DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

16 AUGUST

2005

Tuesday, 16 August 2005

Schedule of amendments:

Tuesday, 16 August 2005

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

Petitions

The following petition was lodged for presentation, by **Mrs Dunne**, *from 567 residents:*

Ginninderra district high school—closure

> To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory:
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the ACT Government's decision to close Ginninderra District High School has been taken without any community consultation or consideration given to the best interests and needs of the students attending the school.
>
> Your petitioners therefore request the Assembly to move that the ACT Government not proceed with closing Ginninderra District High School until there has been proper community consultation that ensures the best interests and needs of students in West Belconnen are protected.

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

Attorney-General
Motion of censure

MR STEFANIAK: I seek leave to move a motion concerning censure of the Attorney-General.

Leave granted.

MR SPEAKER: Before you proceed, I would like to touch on issues concerning the application of the sub judice principle. As you know, the convention is described in the fourth edition of *House of Representatives Practice* as follows:

> … subject to the right of the House to legislate in any matters, matters awaiting adjudication in a court of law should not be brought forward in debate, motions or questions.

Members will be aware that there is a coronial inquiry into the cause of deaths of four persons in the January 2003 bushfires. In deciding whether to invoke the convention for debates, questions and motions concerning the proceedings in the Coroners Court, I intend to follow the principles that are set out in the 11th edition of *Odgers*, namely, that there should be an assessment of whether there is a real danger of prejudice in the

sense that it would cause real prejudice to the outcome of the trial or inquest; that the danger of the prejudice must be weighed against the public interest in the matters under discussion; and that the danger of prejudice is greater when a matter is actually before a magistrate or a jury. It should be noted that magistrates undertake the duties of a coroner in the ACT.

I therefore ask members to be mindful of this issue when making comments in the Assembly on these matters and I will rule that, in relation to matters still before the coroner, members should restrain their comments about the cause of death of the four persons involved.

MR STEFANIAK (Ginninderra) (10.33): I move:

> That this Assembly:
>
> (1) censures the Attorney-General for his:
>
> (a) obstructing the Coronial Inquest into the January 2003 bushfires leading to an unnecessary 10-month delay in its processes;
> (b) unprecedented and inappropriate initiating/joining of the action to disqualify Coroner Doogan;
> (c) wasting of approximately $1.8 million of taxpayer funds in this pursuit; and
> (d) his general mishandling of the various inquiries into the bushfire; and
>
> (2) calls on the Attorney-General to:
>
> (a) table by close of business today, the legal advice(s) that he relied on in initiating and/or joining the appeal against Coroner Doogan; and
> (b) stand aside as Attorney-General until the Coronial Inquest has been completed.

The Chief Minister and Attorney-General is a man who likes to be the first to do things. It is a guaranteed way, I suppose, of getting into the history books. You might call it the *Guinness Book of Records* approach to politics. He certainly did it again when he chose to appeal against the coroner appointed to conduct the inquiry into the Canberra fires of January 2003. But along with most of the other firsts to which this Attorney-General lays claim, the opposition feels no envy at all. In fact we feel something more like shame.

The first we are discussing in this censure motion is, of course, the Attorney-General's joining of a legal action against his own coroner. This is entirely unprecedented in Australia. Coronial experts such as Dr Ian Freckleton have commented that they cannot remember a time when an attorney-general or a government has taken such action. Indeed Dr Freckleton said, speaking on ABC radio, on 2 November last year:

> The role of coroner basically lies between the civil and the criminal jurisdictions. The coroner's basic role is to find out what brought about the tragedy and what can be done about it to fix it. The role of the coroner is an "ancient lineage". What has

> occurred in the ACT in terms of what the Chief Minister and the Attorney-General has done in joining the appeal to the Supreme Court is highly unusual for an action such as this to take place. Parties on occasions in coronial inquests have sought to have an inquiry interrupted and appeal to the Supreme Court on an aspect to get a ruling, that is, whether certain evidence should be taken, et cetera. That the Chief Minister and the Attorney-General has a role in this is problematic. It has political resonances. The Chief Minister also as a witness and a government minister had a role during the fires, and accordingly there are very much political issues in relation to his actions. Also, as first law officer, the Attorney-General does have a vested responsibility to ensure an inquest runs smoothly, and this would normally mean not interrupting it

Dr Freckleton went on to say that one had to ask oneself whether the coroner had done anything, obviously, to bring the conduct of the inquiry into question, because any government that interferes "runs the risk of a vested interest and a political interest". The role of the coroner, as Dr Freckleton pointed out, is not like that of a judge or magistrate in a normal case; they don't go to the scene of a crime, while the coroner does. The coroner is an investigator, and a coronial inquest is a quest for truth. The coroner must give warnings, keep the inquest going and make the parties toe the line. The coroner can make recommendations to government, but government is free to take these up or leave them. Dr Freckleton concluded that he was "not aware of any comparable incidents where an attorney-general has done anything like the Chief Minister has".

So why did the Attorney-General make such a highly political intervention in the justice system? The answer which he has given and which he repeated when the appeal against the coroner on the basis of apprehension of bias was defeated has been the same: he was given advice by top lawyers that there were matters of concern. This is how he stated it when asked in an interview on the ABC on 31 January this year:

> Before making the decision that the ACT Government would join this matter and make an application, I did take advice from my officials and legal advisers about the intentions of others involved in the matter. I was advised clearly that the intention was or that the nine individuals and their advisers were determined to take this matter to an appeal to the Supreme Court … I answer the question … By responding—on what basis would I not support the action taken by the nine individuals when I was in receipt of advice that there were matters that needed resolution.

The Attorney-General has repeatedly made it a point of valour that he should defend the nine public servants, saying on this occasion, "I won't walk away from these individuals. I am upfront about that. I am not prepared to thrown them to the sharks." Yet he was prepared to throw his own coroner, Maria Doogan, to the sharks. This is the same person about whom he said, announcing her appointment on 20 February 2003, in this place:

> A coroner has been appointed—Maria Doogan—who is an excellent coroner and an excellent magistrate. She is a person with an inquiring mind—somebody who will do a thorough job. It is for the coroner to determine precisely the nature of the inquiry she undertakes.

The Attorney-General followed this up with a burst on the separations of power, saying:

> I respect the separation of powers—it is a very significant doctrine. I respect it and I will not intrude in the operations of any of our courts, including our Coroners Court.

He went on to say:

> It is vitally important that we maintain the integrity of the courts. There is to be absolutely no suggestion that this government seeks to undermine or affect the independence of the judiciary in the pursuance of its duties in any way whatsoever.

Yet, that is precisely what he did. On 9 December 2004, again on ABC radio, when he was responding to the suggestion that the appeal against the coroner was a breach of the separations of powers he said:

> That is a nonsense to suggest. It is a nonsense argument. Nine individuals represented before the coronial inquest have decided to appeal to the Supreme Court on a matter of law … I defend them absolutely in that. There are issues that affect the Territory in the coronial process. The same issues of concern have been made with me. I am the Attorney-General. I had three options ... To support the action taken by the individuals, to oppose the action taken by the individuals or to remain neutral, simply shut up and not get involved. That wasn't an option as far as I was concerned.

Mr Speaker, he chose the one option he should never have chosen and, I think, showed a very grave lack of judgment in doing so. Indeed, so partisan are his persuasions, with all his talk about the administration of justice, that he even criticised the opposition for attending a rally of fire fighters outside the court, where no opposition MLAs spoke, and said that was in clear breach of their responsibilities not to impugn the conventions around the separations of powers or the sub judice rule. It seems that the Chief Minister makes the rulebook up, as he goes along, to suit himself.

After delaying the coronial inquiry for 10 months, at a cost of approximately $1.8 million, about five hearing dates out from what would have been the conclusion of the coronial inquiry, the full bench of the Supreme Court decided in favour of the coroner. What was the attorney's reaction? He said he was extremely surprised in view of the weight of all that top legal advice that he had sought and that he had received.

Everyone knows, however, that there are as many legal opinions as there are lawyers. It begs the question: who is the first law officer of the ACT—the man who holds the office or the eminent QCs who advise him? A wise leader has to be able to choose amongst all the advice he receives constantly with a view to the wider good. This is what the Attorney-General constantly failed to do in this instance.

Not content with simply bankrolling the appeal of the nine public servants, he joined in too and did this without considering the electorate as a whole. He does not consider that by obstructing this coronial inquiry into the fires he is causing much heartache to the hundreds of people who have suffered greatly from the fires that ravaged suburban Canberra without warning.

There are people who have been injured and disfigured by the fires. Nearly 500 homes were lost, and many people are now without memorabilia and photographs of family members who are now dead. There are people who now have no photographs of their children when they were young. Family heirlooms are lost. People lost important title deeds and business records, making it virtually impossible to do things like chase up debts when they ran businesses from home. If there is one question that people want answered, it is: why were people not warned? It is a question that haunts them.

People are also very angry now because, after the fire swept through settled suburban Canberra, they thought that there would be due process and they would find out the truth. They have, understandably, become very cynical about government. More than ever they want to know the truth and they want Coroner Doogan to get to the bottom of why the fires were allowed to reach Canberra on 18 January 2003. They want to know things like why were the fires not put out when they first stared and why was there no warning given until the first homes in Eucumbene Drive, Duffy, had already burnt.

In everything that the Attorney-General has said, he always conveys the impression that his decision to shut down the coronial inquest by filing this appeal against the coroner, in imitation of the legal actions of his own public servants, was inevitable. But this is not so. You can see that quite clearly by comparing his statements and actions with the statements and actions of the Queensland Premier, Peter Beattie, in a similar situation when the Bundaberg base hospital district manager, Peter Leck, and suspended director of medical services, Dr Darren Keating, brought an action against the commissioner conducting the inquiry into Jayant Patel.

Premier Beattie declared that the government, far from supporting the public servants, would not fund their legal action. There was never any question of the Queensland government joining the legal action, although there were very serious questions to be answered about the hospital's employment of Dr Patel, now known as Dr Death and thought to be linked to the deaths of more than 80 patients. Premier Beattie said:

> Our preferred position is very simple: we want Tony Morris to finish the inquiry.

The government's Solicitor-General, Walter Sofronoff, said:

> Mr Morris' style was justified when questioning Dr Keating and Mr Leck.

How refreshing and how different this was from the way in which our Attorney-General responded to charges of perceived bias against the coroner.

Despite the advice from four eminent QCs, the full bench of our Supreme Court found overwhelmingly that Coroner Doogan had no case to answer. The full bench of the Supreme Court dismissed the application, stating:

> Whilst we understand the considerations that led to the prosecutors seeking prerogative relief at this stage … we think that the applications have nonetheless been made prematurely. Some of the grounds relied upon plainly provide no basis for any reasonable apprehension of bias.

That is a strong statement: "Some of the grounds relied upon plainly provide no basis for any reasonable apprehension of bias." The full bench was categorical in their dismissal of assertions of bias against the coroner. Take, for example, the assertion that the coroner should not have viewed the fire-affected areas with three members of the legal team assisting her, along with four potential expert witnesses. At page 54, the Supreme Court, without reservation, states:

> These complaints may be readily dismissed. It was entirely appropriate for the first respondent … to undertake a view as part of her initial investigation, and equally appropriate for her to take one or more experts with her so that the relevant areas could be identified and the significance of particular observations fully appreciated.

In deliberating about the coroner's rejection of the order sought by counsel for the prosecutors requiring counsel assisting the coroner to produce documents relating to the preparation of expert reports by Mr Roche and Mr Cheney, the Supreme Court stated:

> However, we are unable to see how the first respondent's … could provide any grounds for an apprehension of bias.

That is at page 106. The judges, after examining the notes in point form produced by junior counsel for the coroner, decided:

> We have examined the notes with due care and can readily appreciate that a person whose sensitivity to potential criticism had been heightened by public comments, adverse press reports and cross-examination at the inquiry, might have seen some of the recorded comments as consistent with, if not indicative of, the emergence of a 'party line'. However, the hypothetical lay observer must be taken to have viewed the relevant events in a fair and objective manner and without any predisposition to construed terse and obviously incomplete notes by reference to pre-existing anxieties. Such an observer must also be taken to recognise that counsel assisting a coroner is likely to form at least tentative impressions as to where the truth may lie and to form strategies that to some extent reflect those impressions. Neither their reluctance to reveal those strategies, nor a coroner's reluctance to compel them to do so are necessarily indicative of bias.

At page 127:

> We are unable to accept any of these submissions.

More contentions, at page 130:

> Again, we are unable to accept these contentions.

At 132:

> We are again unable to accept this submission.

Or at 137:

> … we are unable to see how any support for the prosecutor's contentions could be derived from this sequence of events

Or the alleged bias against one of the witnesses, Ms Harvey, at 139:

> We see no reason to doubt that the first respondent … had generally formed an impression that Ms Harvey had been 'stonewalling' in response to questions that she did not wish to answer. The impression may have been erroneous but no such error has been established and, in any event, an error of perception would not, of itself, provide any ground for an apprehension of bias.

Justices Higgins, Crispin and Bennett concluded:

> The arguments advanced by the prosecutors would have raised, at most, grounds for concern in relation to circumstances that have not arisen and might never arise. Prerogative relief will not usually be granted to address fears of such possibilities.

Despite what the Chief Minister might say in trying to dress all this up, I think that is a pretty conclusive and pretty damning indictment of a government taking this action. I think the full court was quite clear in rejecting these grounds of apprehension of bias, no matter how the Chief Minister might try to say otherwise.

The dismissal of the contentions of the legal teams for both the ACT government and the nine public servants in such clear-cut terms raises the issue of what was this advice that Mr Stanhope received from four eminent QCs. This legal advice was so strong as to lead him to take action against his own coroner, a very risky endeavour for any government that did not wish to impugn its own justice system through political interference. We need to see what this advice was.

Mr Stanhope is hiding behind this advice. This advice has cost the taxpayers over a million dollars and delayed the coronial inquiry for some 10 months. We, the opposition, call on the Chief Minister to table the advice that he received which made him launch the legal action against his own coroner.

The *Canberra Times* declared in an editorial last year:

> It is for the ACT Supreme Court to determine whether any appearance of bias has been created. But it is for the ACT Government to explain why it is trying to prevent the facts coming out, some proper explanation of what occurred, of people having some capacity to draw their own conclusions and, perhaps, why yet further delay serves any public interest. And just whose hide is being protected by the expenditure of some extra two or three millions dollars—and why?

And, finally, of course, it would be very sensible if this Chief Minister stood aside until this process is over.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.48): Mr Speaker, the government will not support the motion that is before the Assembly today, and for very good reason. I think to some extent Mr Stefaniak, in his speech, has given a decent summary of the appropriateness of the actions that I took as attorney and that the government or the territory took in relation to this matter.

We see, in the process of the proceedings that we witnessed over the last 10 months, in fact, the process and administration of justice working. There were serious issues raised with the government. I have previously indicated that they were raised with the territory by a number of very, very eminent counsel, including, most notably, Peter Johnson SC, who was at the time representing the territory at the coronial inquest and who is now a justice of the New South Wales Supreme Court—an opinion that was supported by Lionel Robberds QC, in independent and separate advice to the territory in relation to the issues of concern that have been raised, and subsequently of course confirmed by Richard Tracey SC and James Glisson QC.

On the strength of the opinions of those counsel and following a decision by nine individuals represented separately before the coronial inquest, it is true, as we know and as a matter of history, that I, as Attorney-General, faced with the issues that were put before me, decided to join that action—an action which had already been decided by those individuals be instituted—in relation to the same issues.

I think it is worth noting that, as the recipient of advice, of opinions, from people such as Peter Johnson SC, Lionel Robberds QC, confirmed subsequently by Tracey and Glisson, I was faced with those options that the shadow attorney raises and mentions. I did have a choice, as we all do. Of course, as the first law officer, I have a range of responsibilities. One of the fundamental responsibilities of the first law officer, a position which I think is not adequately understood and certainly not acknowledged by the shadow attorney or the Liberal Party, is an overriding responsibility, as first law officer and consistent with the Law Officer Act of 1992, to accept responsibility for the administration of justice within the territory and everything that that means and everything that that incorporates and requires. The administration of justice is a fundamental and very, very important aspect of the role of attorney.

The role of attorney is perhaps more complex than that of other ministers. An attorney-general, in addition to being a politician of course, completely represents a party and a government. An attorney-general also, of course, is responsible for pursuing policy initiatives in relation to law and justice and pursuing those policy imperatives. But the attorney, as well as those roles as the political voice or representative in relation to the law and justice, as well as the minister with administrative responsibility for a department for pursuing policy and oversighting the management and the administration of justice, as the first law officer, has a role over and above those other politically administrative roles which other ministers, through their portfolios, possess and pursue.

The first law officer, acknowledging the sensitivity of issues around the separation of powers, the sub judice rule and issues around contempt, has an additional responsibility in the context of the separation of powers for ensuring that there is public confidence in the administration of justice and overall has that responsibility for maintaining public confidence in the rule of law and the administration of justice, as reflected indeed through courts, tribunals and all of those other incidents that are part and parcel of the administration of the law. That is a fundamental responsibility.

Faced with advice around significant issues going potentially to the administration of justice, I, as attorney, made that decision. I don't resile from the decision; it was

appropriate in the context of the advice I received; it was appropriate in the context of the fact that the matter would have been pursued in any event. So I stand by the decision I took.

I said this morning, and I have said previously, that I think there is a very, very important public interest in seeing a timely conclusion to the coronial process. I regret enormously the 10-month delay in the proceedings. I have said and acknowledged—and I acknowledge again—that I did not, in my thinking at the time I took the decision in late September, early October last year, imagine that the matter would take 10 months to conclude.

I do not know whether it would have been relevant to my decision. The decision I took was a decision taken as a matter of principle, but certainly I did not image for one minute that it would take 10 months. I regret the fact that the delay has been that extensive. I think, if I reflect back, that I would have perhaps thought that the matter could have been dealt with in the space of two or three months and would have been concluded perhaps even by Christmas last year, not August this year.

The other issue that has been raised, of course, is the issue of cost—an issue that has been raised and on which the Leader of the Opposition and the shadow attorney, in particular, have put the most enormous spin, knowing, as they do, that the majority of the costs incurred by the government in relation to coronial processes are covered by the territory's insurers; knowing, as they do, that the enormous spin that they have put on the cost of $1.8 million is simply false. It is simply not true. The costs that the territory incurred in pursuing the matter in its role as the territory, in fact, were entirely covered by insurance. The costs which were incurred on behalf of the nine separately represented individuals were entirely covered by insurance.

So this outrageous spin, reflected again in the motion, of wasting $1.8 million of taxpayer funds is simply false; it is not true. Mr Stefaniak knows it is not true; Mr Smyth knows it is not true. But they just peddle it for the sake of the story and because of the flavour it gives, the opportunity to take some political skin from my jaw and to cause political damage to me. They are out there spinning this outrageous $1.8 million cost to taxpayers, which is a complete fiction.

I make the point in relation to that—to the extent that it does reveal the tawdry side of the political attacks that are launched on the government, the tawdry aspect, the hypocrisy and the humbug—that here is a party, here is a group of individuals who have, over the last couple of years, not hesitated to come to the government for funding of their separate legal actions, the actions that they are involved in.

Over the last couple of years the ACT government has funded a wrongful dismissal action taken against Mr Steve Pratt, a wrongful dismissal action taken against Mrs Helen Cross, a defamation action pursued against the Leader of the Opposition, a wrongful dismissal action taken against Mrs Burke, with sundry other tawdry allegations related to that referred to the Human Rights Commission as well. And we have paid. We have paid over $100,000 to defend Mr Pratt in his sundry tawdry legal actions; Mrs Burke, in her tawdry legal actions; Mr Smyth, in relation to his defamation; and Mrs Cross; as well, of course, as the enormous cost which the taxpayer has been required to bear, and continues

to bear, in relation to issues involving the staff of Mr Stefaniak and Mr Cornwell—well over $100,000. Here we have one rule for politicians, and another for public servants.

Mr Mulcahy: On a point of order: Mr Speaker, I draw your attention to relevance to this matter. It seems to have nothing to do with the matters before the Assembly. I would ask you to bring the Attorney-General back to the matters that are under discussion.

MR SPEAKER: I do not think you have a point of order.

MR STANHOPE: It is relevant in terms of the hypocrisy and the humbug. Here we have a motion censuring me for the expenditure of funds in relation to an action taken in a court by a group of public servants defending their reputations and themselves in relation to issues of significant concern to them and a suggestion that the money should under no circumstance be paid, Mr Stefaniak referring with approval to the action taken by the Premier of Queensland, Peter Beattie, "Under no circumstances will I fund public servants in my state." Mr Stefaniak stands up today and applauds that position. "Don't support your public servants."

Of course, that is the essential issue in relation to this opposition, this party: don't ever support your public servants; they are expendable; they are disposable. We live in a disposable age; they are grist for the mill. If you can score a political point by trashing public servants, do it.

We saw it just a week ago from the shadow anti-police minister. If there was a point to be scored by trashing policeman doing their duty, do it; score the point; don't worry about the facts. This was from the anti-police minister. We have here Mr Mulcahy, the shadow Treasurer, in relation to the last pay rises saying, "Why do you pay public servants this much? You are paying them too much; they're only public servants; they don't deserve pay equity". You have the issue in relation to Mr Smyth and Mr Stefaniak saying, "They're only fire fighters." They were only out there risking their lives, but, if there is a political point to be scored, score it.

Mrs Dunne: On a point of order, Mr Speaker: I go back to Mr Mulcahy's point of relevance. Standing order 58 says you should not digress from the subject matter, and the subject matter is a censure of the Attorney-General over the coronial inquest. What Mr Mulcahy thinks of that—

MR SPEAKER: There is no point of order. I have already ruled on that matter. The issue of public servants is entirely relevant. It has been raised in the debate and is central to the debate.

MR STANHOPE: There we have it. There is one rule for politicians in this place, namely, Liberal politicians who get themselves into the most appalling mess in relation to their private affairs and their personal affairs. Four of them, four of this mob, have been sued in the last two years. And who paid their legal fees? The taxpayer paid. When it comes to nine hard-working public servants, fire fighters, what is the attitude of the Liberal Party to paying their legal bills? No, don't. Here we have Mr Stefaniak standing up, saying, "Public servants! Why would you pay the legal bills of public servants? They're only public servants; they're expendable; they're disposable."

Mr Smyth: It's not what he said.

MR STANHOPE: That is what he said; that is his attitude. I wonder, in light of this motion and the statements we have heard from this mob over the last month or so, whether all of a sudden the ACT Treasury will get return cheques. "Dear Mr Quinlan, I return my cheque for the legal fees that you paid to defend me against these defamation acts, these wrongful dismissal acts."

Mr Quinlan: By their own staff.

MR STANHOPE: By their own staff and their own people. I wonder whether the cheques are in the mail. I wonder whether this is the new way. I wonder whether I should move to amend those rules that apply to the payment of the legal bills of Liberal Party politicians in this place. Immediately they get into strife, they send the bill to the government. This is the convention under which we operate—the hypocrisy and the humbug, the extent to which public servants are just pawns in the political war. "We can damage the Chief Minister through this. Don't worry about the rights; don't worry about the reputations of public servants. They're expendable; they're disposable. We might be able to damage the Chief Minister through another censure motion."

We crush and belittle our public servants through it, but at the end of the day we might just get a little bit of media attraction; we might actually gain some credibility; we might distract attention from our internal problems, our leadership challenges, the fact that three of the Leader of the Opposition's staff refuse to declare loyalty to him, refuse to indicate that they believe he is the preferred Leader of the Opposition. These are the issues essentially at the heart of this censure motion today—a motion based on absolute humbug and hypocrisy.

Let me conclude, though, by repeating the point that I have made a number of times. I have the strongest empathy for those who continue to suffer as a result of the grievous loss they suffered in the fire. The government has supported them enormously and we will continue to do so. I have enormous empathy for their suffering and their grief, as a consequence of which, despite the advice we now receive from the territory's counsel, that there are serious issues with the judgment—my advice is that the judgment is flawed, an appeal is justified and that appeal, if pursued, would potentially lead to an overturning of the judgment—and in the interests of concluding the matter, I have announced this morning that the government will not appeal the decision.

We have some regard to issues that the court raised in relation to perhaps the action having been pursued early. But we will not appeal. I think it is in the public interest to conclude the matter. The government will support the coronial process to conclusion and will provide every possible assistance to the coroner in doing that.

MR SPEAKER: The minister's time has expired.

MR SMYTH (Brindabella—Leader of the Opposition) (11.04): This is 7½ minutes of smokescreen from the Chief Minister, who was called to account by his Assembly to answer for his actions. The man will be remembered as the Shane Warne of the Australian Capital Territory's Assembly, the master of spin. This is a re-writing of

history. We have this series of shifting sands from a Chief Minister who has never once told us exactly what happened and who has allowed to remain on the record his failure to remember phone calls, his failure to answer where he was on the night of 17 January and his failure to answer why he cannot recall where he was on 18 January. Yet he takes 7½ minutes building this smokescreen that somehow it is all the Liberal Party's fault, it is all our fault. He says we are here because it is our fault, not because of anything he has done.

Let us look at the shifting sands of this Chief Minister and his defence of his actions of the past couple of years. Let us look at the first excuse. The first excuse was it was a 100-year fire. Then it was a 50-year fire and then a 20-year fire. If we believe a Dr Peter Moore, a doctor of forestry, this morning, by the look of it, it is only a 10-year fire. So the first excuse was the shifting sands, that nothing could have been done with a 100-year fire. Dr Peter Moore says it is probably a 10-year fire. Then we had the historic "Don't blame me statement". Well, do not blame anybody. "Don't blame me" is another story because this Chief Minister will not take responsibility for the things that he has done. Particularly in this censure motion we focus on his role as Attorney-General.

Then it was "three choices, no choices". The other day when the full bench of the Supreme Court dismissed his claim and the claim of the nine, he said; "But I had to do it, I had no choice." Yet we have the transcripts of him saying several months ago, "I had three choices. I could join, I could not join, I could sit tight and do nothing." So again, there are the shifting sands. If one wonders why the story changes so much and so consistently from the Shane Warne of political spin in the ACT Assembly—our Attorney-General—it was an attempt to knobble and derail the coronial inquest. That is what it was about. If he cannot derail or knobble the coronial inquiry, he will damage the messenger so much that when she finally gets to deliver her report, we will say that it is flawed, that we cannot believe anything now because it is flawed. That is the whole purpose of what has been done and that is why we are calling this Attorney-General to account. It was quite interesting that this morning on 2CN the Chief Minister said he does not propose to appeal the decision and said:

> I believe at this stage after almost three years and after almost $10 million, I think there are a range of other considerations that I need to take into account and one of those is to bring the matter to a conclusion.

Bringing the matter to a conclusion was not a consideration a month out from the election last year. What he did not want was a coroner's report last year because he knows what will be in that report. In that report will be the truth. So let us look at his statement this morning;

> I believe that this stage after almost three years and after almost $10 million, I think there are a range of considerations …

What are those considerations, Chief Minister? He has not told us any of the considerations that he has now decided were not relevant then but are relevant now. What changed, Chief Minister, except the fact that we have had an election? I think we should give the Attorney leave to speak again, to tell us what these considerations were and why these considerations were not taken into account last October. If he really wanted to bring this matter to a conclusion, why did he not want the same thing last

October? What stood in his way in September and October? What clarified his thought last September and October, in the lead-up to an ACT election, that led him to join an appeal and put the weight of the Attorney-General—the first law officer and the person responsible for the court system—behind it? Last September and October, what was in this man's mind?

We got an indication this morning when we talked about retrospectivity. Mr Solly asked about a third inquiry. Solly said it is what the opposition wanted and it is what Bill Redpath and the Law Society suggested might have been more appropriate. What does the Chief Minister say: well, that is what they do in retrospect because of perhaps some of the hurdles and the road blocks that we have struck and the rocky road that the coronial inquest has travelled over the past three years. Again this is the Shane Warne of political spin at work. In case he had forgotten, on 30 January 2003, long after his appeal, I moved a motion setting out the terms of reference for a broad-ranging inquiry. It had 18 separate aspects for inquiry. It specified a staged reporting process to account for the then coming fire season as well as allowing examination of longer-term issues. Again these are the shifting sands from the Attorney-General, the man who should be dedicating himself to getting to the bottom of the matter, not standing in its way.

