DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

23 AUGUST

2005

Tuesday, 23 August 2005

Tuesday, 23 August 2005

MR SPEAKER (Mr Berry) took the chair at 10.30 am, made a formal recognition that the Assembly was meeting on the grounds 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.

Residential Tenancies Amendment Bill 2005

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (10.31): I seek leave to move a motion concerning the Residential Tenancies Bill 2005.

Leave granted.

MR CORBELL: I move:

> That this Assembly:
>
> (1) notes that Dr Foskey, on 18 August 2005, after the Assembly had debated and passed the Residential Tenancies Amendment Bill 2005, declared an interest in that she had a residential tenancy agreement with the ACT Commissioner for Housing; and
>
> (2) under subsection 15 (2) of the *Australian Capital Territory (Self-Government) Act 1988* (the Self-Government Act) decides that the participation of Dr Foskey in the debate on the Residential Tenancies Amendment Bill 2005 was a failure to comply with subsection 15 (1) of the Self-Government Act, but notes her participation was in the public interest.

This motion is important recognition that the Assembly is having due regard for the provisions of the self-government act. Clearly, the provisions of the act are more explicitly targeted at circumstances where members have a commercial relationship with the territory and potentially act in a way where there is a conflict of interest between their duty as a member and their interest in terms of a commercial relationship. However, in this instance, Dr Foskey does have a contractual relationship with the territory, albeit one which is to do with her tenancy of an ACT Housing property. The government's view is that this does not, in any way, constitute a serious issue, in that her participation was always in the public interest. It is to ensure that the Assembly acts in a way which is at all times cognisant of the obligations that we all have under the self-government act that the government moves this motion today. I commend the motion to members.

MR STEFANIAK (Ginninderra) (10.33): The opposition will support the motion.

Motion agreed to.

Legal Affairs—Standing Committee
Scrutiny report 15

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

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 15, dated 22 August 2005, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 15, which was circulated to members when the Assembly was not sitting, contains the committee's comments on two bills, 59 pieces of subordinate legislation and two government responses. I commend the report to the Assembly.

Human Rights Commission Bill 2005

[Cognate bill:
Human Rights Commission Legislation Amendment Bill 2005]

Debate resumed from 7 July 2005, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR SPEAKER: I understand it is the wish of the Assembly to debate this bill cognately with executive business order of the day No 2, Human Rights Commission Legislation Amendment Bill 2005. That being the case, I remind members that, in debating order of the day No 1, executive business, they may also address their remarks to order of the day No 2, executive business.

MR STEFANIAK (Ginninderra) (10.34): The opposition will not be supporting this bill. I can read and count up numbers, and obviously it is going to pass, but we have a couple of amendments that will hopefully make it better. The bill will establish a new statutory authority to provide the ACT community with—and these are the government's words, supposedly—"improved access to statutory oversight services". The government states that it is carrying out a commitment it made last year. The supposed purpose is to "consolidate the existing complaint bodies to ensure an optimum system for consumers and citizens and to allow flexibility in the use of resources". I will make a few comments in relation to that later. The government review noted that, "A series of small stand-alone agencies would not be able to undertake the challenging tasks expected of them." This new structure is meant to establish a more integrated approach to statutory oversight and service improvement.

The new human rights mega commission will incorporate the statutory oversight functions of the current office of the Community and Health Services Complaints Commission and the Human Rights Office. The creation of a new office accommodating all the functions of the various offices will supposedly enable the sharing of resources and expertise, as well as supposedly increasing consistency and improving coordination of statutory oversight functions. Again, it is to provide a single access point for people who want to access a range of complaints resolution, service improvement and community education facilities. That is the theory of it.

The human rights commission has statutory functions that will allow it, supposedly, to provide a mechanism for the resolution of health, disability and community service complaints, to provide education to the ACT community on the human rights commission, review mechanisms and services and provide select information about the operation of the Human Rights Act and related legislation, publish information and provide a reporting process to the government on the resolution of health, disability and community service complaints, in addition to human rights and discrimination issues in the ACT.

The commission will comprise a president and commissioners who will, according to the government's approach here, in a collegiate fashion decide how best to carry out the functions of the commission. It is envisaged that the role of the president will be similar to that of the board of a company. The president will not investigate individual complaints. It is intended that commissioners will represent their commissions in their areas of expertise and retain their roles as specialists. There is some scepticism in the community and, indeed, by most people who will have some dealings with this new body. A colleague of mine from the public sector legal area stated that the view of the office he works in is that all this will mean is that there will be five more public servants driving home in executive cars provided by the government. Whether that is an unkind statement remains to be seen but obviously this new process is going to cost the territory a considerable amount of extra money.

The government has stated that the bill does not alter the way in which complaints will be dealt with, as the bill is based on existing legislation about complaints, but that the terms used are more modern, broader and more flexible. The government has also indicated that the human rights commission will have more powers to initiate its own investigations into matters that concern it. That is consistent with the Human Rights Act, but whether it is a good thing or not remains to be seen because it is indeed somewhat subjective. That may or may not be a problem. However, reports will be able to be made to entities and office holders that the commission thinks should receive them. That could either be quite positive or it could perhaps be shades of 1984. I note that the commission has initiated a report into Quamby. We were somewhat critical of the government in that regard. That may well have been a positive thing, but we wait to see what else it does.

We are concerned, as with most of the human rights legislation, about whether the average punter in Canberra is going to be any better off. This commission and the associated additions in the human rights area have led to an increase in the budget of about $2.5 million or $2.3 million—from $5 million up to a bit over $7 million. I am sure a lot of that will be spent in relation to this new mega commission and the various tasks it undertakes but I wonder whether it will help the punter in the ACT. Obviously there will be an extra workload as a result of this. I imagine that is why the government increased its budget from $5 million to $7 million. Will it generate any discernible benefits to the people of the ACT?

The human rights commission as it stands—the Human Rights Office—has already shown a propensity to investigate matters that it considers relevant. On occasions it has shown a bit of a propensity—and admittedly there are only about half a dozen matters which I know of directly because I have referred them without perhaps an optimum or desirable result—to not investigate matters that you would think would come under its

purview and which are important to ordinary citizens. For some reason these matters are not investigated by the commission. Examples that come to mind are the right of club employees to gamble at the venue where they work in their own time, and the inability of the commission to resolve the problem of a citizen who could not get their help with incorrect traffic convictions on their record. That makes me fear that the average punter will probably not get much out of this.

In relation to the matter of Errol Good, he was quite happy to go public on it. He has no complaint with the politeness exhibited by the Human Rights Office. He said they were very polite; there were no dramas there but they were simply unable to do it because it was effectively government policy. I must correct what the Chief Minister said on radio about this. I think he said it was something scrutiny of bills would have picked up. It was a practice enhanced in a regulation that did not come to the scrutiny committee because we did not have the capacity to look at regulations at that stage. I just want to correct him there because it is not something the committee would pick up. Peter Bain, of course, is excellent at picking up all sorts of things. That surely would have been picked up if it had been in force. Stephen Argument now does that. We have him on board this year to look at regulations. I just correct the Chief Minister there.

Quite clearly that was a rights issue—the right of a member to go to a club in his own time. In the past he had been able to have a flutter, play the pokies and maybe have a go at the TAB, but he was precluded because of a change in government policy. Surely, given that that was an existing regulation and policy, you would think that would be something the Human Rights Office could investigate. They have a broad brief to investigate existing acts and indicate whether or not they are compatible with human rights. As I said, when it was drawn to their attention in, I think, early February by Mr Good they were very polite but for some reason they did not investigate the matter. I think that is something people expect them to do

The other example I gave was of someone who had incorrect traffic convictions on their record and Human Rights Office assistance was again asked for. They wrote a letter back saying he could take it up legally and that he needed to get legal advice and perhaps initiate action, which would have been costly. I also made representations to the Minister for Urban Services or the Road Transport Authority. They admitted there had been an error and expunged the incorrect convictions from that person's record. The Human Rights Office was not needed at all.

It concerns me that the average punter is not really going to get anything out of this and that the winners with this sort of legislation are perhaps the ideologues, the chattering classes, the people who think a Human Rights Act is a wonderful thing. We will wait to see whether the average punter gets much out of this. It is certainly costing us a lot more money. If the government were keen to improve these areas perhaps these individual agencies could receive a little bit more attention.

I do not think this mega commission is going to do anything. Again I think it goes back to the effectiveness of whether we need a human rights act or not. It has been in operation for 12 months. There have clearly been instances where ordinary, average people have not been assisted by it. It has been mentioned on a number of occasions in court. It has certainly been used on two or three occasions in relation to bail applications where, had it not been in effect, no doubt the person would not have got bail. I am

certainly aware of one instance where there was a lot of angst among the victim's family and the prosecution, and indeed some people who were there to see how the act effectively got someone bail, against what most people involved in the matter felt should have occurred.

One of the big criticisms of human rights legislation by people such as Bob Carr and Peter Beattie is that it has a propensity to place an overemphasis on the rights of criminals, rather than on the rights of ordinary people, victims and the rest of society. One only has to look at the various provisions in our own act. It is not a big act but a lot of the provisions there relate to court procedures and place emphasis on the rights of accused people and people who are before the courts for various crimes. That is a real concern.

We have not yet seen a plethora of cases going to court because of this legislation. It is early days yet but that is another concern. One of the big concerns expressed by the New South Wales committee of parliament that looked at whether they should have a human rights act was that it transfers from an elected parliament the things that a parliament should do and puts the decision on an unelected judiciary. As former Premier Carr has said on numerous occasions, when you give one group rights, invariably you are affecting the rights of other groups. That is a very real problem.

I think an act such as the Human Rights Act may well be fine—I can see why the Americans did it in the 18th century—in some other countries. But in a country and a territory where we have a very sophisticated system of justice—and I use "justice" in the broad general term; justice to the whole community through our conventions, our ever-changing ordinary acts of parliament, which have many rights in them; and indeed our civil law, and the evolution of law through the courts—it is something we tinker with at our peril. I certainly have seen no great discernible benefit for the people of the ACT as a result of this Human Rights Act, and nor has the Liberal Party.

There are a couple of worrying issues developing as to just how the act is operating in practice. I do not think these particular suites of legislation are going to help one jot. However, they will be going through; we acknowledge that. We have been approached by a number of groups with suggestions to improve these acts. I am concerned in relation to several of these acts truncating, affecting or taking away from the role of the ombudsman. That is also something that has concerned a number of groups. The Leader of the Opposition and I saw the AMA. They had big concerns about that because they wanted the ombudsman to be available. The ombudsman is a traditional, cheap means for people to seek investigation and resolution of a problem caused by government and government agencies, rather than facing the expense of having to go through a court process. In perhaps limiting the role of the ombudsman, as this suite of bills does to an extent, I think there are some very real problems. Basically, those are my comments on the Human Rights Commission Bill.

The Human Rights Commission Legislation Amendment Bill, which is here for cognate debate, contains the necessary consequential amendments to allow the human rights commission, established by the Human Rights Commission Bill, to operate. It makes changes to the Discrimination Act, the Health Professionals Act, the Human Rights Act, the Heath Records (Privacy and Access) Act and the Community and Health Services Complaints Act accordingly. Minor changes are made to other legislation to include

references to the new human rights commission and to change references to the Community and Health Services Complaints Commissioner to the health services commissioner.

This bill does not alter any rights created by any other act, nor does it change the way in which boards that help regulate certain health professionals under the act work together. It provides transitional provisions to ensure that complaints already being considered are taken over by the new commission and that existing rights to make complaints are not lost. Accordingly it is a consequential bill to the main bill and, of course, it flows from that main bill. The opposition will be opposing this bill, just as we oppose the government's perceived need for a human rights act in the ACT. We do not think it is necessary. Nothing that has happened in the past 13 or 14 months has indicated that it is, overall, in the sum total of things, a plus for ordinary people in the ACT.

DR FOSKEY (Molonglo) (10.48): The ACT Greens support the establishment of a human rights commission. We believe it is sensible to co-locate the commissioners who share responsibility for upholding human rights and responding to complaints regarding human services. There are a number of benefits, including the opportunity to establish shared administrative functions, undertake joint work on areas of cross-sector importance and identify systemic issues across government and non-government service sectors. We therefore support the broad intention behind this bill. Having said that, we believe it is important to get the legislation right and to ensure that the commission has the support and confidence of the community from the beginning.

In response to Mr Stefaniak's speech on the bill, the Greens are not only concerned with the "ordinary punter" as he puts it, but also for the people who are overlooked and who need the protection of the human rights commission, those who are often unable to speak for themselves. All our amendments are geared towards strengthening the ability of the human rights commission and its commissioners to respond to the needs of these people.

There have been a number of suggestions for improving the legislation from community groups including, but not limited to, ACTCOSS, Welfare Rights and Legal Service and the Women's Legal Centre, as well as individuals who have extensive experience working with people who use such services as health, disability and services for young people, particularly vulnerable groups who are most at risk of discrimination and breaches against their human rights. Those with firsthand experience with the complaints mechanism currently in place are in a good position to anticipate the impact of the changes proposed by the bill.

The ACT Greens agree with those community groups and individuals who have argued that the bill goes too far in transferring responsibilities and decision-making from individual commissioners to the commission. Individual commissioners will lose considerable autonomy, which may compromise their capacity to set priorities or make decisions regarding commission-initiated investigations and provide reports to government. These decisions will be made by the commission as a whole, with the casting vote belonging to the president. Given the power vested in the president, it is of concern that the role is currently ambiguous. What is not clear is the skills and qualifications they will have, and whether the emphasis will be on leadership, administration or experience of individual commissioners across their key areas of responsibility.

I question whether it is appropriate to give this position the authority to choose between competing priorities across disability services, children's services, health services and services for older people. There is a risk that problems may arise in relation to the distribution of resources and agreement on priorities. Such problems could result in substantial delays in decision making and could lead to conflict that might jeopardise the work of individual commissioners. It is our view that the individual commissioners should retain responsibility for their respective areas of work, and we will be moving a number of amendments to achieve this.

The ACT Greens also believe that the functions of the commission and the individual commissioners as described in clause 6 of the bill are too narrow, focused primarily on responding to complaints and examining issues related to service provision. While these functions are fundamental and essential, there is scope for the commission to do more. I believe the commission's functions should also include promoting citizens' rights and examining issues facing groups of people in their role as citizens rather than service users.

A relatively small proportion of people use formal support services. According to the Australian Bureau of Statistics survey of disability, ageing and carers, 79 per cent of people with a disability who need regular assistance receive help from relatives and friends, while just 53 per cent use formal services such as home care. The Australian government department of health reports that only 20 per cent of people aged 70 years and over use government-funded care services. Government and community services provided to children and young people are just one component of their experience. They will also be influenced by factors such as community attitudes and opportunities to participate in democratic processes.

There are often issues beyond the context of service delivery that impact broadly on the human rights of an affected population. For example, the children and young people's commissioner in New South Wales recently undertook a broad investigation into the involvement of children and young people in daily work, finding that over half of those in years 7 to 10 work and that, while most enjoy working and its financial, social and personal benefits, there are also serious issues in relation to the number that have been injured and verbally or physically harassed.

I have heard anecdotal evidence that similar concerns exist in the ACT, so we would like to see the ACT human rights commission given statutory authority to undertake comparable work in areas of public importance wherever issues might arise. The bill as currently drafted does not preclude such activity, but neither does it provide an adequate platform. We have circulated a number of amendments to insert an additional function for the commission in clause 6. This additional function articulates a role for the commission in promoting human rights in the community, identifying and examining issues that affect the human rights and welfare of vulnerable groups in the community, and making recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community. Related amendments insert comparable functions into the role of each individual commissioner.

Another aspect of the current bill that we would like to improve is the inclusion of a clear timeframe for the initial consideration of a complaint. The bill as it stands removes the current 60-day timeframe for determining whether a discrimination complaint will be dealt with by the discrimination commissioner, despite the fact that this has been identified as a particular strength of the discrimination complaints system. Avoiding clear time limits leaves commissioners with no clear parameters for determining performance and establishing resource levels. We believe that the proposed requirement in clause 45 that the commission handle complaints promptly and efficiently would be strengthened by a timeframe for the initial part of the process. It is important to be clear that we are not talking about a timeframe for resolving a complaint, we are only talking about a timeframe for determining whether a complaint will be investigated or considered by a commissioner and which commissioner will handle the matter.

There are many reasons why it is a benefit to individuals making complaints to have a clear timeframe in which to receive a preliminary decision from the commission regarding whether a complaint will be investigated or not. I will have more to say about this in the detail stage of the debate, when I will be moving an amendment to include a time limit of 90 days for determining whether a complaint is to be investigated or considered by the commission or declined. This allows up to 30 days for the complaint to be allocated to an individual commissioner and another 60 days for the commissioner to undertake preliminary consideration of the matter and determine whether the complaint warrants consideration. This is a maximum timeframe—there is nothing to preclude the commission from setting shorter targets—but it ensures that individuals have a clear decision about the status of their complaint no longer than three months after putting their complaint in writing.

There are a number of other issues to be considered in the establishment of the human rights commission. The bill changes the term "investigate complaints" to "consider complaints", which may be misunderstood to be a passive assessment by the commissioner rather than the active gathering of evidence and seeking of responses from the parties involved. Alternatively, consideration may be seen to have quasi-judicial overtones implying that commissioners will consider the evidence and make some determination. A further concern is that, as a new term, the use of "consider" may introduce legal uncertainty about how decisions of the commission are interpreted by a court or tribunal.

The ACT Greens would prefer to see the term "investigate" retained or the commonwealth term "inquire into" adopted. However, because this would require close to 100 individual amendments we will not be attempting to change the bill in this regard. Instead we urge the government to monitor and evaluate the impact of the change of terminology and to make a commitment to respond appropriately to any problems that arise.

Another concern raised by experts working with vulnerable groups is the entitlement to reasonable assistance from the commission to put a complaint in writing contained in clause 44. While it is important that complainants receive assistance to formulate their complaint in terms appropriate to the relevant act, there is an argument that the commission is not in an appropriate position to provide this advice as it may result in the inability, whether perceived or actual, of commission staff to deal with complaints in an

impartial manner. I urge the government to consider this in more detail and perhaps facilitate the development of a memorandum of understanding between the commission and community-based services that would allow independent assistance to be provided.
Those working specifically in the area of discrimination law have raised a number of more specific issues relating to how matters proceed to the discrimination tribunal. I urge the government to examine these issues closely and to take appropriate steps to protect the integrity of the discrimination complaints process within the broader regime.

We circulated our amendments some time back to both Labor and Liberal members of the Assembly. I am very disappointed that the Liberal opposition has not only not got back to us as to their attitude to our amendments but also they have only just circulated some amendments which we have not had time to consider. I do not believe those amendments will be given the consideration they are no doubt due by any member of the Assembly, because we have not had time to look at them and talk with the movers about them. In making that comment, I look forward to speaking to the amendments very soon.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.02), in reply: I will close the debate. Last year the government made clear its commitment to establish a unified statutory oversight body to improve efficiency and accessibility of services. This bill that we are discussing today carries out that commitment.

The government arrived at a decision to create this new commission after very careful consideration. This policy was developed in response to a number of reviews over several years in which considerable consultation was undertaken with community and stakeholder groups. The government position paper; *The right system for rights protection*, which I released in August 2004, in response to the report of the review of the statutory oversight and community advocacy agencies conducted by the Foundation for Effective Markets and Governance (FEMAG), set out the policies we had developed as a result of the work done in that review. The FEMAG review report confirmed the need identified in the Reid review of ACT Health to consolidate the existing complaint bodies to ensure an optimum system for consumers and citizens and to allow flexibility in the use of resources.

While some people have expressed concern about the changes the bill will make to the statutory oversight process in a number of areas, I believe that much of that concern is due simply to the uncertainty that change of any kind brings. We know from the reports of FEMAG and the Reid review, as well as earlier inquiries, that the statutory oversight system in the ACT to date has been far from perfect, despite the exemplary service and hard work by many individual officeholders. In particular, I think we need to respond to the comment in the Reid report, endorsed in the FEMAG report, that in the ACT small, standalone, oversight agencies cannot hope to achieve all that is expected of them.

The new structure established by this bill will create an integrated approach to statutory oversight and services improvement. They will be more streamlined and accessible than currently. It will provide administrative support for a series of specialist commissioners who will be enabled and encouraged to work together to provide an integrated statutory oversight facility.

The new human rights commission will accommodate the functions of the existing Human Rights and Discrimination Commissioner and the Health Services Complaints Commissioner to enable the sharing of resources and expertise as well as increasing consistency and improving coordination of oversight functions. In addition, a new disability and community services commissioner will be appointed to give specialist assistance on disability issues, meeting a long-term commitment by the government.

Other specialist commissioners, such as the children and young people commissioner, created under another bill debated today in the Assembly, can be easily included in the human rights commission as necessary. This will avoid the additional costs connected with the establishment of new, standalone, statutory oversight functions, providing the community with specialist statutory oversight facilities in a cost-effective way.

I am aware that the opposition does not support the establishment of the human rights commission. Mr Stefaniak has publicly criticised the government for allocating money to the new commission in this year's budget and went to this issue again in his speech today. We have allocated the money because we have listened to the reports of the people we appointed to inquire into our statutory oversight system, and then we made a commitment to take the necessary action to give Canberrans a better service. In fact, the money is better spent in setting up a new commission than on the duplication of resources that would be involved in establishing separate offices for individual, specialist, statutory oversight agencies, as Mr Stefaniak says he would prefer.

