, the Human Rights Commissioner's audit and the outcome of the working group's assessment of current and future programs at Quamby all need to be considered in this light.

Mr Speaker I feel that as a member of the Assembly it is incumbent on me to find out more about Quamby. On this note, I look forward to attending a NAIDOC event at Quamby next week, partly because I believe I have played a small part by putting an Aboriginal dance instructor in touch with the program organiser so as to work with indigenous young people in devising a dance performance.

I guess my approach to this issue is to find out as much as I can, because I care very much about the young people who find themselves in this place. I want to do what I can to support good work and to try to bring about change where I do not think the work is good.

MR STEFANIAK (Ginninderra) (5.42): Mr Speaker, I do not think we could question the fact that Quamby can be a very difficult problem for anyone, let alone a minister. I am not going to be churlish about this. The minister has managed to get a lot of extra money for it.

However, the minister said that nothing happened for seven years. Let us look very briefly at what has happened to date. This facility never should have been built by, I think, the Follett government. It was badly designed and staff preferred the old facility, which is now the periodic detention centre at Symonston. It was a poor facility and there

were problems with the fence. I can recall when we became the government in 1995 it was basically a revolving door.

Of course, the minister is blessed with a very strong economic situation in the territory. When the current government took office in 2001 it inherited some very good management by the previous government and, might I say, the current federal government. We were not blessed with that in 1995. We basically did not have any money and so it was very difficult spend until such time as the economy got back into the black, which it did in about 2000.

Nevertheless, it is wrong to say that nothing happened. There were some significant improvements made, albeit with not much cash around, including some of the programs the minister talks about—year 10 certificates, the Hindmarsh Centre being established, the security of the fence at Quamby back in 1996 and, as a result of, sadly, a coronial inquest into a young man who committed suicide, the cleaning out of some totally inappropriate staff. I wonder, given the industrial relations laws at the time, whether that would have been possible were it not for a coronial inquest. It would be a pretty sad indictment if there needed to be a coronial inquest.

Back in August 1999 the facility was transferred in pretty good shape, all things considered, to corrections. As I recall, it went through a couple of ministers after that before ending up with the current minister. But, again, I do not recall too many problems. So that seemed to work well and I have got some helpful hints for the minister, which I will give to her later. Some problems, of course, have arisen in recent times and I think the minister is to be commended for getting a fair amount of money to try to sort them out.

I think Mr Seselja's motion is worthy of support—it is worthy of support just to keep this government honest and on track in doing the things it says it will do and has committed to doing. In August of last year the Standing Committee on Community Services and Social Equity reported and made a recommendation that a working group be set up. I understand that the government accepted that in February of this year. I doubt very much if this working group would have been set up were these questions not raised in estimates, were the government's memory not jogged into realising, "Oops, we have not set up this working group." Had those questions not been asked we would probably be sitting here none the wiser and the working group may still not have been set up.

I think it is very important for motions like this to receive Assembly support, simply to ensure that the government does what it says it will do. The estimates process revealed that this sort of thing has happened in another area of the minister's portfolio—that of schools. Both a non-government schools advisory group and a government schools advisory group have been set up. I think the relevant legislation was passed in March or April of 2004. And, yes, there was a three-month hiatus during the caretaker period before the forming of the new Assembly. But the non-government group was not set up until 30 March and then was not ticked off, I think, until 20 April. It did not meet until 9 May, which was after the budget came down.

According to section 76 of the Education Act, the minister had to consult with the group but she simply did not do so. She did not seem to appreciate that she needed to. Again, that shows a very casual regard of statutes and a very casual attitude to setting up that

advisory group. Incidentally, this group told the opposition that if they had been asked to do so they could have met in April to ensure that statutory obligations were fulfilled. But this simply did not happen. So a number of breaches such as this have occurred.

We have a situation in which a committee recommended in good faith—there was no statutory duty to do so—the establishment of a working group in respect of Quamby. Although the recommendation was accepted in good faith by the government, that working group was not set up. When this was drawn to the minister's attention, it was a case of, "Oops, we have forgotten about that" and they set it up very quickly indeed—I understand within one week.

Mr Seselja: One day.