When it comes to the bushfire disaster of January 2003, two issues still weigh heavily on the public's mind. The first is why were the fires not more aggressively tackled in their first few days and, secondly, why were sufficient warnings not given to the people of Weston Creek and Kambah when it was so obvious that the fires would reach the city? As long as these questions have been asked, the government, particularly the Chief Minister, Mr Stanhope, has sought to avoid their being answered and that is why we censure him today. He opposed our motion to establish an inquiry under the Inquiries Act. Instead, he established the laughably inadequate McLeod review, the report of which just sits gathering dust. He has a copy of it there on the table. Point to where the McLeod review talks about why the fires were not put out on the first night. Point to where it talks about the warning that could and should have been given.

Mr Stanhope: Page 62.

MR SMYTH: I will check page 62. What about page 132, where it says that at 8 o'clock on the morning of 18 January 2003 all fire units were allocated roles. The Chief Minister, missing in action, still has not told us where he was. He was still not answering his phone calls. He cannot tell us where he was. It is our view that he undertook this appeal in an attempt to derail the coronial inquiry because it was getting uncomfortably close to the truth, or at least to derail it or to damage the messenger. Of course, the action to disqualify the coroner was a dismal failure. I will not read all of the paragraphs. I will simply read paragraph 106. This action was on the basis of apprehended bias. In paragraph 106 the full bench of the Supreme Court says:

> However, we are unable to see how the first respondent's comments could provide any ground for an apprehension of bias.

In paragraphs 84, 127, 130, 132 and 187—the list just goes on—the court finds nothing of what the Attorney-General put forward, yet he hides behind the legal advice. He says he got legal advice that there was an apprehended bias. Well, he should table his legal advice. We do not believe him. We do not believe the advice says what he said. He

should table it and prove us wrong, and table the advice that he supposedly received last night that he does not have the department's spin on yet. He should table it as well and prove us wrong.

It is inconsistent to say I received legal advice that says there were serious matters of law that forced me to join the action in September-October last year and to get legal advice yesterday to say that the points of law that the full bench found are still inconsistent, but I will not do anything now. He did it before the election but will not do it now. The Chief Minister must tell us what were the considerations in the lead-up to joining the appeal last year. He must tell us what the considerations were then and what has changed 10 months later that has led him to say he does not have to do it now. He really needs to explain exactly why he is now not going to defend these people he has so ardently defended. We get back to the shifting sands.

When this first started apparently all nine of these individuals were volunteers. They were all volunteers and he was going to defend them because they were volunteers. He was wrong. This morning he said we are attacking firefighters. They are not all firefighters, and we are not attacking firefighters. We are not in any way, shape or form attacking firefighters. People in my brigade want answers. They still want to know what went wrong on the day. They still ask what we could have done better and still want to know how we can improve the system to make sure it does not happen again. This is not an attack on firefighters. Again there are the shifting sands. There is the Shane Warne of spin at work. He is attacking firefighters. He called them beacons this morning and he throws these people in front of himself to protect himself. That why he should be censured.

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

DR FOSKEY (Molonglo) (11.14): In the immediate aftermath of the 2003 bushfires the ACT Greens supported the establishment of a short administrative review on the understanding that it would enable government to make intelligent organisational decisions in the lead-up to the next bushfire season and address some more obvious administrative shortcomings which the catastrophe of the 2003 fires made clear existed. We also accepted that it was appropriate for the coroner to undertake the necessary judicial review rather than through the additional establishment of a board of inquiry. Our view has always been that the coroner's inquest into the 2003 fires ought to be conducted promptly and rigorously. In December last year I made the point that decision-makers in the lead-up to the fires need to be:

> … held accountable for their actions, not by way of a witch-hunt, but simply as a mechanism for understanding how decisions may need to be different in the future and for determining who should take responsibility for which aspects—

I also made the point that consideration should be given to whether:

> … any past poor or negligence performance by a key player or players contributed significantly to the situation that occurred.

I added then that it would be:

> … particularly inappropriate for a majority government to hide behind its numbers in the Assembly to prevent proper scrutiny of the events leading to the largest disaster ever faced by Canberra people. It is also inappropriate for it to be party to legal proceedings designed to thwart the public's right to a proper consideration of all the issues.

But at the heart of this debate lies a commitment to the integrity of the law, both in regard to those witnesses who have claimed a perception of bias and have taken action in the Supreme Court and within the perceptions of the wider Canberra population, especially the victims of the fires. If the integrity of the justice system looking into the disaster is in doubt, it will be doubly hard to move forward constructively. While I argued last year that other approaches were open to government in dealing with the claims of perceived bias, the decision to take legal action was not made by government alone. It was initially in the hands of nine witnesses appearing before the inquest. I did not see it as unreasonable for the government to support an action that would resolve the issue and tie it in, in effect supporting the outcomes of the inquiry.

The ACT Greens do not support an approach that argues that senior officers of the department are on their own in the courts should a disaster occur which requires a coronial inquiry. We hold it proper that the government covers the reasonable legal cost of its officers. So, for example, I would not have supported Premier Beattie in Queensland when he decided not to fund the legal costs for senior officers in his health department facing the inquiry into matters concerning Dr Jayant Patel, formerly of Bundaberg hospital. While such an approach might make for an unwieldy and expensive process, it is a just one. In that context I would recommend that some attention might well be given to reviewing the mechanics of our inquiry processes in order to speed up and simplify them whilst ensuring that the commitment to fairness remains.

At the time the government and the other relevant plaintiffs first took their concerns regarding the ACT coroner to the Supreme Court, I argued that we would have preferred to see the government wait until it had seen a copy of the coroner's report before deciding that it was influenced or potentially influenced by bias. At that point it would still have had the option to take legal action to prevent publication of the report on account of perceived bias or alternatively to provide the coroner with a response to be published along with her findings. However, I acknowledge that a decision at that point to institute legal proceedings would have left the government open to even stronger claims of a cover-up or of undue interference than it faces now.

I have no problem in saying that I did not believe the Attorney-General had to join the action questioning the integrity of the coroner at that time. However, much reference has been made to legal advice that suggested that he did. For that reason, I support paragraph 2(a) of the motion, which asks that the Attorney-General tables by close of business today the legal advice that he relied on in initiating and/or joining the appeal against Coroner Doogan. I suggest that if legal advice is going to be regularly trotted out as the basis for contentious actions, government could treat the advice itself more robustly in order to explain its position before it takes such contentious action. Nonetheless, I cannot accept the opposition's claim that the Attorney-General has extended the process by a year. It seems to me that the tortuous extension of this process would have happened whether or not the government joined the action.

The only real demand we can make of the government in this respect is that it accepts the decision of the Supreme Court and consequently of the coroner. I believe that we can now dispense with the question of perceived bias. I believe that the decision of the full bench of the ACT Supreme Court has put the issue at rest and I trust that we can now look forward to the coroner's inquiry being wrapped up and the final report being delivered.

In this debate, I would like to repeat some other concerns I have about the organisation of the courts in the ACT. It is a concern expressed by a range of others in the legal profession and elsewhere in the community about the system used to allocate magistrates to particular matters. Currently there is a rotating roster so that when a matter arises the next magistrate on the list is the one to deal with it. It would seem more sensible to select magistrates to hear matters on the basis of their skill and expertise in the area rather than just because their number came up. This would have the effect of ensuring that coroners have a less steep learning curve when they confront a major inquiry.

There is also the question of the time that is made available to those magistrates and the courts to deal with matters of such importance. We have raised concerns regarding the time taken for inquests into deaths in custody, compliance of disability and mental health services and concerns regarding the subsequent time taken for findings to be released. Inquests in the ACT, even without intervening legal action, can take several years. Months can pass between the conclusion of an inquest and the publication of the full findings. These are not questions of improper behaviour by the Attorney-General in regard to the particulars of a case; however, they are reflections on the management of the judicial system and the allocation of resources.

Since the end of the 1990s it would seem there has been enough work to keep a dedicated coroner busy and enough demand on courts' time to justify an increase in funding so that, in the public interest, matters of real significance to the operations of a range of our services here in the territory could be effectively and promptly pursued and resolved. I do not think it would be offensive or inappropriate to add that a more specialised approach to coronial inquests might obviate some of the distress encountered by witnesses and others associated in such inquests both in their conduct and in the time taken to conduct them.

MR PRATT (Brindabella) (11.23): The theme for my concern that the Attorney-General is deserving of a censure is that the ACT community needed a fiercely independent and searching Doogan inquiry because the Chief Minister's handpicked McLeod inquiry failed to answer all of the vital questions. When Doogan started getting closer to doing just this, the Chief Minister moved to choke her off. The Chief Minister was recorded in *Hansard* on April Fool's Day 2004 as saying:

> I have expressed the view many times … and I will continue to express the view, that I think it is important that we not interfere with the workings of the coronial inquiry. I think it particularly important that we not pre-empt the outcomes of the coronial inquest or prejudge anybody that has appeared or has yet to appear before the inquest—indeed, anybody involved in fighting the fire on 18 January 2003 and in the days leading up to that.

If only the Chief Minister kept his word. The Chief Minister should have ensured that no stone was left unturned to analyse, and to take the lessons from, the emergency that we had, putting the community that elected this government ahead of the Chief Minister's own self-preservation. Instead, the Chief Minister put his promise not to pre-empt the outcomes of the coronial inquest on the backburner and did so on the basis of a very premature hypothesis of perceived bias by the coroner, using around $1.8 million in taxpayers' money to fund a legal challenge to have the coroner disqualified. We need to find the truth of what emergency systems failed in January 2003 and why they failed. But the kind of self-preservationist behaviour displayed recently by the Chief Minister and Attorney highlights an obvious lack of a commitment to community representation by this government, thus creating a huge doubt in the minds of the community as to who the Chief Minister represents—himself or the community at large and the victims of the 2003 bushfire disaster. On 6 March 2003, the Chief Minister was recorded in *Hansard* as saying:

> I do not believe we will be in a position to implement the recommendations of the coronial inquest before the bushfire season 2005. I think that is unacceptable. It is unacceptable to the people of the ACT that they should have to wait over two years for answers to some of the fundamental questions that have to be answered in relation to this disaster.

This is another misleading by the Chief Minister. Previously he gave the community confidence in that he thought it was unacceptable that they would have to wait more than two years for the outcomes of the inquiry, but then he contributed to, and was the driving force behind, the inquiry's delay. As I said in this place, and in three press releases back in 2003 after the 2003 bushfire, after any major disaster it is axiomatic that a community carry out a broad and deep inquiry. Politics should have been the least of our concerns.

All political parties in the ACT would clearly share the criticisms coming out of an effective inquiry going back over many years, which is what the coronial inquiry should do. This is not a matter of politics and self-preservation. It is a matter of all of us here working together to make sure that we get to the bottom of this problem, for the good of the safety of the community. The Chief Minister's actions in driving the disqualification of the coroner go against that promise. On 2CN radio on 4 February 2003, just 16 days after 500 homes and four lives were lost, the Chief Minister said about the inquiry that was going to be established:

> It'll be open, it'll be public, it'll be conducted freely and frankly and fearlessly. This government has no desire to hide anything. I don't want to have anything hidden.

Via the coronial inquiry, in the quest for free, frank, and fearless discussion, the Chief Minister must allow both the Assembly and the community to have answers to questions such as why were the fires of 8, 9 and 10 January 2003 not extinguished, or contained, before they spread to disastrous extremes? Why did the government not issue any substantial warning to the public in the three days leading up to 18 January 2003? Why was the worst-case scenario planning, alerting the vulnerable suburbs, not undertaken? Why was the gravity of the fire and weather intelligence on 16 and 17 January 2003, indicating a potential suburban disaster, not utilised to sharpen the warning and alert system of the ACT community?

Instead, the Chief Minister has tried to prevent these questions from being frankly and fearlessly answered by attempting unsuccessfully to have the coroner disqualified. It appears his fear is that blame may be apportioned to him, or his officers, for some aspect of the failings surrounding the disaster. This flies in the face of the Chief Minister's plea to the community, after the disaster, to blame him if they were going to blame anyone at all. Now that he suspects he may be blamed he is seeking to have the Doogan inquiry thwarted.

In summary, the ACT community relied on the Doogan inquiry as the only reliable, neutral, and searching inquiry to find out why the fires started, why they spread so quickly and became unstoppable, and why the community got precious little warning to evacuate its vulnerable suburbs. The community was relying on the first law officer and Chief Minister to defend and uphold the Doogan inquiry, particularly after his toothless tiger, the McLeod inquiry, failed to answer all of those critical questions.

To illustrate how serious the Chief Minister's failure in upholding Doogan is, I remind members what the fundamental disappointments of the Chief Minister's handpicked McLeod inquiry were. While the McLeod inquiry was generally useful, it did not follow through on a number of vital questions. They were: why did the government hesitate on 18 January 2003 to call a state of emergency, resulting in the official warning coming a short time before the first houses in Duffy were destroyed by fire? What were the strategic decisions taken on that day—and fundamentally this is extremely important—and in the three days prior to that? What were the strategic decisions that were not taken in the three days prior to that? These were the issues fundamental to the outcome of the disaster. We need to learn from those outcomes because this community needs to minimise risk for future fire seasons. We are now approaching the third fire season since the January 2003 disaster and these questions have not been answered.

We needed Doogan to answer these questions, and the Chief Minister has moved to choke her off. It is appalling judgment and appalling self-interest. There was also ample evidence that the McLeod inquiry was far less independent than it could or should have been. First, there were some very strong indications, and this continued to be very disturbing, that the final McLeod report had significant departmental input. Was that independent? Was that an inquiry standing back from this government's departments? Second, why did this inquiry not undertake public hearings? Public hearings did not occur with McLeod. Again, we now need to depend on Doogan to bring that independence that McLeod did not. Why? Because it did not suit the first law officer of the ACT to have a McLeod inquiry that was open and accountable. The control freak in him had to ensure that this inquiry's outcome was influenced by him. This failure to ensure that an expensive inquiry served the community well is yet another reason why the Chief Minister deserves to be sanctioned. In any case, he is a serial offender in obstructing justice. McLeod did not see justice done. The Benton Auditor-General's report into the failings and the dysfunctional nature of the Emergency Services Bureau was swept aside by this Attorney-General. Finally, this Attorney-General has obstructed Doogan. Therefore, he deserves censure, and I call upon him to stand aside as Attorney.

MR QUINLAN (Molonglo—Treasurer, Minister for Economic Development and Business, Minister for Tourism, Minister for Sport and Recreation, and Minister for Racing and Gaming) (11.33): I would like to bring a little perspective to this debate. First

of all, if I can reflect back to Christmas 2001, I happened to be Minister for Emergency Services and we had a quite serious bushfire then. At that stage, I had inherited an Emergency Services Bureau with senior appointments from a previous government and I am presuming it was a structure in which the previous government had complete confidence. I am assuming that the appointments that were made within that bureau had the complete confidence of the previous government. In December 2001 we had a fire. It reached the city limits and burnt areas of Curtin, back fences in Curtin, but that is as far as it went. We collectively congratulated our Emergency Services Bureau on the sterling job that it had done and we effectively eulogised them, and the then opposition joined whole-heartedly in that.

Since then, for tawdry political gain, we have had a complete change of standard. We have seen an abominable exhibition of double standards across this house. We hear the opposition claiming that it represents victims of the bushfire. Whether or not the inquiries take a short or an extended period of time, they will come to a conclusion, but unless the nine people who initiated the appeal we are discussing now did it the way they did, their rights would have been trammelled totally. We have here an opposition with a double standard to the point that it is prepared to completely deny—not delay, but deny—the rights of nine people who genuinely believed they were being railroaded and who had expert opinion and support from an eminent jurist.

Mr Smyth: Table the opinion.

MR QUINLAN: The opinion does not need to be tabled, Mr Smyth. All you have to do is read the court transcript and you will get the full message out of that.

Mr Smyth: How can we be sure?

MR QUINLAN: It is in the application, for God's sake. It is just nonsense you talk about and you are asking the government to not observe a convention in relation to legal advice, again for pure tawdry political advantage. This morning I have heard Mr Smyth on radio and seen him in the paper with a lot of breast beating, saying: we are doing this for the victims of the bushfire, or for the people who voted for us. I think, quite frankly, we have an opposition that wants to use the victims of the bushfires. Before the last election a couple of people in this place were making claims that legions of constituents were coming to them on this issue or that issue. The funny thing is the primary people who made those claims are incumbents who just struggled over the line, just squeaked in, in an election in which they should have done a whole lot better. So some of the claims of representing public opinion at that point are open to doubt.

Let us update that. The election of October last year took place after lodgment of the appeal against Coroner Doogan. So, it was in the public forum. Weston Creek was the area most affected by the bushfires. In the overall election this government received an increased vote of 5 per cent, as Mr Smyth and his party descended below the Liberals in Western Australia and the Northern Territory in proportion of first preference votes. They received an absolute flogging and were only protected by the Hare-Clark system. Mr Smyth got fewer votes than Dennis Burke and he fell on his sword.

Mr Smyth: Tell the full story.

MR SPEAKER: Order!

MR QUINLAN: In Canberra the Labor Party increased its vote by 5.1 per cent.

Mr Smyth: And what did the Liberal Party increase its by?

MR SPEAKER: Mr Smyth, order!

MR QUINLAN: In Molonglo the Labor Party increased its vote by 6 per cent. In Molonglo the Liberal Party decreased its vote by 1.5 per cent. Let us take the suburbs that were affected. In Chapman, after the bushfires, after all of this was on the table, the Labor Party increased its vote by 9.3 per cent. In Duffy, which was also materially affected, the increase was 8.6 per cent. Mr Smyth does not represent the opinions of people out there. He is using bushfire victims for his own tawdry gain. Mr Stanhope was right. Mr Smyth has double standards in relation to people's rights. He is prepared to trample the rights of nine people, to give them no recourse to the justice system, even though others will still have their day and get their report. He wanted to scotch their rights altogether. Why? For purely political reasons.

Mr Stanhope has spoken about the spin that Mr Smyth has put on the cost, the misinformation he has peddled in the public forum. He peddled in the public forum that it cost a whole lot of money. It has not cost the government, but he is prepared to say it. Mr Smyth is prepared to claim that he is representing people of the areas that were affected, when the figures show the government has been roundly endorsed by the affected areas.

Mr Smyth: What were we to say to these people yesterday?

MR SPEAKER: Order, Mr Smyth!

MR QUINLAN: Yes, we recognise there are victims who still have not recovered, and Mr Smyth ought to stop trying to use them, because that is what he is doing. This is the lowest of politics. It is amazing the amount of self-righteous breast beating that comes from that side of the house when, at the same time, on the same issue, people are prepared to peddle misinformation in the public forum. They do not have very high standards.

Overall, misinformation is being peddled and false claims of representation are being made—claims that can be denied by the statistics. Of course, this motion will be defeated because of the numbers. It was always a political stunt. On radio yesterday it was conceded that it was a political stunt. But underneath that political stunt is the preparedness on the part of the opposition of the ACT to deny recourse to the full legal processes of nine people who have been through an horrendous process already and who are still under tremendous pressure. The opposition should have concern for individuals—

Opposition members interjecting—

MR SPEAKER: Order! Mr Smyth, I have called you to order three or four times. I am going to issue a warning, because it has just been repetitious. Please desist.

Motion (by **Mr Hargreaves**) put:

> That the question be now put.

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.

MR STEFANIAK (Ginninderra) (11.46): Mr Speaker, in light of what Dr Foskey said, I move:

> That the motion be divided.

MR SPEAKER: Order! The question that the question be put has been resolved. It is too late for that. The Assembly has already resolved that the whole question as put to the Assembly be put. So, the question is that the motion be agreed to.

DR FOSKEY (Molonglo) (11.47): I ask that the motion be gone through part by part.

MR SPEAKER: I have already ruled on that. It is not an option available to you. As I explained, the Assembly has already resolved that the entire question be put. So, the question is that the motion be agreed to.

Original question put:

> That **Mr Stefaniak's** motion be agreed to.

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.

Planning and Environment—Standing Committee
Report 11

MR GENTLEMAN (Brindabella) (11.49): I present the following report:

> Planning and Environment—Standing Committee—Report 11—*Draft variation to the territory plan No 258—Belconnen Labor Club section 48 Belconnen,* dated 29 June 2005, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The committee has no recommendations in relation to this draft variation to the territory plan. As committee chair, I would like to thank all of those involved in the consultation process, particularly the committee office and the secretary, Hannah Jaireth.

MR SESELJA (Molonglo) (11.50): I note that no comments were made in relation to the proposed variation. I think this is the first time the committee has done that. I raised some concerns about potential conflicts of interest of a couple of the members of the committee and I wanted to discuss that, given that the majority of the report addresses that issue and makes no comment on the variation. The report says:

> The approach of providing a 'no comment' response is taken in many reports by the Standing Committee on Legal Affairs when performing the functions of a scrutiny of bills and subordinate legislation committee. The fact that two members have made declaration of a possible conflict of interest … in relation to the proposed variation, does not detract from the appropriateness of this response.

As I said, and I might stand corrected, I believe it is the first time this committee has issued a no comment report and it is probably not coincidental that the first time we have made no comment is the first time that issues of conflict of interest have been raised. Most of the report deals with the issue of declared possible conflicts of interest, as it says in the heading. The report states:

> Government members of the Committee declared a possible conflict of interest—

I believe that was only after I raised it—

> but it should be noted by stakeholders that this interest is not peculiar or personal to the members involved.

I find that interesting. It goes on:

> Many members of the Canberra community, on all sides of politics, are members of the Labor Club for social reasons, so membership of the Club should not disentitle Committee members from issuing a 'no comment' report on this draft variation.

I think that is getting the issues confused. The problem was not necessarily the no comment response; it was that members of the committee considering the draft variation had a conflict of interest. The conflict of interest was not in relation to them having membership of the Labor Club—as they say, many Canberrans have membership of the Labor Club—it was that both Labor committee members were former board members of the Labor Club, so they obviously have a fairly close relationship with the Labor Club. The last time I checked, the average Canberran had not been on the board of Labor Club. I do not think it is a particularly wide membership. The other issue obviously would be in relation to donations.

The report goes on:

> The fact that the Labor Club supports the Labor Party does not mean that Government members of the Committee have a direct pecuniary interest in this proposed variation. Donations to the party are managed separately to campaign funds so there is no direct pecuniary benefit for members.

In my opinion that is being quite cute. The fact is that the Labor Club is the major donor to the Labor Party, as you would be well aware, Mr Speaker. I think half the funding, or more, each year comes in from the Labor Club to the Labor Party. I think several hundred thousand dollars came in for the last election from the Labor Club. So the interests of each of the Labor members and Labor candidates are directly tied to whether funding comes from the Labor Club to the Labor Party. Their chances of re-election are no doubt influenced by money coming from the Labor Club. It is a bit cute to say there is no direct pecuniary interest. Clearly, there is a significant interest on the part of the Labor members of the committee in relation to the money that comes from the Labor Club every year.

MR SPEAKER: Mr Seselja, I direct your attention to standing order 156 in relation to conflict. The last sentence reads:

> Any question concerning the application of this standing order—

that is, the standing order on conflict of interest—

> —shall be decided by the Assembly.

I think hurling accusations across the chamber probably flies in the face of that resolution, or that standing order, I should say.

MR SESELJA: Thank you, Mr Speaker. In summary, I disagree with much of the justification in the report and particularly paragraph 1.10. As I said, most of the report was devoted to justifying the declared possible conflicts of interest and I do not think the case has been made very strongly.

MR GENTLEMAN (Brindabella) (11.54): As committee chair, I would like to advise the Assembly on the process that the committee undertook in consultation on draft variation 258, the Belconnen Labor Club. Quite contrary to the statements made by Mr Seselja, when the committee first met to discuss DV 258 both I, as chair, and

Ms Porter acknowledged a possible conflict of interest in relation to both of us being on the Labor Club board in the past.

Mr Seselja: Only after I asked. Only after I raised it.

MR SPEAKER: Order, Mr Seselja!

MR GENTLEMAN: Thank you, Mr Speaker. This is before Mr Seselja made any statement. Mr Seselja took this under advisement and the secretary was asked to approach the Clerk of the Assembly to seek advice on a possible conflict of interest and how we should deal with that. At the second meeting to discuss the proposed variation to the territory plan, Mr Seselja was, as has occurred on numerous other occasions, unable to attend the meeting and so the advice from the Clerk was held over until the third meeting.

By the third meeting of the committee on this very simple draft variation it was again Mr Seselja who held up discussions in relation to the proposed variation. The secretary informed Mr Seselja that the advice from the Clerk had been that there was a possible conflict of interest, but members of the committee were able to remain in full and discuss the draft variation. Mr Seselja then went on to explain that, yet again, the discussion would have to be held over for another meeting as his adviser Mr Justin De Domenico had not yet read the DV and therefore Mr Seselja was not able to comment on the DV.

By the time Mr Seselja was ready to join the discussion, it had been over one month and four meetings since this simple DV had been referred to the committee. Mr Seselja then asked that Ms Porter and I stand down from discussions in relation to DV258—I gather he had talked to Mr De Domenico by then—as we may have a possible conflict of interest. As noted in the report, many members of the community, including members of both sides of politics, are members of clubs for social reasons and therefore membership of a club should not disentitle committee members from issuing a comment on a report.

When it was decided, with the Clerk's advice, that all members of the committee could continue discussions in relation to this draft variation, Mr Seselja withdrew from deliberations. The committee regrets Mr Seselja's withdrawal from deliberations on this draft variation. Committee membership should work with a bipartisan approach and not attempt to create a political advantage or try to destabilise the committee. As committee chair, I close by calling, yet again, on Mr Seselja to work with this committee with a bipartisan approach, to consider the Canberra community and the committee's responsibilities to our constituents. Thank you.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 12

MR GENTLEMAN (Brindabella) (11.58): I present the following report:

> Planning and Environment—Standing Committee—Report 12—*Draft variation to the territory plan No 255—Commercial C, Precinct Rationalisation—Mawson*

> *(Southlands) Group Centre*, dated 6 July 2005, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

Draft variation 255—Commercial C Precinct Rationalisation Mawson (Southlands) Group Centre and minor corrections to Part D definitions of terms—was considered by the committee at meetings held in June and July of 2005. Committee members and staff held a site visit to the Mawson Group Centre to discuss concerns raised by some other shop managers. Members spoke to the manager of the Mawson Botanicus Perfectus and to the proprietor of the Woolworths Mawson store, with a main focus on parking and access issues. Committee members also discussed in detail the proposed variation to the territory plan.

With the main concerns being the expansion of the Woolworths store into the existing car park, the committee gave careful consideration to additional car parking and adequate access for supply vehicles, and short-term parking for pick up and delivery of goods. In the proposed variation to the territory plan, in relation to development upon existing car parks, it states:

> Development on existing public car parks shall only be permitted where it can be demonstrated that:
>
> (i) overall provision for car parking meets the needs of the group centre as a whole in accordance with the ACT Vehicle Parking and Access Guidelines
>
> (ii) it does not adversely affect the overall function of the group centre in terms of economic, social, traffic and parking, and urban design impacts.

After much consultation on car parking issues with the ACT Planning and Land Council, the council advised that the protection of parking should be made a condition attached to the sale of the land. The committee took this under advisement and is confident that ACTPLA will ensure that all the parking issues raised will be adequately dealt with in the development application stage.

There were also discussions with the National Capital Authority, the ACT Heritage Council and the Conservator of Flora and Fauna. Neither the National Capital Authority nor the ACT Heritage Council had issues with the proposed variation. The Conservator of Flora and Fauna was happy with the proposed variation, as long as the protection of significant trees was taken into account in the development proposals. Further to the committee's consideration of the proposed variation, the issue of a direct grant of land was brought to the attention of members.