I will continue to differ with the opposition on this, because I believe that we, as a community, do need to provide means by which people who are vulnerable or disadvantaged can bring their concerns to the attention of service providers and policy makers. We do need to make sure that service providers and service users are aware that respect and equality of treatment are vital and that support is there to develop those values in our community.

The money spent on the human rights commission will be well spent because it will provide an integrated service improvement and complaints-handling service that will deal with a broad range of issues that can arise for people wanting to be treated fairly and given a fair go. The human rights commission will provide a single access point for people who need help and will give them access to a range of complaints resolution, service improvement and community education facilities.

Some doubt has also been expressed about the ability of a single body like the human rights commission to effectively deal with the different types of issues arising out of its combination of functions. In response, I would point to existing ACT agencies that have shown that it is possible to cover diverse areas of responsibility within one office.

A good example is the Office of Fair Trading, which administers a wide range of legislation covering subjects as varied as brothels, credit services, X-rated films, travel agents, trade measurement and security services. It provides single, shop-front access to members of the community who need advice or assistance, as well as complaints handling and public education across this diverse range of subjects.

Another good example is the Administrative Appeals Tribunal, which, with a panel of generalist and specialist members, is able to resolve issues across a broad range of legislative schemes and subject matters. Again, the Registrar-General's Office administers legislation covering land titles, birth records, business names and rental bonds all through a single office.

In this context, I refer again to the comment coming out of our extensive review process that in the ACT it is not possible to provide the services we want through small, standalone, oversight agencies. The structure provided in this bill is broad and flexible. It is not prescriptive; rather, it sets up a framework within which the members of the commission will be able to develop strategies and relationships that enable them to effectively meet the objectives set out in the bill. Instead of constricting the members of the commission by detailing how they should do their work, the provisions in the bill allow them to bring their collective expertise to the task of determining what would be, within broad limits, the best course of action in relation to a particular matter or group of matters.

I think it is important to acknowledge that the people we will appoint to the positions within the human rights commission will be competent, energetic and highly motivated people. It is important to place them within a working framework that supports them but indicates as well that we as a community have confidence in their professionalism and their expertise. This is particularly the case when they will be working together as a commission, where they will have fellow members to consult with as to appropriate strategies and systems. Each member will be able to receive feedback from the other members and place their work in the context of the whole of the work of the commission.

Some people have expressed concern about the lack of statutory time limits in the bill. To those who are concerned about the time taken to deal with complaints, I would point out that the structure in this bill requires the commission to deal with complaints promptly and efficiently and to report regularly to complainants. There is ample scope within the legislative framework in this bill for the commission to establish benchmarks for particular types of complaints and to make a public commitment to them. Those timeframes can then be publicly reported against by the commission in the way that other agencies report their activities against significant benchmarks.

However, commissioners will not be prevented by arbitrary time limits from giving complex matters the extended consideration they need. This bill avoids a range of problems associated with setting time limits for complaints handling. In the first place, it is difficult to specify an appropriate length of time. A period that allows the consideration of complex matters will give the impression that even the simplest of issues should be allowed to be extended for that amount of time. A short period may be fine for the simple matters but may place undesirable pressure on staff where complex issues are under consideration, leading to insufficient attention being given to them as the matter is rushed to a conclusion.

Another problem with time limits is how to make them effective. Currently there is a time limit of 60 days for the discrimination commissioner to decide whether or not a complaint should be dismissed on one of several specific grounds. However, the time limit does not apply to the total time for investigation and conciliation of a complaint if it

is not declined. While this is a useful time limit in an administrative sense, not least because it lets parties know that the commissioner intends to move beyond the preliminary stage of investigation after 60 days, that effect can equally be achieved through timeframes set by the commission in the context of the nature of the complaint.

This bill gives the human rights commission significant powers to require people to provide it with information or documents or to attend for an interview. Those powers will support the imposition of appropriate timeframes set by the commission in relation to particular complaints in light of all the circumstances. For example, if a respondent appears reluctant to provide information about the circumstances surrounding a complaint, the commission will be able to write giving that respondent a time limit within which to produce the information and setting out how the information is to be provided. Penalties will apply for failure to comply with such a request.

Additionally, the flexible framework within which the commission will make decisions about when to conciliate a complaint or to close a complaint will allow it to make clear to parties that delay in responding will not prevent the matter moving towards a conclusion. Together with the power to require a party to attend an arranged conciliation, this will remove any incentive the respondent may have to attempt to stonewall on an issue.

This mechanism not only allows the human rights commission to set appropriate timeframes, rather than having inappropriate ones thrust upon it, but also allows real consequences to flow, in contrast to a statutory time limit that cannot be enforced in practice. The framework established by this bill includes broad and flexible powers to look into complaints about health services, disability services, services for older people and discriminatory behaviour.

Uniform procedures for consideration of complaints will make it easier for members of the commission to make decisions about allocation of the resources available to the office and will facilitate joint consideration of complaints that raise issues across boundaries between specialty areas. This bill does not make significant changes from the way current complaints are handled in practice, as its provisions are based on existing provisions about health service and discrimination complaints. However, the terms used are more modern, broader and more flexible in order to ensure that the human rights commission has the capacity to approach each matter in the most appropriate fashion.

There is significant support in the community for statutory oversight and complaints resolution services in a number of specialist areas. This new human rights commission will provide that service to the ACT community in an efficient, effective and accessible fashion. With expert and committed members, I believe it will provide excellent service to the people of Canberra.

It is important that we, in our debate today on the establishment of the human rights commission, do not allow ourselves to become distracted by a continuing opposition to a bill of rights or the Human Rights Act itself. This is about the establishment of an administrative structure that suits the needs of all of those within our community that would seek to access services to deal with a human rights issue, discrimination, disability or health services, rather than simply to regurgitate the fundamental opposition which some have to human rights per se.

If I may, Mr Speaker, I would also make some comments to conclude debate on the Human Rights Commission Legislation Amendment Bill, which we are currently debating cognately. The remarks that I just made were addressed to the Human Rights Commission Bill. I now wish to direct some remarks to close the debate on the Human Rights Commission Legislation Amendment Bill as well.

That bill, that is, the Human Rights Commission Legislation Amendment Bill, makes amendments to other legislation, which are needed as a consequence of the establishment of the new human rights commission by the Human Rights Commission Bill 2005. Many of the amendments in the second of the two bills that we are debating cognately are to take account of the fact that statutory oversight functions that were contained in several acts will now be brought together and exercised by the human rights commission.

Other changes are to insert references to the new human rights commission and to change reference to the Community and Health Services Complaints Commissioner to the health services commissioner. The bill also provides transitional provisions to ensure that complaints already being considered can be taken over by the new commission and that existing rights to make complaints are not lost.

Although the bill amends the Health Professionals Act, it will not change the way in which the health profession boards, which help regulate certain health professions, work together with the health services commissioner. Working as part of the new human rights commission, the health services commissioner will continue to collaborate with health profession boards to deal with complaints and concerns about service provision and to maintain appropriate service standards. The commission and the health profession boards will work as equal partners to examine issues raised in complaints about registered health professionals. The changes to the legislation that flow from the new structure in the Human Right Commission Bill will not alter the existing relationship between the boards which are concerned with standards of practice and suitability to practise in particular health professions and the health services commissioner.

The resources of the human rights commission will also be able to be used to aid health profession boards in looking into reports made about health professionals. This is the mutually beneficial relationship of shared consideration and specialist expertise that was envisaged when the Health Professionals Act was introduced by the government.

While making necessary consequential amendments to the Discrimination Act, the Human Rights Act and the Health Records (Privacy and Access) Act, no rights created by those acts are affected. People whose discrimination complaints cannot be conciliated will still be able to go to the discrimination tribunal.

The human rights commission will work within the framework of consideration and conciliation of complaints in a way that is appropriate to discrimination matters and will give the complainants notice of their right to take matters to the discrimination tribunal, just as the discrimination commission has done to date.

Another amendment is to change the Ombudsman Act to make administrative processes of the human rights commission open to scrutiny by the Ombudsman. This is to ensure

administrative accountability of the new human rights commission, consistent with the requirements placed on all other government agencies.

I commend these two bills to the Assembly and thank members for their participation in the debate.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 5, by leave, taken together and agreed to.

Clause 6.

DR FOSKEY (Molonglo) (11.17): I move amendment No 1 circulated in my name *[see schedule 1 at page 3105]*. I seek leave to table an explanatory statement to all my amendments.

Leave granted.

DR FOSKEY: The first amendment that we would like to make relates to clause 6, the objects of the act. Our amendment would insert after "This act has the following main objects":

> (aa) to promote the human rights and welfare of people living in the ACT by—
>
> (i) promoting the provision of community education, information and advice in relation to human rights; and
>
> (ii) identifying and examining issues that affect the human rights and welfare of vulnerable groups in the community; and
>
> (iii) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community;

The current objects of the act contained in clause 6 of the bill are largely focused on the rights of individuals within service systems. Objects (a) to (e) all relate specifically to people using services, followed by object (f), which relates to fostering community education and discussion in relation to the act and to the commission. We believe that this narrows the role of the commission more than necessary. On service delivery systems and complaints handling, our amendment articulates that the role of the commission extends to the consideration of broader issues affecting specific groups in the community.

Furthermore, our amendment gives weight and recognition to functions of the commission that may be more proactive in nature. For example, a commissioner may identify that problems with services are a reflection of community attitudes and may undertake to provide advice to government and non-government agencies with regard to

promoting community education, which may be more effective in the long term than addressing issues within individual services or service systems. This is not precluded in the act, but it is not explicitly stated. It is not enough to fix a tyre if the motor does not work.

The broad function of promoting the human rights and welfare of people living in the ACT is a fundamental function for the human rights commission, and this should be reflected in the legislation. Furthermore, this should apply to all citizens, not limited to people receiving services from government and non-government agencies. Specific commissioners have responsibilities in relation to specific groups but, as an entity, the community will see the commission as an agency that exists to promote everyone's rights.

We have proposed three functions through which the commission can promote the rights and welfare of ACT citizens. The first is through promoting the provision of community education, information and advice in relation to human rights. The commission will no doubt, under the existing bill, provide some community education, information and advice directly to citizens, but it can also undertake promotion of this kind by working collaboratively with other agencies such as schools, community groups and service providers. This amendment does not introduce a new role for the commission—I am sure that we all expect that the commission will do this—but it does raise the emphasis on such activity in the act.

The second function is identifying and examining issues that affect the human rights and welfare of vulnerable groups in the community. This is a more proactive approach to addressing systemic issues affecting the human rights of vulnerable groups that complements the role of the commission in reacting to complaints. Complaints are a blunt instrument for identifying the issues that affect human rights, because a relatively small number of people make complaints, and often those most vulnerable are those who are least likely to complain, at least to official bodies.

Indeed, the commission may identify that there is an absence of complaints from particular groups such as people with a disability who do not communicate verbally, or older people from non-English speaking backgrounds, and choose to develop strategies to reach out to these groups to examine the issues that affect their human rights and to raise their awareness of the complaint mechanisms. I cannot imagine that any of us would not expect the commission to undertake work of this nature, but it is not explicitly described in the bill without this amendment.

The third function is making recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community. This amendment gives the commission a platform to make recommendations to government and non-government agencies to improve the human rights protection of vulnerable groups beyond recommendations contained in a report arising from an investigation into a complaint.

I will be moving, in related amendments, to expand the functions of the disability and community services commissioner, the health services commissioner and the children and young people commissioner. Briefly, these amendments are similar and include promoting the provision of education, information and advice to specific groups, raising

public awareness, conducting and monitoring research, making recommendations and promoting the participation of individuals in decisions that affect their lives.

Lastly, I would like to point out that we did not pull this amendment out of thin air. We looked at what people have said about the proposed human rights commission and looked at the functions of comparable statutory bodies interstate. I would like to be able to participate in a consultative process on the functions of the commission but, in the absence of this, we have developed an amendment that we see as consistent with the views of various stakeholders. I believe that this adds to the potential effectiveness of the legislation, and I would hope that it has tripartisan support.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.25): I will make some preliminary remarks before addressing the amendment specifically. Let me say that the government is sympathetic to Dr Foskey's concerns about statutory oversight agencies and respects her intention of moving all of the amendments that she proposes to move today.

The introduction of the Human Rights Commission Bill represented the final stage in a lengthy process of policy development by the government in creating a new way of providing statutory oversight and complaint-resolution services. The government had to make choices between a number of different models. Each model has some good points and some weaknesses. In the end, a decision had to be made about the model that we thought would best accommodate all the outcomes that stakeholders said they wanted and that would, at the same time, be practical to operate within the context of the government agency.

The government has chosen to establish a new statutory body and to give that body a wide range of statutory oversight, community education and complaints resolution functions. Specialist commissioners will be members of that new body so that it will have the necessary expertise to carry out its functions. Funds will be allocated to the new commission to enable it to operate and to carry out its functions. Working together, the members of the new human rights commission will decide how best to use those funds to fulfil the statutory responsibilities placed on it.

Dr Foskey has proposed some changes that are aimed at greater autonomy for the commissioners. We will get to those directly. I just give some indication of the government's broad thinking, and that is that we feel, unfortunately, that these amendments will not operate effectively within the legal structure created by the Human Rights Commission Bill.

Since the specialist commissioners must carry out functions on behalf of the human rights commission of which they are not members, they cannot, at the same time, separate themselves from it. For that reason, the government will oppose those of Dr Foskey's amendments that cannot operate consistently, in our view, with the other provisions of the bill.

To the specific amendment that we are dealing with, amendment No 1: it includes a proposed new subsection in the objects clause. While I do not think that it necessarily adds significantly to the grounds covered by the objects already set out in the bill, I agree

with Dr Foskey that it places an additional emphasis on human rights and welfare and I believe that the amendment that Dr Foskey proposes will work well with the existing provisions in the objects clause. The government proposes to support amendment No 1.

MR STEFANIAK (Ginninderra) (11.27): I note the government is supporting the amendment; so it will get up. I reiterate what I said earlier: already we have instances of a number of people who, one would expect, would have their matters looked at by the Human Rights Office, now the human rights commission, and the commission was unable to. I do not know whether Dr Foskey's addition to these particular subsections in the objects clause is going to help or not. Again, it remains to be seen. I certainly would remain sceptical, despite Dr Foskey's very best intentions here, that this really will have any huge effect. But only time will tell.

Amendment agreed to.

Clause 6, as amended, agreed to.

Clause 7 agreed to.

Clause 8.

DR FOSKEY (Molonglo) (11.28): I move amendment No 2 circulated in my name *[see schedule 1 at 3105]*. This amendment will amend clause 8, part 2, the definition of disability. It is a very small amendment. It adds a note to explain that a broader definition of disability applies to discrimination matters and that complaints made under the Discrimination Act are not limited to the definition in the Human Rights Commission Act, the reason for which I will now explain.

The definition of disability adopted in this bill has been taken from the Disability Services Act 1991. The definition in the Discrimination Act is much broader because it incorporates discrimination on the basis of perceived disability or future disability. It has been suggested that the definition contained in the Discrimination Act should be used in this bill.

However, I believe that this could cause problems, as the definition in the Discrimination Act is too broad for use in relation to complaints about access to services. It is, however, important that there is no confusion over the definition that applies to discrimination matters, and we must ensure that people considering a discrimination complaint do not think that the definition in the Human Rights Commission Act overrides or compromises the definition in the Discrimination Act. The amendment inserts a note into the legislation to explain that a broader definition applies to discrimination matters and reduces, therefore, the potential for misunderstanding.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.31): As Dr Foskey has explained, proposed amendment 2 adds a nova clause 8 (2) to the bill. It notes that the definition of disability in relation to disability services is different from the definition of disability for the purposes of the Discrimination Act 1991.

The government agrees with the explanation or the rationale that Dr Foskey has provided for why the proposed definition provides some extra clarity around the meaning of disability in the legislation and is happy to support the proposed amendment.

Amendment agreed to.

Clause 8, as amended, agreed to.

Clauses 9 to 20, by leave, taken together and agreed to.

Clause 21.

DR FOSKEY (Molonglo) (11.31): I seek leave to move amendments Nos 3 and 4 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments No 3 and 4 circulated in my name *[see schedule 1 at page 3105]*. These amendments will insert a new clause 21 (1), and the wording will be:

> (aa) to promote the human rights and welfare of people with a disability, older people, people who use community services, and their carers … by—

I should note that this refers to the functions of the disability and community services commissioner—

> (i) promoting the provision of education, information and advice to the groups; and
>
> (ii) promoting and monitoring public awareness on issues that affect the groups; and
>
> (iii) conducting and monitoring research into issues that affect the groups; and
>
> (iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect the groups; and
>
> (v) promoting the participation of people in the making of decisions that affect their lives;

As I previously stated, I am concerned that this bill focuses the function of the commission as a whole and individual commissioners too narrowly on complaint processes and service delivery issues. In line with our amendment to clause 6 to expand the functions of the commission overall, I believe that the role of the disability and community services commissioner should be broad and encompass functions that allow the commissioner to be proactive as well as reactive. Broader issues concerning citizenship and community attitudes are often at the heart of issues impacting on human rights and, rather than looking only at how this plays out in a service system, commissioners may well identify issues that require a more preventative, a more proactive, a whole-of-community approach.

This amendment seeks to articulate a broader role for the commissioner in identifying and reviewing issues affecting people with a disability, older people, carers and people who use community services beyond the narrow confines of a service system. For example, the commissioner could examine an issue such as sexual health and disability, encompassing but not restricted to the way that disability services provide support. The commissioner might examine research, community attitudes and individual testimony to review the extent to which people with a disability have age-appropriate opportunities for sexual development and information about sexual health. This might result in a report with recommendations across community education, school education and family support.

There are also circumstances where addressing vulnerability to human rights breaches for a particular group might lie in providing information and education to individuals independently of service systems or promoting participation in decision-making across service systems. The commissioner may determine that research is warranted to improve the extent to which education, information and advice are being provided effectively to particular groups such as people with an intellectual disability.

The proposed amendment does not make the commissioners responsible for the treatment of a particular group across all areas of community life or broaden their function to address every issue facing individuals who have a disability or use a community service. What it does do is allow the commissioner to look broadly at the priority issues and identify strategies across government and non-government sectors that could contribute to improvements.

It has to be remembered that just 53 per cent of people with a disability actually use the formal services. We do not believe that the broader amendment that we made earlier, which the government supported, will, alone, address our concerns to enable the commissioner, himself or herself, to investigate these things.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.52): As I indicated, the government proposes to support a number of Dr Foskey's amendments today but will be opposing a similar number. Those that the government proposes to oppose include both amendments 3 and 4. There a also a number of other amendments that are of a similar order to amendments 3 and 4—in fact, amendments 5, 6, 7 and 9.

The government's reasons for opposing those particular amendments are essentially the same; so I propose to address now, in fact, the government's opposition to amendments 3 and 4. Also, my comments can be taken as applying to amendments 5, 6, 7 and 9. I will not repeat the comments when Dr Foskey progressively moves those additional amendments.

Amendments 3 and 6 add new subclauses to clauses 21 and 25, respectively. Those clauses provide for the disability and community services commissioner and the health services commissioner to exercise relevant functions on behalf of the human rights commission. The amendments would add additional functions that would belong to the commissioner rather than to the human rights commission.

There are two insurmountable problems, in the view of the government, with these amendments. One is that to have commissioners with substantial independent functions would be stepping away from the combined commission model for statutory oversight that the government has chosen. Commissioners with independent statutory functions would work effectively only in a co-location model of statutory oversight.

If co-location is chosen as a model, there is no need for legislation to establish a combined commission; instead a group of independent statutory officeholders, each with individual functions, would be administratively co-located and would manage independent budgets. The commission model, which has been chosen by the government and established by the provisions in this bill, has all the statutory functions belonging to the commission but exercised on its behalf by specialist commissioners who themselves all play an equal part in determining how the commission would fulfil its statutory responsibilities.

The other problem, in the view of the government, is one of practicality. The commissioner who had separate statutory functions such as those proposed in these amendments would be unable to carry them out because no budget allocation has been made for any of the individual commissioners. The human rights commission would not be able to allow the commissioner to use its funds for the purpose because, like all government agencies, it would not be able to use its resources to act outside its statutory functions. If the proposed provision was passed, either the commissioner would have to carry out those functions on his or her own, without staff, or the government would have to provide additional finds to the commissioner separate from the funds allocated in the budget to the human rights commission.

Of course these amendments, in the government's view, would not operate effectively with the other provisions in this bill. The government will oppose them; similarly, in relation to amendment 4, specifically, which has been moved.

I foreshadow that I will advance the same argument in relation to 5, 7 and 9 which, collectively, amend clause 21 (2), clause 23 (2), clause 25 (2) and clause 27 (2), respectively, of the bill. Those clauses provide that the functions carried out by commissioners on behalf of the human rights commission are subject to decisions by the human rights commission itself. It is essential to the integrity of the commission structure established in this bill that the human rights commission be able to take decisions about how it carries out its functions. The human rights commission has statutory responsibility for the oversight functions dealt with in the bill.

Although the bill contains provisions indicating that commissioners will generally carry out the functions of the human rights commission in their particular specialty area, it does not constrain the commission from deciding how it should carry out its statutory responsibility. The proposed amendment would do so. In effect, it would prevent the human rights commission properly carrying out the statutory responsibility given to it by preventing it deciding how to go about its business.