MR STEFANIAK: One day, was it Mr Seselja? Mr Seselja is expressing his concern in a number of areas. His motion specifically calls on the minister to table in the Assembly all the relevant documents in relation to the establishment of this working group within the current sitting of this Assembly, which is until 12.30 pm on Friday. What is wrong with that? I understand that the group has now been set up. It is doing its job.

Ms Gallagher: Mrs Dunne has FOI'd them.

MR STEFANIAK: Well why not just table them? Why not simply table them? What is the problem with that?

Ms Gallagher: The FOI has been completed.

MR STEFANIAK: What is the problem with simply tabling them? I think this is an eminently sensible motion.

Obviously the minister's amendment will get up—nine beats eight, depending on what Dr Foskey does and 10 is a little bit of icing on the cake when it comes to beating seven if Dr Foskey does not vote with the opposition. So the minister's amendment is going to get up, regardless.

The government has committed, it seems, $40 million. I note there was some sort of argy-bargy as to an initial $20m, where some went back to consolidated revenue—I think $4 million was committed to ensure that essential things occur on site until the new Quamby is established. There are no dramas with that. I have heard that some of that has been put on hold. Maybe the minister needs to answer a few questions there, but in the scheme of things that does not seem too unreasonable. She has gone back and she has got some more money for a new detention centre.

Apart from the period in which there were some inappropriate staff at Quamby, which were weeded out, the staff generally have done a wonderful job. I known staff who have been there for many years, as well as staff who have passed through this facility. They are doing and have done an excellent job. Certainly, staff invariably do a difficult job well, as do the various people who assist. There are no dramas with that. But it is pointless having a motion of self-praise. It is very easy for a majority government just to amend sensible motions such as Mr Seselja's and put in something of self-praise. Self-praise really should not be what it is all about.

I would like to see what a couple of other groups are doing in relation to Quamby. I understand there is a group meant to be coordinating and looking at new sites. I also understand that this group was established some time last year. But as at about two months ago—late April or early May—it was doubtful whether it had consulted with anyone.

Quite clearly, I think it is crucially important—and surely the government itself recognises this—that a new Quamby be built as soon as possible. The present facility should never have been built in 1992 or 1993 in its original form. Patch-up jobs have been done ever since—reasonably effective patch-up jobs but patch-up jobs nevertheless. Now the government has an opportunity to get it right.

I again commend a couple of things to the minister. Minister, whilst it might be hard losing an area that you probably very much enjoy—an area in which you are certainly doing your best and have probably have had a few good successes with along the way—I think it does sit better with corrections.

Ms Gallagher: Well that would be going against a recommendation of the standing committee report.

MR STEFANIAK: Well, that might be. Maybe you might like to talk to the staff. Another thing you might like to think about, minister, is where exactly you locate it. Again, I think, perhaps you should talk to the staff. Indeed, you may be able to save some money by having the new prison nearby so it can utilise those facilities. There is nothing wrong with that providing, of course, it is built properly and it is separate. But there are certainly economies there. Again, I suggest you might like to talk to some of the people who know what they are talking about, the people at the coalface.

But, whatever you do, I think there is a real need to basically pull the old finger out and get it all happening as soon as possible. You need to make your bureaucrats do that because there seem to be some significant time lags, not only in setting up a working group—a very simple process, one would think—but also progressing a new site. You are going to spend a very significant amount of money that we all hope will result in a building that will do the job, that will not need to be patched up as has happened in the past with the present facility, that will conform with things like the government's Human Rights Act, and that will be basically a very workable and better environment for everyone—not only the young people themselves but the staff and everyone else who goes there. Minister, you are not being asked to do much. Why don't you do it?

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

MRS DUNNE (Ginninderra) (5.52): Mr Speaker, I want to dwell particularly on Mr Seselja's motion. I will be opposing Ms Gallagher's amendment because, as is the wont of the Labor Party here, rather than facing up to substantive motions that are slightly inconvenient for them they have to gut them and come up with their own self-congratulatory pat.

The gravamen of Mr Seselja's motion seems to have eluded Ms Gallagher. The Minister for Education and Training is an intelligent woman but she does not seem to be able to

comprehend simple things. The issue that I want to dwell on particularly is that the Assembly expresses its concern over the misleading and evasive answers provided to questions on notice by the minister in relation to this issue. Mr Seselja's chronology of what happened during estimates and subsequently is quite clear. On 31 May he and others asked the question, "Has this working group been put together?" and the answer from everybody, not just the minister, was, "I don't know. Gee, I don't know. We'll take it on notice and we'll get back to you."