The committee was decidedly pleased with the application process and the assessment of the grant application by numerous ACT government agencies, including the Land Development Agency, as well as further consultation during the cabinet consultation process. The committee also notes that the proponent has commissioned numerous studies in support of his proposal. Some of the studies include a traffic study and a design brief that includes a new playground at the Mawson Group Centre. With these

in mind, the committee expresses that works associated with the proposed application for a playground would be subject to public interest protection measures such as the Department of Urban Services *Design standards for urban infrastructure 17—shopping centers and other public spaces 2002*, and that a range of planning and land authority guidelines could be applied.

After all its consultations, the committee has only one recommendation: that the Planning and Land Authority include in each report—on consultation with the public and government agencies—it provides to the committee a summary of any comments made by the Planning and Land Council and the authority's response to these. As committee chair, I would like to thank all of those involved in the consultation process, particularly the committee office and secretary, Hanna Jaireth. Thank you.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 13

MR GENTLEMAN (Brindabella) (12.02): I present the following report:

> Planning and Environment—Standing Committee—Report 13—*Draft variation to the territory plan No 229—supportive housing and adaptable housing provisions and other minor amendments*, dated 29 July 2005, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The minister referred a copy of draft variation 229 to the committee for consideration and report on 18 May 2005. DV 229—supportive housing and adaptable housing and other minor amendments—was considered at meetings held in June and July 2005. The committee held discussions with the chair of the ACT Law Society Property Law Committee, Mr Michael James, and his colleague Mr John Power, in relation to unit titling in DV 229. Although the committee appreciated the time that Mr James and Mr Power gave the committee, there was an overwhelming decision to support the proposed variation as it is. The committee agreed with the policy that serviced supportive accommodation on community facility land should be required to remain as this, and that the private titles would reduce this likelihood.

There were also consultations with ACTCOSS and ACT Shelter during the meetings on DV 229. ACTCOSS and ACT Shelter have expressed support for the policy underlying the draft variation but have a few minor amendments for the committee's consideration. Both ACTCOSS and ACT Shelter have raised concern over the proposed definitions for approved provider and supportive housing. The committee considered these issues at its meetings and has recommended in the report that the Minister for Planning require the ACT Planning and Land Authority to consult with the Department of Disability, Housing and Community Services to consider and respond to these concerns. Furthermore, the committee requests that the Minister for Planning report back to the Assembly on the

results of that consideration when tabling the recommended final variation in the Assembly.

On further consultation, it was brought to the attention of the committee that references to accessible housing standards be changed. Mr Eric Martin of Eric Martin and Associates, who specialise in accessible architectural design, raised the issue. The committee took this under advisement and recommends that ACTPLA consider whether references to accessible housing standards should be replaced with accessible housing standards AS 1428. As with the first recommendation, the committee also requested that the Minister for Planning report to the Assembly on the results of this consideration when tabling the recommended final variation in the Assembly.

The final recommendation by the committee is that the word "objectives" in the proposed amendment to the territory plan for area A11 be replaced with the word "controls". In doing this, the committee feels it would be then correctly referred to the current unnumbered controls in the territory plan part B1 rather than a single objective in the area of specific policy. As committee chair, I would like to thank those involved in the consultation process, particularly the committee office and secretary, Hanna Jaireth. Thank you.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Report 14

MR GENTLEMAN (Brindabella) (12.06): I present the following report:

> Planning and Environment—Standing Committee—Report 14—*Draft Variation to the territory plan No 214—Village of Hall*, dated August 2005, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR GENTLEMAN: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR GENTLEMAN: I move:

> That the report be noted:

The minister referred a copy of DV 214 to the committee for consideration and report on 31 May 2005. Draft variation for the territory plan 214, village of Hall, was considered by the committee at meetings held in June, July and August of 2005. The committee called for consultation into the proposed variation from the Conservation Council of the South East Region and Canberra. The Canberra Ornithologists Group, the Friends of

Grasslands, CSIRO research scientist and orchid expert Mr David L Jones, the ACT Commissioner for the Environment, and the Australian Plant Conservation Network. There were also discussions with the Hall cemetery management group and the chair of the cemeteries board, Mr Bob Smeaton, in relation to the expansion of the Hall c cemetery and the site of the rare orchid species.

The village of Hall master plan was completed in May 2002. This was taken into account during the proposed variation of the territory plan. The master plan's main aim was to establish strategies to protect the Hall village and its uniqueness. It was developed in conjunction with the local community and was based on a synthesis of current analysis and community views. The current territory plan is not in complete harmony with the Hall village master plan and therefore the proposed variation will help to amend this.

The first part of the proposed variation is to change the land use policy for part of Kinlyside from residential to hills, ridges and buffer areas policy. This will help to maintain the rural aspect and outlook of Hall village. The Conservator of Flora and Fauna agrees with the maintaining of these blocks in Kinlyside, as they contain areas of yellow box, red gum and grassy woodland. The conservator has also advised the committee that these areas can be appropriately managed through land management agreements.

The most significant changes to the village of Hall are that of the expansion of the Hall cemetery. The Hall cemetery has areas where rare species of orchid grow, and this makes it difficult for further burials in the cemetery. In the briefing to the committee, the conservation council has informed the committee that future burials should be strictly limited to the existing cemetery site because of the threat to the endangered Tarengo leek orchid and the very high quality grassy woodland understorey.

The committee recommends that a new site for burials on blocks 310 and 312, which are adjacent to the current Hall cemetery, be made available at the earliest opportunity. It also recommended that no further burials take place in the current Hall cemetery except in compliance with the Environment Protection and Biodiversity Conservation Act 1999—the commonwealth act—and/or the ACT Nature Conservation Act of 1980 and the Hall cemetery management plan. As previously mentioned, the committee recommends that Environment ACT consider planting locally provenanced appropriate species such as yellow box and red gum trees and understorey and ground layer grassy woodland species on sections 310 and 312 to create a landscape which is similar to that of the existing Hall cemetery.

During consultations on this draft variation, it was unclear as to whether the Hall village will adapt the same level of sustainability definitions and principles as are apparent for other rural villages such as Stromlo and Uriarra. The committee is aware of the planning systems reform project that is considering the ACT government's proposed sustainability definitions in the territory's planning and land administration system. The final recommendation from the committee is that the territory plan reform project considers the need for a clear and consistent articulation and application of sustainability principles applicable to rural villages in the ACT in the revised territory plan.

Again, as committee chair, I would like to thank all those involved in the consultation process, particularly the committee office and secretary, Hanna Jaireth. Thank you.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report 13

MR STEFANIAK: I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 13, dated 9 August 2005, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 13 contains the committee's comments on 36 pieces of subordinate legislation and four government responses. The report was circulated to members when the Assembly was not sitting and I commend the report to the Assembly. There is I think, at least in one instance there, a fairly major recommendation in relation to one of the bits of subordinate legislation, which I certainly hope the government can take on board to alleviate the problem that arises there.

Legal Affairs—Standing Committee
Scrutiny report 14

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 14, dated 15 August 2005, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 14 contains the committee's comments on 16 bills and three government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Sitting suspended from 12.12 to 2.30 pm.

Questions without notice
Health—asthma

MR SMYTH: My question is directed to the Minister for Health and relates to the asthma treatment services in the ACT. A recent report noted that Australia still has some of the world's highest rates of asthma and it is recognised as a national health priority. It is well recognised that education for sufferers is vital in the management of the disease. A constituent has informed me that the Calvary Hospital no longer has any asthma educators and no longer runs an asthma clinic. Is it the case that Calvary has scrapped its asthma clinic and no longer has the asthma educators? If so, why?

MR CORBELL: I have received representations on this issue in the last couple of months. I will check the record; I think it was from the constituents themselves rather than from Mr Smyth. I do not think that Mr Smyth has previously raised this issue with me, although I will need to check.

My understanding is that asthma services are now delivered through a much wider range of mechanisms than previously existed. Indeed, the important thing to look at here is the level of presentations for asthma-related conditions at emergency departments in Canberra. We have seen a very significant reduction in the number of presentations to emergency departments in Canberra due to asthma-related conditions.

That is in my view, and on the advice of my department, a very clear indicator that the more comprehensive range of asthma education now being undertaken—rather than having asthma education in the emergency departments or in the hospitals themselves—is making the difference. The level of presentation, and therefore the effective management of asthma-related conditions, has been improved because of the alternative arrangements in place.

I am happy to take on notice the detail of those changes and provide them to Mr Smyth and to members. But I stress that, firstly, there has been no recent change in asthma education. Indeed, these changes have been in place for some time—certainly well over a year; in fact, I think it is much longer than that. Secondly, the level of presentation of asthma-related complaints in emergency departments has dramatically decreased over that same period. To me, this indicates that people are getting the assistance they need in managing their asthma conditions better, and that is leading to less need to present to emergency departments in the first place.

MR SMYTH: Mr Speaker, I have a supplementary question. Minister, in light of your answer, could you please provide the Assembly with the figures for presentation, say for the last 12 months since the changes have been made?

MR CORBELL: Again, I have to clarify to Mr Smyth that, to the best of my recollection, that is the time period. But I have a feeling it may be longer than that, so I will get the full details for Mr Smyth and provide that information to him on notice.

Education—enrolments

DR FOSKEY: My question is to the Minister for Education and Training. The recent announcement that the ACT government plans to build a state-of-the-art school in west Belconnen has generated considerable concern regarding school closures. The projected capacity of the new school is 1,500 students, preschool to year 10. We have been told that the only schools that will close are Ginninderra district high and Holt and Higgins primary schools. Before the government even starts obtaining projected school enrolments for 2009, the total number of students who would otherwise attend Ginninderra district high and Holt and Higgins primary schools is just 501.

Can the minister please detail where the additional 1,000 students are expected to come from to attend the new school and give us an idea of what impact this is likely to have on other local schools and preschools?

MS GALLAGHER: I thank Dr Foskey for the question. The demographic data that we have on the high school is that there are around 936 government high school students in the catchment area for Ginninderra high school, of which only a very small proportion, around 20 per cent, are attending the local high school. The demographic data is there to support the enrolment of cohort students, with 100 in the preschool, around 408 in the primary school, around another 400 in the middle school and a smaller number for the secondary component of the years 9 and 10 school. This data is projected. We have the enrolment data there.

As the government has made it clear, this will mean the closure of Ginninderra district high as it is, if this proposal is supported, along with the two preschools at Holt and Higgins and the feeder primary schools at Holt and Higgins. Based on our data, they are the schools that will be impacted most severely by this proposal and would ultimately require their closure should the new school be built, as the government has proposed.

Of course, there is further development in Holt that is planned and the development in the Molonglo Valley, and all the demographic data that we can use and project into the future has been used in those projections. But we are currently putting together a whole range of information to provide to the community, as was requested at a public meeting I attended in July. We are happy to make that information available. We are in the process of putting it all together, answering some extensive questions from individual community members at the public meeting that night and requests for information that the P&C has now requested of the government. The numbers are there. It is clear that we can support a school of this size in that area. We are happy to provide that information to the community.

DR FOSKEY: Can the government guarantee that there will not be other school closures in the west Belconnen area as a result of this school?

MS GALLAGHER: I don't think any government can guarantee that there won't be any school closures anywhere. I think it would be disingenuous of me to stand here and say that that would be the case. I have always been clear that the issue of projected enrolments, the cohorts of students, the declining number of students and the increasing number of schools will mean that this issue will need to be looked at by any person that is in my job. If Mrs Dunne is ever lucky enough to hold my position, this will be an issue that she will have to deal with. Whilst it would probably be easier for me to say, "Yes, I can rule out any further school closures," that would not be the case.

I know there has been some misinformation put around, particularly by the opposition, that other school closures are planned—other primary schools in that area and other high schools in that area. Unfortunately, it has caused a whole load of community anxiety around those schools when our information is clear: the planned school will not result in the closure of the number of schools that have been listed in opposition media releases, such as, I think, Latham, Fraser, Melba, causing all the parents, students and teachers who are currently at those schools enormous concern. That is not the government's decision; it was not what this decision was based on.

I can't sit here and say there won't be any further closures of schools in west Belconnen. Certainly, on the information that we have available to us, if this proposal goes ahead, it

is Holt and Higgins preschools and primary schools that will be impacted upon and, of course, the current Ginninderra district high school.

Schools—West Belconnen

MS PORTER: My question is to the Minister for Education and Training. As was mentioned, on 20 July she announced the government's proposal to build a state-of-the-art, $43 million P-3 school in West Belconnen, subject to a six-month consultation period. Will she give some details of what forms of consultation are under way?

MS GALLAGHER: I thank Ms Porter for her question. It is very important that we have an accurate record on the consultation processes already under way and those available to people should they choose to get involved. An extensive community consultation process is currently being conducted on the proposed new school. Already we kicked that off with a community forum at Ginninderra District High School in July. That was attended by several hundred members of the local community, who took the opportunity to come and raise their views directly with the government.

The further opportunities from that meeting are many and varied. We have implemented as many different channels as possible for people to provide their feedback on the proposal. Electronic feedback methods have been set up, with members of the public able to provide feedback at the Department of Education and Training web site and via email. The web site has received a lot of interest, ranging from individual questions from students and families seeking very specific information on subject selection to people wanting to ensure their children can be enrolled in the new school. We also have available officers at Canberra Connect to answer questions around the proposal when the community chooses to contact them over the telephone or on their web site.

Specific community forums are also being organised to ensure that no personal group is not able to offer their views. Today the minister's youth council and the youth policy group will meet to discuss the proposal from the view of the wider community of young people in the territory. Tomorrow ACT community councils will meet to discuss the idea. In coming weeks the Belconnen Community Council will be hosting a special meeting for residents and the Belconnen Community Service and Unitingcare Kippax are also arranging a forum.

Last week, invitations went out to over 90 businesses in the area inviting them to a breakfast meeting on 22 August and another whole-of-community forum—which I instigated at the end of the public meeting in July—will be held on 14 September to provide feedback to the issues raised and questions asked of me at that meeting. We took away many suggestions from people, certainly people who stayed behind after the meeting to ask me specific questions. All of those issues have been taken on board and fed through the department, and we will be responding to every one of those issues that have been raised with us.

So this is a genuine consultation period. The government has put out a proposal. It has put to the community the difficult issues surrounding Ginninderra District High School and the wider West Belconnen community. We put to the community our solution that we think will deliver the results we want to see educationally in that area. Of course, that is the proposal to re-invest $43 million into the community by way of a fantastic new

school. The most expensive school ever built in Canberra will be for the benefit of West Belconnen residents. We are very proud of that. We think it is a fantastic initiative. This school will be able to offer the most modern facilities, the latest technology, specialist teaching spaces and a rich and varied curriculum. I have heard many people say it is not the bricks and mortar that provide children with an education, it is teacher quality and teacher standards. But providing a fantastic environment for children to learn in and teachers to teach in can only support improved educational outcomes, and that is what we are talking about here.

Each student cohort in the proposed new school will have their own individual teaching area, purpose-built middle school for students in years 6 to 8, assisting them to make the transition from primary to high school. Already this method has been used successfully across Australia. Research shows that the great continuity, increased partnerships, lasting relationships and flexibility provided by middle schooling results in better educational outcomes for students involved. This method of schooling is not based on the American model, as some have erroneously suggested. Rather than a super school, it is four small community schools of different age cohorts on the one campus. The government believes this opportunity should not be confined to new suburbs like Amaroo but should be available to those in long-established areas of the city.

Initial feedback has shown that the people of Canberra are interested in the proposal. Many are excited about the re-investment in education and in the Belconnen community, but that is not to say that there are not members of the community and certainly young people, particularly those attending the current Ginninderra District High School, who have some concerns around the government's proposal, and that is what this six-month period is all about. It is about listening to those concerns, addressing them where we can and, at the end of it, making a decision on the new school.

Mrs Dunne: You have already made the decision.

MS GALLAGHER: No, we have not, not on the new school.

MR SPEAKER: Order! The minister's time has expired. Order, Mrs Dunne!

MS PORTER: I ask the minister a supplementary question. She mentioned the benefits of the middle school that the new school will encompass. Is this the first time a school with years P-10, along with middle schooling, has been introduced in the ACT? If not, is the minister aware of the opposition's position on this issue?

MS GALLAGHER: As I have already said a number of times, this method has been used across the ACT for some time. A new purpose-built school taking in preschool to year 10 students is in operation at the Amaroo school. Gold Creek school uses this method, as do Wanniassa and Telopea Park schools. However, given recent comments from the opposition on this issue, I must give credit where it is due, for it originally supported this idea and this style of infrastructure to support teaching and learning outcomes in the territory. In fact, I have to give credit to the former education minister, Bill Stefaniak, who originally supported the idea to build a new school on this model in Amaroo. On 13 February 2001, he said:

> The school will be modelled on the Gold Creek K-10 school. It will provide a … facility to cover K-5, a purpose-built middle school covering Years 6 to 8, and a high school for the remaining years …
>
> I reject any suggestion that this government has either delayed or neglected the educational needs of Gungahlin students. Far from it. I think you just have to look at the Gold Creek school to see what an excellent facility it is.

We have merely followed Mr Stefaniak's lead on this and supported his view that excellent facilities can be provided in this way. This leaves me a little confused about the current opposition's education policy. As the shadow education minister quoted in the *Canberra Times*, she is not convinced on the available evidence that the P-10 model is the best for all students. She said:

> For years and years we have been extolling the virtues of diversity in our education system, big schools, small schools, all to be thrown out for a one-size-fits-all system.

This shows another example of members of the opposition not being able to agree on whether they like middle schooling or not, and whether they support bright, new futures for children and new schools for areas to improve educational outcomes. Part of the problem might be that Mrs Dunne does not appear to be sure what she thinks from day to day. In an interview on 2CC on 2 August she suggested what a better approach might be:

> The research across the world says there are optimum sizes for schools and what you need to do if you have large schools is to break these down into schools within schools.

We agree with Mrs Dunne. It sounds very similar to what we are proposing—four schools of a modest size on the one campus: a preschool, that is No 1 school, for 100 students; a K-5 primary school for 480 students; a middle school for 540; and a high school for 360 year 9 and 10 students. So there we have it: schools within schools on the one campus—the way of dealing with large schools when you need to break them down.

This is an example of where there is inconsistency from the opposition on this issue. We have heard Mrs Dunne say she thinks Ginninderra District High School should close but, in line with Liberal Party policy on this matter, no replacement is offered, no solution is offered, no re-investment in the community is offered. There is no focus on better educational outcomes for children in that area, no investment from the Liberal opposition, which is just out there spoiling the issue, creating anxiety amongst school populations, letting them know they will be closed if this goes ahead. What a load of rubbish that is. That is not the case. The government has been honest from the beginning on this issue. We have put our cards on the table. We have been clear about what our solution is to the issues at West Belconnen, and we have just left members of the opposition over there flaying amongst themselves and disagreeing.

Policing—trail bikes

MR PRATT: My question is to the police minister, Mr Hargreaves. Minister, on 2CC radio this morning you said that you were alarmed at the deep frustrations expressed by a

number of people concerning a litany of illegal activity by riders on high-powered trail bikes along bike paths and the lack of a police response in the Melba/Flynn/Spence area. Furthermore, it was distressing for the rest of us to hear residents reporting on radio this morning that police had informed them that they cannot respond to such calls due to a lack of police and resources.

Minister, do I need to remind you that I wrote to you in May and July about exactly the same issue and you told me that police were actively aware of illegal motorbike activity in those areas? Mr Speaker, I seek leave to table my letters to the minister and his responses to me.

Leave granted.

MR PRATT: I table the following documents:

> Illegal riding of trailbikes/motorbikes on footpaths in Melba—Copies of—
>
> Letters from Mr Pratt MLA to Mr Hargreaves MLA (Minister for Police and Emergency Services), dated—
> 30 May 2005.
> 19 July 2005.
>
> Letters from Mr Hargreaves MLA (Minister for Police and Emergency Services) to Mr Pratt MLA, dated—
> 11 June 2005.
> 3 August 2005.

Minister, why did you feign alarm this morning when you should know full well the circumstances of this issue and know full well that Belconnen police station is straining to cope with a lack of numbers to look after this area and Gungahlin?

MR HARGREAVES: Mr Pratt has just tabled the letters that I received from him in May and June of this year. I believe that the Department of Urban Services has actually been out to speak to a constituent in Spence who raised the concerns that Mr Pratt further raised with me. Mr Pratt, I did not feign alarm.

Mr Pratt: He has been in to see them.

MR HARGREAVES: Mr Pratt interjects. Either he wants to listen to the answer or he does not. I am happy to stand here while he makes up his mind.

Mr Pratt: I am all ears.

MR HARGREAVES: Good. Mr Speaker, I was alarmed to hear one person indicate on radio that there was what appeared to be a real issue at Kaleen/Spence/Flynn; so I undertook also on that program, which Mr Pratt failed to reveal, to find out a bit more about what is going on. The information I have received from the police indicates that they have received complaints and they included the areas of concern in their suburban ownership program. This program ensures that identified hot spots are actually identified to traffic operations in that area and traffic officers actively police that area and take the action necessary to resolve the problems. In other words, they receive priority attention.

The parklands and pathways of north Belconnen have been the subject of specific targeting by police controls. However, it has been difficulty from the point of view that most of the riders are juvenile and are mobile; they quickly flee from the police. Of course, as Mr Pratt would have it, we would fill a police station with people and then folks would ring up and say, "We want a policeman out here fast." So the police would get out there within six minutes or so and, guess what, Mr Speaker? These people are on motorcycles and they are going to sit there and wait for the police to arrive, aren't they! They are going to sit there and just wait for the police to arrive!

Mr Speaker, the police relied on information received from the public and I congratulate those members of the public who contacted Crime Stoppers and gave information—for example, descriptions of the riders, descriptions of the bikes and the time that these events and incidents were happening. What happened, in fact, was that the intelligence-driven policing process then started to predict when these people would appear and I am informed that the police have identified offenders in Spence and Melba and taken appropriate action.

This year, 36 offenders have been identified, charged or cautioned. Four of those have been this month and there were 10 in July. It does not sound to me as though the police are not doing anything, are not applying the right resources. We are talking about significant results here. I would like to thank the residents of the areas in question for their ongoing contact with police and letting them know the descriptions and the like, allowing police to identify those perpetrators. The police and urban services have met to talk about the issues to do with nature reserves and trails and people riding trail bikes on them. Urban services is currently considering erecting barriers in some areas.

Mr Pratt: A long time coming.

MR HARGREAVES: Mr Pratt says that it has been a long time coming. Yes, it certainly has been. For the last 12 months, police have been targeting that area. This year alone 36 offenders have been identified, charged or cautioned. That sounds to me like there has been a result achieved. It does not sound to me as though there is a lack of resources in the area. Mr Pratt could ascertain all of that merely by writing me another letter if he feels he has not been satisfactorily responded to. He does not have to go and make a complete fool of himself in the media.

MR PRATT: I have a supplementary question. Minister, as demonstrated by this issue, why don't the police currently have the resources to respond to community concerns about this type of community safety issue?

MR HARGREAVES: Mr Speaker, you will have to excuse my mirth. I would have thought that the police response to community concerns and community information in the month of July in apprehending 10 offenders was pretty good. I congratulate the police, I congratulate the process that the police are following and I congratulate the community. In fact, I congratulate the partnership between the police and the community, which is addressing this antisocial behaviour. Mr Speaker, I cannot think off the top of my head of how the person opposite me would actually get a better result. I have no idea. I do not know how we could achieve a better result other than, of course, Mr Pratt's favourite one of sticking a police officer at the bottom of every driveway.

Public housing

MRS BURKE: My question is to the Minister for Disability, Housing and Community Services. Minister, further to your attempt on 666 ABC radio on 12 August 2005 to justify that it was necessary to use your "executive authority" to inform public housing tenants, via the departmental taxpayer funded newsletter, of government policy on the delivery of public housing assistance, will you continue to utilise government publications such as the department's newsletter to inform public housing tenants of your political viewpoints and incorrect assumptions of Liberal policy?

MR HARGREAVES: I am delighted with the question, Mrs Burke.

Mrs Burke: I knew you would be!

MR HARGREAVES: I was so hoping you would ask me that.

Mrs Burke: Bet you won your $20.

MR HARGREAVES: I did, in fact. The response I had in that newsletter was to allay fears out there among the public tenants. Now you might say, "All right, prove it." I have already indicated that Mrs Burke has said many times in this place that we should be finding ways to move market renters on—and that is a fact; I am not making something up. How can I retract something that Mrs Burke said on the public record? I am not that good. In fact, in 2001, the then Liberal government removed security of tenure. I am seeking to allay the fears of public tenants.

Mr Speaker, nine members of this Assembly voted to remove that security of tenure, and those nine included Mrs Burke, Mr Smyth and Mr Stefaniak. Do you reckon the public tenants are not a bit worried about this? These people are still here. The removal of security of tenure is Liberal Party policy. What has Mrs Burke, the opposition spokesperson on housing, had to say on this matter? On 6 April 2005 in this place—and just get this one straight—she said the "whole notion of security of tenure is an absolute nonsense", and you wonder why I have to allay their fears. She went on to say that the government ought to "realign public policy in relation to housing"—and you wonder why I have to allay their fears. That is what was important. She said that the government "investigates the merit of income review of Housing ACT tenants". What do her Liberal colleagues have to say on the matter? Back in May of 2002—and I like this one—Mr Stefaniak said, "No-one is suggesting that people who need public housing should not be able to have it." That's the good bit; I like that bit. But this is the bad bit. Mr Stefaniak also said, "That is what security of tenure is all about, but it should not be for life." That is why I was allaying people's fears in my communication with public tenants.

I acknowledge that public housing should be targeted to those most in need and that, if you are above the financial eligibility criteria, you should look seriously at your options around purchasing your property or moving into the private market. There is a considerable logic in that position and I recognise that. But I believe the stronger argument—the one that has to be taken into account at the end of the day—is that security of tenure is important. It is important because people should be able to see their

house as their home. People should know when they move into a house if they are going to be able to stay in that house. That surely is the strongest possible encouragement for people to care for that house, to nurture it, to treat it as their home, to turn it into their home. I think that is the strongest reason for maintaining security of tenure: it is their home.

The former government put in place arrangements requiring the Commissioner for Housing to review the income and assets of public tenants every three to five years. Those tenants who do not meet the eligibility criteria at the time of the review faced having their tenancies terminated. Public housing tenants were thus discouraged from improving their financial situation by actively or fully engaging in the work force. This is a classic poverty trap. The Stanhope government has removed these review arrangements and ACT public tenants can now have the confidence and peace of mind to plan for the future, knowing they have a permanent home. They can actively seek work or better jobs without fear of having their houses withdrawn. This is a good outcome.

MR SPEAKER: Supplementary question, Mrs Burke?

MRS BURKE: Minister, can you justify to the ACT taxpayer your use of a public housing mailing list, normally used by your department for legitimate communication with tenants, to deliver misguided political propaganda—published in a departmental endorsed newsletter?

MR HARGREAVES: The government of the day provides services for people and we also supply, we would hope, secure and safe accommodation in their house. Security and safety go also to the security and safety of their mind and their emotions. There are people out there who are afraid. There are people out there, public housing tenants who are market renters, who have contacted me personally—in fact, while I was at the Erindale shops doing the shopping one of them said to me, 'You are not going to remove the security of tenure, are you Minister?" I said, "No, I am not." They said, "Well, what happens if there's a change of government?" I said, "What will probably happen is that you will go back to the previous regime. But we are not going to do it."

I have had enough of these people asking me that I decided to do two things. One was to tell them where the source of their fear was. I did not say the Assembly, I did not say the Liberal Party; I said the ACT opposition. The ACT opposition are those people over there who are supposedly elected to this place to look after people. It is not their rank and file Liberal Party members; it is those people over there. I want them to know exactly which members of the Liberal Party they are. It is you, Mrs Burke. You lead a cohort of people who are frightening the people and you are providing them with disincentives to build their lives. You are effectively attacking the way in which they are building their lives.