The explanation in the explanatory statement to the proposed amendments indicates a misunderstanding about the legal structure of the human rights commission, in that it suggests that the commissioners can be independent of the human rights commission in

exercising their functions while remaining subject to the commission in relation only to administrative matters. In fact, since the human rights commission is the statutory body vested with responsibilities and powers by the bill, the commissioners are unable to act other than as part of the human rights commission. In order to responsibly carry out the statutory functions, the commissioners and the president together, as members of the human rights commission, must be free to make decisions about how to meet the responsibilities vested in the human rights commission within guidelines provided by the provisions of the bill but not fettered by them.

The comment in the explanatory statement to the proposed amendments that these changes would make provisions about the commissioners consistent with those at clause 19 (2) about the functions of the president also, in the government's opinion, indicates a misunderstanding about the nature of the president's functions. Clause 19 (2) refers to management of administrative affairs of the human rights commission because one of the functions of the president in clause 19 (1) is to manage the administrative affairs of the commission. In fact, the president is specifically excluded by clause 52 from being allocated complaints for consideration, and the terms of clause 19 (2) are consistent with that restriction.

Because these amendments—and the specific amendment of Dr Foskey's which I am addressing now of course is 4—will not operate effectively with the other provisions of the bill, the government will oppose amendment 4 and the other amendments which I have just referred to.

Amendments negatived.

Clause 21 agreed to.

Clause 22 agreed to.

Clause 23.

DR FOSKEY (Molonglo) (11.44): I move amendment No 5 circulated in my name *[see schedule 1 at page 3105]*.

In response to Mr Stanhope and, as stated in my opening speech, I believe that the bill, as it is currently framed, may compromise the autonomy, the specialist knowledge and the ability to act independently of individual commissioners. There is the potential for the commission overall to act as a filtering mechanism of the work of commissioners, potentially diverting them from important issues or impeding their inquiries. I share the concerns of groups, including ACTCOSS, that other commissioners and the president, who may have no particular expertise in the specialist work of that individual commissioner, might inappropriately direct decisions about the work of an individual commissioner.

Clauses 21 (2), 23 (3) 25 (2) and 27 (3) are parallel clauses that subordinate the decisions of individual commissioners as collective decisions of the commission. Our amendments, this one and others like it to follow, propose that these clauses be replaced to allow individual commissioners to retain autonomy over their particular area of expertise and responsibility, while remaining subject to decisions of the commission in

relation to administrative matters. This also makes the restrictions that apply to the function of the commissioner consistent with the restriction of the president's functions as laid out in clause 19 (2).

Amendment No 5 would restore some authority to the health services commissioner, subjecting decisions of this commissioner to the decisions of the commission overall only in relation to matters of an administrative nature.

Amendment negatived.

Clause 23 agreed to.

Clause 24 agreed to.

Clause 25.

DR FOSKEY (Molonglo) (11.48): I seek leave to move amendments Nos 6 and 7 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 6 and 7 circulated in my name *[see schedule 1 at page 3105]*.

Amendment No 6 would insert a new clause 25 (1) (aa) in respect of the functions of the health commissioner. The amendment is designed to promote the human rights and welfare of people with a health or mental health issue, and their carers through promoting the provision of information and advice to people with a health or mental health issue, and their carers; promoting and monitoring public awareness on issues affecting people with a health or mental health issue, and their carers; conducting and monitoring research into issues affecting people with a health or mental health issue, and their carers; making recommendations to government and non-government agencies on legislation, policies, practices and services that affect people with a health or mental issue, and their carers; and promoting the participation of people with a health or mental health issue, and their carers in the making of decisions that affect their lives.

I will argue the case for this amendment in the same way that I argued the case for the similar amendment to the functions of the disability and community services commissioner. I believe that the functions of the health services commissioner should be broad and encompass functions that allow the commissioner to be proactive as well as reactive. As I have previously stated, I am concerned that this bill focuses the function of the commission as a whole and individual commissioners too narrowly on complaint processes and service delivery issues. Broader issues concerning citizenship and community attitudes are often at the heart of issues impacting on human rights. Rather than looking only at how this plays out in a service system, commissioners may well identify issues that require a more preventative whole of community approach.

This amendment seeks to articulate a broader role for the health services commissioner in identifying and reviewing issues affecting relevant groups beyond the narrow confines of a service system. For example, the commissioner could identify that changing

community attitudes towards people who suffer allergies is a more effective way of achieving improvements in the wellbeing of allergy sufferers than improvements to health service delivery because a sense of community acceptance and support increases the extent to which allergy sufferers will participate in the community and seek medical assistance.

The proposed amendment does not make the commissioner responsible for the treatment of people who use health services across all areas of community life or broaden the commissioner's function to address every issue facing individuals who have a health or mental health issue. What it does do is allow the commissioner to look broadly at the priority issues and identify strategies across government and non-government sectors that could contribute to improvements.

Amendment No 7, as with amendment No 6, will restore some authority to the health services commissioner, subjecting decisions of this commissioner to the decisions of the commission overall only in relation to matters of an administrative nature.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.52): I spoke previously outlining the reasons why the government will not support these amendments.

Amendments negatived.

Clause 25 agreed to.

Clause 26.

DR FOSKEY (Molonglo) (11.53): I move amendment No 8 circulated in my name *[see schedule 1 at page 3105]*.

Amendment No 8 would omit clause 26 (2) to remove the requirement that the human rights commissioner is also to be the discrimination commissioner. While it is the current situation that the human rights commissioner and the discrimination commissioner are the same person, there does not really appear to be any particular reason why this should be enshrined in legislation. It is conceivable that one day it might be best to have two separate positions, which could be part time or full time, depending on workload. If this government is committed to a flexible and diverse workforce, there is no reason why this should not apply to statutory positions at the highest level. Creating two part-time commissioners might open up the roles to people with direct experience of having caring responsibilities, disability or health issues, and this would set a good example.

The amendment would remove the requirement that the two positions be filled by one person to provide greater flexibility and also, perhaps, to encompass the fact that there might be far more work than one full-time position can do. While this does not change the status quo, the position of human rights commissioner/discrimination commissioner can continue to be filled by one person. It does allow this to change in the future without requiring a legislative amendment.

If there is support for removing the requirement in clause 26 (2) that the human rights commissioner and the discrimination commissioner are one and the same, then there will

be a need to amend the related examples in clauses 34 (1) and 34 (3), which can be achieved by supporting amendments Nos 10 and 11.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.55): As Dr Foskey has indicated, amendment No 8 removes the legislative connection between the human rights commissioner and the discrimination commissioner. Similarly, amendments Nos 10 and 11 offer examples, in clauses 34 (1) and 34 (3) respectively, to make them consistent with the disjunction of the position of human rights commissioner from the position of discrimination commissioner.

As Dr Foskey has explained, these amendments change the current legislative position that has the discrimination commissioner always being the human rights commissioner as well. The effect of the amendments would be to allow separate appointments of these two roles, but would not prevent the same person being appointed to both statutory offices. This amendment is certainly consistent with other provisions in the bill. I think it is a point well made by Dr Foskey, and the government will support the amendment.

MR STEFANIAK (Ginninderra) (11.56): Because we have specific concerns with the whole concept, I have not been commenting much on this bill. But I do note there is at least some efficiency in terms of the discrimination commissioner being both the discrimination commissioner and the human rights commissioner. There is no harm in that being actually maintained by statute; so we oppose the amendment.

Amendment agreed to.

Clause 26, as amended, agreed to.

Clause 27.

DR FOSKEY (Molonglo) (11.57): I move amendment No 9 circulated in my name *[see schedule 1 at page 3105]*.

As with amendments Nos 4, 5 and 7, which the government has not supported, this amendment would restore some authority to the commissioner, subjecting decisions of this commissioner to the decisions of the commission overall only in relation to matters of an administrative nature.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.59): I have previously indicated the reasons why the government will not support this amendment.

Amendment negatived.

Clause 27 agreed to.

Clauses 28 to 33, by leave, taken together and agreed to.

Clause 34.

DR FOSKEY (Molonglo) (11.59): I seek leave to move amendments Nos 10 and 11 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 10 and 11 circulated in my name *[see schedule 1 at page 3105]*.

Amendments Nos 10 and 11 refer to individuals with more than one role. These clauses need to be attended to due to the success of an earlier amendment. Currently clause 34 (3) reinforces that the human rights commissioner and the discrimination commissioner are the same person. Amendment No 11 allows for these positions to be filled by the same person, but does not preclude there being two separate people in the roles.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (12.01): The government will support these amendments.

Amendments agreed to.

Clause 34, as amended, agreed to.

Clauses 35 to 44, by leave, taken together and agreed to.

Clause 45.

DR FOSKEY (Molonglo) (12.02): I move amendment No 12 circulated in my name *[see schedule 1 at page 3105]*.

Amendment No 12 addresses the timeframe for initial complaint consideration. The amendment would insert a new requirement in clause 45 (2) imposing a time limit of 90 days for the conduct of an initial investigation into discrimination, health, disability or ageing services complaints that result in a decision regarding whether the complaint will be dealt with by one or more commissioners or should otherwise be declined.

The current obligation on the commission in part 5 of the bill that "the commission must deal with complaints promptly and efficiently" is too broad and does not give people certainty. It also fails to provide the commission with clear performance benchmarks and lets the government off the hook in relation to ensuring that the commission is adequately resourced to manage complaints in an appropriate way.

Groups, including ACTCOSS, Welfare Rights and Legal Centre, and the Women's Legal Centre have all expressed concern about the removal of the 60-day time limit for investigating and reporting on discrimination complaints. It has been pointed out that the FEMAG report did not recommend that the time limit be removed but, rather, that the discrimination commissioner be better resourced to meet the time limit without compromising other activities.

There appears to be a strong view that the time limit for discrimination complaints should be retained. ACTCOSS have taken this further and suggested that a time limit be imposed on the initial investigation of other complaints, including those made to the health and disability services commissioners. It is our understanding that the government is keen to have uniformity, but we do not believe that this is an argument for abolishing time limits. Rather, we propose a 90-day time limit to apply to the initial investigation of all complaints to determine whether the complaint can be dealt with by the commission or should otherwise be declined. This would allow 30 days for the complaint to be allocated to a commissioner or commissioners and 60 days for an initial complaint investigation to be conducted and a decision made with regard to whether the complaint will be taken further or declined.

This would ensure that individuals know within a reasonable period of time whether the commission is going to investigate their complaint. Some of these reasons include: individuals making a complaint may be in a position where the commission's decision to investigate or reject a complaint will impact on choices that they might make regarding services they are receiving; long delays in making an initial determination may result in evidence being lost or memories fading and individuals may lose faith in the complaints system and/or take alternative action if they are left in a position of uncertainty for an unknown length of time.

A 90-day time limit is an effective means of ensuring that the facts of the matter are ascertained in a timely manner and parties are able to come to conciliation quickly. According to experts in the field, delays in the time taken to bring a matter to conciliation reduce the potential for settlement as parties may become increasingly entrenched and inflexible as time passes. In addition, the lack of a time limit in the proposed legislation could potentially leave people without a clear and timely response to their complaint. This can result in situations where respondents to discrimination complaints will, if the opportunity is there, attempt to stifle a complaint by flooding the complainant or the investigating body with paper. The existence of a time limit goes some way to preventing this.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (12.06): As Dr Foskey has outlined, amendment No 12 amends clause 45, which provides that the Human Rights Commission must deal with complaints promptly and efficiently. It proposes to remove the requirement in clause 45 (2) (a) to allocate each complaint as soon as possible and to replace it with a requirement to allocate a complaint within 90 days after receipt, having first carried out an initial consideration.

There is nothing in the bill, in my submission, to indicate what the term "initial consideration" means and the proposed amendments do not provide any kind of definition. As a result, the amendment would have little effect, except to allow the Human Rights Commission three months to allocate a complaint to a commissioner for consideration. There seems no justification for such an unacceptably long timeframe.

I spoke earlier, in closing the bill, about the difficulties associated with providing statutory timeframes for dealing with a broad range of complaints. Problems with the proposed amendment bear out, I think, the concerns I expressed. The flexible framework

provided in the bill, together with the requirement to act promptly and efficiently, is capable of supporting a much more efficient approach to dealing with complaints than an arbitrary and essentially unenforceable time limit.

The explanation in the explanatory statement indicates that the intention is that the Human Rights Commission should carry out some sort of preliminary inquiry before allocating the complaint and that, in addition, there would be some further intermediate process in which a decision about whether to take further action would be made. However, the proposed amendment would not, in my opinion, achieve the effect described in the explanatory statement. Inserted into the flexible consideration process established by the bill, it would simply give the Human Rights Commission an unacceptably long period in which to decide which of the commissioners should be responsible for acting on the complaint. It would also be inconsistent with the requirement in clause 45 (2) (e) for the Human Rights Commission to give a written progress report to the complainant every six weeks.

The proposed amendment appears to be based on current provisions that divide the processes of dealing with discrimination complaints and community and health service complaints into separate actions. That artificial separation of the process of looking into issues raised by a complainant has been replaced in this bill by a continual process in which the Human Rights Commission can choose a range of options to action complaints, as appears appropriate and consistent with the requirement to act promptly and efficiently.

One important reason for this change is the need to accommodate a range of complaints, particularly as the current provisions prescribe different processes for different kinds of complaints. I understand full well and sympathise with the reason and apparent justification for which Dr Foskey proposes this amendment. It is just that the government does not believe that it will enhance the timeliness of treatment of complaints received by the commission.

I have no issue with the reasons behind Dr Foskey's amendment at all. I sympathise, in fact, with what it is that she hopes to achieve. It is just that the government does not believe that the model proposed by Dr Foskey is any more efficient. Indeed, we are concerned that it is not as efficient as the existing provisions within the legislation. So I certainly support the aim of Dr Foskey's amendment. Indeed, it reflects the government's desire as well. We hope to achieve exactly the same outcome. It is just that we propose different models for achieving it. The government is inclined to support the model that is incorporated in the bill.

MR STEFANIAK (Ginninderra) (12.10): We certainly have sympathy for what for Dr Foskey is proposing, although I think that 90 days would be far too long. "Promptly" is not a terribly well defined word. One would hope that "promptly" means a lot sooner than 90 days for what Dr Foskey is intending. I suppose this is a case of waiting and seeing just how promptly these complaints are actually looked at, how quickly initial consideration is done and then a decision to allocate is made. Surely that is something that one would expect would take a lot less than 90 days. But "promptly" is certainly very broad. It will be interesting to see how this actually pans out. There might well be some justification for Dr Foskey bringing back something similar to this, but perhaps a lot less than 90 days.

DR FOSKEY (Molonglo) (12.11): I am disappointed in the response from members on this amendment. It does seem to me that our amendment was circulated with enough time for negotiation upon it. I think that the loss of a time limit is regrettable and I do want to be assured by the experience of what happens that the government is not ducking the time limit because it wants to reduce its accountability. I also want to express my concern that resourcing is absolutely essential to prompt response. Therefore it is something that we are going to have to watch if we do not accept time limits.

We have already seen the problems that have occurred in relation to the long delays experienced by people making complaints to the health services commissioner, for instance. Compare that to the timeliness that has been evident in relation to discrimination complaints, where there is a 60-day timeframe. So I guess that, in the absence of time limits, and do remember that we are just talking about time limits to let people know how and if their case is going to be taken up, we need to make sure that the commission regularly reports on the time that it is taking for the initial consideration of complaints.

I will be very inclined to ensure that the government monitors this very closely and reports back to the Greens and all the community organisations and others that have expressed the need for the timeframes. So I am disappointed that neither the Liberals nor Labor see the necessity for time limits.

Amendment negatived.

Clause 45 agreed to.

Clause 46 agreed to.

Division 4.2—proposed new note.

MR STEFANIAK (Ginninderra) (12.14): I move amendment No 1 circulated in my name, which inserts a new note to division 4.2 *[see schedule 2 at page 3108]*.

This is a simple amendment to overcome concerns expressed by several groups that both Mr Smyth and I spoke to. It relates to two main concerns. Firstly, what happens with a complaint that is frivolous or vexatious? Secondly, what happens with a complaint that might be being dealt with elsewhere? There is a real concern by some groups that there has been forum shopping. There is often forum shopping and we need to ensure that forum shopping is actually discouraged.

I note in clause 47 that complaints may, but do not need to, go through a number of steps. There is allocation, which you would think would be the first one. Then there is consideration, conciliation, closure and reporting. People do not have to go through those steps in the order in which they appear. I note that closure is towards the bottom of the list.

Further in the bill—in fact, in clause 78 (2)—there is a provision that the commissioner must close a complaint if it is frivolous, vexatious or not made honestly or if the matters raised by the complaint have been, or are being, dealt with by a court or tribunal or have

been dealt with by the commission. I do not think that last one actually covers every conceivable body, but it is there. So when I was discussing this with the parliamentary counsel, I was advised that probably the best way this could be overcome, and indeed highlighted to enhance what is already in clause 78, is for this note to be inserted into division 4.2. It is a minor point, perhaps, but an important one for the issue of vexatious complaints. It will also attempt to ensure that people do make the one complaint and do not actually engage in forum shopping.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (12.16): Let me say, I think most significantly, what a pleasure it is to work with Mr Stefaniak and the Liberal Party on issues around human rights and the enhancement of human rights. I am very happy to acknowledge the support of Mr Stefaniak and the Liberal Party in our work to establish the Human Rights Commission.

I would like to thank the Liberal Party for this contribution to enhancing the commission. I am more than happy to support the amendment. It is good to see the Liberal Party's fingerprints on this legislation and their commitment, begrudging as it is, to human rights and to supporting those within the community who are looking for more efficient and better ways of ensuring that their rights are protected and that complaints and concerns that they have are appropriately pursued. I thank again the Liberal Party, the opposition, and I will happily support this proposed amendment of Mr Stefaniak's.

Amendment agreed to.

Division 4.2 new note agreed to.

Clauses 47 to 50, by leave, taken together and agreed to.

Clause 51.

DR FOSKEY (Molonglo) (12.18): I seek leave to move amendments Nos 13 and 14 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 13 and 14 circulated in my name *[see schedule 1 at page 3105]*.

Amendments Nos 13 and 14 relate to clauses 51 (1) and 51 (2). They would replace "the commission" with the words "a commissioner" to retain the autonomy of individual commissioners in relation to any decision to refer a complaint to conciliation. These amendments provide individual commissioners with the authority to refer a complaint that they are investigating for conciliation without having to refer back to a meeting of the commission. This clarifies the stated position of the government that the individual commissioners have decision-making authority in matters that have been delegated to them and also ensures that there are no unnecessary delays in referring matters to conciliation.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (12.19): Amendments Nos 13 and 14 amend clauses 51 (1) and 51 (2), respectively. Those clauses deal with referring complaints to conciliation and consideration of complaints. Amendments Nos 15 and 16, which have not yet been moved, amend clauses 87 (1) and 87 (2), respectively. Those clauses provide for reports to be made to the minister.

I do not understand how these amendments would operate, as they attempt to give commissioners the capacity to exercise statutory functions belonging to the Human Rights Commission. While the Human Rights Commission will carry out its functions through the actions of individual members and its staff, those people do not have the capacity to carry out those functions other than as agents of the Human Rights Commission. The amendments would both take away the capacity of the Human Rights Commission to carry out its statutory responsibilities and seek to give power to commissioners to carry out functions that they do not have, except as agents of the Human Rights Commission.

Because, in the view of the government, these amendments do not have the capacity to operate effectively with other provisions of this bill, the government will oppose them. Without repeating myself or going back to points made earlier in this debate, essentially the government's position, as explained now, is a reflection of the model that the government ultimately choose in the establishment of the commission and the collocation of a number of oversight complaints bodies within a single statutory Human Rights Commission.

Many of Dr Foskey's amendments that the government has found itself unable to support today are simply a reflection of a difference of opinion around the more appropriate model for the creation of an effective and efficient statutory oversight regime for the ACT. It really is very much just a difference of opinion between the government and Dr Foskey, or the Greens, in relation to the most efficient and effective model. We choose a particular model. Many of Dr Foskey's amendments, which I think are very well intentioned, with respect, simply are not possible in the context of the model that was created by the government. To accept them or to interpose them now would simply undo and make, I think, particularly ineffective the commission in the pursuit of its duties.

I understand very much what it is that Dr Foskey is seeking to achieve. I would simply say that it is not consistent with the administrative or statutory structure that we have created. It is for those reasons that we find ourselves unable to support that group of amendments that we have today opposed.

DR FOSKEY (Molonglo) (12.22): I just want to respond very briefly to Mr Stanhope's comments. It is obviously true that the trend of the government not to agree to the amendments that I am putting forward on behalf of the Greens that would allow commissioners to do what we see as their job indicates a very different idea of the way that the Human Rights Commission will work. Obviously I am not going to win on the numbers here, but I would like to think that the government is not dismissing our approach out of hand.

It seems to me that we are going to have a model—we will wait and see—that is cobbled together, I am told, along the lines of the model of the Human Rights and Equal Opportunity Commission. I am aware that there are problems with the way that commission operates. I have no idea of the details. I am sure there are frustrations for individuals working within it. Therefore I would like some commitment from the government that they will review the model they are setting up.

It has to be understood that, whichever model is chosen, there are going to be problems. It would be so much better to identify those, say, 12 months down the track and act to rectify them. I see this Human Rights Commission as absolutely integral to the whole system that we have in this place. We have got the whole world watching the way that we oversee human rights. We have the Bill of Rights. We have a Human Rights Act. We have academics coming from all over the world. We need to do it properly. At some point I would like to hear a commitment that, down the track, there will be an independent review of the structure that is set up.

Amendments negatived.

Clause 51 agreed to.

Clauses 52 to 77, by leave, taken together and agreed to.

Clause 78.