Ms Gallagher: Can't answer a question correctly, can you?

MRS DUNNE: No, there is nothing wrong with saying, "I don't know the answer to the question." No-one is criticising you for that. There is nothing wrong with saying, "I don't know the answer to the question. I'll find out." But what actually happened was they went outside and found out that, no, at the time Mr Seselja asked the question—and that is the point, Mr Speaker—they had not formed this group. The answer to the question was, "No." So to cover their tracks they went around in a complete flurry and, in the course of one day, established this committee.

They may have been doing some work. The minister tells us that people were working on this in May. Well, the question was asked on 31 May, so perhaps on 31 May they did some work. They came back and the day after, on 1 June, they established this committee and it met six days later. So what actually happened was the minister came back on the 7th and said, "This committee has been established"—at a time unspecified but with the clear implication that on 31 May when Mr Seselja asked the question that committee had been established, when it clearly had not, Mr Speaker. This is where it misleads.

By being evasive, by not telling the whole truth, the minister gave the clear impression that on 31 May, when the question was asked, that committee had been established. After all, it met on 6 June—a reasonable time. When Mr Seselja delved into this we discovered that in fact this committee was not established when he asked the question. It was established after he asked the question.

My principal concern is that the answer the minister gave was designed to mislead. At the time the question was asked there was no committee. The correct answer to the question that Mr Seselja asked would have been, "At the time you asked this question there was no committee but since then we have taken certain steps and the committee was convened and met on 6 June." That would have been an accurate answer. It would probably have been the end of the story. Some people might have said it took four to six months to do this—pretty inefficient, a bit tardy, but it would have been the end of the issue.

As we learn with all things in life, truth is the best way out. If you tell the whole truth there is nowhere else to go. The whole truth is fairly obvious. Minister, on 31 May you were asked, "Has this committee been established?" You replied, "I don't know. I'll go and find out." That was a fair enough answer. It was then a case of, "Oh, goodness me, it has not. We had better make ourselves look good." You tried to cover your tracks and you did it badly. You misled the estimates committee by giving a less than fulsome answer. If you had been fulsome and said, "The correct answer is we haven't established it but we have taken steps to—

Ms Gallagher: Mrs Dunne, the question that I took on notice was when did the committee meet, not when was it established.

MR SPEAKER: Order, minister!

Mr Seselja: No, the question was had it been established.

Ms Gallagher: You asked the wrong question.

MR SPEAKER: Order, minister!

MRS DUNNE: The correct answer would have been—

MR SPEAKER: Mrs Dunne, direct your comments through the chair.

MRS DUNNE: The correct answer would have been, "No, it has not been established but we are fixing the matter" and that would have been the end of it. What we have here is a minister who, as always, tries to cover her tracks.

Mr Stefaniak was quite fulsome in his praise of the minister in her capacity to get money to do something about Quamby because Quamby is a problem, and no-one denies that the minister has been very active in doing that. She does not have to go around prevaricating and hedging and being evasive on this because she has a record that she could stand by. You never like to get caught out. People on the other side really hate to be caught out, and instead of fessing up to a slip you have actually made it worse. You have misled the Assembly and you have misled the estimates committee. You have been evasive in your answer. You will not come in here and say, "Yes, you're right. I'm sorry." You will not fess up, sit down, end of story.

There are a whole lot of things that are still wrong with Quamby. The minister has been able, as she always seems to be when there is a problem in her department, to extract extraordinary amounts of money from an otherwise cash-strapped bureaucracy—$75 million for Vardon and $40 million for Quamby, which is probably money that needs to be spent. She has an amazing capacity to extract large sums of money from the budget process but at the same time there is all this sort of shoddiness and flim-flam around the edges.

The minister talked about the time-out room at Quamby. We cannot use the time-out room because the Community Advocate has not approved its use. The Community Advocate is concerned about the use of the time-out room. Let us be frank, Mr Speaker: what we call a time-out room is in fact solitary confinement. My latest advice is that the Community Advocate was seriously concerned about the lack of appropriate processes for using the time-out room, and its use had been put in abeyance for some time because of failures by the department to respond. These are things that need to be addressed.