I have no regrets about using a communication mechanism between public housing tenants and me to let them know that they are safe in their houses, that some dark, grim reaper is not going to knock on their door—like what has been happening in the Middle East of recent times—and say, "You've got 48 hours to get out." I am not going to stand by and let people think that this grim reaper over there is going to knock on their door with a scythe in her hand and say, "Sorry, you have to stop feeding the baby now because you have to get out of your house. I am sorry, you have to give your job up if

you want to stay in this house." I am not going to do that. Mrs Burke is going to say, "Think twice before you take that promotion, my son, because if you take that promotion we're going to kick you out of your house." She has said so. She said in May this year, or somewhere there, that this is an absolute nonsense. She is on the public record saying that security of tenure is an absolute nonsense. She is the one that says, "Let's find ways of moving them on." I think having a big scythe at your front door is a pretty good way of moving them on. I do not mind telling every single public housing tenant the actual name of the grim reaper.

Education—preschools

MRS DUNNE: My question is directed to the minister for education. Minister, have you or your department given directives that would prevent principals of non-government schools having access to ACT preschools to advertise their kindergarten enrolment procedures to prospective new students?

MS GALLAGHER: No.

MRS DUNNE: Mr Speaker, I have a supplementary question. Why then, minister, has a Woden preschool recently been reprimanded for displaying kindergarten enrolment information for one of the non-government schools in the area?

MS GALLAGHER: I will have to check the veracity of the allegations that Mrs Dunne is putting forward. We do not automatically assume that what she says is correct, and that a preschool has been reprimanded. I would have to check that that is the case.

I had this raised with me last week in a letter and at the meeting I had with the non-government schools council where they asked me the same question. In fulfilling my duties—as I need to and as I like to—I checked on information with the department about whether such a directive had been given. It certainly had not come from me, so I checked with the department. The advice back was that no such directive had been given.

On one occasion teachers raised this issue with me, and this is what I told the non-government schools last week at a meeting with the education union's council, where they had raised some concerns around the promotion of non-government schools within the government preschool system. Certainly, some teachers at that meeting did not agree that that should be the case.

As to any directive from me or from the department, that has not been issued. If there are any rumblings in the sector, I imagine they are being driven by teachers within the system, or perhaps by the education union. I have not checked whether that is the case with the union. I have undertaken to get back to the non-government schools that are concerned about this.

There is a genuine issue here about the role that government preschools play. We are trying to promote preschool-to-primary links in our government system. Of course, we like children to have a good experience at preschool and then go on to their feeder school. That is the ultimate aim of running a strong and healthy public education system. I have undertaken to get back to those people who are concerned and discuss the matter

with the union, which I believe has some concerns around the material being put up on notice boards.

Forbes global CEO conference

MR MULCAHY: My question is to the Treasurer. From 20 August to 1 September Australia will host the 2005 Forbes global CEO conference in Sydney. It will be a gathering of 300 of the world's most influential decision makers and will provide a wonderful opportunity to showcase the advantages of doing business in Australia. The conference is being held in Australia because Forbes sees it as one of the most sophisticated, skilled and stable places in the world to do business.

Are you aware of the conference? What arrangements have you put in place to court these potential investors?

MR QUINLAN: I have heard of the conference. I didn't know the specific dates of it. Having been away for a month, I will check to see what has been done. I will take under advisement exactly what genuine benefit we can get. There may be some grandstanding value in it, but I would like to think that what we can get out of it if we do become involved is genuine stuff. I will take it on notice.

MR MULCAHY: Will you consider participating, notwithstanding the fact that you have obviously overlooked the opportunity?

MR QUINLAN: The commitment to take the question on notice stands. The only answer I will give you to the second question is: no, I can't go to every conference in Australia.

Planning—Gungahlin

MR SESELJA: My question is to the Minister for Planning. I refer to the Gungahlin swimming pool, which has been identified for a site at Higgerson Street in the Gungahlin town centre. Minister, during the last election campaign, your party's sport and recreation policy stated:

> A site has been identified and planning is well under way for an indoor recreation facility for Gungahlin.

Minister, is it true that, during this planning work, the site has been identified as unsuitable for the planned indoor recreation facility? Where will the Gungahlin indoor recreation facility be moved to if this site is unsuitable?

MR CORBELL: I am not aware that it has been deemed unsuitable, but I can assure Mr Seselja that if it does not need to be moved—and I will take the detail of that on notice—I can tell him where it will be: in Gungahlin.

MR SESELJA: That is a fantastic answer. When can the people of Gungahlin expect to have a pool?

MR CORBELL: The provision of indoor recreation facilities is important for the Gungahlin region. That is why the government has committed to the progressing of the necessary planning work and land release work that are needed to ensure that the site is made available for a private sector operator for an indoor pool and other facilities. I can only reiterate to Mr Seselja that the provision of a site is a priority. Obviously, we don't want to provide a site which is unsuitable.

I have already taken on notice whether or not the site has been deemed unsuitable. I can reiterate the government's commitment to ensuring that there is a site which is available for such facilities in the Gungahlin area.

Disaster planning

MR STEFANIAK: My question is to the Chief Minister. Chief Minister, why has it taken so long for you to complete a proper evacuation plan for the ACT in the event of a natural disaster or terrorist attack when it has been four years since the 9/11 terrorist attacks, almost four years since the December 2001 bushfires, 2½ years since the 2003 bushfire disaster and two years since the Bali bombings?

MR STANHOPE: I thank Mr Stefaniak for the question. I am advised, in fact by Commissioner Peter Dunn, the commissioner for the Emergency Services Authority, that the ACT has the most advanced evacuation procedures and processes in place of any jurisdiction in Australia, bar none. The advice I have from Commissioner Dunn is that we are the only jurisdiction that has in place a disaster response plan or an evacuation plan that gives us the capacity to respond to both natural and man-made—in other words, terrorist—actions within the jurisdiction. We are, indeed, the only jurisdiction in Australia that has entered into memorandums of understanding with all the media represented in the ACT, both public and commercial media, in relation to aspects of the plan, particularly around evacuation.

The detail of the evacuation or disaster response plans that we have is, in fact, of an order that is not in place anywhere else in Australia. I commend the Emergency Services Authority and Commissioner Dunn for the state of preparedness and preparation that we have within the territory in relation to these issues.

MR STEFANIAK: Thank you, Chief Minister. Given that we seem to have a plan, will you table that plan so that the Assembly can see it?

MR STANHOPE: I will take advice from the minister for emergency services. It might not have occurred to the shadow attorney that I am not the relevant minister. I am more than happy to take advice from the minister in relation to that. We will, of course, provide all the information that we have available and that is appropriate for us to table in relation to the issue. I thank the shadow attorney for his very belated interest in the subject.

Economy—employment

MS MacDONALD: My question is directed to the minister for business and economic development. I understand that a recent Australian Business Limited report has revealed

that it is almost 40 per cent cheaper to employ someone in the ACT than in New South Wales.

Members interjecting—

MR SPEAKER: Order! Please. Ms MacDonald has the call. Order!

MS MacDONALD: Thank you, Mr Speaker. Maybe you should point them to standing order 39. Minister, can you please inform the Assembly of the report's findings?

MR QUINLAN: I will read from the Australian Business Limited press release. It states that:

> A detailed analysis of Australia Bureau of Statistics data commissioned by Australian Business Limited has revealed that it is almost 40% cheaper to employ someone in the ACT than in NSW.
>
> The analysis across 14 industry sectors shows that Government taxes and charges cost ACT business $1,630 for every person they employ, compared to $2,628 in NSW.
>
> Australian Business Limited Chief Executive, Mark Bethwaite, released the findings today at a meeting of the Canberra Council of Australian Business Limited.
>
> "On average, ACT employers are paying more than $1000 per employee less in payroll tax and workers compensation premiums than their NSW counterparts," said John Moyes, Australian Business Limited Regional General Manager for Canberra.

In that press release there are some figures that show how favourably the ACT compares not only with New South Wales but also with other states. That is the summary of the survey that Australian Business Limited has done. They make some qualification in relation to manufacturing, and that is in the press release. Those of you who have read our economic white paper from cover to cover will know that manufacturing represents something like two per cent, at best, of the ACT economy.

In terms of the industries that matter and are important to the ACT, this is absolutely good news for the ACT. It demonstrates, of course, that the government is completely on the right track.

MS MacDONALD: Mr Speaker, I have a supplementary question. How does the ABL report compare with other business reports?

MR QUINLAN: I am glad you asked, Ms MacDonald. The Sensis business index Sweeney research of February 2005 states that the ACT is the easiest jurisdiction in Australia to do business in. I repeat: the easiest jurisdiction in Australia.

The National Institute for Economic and Industry Research found that the ACT ranked number one for its knowledge-driven growth potential. Canberra ranked number one in the global knowledge flows indicator, meaning that the ACT has the highest ratio of global knowledge flow workers out of the entire workforce. It also means that the ACT is ranked number one in Australia for its connectedness to global flows of knowledge

and number one in terms of innovative capacity. Before we even came to government, we said we would pursue the ACT as a knowledge-based economy. I am sorry to disappoint Mr Smyth: they did not mention the fashion industry. But you never know; hang in there son.

The KPMG international report on cost competitiveness rates Canberra as amongst the best in Australia and bundles Canberra in the group of emerging cities that are rising stars in growth potential. That is the Canberra of today; that is Canberra under this government's economic white paper; and that is Canberra under our pursuit of a knowledge-based economy, and an enterprise and innovative economy. Those results will be realised. Again, sorry Mr Smyth, KPMG did not get to the fashion industry.

Water—Canberra supply

MR GENTLEMAN: Chief Minister, in light of the good rainfalls over the last three months, could you update the Assembly on the status of ACT reservoirs?

MR STANHOPE: I am very happy to do that. I think members, along with the rest of the Canberra community, would be taking a very fine interest and detailed interest in our rainfall. I confess that there are times these days when the first part of the paper I turn to is the daily assessment of rainfall and dam levels. It is becoming a very significant part of the daily news and information for all of us. I am very pleased with the rain we have had over the last two months—73 millimetres in June compared with the long-term average of 39.9 and 86.4 millimetres in July compared with the long-term average of 41. We have had 34.4 millimetres of rain so far in August compared with the long-term average of 47.

Of course, those amounts of rainfall are recorded at Canberra airport. It is not rain that falls within our catchments, which, unfortunately, does tell a very different story. Often the rain that falls at Canberra airport is double or more that for the Cotter catchment and often half or less than half of the rainfall at Canberra airport falls within the Googong catchment. That, of course, represents some of the great challenges we face in relation to water. That is reflected very much in our water storage levels at the moment but, once again, the trend certainly is very pleasing.

In just the last two weeks our dam levels have increased from 51 per cent to 55 per cent as of today, increasing from 42 per cent as at 1 July. There have been very significant increases in storage over the last six to eight weeks; in fact, an increase of 13 per cent in that time in our total dam storage. The Cotter is full but is a small dam, our smallest at just five gigalitres. Bendora Dam is currently at 93.8 per cent and Corin is at 78 per cent.

The issue for the territory, and it is something we have been very conscious of over the last three years, is that in the time that our total storage capacity has increased by 13 per cent, in the last few weeks, the level within Googong has increased by just one per cent. Our dam levels now overall are at the highest they have been since 2003; indeed, the highest they have been at this time of the year since 2002. Of course, those numbers indicate that, despite these very pleasing increases in the trend, this is not a total answer to our long-term water supply needs.

I think it is important that we note that our capacity to capture and treat water is, however, at the highest it has ever been. That is as a result of fantastic work that Actew and ActewAGL have undertaken over the last 18 months in the upgrading of the water treatment plants at both Googong and Mount Stromlo for an investment in the order of $60 million. As a result of that upgraded capacity we can now treat water that until then we simply did not have the capacity to treat, which means we can now again take water from the Cotter Dam. We have also placed a pump in a sump which was constructed for the purpose in the Murrumbidgee River. We have not at this stage sourced water from the Murrumbidgee River but, if required to do so, we could now do that.

The latest of the projects that ActewAGL has embarked upon is, of course, the construction of an enhanced reticulation system from the Cotter system to the Googong Dam so that we can transfer water from that catchment, which is performing particularly well, to the Googong Dam to provide for a greater level of water security for the ACT through a capacity to utilise Googong Dam as a major water storage.

MR GENTLEMAN: I have a supplementary question, Mr Speaker. Chief Minister, on the progress of the ACTEW project to transfer water from the Cotter catchment to the Googong reservoir, what are the likely implications for future water restrictions?

MR STANHOPE: Thank you, Mr Gentleman. I did touch briefly on the reticulation system. Once again, it is a great piece of lateral thinking and engineering by Actew and ActewAGL around dealing with the issue of our catchment and our water supply. As I just indicated, we are in a situation now where our Cotter dams are performing particularly well, with Cotter and Bendora essentially full. Corin, a fairly large dam, is on 78 per cent but Googong is on 37 per cent. Through a reticulation system, accepting that we have pipes connecting the Cotter dams to the Googong Dam, because we of course alternate between the dams, the whole of the Canberra system is essentially connected. As a consequence, we now have a capacity to transfer water from the Cotter system to the Googong Dam. That system commenced last week.

At this stage, 20 megalitres a day is being pumped from one system to the other so that that excess water can be stored in the Googong Dam. Of course, and it does not need to be said, in making these arrangements, we have taken full notice of our environmental flow requirements and the transfer of that water certainly does not impinge on them, nor will the transfer of up to 150 megalitres of water a day from the Cotter system to the Googong. We hope that will commence in the next eight to 10 weeks, when ActewAGL completes the installation of a major new pipe bypassing the treatment works at Googong. That will allow us to increase the daily transfer of 20 megalitres to 150 megalitres a day. It is interesting to note that that 150 megalitres, over the space of a year, averages out at our average daily annual consumption. It is about 110 in winter and gets up to over 200 in summer.

With that 150-megalitre capacity, we do have an enormous opportunity to enhance Googong or keep the Googong Dam reasonably full. In fact, Actew, on its predictions and modellings, believes that within three years, even if it did not rain within the Googong catchment again, we could maintain the Googong Dam at about 85 per cent of capacity. Acknowledging that Googong constitutes about two-thirds of our overall storage capacity, that is particularly significant. The consequence is that this allows us to

give real consideration to existing restriction regimes. This is an issue for Actew. We are currently on level 2 restrictions and Actew will be deciding, or announcing, I think within the next week, its decision in relation to spring—whether we remain at level 2 or go to level 3.

I note comments from Mr Mackay last week suggesting that he would be surprised if there were any need now to go to level 3 restrictions, as a result of the enhanced rain and the reticulation capacity—a reticulation capacity which, within the next couple of months, will be significantly enhanced to the tune of 150 megalitres. It begs the question for the future—it would be fantastic if we could be assured that we will not have to go to level 3 restrictions over this summer, with this capacity and this security that we now have through these steps that have been taken—and leads us to address the next major issue facing the community. That is a need for us to determine never to return to the culture around water use in Canberra that prevailed in the past and is in the history of many of us. We need to put in place a permanent, so-called, restriction regime that reflects our determination to change the way in which we use and value water. This is very relevant to the decision the government will take shortly in relation to the long-term security needs. It also allows us to smile ruefully at the lengths to which the Liberal Party has gone—particularly the shadow minister for the environment, who has marooned herself as the "dam or die" or "dam or bust" party. I recall with some wry amusement that before the last election Liberal Party policy was that, if elected, they would commence construction of a dam the day after the election. I remember the promise.

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

Supplementary answer to question without notice
Quamby Youth Centre

MS GALLAGHER: Mr Speaker, on 29 June, Mr Stefaniak asked me a question about the breakdown of all the costs related to the new demountable building at Quamby. As I said on 29 June, we agreed with the Queensland government on a price of $90,000 for the transportable and contract documentation is being finalised. The relocation of facilities, which includes transport, associated works, disassembly, reassembly and making good, that is, re-establishing internal finishes after transporting, upgrading as necessary, re-establishing security and refurnishing, is the subject of a tendering process. I will advise the Assembly progressively as the tender process rolls out and contracts have been made with successful tenderers in relation to the transportable facility.

As I indicated on 29 June, the expected final cost projection for this work is approximately $1.6 million. In relation to other upgrades at Quamby, a budget of approximately $1.9 million has been established for improvements to the existing facilities, for improvements to residential areas, for upgrading of the administration building, for improvements to security and communications, and for external landscaping, including safety works, and an Aboriginal ceremonies area.

Attorney-General
Motion of censure

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs): I made comments

this morning in the censure debate about wrongful dismissal payments that the government had made. Mrs Burke approached me in the corridor after my speech insisting that what I said was false.

MR SPEAKER: You will need leave to raise the issue.

MR STANHOPE: I just want to table a document.

MR SPEAKER: You can table a document.

MR STANHOPE: I indicate to Mrs Burke that the information I was relying on was from the *Canberra Times* and that, in fact, what I had said was quite consistent with what I read in the *Canberra Times*. I made the point that—

Mrs Burke: You did not say that, Mr Stanhope.

MR STANHOPE: Yes, I did.

MR SPEAKER: Order!

MR STANHOPE: I table the following document:

Mrs Burke MLA—Extract from *Canberra Times*, Saturday, 28 February 2004.

Papers

Mr Speaker presented the following papers:

Study trip—Report by Mrs Jacqui Burke MLA—Sydney, 28 and 29 April 2005.
Quarterly travel report—Non–Executive MLAs—1 April to 30 June 2005.

Executive contracts
Papers and statement by minister

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

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
- Long-term contracts:
  - Mark Kwiatkowski, dated 1 August 2005.
  - Michael Zissler, dated 3 August 2005.
  - Neil Bulless, dated 30 June 2005.
  - Sue Hall, dated 28 June 2005.
- Short-term contracts:
  - Alan Phillips, dated 26 and 27 July 2005.
  - Andrew Taylor, dated 1 July 2005.
  - Brett Phillips, dated 27 June 2005.
  - Bronwyn Webster, 8 July 2005.

Clare Wall, 23 June 2005.
Daniel Stewart, June 2005.
Elizabeth Kelly, dated 28 June 2005.
Frank Duggan, dated 8 July 2005.
Glen Gaskill, dated 24 and 27 June 2005.
Jason Hitchick, dated 8 July 2005.
Leanne Power, 17 June 2005.
Martin D'Este, dated 31 July 2005.
Pam Davoren, dated 2 June 2005.
Paul Wyles, 25 July 2005.
Robyn Hardy, dated 30 June 2005.
Roger Broughton.
Ronald Weston, dated 22 June 2005.
Roslyn Hayes, dated 22 June 2005.
Sue Marriage, dated 22 July 2005.

Schedule D variations:
Brett Phillips, dated 27 June 2005.
Christine Healy, dated 25 July 2005.
Diane Spooner, dated 27 June 2005.
Elizabeth Kelly, dated 27 June 2005.
Greg Ellis, dated 4 and 6 July 2005.
Ian Primrose, dated 27 July 2005.
Jenelle Reading, dated 7 July 2005.
Megan Douglas, dated 29 July 2005.
Megan Smithies, dated 21 June 2005.
Philip Mitchell, dated 4 and 6 July 2005.
Roger Broughton.
Stephen Ryan, dated 19 and 21 July 2005.
Sue Dever, dated 16 June 2005.

I seek leave to make a statement in relation to the papers.

Leave granted.

MR STANHOPE: These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act 1994, which requires the tabling of all executive contracts and contract variations. Contracts were previously tabled on 28 June 2005. Today, I have presented four long-term contracts, 19 short-term contracts and 13 contract variations. The details will be circulated to members.

Paper

Mr Stanhope presented the following paper:

> Administrative arrangements—Administrative Arrangements 2005 (No 3)—Notifiable Instrument NI2005-153 (No S3, Friday, 1 July 2005).

Legislation program—spring 2005
Paper and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs): For the

information of members I present the following paper:

Legislation Program—Spring 2005, dated August 2005.

I seek leave to make a statement in relation to the paper.

Leave granted.

MR STANHOPE: Mr Speaker, I am pleased to present the government's legislation program for the spring 2005 sittings. Since re-election, the government has continued to implement the policies for which it was returned. In this regard, the government will work further on the many achievements already made to date while maintaining a strong focus on substantial reforms and responsible governance. We will do this while also looking to be economically, socially and environmentally responsible in the current tight budgetary circumstance, yet still being responsive the needs of the ACT community.

Mr Speaker, in the time available, I can outline only briefly some of the legislation that the government will introduce during the spring 2005 sitting period. Given the present challenging economic and financial climate, we will strive to improve the territory's economic performance by further enhancing financial measures and addressing better efficiencies and effectiveness. Chief among these will be new legislation to amend ACT taxation laws and for increased accountability arrangements, including performance management reforms.

Firstly, the government will introduce the Revenue Legislation Amendment Bill 2005 (No 2) as part of a continuing program of omnibus bills to amend ACT taxation laws. This will improve administrative efficiency and generally protect the revenue base. It will effect three particular improvements to the administration of ACT taxes: assessment of duty on the purchase of new vehicles is to be made easier; liability for insurance duty is to be better defined; and debt collection options available to the revenue office are to be made clearer.

Amendments will be introduced to the Financial Management Act 1996 which will provide standardised and improved governance arrangements for selected statutory authorities. New and amended provisions will replace specific outdated provisions contained in the enabling legislation of various statutory authorities. It will also extend the appropriation framework to include payments to statutory authorities. Minor administrative amendments are also included for improving the application of the act.

The government will introduce a bill to amendment the Hotel School Act 1996, as the Treasurer has indicated, to make provision for all the undertakings of the Australian International Hotel School to be vested in the territory as of a certain date. It will enable the territory to sell the undertakings of the Australian International Hotel School to a private sector entity.

This government strongly believes in human rights and the need to protect all ACT citizens. Legislation is to be brought forward that will standardise and simplify search and seizure powers currently operating in the ACT. Whilst the functions of inspectors are often quite similar, for many years now slightly different powers have been made each

time a new inspectorate function has been created. Over time, this had led to a wide variation between different inspectorate powers.

It is opportune therefore to look at reviewing, simplifying and, where possible, standardising these powers within a human rights perspective. The powers of inspectors are very important powers but they are also compulsive and involve a degree of intrusion and, in some cases, seizure of goods without compensation. The Human Rights Act provides a basis upon which competing interests that need to be taken into account can be reconciled to produce a best practice model for search and seizure powers that balance the needs of the community with the human rights of individuals.

A bill will be introduced to amend the Health Records (Privacy and Access) Act 1997 to address some practice issues that have arisen since the act was passed some nine years ago. The amendments will also bring the ACT legislation into line with developments in anticipation of the implementation of a national health privacy code.

Protection of the rights of workers is also important, with the government being committed to improving the effectiveness of the private sector workers compensation scheme applying in the ACT. The Workers Compensation Amendment Bill 2005 (No 2) will bring together the administration of safety net provisions that ensure access to compensation in cases where insurance coverage has not been maintained or an insurance company is unable to meet the costs of claims. The bill will also improve access to injury management processes and information about the compulsory insurance coverage that is held by employers.

As part of progressing towards the establishment of a dragway in the ACT, the Motor Sport (Public Safety) Bill 2005 is to be introduced. It will establish a risk and insurance mechanism for the proposed dragway. It will provide adequate protection for patrons, liability management for the operators of the premises, an improved likelihood that the operators will be able to secure accreditation by the Confederation of Australian Motor Sport, and access to insurance products and associated risk management frameworks.

To help make Canberra roads safer, legislation will be proposed to provide a nationally consistent and best practice legislative scheme to improve compliance with and enforcement of the road transport laws for heavy vehicles.

Members are already aware that I intend to introduce a third justice bill later this year to provide for imprisonment and remand. This third bill will set out the powers and functions of the prison, the remand centres and the periodic detention centre. The three bills will be the body of ACT law that covers sentencing, from conviction to fulfilment of a sentence.

The government has a strong commitment to children and family and will continue its promotion of the care, protection and education of children and young people. To follow up on this, phase one amendments to the Children and Young People Act will be brought forward to regulate children's services and employment and to provide for the care and protection of our children and young people.

Amendments to the Education Act 2004 also will be introduced. One amendment reflects the considerable work by stakeholders in developing an agreed policy stance on parental

contributions to schools. This amendment will ensure that all students will continue to have free access to government school facilities and will be able to make curriculum choices regardless of their capacity to pay, while providing opportunities for additional specific optional services such as overseas excursions.

A number of minor and technical amendments to the Education Act will be introduced which will clarify the intent of the legislation and address incompatibility within the act. These changes will make the legislation more accessible and easier to use. It will demonstrate how the act is not a static document but is able to meet issues as they arise in order to support the provision of high quality education for students in the ACT.

The government has a proven track record also for supporting older Canberrans. Proposed amendments to the Powers of Attorney Act 1956 will implement relevant recommendations for changes to the powers of attorney regime made by the Standing Committee on Health and Community Care in 2001 in its report on elder abuse and the outcome of the review of the substitute decision-making scheme undertaken by the government. The amendments will update the legislation to regulate substitute decision-making instruments, including powers of attorney and advanced health directives, particularly in line with changes made to corresponding legislation in other Australian jurisdictions.

The protection of both the urban and the natural environment of the ACT is a further priority for the government. The government is to amend the Roads and Public Places Act to provide three-year lease permits for outdoor cafes and markets and to give explicit authority to paint over illegal graffiti.

Adequate provision is to be made for the welfare of animals, be they domestic stock, companion animals or native fauna. The government will establish a new offence under the Animal Welfare Act 1992 for reckless or negligent behaviour that causes serious harm or death to an animal. The new offence will send a strong signal that animal cruelty in any form is a particularly abhorrent act. It will also accommodate agreed amendments recommended by the Animal Welfare Advisory Committee following its review of the Animal Welfare Act. Some minor administrative matters identified in the national competition policy review of the act also will be addressed.

Mr Speaker, those are just a few of the initiatives proposed in the government's spring legislation program. This will carry on the government's work in addressing Canberra's priority issues and for responding to community needs and concerns. I look forward to having the cooperation of all members in the timely consideration of these bills.

Papers

Mr Stanhope presented the following paper:

> **Petition—out of order**
> Pursuant to standing order 83A—Petition which does not conform with the standing orders—
> Proposed dragway—Majura Valley—Mr Stanhope (1,516 citizens).

Mr Quinlan presented the following papers:

Financial Management Act—

Pursuant to section 15—Instrument directing a transfer of funds between output classes within the Chief Minister's Department, including a statement of reasons, dated 28 and 29 June 2005.

Pursuant to section 16—Instrument directing a transfer of appropriations from the Department of Urban Services to the Chief Minister's Department, including a statement of reasons, dated 1 July 2005.

Pursuant to section 17—

Instrument varying appropriations relating to Commonwealth funding to ACT Health, including a statement of reasons, dated 29 June 2005.

Instrument varying appropriations relating to Commonwealth funding to the Department of Education and Training, including a statement of reasons, dated 29 June 2005.

Instrument varying appropriations relating to Commonwealth funding to the Department of Urban Services, including a statement of reasons, dated 29 June 2005.

Pursuant to section 18A—Summary of authorisation of total expenditure from the Treasurer's Advance in 2004-05.

Pursuant to section 19B—

Instrument varying appropriations related to COAG Illicit Drug Packages—ACT Health, including a statement of reasons, dated 29 June 2005.

Instrument varying appropriations related to the Natural Disaster Mitigation Program and the Bushfire Mitigation Program—ACT Forests, including a statement of reasons, dated 29 June 2005.

Instrument varying appropriations related to the Natural Disaster Mitigation Program and the Bushfire Mitigation Program—Chief Minister's Department, including a statement of reasons, dated 29 June 2005.

Instrument varying appropriations related to the Natural Disaster Mitigation Program—Department of Urban Services, including a statement of reasons, dated 29 June 2005.

Pursuant to section 19F—

ACT Emergency Services Authority, including a statement of reasons, dated 29 June 2005.