MR STEFANIAK (Ginninderra) (12.25): I seek leave to move amendments Nos 2 and 3 circulated in my name together.

Leave granted.

MR STEFANIAK: I move amendments Nos 2 and 3 circulated in my name *[see schedule 2 at page 3108]*.

I appreciated the Chief Minister's comments. Attorney, even if we disagree with legislation, we do think it is always important to ensure that, if it is going to pass, it should operate as well as possible in all of the circumstances. I make that point. Apropos of that, as I said earlier, one of the concerns that was expressed to us was the question of forum shopping. Again, when I was going through this with the parliamentary counsel, we detected here that this amendment would be an improvement on what we have.

At present clause 78 (1) (e) provides that the commission may close a complaint at any time, and it lists a number of reasons, including that the complaint has been referred to a health professional board. Clause 78 (2) states that the commission must close a complaint if certain things apply, including that it is frivolous or vexatious or has been dealt with by a court or a tribunal. It ensures that the matter is closed only if a court or tribunal has dealt it with. It does not necessarily rule out all other boards or, indeed, commissions.

So we could have a situation where a complaint has been referred to a health professionals board or a health services commission—basically forum shopping—and

the legislation, as it currently stands, provides that the commission may close that complaint. It does not say it has to close that complaint. My amendment would simply remove subparagraph (e) from clause 78 (1) and insert new subparagraph (da) in clause 78 (2) so that, in that circumstance, if a matter has also been lodged in the health services commission, the commission must close that complaint and let it be dealt with in the health services commission, again to stop that forum shopping. I commend the amendments.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (12.27): As much as I would have wished to continue the same level of support for the opposition's amendments, I cannot in this particular instance. I understand the rationale for the amendments that the shadow attorney has moved. Indeed, I am aware of representations that have been made on behalf of the health profession in relation of the issue. The government is aware of those and is very sensitive to them. But we do not support the approach that is being proposed here, which would have the effect essentially of forcing the Human Rights Commission to close any complaints that related to registered health professionals, indicating a possibility that there might have been a failure in that particular instance to comply with professional standards.

Under the provisions of the bill, the Human Right Commission is not precluded from investigating concerns about the way in which registered health professionals provide health services. Indeed, I think it is obvious that there would be many people in the community that would expect the Human Rights Commission to be able to look into those issues using the specialist expertise of the health services commissioner. In fact, it is very much part and parcel of his role and responsibility.

But it should not be assumed that the health professional boards in any way will have their particular responsibilities affected by the fact that the health services commissioner, through the Human Rights Commission, will have a role to play in ensuring the high quality of service is maintained by health professionals. The health professional boards will continue to do that.

The bill, as drafted, provides specifically for a combined approach to health service issues. We are concerned that the amendments that the shadow attorney proposes would sever the relationship between the Human Rights Commission and the health professional boards. In addition, the amendment would make clause 78 inconsistent with clause 92, which facilitates the health services commissioner and the relevant health professional boards dealing together on issues raised and complaints about registered health professionals. So the government will not support the amendments.

Amendments negatived.

Clause 78 agreed to.

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

Sitting suspended from 12.30 to 2.30 pm.

Leave of absence

Motion (by **Mrs Dunne**) agreed to:

> That leave of absence be granted to Mr Mulcahy for this sitting week.

Distinguished visitor

MR SPEAKER: I acknowledge the presence in the gallery of Mr Wood, a former member and minister of the Assembly.

Members: Hear, hear!

Questions without notice

Ms Clea Rose

MR SMYTH: My question is directed to the Chief Minister. Chief Minister, now that a young woman has died as a result of injuries she sustained in the recent hit-and-run accident in Civic, will there be a coronial investigation into the circumstances surrounding her death?

MR STANHOPE: That is a matter, of course, for the coroner. My understanding of the Coroner's Act is that, yes there would be a coronial inquiry into that death. But I would have to take advice on the specific requirements of the Coroners Act. I cannot imagine why there would not be a coronial inquiry. I will need to take some legal advice.

On my understanding of the way in which the Coroners Act operates, it is essentially a decision that would be taken by the chief coroner. I am happy to get confirmation of the position in relation to the Coroners Act and provide that advice to the Assembly today.

MR SPEAKER: It has been brought to my attention that you might have been asking for a legal opinion, Mr Smyth.

Mr Smyth: No, I do not believe so Mr Speaker.

MR SPEAKER: It is pretty close to it. Mr Smyth, a supplementary question—which will not be a request for legal advice.

MR SMYTH: No, it will not be, not that the original question was either, Mr Speaker. My supplementary question to the Chief Minister is: will you undertake not to interfere with the coronial process, should it go ahead?

MR STANHOPE: I wondered what the trick to the question was. When you get these trick questions, you think, "Yes, I assume there will be a trick to it." I just said to Ted, "I presume this is one of the classic trick questions." By one of those amazing coincidences, that was the conversation I was just having with the Deputy Chief Minister. As I awaited the telling supplementary, I said to Ted, "Wait for it. This will be a trick question. So I had better be on my guard." So I was on my guard.

I regret that the appalling heartbreaking tragedy that we are all witness to in the death of a young woman in a tragic accident is seen, by the Leader of the Opposition, as a fit subject to seek to score a political point off me in relation to the bushfire coronial inquest. That is tawdry politics of the lowest order.

Mr Smyth: Mr Speaker, I rise on a point of order. Under standing order 118 (b), he cannot debate the subject; he has to answer the question.

MR SPEAKER: Mr Smyth, he is responding to the question you asked him.

MR STANHOPE: I do. The point needs to be made that the Leader of the Opposition, the leader of the alternative government, who would use the tragedy of the death of a young woman to seek to score a political point off me in relation to the bushfire inquest, is plumbing the depths of tawdry, appalling politics. He deserves—and the Liberal opposition deserves—to be treated with absolute contempt for seeking to drag into a political attack on me in relation to the bushfire inquest, the tragic, heartbreaking death of a young Canberra woman. I am appalled.

Judicial independence

MR STEFANIAK: My question is to the Attorney-General. Why have you allowed the administration of justice in the ACT to reach a state where the Chief Justice of the Supreme Court felt compelled last Friday to warn "that the importance of the doctrine of the separation of powers and the independence of the judiciary are under threat"?

Mr Stanhope: I take a point of order, Mr Speaker. There is a motion on the notice paper for tomorrow in relation to this matter. I believe that the question is out of order.

Mrs Dunne: Mr Speaker, speaking to the point of order, there is nothing on the notice paper as yet. Notice has been given but it is not on the notice paper.

MR SPEAKER: It is not on the notice paper; that is correct.

MR STANHOPE: I didn't, Mr Speaker.

MR STEFANIAK: I have a supplementary question. Attorney, what actions, if any, do you propose to take to alleviate the Chief Justice's fears?

MR STANHOPE: I have written to the Chief Justice and offered to discuss these issues with him on the basis of further explanation by him of his concerns.

Sister cities

MS PORTER: My question is to the Chief Minister. Chief Minister, Canberra has sister city relationship with both Nara in Japan and Dili in East Timor. Can you please outline to the Assembly any recent initiatives under these relationships and the benefits to both Canberra and the communities in Nara and Dili?

MR STANHOPE: Thank you, Ms Porter, for the question. This is an important question in the context of the relationships which the government has with Canberra's sister cities. We have two sister cities—Nara and Beijing—and we have a friendship relationship with Dili, an emerging nation within the world. I was very pleased recently on a trip to Nara, representing the community of the ACT, to cement the relationship between Nara and the ACT, but it was a regrettable trip to the extent that, for the first time, the Liberal Party refused to offer bipartisan support for our sister city relationship with Nara, the Leader of the Opposition describing my trip to Nara as the "greatest junket of all time."

Mr Corbell: Shame!

Mr Smyth: No, it is not true—it is not true; you can't mislead the Assembly.

MR SPEAKER: Order! Those sorts of interjections are bad enough by themselves but to imply that the Chief Minister has misled the Assembly is disorderly. Withdraw it.

Mr Smyth: I withdraw, Mr Speaker.

MR SPEAKER: Thank you.

Mr Smyth: But he cannot put words into the mouth of the Liberal Party. We have not said any of what he has—

MR SPEAKER: Order! Resume your seat, Mr Smyth.

Mr Smyth: It's just Shane Warne again!

MR STANHOPE: Thank you, Mr Speaker. I do think it a pity that we have come to a pass where even the sister city relationship with Nara, something that has endured for more than a decade, is being attacked—

Mr Smyth: It is not true and you know it.

MR SPEAKER: Cease your interjections, Mr Smyth.

MR STANHOPE: for the first time by the Leader of the Opposition, referring to my first trip to Nara—

Mr Smyth: Point of order, Mr Speaker. Under standing order 118 (b), he cannot debate the subject. He was asked about the benefits of the trip but he is more interested in what the Liberal Party has not said. I think he should come to the point of the question and you should ask him to.

MR SPEAKER: That is not a point of order, Mr Smyth.

Mr Smyth: Of course it is, Mr Speaker. Under 118 (b), he cannot debate the subject and it is exactly what he is doing.

MR SPEAKER: Mr Smyth, the Chief Minister, according to the standing orders, has got five minutes to respond to the question that was put to him. While ever he sticks with the subject matter of the question, he is entirely in order. You know that and that is the way it has always been.

MR STANHOPE: Thank you, Mr Speaker, and I can understand the Leader of the Opposition's sensitivity in relation to his walking away from the sister city relationship with Nara, a matter of great regret.

Mr Smyth: We haven't; you've got to tell the truth, Jon.

MR STANHOPE: In relation to the sister city relationship, the Nara-Canberra sister city committee—

Mr Smyth: You've got to tell the truth.

Ms MacDonald: Mr Speaker, I am sorry to interrupt the Chief Minister but Mr Smyth has now just said twice in a row that Mr Stanhope needs to tell the truth. That is disorderly.

Mr Smyth: No, it is not.

MR SPEAKER: I did not hear that but, if you said it, you ought to withdraw it otherwise I will just refer to *Hansard* and make a ruling on it later.

Mr Smyth: I certainly did say it, Mr Speaker. He is not telling the truth in regard to the Liberal Party. I do withdraw.

MR SPEAKER: Resume you seat Mr Smyth and discontinue this approach otherwise we will be taking a closer look at standing order 202 and that would be unfortunate.

MR STANHOPE: Thank you, Mr Speaker. It was a great privilege to go to Nara during my recent visit and to cement the relationship and the friendship that have been forged between the people of the ACT and Nara. We can see many beneficial outcomes of that relationship. We can see one at the moment with the visit to Canberra of the Nara youth soccer team, which arrived in the ACT at the weekend to participate in a number of games of football with teams within the ACT.

The number of visits occurring now between our two cities is significant, particularly at a youth or school level. It is at that community level, essentially, through sporting teams and through our schools, that we see a significant benefit for communities from across the sea twinning with the ACT in the way that Nara has. We also see it with a number of community organisations such as the ACT Law Society, which has twinned with the Nara Bar Association, and similarly with the ACT and Nara chambers of commerce and industry. We have the ACT Australia-Japan Society twinning with its counterpart in Nara and similarly between rotary clubs in the ACT.

But, as I said, the greatest continuing linkage, which I think is potentially very important for future peoples around the world, is the extent to which Canberra schools have

developed twinning relationships with Nara. There is a continuing range of exchanges between schools in Nara and Canberra.

MR SPEAKER: The minister's time has expired. Ms Porter, a supplementary question?

MS PORTER: Thank you, Mr Speaker. Is the Chief Minister able to describe for the Assembly what practical assistance measures the ACT government is taking under the Canberra-Dili friendship agreement?

MR STANHOPE: Yes, I can, but I regret I was not able, because of the delaying tactics of the opposition, to provide the degree of detail on our sister city relationship with Nara that I would have liked—perhaps tomorrow. In relation to the Canberra-Dili friendship agreement, I am very pleased with the level of continuing support at the community level. I am also very pleased at the extent to which the ACT government, in conjunction with the Dili district administration, has been able to provide practical on-the-ground support under the auspices of the Canberra-Dili friendship arrangement. To date, they are effectively represented through two projects that are being pursued. One relates to the identification of domestic violence as a priority for the Timorese community. As a consequence of that, two Canberra experts, Ms Denise Simpson, the head of the domestic violence crisis service, and Ms Gail Frank, a worker with the domestic violence crisis service, visited Dili in June for a scoping study. The study looks at the extent to which the ACT government, through the Dili friendship arrangement, could provide some capacity for direct assistance for the community sector and the Dili district administration in relation to how to deal with the very complex issue of violence within communities.

The second project, which I am very pleased the ACT government has been able to support, is a proposal scoped by the chief executive of ACT Health, Dr Tony Sherbon, dealing with the possible establishment of cooperative arrangements in relation to health care between ACT Health and the Dili district administration health service. The proposal being scoped and pursued by Dr Sherbon is similar in part to arrangements that exist between a number of Australian governments and councils, and not just for Dili but also other parts of Timor. The highest priority areas of need in Timor—one of the 10 poorest nations, incidentally, and recognised as the poorest of all the nations within the Asian region—are in health care and education. I think it is excellent that ACT Health has scoped the possibility or the capacity to provide, from time to time, some capacity building and direct assistance to Dili in the delivery of health care for the people of East Timor and that this has been done under the auspices of our Canberra-Dili friendship agreement, which we entered into in 2004.

Dr Sherbon proposes, in concert with Professor Arbon, the chair of acute care nursing and the director of the Research Centre for Nursing and Midwifery Practice, and Ms Dreimanis, a clinical nurse consultant in infection control, to visit Dili to provide direct assistance to the Dili national hospital administration and to develop the possibility for ongoing health care delivery and capacity building between officers and officials of ACT Health and the Dili district health administration. I think these are fantastic examples of our capacity, through the Dili friendship arrangement, to build capacity to provide direct services to the newest nation in the world, one of those nations battling to meet the needs of its people after years of oppression and a lack of resourcing of their day to day survival needs. These are great examples of how our friendship arrangements

are working and providing practical results for the people of Canberra and, directly, to the people of Dili.

Disaster planning

MR PRATT: My question is to the Chief Minister. It relates to the government's terrorist threat evacuation plan. Chief Minister, last Thursday you stated, "I have advice from Commissioner Dunn that we are the only jurisdiction that has in place a disaster response plan or an evacuation plan." Further, you said, "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."

Yesterday the chief officer of the state emergency service sent an email to his SES units very clearly indicating that the government has not even begun to draw up broad community evacuation plans. Chief Minister, why did you say last week that there are completed evacuation plans when their development has not even commenced?

MR STANHOPE: Well, it is actually a question of terminology. The advice that I have from the commissioner—

Opposition members interjecting—

MR STANHOPE: We have not called them evacuation plans. I made that clear. We have broad emergency management arrangements, or broad emergency management plans. The point I made, and I repeat the advice I received from the commissioner, is that we are at the point of having virtually completed—and I am advised that we are the only jurisdiction in Australia that has done so—an across the board disaster emergency management plan or arrangement. That is, we have taken a broad, holistic approach to disaster management, accepting that at one level the response to a disaster, whether it is a natural disaster or whether it is a man-made disaster such as a terrorist attack, requires the same capacity, the same training and the same degree of management.

Mr Smyth: That's not what you said last week.

MR STANHOPE: Yes, it is.

Mr Smyth: No, it's not.

MR SPEAKER: Order!

MR STANHOPE: Well, you call them what you want. You can call them evacuation plans. You can call them disaster management plans. That is what we have. We have a coordinated, holistic, broad approach to the management of disasters within the ACT. My advice is that we are further advanced in the development of disaster management plans than any other jurisdiction in Australia.

As an example, and this is a major achievement of Commissioner Dunn, this is the only jurisdiction in Australia where there is a memorandum of understanding completed and signed up to by all media outlets within the jurisdiction. Nobody else has attempted this, pursued it or achieved it. It is a significant aspect—

Mr Pratt: But what about the evacuation plans?

MR SPEAKER: Order! Chief Minister, resume your seat. There is an argument going on in the chamber between a couple of members. It might be best, if you want to hear the answer from the Chief Minister, that you desist.

MR STANHOPE: That is the approach that has been adopted by Commissioner Dunn and the ACT Emergency Services Authority. They have, within the context of a broad emergency management arrangement, developed a strategy in relation to evacuation. That evacuation strategy is part of a broad emergency management plan. The strategy reflects the very obvious commonsense principles derived by the ACT community safety evacuation policy that the emergency management committee has developed.

The principles included in the strategy include the protection of life as the primary objective of ACT emergency management operations. In more extreme situations, evacuation may be required to protect life. Individuals in communities have different capacities to cope with emergency evacuation. Timely and consistent advice is required for informed community decision-making. A single all-hazards warning system needs to be provided to ensure the best mechanism of providing consistent information, and that is the point I make about the memorandum of understanding. The ACT is the only place in Australia that has managed to achieve that with its public and private electronic media. Evacuation requirements will, of course, differ, depending on the nature of the hazard and the situation.

I think the great strength of the emergency management arrangements that have been put in place in the ACT is that, to the extent that evacuations are required, they will differ depending on the nature of the hazard and the particular situation that has caused it. You cannot have, as Mr Pratt seems to suggest, a one-size-fits-all evacuation plan. Mr Pratt would utilise the same evacuation plan for a bushfire as he would for the possibility of a bomb. That is the direction that Mr Pratt would take in relation to this, if Mr Pratt or the Liberal Party could ever actually get around to developing a policy on anything.

Questions such as this always, of course, beg the question: what has the Liberal Party done about it? What will they do about it? How many years of opposition do they require in order to develop their first ever policy on anything? What policy have you ever seen come from Mr Pratt, other than his police-bashing policies? He is the first and only major police basher we have had in this place. He is the shadow anti-police minister. He will bash police the first chance he gets, just as we see Mr Stefaniak and Mr Smyth out there bashing firefighters at every possible turn.

Mr Pratt: What a load of crap!

MR SPEAKER: Mr Pratt, that is offensive and unparliamentary. Withdraw that comment.

Mr Pratt: I withdraw it, Mr Speaker. I will ask a supplementary question, if I may?

MR SPEAKER: Well, maybe. Supplementary, Mr Pratt.

MR PRATT: Chief Minister, did you mislead the Assembly last week when you claimed—

MR SPEAKER: Order! Withdraw that. That is an imputation.

MR PRATT: I will withdraw it. Chief Minister, is the non-existence of the evacuation plan a sign of your incompetence in emergency management planning?

MR STANHOPE: No.

Ms Clea Rose

MRS BURKE: Mr Speaker, my question is to the police minister, Mr Hargreaves. Minister, I refer to an interview with Ross Solly on ABC radio this morning about the recent hit-and-run accident in Civic. You said:

> I don't want to issue out the actual detail. I'm not about to be advertising everywhere any deficiencies which may have been addressed.

Which deficiencies did the internal police report address? Why will you not advise the community about the deficiencies the report uncovered?

MR HARGREAVES: It seems as though there is a competition between Mr Pratt and Mrs Burke for the big goose of the week award. Mrs Burke conveniently did not quote another thing I said in the same interview. I said that, if the review into the processes and procedures reveals that the police were exemplary, I will publish that as well. I think we have got ourselves a transfer of the police bashing from the erstwhile shadow anti-police minister, Mr Pratt, to Mrs Burke. I have to say it is about time, too, because I am sure Mrs Burke would do a better job of bashing the police than Mr Pratt could ever do.

Members interjecting—

Mrs Burke: Mr Speaker, I wish to raise a point of order.

MR SPEAKER: Couldn't you hear him either?
Mrs Burke: Yes, I could, but he is making an imputation that he has no grounds to make. He should withdraw that statement.

MR SPEAKER: What was the imputation?

Mrs Burke: That we are bashing the police. That is ridiculous. It is nonsense; it is spurious; and he knows it.

MR HARGREAVES: If Mrs Burke wants me to withdraw the one and only time I am going to congratulate her in this place, I am quite possibly going to do it.

Let us be serious about this issue for a second. Mr Pratt and his glove puppet, Mrs Burke, would have us reveal to the public and to those people with criminal intent the ways in which they can go about their business.

Let us look back on a bit of precedent here. With respect to the review by AFP professional standards, what happened? Let us go back to 2001, when there was a shooting in Chapman. What happened in the context of that review was that the results of the review and what police were going to do about it were revealed to the community. The actual detail was not. Let us go back to the recent discharge of a firearm in Wanniassa and what happened then. The fact that some police processes were found wanting was addressed and revealed to the community, as was how the problems were to be addressed. They were told. But the detail was not revealed

The privacy of people who have come forward and given evidence was not compromised; the privacy of those police officers was not compromised. Mr Pratt and Mrs Burke—that dynamic duo—would have us compromise the privacy of all concerned. Not going to happen.

Mrs Burke implies that I have received the report. I have not received the report and I have no intention at all of rushing the receipt of that report, because we have encouraged the community to come forward and give extra information against which the police standards review team can do their job. I will not rush that. When it concludes, whatever its findings may lead it to conclude, then we will hear about it. I will quite happily congratulate the police officers and the police force on what they do and what they have done for this town.

Unlike those opposite, I do not search around, burrow around like a ferret on heat, trying to find something wrong with our police force. They have to dig and dig and try to find that little maggot in the hole. No, I have got news for you: the police in this town are pillars in our community. I will not have them badmouthed by this rank bunch of amateurs across the chamber.

I have the utmost faith in the integrity of the professional review team. If, in fact, our processes need to be fixed, they will be fixed. If they do not need to be fixed, I will congratulate the police on their processes. That is the way it has always been and that is the way it always will be.