This is about the culture of a department that cannot face up to the things that they do wrong. They might be little things or they might be large things. But instead of fessing up in a straightforward manner and putting things on the record in a straightforward way, we have to bob and weave; we have to hedge; we have to mislead.

At 6 pm, in accordance with standing order 34, the debate was interrupted and the resumption of the debate made an order of the day for the next sitting. The motion for the adjournment of the Assembly was put.

Adjournment

Indigenous communities—family violence

MR GENTLEMAN (Brindabella) (6.00): Mr Speaker, I had the pleasure on Monday morning of representing the Chief Minister and the Minister for Women at the opening of the indigenous family violence forum. The forum was held over two days at the CIT campus at Reid and concluded yesterday, having made a lot of progress. The theme of the conference, "Together we can break the cycle: strong family, strong future", is indicative of the collaborative approach to addressing problems of family violence within indigenous communities in the ACT. There is currently no co-ordinating framework to specifically address family violence in Aboriginal and Torres Strait Islander communities.

This forum represents the first step to developing a policy framework to address family violence within the ACT indigenous community. The forum provided an opportunity for its 70 participants to share information, increase awareness of the level of violence and identify broad strategies to address family violence in indigenous communities.

The forum included a presentation from Professor Judy Atkinson, a prominent indigenous academic at the Southern Cross University. As head of the Gnibi college of indigenous people, Professor Atkinson has focused much of her academic and community work on addressing the problems of violence in indigenous communities. Her particular focus on healing represents an important contribution to the debate about strategies for addressing violence. We must facilitate ways to progress change in our communities, and we must find ways to heal.

Also presenting to the forum was Ms Heather Nancarrow, the current director of the Queensland Centre for Domestic and Family Violence Research in Mackay. Ms Nancarrow has extensive experience, both academic and in a community support role, in family violence. Speakers of the calibre and experience of Professor Atkinson and Ms Nancarrow are indicative of the depth of constructive engagement of participants in the forum.

Intended to raise awareness and to confront concerns arising out of experience and of research into family violence in indigenous communities, the forum identified a series of outcomes for future action and engagement. These will require further budgetary commitments for completion, which, while understandably constrained by fiscal realities, are necessary to progress this very important work in our community.

The passion shown over the last two days reveals the strength of commitment to effecting real change in reducing and preventing family violence in indigenous communities. The enduring stimulation and enthusiasm for working for change, shown even at the end of a rigorous forum held over two days, demonstrates a willingness to progress this framework into the future in a meaningful way. The planning and platform development came from the grass roots, ensuring that framework development is

a means of empowering communities to effect change and not merely to have change imposed upon them.

The process does not aim to reinvent the wheel. Instead it seeks to recognise that there are appropriate processes in place and they should be used but, where there are not, we still have work to do. This work is informed by experience, which demonstrates that education, rather than punitive action, results in better outcomes. These lessons from the criminal justice system inform our future practices and strategies in dealing with violence across our community, particularly in relation to indigenous communities. In generating a holistic application for the platform, the scope of the forum is broad and encompasses education programs, family support, resource building, training and education for young people, skills development, partnerships between the ACT government and the commonwealth government and the community sector.

The forum held earlier this week has seen, as I said, 70 people participate in what is described as "a wonderful feeling of being able to do something creative and exciting". The process of the forum was dominated by an overwhelming sense of respect for people's continuing culture, for their experiences and for their contributions in participation. The development of a framework to map out a program is exciting and paves the way for ongoing work, which is continuing in July.

I congratulate all those involved in the forum and look forward to following the process and recognising positive outcomes of such a collaborative and participatory event.

Petrol

DR FOSKEY (Molonglo) (6.04): I am moved to make this adjournment speech by concern about a pronouncement that was made by Mr Beazley, the shadow Prime Minister, the other day. Mr Beazley was suggesting that the government should reduce its excise duty on petrol. This, of course, is in response to ever-climbing prices of petrol, which is, again, a response to the increasing price of oil. The price is not likely to come down by very much in the very near future.