ACT Forests, including a statement of reasons, dated 29 June 2005.

ACT Health—Departmental, including a statement of reasons, dated 29 June 2005.

Chief Minister's Department, including a statement of reasons, dated 29 June 2005.

Chief Minister's Department—Territorial, including a statement of reasons, dated 29 June 2005.

Department of Disability, Housing and Community Services—Departmental, including a statement of reasons, dated 29 June 2005.

Department of Economic Development—Departmental, including a statement of reasons, dated 29 June 2005.

Department of Economic Development—Territorial, including a statement of reasons, dated 29 June 2005.

Department of Education and Training, including a statement of reasons, dated 29 June 2005.

Department of Education and Training—Territorial Account, including a statement of reasons, dated 29 June 2005.

Department of Justice and Community Safety—Territorial, including a statement of reasons, dated 29 June 2005.
Department of Treasury—Territorial, including a statement of reasons, dated 29 June 2005.
Department of Urban Services, including a statement of reasons, dated 29 June 2005.
Office for Children, Youth and Family Support, including a statement of reasons, dated 29 June 2005.

Pursuant to section 26—Consolidated Financial Management Report for the financial quarter and year-to-date ending 30 June 2005.

Mr Quinlan presented the following paper:

Capital Works Program 2004-05—Progress Report—March 2005 quarter.

Mr Corbell presented the following papers:

Information Bulletins—Patient Activity Data—June 2005—
Calvary Public Hospital, dated August 2005.
The Canberra Hospital, dated August 2005.

Public hospitals—service activity reports
Papers and statement by minister

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): For the information of members, I present the following papers:

ACT Public Hospitals—Service Activity Reports—2004-2005—
1st Quarter.
2nd Quarter.
3rd Quarter.

I seek leave to make a statement in relation to the papers.

Leave granted.

MR CORBELL: Mr Speaker, the service activity reports I have tabled for ACT public hospitals for the first, second and third quarters of the 2004-05 financial year provide details on the activity of ACT public hospitals during this period. These reports are prepared once medical coding of hospital activity has exceeded 97 per cent for the quarter to ensure accuracy of data. There has been a delay in the completion of the figures for the September and December quarters of 2004-05 due to data integrity issues associated with the implementation of a new information management system at Calvary Hospital. It would not be right to publish these activity reports until we had complete data. Once the final quarter four report is tabled, this format will be replaced by a more comprehensive quarterly report.

Territory plan—variation No 237
Paper and statement by minister

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 237 to the Territory Plan—Deakin, Section 12 Blocks 9, 13 and 19—Embassy Motel redevelopment—Proposed residential use, dated 30 June 2005, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

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

Leave granted.

MR CORBELL: Mr Speaker, draft variation 237 proposes to remove the entertainment, accommodation and leisure land use policy and replace it with a residential land use policy for the B15 area specific policy for section 12 blocks 9, 13 and 19 Deakin to provide for the potential redevelopment of the site for residential purposes.

This variation was released for public comment on 27 May last year and comments closed on 8 July last year. Six written submissions were received during that period. These submissions raised no objection to the land use policy change to enable residential redevelopment of the site. One submission was from an adjoining sporting club concerned that future residents might complain about noise and general club activity. A minor revision was made to the variation as a result of the consultation process. In addition, to recognise the existing motel and to retain the potential for this type of development on the site, commercial accommodation was added to the B15 area specific policy.

In its report No 6 of this year, the Standing Committee on Planning and Environment made three recommendations in relation to this variation. Its first recommendation supported the replacement of the entertainment, accommodation and leisure land use policy with a residential land use policy and a new B15 area specific policy. However, the committee considered that the B15 area specific policy needed to require that the residential buildings on the site be generally no higher than three to five storeys. The committee formed the view that a building any higher than three to five storeys would be out of character with the surrounding landscape and main avenue ceremonial route of Adelaide Avenue and took Deakin residents' views into account in forming this view.

Mr Speaker, whilst the government recognises that the committee's deliberations are an attempt to resolve the issue of an appropriate building height for development on the site, imposing a building height control for this site under the territory plan is not supported. The reason for this is that the National Capital Authority controls the building height of future development on this site. Sites fronting Adelaide Avenue outside the central national area are subject to special requirements of the national capital plan, which seek to ensure buildings are at least three storeys in height along the final approach routes to the parliamentary zone. This site is also subject to building height controls under a development control plan adopted by the National Capital Authority that states that buildings at the crossing of Hopetoun Circuit by Adelaide Avenue should be predominantly three storeys and a maximum of four storeys in height.

The committee further considered that the B15 area specific policy needed to require high quality landscaping of the site consistent with a landmark development. This recommendation is supported by the government and the B15 area specific policy has

been revised to reflect the requirement for high quality landscaping consistent with a landmark development for the site.

The committee's second recommendation was that a detailed traffic study be undertaken for the proposed development and that Roads ACT should assess whether additional traffic or calming measures in this area are necessary or desirable. Traffic issues will be considered as part of the development assessment process when the number of units and the traffic generated by any proposed development are known. The proponent will be required to undertake a detailed traffic study to support the development application.

The committee's third recommendation related to requiring the Planning and Land Authority and encouraging local community organisations, such as Pedal Power, to consider targeting some of their educational programs in Deakin, to encourage use of public transport and cycling and walking and to discourage private car use. The committee suggested that the travel smart and walking school bus programs could be extended to this area. Mr Speaker, the committee's recommendation, whilst welcome, is beyond the scope of what can be implemented by a variation to the territory plan. However, the recommendation has been referred to the planning authority's transport planning area for consideration. I commend the variation to members.

Territory plan—variation No 255
Paper and statement by minister

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 255 to the Territory Plan—Commercial C Precinct Rationalisation—Mawson (Southlands) Group Centre and Minor Correction of Errors at Part D Definition of Terms, dated 19 July 2005, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I seek leave to make a statement in relation to the paper.

Leave granted.

MR CORBELL: Mr Speaker, draft variation 255 proposes to remove the precinct "d" classification and realign the boundaries for precincts "a", "b" and "c" for the Mawson group centre to allow for expansion of the existing supermarket. The draft variation was released for public comment on 21 April this year, with comments closing on 16 May this year. Only three written submissions were received during that time. These related primarily to a perceived loss of parking within the centre as a result of this variation. No revisions were made to the variation as a result of the consultation.

In its report No 12 of this year, the Standing Committee on Planning and Environment made one recommendation. The committee's recommendation was that the report on consultation which accompanies the recommended final variation include reference to the advice received from the Planning and Land Council. The Planning and Land Council advice, which is provided to the authority prior to commencement of the variation, is currently included within the variation background papers. The report on

consultation is based on comments received during the public notification period. However, this recommendation is a sensible one and will be accommodated in future consultation reports presented to the committee. I commend the variation to the Assembly.

Territory plan—variation No 258
Paper and statement by minister

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 258 to the Territory Plan—Section 48 Belconnen—Belconnen Labor Club, dated 16 August 2005, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

I seek leave to make a statement in relation to the paper.

Leave granted.

MR CORBELL: Draft variation No 258 proposes a minor boundary realignment to include 157 square metres of land into the commercial area of the Belconnen town centre. The boundary change will benefit the existing club on block 10 section 48 Belconnen. The effect of the variation is to exclude the small area of land from the municipal services land use policy and include it in the commercial B town centres land use policy under precinct "b", which is the business area.

This variation was released for public comment on 16 April this year. Comments closed on 9 May this year. Two written submissions were received. Mr Hargreaves, as Minister for Urban Services, made a submission in support of the proposal, in principle, with the proviso that the lessee of block 10 section 48 be responsible for matters including relocating any services and rectifying any areas of landscaping of unleased territory land that may be disturbed as part of any service relocation or future development. The issues that Mr Hargreaves raised will be appropriately addressed in lease and development conditions for the land.

A submission from the Department of Disability, Housing and Community Services noted that the land is not capably of being used for any other form of development and, in the circumstances, the variation is appropriate. No revisions were made to the variation as a result of the consultation process. In its report No 11 of this year, the Standing Committee on Planning and Environment made no comments on the variation. I commend the variation to members.

Exercise of call-in powers—block 3 section 30 city
Paper and statement by minister

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 229B (7)—Statement regarding exercise of call-in powers—Development application No 200500007—Block 3 Section 30, City, dated 30 June 2005.

I seek leave to make a statement in relation to the paper.

Leave granted.

MR CORBELL: Mr Speaker, on 30 May 2005 I directed under section 229A of the Land (Planning and Environment) Act 1991 that the ACT Planning and Land Authority refer to me development application No 200500007. This notifiable instrument was notified on the ACT legislation register. On 30 June this year, I approved the application using my powers under section 229B of the land act.

This application sought approval for the construction of a six-storey building for the Australian National University to provide for student accommodation and associated ground floor uses on part block 3 section 30 city. In deciding the application, I gave careful consideration to the compliance of the development with the goals of the City West master plan, the loss of the existing car park, the potential impact of the proposed development on the existing Street Theatre and the opportunity for a City West arts precinct and how the development will assist in this regard.

I have imposed conditions on the approval that require a crown lease to be obtained over part of block 3 section 30 in the city and the development to be revised to improve the street front activation, the provision of breakout spaces and the provision of continuous awnings along the Childers Street frontage. I have required the use of revised materials and colour pallet with an aim to further enliven the development. I have also required appropriate noise attenuation measures and the assessment of potential wind effects.

This proposal is consistent with the requirements of the territory plan. I have used my call-in powers in this instance because I consider the proposal has a substantial effect on the achievement of objectives of the territory plan in respect of the Civic centre. The particular criteria in the land act, subsection 229B (2), is that the minister may consider the application if, in the minister's opinion, the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the territory plan. This proposal significantly contributes to maintaining and promoting the Civic centre as the main commercial centre for Canberra and the region.

Section 229B of the land act specifies that, if I decide an application, I must table a statement in the Assembly within three sitting days of the decision. As required by the act, and for the benefit of members, I have tabled a statement providing a description of the development, details of the land on where the development is proposed to take place, the name of the applicant, details of my decision and the grounds for the decision. I have also tabled the advice of the ACT Planning and Land Council on this matter.

Exercise of call-in powers—blocks 1 and 2 section 89 city
Paper and statement by minister

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): For the information of members, I present the following paper:

> Land (Planning and Environment) Act, pursuant to subsection 229B (7)—Statement regarding exercise of call-in powers—Development application No 200501473—Blocks 1 and 2 Section 89, City, dated 8 August 2005.

I seek leave to make a statement in relation to this paper.

Leave granted.

MR CORBELL: Mr Speaker, on 18 July this year, I directed under section 229A of the Land (Planning and Environment) Act 1991 the ACT Planning and Land Authority to refer to me development application No 200501473. This direction was notified on the ACT legislation register. On 8 August this year, I approved the application using my powers under section 229B of the land act.

This application sought approval for the construction of a 10-storey office building with ground floor retail and basement car parking on blocks 1 and 2 section 89 city, and to vary the lease and the master plan for section 84 city to permit a building of up to 49,220 square metres, office use up to 48,045 square metres and shop use up to 1,175 square metres, and to vary the gross floor area definition to exclude all plant room area.

Mr Speaker, section 89 was previously part of section 84 city. In deciding the application, I gave careful consideration to the compliance of the development with the goals of the section 84 city master plan, the potential impact of the increase in office accommodation, the potential contamination of the land, and potential pedestrian safety concerns raised for people using Murulla Lane.

I have imposed conditions on the development. These include the issue of a lease over blocks 1 and 2 section 89 city, the payment of a change of use charge for the lease variation calculated at 100 per cent of the assessed added value, management of the land in accordance with an approved environmental management plan and occupational health and safety plan, and the provision of lighting along Murulla Lane and a report detailing the results of wind testing of the development.

This proposal is consistent with the requirements of the territory plan. I have used my call-in powers in this instance because I consider the proposal has a substantial effect on the achievement of objectives of the territory plan in respect of Civic. The particular criterion in the land act is in section 229B (2): the minister may consider the application if, in the minister's opinion, the application seeks approval for a development that may have a substantial effect on the achievement or development of objectives of the territory plan.

This proposal significantly contributes to maintaining and promoting Civic as the main commercial centre for Canberra and the region. I have called in the application because I consider it is important to retain and attract employment in the city and provide significant economic benefits to the city. A major part of the decision was to ensure that a major commonwealth government agency, the Australian Taxation Office, would remain in the city rather than risk having it move out of the area in its search for office

accommodation for its employees. Keeping 4,000 jobs in Civic, rather than risk having them leave, will support the City retail and commercial sectors.

The development is a significant one and will ensure that the city remains the pre-eminent commercial centre in the ACT. This development is part of the overall planning of the city that includes the City West/ANU precinct, planning for West Basin and Constitution Avenue, and the work being considered by the Canberra central task force for the future development of the City Hill precinct.

The additional office space sought of 24,230 square metres represents 5.4 per cent of the total office space in Civic. The current office vacancy rate in Civic, at two per cent, is the lowest of all capital cities and any increase in this will deliver benefits through more competition and reduced rentals for tenants. This development continues the high level of investment and development activity occurring across the city which in the past couple of years has seen almost half a billion dollars of development approved and a further $50 million worth of development awaiting approval.

Another factor in my decision to use my call-in powers was the fact that objections to the development were predominantly on commercial grounds and any delay through appeals would have been at the risk of a significant commonwealth agency looking outside Civic for other alternatives for its office accommodation. A majority of the objectors either currently have the Australian Taxation Office as a tenant in the city or were unsuccessful in bidding for the ATO tender for new office accommodation. I did not consider this to be an appropriate use of the appeals process. Systemically, this will be addressed through the government's planning reforms to prevent this sort of tactic being used primarily to delay or stifle commercial rivals.

Section 229B of the act specifies that, if I decide an application, I must table a statement in the Legislative Assembly within three sitting days of the decision. As required by the act, I have tabled a statement providing a description the development, details of the land on which the development is proposed to take place, the name of the applicant, details of my decision and grounds for the decisions. I have also tabled the advice of the ACT Planning and Land Council on this matter.

Dr Foskey: I seek leave to move that the paper be noted.

Leave not granted.

Papers

Mr Corbell presented the following papers:

> **Performance reports**
> Financial Management Act, pursuant to section 30A—Quarterly departmental performance reports for the June quarter 2004-2005 for the following departments or agencies:
> ACT Emergency Services Authority, dated July 2005.
> ACT Health, dated August 2005.
> ACT WorkCover, dated July 2005.

Attorney-General's Portfolio within Department of Justice and Community Safety.
Chief Minister's Department, dated July 2005.
Disability, Housing and Community Services, dated July 2005.
Economic Development, dated July 2005.
Education and Training, dated July 2005.
Office for Children, Youth and Family Support, dated July 2005.
Planning Portfolio.
Planning Portfolio within ACT Planning and Land Authority.
Police and Emergency Services Portfolio within Department of Justice and Community Safety.
Treasury, dated July 2005.
Urban Services.

Petition—Out of order

Petition which does not conform with the standing orders—

Ginninderra High School—Closure—Mrs Dunne (150 citizens)

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

ACTION Authority Act—ACTION Authority (Appointment) 2005 (No 1)—Disallowable Instrument DI2005-122 (LR, 27 June 2005).

Children and Young People Act—

Children and Young People (Places of Detention) Standing Order 2005 (No 1)—Disallowable Instrument DI2005-167 (LR, 27 July 2005).

Children and Young People (Places of Detention) Standing Order 2005 (No 2)—Disallowable Instrument DI2005-168 (LR, 27 July 2005).

Chiropractors and Osteopaths Act—Chiropractors and Osteopaths (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-151 (LR, 25 July 2005).

Community and Health Services Complaints Act—Community and Health Services Complaints (Appointment) 2005 (No 2)—Disallowable Instrument DI2005-136 (LR, 30 June 2005).

Consumer Credit (Administration) Act 1996, Liquor Act 1975, Sale of Motor Vehicles Act 1977, Trade Measurement (Administration) Act 1991, Classification (Publications, Films and Computer Games) (Enforcement) Act 1995, Prostitution Act 1992, Second-hand Dealers Act 1906, Pawnbrokers Act 1902, Public Trustees Act 1985, Associations Incorporation Act 1991, Business Names Act 1963, Births, Deaths and Marriages Registration Act 1997, Instruments Act 1933, Land Titles Act 1925, Registration of Deeds Act 1957, Security Industry Act 2003, Cooperatives Act 2002, Agents Act 2003, Partnership Act 1963 and Courts Procedures Act—Attorney General (Fees) Determination 2005—Disallowable Instrument DI2005-128 (without explanatory statement) (LR, 29 June 2005).

Court Procedures Act—Court Procedures Amendment Rules 2005 (No 1)—Subordinate Law SL2005-13 (LR, 7 July 2005).

Dangerous Substances Act—Dangerous Substances (Fees) Determination 2005 (No 2)—Disallowable Instrument DI2005-142 (LR, 30 June 2005).

Dental Technicians and Dental Prosthetists Registration Act—Dental Technicians and Dental Prosthetists (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-150 (LR, 25 July 2005).

Electoral Act—

Electoral (Chairperson and Member) Appointment 2005 (No 1)—Disallowable Instrument DI2005-156 (LR, 26 July 2005).

Electoral (Fees) Determination 2005—Disallowable Instrument DI2005-149 (LR, 21 July 2005).

Emergencies Act—

Emergencies (Bushfire Council Members) Appointment 2005 (No 2)—Disallowable Instrument DI2005-133 (LR, 15 July 2005).

Emergencies (Fees and Charges 2005/2006) Determination 2005 (No 1)—Disallowable Instrument DI2005-127 (without explanatory statement) (LR, 30 June 2005).

Gungahlin Drive Extension Authorisation Act—Gungahlin Drive Extension Authorisation 2005 (No 1)—Disallowable Instrument DI2005-121 (LR, 27 June 2005).

Health Act—Health (Fees) Determination 2005 (No 2)—Disallowable Instrument DI2005-131 (LR, 30 June 2005).

Health Professionals Act—

Health Professionals (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-165 (LR, 14 July 2005).

Health Professionals Amendment Regulation 2005 (No 1)—Subordinate Law SL2005-14 (LR, 6 July 2005).

Health Professionals Regulation 2004—

Health Professionals (Medical Board) Appointment 2005 (No 1)—Disallowable Instrument DI2005-153 (LR, 21 July 2005).

Health Professionals (Medical Board) Appointment 2005 (No 2)—Disallowable Instrument DI2005-154 (LR, 21 July 2005).

Health Professionals (Medical Board) Appointment 2005 (No 3)—Disallowable Instrument DI2005-155 (LR, 21 July 2005).

Housing Assistance Act—Housing Assistance Public Rental Housing Assistance Program 2005 (No 1)—Disallowable Instrument DI2005-164 (LR, 14 July 2005).

Legislative Assembly (Members' Staff) Act—

Legislative Assembly (Members' Staff) Members' Salary Cap Determination 2005 (No 1)—Disallowable Instrument DI2005-147 (LR, 30 June 2005).

Legislative Assembly (Members' Staff) Speaker's Salary Cap Determination 2005 (No 1)—Disallowable Instrument DI2005-148 (LR, 30 June 2005).

Machinery Act—Machinery (Fees) Determination 2005—Disallowable Instrument DI2005-143 (LR, 30 June 2005).

Magistrates Court Act—Magistrates Court (Construction Occupations Infringement Notices) Amendment Regulation 2005 (No 1)—Subordinate Law SL2005-12 (LR, 27 June 2005).

Occupational Health and Safety Act—Occupational Health and Safety (Fees) Determination 2005—Disallowable Instrument DI2005-144 (LR, 30 June 2005).

Periodic Detention Act—Periodic Detention Amendment Regulation 2005 (No 1)—Subordinate Law SL2005-15 (LR, 14 July 2005).

Pharmacy Act—Pharmacy (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-141 (LR, 30 June 2005).

Planning and Land Act—

Planning and Land (Land Development Agency Board) Appointment 2005 (No 1)—Disallowable Instrument DI2005-125 (LR, 30 June 2005).

Planning and Land (Land Development Agency Board) Appointment 2005 (No 2)—Disallowable Instrument DI2005-126 (LR, 30 June 2005).

Planning and Land Council Appointment 2005 (No 1)—Disallowable Instrument DI2005-138 (LR, 30 June 2005).

Planning and Land Council Appointments 2005 (No 2)—Disallowable Instrument DI2005-139 (LR, 30 June 2005).

Planning and Land Council Appointments 2005 (No 3)—Disallowable Instrument DI2005-140 (LR, 30 June 2005).

Psychologists Act—Psychologists (Fees) Determination 2005 (No 1)—

Disallowable Instrument DI2005-130 (LR, 30 June 2005).

Public Baths and Public Bathing Act—Public Baths and Public Bathing (Active Leisure Centre Fees) Determination 2005—Disallowable Instrument DI2005-134 (LR, 30 June 2005).

Public Place Names Act—

Public Place Names (Belconnen) Determination 2005 (No 2)—Disallowable Instrument DI2005-124 (LR, 30 June 2005).

Public Places Names (Mitchell) Determination 2005 (No 1)—Disallowable Instrument DI2005-171 (LR, 1 August 2005).

Public Places Names (Watson) Determination 2005 (No 2)—Disallowable Instrument DI2005-170 (LR, 1 August 2005).

Race and Sports Bookmaking Act—Race and Sports Bookmaking (Rules for Sports Bookmaking) Determination 2005 (No 2)—Disallowable Instrument DI2005-113 (LR, 7 July 2005).

Road Transport (Driver Licensing) Regulation 2000—Road Transport (Driver Licensing) Code of Practice for Driving Instruction 2005 (No 1)—Disallowable Instrument DI2005-169 (LR, 1 August 2005).

Road Transport (General) Act—

Road Transport (General) (Hire Car) Exemption 2005 (No 1)—Disallowable Instrument DI2005-137 (LR, 30 June 2005).

Road Transport (Offences) Regulation 2005—Subordinate Law SL2005-11 (LR, 27 June 2005).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares for Taxi Services Determination 2005 (No 1)—Disallowable Instrument DI2005-129 (LR, 30 June 2005).

Roads and Public Places Act—Roads and Public Places (Fees) Determination 2005 (No 3)—Disallowable Instrument DI2005-109 (without explanatory statement) (LR, 27 June 2005).

Scaffolding and Lifts Act—Scaffolding and Lifts (Fees) Determination 2005—Disallowable Instrument DI2005-145 (LR, 30 June 2005).

Taxation Administration Act—

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2005 (No 1)—Disallowable Instrument DI2005-123 (LR, 27 June 2005).

Taxation Administration (Amounts payable—Home Buyer Concession Scheme) Determination 2005 (No 2)—Disallowable Instrument DI2005-157 (LR, 6 July 2005).

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2005 (No 3)—Disallowable Instrument DI2005-158 (LR, 6 July 2005).

Tertiary Accreditation and Registration Act—Tertiary Accreditation and Registration (Fees) Determination 2005—Disallowable Instrument DI2005-135 (LR, 30 June 2005).

Tree Protection (Interim Scheme) Act—Tree Protection (Interim Scheme) Appointment 2005—Disallowable Instrument DI2005-159 (LR, 12 July 2005).

University of Canberra Act—University of Canberra (Courses and Awards) Amendment Statute 2005 (No 1)—Disallowable Instrument DI2005-166 (LR, 26 July 2005).

Utilities Act—Utilities (Variation of Industry Code) Determination 2005 (No 2)—Disallowable Instrument DI2005-132 (LR, 30 June 2005).

Veterinary Surgeons Act—Veterinary Surgeons (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-152 (LR, 25 July 2005).

Victims of Crime Regulation 2000—

Victims of Crime (Victims Assistance Board) Appointment 2005 (No 1)—Disallowable Instrument DI2005-160 (LR, 14 July 2005).
Victims of Crime (Victims Assistance Board) Appointment 2005 (No 2)—Disallowable Instrument DI2005-161 (LR, 14 July 2005).
Victims of Crime (Victims Assistance Board) Appointment 2005 (No 3)—Disallowable Instrument DI2005-162 (LR, 14 July 2005).
Victims of Crime (Victims Assistance Board) Appointment 2005 (No 4)—Disallowable Instrument DI2005-163 (LR, 14 July 2005).

Waste Minimisation Act—Waste Minimisation (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-110 (LR, 27 June 2005).

Workers Compensation Act—Workers Compensation (Fees) Determination 2005—Disallowable Instrument DI2005-146 (LR, 30 June 2005).

Drug treatment services for Aboriginals and Torres Strait Islanders

Discussion of matter of public importance

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

> The need for new and expanded services in the ACT to address Aboriginal and Torres Strait Islander illegal and problematic drug use.

DR FOSKEY (Molonglo) (4.09): I want to talk today about the need for new and expanded services in the ACT to address Aboriginal and Torres Strait Islander illegal and problematic drug use. I would like to draw the Assembly's attention to the June 2004 report *I want to be heard*, an analysis of the needs of Aboriginal and Torres Strait Islander illegal drug users in the ACT and region for treatment and other services. The National Centre for Epidemiology and Population Health at the Australian National University and the Winnunga Nimmityjah Aboriginal Health Service produced the report. The National Health and Medical Research Council funded the study under a special national illicit drugs strategy funding round.

This research project is in line with the recommendations of the ACT Legislative Assembly Standing Committee on Health and Community Care inquiry into Aboriginal health in the ACT 2001. The report states:

> High quality quantitative research is required to track the extent of illicit drug use in the ACT indigenous community. The illegal and problematic use of drugs by Aboriginal and Torres Strait Islander people raises a number of issues.

At page 18 the report continues:

> This needs assessment had its genesis in widespread concerns expressed by local Aboriginal organisations and individuals, and others, about the prevalence of illegal drug use among young Aboriginal and Torres Strait Islander people in the region, and the massive impact it is having on individuals, extended family and community life. Community leaders pointed to several unmet needs in the areas of prevention (including the upstream social determinant of health and illness), early intervention

> and treatment. They also pointed to the serious adverse impacts of the legal drugs, particularly alcohol and tobacco products.

There are 22 recommendations in the report, including:

- the need for greater cultural education and development for indigenous drug users provided by Aboriginal organisations;
- the establishment of an Aboriginal residential treatment centre;
- the establishment of an Aboriginal half-way house;
- increased Aboriginal involvement in service development and delivery;
- increased funding of Aboriginal alcohol and other drug services;
- drug-specific recommendations, such as a specific quit smoking program for the Aboriginal and Torres Strait Islander community; and
- and increased emphasis on early identification and prevention measures.

I will come back to some of these recommendations in more detail in a little while.

I was planning to say at this point that the ACT government is doing some good work in the area of Aboriginal and Torres Strait Islander health, that it is cooperating and collaborating with the Australian government on some Aboriginal and Torres Strait Islander health issues, that it is continuing to provide support to a range of Aboriginal corporations, including Winnunga, Nimmityjah, Billabong and the Gugan Gulwan Aboriginal Youth Corporation. Members will remember that I have been trying to get this particular topic up as a matter of public importance for some months, so what I wrote some months ago I am afraid has to be updated today.

It is certainly true that the ACT government is doing more than most in the area of Aboriginal and Torres Strait Islander health, but issues of funding and program delivery are always more complex than they first appear and I am concerned that commonwealth-territory political divisions may be costing us program funding, particularly in the area of family and domestic violence, a matter which is often closely linked to problematic drug and alcohol use.

The 2004 Australian government budget committed $37.3 million over four years for coordinating, developing, implementing and managing bilateral agreements between the Australian government and the states and territories. This project is titled the family violence partnership program. I understand the Australian government has been in negotiation with the ACT government about this program, but despite a number of extensions, the ACT government is yet to submit a funding proposal for us to claim our share of that $37.3 million. Apparently there are only a few days left before the ACT government will lose the chance to access these funds, leaving me to wonder if the ACT government is simply unwilling to work with the federal government on the issue, thus cutting off its nose to spite its face. I await an answer from the government about that.