MRS BURKE: I have a supplementary, Mr Speaker. Minister, further, on ABC radio this morning, you said:

> What we do is we talk about the results of it and we are open and transparent about those results.

Will you confirm that, if the coroner asks for this detail you will hand it over?

MR HARGREAVES: Mrs Burke certainly gets her 8c a day worth. She is an avid listener to ABC and an avid contributor to that wonderful program on 2CC. If the chief coroner decides to have a coronial inquest, every piece of evidence he believes is salient

to the case will be provided if it is within our wick to give it to them. I give you this absolute undertaking: there will be nothing withheld.

Industrial relations

MR GENTLEMAN: My question is to the minister for tourism. Minister, last week you attended the Tourism Ministers Council in Hobart, where discussions were had about the potential impact on the tourism industry of the federal government's proposed industrial relations changes. Can you inform the Assembly of the concerns raised in those discussions?

MR QUINLAN: It is the case that the tourism ministers from the states or state representatives received a presentation from no less a person than the federal minister on material that had been put together by Tourism Australia which identified, amongst other things, that there was an estimated 88 million days of annual leave accumulated in Australia, at a time when internal or domestic tourism in Australia had been flat for the last several years at least.

The federal government is earmarking some $8 million to encourage Australians to holiday at home, as well as launching a program with major Australian employers to encourage employees to spend their annual leave holidaying in Australia. There have been some studies done by the Victorian government in particular, which estimates that the cost of leave not being taken runs into billions of dollars for Australia and billions of dollars to the Australian industry.

The immediate question that arose at the Tourism Ministers Council and asked of the federal minister was: why is it the case, then, that under the proposed industrial relations changes put forward by Minister Kevin Andrews and supported so vehemently by all ministers there is a proposition that people should be allowed to cash in their leave? Maybe this initiative or proposal has not been thought through. The potential damage to the tourism industry across Australia of leave not being taken, and the impact on jobs within the tourism industry, would be quite substantial.

Under questioning, the federal minister advised the council that the federal government's proposed IR changes had the complete support of the tourism industry. I have to say that I have since been advised that a little bit of research has shown that that is entirely not the case and that it was only a matter of a couple of weeks ago, say three weeks ago, that the tourism industry and a number of spokespersons from the tourism industry went into the public forum and took issue with the federal government over the proposition that Australians should be allowed, if not encouraged, to cash in their annual leave.

We now have a dual problem. We have the impact upon the tourism industry in Australia, the domestic tourism, and we have the impact upon the workers themselves and, of course, upon an Australian community standard of four weeks annual leave. One of the tourism industry spokespersons—I have a beautiful quote here—said, "A relaxed worker is a more productive worker. We don't want to end up like the Yanks, with only two weeks holiday."

I would encourage those opposite, when they are hobnobbing with their federal counterparts, if they ever do, to put the interests of the states and territories, in particular

their own territory, before necessarily adhering to the propositions being put forward by their federal counterparts that the leave entitlement and the leave that people will take be wound back, because that would have more than an impact upon the individual and more than an impact upon people recreating, relaxing and spending some quality time with their family and friends. Ask them also to look at the very substantial potential impact upon tourism within Australia and, of course, the consequential impact upon the number of jobs that can be sustained within the tourism industry.

Emergency Services Authority

DR FOSKEY: My question is directed to the Minister for Urban Services. I believe that the Emergency Services Authority expressed a desire to acquire the space currently occupied by the Teddy Bears Child Care Centre in Curtin in May, and that there have been ongoing negotiations over possible alternative premises for the centre. Today's *Canberra Times* states that the Emergency Services Authority has now declared the site a possible terrorist target. Can you please articulate the basis of this declaration and prove to me that it is not merely for the purpose of speeding up the relocation of the childcare centre?

MR HARGREAVES: If Dr Foskey read this in the *Canberra Times* it must be true! It is gospel according to the *Canberra Times*; therefore, we start from the premise that it is gospel—a dangerous premise. One needs to understand a few things about this whole process. I will now run through a couple of them for you. The first licence of the Teddy Bears Child Care Centre started in Curtin in April 1992. It preceded the then Emergency Services Bureau by about 12 months.

The current licence expires next month and has the capacity to be informally extended on a month-by-month basis. That is the understanding of the current proprietor. It is a commercial enterprise. That proprietor understood that, when the current licence expires, it would be on a month-to-month basis. However, the offer of a six-month licence was made to the operator at Teddy Bears, Mr Mark Gillett, to provide some certainty whilst Teddy Bears continued to look for new premises.

The Department of Urban Services contacted Mr Gillett on Monday, 22 August 2005—yesterday, for the benefit of those opposite; not your good self, Dr Foskey—and advised him by telephone of the offer of a six-month licence at the expiry of the current licence at the end of September. Documentation offering the extended licence will be provided by tomorrow, I understand. The operator responded to the offer by advising that a six-month lease was unsatisfactory to him. If he tried that with Leader Real Estate, I imagine he would have a good response. The former CityScape depot in the Phillip trades area was identified by the department as being a possible suitable alternative. However, the proprietor looked at the site, on his own, and advised that it was not suitable.

I now come directly to your question Dr Foskey. The McLeod report, subsequent to the 2003 bushfires, had, as one of its major recommendations, the creation of the ESA, particularly the emergency coordination centre. Co-located with that, and across a smaller area, is the communications area in the ESA. Other parts of the ESA—such as the training, corporate services area and media areas—are a bit more removed. Those two areas are the closest to the childcare centre. These two areas are the sensitive areas.

There are things in this town called "critical infrastructure". They are, in our belief, "low risk", as opposed to "absence of risk" terrorist targets.

The coordination centre and the communications centre are sensitive. There is no security discreteness between those activities and the childcare centre. There is a small brick wall and a bit of glass. It is totally inappropriate for children to be accommodated in a childcare centre so close to an operational area. Even the Department of Defence recognised this when it created its childcare centre in the department, and located it significantly away from the operational parts of that department.

It is unfortunate that some people are trying to exploit this situation and make up emotive arguments, saying that this horrible, bad government is trying to kick out 100 kids. That is ludicrous. But there are some facts: one is that this is not a government-run childcare centre; it is a commercial, for-profit, arrangement. It is operated in territory premises. The territory has a desire to acquire and resume its own premises for its own purposes. These people opposite try to exploit it. I fully expect them to try to do so. They will be exposed in the fullness of time.

It is inappropriate to have these kids located here. The government has tried to work with the proprietor to determine other premises. But this proprietor is not prepared to do that. The offer has been for a six-month licence to continue while these things are worked through. It is not the government that has rejected that offer.

DR FOSKEY: Mr Speaker, I have a supplementary question. Given the desperate shortage of childcare places in this town, can you assure the parents, who are unlikely to be able to find alternatives in the short-term, that there will be no disruption to the provision of this service?

MR HARGREAVES: There seems to be an expectation that the government has to provide premises for a commercial operation. Nobody wants to see a shortage of childcare places in this town. To suggest this is insulting and stupid. It is not up to the government to wander around this town trying to find appropriate premises for people to make a profit. We are talking about an emergency services authority's headquarters, and its communications and emergency coordination centre.

If the same process had occurred but we were talking about privately rented premises, there would be no offer of a six-month extension; it would be "seeya later" on Friday, with absolutely no compassion, no nothing. My conversations with the proprietor were that we were not about to be tossing people out on to the street. But I have to tell Dr Foskey, I, in my capacity as Minister for Urban Services, am more concerned about the security and integrity of the emergency coordination centre and a communications centre than I am about the profit of a commercial enterprise. If this proprietor wants to seek assistance to find alternative premises, I am very happy to help out as much as I can. But, at the end of the day, this is a commercial enterprise; it is a for-profit enterprise.

I have queues of people in the non-government sector wanting to have access to surplus territory-owned space. Quite a number of people in the non-government sector concerned with supporting the disadvantaged in this community and supporting refugees are looking for space. A commercial enterprise is operating from this centre. Sorry about

this, but I will not have the security and integrity of the emergency services headquarters compromised any further.

Emergency Services Authority

MRS DUNNE: My question is to the minister for emergency services. Minister, the director of the Teddy Bears Child Care Centre in north Curtin has been in contact with the opposition about the fact that he has been asked to relocate his childcare centre from the building that he shares with the Emergency Services Authority.

As you know, minister, the Teddy Bears Child Care Centre has occupied these premises for 14 years and was in fact there before the former Emergency Services Bureau was there. Minister, is it a fact that the reason for this proposed relocation is because the headquarters of the authority is considered to be at risk of being a terrorist target? If so, why is the childcare centre not being moved out immediately? If there is such a risk, why is the Teddy Bears Child Care Centre being offered a six-month lease? Is there a risk for the children there?

MR HARGREAVES: I need to correct the record. It was, in fact, in the first instance the proprietor of the Teddy Bears Child Care Centre who approached the Emergency Services Authority about moving. It was not the ESA approaching the childcare centre. Let us get that straight.

Secondly, there are 110 kids. I am hearing Mrs Dunne saying to me, "Why haven't you dumped these 110 kids straight on the street? As soon as you were aware of this, why didn't you dump them out?" The answer to that, Mr Speaker, is that I have more compassion than they do. What we are saying to them is that it would be unreasonable for anybody, private or non, to say to these people, "Your lease expires right now. See you later." That is what you would expect in the private sector, as espoused by this lot!

What I have said to these people is, "I understand the difficulty you have finding premises. You have got six months." It is called risk analysis. I do not want anything to happen. I do not want any of these kids put in jeopardy at all. I do not want this guy's business put in jeopardy either. I reckon six months is a pretty reasonable offer.

Mrs Dunne comes up with all of these trick questions. But at the end of the day you can distil it down to this question: if it is a terrorist attack, why haven't you kicked these kids out onto the street? Why haven't you done that, minister? Why haven't you said, "On your bike; off you go"? I am not going to go down that track at all.

The proprietor of this shopping centre has known this has been coming for a long time. The history of the licence agreements has been 10 years, down to two years and then down to one month. You can tell there is something in there. We have said to the proprietor, "You should be looking for alternative premises." It is territory property. This is a commercial enterprise. But, unlike the private sector, we have not said, "There's the line in the sand. After that you're gone." We have said, "We understand the difficulties you are going through. Here is six months breathing space. Let's try to work together." That is what we have said. For these people to portray it otherwise is quite inappropriate.

MRS DUNNE: I ask a supplementary question. If the Emergency Services Authority presents a terrorist risk, what risk assessment has been done for the neighbouring residents and for the Queen Elizabeth II home for mothers and babies?

MR HARGREAVES: Mrs Dunne assumes that the only terrorist threat is going to be a massive great big bomb dropped in the letterbox of the ESA. That is not so at all. Mrs Dunne would not know, because she has not had the same briefings that Mr Pratt has had—and it is inappropriate that they be used in this place—that the level of—

Mr Smyth interjecting—

MR HARGREAVES: Do give it a rest, little man.

MR SPEAKER: Order! Cease your interjections, Mr Smyth.

MR HARGREAVES: In a funny kind of sense, I am a bit grateful to Mrs Dunne for plagiarising a question from Dr Foskey. I think she should be congratulated for that. I have said before that there are certain elements of critical infrastructure in this town that could be the target for terrorist attention. One of them we saw recently—the white powder incident. That was not blowing up houses next door. Nonetheless, when it happened, the emergency coordination centre was set up. There was a flurry of activity around the place. Naturally there was supposed to be a security ring around it, and that security ring was compromised by the presence of a childcare centre next door.

When we had the tsunami response, what happened? That emergency coordination centre was set up. All of the agencies came together. The integrity of that particular coordination centre was compromised by the presence of a childcare centre. There is no threat, necessarily, in my view. But I am not an expert on this sort of stuff. Other people are. My advice is that this is a low-level security target. It is not like Mrs Dunne's house, which is a no-threat security target.

Nonetheless, as I have said, through you, to Dr Foskey, it is my responsibility as urban services minister to protect the integrity of the security of the emergency coordination centre and the communications centre, and I will do so. If it makes the opposition unhappy, well, tough!

Mrs Dunne: It's about the people.

MR HARGREAVES: No, it is making you lot unhappy.

Planning authority

MR SESELJA: My question is to the Minister for Planning. Minister, I refer you to the recent Power decision of the AAT in which it said that ACTPLA's officers:

> … have still not developed a good understanding of the legislation which they administer. Continuing to do so is likely to mislead those who rely upon the expertise of the respondent—

that is, ACTPLA—

> in dealing with these matters.

Minister, what are you doing to prevent more people who deal with ACTPLA from being misled?

MR CORBELL: Mr Seselja's question highlights the fact that we have, in the land act, an extremely complicated, convoluted and difficult piece of legislation to administer. That has caused significant issues for the planning agency under its various guises over time. It is for that reason that the government is putting in place the planning reform project. It is designed to simplify the administration of the land act, designed to make it simpler, faster and more effective for the planning system to be administered, focusing very strongly on simple applications being able to be dealt with in a timely and straightforward way, in some instance without any requirement whatsoever for development approval. Mr Speaker, that is the approach that the government is committed to implementing.

The consultation process on planning reform has been completed—the first stage of consultation. We have seen a very significant number of submissions made to that consultation process and I thank all of those members of the community—professional bodies, industry bodies and individuals—for making that contribution. Overwhelmingly, the feedback from the public consultation process to the government has been to say, "This is the right direction. Your proposals are the proposals that we want to see for a simpler, faster and more effective planning system."

The challenge now for the government is to synthesise and collate all of those comments, bring them together and then release those and release the way forward in the form of a draft bill for a new land act. That is the approach to which the government is committed and upon which it has embarked, one which has never been done since self-government and which is without a doubt the most significant reform of planning and leasehold administration since self-government. That is the approach that I and the government are committed to adopting in addressing these issues around the effectiveness of the land act and addressing the complexity and difficulty in administering the land act that we have had to date.

MR SESELJA: I have a supplementary question. Minister, given that these changes will not come into force for some time, how many other people will suffer from ACTPLA's lack of a good understanding of the legislation that it administers?

MR CORBELL: Mr Seselja is simply wrong. He is wrong because some of these changes are actually being made right now. Certainly, significant legislative change is required. At the same time, Mr Speaker, the Planning and Land Authority is already embarking upon system change, organisational and leadership change within the organisation, to make sure that some of the more specific issues that are raised by industry groups and by individuals are able to be addressed if they do not require legislative change.

That process is already under way. I am grateful for the leadership of Mr Savery as the chief planning executive in driving that. He has identified a whole range of measures that can be adopted now to improve the administration of the planning and leasehold system and those are being implemented right now in conjunction with and parallel to the work they are undertaking in relation to system reform.

Youth detention centre

MS MacDONALD: My question is to Ms Gallagher in her capacity as Minister for Children, Youth and Family Support. On 3 August, the minister announced that consultation would begin into the four possible sites identified for the ACT's new $40 million youth detention centre. Can the minister inform the Assembly of how this consultation is proceeding?

MS GALLAGHER: I thank Ms MacDonald for her question. The four sites—in Gungahlin near Mitchell, the Gungahlin suburb of Kenny, Symonston and Fyshwick—were identified last month for further detailed investigations. These sites best met the selection criteria outlined in the site selection report including the required minimum area of 10 hectares. The new facility will replace the current Quamby Youth Centre at Symonston. The new centre will meet the requirements of the ACT Human Rights Act and will maximise the opportunity to rehabilitate children and young people in detention. The release of the site selection report earlier this month was the first step in planning for the new youth detention centre. The second step involves broad community consultation on the four short-listed sites in the form of meetings and requests for written submissions from the community. At the same time, more detailed investigations on the sites will be carried out.

To date, the government has already received feedback on the sites. We have had 271 hits on the consultation web site and we have had initial supportive comments made from the Gungahlin Community Council about the two sites in Mitchell and Kenny. The ACT government will commence community information sessions on the sites identified this week. Four separate community information sessions will seek public comment on the proposed sites. Broad community consultations on those sites will continue until 14 September. These discussions will assist the government to select a preferred site along with consideration of operational requirements, accommodation needs and community feedback.

Officers from the Office for Children, Youth and Family Support will attend the community information sessions so that residents and other interested parties can have their say on the proposed sites. Each session will include a visual display of all four sites. The meetings are to be held on Thursday, 25 August from 5.15 to 7.30 pm at the Ngunnawal Neighbourhood Centre; Saturday, 27 August from 10 am to 12 noon at the Canberra Raiders Sports Club in Gungahlin; Thursday, 1 September from 5.15 to 7.30 pm at Southside Community Services in Narrabundah; and Saturday, 3 September from 10 am to 12 noon at Southside Community Services in Narrabundah. People who cannot make the information sessions can provide comments on the proposed sites via post, email or the feedback form on the department's web site.

The selection process of the final site will balance the requirements of young people to live in a community environment—that assists their rehabilitation—as well as provide for the safety and security of the public. Ideally, the location of the facility should allow the facility to be screened from view, but maintain visual links to the community from within, should be sufficiently large to accommodate indoor and outdoor recreation and program areas and emphasise that children and young people in detention have a continuing involvement in their community. Importantly, the Human Rights Commissioner will play a crucial role in the design of the new centre, following her work in identifying problems at the current Quamby facility. This new centre must promote a sense of normality in the lives of the young people, whilst balancing their human rights with the rights of the wider community.

Amenities to be incorporated into the new centre will include accommodation, educational and vocational program areas, indoor and outdoor recreation areas, and administration and health services. The new facility will accommodate both male and female young people aged from 10 years to 18 years who are either remandees or serving a sentence. It is imperative, in a rehabilitative sense, that young people in detention are able to maintain contact with parents and other family members. It therefore should be located where it is accessible by public transport.

Following the determination of a preferred site in September, design work will then commence in consultation with the local community. The consultation will be completed with the lodgment of a development application and preliminary assessment. I look forward to continuing this conversation with the community to ensure that the needs of the community are balanced with the needs of government to provide a modern juvenile detention centre which ensures that young people living there maintain their community links while focussing on their rehabilitation throughout their period of detention.

MS MacDONALD: I have a supplementary question. Minister, are you aware of the opposition's comments in relation to the new youth detention centre?

MS GALLAGHER: Sadly, the opposition's comments in this area have been largely narrow-minded and unbalanced. In particular, the shadow minister for youth, Mr Seselja, has made his views on the rehabilitation of youth very clear. Twice, on 3 and 4 August, he put out media releases suggesting that the new youth detention centre will actually be a prison. In those releases he said, "When is a prison not a prison? When the government appears to be saying that it is a youth detention centre." Also, on 3 August he described residents of Quamby as inmates.

Youth detention centres are not prisons and their residents are not inmates. Whilst punishment is a factor of their operation, their overriding purpose is rehabilitation to ensure that young residents do not find themselves in prisons later in life. I have enormous concerns about Mr Seselja's rhetoric on this issue. I hope that it is due to his inexperience and not choosing his words carefully. However, I think that that it is symptomatic of his and his party's views on the way that young people in detention should be treated.

Mr Seselja has already voiced his support for Fyshwick as the preferred site for the new detention centre, essentially because it is away from people. Mr Seselja is clearly

applying an out of sight, out of mind approach to the rehabilitation of young people in the territory. It may be in the end that the Fyshwick site will be found to be the most suitable. However, it will not be because the site is away from people, as Mr Seselja has put it.

Mr Seselja frequently stands up in this place calling for more infrastructure in Gungahlin. The Gungahlin Community Council recognises that having a new youth detention centre in that community could lead to further services developing around it. It would be great if Mr Seselja also could see the benefits of the sites in Gungahlin.

Mr Seselja has also sought to rely on the Human Rights Act to attack the government's attempt to put right the mistakes of previous governments in relation to the Quamby centre. Only this morning, his party voted against important changes to the Human Rights Act. We believe that there is a need for the Human Rights Act. We believe that the government should strive to have a youth detention centre that is in compliance with human rights requirements. We believe that governments should undertake the difficult exercise of balancing the human rights of residents, staff and the wider community. Whilst this exercise may lead to difficult decisions and flack from our political opponents, it is nonetheless necessary to ensure the protection of some of the most vulnerable members of our community.

Since its establishment, the Quamby Youth Centre has not been human rights compliant. However, with the passing of the Human Rights Act and then the independent human rights audit, the breaches and the extent of those breaches have come to light, and this government is working to address all of those. We have prioritised the needs of young people in detention in the ACT. We have made significant improvements, where possible, for the young people currently at Quamby. We have a transportable building on the way to improve accommodation options.

We have nominated four possible sites for the new centre and we have allocated $40 million for that centre. We know that we have to balance community views with those of the young people who need and rely on our protection. This government understands the need to rehabilitate young people in touch with juvenile justice. They are not inmates, they are not prisoners, they are not in prison; they are young people who deserve our support and deserve their rightful place in our community.

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

Personal explanations

MR SMYTH (Brindabella—Leader of the Opposition): Mr Speaker, I wish to make a personal explanation under standing order 46.

MR SPEAKER: Do you claim to have been misrepresented?

MR SMYTH: Yes I do, Mr Speaker. On the radio this morning the health minister, Simon Corbell, said in regard to a story about the opposition's criticism of the minister's achievements in breast cancer screening:

> This is the same opposition that of course criticised the government for seeking radiologists from Sydney. So they can't have it both ways.

I want to place on the record that the minister is wrong in his statement, as neither I, nor any member of the opposition, have ever criticised the government for seeking radiologists from Sydney as part of recruiting more radiologists to work in the ACT.