Hearing that, and feeling quite impotent that the major opposition voice in our country is not reflecting the true situation—that is, that oil is in increasingly shorter supply and it might be wise to conserve it; the role of price in that process; and the role that petrol and other oil-derived fuels play in greenhouse—took me to an article that I found in March this year where the International Energy Agency, which is the major lobby group for all the major energy resource producers around the world, has come out and proposed drastic cutbacks in car use to halt continuing oil supply problems.

Remember that a number of governments have signed on to the agreement on an international energy program. It will be very interesting to see what happens when it is decided by the International Energy Agency that it is time to implement this treaty, which the US, Japan, Germany, the United Kingdom and France have signed up to. I am not sure, but I suspect that Australia has signed up to it as well.

This organisation, which is usually advocating the profligate use of energy sources like oil—in fact, it has been saying for years, "Don't worry; there's plenty of it"—is now changing its tune and is advising governments that it is going to be really important to

conserve fuel. While it is not likely that we are ever going to run out of oil, it is true that there are some uses for oil that are more important than others. We are always going to need oil. Perhaps we should start conserving it.

How does the International Energy Agency suggest that we do that? It suggests, for a start, that we actually cut public transport costs by 100 per cent and make public transport free to use. It suggests that we do carpooling, telecommuting, and even suggests that we could change our tyre pressure so that we use less petrol. Further than this, the International Energy Agency goes on to say that putting in drastic speed restrictions and compulsory driving bans are the most effective way to reduce oil use. They suggest that bans could be one day in every 10 or the old method that I think we have seen before of bans placed on cars with odd or even number plates. This is not a pretty scenario.

The International Energy Agency suggests that extra police might be needed in these circumstances to stop citizens breaking the bans. I think this is because people have been told for so long that they have every right to drive their car; they have every right to buy a car that guzzles as much petrol as they like; so that now we have to turn around and use police to tell them that they cannot.

To finish this absolutely fascinating adjournment speech, as I can see from all members of the Assembly: in Britain there is a proposal, announced at the end of May, that motorists who drive fuel-hungry cars such as BMWs, people carriers and Range Rovers may face a five-fold increase in road tax under radical plans to combat Britain's spiralling greenhouse gas emissions. In fact, this report even goes on to say that ministers were told that the only way they might be able to force motorists to buy green cars, that is, low-energy using cars, is to introduce a new top rate of road tax as high as £900 a year.

MR SPEAKER: The member's time has expired.

Pharmacies—establishment in supermarkets

MR MULCAHY (Molonglo) (6.09): Mr Speaker, Woolworths Ltd has announced their intention to incorporate pharmacies into their supermarkets. Their initial plan is to try to establish 100 in-store pharmacies without pharmacists.

During the last Assembly, a petition signed by 45,000 people, the largest petition ever tabled in the history of the ACT Legislative Assembly, was tabled, supporting the current structure of community pharmacies in the ACT. As a result, the Assembly passed amendments to the ACT's pharmacy legislation that prevented the establishment of pharmacies in supermarkets.

However, Woolworths Ltd continues to claim that consumers are paying too much for their medications and that they could make significant savings in a supermarket pharmacy. That is simply not true. Sixty-three per cent of a pharmacist's business is provided under the pharmaceutical benefits scheme, the PBS, the prices of which are controlled by the Australian government and are amongst the lowest in the world. Another 17 per cent represents front-of-shop products such as cosmetics and hair treatments, which Woolworths already sells and are open to full competition. This leaves

only about 19 per cent, representing schedules 3 and 2 pharmaceuticals and private prescription items, which, by law, only pharmacists can handle. But even here it is only the gross margin in this category that would be affected by competition from Woolworths. This represents only 7 per cent of the market.

Woolworths' interest is in developing the over-the-counter market. Since advertising of scheduled drugs is currently illegal, they will use their influence to change the law to permit open advertising of drugs, similar to the USA on which their model is based. They will also attempt to have as many drugs as they can de-scheduled so that they are free to sell them with or without pharmacists. Anyone who has been in the United States knows the television channels are filled with advertisements for every known drug that you can contemplate. I ask the question: is this really good for health care?

Of course they will also, over time, seek to change other laws pertaining to ownership, location, et cetera, to free up their activities to allow them to Americanise the pharmacy area in Australia. Australia's and New Zealand's system of independently owned and operated community pharmacies is without doubt the best in the world. A number of members from each of the three political groupings represented in the Assembly recently attended a breakfast where we heard compelling evidence supporting the integrity of our system and some of the failings now in the British system since they have changed their arrangements and moved away from the model we enjoy.