I have also learnt that Winnunga has been partly successful in its application for a grant under a related Australian government funding program titled the family violence regional activities program, which will provide $30,000 to run projects aiming to prevent family violence and to support local communities. Unfortunately, Winnunga was not

successful with a matching application for staff support. So most of the funding it has received is dedicated directly to projects and there is very little for staffing to manage them. It is a question of community sector sustainability, which we come up against over and over in the ACT. The Greens suggest that the ACT government could perhaps use the commonwealth funds to support the work that Winnunga is doing. Consultation with staff there would indicate the shape of the program. It is a shame to lose these funds when I believe there is clear evidence of need.

Moving on—not that that was a digression—I would like to return to my topic. I would like to discuss how we in the Assembly can made a difference to Aboriginal and Torres Strait Islanders suffering from drug use by considering the *I want to be heard* report recommendations and monitoring whether they are being implemented. The *I want to be heard* report was bought to my attention by a PhD student at NCEPH doing an assessment of whether the recommendations are being implemented by the ACT or Australian governments. I am quite sure that other members received similar representations because it is crucial to the study's proponents that their report does not gather dust. Julie Tongs, the director of Winnunga Nimmityjah says, "We want the recommendations implemented. We all put a huge effort into the report and it would be a real shame not to act on it. There are some simple things that can be achieved right now, like having a safe place for people to detox."

It is also important that we as a community look at the health of all the people in our community. This is especially the case for indigenous Australians who have generally far worse health, on a range of indicators, than non-indigenous Australians. I know we have heard these statistics time and time again, and perhaps they have a deadening quality to them now, but perhaps that is because the implications of these statistics are really frightening.

Aboriginal Australians are 19 times more likely to die from heart disease; 15 times more likely to die from diabetes; 14 times more likely to die from pneumonia and 12 times more likely to die from assaults than the non-indigenous population. The *Australian* newspaper of 2 April this year cites new figures released by the Australian Statistician Dennis Trewin at a conference at the University of Melbourne to the effect that indigenous people die, on average, 18 years younger than other Australians. The ACT Aboriginal and Torres Strait Islander Regional Health Plan 2000-2004 puts it like this:

> The health status of Aboriginal and Torres Strait Islander people throughout Australia is much lower than that of non-indigenous people. This is also the case in the ACT.

The foreword to the plan states:

> This level of difference in health status and outcome is unacceptable and it is the responsibility of our governments to ensure that such inequities are addressed and rectified.

I agree with this; hence my interest in bringing this matter before the Assembly. The regional health strategy also states that one of the major gaps in health status between indigenous and non-indigenous is in the area of alcohol, tobacco and other drugs. The *I want to be heard* study shows that people are asking for help from us, the ones in a position to do something. There is a way forward. The report states:

> The evidence supports the need for new and expanded services, and for the improvement of existing services, so as to better address the physical, emotional and social problems of Aboriginal and Torres Strait Islander illegal drug users in our community.

I want to look at a few of the report's recommendations in detail. The report says that there should be collaboration between government organisations and Aboriginal organisations on how best to establish an Aboriginal-run residential treatment centre. This service would include a focus on learning about culture and Aboriginal identity, close contacts with family members and life skills learning programs. Aboriginal facilitators will be employed alongside professionally trained treatment personnel. This is a recommendation on which the ACT government could start work now. As urgent as the need is, there must be good discussion and it may take some time to assemble or train the work force required. It was disappointing not to see additional measures in the budget for indigenous health.

Under the heading Funding of Aboriginal Alcohol and Other Drug Services, the report says that there needs to be an increased level of funding support from the ACT, New South Wales and Australian governments. We must remember that our indigenous population in the ACT is highly mobile throughout our region. This increase of funding would assist the services to fully implement the findings of the report. It will be interesting to hear from the ACT government how it is going in negotiations with those other governments to increase this funding; hence the poignancy of my earlier point about the ACT government's inability, so far, to get together a program to spend commonwealth funding.

It is also interesting to note that the Australian Medical Association in January 2005 called on the federal government to increase its funding for indigenous health by $400 million a year. The executive summary of the AMA budget submission to the federal government states:

> Now is the time for our Governments and all Australians to extend this goodwill to the first Australians—the Aborigines and Torres Strait Islanders of this great country of ours. The health and living conditions of many indigenous Australians is at Third World level. For some, it is below Third World level. This is unacceptable in 21st Century Australia.

The *I want to be heard* report also says that policies and programs developed to deal with the issue of the use of illicit drugs should be subject to systematic evaluation and modified as required. As a general comment, I note that there will need to be a properly trained workforce, especially including Aboriginal and Torres Strait Island people, if we are to properly deliver on the recommendations of the *I want to be heard* report.

We already have some initiatives in place in the ACT. The 2004-2005 budget provided $140,000 for the first year for two outreach workers at Gugan Gulwan Youth Aboriginal Corporation and Winnunga Nimmityjah Aboriginal Health Service, and I might leave the government to tell us what it is doing. Health was one of the areas that received priority funding in the ACT budget, so again it was a surprise not to see additional and extra resources to indigenous health generally, but also any initiatives specifically to address

Aboriginal and Torres Strait Islander illegal and problematic drug use. We know that dual diagnosis is a major problem. I would like to conclude by again quoting from the report. It states:

> The completion of the Report is just the beginning of the Action Research, not the end of the research process. We will work with service providers and policy makers with the aim of ensuring that the voices of the 95 people we interviewed will be heard and that the findings of our research will be implemented.

Domestic violence and illegal drug use are highly related issues and, as such, I strongly encourage the ACT government to ensure that they make any Australian government funding for these issues available to the ACT community. If there are good reasons for not doing so, I would like to know them. I raised this matter of public importance today to ensure that the 95 people who want to be heard are heard. As you can imagine, there is a degree of cynicism in the indigenous community about the degree of commitment that governments have to assisting their community in overcoming their problems. Let us ensure that that conversation does not end here.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (4:24): The government recognises the importance of addressing illegal and problematic drug use amongst the Aboriginal and Torres Strait Islander community in the ACT. We are strongly supportive of the directions outlined in the recommendations of the recent analysis conducted by Winnunga Nimmityjah Aboriginal Health Services and the ANU in their report titled *I want to be heard*. This local analysis provides a rare and extremely valuable insight into the depth and nature of the problems in the ACT from which we will continue to draw information to support the development of programs and policies.

The government is working actively to address the need for services in the ACT to assist Aboriginal and Torres Strait Islander people with substance abuse problems through a range of initiatives. I would like to outline a number of those here today. These include funding for two dual diagnosis outreach workers, one at the Winnunga Nimmityjah and one at Gugan Gulwan Youth Centre. These workers coordinate the provision of relevant mainstream and Aboriginal community controlled services to assist Aboriginal and Torres Strait Islander clients with a dual diagnosis of mental health and drug and alcohol problems, and their families; In addition, there is funding for a youth detoxification support service at Winnunga and Gugan Gulwan. Under the program workers provide support to young Aboriginal and Torres Strait Islander people up to the age of 25 years, allowing them to access detoxification services and undergo treatment.

Investigations are also under way into the establishment of an Aboriginal-run healing farm in Canberra to address the social and emotional wellbeing of Aboriginal and Torres Strait Islander people in our community, including those with substance abuse problems. A public tender was recently released for the development of a service model for the healing farm. Contract negotiations with the successful tenderer are currently under way and it is anticipated that a proposed service model would be available for consideration in early 2006.

The healing farm will be an innovative proposal and will have a focus on delivering services in a holistic manner targeting not only the client, but also their families; building close links with detoxification services while focusing primarily on healing and

rehabilitation; attempting to break the cycle of intergenerational drug use and fostering reconnection to our regional cultural values and beliefs, family and social networks and cultural education programs.

This investigation is being conducted as a COAG trial in partnership with the Australian government and the Aboriginal and Torres Strait Islander community under the COAG shared responsibility agreement signed in April last year. In addition to targeted initiatives, the government recognises the importance of a holistic and culturally appropriate approach to addressing substance abuse issues. It is providing support and funding for a range of health and health related programs at Winnunga Nimmityjah.

These include, firstly and very importantly, the relocation of Winnunga from Ainslie to the much larger and better equipped Narrabundah Health Centre; pre and postnatal support for Aboriginal and Torres Strait Islander mothers and their babies, including education on a healthy lifestyle during and after birth; equipment and operational expenses for a hearing health program for primary school children to avoid loss of educational opportunities; equipment and operational expenses for an Aboriginal and Torres Strait Islander dental health program; a mental health liaison service to support access to mainstream mental health services; health promotion programs funded through HealthPact and funding for administrative support including a new computerised patient administration system.

The ACT government invests significantly and strongly in supporting Aboriginal and Torres Strait Islander health services here in the ACT. In addition, the ACT government, the Australian government and Winnunga Nimmityjah Aboriginal Health Service are developing a five-year plan for Aboriginal and Torres Strait Islander health and family wellbeing in the ACT. It is expected that the plan will be released in the near future following the final consultation phase, which will be conducted in the coming weeks.

The plan articulates how aspects of a number of existing national frameworks will be implemented in the ACT and includes focus on work such as the national strategic framework for Aboriginal and Torres Strait Islander health, the national social and emotional wellbeing strategy and the national health and workforce strategy. The broad objectives of the plan are to address identified health and family wellbeing priorities, including family resilience, maternal and child health, social health, chronic and infectious disease prevention and management and the frail aged and people with disabilities. Other objectives are to provide an effective and responsive health and family wellbeing system for Aboriginal and Torres Strait Islander people in the ACT, to influence the health and family wellbeing impacts of the non-health sector and to improve resourcing and accountability.

In addressing these objectives the plan includes as one of its major focus areas the social and emotional wellbeing of Aboriginal and Torres Strait Islanders, of which a reduction in substance abuse is a key element. As a result of a recent in-depth investigation into the quality of data on Aboriginal health in the ACT, projects will also be initiated to improve the accuracy and availability of data to support and guide our work in this area.

In summary, the government has undertaken a wide range of substantial initiatives to ensure our responsibilities are met in relation to the need for new and expanded services in the ACT to address Aboriginal and Torres Strait Islander illegal and problematic drug

use. Clearly, there remain challenges and there remain problems, but I am of the view that the government has a strong record, a strong program, and we will be continuing to build on that in future years.

MRS BURKE (Molonglo) (4.30): Further to Dr Foskey's matter of public importance, which amicably aims to introduce new and expanded services in the ACT to address drug use by Aboriginal people, I would like to contribute by mentioning another angle that perhaps is lost in the push for new services or the expansion of certain services or highlighting the level of funding required to adequately combat drug or other substance abuse in general in our society.

Drug and other substance abuse is unquestionably a serious issue faced by Aboriginal and Torres Strait Islander communities across Australia. Whilst substance abuse is an all too sad reality in any society, many people do not know the facts surrounding drug use and its devastating impact. As a first step, rather than seeing any new services, may I suggest that it would be encouraging to simply see further funding support and focus on equipping existing services in the ACT, such as Winnunga Nimmityjah Health Service, to home in on early intervention by encouraging young Aboriginals and Torres Strait Islanders to feel they will be listened to and also provided with access to the mediums that they as young people feel comfortable with in accessing the necessary information to make informed decisions about drug and alcohol and other substance misuse. There is a real need for Aboriginal-focused services and I commend the *I want to be heard* report, an analysis of the needs of Aboriginal and Torres Strait Islander people to which Dr Foskey and the minister have referred. It is worthy of a read.

There are such facilities as Karralika, Canberra Recovery Services and the Ted Noffs Foundation. All offer respite care but, due to funding constraints, are unable to meet the specialised needs of Aboriginal people, such as attitudes to living, value systems and family networks. I highlight here that it is most important to meet the problem before it escalates to the point where young people in particular do not have the support network or the ability to reach out for help.

We must work to meet people at their point of need to encourage further education and involvement. I would like to point out an example of an excellent resource and network where young people can access information, reach out for support and, at the same time, engage in an activity they enjoy—music. The Vibe website is an encouraging example of a way to reach out to youth, in this case indigenous youth. Such avenues of access also provide room for young people to express their opinions and thoughts through music and via an online community forum. The website offers resources that can assist young people to better understand the impact of drugs and the way they affect individuals, families and communities. On the other hand, direct contact with elders and other key members of the community should be of paramount importance in any recovery/rehabilitation process for Aboriginal and Torres Strait Islander people.

To put it plainly, if, for example, the ACT Aboriginal and Torres Strait Islander Cultural Centre is to effectively get off the ground, it would be encouraging to see this facility also offer young people the chance to actively engage with their community elders in a range of activities including music, art and Aboriginal lore. We have a unique opportunity in the ACT not only to highlight the regional heritage, culture, music and dance of Aboriginal peoples, but also to ensure that strong connections are maintained

between community elders and the young so that bonds can be strengthened and Aboriginal people within the ACT can be confident in addressing social, health and cultural issues in a manner they see fit to apply.

I note with great interest that the ACT government is taking a positive step towards addressing a recommendation in the report *I want to be heard* that could see the establishment of a healing farm. I know that the minister has alluded to that, as has Dr Foskey in her remarks. This would allow Aboriginal people to be directly involved in fostering the family networks that should assist an individual to reconnect to cultural values and beliefs that form a central part of the Aboriginal community here in the ACT. This venture would prove very positive given that court sentencing often results in people being sent outside the ACT for respite care due to the lack of such facilities for Aboriginal people here in the ACT. It is very clear that the government is very capable of listening to the Aboriginal community and how it wants to break the cycle of substance abuse. The Liberal opposition supports and encourages their work in this area.

To return to the focus of whether or not the ACT requires new services that directly focus on illegal drug use in the Aboriginal community, I recently asked the Minister for Health to clarity just how well the outreach services and staffing and funding levels were addressing the needs of Aboriginal and Torres Strait Islander people in the ACT. I think the Minister has indeed alluded to much of that in his comments.

I note that Dr Foskey's matter of public importance refers to the need for new and expanded services in the ACT to address Aboriginal and Torres Strait Islander illegal and problematic drug use. I also note recommendation 22 on page 37 of the report under the heading "Evaluation":

> That new or expanded policies and programs developed to implement these recommendations are subject to systematic evaluation and modified, as needed, in the light of valuation research findings.

I agree that we need to move on to new policies. However, I disagree that new programs are necessarily the solution. I will be quite frank in saying that, along with ongoing federal government drug and alcohol and drug outreach services, the ACT government should be congratulated for continuing, where fiscally possible, to offer recurrent funding to organisations such as the Gugan Gulwan Youth Centre and the Winnunga Nimmityjah Aboriginal Health Service to combat issues relating to substance abuse and to provide vital support for young people undergoing detoxification. A couple of my colleagues and I attended the launch of a federally funded program. Mr Mulcahy was there. I am not sure if Dr Foskey was there. Mr Smyth may be talking about it in a moment. But it will result in very positive moves and very positive liaisons between the federal government and the ACT government. I applaud that and I think that any issue like this has to transcend all political boundaries. So that is very positive and we look forward to working more with the government on this.

Of significance and worthy of mention is the establishment of another commonwealth-funded program, the Regional Training Medical Centre managed by Winnunga Nimmityjah. This program focuses on elevating community education and training to Aboriginal health workers in an effort to integrate those services into the mainstream. In essence, the government is taking a position, which the opposition

supports at this stage. Of course, we will be monitoring and keeping a watch, as is our role to do. We appreciate their position in integrating Aboriginal focus services with mainstream services in order to avoid overlap or repetition of service delivery. Rather than establishing new services focusing particularly on Aboriginal health care, I would say it is surely far more practical and sensible to build upon the arrangements that currently exist between the commonwealth and ACT governments.

MR MULCAHY (Molonglo) (4.39): I do not have shadow responsibility for this area of policy but it is one in which I have taken more than occasional interest over the years, as has the Leader of the Opposition who has demonstrated a high level of interest in this particular field. And mine is not a recent interest. For the sake of alerting my colleagues to that interest, it extends back over many years.

I had the opportunity to serve on the federal ministerial advisory council on alcohol. Whilst some of those there tended to be mainly preoccupied with some of the more fashionable urban issues, I did take the initiative, not at public expense, of travelling to Arnhem Land to meet with community leaders and ascertain the impact of alcohol practices and the initiatives they had taken in those areas to improve the lot of indigenous people in those communities. I think you can learn a lot from getting into the frontline and actually talking to people in those communities.

We had also, I guess, about 11 years ago in Canberra a national conference on alcohol and violence, held at the ANU, where there were representatives from the indigenous community from throughout Australia who provided a valuable insight into some of the substance abuse issues that they had faced and had dealt with. It would always be my view that it is imperative, as your first port of call, to listen to the communities and the experience of people who are dealing with these matters on a frontline basis. I would point out that, in another life, through the University of the Northern Territory, I have also been involved in funding research in areas such as Tennant Creek to find out what the solutions were to matters such as alcohol abuse and the like.

My colleague Mrs Burke is very well across the finer detail of what is on offer in the territory and has taken the trouble to familiarise herself with many of the programs. I share her view that, when we are talking about matters such as this one which Dr Foskey has raised, it is important—and I do believe it is appropriate—that we not tackle these things on a party-political basis; it is important that we address matters, as the matter of public importance refers, of illegal and problematic drug use on a bipartisan basis. I think whatever can be done in terms of addressing these problems is worthy of our support.

Obviously, we would always like to see additional support for these areas where we do see progress, where we see a benefit for the community. Certainly the *I want to be heard* report provides a wealth of valuable information arising out of the study between the ANU centre and the health service in terms of dealing with some of these issues. I commend them on their series of recommendations—I believe there are 22—that are submitted for consideration. Although a number of the ones in the report I have are not quantified in terms of the additional support, they are all worthy of consideration.

There is support going on already of course. The minister has pointed out some of the areas where the territory is providing funds. We are aware also of commonwealth

assistance in this respect. I think that is being applied to good use. I think it is important, though, that we constantly listen to those in the field. I had the opportunity last week to talk to a senior commonwealth official who had lead responsibility for dealing with issues impacting on the indigenous population of Australia in relation to substance abuse and dependency. That discussion enlightened me considerably on the matter of petrol sniffing and glue sniffing and all that goes with it. I was counselled to ensure that I kept things in context. I believe it to be about 600 people who are affected. It is certainly a terrible consequence for those who are affected, but I was reminded that there were many other health issues.

I was also counselled on the point of view—and I found this interesting—when I said, "What progress are you making in terms of life expectancy and so forth?" that this will be a longer-term process and one should not look to instant change in this area; that it is statistically going to take quite a time to see health improvements. In some areas, I was informed, there has been better progress in relation to adverse health issues in the indigenous community than there has been in the broader community at large; and in other areas there has been less progress. So the situation is, I understand, somewhat complex and needs to be viewed with a fairly open mind.

I am not critical of the matter of public importance—I would support it, as would Mrs Burke, as she has pointed out—but I think it is also important to recognise the good work that is going on in these communities. Not every problem in life is solved through dollars. It is so easy in this establishment to say, "Let us spend more; let us spend more." I think what is very important is making sure that what you spend is targeted effectively.

I was most impressed, when I was at the centre in Narrabundah the other day, to talk to somebody who was in the frontline of undertaking work with young people who, in a number of cases, had substance abuse problems. He explained to me his work in a very simple way. I was very moved to hear about this. He talked about the progress he had made with young people, getting them involved with sport and trying to get them away from the terrible consequences of illicit substances.

I said to him that it was a story that ought to be heard by many more people. He was not looking for praise, adulation, from a local politician, but simply was telling me the story. I said it was the sort of work that I think the people of Canberra should get credit for because it is not just those in these programs that are getting benefit but also the broader Canberra community if we can keep people on the straight and narrow.

I did have the opportunity, along with Mrs Burke, to attend the launch at the centre of the playing cards initiative. They are health messages on playing cards. That was launched for indigenous Australia as part of Drug Action Week. I thought it was a clever initiative; it was thoroughly researched, we were informed. The federal Parliamentary Secretary for Health and Ageing, Christopher Pyne, delivered the launch.

I must say that Mr Pyne has probably delivered one of the most illuminating speeches, not on that occasion particularly but at the National Press Club recently, on personal responsibility and the role of the state in health issues. It was about the first time I have heard anyone in his role actually bring things back into a measure of balance and say that at the end of the day we, as individuals, have to take charge of matters and cannot constantly rely on the state or intervention by the state to deal with our affairs. It was

a powerful address, and I told him so. I do not always agree with him on every issue, but it will go down in my mind as one of the most enlightened addresses I have heard.

In any event, Mr Pyne launched these cards a few weeks ago. I am sorry there was no-one from the government able to be there, but it was a good opportunity to see a local initiative being presented. It is being rolled out throughout Australia. It is a very straightforward and entertaining way to get across to people the dangers of illicit substances and of making lifestyle decisions, particularly in relation to alcohol and tobacco, that are likely to lead to long-term health consequences.

I commend Dr Foskey for the fact that she is bringing this matter to the attention of the house. I think indigenous issues are something which we can wisely spend more time discussing in the ACT Assembly. It is an area in which I have enjoyed a long interest. Although I do not profess to have the credentials in the field that others might have, I think it is something that all Australians ought to be concerned about. If we can apply more resources prudently and ensure that they are being applied to deliver the best outcome, then that is something we should support.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.48): I am very, very pleased to be able to join in a very important debate. I concur with much of what Mr Mulcahy has said, particularly around the importance of the Assembly continuing to focus on this issue.

I think it is undoubted that issues in relation to the consequences of indigenous disadvantage continue to be a major focus certainly for the Assembly and governments and indeed for the whole community. It is a major focus of this government. We have sought to continue to build on programs designed to deal directly with some of the incidents of disadvantage that are experienced by indigenous people, which to some extent are reflected through issues such as the level of substance abuse, the particular subject matter that we are discussing today.

The fact that our research and our knowledge tell us that indigenous people are far more inclined to smoke, for instance, let alone to engage in risky alcohol behaviour or to use or abuse other addictive substances such as illicit drugs, glue or petrol, is something we know and acknowledge as an incident of particular disadvantage or indeed of the history of dispossession and discrimination which indigenous people have suffered in Australia.

As Mr Mulcahy and others have said, the issues around the problematic abuse of drugs, the abuse of alcohol and indeed the abuse of tobacco represent, not just for indigenous communities but indeed for the community broadly, some of the most intractable and difficult issues for governments and communities to deal with. That is certainly the case in relation to Aboriginal people as well as it is for the broader community. We do need to acknowledge that these are not indigenous-specific issues but certainly are issues that have a compounding problem on Aboriginal people and Aboriginal communities because of the extent to which they are so much more represented.

The last *Addressing disadvantage* report or the *Overcoming indigenous disadvantage* report indicates that more than half of indigenous people smoke. The average within the broader population is less than half of that these days. Similarly, more than 17 per cent of

indigenous men are identified as having as what is described as risky alcohol consumption behaviours. I think to that extent it is a suggestion that 17 per cent of indigenous men perhaps have an alcohol abuse issue.

I do not know the latest statistics for the Australia Capital Territory on the use of illicit substances across the board, but within the ACT the use of heroin, marijuana, cocaine and amphetamines among the indigenous population is far higher than it is for the non-indigenous population.

The government has sought to respond to that. The Minister for Health has outlined some specific responses in relation to programs within, particularly, the department of health—programs which the ACT government supports and conducts; support which we provide most particularly for Winnunga Nimmityjah and for Gugan Gulwan in relation to smoking cessation, diversion and the opiate program; as well as support for indigenous youth.

I think it is important that, in relation to the debate around substance abuse across the board—and in a broad sense it does require us to focus on some of the cause and effect in relation to substance abuse within indigenous communities—it does require of us that we do accept that is a consequence of other issues; that we seek to address those issues; and that we seek to understand, acknowledge, empathise with and respond to 200 years of dispossession, the discrimination that has been part and parcel of that dispossession, the breakdown of community life and the life of Aboriginal communities and that sense of hopelessness and despair that, for all people, does lead to drug-abusing behaviour. I think it is there that we need to continue to focus our attention; in other words, on achieving true reconciliation through a recognition of those issues that led to the situation that we find today.

We can deal, as we are attempting to do, case by case, issue by issue and individual by individual, with individual behaviours; but until we get to the core of the issue and we understand truly what it was that has led individuals to the behaviour which is the subject of this particular matter of public importance, it seems to me that we are doomed forever to be debating this subject around the consequences of disadvantage and more so in relation to indigenous people than in relation to any other identifiable group of people within our community.

We all know what the statistics are; we know what they are across the board in relation to health, health outcomes and life expectancy. But we also know what they are in relation to every other aspect of indigenous life as well, whether it be employment, whether it be violence, whether it be incarceration rates, whether it be contact with the criminal justice system, whether it be in relation to all of the health indicators, including indicators around substance abuse. We know that, and we do need to cut these cycles of despair—cycles that have led us to this situation for indigenous people where, on any social indicator you care to name, this group of Australians fare poorly by comparison to the rest of the nation.

It seems to me that we can discuss these issues individually around our response to alcohol abuse; we can discuss individually our response to heroin abuse; we can discuss the individual issues of our response to petrol sniffing and glue sniffing. But until we as a nation deal with the fundamental issue of dispossession and the lack of progress in

relation to reconciliation, a refusal to support self-determination—in a real sense, a building of capacity within indigenous communities—we will be having this same debate year after year.

So we need to get to the heart. We need to acknowledge the causes of these behaviours, the basis of this despairing behaviour and the extent of the issues around substance abuse. To do that, we need to step back; we need to commit ourselves again and again and again to reconciliation. We need to understand what is it that we mean by reconciliation and we need to honestly, fully declare ourselves committed to reconciliation; we need to commit to all of the incidents of reconciliation, including an acknowledgment and a commitment to self-determination and a right for indigenous people to accept responsibility and authority for the decision making that will address those 200 years of dispossession and disadvantage that have led us to the position we are at today.

Until we do it openly and honestly, it seems to me we are doomed to continue to debate this particular subject year after year after year. If we do not get down to taws as a nation and as individual human beings and make that commitment, then it seems to me that we are not addressing this issue at the cause; we are continually addressing the consequences of other behaviours and other issues; and we will never get there.

It is in that context that the government has committed to the establishment of an Aboriginal justice centre, and it is in that context that the government has committed to circle sentencing. It is in that context that this government has committed to explore openly and fully a process for achieving a degree of self-determination, post ATSIC. We do need to understand more fully and more sensitively than we have been prepared to debate or discuss the implications for Aboriginal people of the abolition of ATSIC and of ATSIC regional councils.

In one fell swoop we have cut off at the knees a growing aspiration and hope for self-determination reflected through ATSIC and reflected through the capacity of Aboriginal people to elect their leaders. We, I believe, have dealt the most dreadful body blow to those hopes, to that aspiration and to the leadership that has been nurtured through ATSIC and ATSIC regional councils that would assist indigenous people in leading themselves out of some of these dreadful incidents of a loss of sense of culture that we experience today.

MR TEMPORARY DEPUTY SPEAKER (Mr Gentleman): The Chief Minister's time has expired.

MR SMYTH (Brindabella—Leader of the Opposition) (4.58): Before the Chief Minister rose to his feet, this was quite a sensible debate and I think we had taken quite a bipartisan approach. I would congratulate all those other members that took that approach. But the Chief Minister had to hop onto his hobbyhorse and attempt to blame other people.

But what we are talking about here today is, of course, the ACT. And let us look at the Chief Minister's record. When he came to office he was the first health minister. In the lead-up to the 2001 election, this government, this minister, promised a couple of dual-diagnosis workers for the Aboriginal community, in recognition of the fact that

there were specific problems in dual-diagnosis areas in the ACT's Aboriginal community.

It did not happen in their first year in office; it did not happen in their second year in office; it just happened in their third year in office when, at the last gasp, before the 2004 election, they suddenly realised that they had to do something because they had ignored the issue. Let us not be pointing the finger at other people. Let us look at ourselves before we get up on our high horse and in high dudgeon accuse other areas of having abandoned the things that they should be doing.