I believe that the minister has deliberately confused statements I made about my concerns about sending X-rays interstate for reading because there is a lack of radiologists in the ACT. When I made this statement I questioned how long the government would send X-rays interstate and when it would get its own house in order to ensure that they could be read locally so as to ensure that results were not delayed any longer than necessary. I would like to table the press release that I issued at the time that says this. I seek leave to table that document, Mr Speaker.

Leave granted.

MR SMYTH: I table the following paper:

> Breast screening—Copy of media release by Mr Brendan Smyth MLA, dated Sunday, 17 April 2005.

Mr Speaker, these comments that I made are very different from the minister's claim this morning that I criticised the government for seeking radiologists from Sydney. The minister's claims on the radio this morning were wrong.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning): Mr Speaker, I seek leave to make a statement in relation to the matter raised by Mr Smyth.

Leave granted.

MR CORBELL: Mr Smyth cannot have it both ways. Mr Smyth cannot criticise the government for sending breast screens to Sydney to be read but then say that is not criticism of recruiting radiologists in Sydney to read the screens. It is a contradictory position from Mr Smyth. He cannot criticise the government for recruiting radiologists in Sydney to read the breast screen but then say, "Oh no, that is not our criticism. Our criticism is sending the screens to Sydney to be read." He simply cannot have it both ways.

This is the opportunistic and contradictory approach we get time and again from Mr Smyth. We get twist and turn all the time: "Oh no, I am not criticising that. I am criticising this instead." Mr Speaker, he cannot have it both ways. What is wrong with making sure that women get their breast screens read on time? What is wrong with that? Who cares whether the radiologist is in Sydney, Melbourne, Perth or Hong Kong? As long as they are qualified, as long as they can read the screen, and as long as the woman involved gets her results in a timely way, what is the problem?

The Liberal Party has a contradictory position. They think there is some sort of problem with this. They think there is some sort of difficulty in getting a radiologist from interstate to read the screen. The radiologist is qualified, Mr Smyth, and is recognised by the professional college as competent to read the screen. The radiologist is prepared to provide the service, and that means that the woman gets the results of her screen in a timely way. What is the problem with that? There is no problem with that. The only problem we have, Mr Speaker, is a Liberal Party that criticises for the sake of criticism.

Paper

Dr Foskey, by leave, presented the following paper:

> Court Procedures (Protection of Public Participation) Amendment Bill 2005—Explanatory statement.

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): Mr Speaker, 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—
>
> Short-term contracts:
>
> Bronwen Overton-Clarke, dated 9 August 2005.
>
> Gerard Ryan, dated 4 August 2005.
>
> Ian Hubbard, dated 9 August 2005.
>
> Kirsten Thompson, dated June 2005.
>
> Meredith Whitten, dated 5 August 2005.
>
> Pauline Brown, dated 10 August 2005.
>
> Schedule D variations:
>
> Gerard John Ryan, dated 15 July 2005.
>
> Marjorie Anne McGrath.
>
> Michael Ockwell, dated 1 July 2005.
>
> Pam Davoren, dated 20 and 22 July 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 require the tabling of all executive contracts and contract variations. The contracts were previously tabled on 16 August 2005. Today I have presented six short-term contracts and four contract variations. The details of the contracts will be circulated to members.

Papers

Mr Stanhope presented the following papers:

> Electoral Act—Pursuant to subsection 10A (2)—ACT Legislative Assembly Election 2004—
>
> > Electronic Voting and Counting System—Review, dated 27 June 2005.
> > Review of the *Electoral Act 1992*, dated 22 July 2005.

Review of the safety of children in the care of the ACT and of ACT child protection management

Papers

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

> The Territory as Parent—Second six month status reports—
>
> > Review of the safety of children in the care of the ACT and of ACT child protection management, dated August 2005.
> >
> > The Territory's Children—Ensuring safety and quality care for children and young people—Report on the audit and case review, dated August 2005.

I move:

> That the Assembly takes note of the papers.

I am pleased to be able to table the second six-month progress report on the implementation of the agreed recommendations of the reports into child safety and protection in the ACT—*The Territory as Parent* and *The Territory's Children*.

Members will recall that on 17 February 2005, I tabled the first six-month implementation reports. The government has embarked on a complex reform task and I can report that we are making steady progress despite a sizeable increase in demand for our services.

In 2004-05, reports of abuse or neglect of children or young people in Canberra grew by 52 per cent over the previous year. We are seeing a similar growth in reportage nationally and we believe that this can be put down to a number of factors. There is no doubt we now have better reporting procedures as well as heightened community awareness about child protection issues. For example, in the ACT we have about 15,000 mandated reporters across a broad range of professions. There are also heightened awareness levels following the release of the Vardon, Murray and other reviews. Of course, we also have a well-educated and informed population that tends to report.

Under the Children and Young People Act 1999 any concern about abuse, neglect or non-accidental injury of a child or young person is recorded as a report. In 2004-05 there were 8,115 child protection reports and consultations in the ACT. In 2001-02 this figure

was 2,297. Members will agree that these figures provide a stark perspective on the challenge we are facing.

An increasing number of children and young people are also being placed in care. This figure has almost doubled to 423 in the last three years. We, of course, remain committed to delivering a quality protection system for children and young people in care, and working as partners with other government services and the community sector is a necessary part of building a quality system.

Our focus in the past six months has been to build on the child protection work force and consolidate the leadership team to provide greater organisational stability. The government has invested heavily in the services provided by the office. Its financial commitment has substantially increased in 2005-06, with an overall investment of $139 million since late 2003-04.

We have recruited and retained more child protection workers. Staff numbers have doubled from 51 in April 2004 to 110 in July 2005. Despite competition from other jurisdictions, child protection workers have been recruited locally and nationally. The international campaign attracted 36 child protection workers and 15 overseas recruits have commenced work.

The leadership team has been appointed and includes the first identified indigenous position at the executive level across the ACT public service. This appointment recognises that the over-representation of Aboriginal and Torres Strait Islander children and young people in care requires resolution.

New three-year service level agreements have commenced with out-of-home care sector agencies, which expand the range of foster care and residential services in the ACT. As members will be aware, out-of-home care services for children and young people in care was outsourced some years ago. This expanded range of services will provide up to 156 foster care placements. Our aim is to meet increased demand and assist with the care and support of children and young people with complex needs and their families. The new arrangements also provide a new specialist foster care service for children or young people with more complex needs.

The Aboriginal and Torres Strait Islander kinship and foster care service, launched on 2 June 2005, is also providing a more culturally appropriate service. The range of available residential care options will increase to 51 places from the 32 places previously funded. The increased number of residential care places will broaden the availability of specific support services for children and young people in care.

I can confirm that statutory compliance obligations under the Children and Young People Act 1999 are consistently being met. Section 162(2) reports, as well as annual review reports—or section 267 reports—are being forwarded to the Community Advocate in a relatively timely manner. The Community Advocate has recognised that practice improvements are being made. A new MOU with the Community Advocate will focus on monitoring quality outcomes for children and young people in care, as well as statutory compliance.

The establishment of a children and young people commissioner as a member of the Human Rights Commission will also provide a further focus for the provision of quality services for children and young people in the ACT. The consultations—which occurred with children and young people to inform the role and functions of the ACT children and young people commissioner—will also inform future consultation methodologies.

In the meantime, new arrangements are being put in place that will improve quality assurance. A new advocacy, review and quality function has been established, which will coordinate service review functions in the Department of Disability, Housing and Community Services, and include an internal review function for complaints management.

In implementing the agreed recommendations of the reports, *The Territory as Parent* and *The Territory's Children*, other service priorities remain. These include the introduction and debate of an amending bill arising from the review of the Children and Young People Act. Recruitment of foster carers and their training, as well as support for kinship carers, also remain as delivery priorities.

In relation to our ongoing work, we will continue the collaborative approach to child protection reform and establish new directions through the examination of best practice models and evidence-based policy and practice. The service reforms that have occurred in the past six months aim to meet immediate demand. Future service initiatives will be informed by evidence-based research commenced with the Institute of Child Protection Studies and other consultants.

The recent consolidation of the Office for Children, Youth and Family Support into a central location will also provide for consistent practices. New outreach models of service delivery will be put in place to ensure that children and young people and their families receive the care and support necessary to make their future more hopeful.

Significant progress has been made in implementing the reform program. Child protection workers, foster and residential care agency staff, foster carers and others have contributed to the reforms. This level of commitment is necessary to sustain improvements in the support of children and young people in care in the ACT.

Mr Speaker, I commend to the Assembly the second six-month status report on the implementation of *The Territory as Parent* and *The Territory's Children* reports.

Question resolved in the affirmative.

Asbestos taskforce
Papers and statement by minister

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

Dangerous Substances Act, pursuant to section 47G—ACT Asbestos Task Force—Asbestos Management in the ACT—Report, dated August 2005, together with the following:

ACT Asbestos Issues—

Final report on a campaign monitoring study of awareness and attitudes to asbestos-related issues, dated 28 June 2005.

Final report on a pre-campaign benchmark study of awareness and attitudes to asbestos-related issues, dated 21 February 2005.

ACT Asbestos Surveys—Health Risk Assessment—Final report, dated 8 August 2005.

Asbestos Extent and Impact—Survey methodology.

Communications Strategy—Awareness of asbestos and associated issues in the Australian Capital Territory, dated February 2005.

Community Engagement Report—December 2004-May 2005, dated May 2005. Compact Disk, dated August 2005.

Focus groups among the general public, and tradespeople—Final report, dated 28 June 2005.

Government Response, dated 23 August 2005

Survey and recruitment exercise among commercial/industrial properties—Final report, dated 28 June 2005.

Survey of real estate agents—Final report, dated 28 June 2005.

I also provide an electronic copy of the report. I seek leave to make a statement in relation to the papers.

Leave granted.

MS GALLAGHER: I present the ACT asbestos task force report on the management of asbestos in the ACT. As members will recall, the last Assembly passed the Dangerous Substances (Asbestos) Amendment Act 2004, with the overall goal of increasing awareness of the presence of asbestos in our community and improving asbestos management.

This is an important issue requiring action because of the continued presence of materials containing asbestos or MCAs in our buildings and the continued incidence of asbestos-related diseases as a result of people being exposed to asbestos fibres. Section 47J of the new legislation requires all property owners to provide written advice on what they know about the presence of MCAs in their premises when selling, renting or engaging tradespeople. There are also additional requirements under sections 47K and 47L, due to

commence in January 2006, for property owners to obtain asbestos survey reports when selling their property or engaging in high-risk activities.

The new legislation was the first of its kind in Australia and internationally to place a requirement on residential property owners when managing asbestos. The territory had no benchmark to measure how this legislation would work in practice. As a result, an asbestos task force was established to undertake further work for us, which included: delivering a public awareness campaign; analysing the extent of asbestos in the ACT; assessing the risks of exposure to asbestos, including identifying high risk areas; developing strategies for the inspection, reduction and control of risks, and increasing public awareness of asbestos and its risks.

In February 2005 the task force began a public awareness campaign using well-known personality Don Burke as the face of the campaign. The campaign was designed to better educate the community about managing MCAs in and around homes and buildings and to inform them about the new asbestos laws. It used various approaches to increase awareness, including TV commercials, publications, a web site and stakeholder briefings.

A review of the campaign in May 2005 found that it had increased people's awareness of the new laws, awareness of the locations and presence of MCAs in their homes, and levels of confidence in asbestos management. Despite the positive results, the level of awareness of the likelihood of people having MCAs in their homes remains low overall, suggesting that further targeted awareness and education campaigns will assist in changing attitudes and behaviours in relation to MCAs.

A large component of the task force work, as required by the legislation, was to undertake a survey of asbestos in the ACT, based on empirical data. The task force surveyed approximately 600 residential properties and analysed over 250 existing survey reports on non-residential properties. From the analysis the task force was able to determine the phase-out of MCAs and the likely locations at which they could be found.

The task force has adopted a conservative approach based on these findings to conclude that asbestos building material had virtually been phased out by 1 January 1985. This does not absolutely rule out the possibilities of materials being used after this date in outbuildings such as dog kennels or by building trades as offcuts or packing materials. Based on this work of the task force it would be reasonable to conclude that:

- the vast majority of homes built before 1982 are likely to have materials containing asbestos;

- homes built between 1982 and 1984 may have building materials containing asbestos;

- homes built from 1985 onwards are very unlikely to have materials containing asbestos.

Other key findings of the extent and impact survey as are follows:

- more than 90 per cent of the confirmed MCAs in residential premises was asbestos cement sheeting located either externally, such as it in eaves, or in internal wet areas such as laundries and bathrooms;

- over 90 per cent of all MCAs in residential premises were considered to be in good condition and presented a low risk to occupants;

- in contrast to the residential sector, the phase-out date for the use of MCAs in the non-residential sector is 2003. While the majority of building products were phased out in mid-1980s, other MCAs continued to be used in plant room gaskets and similar products until more recently. As a result, the task force was not able to confidently establish an earlier phase-out date;

- non-residential buildings vary considerably in their structure and have more widespread types and uses of MCAs;

- eighty-four per cent of all asbestos materials in non-residential premises were considered to be in good condition and present a low risk to occupants.

Having gathered information on the extent of asbestos in the ACT, the task force then went on to consider the impact its presence had on those who live or work in buildings containing MCAs as well as those who handle and work with it on a regular basis. Using an independent health risk assessment, the task force concluded that living or working in buildings that contained MCAs presented low risk. However, the disturbance of MCAs and the release of asbestos fibres over a sustained or concentrated period is likely to result in a high risk for groups such as tradespeople and do-it-yourself home renovators.

The findings of the community awareness survey and extent and impact survey support the direction taken by the task force in recommending three separate regimes for the future management and control of asbestos in our community, targeting the residential sector, non-residential sector and those trade groups who handle asbestos materials on a regular basis.

The new approaches proposed by the task force are based on best practice in asbestos management and the most current scientific knowledge and a critique of the current legislation in light of the risks posed by asbestos in the ACT. The task force believes that simply providing information on what people know, as required by section 47J, will not be sufficient in improving behaviour when working with MCAs or reducing the risk of being exposed to asbestos fibres. The committee is also concerned about providing uninformed written advice on the presence and location of MCAs, and subsequent liabilities that may fall to property owners.

There are also practical issues associated with sections 47K and 47L that require asbestos survey reports when selling a property or engaging in high-risk activities. The task force cites as particular issues a shortage of asbestos assessors to prepare asbestos survey reports, the relatively high costs of obtaining a report and the currency of reports to the point of sale. The three regimes proposed by the task force will address these issues and provide a more effective and enduring system of asbestos management.

In the residential sector the section 47J requirement placed on owner/occupiers to provide written information on what they know is to be replaced with the provision of generic advice at key transaction points for homes built prior to 1985. The generic advice has been derived from a survey of over 600 houses and provides more useful and accurate information on likely locations of asbestos materials in and around the home.

The mandatory requirement for asbestos surveys under 47K and 47L will be removed and replaced by generic advice. Surveys will become an option for the property owner to pursue if they choose. Coupled with better training for tradespeople to identify and work with asbestos, and community education, these measures will provide suitable and practical management approaches for the residential sector. These approaches will also remove the possible negative impact of asbestos reports on property values, the cost to property owners and significantly diminish the risk of personal liability that might accrue to owner/occupiers.

In the non-residential sector, owners will be required by legislation to establish asbestos registers and active asbestos management plans, and make these available to tradespeople and buyers at the point of sale. These approaches are currently considered to be best practice and are endorsed by the National Occupational Health and Safety Commission. However, despite this, the practice has been largely ignored at the local level. The recommendations of the task force offer a more effective way of providing information than the current legislation and reinforce the accepted national standard for asbestos management in workplaces.

To complement these regimes, the task force proposes an increased emphasis on the safe management of high-risk activities, with education, training and awareness programs provided for those groups that regularly undertake high-risk activities with MCAs, namely tradespeople and do-it-yourself home renovators. Regardless of the law, tradespeople handle asbestos as part of their daily work activities. A new asbestos certificate of competency will be developed which will authorise trade groups to handle a limited amount of asbestos.

Targeted awareness and education will be provided for do-it-yourself home renovators so that they are aware of the right pathways to advice and services. Restrictions will also be placed on the scope of activities they can undertake with MCAs in order to reduce the incidences of people working with asbestos materials without adequate training and protection. Minimum training and operating standards for asbestos assessors and surveyors are also proposed to ensure greater consistency and reliability in the identification and assessment of asbestos. This will provide a much higher level of accountability and assurance than exists at present here, or in any other jurisdiction.

The task force has recommended a more practical, cost-effective and balanced approach to the management of asbestos in the ACT. The task force report contains 25 recommendations across the following five areas: awareness and education, assessment and management, training, legislation, and monitoring and review. The government has reviewed these recommendations and I table today the government response to the report. The government has agreed, or agreed in principle, to the vast majority of the recommendations. The government supports the broad intentions of those recommendations that are agreed in principle. Over the coming months further

consideration will be given to the social and economic impacts of those recommendations.

The government has not agreed to recommendation 21, which proposes the deferment of sections 47K and 47L of the act. In order to ensure there is no confusion in the community about the government's intentions, I recommend that these two provisions be repealed during the spring 2005 sittings. I intend to introduce a bill to this effect shortly. Section 47J will remain active until replaced by the new regimes. The government will present the legislative reforms for the new asbestos management regimes to the Legislative Assembly in the autumn 2006 sitting period.

In closing, I would like to acknowledge the extensive amount of work undertaken by the task force in investigating a range of local, national and international issues on asbestos management in order to develop an enduring and practical management system for the ACT. In addition to their terms of reference, the task force was also party to successful negotiations to improve asbestos waste disposal arrangements for the community.

Determining new systems for asbestos management is complex. However, as you will see upon reading the report, the task force has entered a new level in understanding the current issues associated with asbestos materials and their management. They have also undertaken extensive consultation with key stakeholders and the community in developing the new regime.

I thank each of the task force members for their contribution to this process. I note that many of them are in the chamber today, along with the task force secretariat and, of course, the task force chair, Mr Bill Wood. I sincerely, on behalf of the government and, I think, the Assembly, thank them for their work.

We are very pleased with the work of the task force. They were asked to work in uncharted territory and respond to what is acknowledged now as difficult and groundbreaking legislation. The Assembly as a whole owes its appreciation to the task force for responding so well to that challenge. They have produced a comprehensive body of work and I commend the report to the Assembly.

Workers Compensation Amendment Bill 2005
Exposure draft

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

> Workers Compensation Amendment Bill 2005 (No 2)—
> Exposure draft.
>
> Explanatory statement to the exposure draft.

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

Leave granted.

MS GALLAGHER: The exposure draft I am tabling today proposes amendments to the Workers Compensation Act 1951 and the Workers Compensation Supplementation Fund Act 1980. The ACT private sector workers compensation scheme provides compensation to workers for injuries arising out of, or in the course of, their employment. Significant amendments to the scheme in 2001 introduced a focus on injury management and sustainable return to work for injured workers. These amendments were intended to reduce administrative costs under the scheme.

The workers compensation scheme has two safety net arrangements to ensure that all injured workers will have access to benefits on injury. The nominal insurer provisions under the Workers Compensation Act 1951 provide access to benefits for injured workers who are employed by an employer who does not have a compulsory insurance policy. The workers compensation supplementation fund provides access to benefits where an insurer collapses or is otherwise unable to meet the costs of claims against workers compensation policies issued by the insurer. Neither of these safety net arrangements supports the use of injury management and return to work processes for injured workers and they are inconsistent with the intent of the scheme. To address this inconsistency, the ACT government proposes to amend the legislation to improve the effectiveness of the scheme.

I table the draft Workers Compensation Amendment Bill 2005 (No 2) as an exposure draft for consultation with key stakeholders and the wider community. The amendment bill would combine the arrangements for both safety net schemes in the Workers Compensation Act 1951 and repeal the Workers Compensation Supplementation Fund Act 1980. These proposals will also improve accountability and transparency for the safety net arrangements.

The amendment bill proposes establishing a scheme for certificates of currency that will provide information about the coverage of a compulsory insurance policy held by an employer. Employers will be able to ask insurers for an up-to-date certificate of currency every six months. An authorised person, including an inspector or worker's representative, will be able to ask an employer for the certificate. Principals entering into subcontracting arrangements will also be able to ask for a certificate of currency. These provisions will ensure that parties with an interest in the scope of the employer's insurance coverage will be able to access information in a timely way.

A number of minor policy amendments to improve the operation of the scheme are also proposed in the amendment bill. These include improving consistent use of language and terms in the act; treating all periods of absence from work due to injuries as cumulative; ensuring that arbitration costs associated with individual workers' compensation claims are charged to insurers as part of the claim; and introducing publicity orders against persons convicted of offences against the act. The exposure draft of the bill, and the accompanying explanatory statement, can be accessed on the ACT government's legislation register. Submissions on the draft legislation can be made by close of business Tuesday, 20 September 2005.

Papers

Ms Gallagher presented the following paper:

Occupational Health and Safety Act, pursuant to section 228—operation of the Occupational Health and Safety Act 1989 and its associated law—fourth quarterly report for the period 1 April to 30 June 2005.

Mr Corbell presented the following paper:

Calvary Public Hospital—Information Bulletin—Patient Activity Data—External Distribution—May 2005.
The Canberra Hospital—Information Bulletin—Patient Activity Data—May 2005.

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Animal Diseases Act—Animal Diseases (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-186 (LR, 15 August 2005).

Animal Welfare Act—Animal Welfare (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-180 (LR, 11 August 2005).

Building Act—Building (ACT Appendix to the Building Code of Australia) Determination 2005—Disallowable Instrument DI2005-176 (LR, 11 August 2005).