Pharmacists in community pharmacies play the role of identifying prescribing mistakes and counsel against taking medications which are inappropriate for the patient and which may have an adverse interaction with other medicines being taken by the patient.

Large corporations are about making money for shareholders. If supermarkets were to swallow the pharmacy sector, the many services and personal advantage and benefit of the pharmacy would be lost, as would many of our suburban shopping areas in Canberra that are beneficiaries from the traffic created from pharmacies and newsagents. It would be a major loss for those centres across the ACT if we were to see the pharmacy profession eroded through the ambitions of the Woolworths' expansion.

Pharmacy is a service and not a commodity. Community pharmacies also make a significant contribution to the ACT economy. They have a turnover of approximately $156 million and pay wages and salaries worth $24 million. Indeed, under the current structure and under these arrangements, most of this money does remain within the ACT and contributes to the ACT's economy. Any arrangements that would open up pharmacy ownership to large corporations would threaten this and certainly would threaten much of the employment associated with pharmacies in Canberra, not to mention the residual impact on shopping centres throughout our suburbs. It is very well recognised that independent community pharmacies are the ones who know the people; they have the relationships with the general practitioners; and they certainly support their local communities through the regeneration of the profits from their business.

Any move that would allow Woolworths to take over the pharmacy area is not in the interests of the community and is certainly not in the interests of sensible healthcare. Having lived in the United States and in this country and seen the different systems, I will take the Australian model on any occasion as a preference. Regulations currently governing the handling and sale of medicines are based on the quality use of medicines,

designed to ensure that medicines are appropriate for the user, and that their overuse or inappropriate use is minimised. In my view, Woolworths' plans run directly counter to this objective. I would certainly urge members in future debates on this issue to take heed of the points that I have raised here today.

Belconnen's birthday

MS PORTER (Ginninderra) (6.14): Mr Speaker, I rise this evening to speak about Belconnen's 39th birthday. Members may be aware that on 23 June 1966 the then Minister for the Interior, Mr Doug Anthony, unveiled the Belconnen foundation stone at the Aranda playing fields and the first sods were turned by large earthmoving equipment to begin the task of developing the new community of Belconnen.

Last Thursday, I was delighted to be invited to join long-term Aranda residents, Richard Lansdowne, Michael Talberg, Tony Hillier, Robert Galloway, John Dowse, Boerge Alexander and former Aranda resident and the man many refer to as the mayor of Belconnen, Mr Graeme Evans. Together we sheltered under umbrellas as the rain tumbled down, and toasted Belconnen's 39th birthday, drinking champagne and eating lamingtons as the group shared their memories of their early days in Aranda and began their early plans for the festivities to celebrate the big four-0 in June next year.

One of the driving forces behind the proposed celebrations is Richard Lansdowne, who, along with other Aranda residents, is planning a mid-winter fair next year on the Aranda playing fields, the site of the foundation stone. Community groups will be invited to participate. Organisers are hopeful that many of the area's sporting, cultural and environmental organisations will join together to celebrate this great occasion. Already much work has been done by original residents of the area gathering historic material, and they hope that many Belconnen residents will take this opportunity to join with them to celebrate the 40th birthday next year and will arrange their own events and reunions.

As we stood around the foundation stone, with our plastic tumblers of champers, and nibbled on our lamingtons, as was traditional 39 years ago, it was noticed that the foundation stone was a little worse for wear after its 39 years of exposure to the elements. I undertook to write to Minister Hargreaves requesting that the stone be returned to its former glory, as would befit the 40th anniversary, and have already sent this request to the minister. I am looking forward to a positive response.

This is yet another fine example of the members of our community joining together to celebrate with their neighbours and build an even stronger sense of community. It follows on from three very successful community festivals that are celebrated in Belconnen. These have grown spectacularly since their humble beginnings. I refer to the Charnwood community festival, the Belconnen Baptist Church community fun day and the Belconnen festival held in the Margaret Timpson Park in the town centre—all great examples of the community working together as a whole. I attend all of these events as they occur, and I cannot help but feel the strong sense of belonging that permeates all of these events.