The health minister has just tabled the ACT public hospitals service activity reports for the first, second and third quarters of the 2004-05 year. In each of those reports, as is normal, there is a section about Aboriginal and Torres Strait Islander patients. Until we actually know the quantum of how large this problem is, it will be hard, as Dr Foskey has raised, to talk about the need for new and expanded services in the ACT, because you do not know how big the problem is, how much money do you put to it, where are the areas that it should be in. So I would have thought that the gathering of data would be a fairly important part of the process here, given the commitment of his government that the Chief Minister talks about and given the commitment that the Minister for Health talks about that their government has towards this issue.

It is quite interesting that for quarter 1 of 2004-05 the service activity report for ACT public hospitals says:

> Aboriginal and Torres Strait Islander Patients
>
> Data on Aboriginal and Torres Strait Islander inpatients should be interpreted with caution, as the proportion is based on a small number of patients and therefore subject to significant variation.

It goes on to say:

> ACT Health is currently conducting a data improvement project to address the accuracy of Aboriginal and Torres Strait Islander health statistics in the ACT, including emergency and admitted patient data.

The data in the report excludes mental health and unqualified newborn patients. "We're working on it." That is what the government is saying in the first quarter, that is, July last year, July 2004. When you get to the second quarter, this is October through to December, what does it say about Aboriginal and Torres Strait Islander patients? It says, "We're working on collection. ACT Health is currently conducting a data improvement project." What do you get when you get to the third quarter? There it is, third quarter of 2004-05 service activity report, January, February, March this year, "We're still conducting a data improvement project to address the accuracy of Aboriginal and Torres Strait Islander health statistics in the ACT."

I know these things do take time, but unless and until we have got a commitment from the government—and we see from this government that it took more than three years for dual-diagnosis workers to arrive—on patient activity data rather than "We're unsure of the accuracy but we're working on it," then it is not going to change.

At the same time there are a number of projects that are being done in cooperation with the commonwealth government. This is the minister who can never give the commonwealth government any credit at all. It is a blank, I think; it is just something we can't do here. "Nobody is to talk about the commonwealth government if they do any good things because we don't want to talk about it."

We on this side have given credit to Mr Corbell today for the healing farm. We think the healing farm is a fabulous initiative. We have spoken to members of the Aboriginal community. They see it as incredibly important, and indeed in their report *I want to be heard* they do talk about services provided by Aboriginal people for Aboriginal people, by indigenous people for indigenous people. There are many comments, particularly in the executive summary. One quote on page 25 is:

> Many people pointed to the need for more Aboriginal/Torres Strait Islander staff ...

On page 23:

> Most people had found the experience helpful in a variety of ways, though some mentioned that the absence of Aboriginal staff in the mainstream services was problematic.

I think it is really important that if we are going to work in a bipartisan way—and that is the best way to work on this issue; we all sound like we are committed to it—people in glass houses should not throw stones.

The *I want to be heard* report is very interesting. There are 21 or 22 recommendations in the report. I would like to concentrate on one of them. We are talking about the need for new and expanded services. We on this side certainly support the concept of the healing farm, but again it seems to be taking some time to come to fruition. The tenders are out but we are not going to have any activity apparently until some time next year.

The other issue that is quite important, given the overrepresentation of Aboriginal people in the judicial system, in the prison system, is recommendation 21 of the *I want to be heard* report, which says:

> Prison is a prime place for contracting bloodborne diseases like HIV and hepatitis C, which are then spread into the community. Further investigation and discussion is needed of a range of innovative strategies to combat this hazard.

As we are now putting together the framework in which the new ACT prison will operate, I would just like to bring to the attention of the Chief Minister, who is also minister for corrections, that the *I want to be heard* report does talk about how we deal with Aboriginal people when they are incarcerated. Given that they are overrepresented in drug use, in tobacco use, in alcohol abuse and in other illnesses, one of the areas that we will have to work quite hard at will be when we encounter Aboriginal people in the prison system.

The other area that the *I want to be heard* report talked about was particularly the severe unmet need in areas of prevention and early intervention. Prevention is better than cure. It is a line we all use, but this report does outline, particularly from community leaders,

that they see there are things that can be met, particularly upstream, including things like social determinants of health and illness, which of course goes to housing, goes to nutrition, goes to the ability to keep a job. When we talk about, as the matter of public importance does, the need for new and expanded services in the ACT, unless we adopt an across-the-board approach, then we are probably doomed to failure.

The other thing that we must do is listen to the Aboriginal and Torres Strait Islanders themselves. They are best at telling us their problems and they are best at telling each other how to go about solving those problems. Mr Mulcahy and, I think, Mrs Burke talked about the deck of cards program. It is a deck of cards. It is really simple. It was developed by the Aboriginal Drug and Alcohol Council of South Australia. It is funded by the Australian government's Department of Health and Ageing, the federal department. It basically outlines, in a deck of cards, what the problems are and what some of the simple solutions are. Sometimes the solutions are not about putting a whole lot more money into it, although of course the money, where it is appropriate and where it is needed, should be made available.

It would be interesting to run through one of the suits. I will run through hearts. I am told Aboriginal people like to play cards. I like to play cards. On each of these cards is a message. For instance, the ace of hearts says, "Love your people." The two of hearts says, "Two standards drinks, recommended daily limit for women." The three of hearts says, "Quit smoking." The four of hearts says, "Four standard drinks, recommended daily limit for men." Five goes, "Alcohol, go easy." I am only reading one side. On the four edges of the card there are up to four messages.

Six says, "Sniffing petrol can cause self harm." Seven says, "Petrol is poison." Eight says, "Quit smoking." Nine says, "Healthy body, healthy mind." Ten says, "If you are addicted, so is your baby." The jack says, "Don't do drugs." The queen says, "Sister girl says 'if it's not on it's not on', sexual health." The king says, "Respect elders who live balanced lives." When you take that simple suit of cards and look at the *I want to be* h*eard* report, the clear message is that we need to empower these people to be able to do for themselves what they can best do.

The government is to be congratulated for the move of Winnunga to Narrabundah. They were very, very pleased at that. From talking to the people at Winnunga Nimmityjah, their concern was that, yes, we have a nice new building; what we do not necessarily have is the staff to run it. When we provide new facilities, new services in that way, we have also got to get the funding right.

There are a number of challenges there. Some of them have simple answers. Some of it, of course, will take money. The healing farm will take some additional funds from the Treasurer. We look forward to that money coming on board. We thank members for this debate.

MR SPEAKER: The member's time has expired. The time for this debate has expired.

Public Sector Management Amendment Bill 2005 (No 3)

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

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.10):

> That this bill be agreed to in principle.

Mr Speaker, I am pleased to introduce the Public Sector Management Amendment Bill 2005 (No 3). This bill amends elements of contract employment arrangements for chief executives and executives in the ACT public service. Following amendments to the Public Sector Management Act 1994 in 1995, executives are now employed on contracts of up to five years. Contracts are subject to provisions in the act, the public sector management standards and determinations of the Remuneration Tribunal. While contracts can be renewed, over time it has become apparent that this framework is quite inflexible and does not respond to organisational change. It does not readily support the development of executives within jobs or across the service or the need, on occasion, to marshal senior staff into project teams. The existing framework provides only a limited ability to manage a responsive public service.

The review of the Public Sector Management Act by the former Commissioner for Public Administration recommended a return to tenure for executives as part of a wider set of recommendations for a new act. While the government is considering its response to the commissioner's report, this bill contains a number of intermediate changes to redress the impact of some of the more restrictive elements of the current chief executive and executive employment framework.

The bill reflects the government's commitment to develop a strong executive service based on sound public service values and principles, while grounded in sensible management arrangements and practice. At the same time, the government must also provide market competitive conditions to retain these staff and respect their contribution to the public service. The legislative changes, which cover both amendments to the act and to the public sector management standards, also complement other initiatives such as an executive leadership development program. This program has involved most chief executives and executives in some way since its commencement in 2003.

The first set of amendments to the act provide for transfer of chief executives and executives across the public service. While the current framework provides for contract variations, it does not provide specifically for lateral transfer arrangements. Under the proposed changes, chief executives can be transferred to at level or lower level positions while retaining their current remuneration for the term of their contract. This is appropriate given the small size of our service and the limited number of jobs at this level. Executives can be transferred at level.

While on the subject of chief executives, it should be noted that the bill includes technical amendments to clarify the intended operation of provisions that deal with persons who exercise chief executive powers in relation to staff who are required, under other enabling legislation, to be employed under the Public Sector Management Act. These technical amendments reflect existing policy and are intended to put beyond any possible doubt that the relevant chief executives may exercise employment powers.

The bill recognises the need for flexibility in the deployment of senior management. It also ensures that any views the individual may have are appropriately taken into account in considering transfers. This reflects arrangements that apply to other staff. A second change provides for three months notice of non-renewal of a long-term contract or a payment in lieu of that notice. Under existing arrangements, most executives are not entitled to notice or any payment for non-renewal. Long-serving staff moving into executive positions forgo the benefits of tenure to take a five-year contract. For these executives, no payment reflecting their long service, other than their accrued leave, is payable at contract expiry.

While the three-month notice period is not as generous as arrangements for former senior executive officers who can receive up to a year's payment on non-renewal, this change provides a sensible and reasonable entitlement for staff. A consequential change to section 248 of the act prevents these staff from accepting another ACT public service position during that three-month period, after the expiry of a non-renewed contract, unless agreed by the Commissioner for Public Administration. This reflects an existing prohibition on re-engaging executives during the period covered by a redundancy payment.

The third main change to the act provides for short-term contract arrangements of up to two years. Currently, short-term contracts cannot exceed nine months. The only way that key staff can be moved to a fixed term project or task of longer than nine months is to provide long-term contracts that override any other employment arrangement. This would mean, for example, that a senior officer taking a 12-month long-term executive contract loses his or her substantive position. That is not a workable arrangement. The change, therefore, reflects the needs of the service to better manage longer-term fixed tasks and projects. Existing merit arrangements are not diminished by this change. The act does not mandate merit processes for engagements of short-term chief executive or executive contracts—that is, contracts up to nine months. The new arrangements retain this, which means that merit processes are still required for any engagement for a period of longer than nine months.

The fourth change to the act provides for increases in remuneration through a contract variation where prescribed by the public sector management standards. This modifies an existing prohibition in the act that contract variations cannot be used to increase executive pay. This prohibition tightly maintains the current 12-point executive pay framework in which a job evaluation methodology sets job levels, which in turn links to Remuneration Tribunal determination of matching pay levels. However, the framework does not reflect the reality that executive jobs often increase in size and responsibility through organisational changes or that, as executives develop in positions, they attract new functions.

The proposed arrangement balances the importance of maintaining a consistent service-wide pay structure for executives with the need to reflect increased responsibilities with pay increases. There should be brakes on these arrangements and these will be provided through the public sector management standards, which are disallowable instruments. The standards will make sure pay increases are deserved—that is, they will need to be supported by a job evaluation—and that there are limits to pay progression without merit processes. This balances sensible and fair management

arrangements with the need to maintain a merit-based executive service with a consistent service-wide pay framework. These changes apply to all existing chief executives and executives. They will flow through to these contracts, as they are all specifically subject to the act, which includes amendments to the act. However, given the nature of the changes, there is no prejudicial impact on entitlements.

A number of other technical changes are made. For example, references to Calvary Hospital are updated. There are also a series of technical consequential amendments to other acts set out in the schedule to the bill. The Public Sector Management Act is due for an overhaul. That is recognised by the commissioner's review of the act. This bill makes intermediate changes to address some poor issues. It is recognised that they are a first step to wider changes. I commend the bill to the Assembly.

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

Hotel School (Repeal) Bill 2005

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

Title read by Clerk.

MR QUINLAN (Molonglo—Treasurer, Minister for Economic Development and Business, Minister for Tourism, Minister for Sport and Recreation, and Minister for Racing and Gaming) (5.17): I move:

> That this bill be agreed to in principle.

This bill will enable the sale of the business activities and undertakings of the Australian International Hotel School. The Australian International Hotel School has relied on budget funding since it was established in 1994. The continued operation of the school in its current form would, in all likelihood, require further budget funding to be provided. The government decided in May 2003 to test the market for proposals whereby the management of all aspects of the Australian International Hotel School and the Hotel Kurrajong would be sold or transferred to an alternative party or parties.

It was further proposed that if no viable proposals were received during the market testing process, the Australian International Hotel School would be wound down by December 2006. Costs would be incurred in winding up the operations of the school and the potential proceeds that could be gained by leasing out the Hotel Kurrajong site would be constrained by its heritage status. I think members are aware that we purchased the Hotel Kurrajong from the commonwealth at a pretty good price. The government's preferred course of action has always been to sell the school to another educational institution, which would continue to operate at the Hotel Kurrajong through a sublease from the territory.

After a robust due diligence process and detailed negotiations, agreement has been reached for the Blue Mountains International Hotel Management School Pty Ltd to take over the activities of the Australian International Hotel School. This proposal will strengthen the position of the AIHS both financially and academically. Most importantly,

as a result of the takeover, the Blue Mountains school will enable existing students to complete their current degree course. And the Blue Mountains school has also undertaken to honour all existing staff contracts.

Blue Mountains International Hotel Management School Pty Ltd has successfully operated a hotel management school at Leura in the Blue Mountains since 1991. This school is a university level institution accredited to offer undergraduate and postgraduate level courses. It is a member of the Orion Alliance of International Hotel and Business Schools and is in partnership with the International Hotel and Tourism Training Institute, Neuchatel, Switzerland, and the University of New England at Armidale in NSW.

The company and related entities have interests in operating similar schools in New Zealand, China and Europe. It is intended that the campus at the Hotel Kurrajong will provide the opportunity to offer complementary programs, aside from continuing to offer the current Bachelor of Business (Hotel Management) degree program by the Australian International Hotel School. The Blue Mountains International Hotel Management School Pty Ltd intends to use the title Australian International Hotel School as a trading name to differentiate its activities here in the ACT from its current activities in Leura.

Although the existing board of management of the Australian International Hotel School will continue to operate after the transfer until all reporting requirements have been fulfilled, it will not be involved in future trading activities. The bill makes appropriate provision for the dissolution of the school once reporting requirements have been completed. I present the Hotel School (Repeal) Bill 2005.

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

Residential Tenancies Amendment Bill 2005
Detail stage

Debate resumed from 15 March 2005.

Clause 1 agreed to.

Clauses 2 to 6, by leave, taken together and agreed to.

Clause 7.

DR FOSKEY (Molonglo) (5.22): I move amendment No 1 circulated in my name *[see schedule 1 at page 2784]*. Amendment No 1 inserts a definition of "posted" into the act. A person is posted if the person is compulsorily transferred. I accept that in Canberra, where many people are subject to interstate and overseas postings, there is some merit in having a posting clause that can be readily inserted into a residential tenancy agreement. However, community groups have argued that there is a risk that lessors stand to benefit more than tenants and some oppose it altogether. Others have accepted the clause but argue that it is important to clarify that it relates only to compulsory postings and not to voluntary posting opportunities. To provide this clarification I am proposing that a definition of the term posted be inserted into the act. The definition limits the meaning of posted to compulsory transfers.

I anticipate that the government will argue that the term "posted" is well understood and that there is no need to define it in the legislation. I do not accept this objection. There are many terms that have a common use meaning that nonetheless are defined in legislation for the purpose of clarity. Furthermore, government representatives could not identify how the common use meaning used by the Residential Tenancies Tribunal might differ from the definition proposed in my amendment. I believe that including a definition can only benefit tenants who may be considering the impact of this clause. It is also to ensure that tenants understand that clause 7 is a voluntary clause that can be included in agreements rather than a mandatory clause that they must accept.

I believe the Department of Justice and Community Safety has given an undertaking to talk to the law society about how the clause will be incorporated into the proforma to ensure that tenants are aware that it is optional. I urge the government to ensure that this is followed through and check back with community groups representing tenants to ensure that they are satisfied that the pro forma makes the optional nature of this clause adequately clear to prospective tenants.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.24): The government has determined to oppose this particular amendment. We do contend, as Dr Foskey has foreshadowed, that the term "posted" has not only a well-understood meaning but also a meaning that has been in use within the ACT rental market for decades. It is not the department's experience that there has been a single problem with it, or a single notification or a single note that it has created any problem or any confusion at any stage.

The government's contention is that to now seek to define a term that to date has been undefined will perhaps create the confusion that does not currently exist. The government's position is to oppose it in the terms that it adds nothing, that it is a term that has been well understood and well used and we are not aware of any confusion around its use at all. I believe that to now define it, after decades of use, might create the very issue of concern that Dr Foskey seeks to avoid.

MR STEFANIAK (Ginninderra) (5.26): The opposition will also be opposing the amendment. I note, as the Chief Minister said, it is a term that has been well defined over many years, decades even. I am certainly unaware of any problems that it has caused. By defining it as compulsory transfer and weeding out people who are voluntarily posted for very good reasons might cause some significant problems. It is a well-understood term. It certainly does not seem to have caused, as far as I can see, any great problems in the past. I think this might cause more problems than it would solve.

Amendment negatived.

Clause 7 agreed to.

Proposed new clause 7A.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.27): I move

amendment No 1 circulated in my name, which inserts a new clause 7A and I table a supplementary explanatory statement to the amendments *[see schedule 2 at page 2785]*.

Just by way of explanation, this amendment flows from discussions that the department has had with stakeholders. The amendment clarifies that the Residential Tenancies Tribunal must be satisfied that a tenant owes an amount to the Commissioner for Housing before endorsing an agreement that requires repayment of the amount.

DR FOSKEY (Molonglo) (5.28): I move amendment No 1 circulated in my name on the green paper which amends Mr Stanhope's amendment. *[see schedule 3 at page 2785]*.

The government amendment No 1 inserts a new section 10 (4) (a). This new section clarifies that the Residential Tenancies Tribunal must be satisfied that a tenant owes an amount to the Commissioner for Housing before endorsing an agreement that requires payment of the amount. The Foskey amendment, the Greens amendment, extends the onus on the tribunal to be satisfied that past debt to be repaid to the Commissioner for Housing has been determined through a fair debt review process, that the amount owed to the Commissioner for Housing has been substantiated, and that the proposed arrangements for repayment of the amount to the Commissioner for Housing will not cause significant financial hardship to the tenant or a person who is financially dependent on the tenant.

The rationale behind both the government's amendment and my more detailed amendment is to ameliorate some of the potential problems with the proposed new section 15, part 5. The new section 15, part 5 allows the Commissioner for Housing to negotiate a residential tenancy agreement for public housing that includes repayment of a previous debt as well as rent payable on the property nominated in the agreement. There has been considerable opposition to this clause amongst community groups representing the interests of ACT Housing tenants including the Welfare Rights and Legal Service, the Tenants Union and CARE Financial Services.

This amounts to unfair discrimination against Housing ACT tenants because no similar requirement or option exists in relation to other types of tenancies, and Housing ACT tenants rarely have choices available to them in relation to housing providers. They are vulnerable to agreeing to arrangements that are not fair because they are in urgent need of housing. There have been examples provided to me of people agreeing to repay debts or alleged debts that are so old as to be barred by the statute of limitations or that have been previously included in a consumer bankruptcy and are no longer collectable.

Community groups have argued that there is no need for this act to include provisions for repaying previous housing debt. This is adequately dealt with under administrative law. Furthermore, combining current rent payments with previous debt effectively means that a tenant can be evicted twice for one debt. The government has argued that it is necessary to include a clause regarding past debt in this legislation to ensure that people are not excluded from public housing on the basis of past debt. However, I understand that ACT Housing is no longer excluding people with past debt and this is largely as a result of better processes for dealing with debt.

The housing debt working group and pilot project are working towards better decision making regarding debt repayment which includes processes for considering all of the

individual's circumstances. This work is ongoing and should be allowed to identify better processes in this area without this change to legislation. While I am opposed to clause 15, part 5 in principle, I accept that my opposition alone is unlikely to prevent the introduction of the change. The government's amendment clarifying that the tribunal must be satisfied that the tenant owes an amount to the Commissioner for Housing does improve the operation of clause 15, part 5 but problems remain.

There is ambiguity regarding how the tribunal would establish that the debt has been substantiated. I have therefore proposed a more comprehensive amendment to ensure that a fair debt review process is applied and that ACT Housing agrees to repayment terms that are not going to cause substantial hardship to the tenant or their dependants. I remind the government that it has made many brave statements regarding poverty reduction and preventing homelessness in the ACT and that here is an opportunity for the government to recognise the impact that its own proposal might have in both of these areas.

Imagine the circumstance where a family on very low income recently granted public housing may be in a position of choosing between paying off debt to ACT Housing or putting food on the table. If they do make the debt repayment they risk eviction from their housing. How is this conducive to reducing poverty or homelessness? If the government wants to ensure that past debt payment is a condition of new public housing agreements, it should take every step available to ensure that this does not inadvertently lead to exacerbating financial hardship or increasing evictions. The amendments that I have put forward provide the government with practical strategies to poverty proof the way it deals with past debt.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.33): The government will oppose Dr Foskey's amendment to my amendment. As I indicated, the government has proposed an amendment to clause 10, consistent with discussions that the government has had with the stakeholders who, I acknowledge, as Dr Foskey has, did have some concerns with the original provision. The amendment which the government has proposed, which Dr Foskey seeks to amend, makes it quite clear that the tribunal must not endorse a term unless it is satisfied that the tenant owes, in the first instant, an amount to the Commissioner for Housing. Dr Foskey's proposed amendment adds a further requirement that the tribunal should not only be satisfied that a tenant owes an amount but that the tribunal should be satisfied that the fair debt review process has been applied and that the proposed arrangements for the debt are fair and reasonable.

I acknowledge that—like a number of the amendments that Dr Foskey has proposed with this particular amendment and other foreshadowed amendments—the proposal seeks to effectively expand the jurisdiction of the tenancies tribunal to consider new types of disputes or issues. In this case, Dr Foskey's proposal is that the tenancies tribunal should have its jurisdiction expanded so that it can consider whether proposed repayment levels make for significant financial hardship. Certainly it can be argued that it is desirable that there be a simple and straightforward remedy in circumstances such as that.

The reason the government opposes this amendment is not that we disagree with the sentiment but it is our contention, and it is a position we have put, that this issue that Dr Foskey seeks to have determined by the Residential Tenancies Tribunal—essentially,

a fair debt review process—is a process that can be undertaken by other tribunals. It is more properly the role of other tribunals and not the Residential Tenancies Tribunal. It is fair to say that there is a danger in simply extending the jurisdiction of the Residential Tenancies Tribunal to deal with this particular issue, having cast the responsibility on the tribunal in the way that Dr Foskey's amendment would, unlike the responsibility that is currently vested in the commission or the Administrative Appeals Tribunal, which would normally review decisions made by the commissioner. I think the point is that, and it is at the heart of the government's objection, it is the Administrative Appeals Tribunal that currently has the very jurisdiction that Dr Foskey now proposes be vested in the Residential Tenancies Tribunal.

The government's point is that the jurisdiction already exists; it is just that it exists in another tribunal. It has to be said that, unlike the Administrative Appeals Tribunal, the Residential Tenancies Tribunal does not have any power to waive any part or indeed all of a debt. So in that regard the amendment that Dr Foskey proposes would be ineffectual in that the Residential Tenancies Tribunal simply does not have the power. One might then argue that we could give it the power to waive part or all of the debt and that by doing that we might achieve the ultimate purpose of the amendment. But, in the circumstance where the AAT already has the power, it is my view and the view of the department that it simply is not wise to duplicate the review power that the AAT already has. It seems to me that that is unnecessary, undesirable, unwise, and not a path that we should pursue.

The essential issue that Dr Foskey seeks to address through her amendment is effectively to duplicate in the Residential Tenancies Tribunal powers already vested in the Administrative Appeals Tribunal. For those reasons, the government will not support the amendment to the amendment but does acknowledge that it was through the issue being aired by Dr Foskey's office that we, through further consultation with stakeholders, acknowledged that some clarification was desirable for provision. It is for those purposes that we moved an amendment that we do not believe would be enhanced by the proposed amendment to the amendment that Dr Foskey proposes.

MR STEFANIAK (Ginninderra) (5.38): We will be opposing Dr Foskey's amendment to the amendment but supporting the amendment further to what the attorney has actually said. I do note that the government's amendment should alleviate some of the fears that Dr Foskey has. There is a provision where the commissioner and the tenant can agree to the tenant repaying the outstanding amount over a period time longer than the period set out in the term. I think that should go somewhere to alleviating her fears. I think the point she raises is a vexed one that shows how important it is for people, especially people on a limited income, to do a direct debit when they go into a tenancy with ACT public housing. It alleviates the difficulty of ensuring that you have a roof over your head because that amount of your income is already parked. You do not have to worry about it, and it just makes it so much easier for people who are in financial difficulties.

Dr Foskey's amendment negatived.

Mr Stanhope's amendment agreed to.

Proposed new clause 7A agreed to.

Clauses 8 and 9, by leave, taken together and agreed to.

Clause 10.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.40): I move amendment No 2 circulated in my name and I table a supplementary explanatory statement to all the amendments *[see schedule 2 at page 2785]*.

This amendment flows from discussions with stakeholders also. The amendment makes a correction in clause 10 to replace the word "lease" with the correct phrase "residential tenancy agreement". In addition, this amendment inserts a new section 15(6). Section 15(6) removes any doubt about the effect of including a term in a residential tenancy agreement that requires a tenant to pay an outstanding amount to the Commissioner for Housing. Including such a term does not prevent the commissioner and the tenant agreeing to the tenant repaying the outstanding amount over a longer period than that set out in the agreement; nor does it prevent the commissioner from taking any action against the tenant in relation to the outstanding amount.

DR FOSKEY (Molonglo) (5.41): Mr Stanhope's amendment No 2 to clause 10 would replace the word "lease" with the correct phrase "residential tenancy agreement". In addition, this amendment inserts new section 15(6). Section 15(6) removes any doubt about the effect of including a term in a residential tenancy agreement that requires a tenant to pay an outstanding amount to the Commissioner for Housing. Including such a term does not prevent the commissioner and the tenant agreeing to the tenant repaying the outstanding amount over a longer period than that set out in the agreement or prevent the commissioner from taking action against the tenant in relation to the outstanding amount.

I oppose this clause on the basis of the arguments I made previously in relation to clause 7A. In summary, these arguments include that there is no need to include a clause regarding the repayment of outstanding debt in this bill. There is adequate provision already under administrative law. The inclusion of the clause sets up a distinction between public housing tenants and other tenants that is discriminatory and unnecessary. In the past tenants have agreed to repay a debt that is not legitimate, and there remains a question over how the tribunal will establish that the debt has been substantiated. Combining the repayment of past debt with current rent payments means that effectively a tenant could be evicted twice for the same debt.

It is regrettable that in relation to this clause and various others included in the bill, the government has chosen to meet separately with various stakeholder groups and, by doing so, has placed itself in a position of choosing between conflicting advice about the impact of various clauses from government agencies and community groups. As a result, there remains considerable dissatisfaction and concern with this bill amongst community groups representing those most likely to be affected. A better approach, and one that we suggested some time ago, would have been to have brought the parties together to work through the issues in a collaborative way to develop a better understanding of their concerns and to identify potential solutions. I think that the bill would have been considerably enhanced if such a process had been followed.

Amendment agreed to.

Clause 10, as amended, agreed to.

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

Clause 14.

DR FOSKEY (Molonglo) (5.44): I just want to put it on the record that I am opposing this clause. I am concerned about proposed subsection 40(2)(a), which will allow a registrar to override the requirement that the police give a tenant two days notice of proposed eviction if they believe that there are exceptional circumstances. There are no parameters or examples of what might constitute exceptional circumstances. The speech provides examples of people damaging or threatening to damage property, but the police can already take action to remove the person and protect the property in these cases. To immediately evict the individual is very harsh and removes the 48-hour window of opportunity for the tenant to seek advice and take reasonable steps to address the issues and prevent the eviction. I do not believe that this clause is warranted. At the very least it should be a decision that can be made only by the tribunal, rather than by the registrar.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.46): Let me respond to that by saying that clause 14, which will amend section 40, in which Dr Foskey suggests a registrar is given untrammelled power, is constrained by the suggestion that the registrar must have reasonable grounds for the belief. I think it is accepted by all of us that the rider that the registrar must act reasonably, must have reasonable grounds for his belief, really does provide the constraint that Dr Foskey suggests is not available.