Cultural Facilities Corporation Act—Cultural Facilities Corporation Appointment 2005 (No 1)—Disallowable Instrument DI2005-174 (LR, 8 August 2005).

Environment Protection Act—Environment Protection (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-185 (LR, 15 August 2005).

Fisheries Act—Fisheries (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-182 (LR, 15 August 2005).

Gambling and Racing Control Act—Gambling and Racing Commission Appointment 2005 (No 1)—Disallowable Instrument DI2005-181 (LR, 15 August 2005).

Nature Conservation Act—Nature Conservation (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-183 (LR, 15 August 2005).

Public Place Names Act—Public Place Names (Fyshwick) Determination 2005 (No 1)—Disallowable Instrument DI2005-175 (LR, 8 August 2005).

Public Sector Management Act—Public Sector Management Amendment Standard 2005 (No 7)—Disallowable Instrument DI2005-172 (LR, 4 August 2005).

Remuneration Tribunal Act—Remuneration Tribunal (Fees and Allowances) Determination 2005 (No 1)—Disallowable Instrument DI2005-173 (LR, 4 August 2005).

Road Transport (Public Passenger Services) Act—Road Transport (Public Passenger Services) Maximum Fares Determination 2005 (No 4)—Disallowable Instrument DI2005-187 (LR, 12 August 2005).

Stock Act—

Stock (Fees) Determination 2005 (No 1)—Disallowable Instrument DI2005-179 (LR, 11 August 2005).

Stock (Levy) Determination 2005 (No 1)—Disallowable Instrument DI2005-177 (LR, 11 August 2005).

Stock (Levy) Determination 2005 (No 2)—Disallowable Instrument DI2005-178 (LR, 11 August 2005).

Water and Sewerage Act—Water and Sewerage Amendment Regulation 2005 (No 1)—Subordinate Law SL2005-16 (LR, 29 July 2005).

Water Resources Act—Water Resources (Fees) Determination 2005 (No 2)—Disallowable Instrument DI2005-184 (LR, 15 August 2005).

Aboriginals and Torres Strait Islanders
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Burke, Ms Porter and Mr Pratt 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 Mrs Burke be submitted to the Assembly, namely:

Aboriginal and Torres Strait Islander Affairs in the ACT.

MRS BURKE (Molonglo) (4.05): There is no doubt that the levels of support and care for Aboriginal and Torres Strait Islander people in the ACT have come a long way, but we should not get complacent as we still have much to achieve, in terms of elevating and promoting the wonderful culture of Aboriginal people in our region. There should be a sense of accomplishment and pride at our local level of government that, over a number of years, we can confidently say that there have been real improvements made in the areas of service delivery and provision of facilities that enhance the Aboriginal indigenous community, its culture and values.

I would like to commend the work currently being done in particular by Winnunga Nimmityjah who have worked most positively with the federal government and the ACT government for positive outcomes in terms of the delivery of health services to the Aboriginal community in the ACT. It is imperative for any government of the day, at the ACT level, to continue to focus on local indigenous affairs. That is why we, as members of this Assembly, are here. That is why we were elected, to monitor and respond to the concerns of our local communities and, as is the topic of this MPI today, our Aboriginal and Torres Strait Islander community here in the ACT.

As an example, during last week's sitting, Dr Foskey put forward a motion to highlight:

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

This is indeed an amiable approach to maintaining some form of vigilance over what programs and funding are allocated to address some of the more evident health, social and community services for indigenous people in the ACT. Of major concern to the opposition recently has been the uncertainty of what progress has been made in showcasing indigenous art, culture and heritage at the Aboriginal and Torres Strait Islander Cultural Centre at Yarramundi Reach. This is a matter of concern to the wider ACT community. Both the issues I have just mentioned directly affect the health and

wellbeing of Aboriginal and Torres Strait Islander people in the ACT. Although the opposition may not always agree with the crossbench, I am certain we do agree on one of the most important responsibilities that opposition and crossbenchers have: to hold a government accountable for its announcements and to ensure it converts rhetoric into positive actions.

In relation to Aboriginal and Torres Strait Islander affairs in the ACT, the Stanhope government is moving way beyond its scope of responsibility and committing far too much energy on what practical initiatives and changes in policy direction are occurring at the federal level. Let us look at one of these issues, the abolition of ATSIC. To place things into perspective, I will highlight just how far the Stanhope government has shifted its focus away from local indigenous policy and social issues. Rather than concentrating efforts on local decision making, it sadly appears that the ACT government is sustaining an obsession with how the federal government continues to consolidate its commitment to garnering support on a national level to achieve solid and practical outcomes for indigenous communities across Australia. I ask: does the Stanhope government really want to constructively contribute to the indigenous debate in Australia and in particular the ACT? Is the Chief Minister categorically focused on improving upon indigenous affairs with respect to our local indigenous community? In relation to the abolition of ATSIC, Mr Stanhope indicated in the Assembly on 30 June 2005 that he felt:

> … personally deeply disappointed at the deep silence from my colleagues in the federal Labor ranks. I also wonder at the silence on the part of many of our Aboriginal and Torres Strait Islander leaders …

Perhaps Mr Stanhope has forgotten that it was indeed his federal Labor colleagues who realised that, as a white man's initiative, ATSIC was perhaps never really going to achieve its purpose and is this silence because of the fact that the Chief Minister is so out of step with reality? The reality is that ATSIC simply failed Aboriginal and Torres Strait Islander people. In the *Canberra Times* on 3 March 2005, Mr Stanhope said:

> ATSIC has not always been an exemplar of indigenous self-determination or probity. Personality has frequently overshadowed program delivery, particularly in recent years.

What point, political or otherwise, is Mr Stanhope trying to make there? ATSIC had, in all probability, outgrown its usefulness and original purpose. He also made reference in this same article to a commonwealth review of ATSIC in 2003 suggesting that, rather than abolishing ATSIC, it called for a "profound structural change". This had already been tried with the establishment of ATSIS, which could not fulfil all of its specified objectives. So to suggest that we seek to maintain a peak representative body in the form of ATSIC at a federal or state level is simply unworkable. It is arguable that the Chief Minister of the ACT is standing alone as the only politician, at a state or federal level, who believes there should now be a state, territory based commission. In the *Canberra Times* on 4 June 2005, he implies that he has consulted widely in order to come to the conclusion that a new commission will provide a:

> … fundamental expression of a commitment to self-determination ... and all the indications I have is that indigenous residents of the ACT desperately want to elect their own representatives.

I am certain there are portions of the ACT indigenous community who have never been consulted or, indeed, never agreed it was a good idea to construct yet another commission, yet another layer, to preside over Aboriginal and Torres Strait Islander affairs in the ACT. We already have some very well-managed consultative councils in Canberra that are tasked to advise the Chief Minister, this minister for indigenous affairs, and the territory government on the matters that our indigenous community want addressed by government. Why place yet another layer in their way?

Sadly, we have seen the emphasis on money, power and status rather than a focus on Aboriginal people, and it is often standing in the way of a true desire to help Aboriginal communities. ATSIC certainly did not represent value for money for its constituents. The fact that 20 per cent of eligible people voted in the last ATSIC elections means that 80 per cent of people did not vote. I believe this sent a clear message that ATSIC was not representing the vast majority of indigenous Australians. What it set out to achieve could not be fully delivered in terms of indigenous health, education or work opportunities. It is quite obvious that the funding—and we are talking millions of dollars of funding—intended to improve the quality of life for indigenous Australians certainly did not. It did not reach all of the communities in the way it should have done or was intended it should do. Many people started off with good ideas and good intentions but power, in some quarters, seems to have clouded people's original judgment, passion and drive.

It is important to note that the National Indigenous Council is by no means a replacement for ATSIC. It is a representative body formed by energetic and committed people who want to see change. They have not been invited onto the council because they are yes men but rather because, by and large, they are outspoken and do not represent any one particular interest group. A minority report from the commonwealth states:

> The amount of money spent, can no longer be the benchmark: outcomes must be the measure.

Never a truer statement has been made because, if it had not been all about money, we would have seen far more positive outcomes to date. A fresh start is desperately needed to allow our indigenous people to see dignity and respect restored. In the *Canberra Times* of 3 March 2005, Jon Stanhope argues that the abolition of ATSIC sends a message to this country's indigenous Australians that:

> You cannot be trusted to make wise choices for yourself. You lack wisdom to cast a vote in your own interests. Not only that, you lack the capacity to nurture from within your ranks the sort of leaders acceptable to Australia.

In fact, the commonwealth interim report states:

> The reforms the Government is introducing are much more far reaching than the abolition of ATSIC.

It is not particularly insightful, on the part of the Chief Minister and minister for indigenous affairs, to talk about retaining any model based on ATSIC. ATSIC needed to be abolished so that Australia's traditional landowners can have more of a direct say in their futures. Governments of the day have to realise the welfare and wellbeing of Aboriginal and Torres Strait Islander people require a holistic approach—spirit, soul and

body. Issues cannot be taken in isolation, and who better to address this aspect than indigenous people themselves—fancy that!

The intent of the federal government is to quite rightly place the responsibility of indigenous affairs back into the mainstream of government activity. This means that the Chief Minister and minister for indigenous affairs will have to work directly with the Aboriginal indigenous Australians of the ACT to facilitate the creation of their own solutions, not only at a federal level, of course, but at our state and our territory level. This will, in turn, improve relationships across all agencies and at every level of government.

Let us look quickly at shared responsibility agreements. Of course the ACT has no part in this but I will talk about that later. In the seventh edition of the Ngunnawal Elders Community Newsletter, December 2004, the Chief Minister and minister for indigenous affairs, Jon Stanhope, said that his government had also "strongly supported the shared responsibility trial." Yet in the *Canberra Times* article of 3 March 2005, he quite roundly attacks the federal government saying such moves have "put the cause of indigenous Australia back 15 years." I put it to the Chief Minister and minister that perhaps this is where he wants indigenous people—quite an odd thing to do, I would say. One has to question the Chief Minister's knowledge and understanding of this portfolio area.

The new arrangements suggested by the commonwealth are very positive and liberating for indigenous communities. It will see them have far more control over their lives. However, it is quite ignorant and quite divisive for Mr Stanhope as minister for indigenous affairs to be talking about shared responsibility agreements for the ACT. One would have to say, and I do smile at this, that Mr Stanhope must have had his tongue jammed so far into his cheek—enough to have caused him pain—when he said in his opening statement in an article to the *Canberra Times* on 3 March 2005, that the federal government was signing a shared responsibility agreement with the ACT. What nonsense! This must have been news to the federal minister, I am sure, given that one was never planned for the ACT.

Of interest is that the local indigenous community have already shown a higher developed self-respect and are conscious of health and wellbeing issues. Therefore, such an agreement was really only ever aimed at rural and remote communities across Australia. If the minister had sought advice he would have known that there is simply no need for such an arrangement here in the ACT, given the heightened awareness of their own wellbeing in the Aboriginal community in the ACT. Much like Victoria, the ACT does not have isolated Aboriginal communities but rather Aboriginal people are interwoven with the rest of the community. Therefore, this arrangement is specifically aimed at allowing rural and remote communities to find their own solutions to some of the challenges they face. It is important that indigenous people have much more of a say in their future but that government—federal, state and territory—ensure that sufficient funding mechanisms are in place to support these solutions.

The federal government is offering a simple coordinated and flexible one-stop shop service by way of a new whole-of-government frontline presence in the regions through their new indigenous coordination centres. Indeed, an ICC exists for this region in Queanbeyan. It is disappointing that the Chief Minister continues to abrogate responsibility for leading the way and assisting the Aboriginal and Torres Strait Island

community towards positive outcomes or, worse still, continues to attack the federal government for taking such a positive and sensible approach.

It appears that the local Stanhope government fairly well stands alone in its protest on the closure of ATSIC. It is all over the place when it comes to making sensible statements and really assisting the Aboriginal community. Lip service simply will not do; actions speak louder than words. Cheap and politically opportunistic attempts to belittle the federal government's efforts do nothing for the often complex needs of indigenous people in the ACT.

I acknowledge that action has already begun in some areas in Canberra. This Assembly and its members have the opportunity to promote and encourage ACT and regional indigenous heritage and culture. It is the belief of the Liberal opposition that we can confidently leave the policy decision making on a federal level, squarely at the federal level and let us concentrate on what matters most in the ACT.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (4.19): I very much welcome the opportunity to speak on this matter of public importance today. My government has long regarded indigenous affairs not just as a matter of public importance but as one of the most important issues confronting society and our community today. Our actions, actions which include record levels of funding to address disadvantage, a commitment to consult with Aboriginal and Torres Strait Islander communities on establishing an elected body in the ACT and the creation of Australia's first Aboriginal justice centre, reflect this.

I had very much hoped that the raising of this matter was a signal that the opposition intends to take a more bipartisan approach to tackling indigenous disadvantage in the Canberra community but, having just listened to the shadow spokesperson from indigenous affairs, that is certainly not the case. We have just been treated to 15 minutes of a very, very partisan attack by Mrs Burke on the government and, indeed, on the issue of addressing indigenous disadvantage at all of its levels. It would have been a very welcome and very overdue signal from a political party that, as Mrs Burke has gone to great lengths to illustrate, essentially, at a national level, has introduced arrangements that may well breach not only the ACT Human Rights Act but most certainly our international obligations as well.

It would be a very welcome gesture of reconciliation from the Liberal Party—a party that, through the shadow spokesperson on indigenous affairs, Mrs Burke, has provoked a predominant Ngunnawal elder to seek an almost unprecedented right of reply in the Assembly because of the claims made by Mrs Burke that the most significant of the indigenous leaders at the time of white settlement within this area, Onyong, either did not exist or, if he did exist, he had no connection to existing Ngunnawal. A prominent Ngunnawal elder has responded by seeking a right of reply in this place to debunk what she regards, I think, as an inherently racist attack on her very existence, on her Aboriginality, on her relationships and on her status as a Ngunnawal person, a person with a direct link to Onyong and the original inhabitants of the Ngunnawal area.

I have to say, and it has not been expressed to me by that elder, that I have no doubt her angst, in relation to that attack on her and on her very existence as an Aboriginal person,

was compounded by the fact that the Liberal Party spokesperson for indigenous affairs, a migrant to Australia, a member of an ethnic community, a person who speaks with a foreign accent, who holds and travels on a foreign passport, was the person denying her Aboriginality, her existence as one of the original inhabitants of Australia. It does strike me as something of an irony that we have somebody so newly arrived in this country, a member of one of our diverse ethnic communities, attacking the very existence of an Aboriginal person and her Aboriginality.

Be that as it may, the status of Aboriginal and Torres Strait Islander people in our community is one of the most important defining of our time. The way our society treats Aboriginal people, those people who lived in and lived with the land in our region before European settlement, tells us everything we need to know about ourselves. It tells us about our capacity for compassion, for learning and for respect. It tells us whether we are able, with open minds and eyes, to look at the past and see what is really there, to make sense of it and to find the right way forward. If we cannot do that, then we have not come very far at all.

My government came to office with an absolute commitment to Aboriginal and Torres Strait Islander affairs. We wanted to make sure all indigenous Canberrans have the opportunities they need to realise their full potential, which meant making a long-term commitment to meeting the health, education and cultural needs of indigenous people in the territory. It also meant addressing the very complex issues that arise when indigenous people come into contact with the justice system. This has meant looking after people before, during and after they come into contact with ACT government agencies. It has required a truly whole-of-government approach.

My government has a well-known commitment to protecting human rights and that means protecting everyone's rights—their rights to equality, life, protection from cruelty, freedom of movement, freedom of conscience, of expression and assembly, and their right to take part in public life, to be safe, to have their children and their families protected. History tells us that, for too long, indigenous people did not enjoy these rights. During the dark days of the stolen generations, indigenous people were not able to protect their children. For decades, official government policy denied indigenous people basic equality. The first people of this country could not vote for more than 60 years after federation and, in the darkest chapters of our history, indigenous people were treated with outright cruelty and disrespect for the law.

Today, indigenous people still suffer the structural inequality of social disadvantage. Poverty, disease and lack of education make it difficult for indigenous people to realise their full potential. These problems are most visible in remote parts of Australia but they are alive and well in all parts of the nation including Canberra. Here in Canberra we have a hardworking and vibrant indigenous community. The ACT government is committed to democratic representation for indigenous people, which is why we propose to set up an arrangement in Canberra. Without elected representation, indigenous people speak with a diminished voice. The demise of ATSIC is a deeply regrettable example of this. Not only is it deplorable that the federal government abolished ATSIC, but it is outrageous that it has no plans to replace it.

The attitude reflected in this absolute disregard for the voice of indigenous Australian winds back the clock for reconciliation in this nation, to the point where I fear for its

future. ATSIC was Australia's first serious and concerted effort to extend to Australia's Aboriginal and Torres Strait Islander people a right to self-determination. If it was an experiment, it was only an experiment in the sense that Australian federation was an experiment, or self-government for the Northern Territory and the Australian Capital Territory were experiments. The abolition of ATSIC is akin to the abolition of self-government in the Australian Capital Territory. It is a sign that self-determination was only ever a conditional right, capable of being withdrawn by white governments at the first sign of inconvenience or the first barometric shift in political commitment.

But we do need to go on. We do need to keep acting with our eyes open on the importance of indigenous affairs here in Canberra. For my government, this has meant committing to across-the-board initiatives to deal with all aspects of indigenous disadvantage. These include delivering the broadest range of new initiatives for the ACT indigenous community since the beginning of self-government. The 2004-05 ACT budget demonstrated the government's ongoing determination, in consultation with the community, to develop and fund innovative and effective programs in the ACT. The injection at $7.7 million is specifically aimed at tackling ongoing issues to reduce disadvantage in the community. We will provide $685,000 over four years towards indigenous employment opportunities, $868,000 to expand Koori preschool programs to five additional sites and we have provided $1.24 million for indigenous student support aimed at assisting young indigenous people to reach their potential.

We are taking part in COAG trials, which are under way in eight regions across Australia. We are setting up the ACT Aboriginal and Torres Strait Islander Community Consultative Council, which has been a major partner in the process of building stronger relations with the indigenous community. The council has produced a strategic plan for 2004-07, which is designed to achieve equity and better access to services for indigenous people in the ACT. We are committed to exploring the potential of an elected body to represent indigenous people in the post-ATSIC era. The conversation with the local indigenous community has begun on this, and it will be that community that determines the shape of any organisation to come out of negotiations.

We are making sure that indigenous prisoners in Canberra will be the best cared for in the country. Planning for the Alexander Maconochie Centre has paid close attention to the recommendations of the Royal Commission into Aboriginal Deaths in Custody, as well as more recent research on the needs of indigenous inmates. The new prison will make sure indigenous inmates have access to the recreational, employment, education and therapeutic programs they need to get them out of the criminal justice system. Vocational education and training programs will make sure inmates have a life to go to when they get out of prison, that they are equipped with what they need to take part in society and that they reach their full potential. Because the prison will be in the ACT, inmates will stay close to the communities that support them while they are in prison and after they are out. We are trialling circle sentencing for indigenous offenders. Involving elders and the broader community in sentencing can address some of the core issues for indigenous offenders. Rather than facing a confusing and sometimes alien justice system, indigenous offenders can be encouraged to take responsibility for their actions and explain themselves to the community. This is very empowering for offenders and their communities.

We are working hard to improve literacy and numeracy for indigenous children. Our aim is for Aboriginal and Torres Strait Islander children and young people to achieve similar results to the rest of the population. There is enough data for us to know that this is not happening across the board in terms of school retention rates, absenteeism, poor literacy and numeracy attainment. We know, for example, that by year 9, at the end of their compulsory education, many more Aboriginal and Torres Strait Islander students than non-indigenous students at government schools have not reached the literacy standard expected of their age.

For numeracy, the gap is not as great, with four in five Aboriginal and Torres Strait Islander students at government schools reaching the standard. The most recent report to the Assembly on performance in indigenous education again confirms that the percentage of indigenous students performing at or above the national benchmarks in reading and numeracy continues to be a low percentage for other students. Absenteeism, too, remains a concern but I am pleased to report that we are making some progress. The recently released year 3 ACT assessment program results show a significant improvement in the number of students reaching year 3 literacy and numeracy national benchmarks. In year 3 reading and writing, the proportion of indigenous students above the benchmark, for the first time, equalled that of non-indigenous students.

We are committing, through the community inclusion board, to ending the exclusion suffered by many indigenous people in our community. Programs funded through the community inclusion fund include On Track, a program for indigenous boys and girls at Birrigai. This program will provide indigenous primary school-aged students at Birrigai Outdoor School with an alternative approach in a positive and supportive outdoor environment. The fund is also supporting the Gugan Gulwan education support program, which will employ a qualified teacher two days per week to provide an innovative and culturally appropriate education program for indigenous high school students who have left, or are at risk of leaving, the high school system early.

We have allocated more than half a million dollars to employ outreach workers to work with Aboriginal and Torres Strait Islander people who are experiencing problems relating to drugs and alcohol. We are spending $100,000 on a feasibility study to assess the viability of an ACT bush-healing farm, $793,000 on expanding indigenous midwifery access and an additional $830,000 on an ear health program for Aboriginal children. We have handed over the land at Yarramundi Reach to the Burringiri Association—the successful tenderer for the centre's management. Burringiri officially reopened the cultural centre during NAIDOC week earlier this year.
The cultural centre has an annual operating budget of $120,000 and there is $1.5 million available for capital works in 2004-05. The board of the Burringiri Association is an independent organisation, managed exclusively by Aboriginal people to suit the needs of the Canberra community and is fully responsible, as is appropriate, for the management of that centre. It does resent attempts at suggesting that they are not able or professionally capable of managing the Burringiri Cultural Centre in way that suits the needs of the Canberra people. I think it is significant that not a single advance was made in relation to the establishment of the Burringiri Cultural Centre during the seven years of Liberal government.