Having worked in the community sector for almost 30 years in Canberra, I know first hand how much community groups are able to achieve when people join together and work to achieve a joint goal. I have no doubt the residents of Aranda, in particular, and

Belconnen, in general, will work hard together over the next 12 months to make Belconnen's big four-0 party a party for all of us to remember. I look forward to playing my part in the lead-up to 23 June next year.

Croatian national day
Weston Creek
Community fire units

MR SESELJA (Molonglo) (6.18): On a couple of issues: I spoke last Thursday, I believe, about Croatian national day. I had the opportunity on Saturday night to attend the Croatian national day celebrations. Treasurer Quinlan was there. It was a good evening. I would like to take this opportunity to thank the main organiser, Andelko Jurisic, and all the leaders of the Croatian community who made me and my wife, Ros, feel so welcome.

I also met with members of the Weston Creek Community Council earlier this month. I was impressed with the council's commitment to expressing the needs of the Weston Creek area and the general approach to researching and substantiating their needs. Council members, including the chairperson, raised a number of issues that they were concerned about.

By way of background, Weston Creek makes up a substantial population base in south Canberra. It consists of eight suburbs, and a total population of approximately 24,000. Weston Creek has some particular attributes that make it unique. It has six primary schools, one high school and a college campus attached to Canberra college. The area has a shifting age demographic as the balance of age distribution is increasing. The district is home to three retirement villages and a respite centre for the elderly.

The Weston Creek area has, of course, also been most affected by the 2003 bushfires, not only at great personal cost to many residents but also at the community level. Long-term residents experienced irretrievable loss of surrounding bushland—the very thing that drew many of them to the area in the first place—and this loss is being sorely felt.

There is also considerable grief over not being warned about the bushfires, and this continues to be a sore point in parts of the Weston Creek community. This sense of grief experienced by many residents is aggravated by fear of concentrated suburban development in the surrounding former bushland area; a sense of abandonment at government level as residents seek to maintain and develop community-based facilities; and a sense of lack of fair play when it comes to provision of parkland, resolution of neighbourhood shopping facility redevelopment and provision of services.

Council put forward some strong arguments for a library for Weston Creek. Libraries are provided in all regional areas. Whilst Weston Creek's population is such that, on the basis of numbers alone, a library might not be considered justified, Weston Creek has a demographic which makes the argument for specific facilities unique.

Belconnen has two libraries, one at Kippax. Inner north Canberra also has two, one at Dickson. Tuggeranong has two, one at the town centre and one at Erindale. Our newest town development, Gungahlin, has a library also. One library to meet the needs of

Woden and Weston Creek seems to be unreasonable, particularly in light of the Weston Creek demographic.

The Woden library is poorly situated. People travelling from Weston Creek to take advantage of that service have a long outdoor walk from the interchange to the library. There is no way of accessing the library without facing stairs and ramps from the interchange. Parking nearby is most inadequate. The only solution for Weston Creek residents is to face the disabled-unfriendly access from car parks and the bus interchange or to abandon the car and catch two buses to allow a more accessible drop-off. Given the ageing population of Weston Creek, and some of these factors that I have raised, this is something that the government will need to look at in the coming years.

Council also identified the need for provision of a modest indoor swimming facility. Recreational and therapeutic sources of activity are an integral aspect of community development, especially for an ageing population, and Weston Creek is sorely lacking in this area. At local levels in the region, I understand, there is still concern that the service station in Duffy, destroyed by fire in the 2003 bushfires, is yet to be rebuilt.

There are many other issues affecting the residents of Weston Creek. In all the discussion about Molonglo Valley development there are concerns that not enough consultation has occurred with the residents of Weston Creek. Of course such consultations are advantageous from both sides. Whilst Weston Creek residents are keen to maintain their surrounding bushland, they also recognise that reasonable and proximate development may help their cause for community-based facilities.

The issue is about consultation, and Weston Creek residents deserve the fullest attention in this regard. If development in the Molonglo Valley region is not progressed for an extended period, a concern about the denuded landscape and consequential dust effect is a real issue in the Weston Creek district.