That is the terminology. Essentially, the construction of the exercise by any official anywhere in government of their power is that it must at all times be reasonable. I think that for us to actually provide a basis for the exercise of power anything over and above the rider that the power must be exercised reasonably leads us down paths that potentially have no end. The power must be exercised on the basis of reasonable grounds, on the basis of reasonable belief around exceptional circumstances or appropriateness of giving the notice. Really, I think that is appropriate and is consistent with our practice in relation to the powers that we invest in any official at any time, anywhere.

Clause 14 agreed to.

Clause 15.

DR FOSKEY (Molonglo) (5.47): I move amendment No 2 circulated in my name. [*see schedule 1 at page 2784]*.

Our amendment requires the tribunal, when making conditional orders, to be satisfied that the condition will not cause significant financial hardship to the tenant or a person who is financially dependant on the tenant and extends the expiry period to two years

after the day the order is made. I support the government's intention to apply an expiry date to conditional orders so that they do not continue indefinitely. However, community groups have raised concerns with the government and with my office regarding possible unintended consequences of limiting the expiry period to 12 months.

Concerns centre on the potential for this to result in tenants being required to repay outstanding rent within 12 months. One year is not long enough for many people to repay a debt they have accrued, particularly the most vulnerable households living on low incomes. The debt may have arisen as a result of a genuine crisis, a dispute over a rental rebate or a major change in the household and it may take them some time to fully recover.

My amendment extends the period allowed for conditional orders from one year to two years and also requires the tribunal to be satisfied that the terms of the condition, that is, the repayment schedule, will not cause financial hardship to the tenant or a dependant of the tenant. Once again, if the government is serious about poverty alleviation, it is reasonable to expect that processes for recovering unpaid rent to ACT Housing take appropriate account of the wellbeing of the household. I just want to add here that, with impending changes to the sole parents benefit, noting that quite a few housing tenants are recipients of the parenting benefit for sole parent households where women or men whose children attend school have to move on to newstart allowance with all the dangers of breaches for various reasons, there is the risk of periods without income for a number of housing tenants. I think that is a valid point. I commend the amendment.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.50): The government will oppose the amendment. The government asserts quite strongly that the amendment and Dr Foskey's explanation of it completely misunderstand the impact and the import of the proposal.

The amendment, as Dr Foskey has explained, provides for a default operational period of a conditional order of two years, whereas the government amendment proposes a default period of 12 months. The object of the amendment, as proposed by Dr Foskey, is to meet concerns that the government amendment may lead to a situation where tenants are asked to repay relatively large amounts over a 12-month period. In fact, it does not do that at all. The government amendment to clause 15 deals with a situation where the tribunal imposes a conditional order on a tenant. The order is made in relation to housing commission clients who have not paid rent, as an alternative to eviction, provided the deficiency is made up.

At present, the orders are for an indefinite time. A tenant can make up the deficiency only to find himself or herself liable for eviction many years later if they are running late on one rental payment. The government amendment simply provides that, as a general rule, conditional orders expire after 12 months. That does not mean that any deficiency has to be made up in that time. It simply means that the automatic exposure to eviction is removed after 12 months. A person who during a period of 12 months has established a pattern of making up a deficiency is unlikely to breach the continuing civil requirement to repay the debt. However, if, after that 12-month period, the person defaults on the debt, the lessor can simply seek a new order. To the extent that Dr Foskey's amendment proposes a longer period, it in fact imposes a more onerous and, we believe, an

unnecessary requirement on tenants. I understand Dr Foskey's intention but, in fact, her amendment has the reverse effect to that which she intends.

Amendment negatived.

Clause 15 agreed to.

Clause 16.

DR FOSKEY (Molonglo) (5.53): I move amendment No 3 circulated in my name *[see schedule 1 at page 2784]*.

DR FOSKEY: This clause extends grounds for immediate eviction to injury to a representative of the lessor if the lessor is a corporation and serious or continuous interference with the quiet enjoyment of nearby premises by an occupier to the premises. Our amendment keeps the first part, but replaces paragraph (d) with "(d) serious damage to premises or other property of a neighbour" and includes "(e) injury to a neighbour or a member of a neighbour's family".

Clause 16, as proposed in the bill, relates to the extension of section 51(c) to allow a tenant to be immediately evicted where there has been serious or continuous interference with the quiet enjoyment of nearby premises. It is my view that the remedy of immediate removal should be limited to situations where the matters needing to be addressed are such that they involve imminent danger to personal property. Continuous interference with the quiet enjoyment of nearby premises can reasonably be addressed by the usual remedies for a breach of the residential tenancy agreement, which allow for the tenant to be given notice of a breach, time to remedy the problem or four weeks to leave the premises if they are evicted. There is no urgency that warrants immediate eviction.

To make someone homeless because they have disturbed the neighbours' quiet enjoyment of their premises is a sledgehammer approach and one that is ludicrous for a government that is spending considerable taxpayers' funds to address homelessness. Our amendment provides an alternative approach for the protection of neighbours that is more consistent with the schema of the act and the balancing of the rights of tenants and landlords. Our amendments allow for the same protection offered to lessors to be extended to neighbours, that is, if there is damage or injury or the intention to damage or injure, then the tribunal may intervene. This limits the use of this clause to serious circumstances concerning injury or damage.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.55): The government will oppose the amendment. The amendment replaces proposed new section 51(d) and adds a new section 51(e). Proposed new section 51(d) states:

> serious or continuous interference with the quiet enjoyment of nearby premises by an occupier of the premises.

Dr Foskey proposes to replace it with:

> serious damage to premises or other property of a neighbour.

The government's amendment is consistent with the wording that is currently used in the prescribed residential tenancy agreements. It is the language and the wording used in the existing tenancy agreements, and that was the basis for the words that the government has used, namely, "serious or continuous interference with the quiet enjoyment of a nearby premises by an occupier of the premises". Dr Foskey is concerned that that provides the capacity for a tenant to be evicted where the behaviour is not serious. I do not think one can say that. The tenancy agreement uses certain language. The language has a certain meaning. There is a proposal that, if quiet enjoyment is seriously and continuously interfered with, then there is a consequence. Consequently the government believes its formulation is appropriate.

Neither the government nor the Residential Tenancy Tribunal or any tribunal will readily utilise this power unless quiet enjoyment is seriously interfered with in the way provided for in the government's position. We believe that the amendment is simply unnecessary.

MR STEFANIAK (Ginninderra) (5.57): The opposition will oppose the amendment. The amendment actually will do absolutely nothing to alleviate situations that occur from time to time when people's lives are made an absolute misery by neighbours who are causing all sorts of dramas, short of serious damage to premises, or indeed injury. But it is important that the legislation contains a section dealing with serious or continuous interference with the quiet enjoyment of nearby premises by an occupier of the premises. I think is an essential thing to have in here. Yes, as the Chief Minister suggested, it does replicate what is in the agreement and it does make it quite clear that the intention of the legislature is that this is something that is not going to be tolerated.

I have a constituent from Dunlop. For about 15 months this family put up with appalling abuse, threats, loud music, being kept awake at night and their eight year-old daughter being threatened. There was no actual damage or serious damage to the premises and no injury to them. Certainly there was a lot of mental angst. But it was a serious and continuing interference with their quiet enjoyment. I am not quite sure what happened in the end. The people moved on. But certainly it was very difficult—despite attempts by housing, in that instance—for anything to be done in relation to these people, who simply were not prepared to act in a reasonably civilised way and who made the lives of everyone in the neighbourhood an absolute misery.

I think the clause is essential. Thank God there are not many people like that in our community. Ordinary law abiding citizens, be they in large housing complexes or in standalone buildings, should not have to tolerate serious and continuous interference with their proper, normal, quiet enjoyment. This is a sensible clause and I commend the government for putting it in the bill.

Amendment negatived.

Clause 16 agreed to.

At 6.00 pm, in accordance with the 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

Zunyi Acrobatic Troupe

MRS BURKE (Molonglo) (6.00): Mr Speaker, I had the very great pleasure last evening of attending yet another successful show put on by the Canberra Theatre. I do not intend to steal Ms Porter's thunder, having noticed that she does have something about the theatre on the notice paper. I just want to offer my congratulations to the theatre for staging, under somewhat difficult circumstances, what was and can only be described as a magnificent production when the Zunyi Acrobatic Troupe from the People's Republic of China entertained a full house with some quite breathtaking manoeuvres and contortions.

The Zunyi Acrobatic Troupe put on an amazing show, combining acrobatic and gymnastic skills with dazzling innovative costumes direct from the People's Republic of China. The acrobatics of Zunyi are an exotic flower in the garden of arts and today the ancient art still radiates with vigour. The Zunyi Acrobatic Troupe was founded in 1958 and over the past 40 years the acrobats have presented excellent performances. Their superb skills and perfect performances are based on their collective wisdom. Zunyi acrobatics enjoy a rich cultural background.

It certainly was really good to see a full house in the Canberra Theatre last evening. It was a cold evening, but people turned out in force. It was a great family show. There was even some audience participation, with Mr Chris Peters being up on the stage. How the lady concerned ever performed that magical trick, I do not know, but it was brilliant and it is well done by the Canberra Theatre to continue to bring on such shows. I commend to members the many great shows that the theatre puts on and foreshadow that on 26 September there will be another acrobatic group coming from China. All of the performers in that acrobatic group have some sort of disability. I encourage members to support such groups, particularly ones comprising our friends from China, with which we are fostering further and deeper relationships.

Pegasus Riding for the Disabled

MS PORTER (Ginninderra) (6.02): Mr Speaker, I rise in the adjournment debate to reflect on the 30th birthday of Pegasus Riding for the Disabled, which was celebrated on Saturday, 6 August. It was my great honour and good fortune to be asked to speak at the birthday party, which was held at their premises in Holt.

The birthday party was a wonderful example in itself of the way people come together to support those who take action to address a need in our community. Thirty years ago a small group of people—Judith Burns, Bid Williams, Marcel Judd, Ruth Squair and Dr David Nott—got together and decided that they could change the lives of children with disabilities forever.

Bid recalled, "In the beginning we were woefully ignorant of the implications of the rider's disabilities–we just had to 'suck it and see'." She also recalled that on the first afternoon, at Forest Park, a young girl who was usually wheelchair-bound rode under a tree and reached up to touch the leaves. Suddenly the girl shouted, "I can touch them.

They are soft." As joy and tears transformed the girl's face, Bid was hooked forever and riding for the disabled was born in Canberra.

The organisation was originally called Disabled Riders of the ACT, but was later changed to Riding for the Disabled. The name change was due to some people thinking that the organisation was attending to the needs of injured jockeys. The first AGM was held on 27 October 1975 and, from that point, many other individuals and organisations joined with those of the initial group. These included Mr Michael Hodgman, a group from the then NCDC and a local TAFE group. I have just learnt that it also included the ACT rally fraternity of the Brindabella Motor Sport Club. In addition, Bid Williams's mother made a significant financial contribution.

More and more volunteers came forward and more and more ponies were loaned. Skilled coaches worked with the children and Pegasus grew and blossomed into the wonderful organisation it is today, an organisation that respects and nurtures all involved—children, volunteers, staff, coaches and, of course, the horses—and an organisation that, I am proud to say, is now substantially supported through funding by the Stanhope government.

In conclusion, I would again like to quote Bid Williams. When asked to comment on the 30th birthday celebrations, she said:

> An organisation like Pegasus cannot possibly make it to its 30th birthday without support from individuals, community groups and the Government. It is impossible to name the many hundreds, probably thousands, of people who have helped build Pegasus to the point it is now at. Some who you might like to remember include the many coaches who have taught over the years, the management committee members who do all the thankless tasks behind the scene and work to keep the place operating, the volunteers who help in classes and with other tasks around the place, the many individuals, community groups, local businesses and government who have made donations of time, effort or money for the development of facilities and programs. And of course we will never forget the riders and horses who have made it such a worthwhile experience for anyone who has come to be involved with Pegasus.

Pegasus is an outstanding example of what can be achieved when a group of dedicated people come together with a common goal and I congratulate all those who have contributed their time and energies over the last 30 years. Happy birthday, Pegasus.

Ride for reconciliation
Aboriginal tent embassy

DR FOSKEY (Molonglo) (6.05): Yesterday, I was lucky enough to spend a short time with Father Peter Murnane and his companions who are riding on bicycles to Uluru. They are planning a journey of 40 days and 40 nights—I am sure there is nothing biblical about that—and their ride is termed by them as a ride for reconciliation.

We met at Parliament House yesterday—it was quite a cold morning, as you would remember—and they were seen off by Bob McMullan, Peter Garrett, Gary Humphries and the new Greens senator, Rachel Siewert. I was very pleased that a Greens senator was amongst that group, and I was certainly pleased to be there on my bike.

Bishop Pat Power began the ride with them. I do not know whether he actually made it, but I believe that he intended to go all the way to Hall, which I think was pretty impressive. I only went as far as the tent embassy because we were running on Aboriginal time, which meant that it was very much time for me to leave to get to meetings here, and could not accompany them all the way to the city, which I had planned to do.

The tent embassy is a very significant point of departure. It was really good that Father Peter Murnane and the Aboriginal person driving the support vehicle were able to go there and meet with the people who are camped there. I think everyone knows that the tent embassy has been there for over 30 years and that the people who are camped there insist that until the issues that they are camping there about are fixed they will stay there.

I want to commend the people on the site, because it is looking incredibly airbrushed at the moment. It is extremely tidy. It is a very comfortable place to visit. One is always offered a cup of tea. I also want to put in a plug in support. It is often said by some for various reasons, depending on where the speaker is standing, that the tent embassy should not be there. Some people see it as a little messy in our overordered parliamentary triangle. Other people insist that, because the campers on the whole are not local people, they have no right to be there.

I believe that the tent embassy has always worked to represent indigenous people from all over Australia. It is a place where Aboriginal people visiting Canberra know they are welcome. Issues that confront Aboriginal people confront them everywhere. So I believe that the Aboriginal embassy has a very important place in the indigenous people's campaign. They have no reason to feel hopeful about the next two or three years, but I can tell you that they are still working and campaigning. I thank the Stanhope government for supporting the embassy, as far as it is able, because I believe that the people there add significantly to Canberra's cultural life. I agree that until they have won the gains that they are working for they should stay there because the embassy is in your face and that is where it needs to be.

Business survey

MR MULCAHY (Molonglo) (6.10): Mr Speaker, I would like to follow up on a matter that has been the subject of some discussion today, as it was last week; that is, the survey that was commissioned by Australian Business Ltd. The Chief Minister and the Treasurer have tried today to make a great deal of the survey commissioned by Australian Business Ltd. I have a fair regard for the Treasurer's caution in matters economic in that he normally looks pretty carefully at things. I can only put it down to jet lag or the like that he has walked into something here without doing his homework, because if he had looked at the survey he would not have touched it with a barge pole. I understand that the Chief Minister has had all sorts of jobs he has been carrying out over the last few weeks and it is probably not his forte.

This survey purported to show that the average cost of government taxes and charges per employee in the ACT was $1,630 compared to $2,628 in New South Wales, a difference of $998. The Chief Minister concluded, quite wrongly, that taking on staff was 40 per cent cheaper in the ACT than across the border. If you had just read the press

release and looked at the *Canberra Times* story you would say that everybody should move to Canberra, that this is where you should come to do business, because it is so much cheaper here to hire people—until you looked at the survey.

The Chief Minister did not mention, and probably did not know, that the survey is of little value because it only looked at payroll tax and workers compensation, and even on that data it is wrong. The most important area in relation to the data is that in the case of the ACT there are some critical industry categories for which no estimates exist. The reason cited was confidentiality. The survey has taken the cost of those industries as zero. For example, there are no ACT estimates of payroll tax for the industry categories of government administration and defence, health and community services, and personal and other services. The cost of payroll tax in these cases is recorded as zero in the study.

By contrast, there are estimates in those categories for New South Wales. For the same items, the cost per employee amounts to $2,737. In other words, for payroll tax alone, the data show an apparent additional cost of $2,737 in New South Wales for no other reason than that ACT payroll tax in these three industry categories is not counted. Accordingly, there is no basis for making a comparison.

Similarly, for workers compensation, there is no ACT data for the industry categories of electricity, gas and water supply and of transport and storage, so the cost is taken as zero per employee. For the same industry categories in New South Wales, the cost of workers compensation per employee is $3,247. In other words, for workers compensation alone, the data show an apparent additional cost in New South Wales of $3,247 per employee for, again, no other reason than that the cost in the ACT is not counted. Again, therefore, it invalidates any basis for comparison.

Combining the two, the cost per employee in New South Wales appears to be $5,984 higher only because no estimates for these costs exist for the ACT. What is counted in New South Wales is not counted in this territory. That, of course, is why there is such a huge difference. In light of these very serious flaws and because the conclusions based on them can only be highly misleading, the so-called survey should never have been released.

In any case, comparisons of the cost of payroll tax between the ACT and New South Wales are virtually meaningless because of the large number of small firms in the ACT, which contrasts with the large number of big corporations in the New South Wales area. I think that is obvious to members of all sides in this house. The fact is that the Chief Minister is not comparing like with like. Payroll tax for the ACT is very unreliable for making comparisons because, where no estimate exists, the cost is again taken as zero. As is noted in the survey—I commend the Treasurer to look at this—there is a relative standard error rate of up to 50 per cent, which is way too high.

It has to be acknowledged that the commonwealth government has a major impact on the cost of employees in the ACT due to its competitive impact on the cost of office space, equipment, wages, salaries and conditions, but it does not pay payroll tax; so it totally skews the comparison. Any comparison of workers compensation between the ACT and New South Wales can be misleading because of the high proportion of administrative jobs in the ACT relative to the high proportion of manufacturing, construction and transport jobs in New South Wales. Again, the data for workers compensation in the

ACT are unreliable because in many cases no data exist and because of the relative error rate.

Mr Stanhope has failed to understand the deficiencies in this survey. I think that it is regrettable that he has leapt in without doing his homework. I am surprised that the Treasurer has followed the same course of action.

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

Industrial relations

MR GENTLEMAN (Brindabella) (6.15): Today, some 500 trucks took part in a convoy from Sydney to the ACT. Contrary to my son's thoughts that they were here to celebrate his birthday, they were actually here in protest over the federal government's planned industrial relations changes that will make working in the transport industry a safety nightmare. The Transport Workers Union convoy to Canberra is the largest mobile demonstration against the Howard government's industrial relations changes by both owner-drivers and employee-drivers in Australia. They are taking their protest directly to John Howard's house because the changes that he wants to introduce will destroy their houses, their businesses and their families.

As this Assembly is well aware, owner-drivers are routinely working an average of 70 hours a week. For many drivers, the introduction of the proposed independent contractors act will result in an increase in already high driving hours, with a race to the bottom in a bid for trucking contracts. The changes that the Howard government will implement will see transport workers, hundreds of them here in Canberra, without any rights to independent representation.

The proposed independent contractors act clearly says that it will be against the law for drivers to be represented by their union. That means that drivers will have to compete with each other for a contract and to win a contract a driver will have to be the fastest driver. This will increase the carnage on our roads. The impact of these changes on truck drivers includes no access to the Industrial Relations Commission to settle disputes. Drivers will be at the mercy of their principal contractor when disagreement arises at work. These changes will wipe out the right of owner-drivers to collectively bargain through contract determinations.

In 2004, there were 103 deaths in New South Wales alone in the heavy vehicle industry. With a documented relationship between remuneration and safety, a concern for many owner-drivers is the removal of the minimum rates as provided for in contract determinations. Further, no contract determination to set collective rates and conditions means owner-drivers who have for decades negotiated a base rate will now be forced to compete with each other, a competition that will no doubt be a forced race to the bottom.

Under these changes, owner-drivers will have no right to union representation in negotiations with principal contractors. So, whilst big business can engage the likes of the Road Transport Association, drivers will be denied the fundamental right to freedom of association and the benefits of collective union membership. Those drivers who do not trust their principal contractors to include the fine print will be forced to engage expensive solicitors to ensure that they are not signing away future rights.

My greatest concern about these changes is that, combined with no union representation, owner-drivers will now be denied access to unfair dismissal laws. If a driver refuses to carry an unsafe load or refuses to drive dangerous hours, he or she can be sacked and under these changes will have no right to seek recourse. Drivers will be forced to choose between their livelihood and their lives.

Since 1999 there have been some 8,000 serious injuries recorded as a result of accidents involving heavy vehicles. When the link between pay and safety has been established in the transport industry, why then is the federal government pushing such a dangerous agenda? I found my answer in the Liberal Party's 2004 election platform, which states, "The independent contractors act will legislate to protect independent contracting from interference from unions, tribunals, commissions and other bodies." From interference from unions? When owner-drivers exercise their fundamental right to join a union, is that interference? I believe that meddling in a system that has delivered fair outcomes to workers and their families is interference. I believe that denying workers the right to challenge an unfair dismissal is interference. I believe that deregulating an industry that had 103 deaths in one year alone is negligence.

The Transport Workers Union will not let this neglect go unchallenged. This growing, vibrant union is and always has been member-focused and member-driven, and those TWU owner-drivers at Parliament House today will not forfeit their rights without a fight. We should spare a thought for those principal contractors who want to do the right thing by their contractors through fair remuneration and union representation but will now be forced to compete with the owner down the road who is driven by profit and greed.

In closing, I would like to quote a TWU member, Paul Walsh, who today told his driver comrades that this is John Howard's final victory lap and he is using it to thank and reward those in big business that continue to finance his campaigns. The proposed independent contractors act was drawn up by the bosses for the bosses.

Parliamentary rugby game
Committee deliberations

MR SESELJA (Molonglo) (6.20): This past weekend I had the pleasure of attending the inaugural, I think, all-Australian parliamentary rugby game in Sydney. It was played at Olympic Park. Modesty prevents me from talking about the try scorers, but I would say that it was my first game of rugby and it was quite enjoyable.

Ms MacDonald: Did you win?

MR SESELJA: It was actually a draw. It was a state and territory 15 versus the federal parliamentarians. The federal parliamentarians came from across the parties. Mal Brough, Robert McClelland, Craig Emerson, Joel Fitzgibbon and, I think, Warren Snowdon were there. The states and territories, unfortunately, were represented only by ACT parliamentarians—Bill Stefaniak, Steve Pratt and I—and a couple of staffers. I believe that someone from Karin MacDonald's office was there. There was a mix of former Wallabies in both teams, people like John Langford, Scott Gourlay, Marty Roebuck, James Grant and Sam Scott-Young. I played outside a former

St George, Queensland and Australian rugby league player, Mark Coyne. A former St George and Canberra Raiders player and former member of this place, Paul Osborne, hit me with a high tackle, which was unfortunate, but that is Ozzie's game!

I pay tribute to the organisers of the game. Andy Turnbull was the primary organiser and it was a fantastic event. It was a bit of fun, but it was also a good way of mixing with other parliamentarians. Money was raised for some good causes as well, and we got free tickets to the Bledisloe Cup, which was good. I am sure that I will have to declare them somewhere, and no doubt I will. I am declaring them now for the public record. I got free tickets to the Bledisloe Cup as part of the deal.

It was a good day and it was well organised. I would like to pay tribute to the organisers and to the sponsors. I know that Visa and Diageo were sponsors. There were some others that I cannot recall at the moment, but a lot of fun was had by all. Unfortunately, the result was a draw, but I am sure that the states and territories will be victorious next time.

Earlier today Mr Gentleman not only disclosed deliberations of the planning and environment committee, which I thought was particularly unfortunate, but also went further in actually naming my adviser. I am not sure of the conventions, but I would have thought that that was going against the usual practice in this place. Advisers do not have the opportunity to respond in here. If Mr Gentleman wants to say all sorts of silly things about me, I can take that, but I think it is unfortunate when advisers' names are used. I do not think that that is necessary. I would suggest to Mr Gentleman that in future he should be a little more cautious about naming advisers. I do not think that that needs to be done in this place. I have never done it and I do not think it has been the practice of anyone here.

I really think Mr Gentleman's comments were unfortunate. I think that revealing private deliberations is unhelpful and I think that it will certainly be unhelpful in any future deliberations because members do need to have confidence that they can discuss things with their colleagues without having them being revealed in the chamber. I would like to put on record that I think that Mr Gentleman's comments were out of line. As chair of a committee, for which he is remunerated, he has some responsibilities. I think that he should behave more appropriately in the future and I would certainly expect the Assembly to hold him to the high standards that we expect.

Question resolved in the affirmative.

The Assembly adjourned at 6.25 pm.

Schedule of amendments

Schedule 1

Residential Tenancies Amendment Bill 2005

Amendments moved by Dr Foskey

1
Clause 7
Proposed new section 8 (2), proposed new definition of *posted*
Page 3, line 23

insert

posted—a person is ***posted*** if the person is compulsorily transferred.

2
Clause 15
Proposed new section 42
Page 7, line 20—

omit proposed new section 42, substitute

42 Conditional orders

(1) The tribunal may make a termination and possession order whose enforcement is subject to a condition (an ***enforcement condition***) if satisfied that the condition will not cause significant financial hardship to the tenant or a person who is financially dependant on the tenant.

Example of enforcement condition

that a person fails to pay rent arrears to the lessor within 6 months after the day the termination and possession order is made

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

(2) If the enforcement of a termination and possession order is subject to an enforcement condition, the order expires on a day stated by the tribunal in the order.

(3) The expiry day must not be more than 2 years after the day the order is made.

Note An order may expire before an enforcement condition is completed.

(4) However, subsection (3) does not apply if the tribunal believes on reasonable grounds that—

(a) there are exceptional circumstances; and

(b) it would be inappropriate to state an expiry day in accordance with subsection (3).

3
Clause 16
Proposed new section 51 (d)
Page 9, line 26—

omit proposed new section 51 (d), substitute

(d) serious damage to premises or other property of a neighbour; or

(e) injury to a neighbour or a member of a neighbour's family.

Schedule 2

Residential Tenancies Amendment Bill 2005

Amendments moved by the Attorney-General

1
Proposed new clause 7A
Page 3, line 23—

insert

7A New section 10 (4A)

insert

(4A) The tribunal must not endorse a term mentioned in section 15 (5) in relation to a tenant unless satisfied that the tenant owes an amount to the commissioner for housing.

2
Clause 10
Proposed new section 15 (5)
Page 5, line 4—

omit proposed new section 15 (5), substitute

(5) This Act does not prevent the commissioner for housing from requiring a tenant to agree to pay an outstanding amount owed by the tenant to the commissioner for housing in relation to a previous tenancy in consideration for giving the tenant a right to occupy premises if the tribunal has, under section 10, endorsed the term of the residential tenancy agreement requiring the payment.

(6) The inclusion in a residential tenancy agreement of a term requiring payment of an outstanding amount owed by the tenant to the commissioner for housing does not prevent—

(a) the commissioner and the tenant agreeing to the tenant repaying the outstanding amount over a period of time longer than the period set out in the term; or

(b) the commissioner from taking action against the tenant in relation to the outstanding amount.

Schedule 3

Residential Tenancies Amendment Bill 2005

Amendment moved by Dr Foskey to the Government's amendments

1
Amendment 1
Proposed new clause 7A—

omit proposed new clause 7A, substitute

7A **New section 10 (4A)**

insert

(4A) The tribunal must not endorse a term mentioned in section 15 (5) in relation to a tenant unless satisfied that—

(a) a fair debt review process has been applied; and

(b) the amount owed to the commissioner for housing has been substantiated; and

(c) the proposed arrangement for repayment of the amount to the commissioner for housing will not cause significant financial hardship to the tenant or a person who is financially dependant on the tenant.