As I am running out if time, I will briefly talk about community fire units. Failure of the government to plan for the recommended level of community fire units has already been identified. Our estimates dissenting report has raised the issue of misplaced priorities, with the failure of the government to provide the recommended level of CFUs, with a foreshadowed indefinite wait for an expected 58 additional units to meet the recommended level. Amazingly, even after the 2003 firestorm the Weston Creek area of eight suburbs is provided with only three community fire units, estimated to grow to four.

I bring these issues to the attention of the government in the hope that some progress can be made to upgrade facilities in the Weston Creek area.

Emergency services

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (6.23): On 1 July we mark the anniversary of two historic events, the commencement of the Emergencies Act 2004 and the creation of the Emergency Services Authority. The Emergencies Act introduces a new era of emergency management in the ACT by updating and clarifying the planning and management of our ambulance, bushfire, fire

and emergency services, and drawing them under a more strategically focused management structure—the Emergency Services Authority. Comprising the ACT Ambulance Service, ACT Fire Brigade, Rural Fire Service and State Emergency Service, the new authority has a mandate to work in partnership to protect and preserve life and property and the environment of the ACT.

Over the last year the authority has made progress on all fronts in pursuit of its goals. I would like to take this opportunity to describe its many achievements. To bring a more strategic and better co-ordinated approach to the management of complex emergencies, the authority has established an emergency co-ordination centre. In the event of a severe storm, bushfire or other prolonged incident, the ECC serves as a centre for gathering and disseminating information and co-ordinating support for the crews on the ground. The ECC was activated during the recent white powder scares across Canberra and we saw a great co-ordination of emergency response.

The authority has adopted a long-range strategic approach to bushfire management. Over the past year it worked with the community to develop a strategic bushfire management plan to ensure a comprehensive 10-year forward view of bushfire management activities.

Recognising that good tools make for good work, the authority has invested in new emergency response vehicles. These include a special operational support unit for the ACT Ambulance Service; four compressed air foam system tenders for the ACT Fire Brigade and two similar CAFS tenders for the ACT Rural Fire Service, the first of their kind in Australia, with another three on order; two new fire pumpers for the ACT Fire Brigade; one new tanker and two light units for the ACT Rural Fire Service; eight new command units for the ACT State Emergency Service; and 22 slip-on fire fighting units supplied to rural lessees through the ACT Rural Fire Service.

To manage information and allow for more effective operational communications, the authority has implemented a world-class, computer-aided dispatch system. It integrates a variety of databases so that once a call is received responding crews can get to where they are needed as quickly as possible, with as much information about the nature of the emergency as possible. To ensure effective operational communications, the authority has implemented a new digital trunk-radio network for all of the services.

To meet the growing needs of ACT residents, all four services conducted recruitment drives. We now have 16 new paramedics for the Ambulance Service and 35 new full-time fire fighters for the fire brigade's territory, plus additional volunteers for the RFS and SES**.** Over 1,000 members of the authority volunteer to fight bushfires, assist with severe storm damage and conduct search and rescue operations. The fire brigade has established 23 community fire units, specific to householders in high-bushfire risk areas. There are now over 700 registered volunteer members, 400 of whom are fully trained with equipment and personal protection clothing. The authority has made a special commitment to improve the consistency and quality of staff and volunteer training through the creation of a joint emergency services training academy.

Other operational tools that have been specifically developed include an atlas of consistent operations maps for all agencies involved in any future emergency situation; a new and locally manufactured information tracking system for the Rural Fire Service, called fire link; and the authority continues to deliver on its mandate to help the public

share responsibility for reducing the occurrence and impact of emergencies. For example, "Bush fire wise" is a travelling public education resource that has been teaching ACT residents about bushfires for two years. Publications such as *Bushfires in the bush capital* are being distributed to focus on key issues of vital concern to ACT residents.

We keep people informed. To ensure that the public is kept well informed about the status of emergency situations, the authority created a full-time community relations media liaison unit. This includes the establishment of an emergency information centre to disseminate information to the public through the media in an emergency. This unit has been very active, completing a variety of projects such as a memorandum of understanding on emergency communications with all local major media, a first in Australia. It has also struck a number of partnerships over the year with the New South Wales RFS, the New South Wales Fire Brigade and the New South Wales SES.

I would like to congratulate the staff and volunteers of the emergency services on a long list of achievements, and I have only just scratched the surface.

Question resolved in the affirmative.

The Assembly adjourned at 6.28 pm.