We have allocated $100,000 to commission a public artwork acknowledging the traditional owners of this land. The indigenous artwork will be displayed in a prominent place in the territory. An advisory committee has been established and has nominated a list of prominent indigenous artists who will be invited to submit expressions of interest in producing the artwork. I think it is most appropriate that we are commissioning a major artwork to signify that this land was occupied for at least 22,000 years prior to white settlement.

The government acknowledges that there is still a lot of work to be done in indigenous affairs in the ACT. But we are very proud of the work we, and the indigenous community, have done. The work we are doing is not only focused on helping individual people reach their full potential but on helping communities reach their full potential. When I say "community", I am not just talking about the indigenous community—because as long as our nation's first people suffer disadvantage each and every one of us is diminished. Working to redress this imbalance is something we must all do if we are to move forward at all in achieving reconciliation, and in dealing with the entrenched disadvantage that 200 years of discrimination and dispossession have caused for Aboriginal people in this nation.

Many great people have worked towards this goal in the past, and many more will continue to do so in the future. So long as we keep doing so, without petty reliance on patronising and discriminating ideas, like the federal government's mutual obligation, we will prove our right to truly inhabit this place—to live in a place and work towards a future where no disadvantage carries an air of inevitability about it.

DR FOSKEY (Molonglo) (4.34): I am pleased that this topic has been raised today as a matter of public importance as it follows on from my speech last week on a motion I moved in regard to indigenous health and it gives the Assembly a greater opportunity to focus on the importance of Aboriginal and Torres Strait Islander affairs in the ACT and discuss how they can be improved.

The Assembly will recall that last week I raised concerns expressed by the community sector about the state of ACT government negotiations with the Australian government over the family violence partnership program and that the ACT government might miss out on an opportunity to receive funding under this program. Whilst I was assured by Minister Gallagher that there were efforts being made to secure funding, I request that at some time during today's discussion the ACT government provide the Assembly with a report on the state of the negotiations between the ACT government and the Australian government over the family violence partnership program, the amount of funding that the ACT government expects to derive from the agreement and its current ideas on how this funding might be delivered to the indigenous community to assist in preventing domestic violence.

Winnunga Nimmityjah is inevitably mentioned when we talk about indigenous affairs in the ACT. I have become aware of a problem that Winnunga is experiencing—as is, I might add, a number of other community organisations—in regard to the ability to deliver programs to the indigenous community due to the ratio of administration and program funding provided to Winnunga and, of course, other community organisations. The Winnunga Nimmityjah Aboriginal Health Service advised my office that, while they

had recently been successful in acquiring further funding to run health-related programs, they have been unsuccessful in their attempts to acquire further funding for administration, middle management in particular.

Winnunga is currently surviving on the dedication and unpaid overtime provided by project officers but, as we all know, this is unsustainable because project officers wear out and programs thus will be prevented from achieving their full capability. Core administration funding is vital to any organisation, and I hope that the Assembly will consider this in its discussion today and beyond. I would also appreciate it if the ACT government could address this problem in its response to members today and indicate how it is tackling it.

In regard to the "I want to be heard" report and the five-year Aboriginal and Torres Strait Islander health plan, it was really pleasing last week to receive such a positive response to the report, which provides an analysis of the needs of Aboriginal and Torres Strait Islander drug users in the ACT and the region for treatment and other services. The report made 22 recommendations. I note that the ACT government is currently investigating one of those, that is, the establishment of a healing farm. I also understand that the ACT government, the Australian government and Winnunga have developed a five-year plan for Aboriginal and Torres Strait Islander health and family wellbeing in the ACT, and that the plan will be released in the near future following the final consultation phase, which will be conducted in the coming weeks.

I will be very interested to see if, and how, the recommendations of the "I want to be heard" report are included in this plan, and if Winnunga is happy with the outcome of the plan. But having a plan and discussing recommendations mean nothing if they are not implemented. An ANU PhD student is conducting an assessment of the implementation of the "I want to be heard" report's recommendations and the Greens will be following this very closely.

I cannot really talk about indigenous issues in the ACT without talking about the Aboriginal tent embassy. The tent embassy is part of Canberra's physical and political landscape. The embassy began in the early 1970s as a response to the then coalition government's refusal to recognise land rights. It has existed intermittently on the lawns of the old Parliament House since Australia Day 1972 and permanently since Australia Day 1992. In that time it has achieved legendary status in Aboriginal political history.

The choice of Canberra for the tent embassy is logical and significant as the simple act of hanging the name "embassy" on the tent is only really appropriate in the nation's capital. It was a highly symbolic statement that indigenous people were being treated as aliens, foreigners, and as such they needed an embassy in their own country.

Many have said since the inception of the embassy that it is an eyesore. In 1972, embassy spokesperson John Newfong countered the first of these accusations by stating, "If people think this is an eyesore, well it is the way it is on Government settlements. The place is beginning to look as tired as we are … we all wish we were in other places doing other things. But we know we have to stay here until we get what we want." Thirty-three years later the argument has not changed.

As part of what might be termed an aesthetic cleansing process, governments have tried to trade off removal of the embassy in return for permanent meeting rooms, memorial plaques and reconciliation paths. Recently, such a process was instigated by the federal government's territory's minister, Jim Lloyd, who announced on 1 August 2005 that consultants had been appointed to facilitate discussions on the future of the Aboriginal tent embassy.

When we talk about the ACT's indigenous community, often we think only of the Ngunnawal people and sometimes the Wiradjuri people, the traditional owners of this land and frequent visitors to it; but the indigenous community in Canberra, which consists of Aboriginal and Torres Strait Islander people from right across the continent, is the most diverse in Australia. In this national capital it is important and appropriate that indigenous people from all parts of Australia are involved in the public service that creates and delivers programs to indigenous people and in other programs. As representatives of the Canberra community and supporters of indigenous communities everywhere, we should assist the fight to keep the tent embassy exactly where it is until there is no support or enthusiasm for it coming from indigenous people around Australia.

I would finally add that I notice that Minister Lloyd, in setting up the latest consultation on the future of the embassy, has failed to include a resident or a representative of the embassy in the group. I was very disappointed to notice that the Chief Minister, in his support for the consultation process, did not pick up on this exclusion. No process to deal with the future of the site, which, I have to say, is looking very beautiful and well cared for at the moment, can be fair and just if it does not include the residents.

Mr Deputy Speaker, there are a number of other issues that I could speak on today—for instance, the consultations on the prison in regard to how it can best assist in the rehabilitation and refinding of self-esteem of indigenous prisoners; public service recruitment, for which we noted during the annual reports process there was quite a lack of indigenous people amongst employees; reconciliation, which has to function at the neighbourhood level as well as at a national level; and education and the particular needs of indigenous people—but time does not permit. I expect that we will be returning to the topic again and again over the life of this Assembly.

MR GENTLEMAN (Brindabella) (4.44): I welcome the opportunity to speak today on Aboriginal and Torres Strait Islander affairs in the ACT. The minister outlined the work the ACT government is doing in this regard. I would like to touch on one of the most important issues we face as we move forward in our efforts to overcome indigenous disadvantage.

Only five years ago, the prospects for real and meaningful reconciliation looked excellent, but lack of political leadership at the highest levels in this country has seen reconciliation slip from the national agenda. We, as the elected representatives of all members of our community, must work together towards a true and lasting reconciliation. We need to get the process back on its feet.

The ACT government acknowledges that the reconciliation process has a direct impact on the wellbeing of all of our community. It is important to remember that reconciliation involves a wide scope of general, everyday issues. The ACT government is focusing on

reconciliation as part of an overall objective to address the disadvantage and needs of the Aboriginal and Torres Strait Islander people in our community. To that end, we are developing strategic initiatives to ensure that we fulfil our responsibilities to assist the Aboriginal and Torres Strait Islander communities.

In the ACT, we established the Aboriginal and Torres Strait Islander Community Consultative Council. This council has been a major partner of and leader with the government in building stronger relations with the indigenous community and enhancing indigenous governance structures within the ACT. These partnerships between governments and the Aboriginal and Torres Strait Islander community must continue to be developed and harnessed in promoting strong leadership in the reconciliation process.

The ACT government has taken the lead in acknowledging in all public speeches the Ngunnawal people as the traditional custodians of the ACT. Ngunnawal members of the community perform a "welcome to country" at ceremonies, official events and functions as we try to incorporate indigenous Australians' heritage in all aspects of our work. We are constantly working hard to improve the education, health and welfare of the indigenous community whilst empowering the ACT community to accept the past and acknowledge the atrocities that have occurred, because it is through this process that we will truly be able to move along the path of reconciliation.

When Paul Keating spoke about the leadership in indigenous matters, he summed up the view very well when he said:

> If we improve the living conditions in one town they will improve in another. And another. If we raise the standard of health by 20 per cent one year it will be raised more the next. If we open one door, others will follow.

In thinking along these lines, if we are able to improve the welfare of the ACT's indigenous community members, then we may also be able to improve it in our surrounding regions—Queanbeyan, Goulburn, New South Wales and the wider Australia. If we are able to teach by example and use our leadership roles to educate those who do not yet support the reconciliation process, then we will be able to extend that throughout the country.

It is this type of leadership process that is required to improve the welfare of indigenous people in our community and support the reconciliation process. All governments in this country must take the lead and provide opportunities for reconciliation to develop. In the ACT, the government has announced a further $6 million investment over four years in programs and services specifically for local Aboriginal and Torres Strait Islander people. This is in addition to the $7 million in new funding in last year's budget.

The ACT government has committed itself to working closely with the Ministerial Council on Aboriginal and Torres Strait Islander Affairs to establish a newly elected representative body for the Aboriginal and Torres Strait Islander people. We have established the United Ngunnawal Elders Council, which is another example of the ACT government building partnerships and enhancing the governance structures within the community to work with the traditional people in the ACT.

We now have "welcome to country" signs at the main entrances to the territory and a dual naming process whereby, if possible, we will include the original Aboriginal name for geographic features and areas in the ACT alongside the names given to them mainly by the early settlers. For example, we have named the new Gungahlin nature park Goorooyaroo and in doing so have restored the original Aboriginal name for that general area. We have also allocated $100,000 to commission a public artwork to acknowledge the traditional owners of this land. This artwork will be displayed in a prominent place in the territory.

As a constant reminder of our commitment to reconciliation between our indigenous and non-indigenous people, the Aboriginal, Torres Strait Islander, ACT and Australian flags have flown side-by-side outside the ACT Legislative Assembly building. These are symbols of a more cohesive society and, importantly, a constant reminder of our commitment to reconciliation. These are all examples of the ACT government's willingness to show leadership and the move towards reconciliation. I encourage the opposition to embrace these moves in a truly bipartisan spirit.

There are always going to be obstacles along the path to reconciliation. The abolition of ATSIC has been a significant stumbling block as it is a denial of the basic rights of the first people of this country to self-determination of their own affairs. It has been a monumental setback for reconciliation in this nation. However, all obstacles can be overcome. The ACT government will continue this work on the reconciliation process and from here we need to encourage leadership by governments to resource and support the community to address the disadvantage that presently exists between the non-indigenous community and the Aboriginal and Torres Strait Islander community.

The ACT government proposal to establish a newly elected body that will replace the ATSIC regional council structure in the ACT area demonstrates our commitment to overcoming these obstacles. It is important for all of us to feel a part of our community, to have a sense of belonging. While there is still some way to go, I believe that the ACT community is making good progress towards a more inclusive and supportive society. The ACT government will continue to strive to improve the conditions and circumstances and to address the disadvantage of our indigenous community. We look forward to the day when we can acknowledge that the reconciliation process has matured and we have become part of a more cohesive society that truly respects our indigenous heritage.

This is an issue that demands attention from all sides of politics and all levels, and from all members of the Assembly. We must regain the momentum that the Australian community built up when thousands walked across the Sydney Harbour Bridge five years ago and we must overcome the lack of leadership at the highest levels if we are to achieve real and lasting reconciliation.

MR SMYTH (Brindabella—Leader of the Opposition) (4.52): Mr Gentleman is right: leadership is needed. Somebody has to show leadership in this territory on indigenous issues because the minister for indigenous affairs has allowed indigenous issues here to languish for the last four years. I will give you concrete evidence of that, Mr Deputy Speaker.

The Chief Minister said in his speech that there is $120,000 of operating money for the cultural centre at Yarramundi and, indeed, there is $1.5 million of capital works money that they can access, a great achievement on the part of his government. That is wrong, Mr Deputy Speaker. If the Chief Minister goes back to 1997-98, under the former Liberal government, he will find that that is when this program started. When this program started, $2,025,000 was put there, Chief Minister: I repeat, $2,025,000.

I want to quote from the Chief Minister's Department's 2001-02 capital works program June quarter report, which was the last quarterly report put out by the previous Liberal government. There had been at that stage, 30 June 2002, $483,000 spent on the project and there was $1,542,000 to be spent.

Members interjecting—

MR DEPUTY SPEAKER: Order! Both sides should quieten down and allow Mr Smyth to get on with his piece of work.

MR SMYTH: Thank you, Mr Deputy Speaker. There it is: $1,542,000. That was for the June quarter 2002. Let us look at the latest quarterly report, which was tabled in March. Here it is: "ATSI"—Aboriginal and Torres Strait Islander—"Cultural Centre". The program for 1997-98 under the former Liberal government—

Mr Stanhope: You are displaying dreadful ignorance, Mr Smyth.

MR SMYTH: The Chief Minister speaks of dreadful ignorance. If it is dreadfully ignorant, you are tabling reports that are incorrect, Chief Minister.

Mr Stanhope: Go back to pre-1995.

MR SMYTH: I am just reading your report, Chief Minister. It is your report, Chief Minister, and 1997-98 was the year the program started. When we left office, $483,000 had been spent and $1,542,000 was left in the authorisation. Let's check for 2001, 2002, 2003, 2004 and 2005. How much was spent? The total expenditure to date is $483,000.

Mr Stanhope: Very shonky research, mate.

MR SMYTH: They are your reports, Chief Minister. How much is left? The authorisation outstanding is $1,542,000.

MR DEPUTY SPEAKER: Order! Mr Smyth, address the chair, not the Chief Minister direct. Chief Minister, please be a bit more orderly.

MR SMYTH: Mr Deputy Speaker, I think that the Chief Minister has been blinded by the light on the hill. He has been looking up at that light on the hill too much and he has been blinded. He has spots in front of his eyes; he cannot see it. The Chief Minister spoke about all the things that they were going to do. They were going to consult, they were going to have justice centres, they were going to address disadvantage and they were going to have gestures of reconciliation. There was an absolute commitment, but we all know that there has been no action.

If we go back through history and look at what some of the previous governments have done we will find that Gary Humphries established an Aboriginal justice advisory committee, Bill Stefaniak announced new scholarships for indigenous students, I was fostering better relations with the indigenous community through the police force, and Kate Carnell gave the indigenous business chamber a boost. That is an interesting one, Mr Deputy Speaker. We acknowledged back in 2000 that there was a need to foster jobs and independence and to build up the indigenous business sector. Where is the indigenous business chamber now? It was killed off by the Stanhope government. Michael Moore, for the ACT government, signed an indigenous housing agreement, and so it goes on.

The Chief Minister started by saying that he would like to see, he thought he might see, a gesture of reconciliation. That is what he wanted; he just wanted a gesture. We are not into gestures; we are into doing the real thing. I would like to remind members that it was Kate Carnell, a Liberal Chief Minister, who, on Tuesday, 17 June 1997, moved in the Assembly a motion of apology to the Ngunnawal and other Aboriginal and Torres Strait Islander people in the ACT for the hurt and the stress caused to them. It was moved by a Liberal government.

We heard the call for leadership. It is interesting to cast our minds back to when the Chief Minister worked as the senior adviser and chief of staff in the federal parliament to the then Labor Attorney-General, Michael Lavarch. After that, he became the senior adviser on native title to the Federal Labor leader. I wonder what sort of advice the Chief Minister was then giving his colleagues, because they did not apologise. They did not say sorry. They fought Eddie Mabo into an early grave. Michael Lavarch did that. They resisted Eddie Mabo. It was not until six months after Eddie Mabo had died that the High Court finding granted his people title over Mer, or Murray Island, in the eastern part of the Torres Strait.

Mr Gentleman, you're dead right about looking for leadership, but do not look to your leader because he had the opportunity to influence this debate and did nothing. All he does now is lament the passing of ATSIC. He is the only leader in the country that laments the passing of ATSIC. What has Clare Martin done in the Northern Territory? She has signed up to the federal government's new programs and accepted the money so that she can help address disadvantage, not talk about it. All our looking at the light on the hill Chief Minister does is talk about it. He is out of step with the rest of the leadership of this country, who want to see things move on.

His fear is that we will lose the effectiveness of ATSIC as a body. At the time services were being delivered through ATSIC, not all services were being delivered. Education, for instance, has been mainstreamed for a very long time. As we heard the Chief Minister say, literacy and numeracy levels are coming up. Perhaps that is because it has been mainstreamed. Perhaps that is because there have been so many programs that have been funded by both sides of parliament, by Liberal and Labor federal governments, to give credit where credit is due. Chief Minister, you should learn to give credit where credit is due. Many have made efforts over time. Don't just talk about it, Chief Minister. Don't let Aboriginal issue in this territory languish like you have let the cultural centre at Yarramundi languish for the last three or four years. You are the minister responsible and nothing has happened.

Having addressed the issue of the cultural centre, let us look at Winnunga Nimmityjah. Yes, they have a new building, Chief Minister: well done. You have taken an old building and adapted it to a new use. But the fear of the staff at Winnunga Nimmityjah is that they do not have the resources to deliver the services they would like to deliver. Why don't you go down and talk to them, Chief Minister, and find out what they want? They tell us what they want. Obviously you are not listening to them.

One of the things that we worked very hard at when we were last in office was to have good relations with the various groups which represent indigenous people in the ACT, and we all know that there are various groups. The problem with this Chief Minister is that he favours one group over the others and the constant complaint that we get is that the other groups have been marginalised. So much for the inclusive Chief Minister. So much for leadership from a Chief Minister who wants to bring these groups together. There is a lot of talk here, but so little action.

The Chief Minister says that there is an extra $7.7 million of funding in the budget. Well done. I hope that it will be actually spent, unlike the money for the centre at Yarramundi Ridge. I hope that it will get spent, instead of sitting on the shelf unused. The problem for indigenous affairs under this Chief Minister is that absolutely nothing happens. For instance, we set out on an ambitious program to deal with indigenous issues in the ACT when we were last in government. We worked on the cultural centre. We got that land back from the federal government when it built the museum on Acton Peninsula so that we could have the cultural centre.

One of the quite exciting things that happened was that we signed the agreement for the use of Namadgi, for the return of lands for the use of traditional owners in Namadgi. We signed that agreement and we set up the Namadgi advisory board so that we could work together on that. That was a real achievement of the previous government. As I have already pointed out, in June 1977 the Assembly as a whole, under the auspices of Kate Carnell, Liberal Chief Minister of the ACT, arranged to say sorry and invited Aboriginals and Torres Strait Islanders to appear here. Mr Stefaniak was here and he remembers that. We invited indigenous people into their Assembly to have their say, an historic thing for this country.

We looked at the way we police things and we set up the Aboriginal liaison officers and gave better training to our police officers so that they understood the sorts of problems they were dealing with when they encountered Aboriginal people through the criminal justice system. We set up the indigenous business chamber to ensure that they had an economic future as well. It is about action, Mr Deputy Speaker, not just words.

MR STEFANIAK (Ginninderra) (5.02): I was concerned to hear a number of things that were said. The first was that the government is not necessarily inclusive of all Aboriginal groups and is trying perhaps to play favourites. I think that is most unfortunate indeed. It is important to include the various groups in our community and to come out, as best you can, with a consensus approach. That is something that might take time, but it is crucially important. It is something that I recall took time in terms of the education consultative committee. There were varying views there and the groups were not necessarily pulling together. It did take a number of years before they did that themselves, coming up with

a most effective consultative committee that I think made significant progress in a very short period.

I recall that the first Aboriginal education report that was before the Assembly showed some alarming rates in terms of literacy and numeracy for years 3 and 5 students at the time. As a result of a lot of good work not only by the department but also by the education consultative committee, those results were turned around and there was, I think, an increase of about 20 per cent in literacy and numeracy, bringing them right up to the standards of other students in the system after about a six-month period when the next reporting was done.

That was because of a very inclusive approach being taken by the community itself, a community that greatly assisted that committee in terms of reducing to very low levels the incidence of truancy in relation to some of the young ATSI population in our schools. So it was somewhat disturbing to hear that perhaps this government is listening—I was going to say paying lip service; maybe it is doing that, too—to certain groups more than others. It is important to be inclusive, to include all.

One thing that seems to be going reasonably well is circle sentencing. I did note the concerns that my friend Mr Seselja had in relation to that and it is only early days. I do note that early reports—we had had only 14 or so at the time—seemed to be that it was progressing reasonably well. It is time inclusive. I certainly hope that it will continue to progress well. There are some concerns as to how similar systems operate interstate, but I think that it is important to try these things and I will be looking with great interest at how that justice initiative continues to pan out as time progresses.

MR DEPUTY SPEAKER: The time for the discussion has expired.

Human Rights Commission Bill 2005

[Cognate bill:
Human Rights Commission Legislation Amendment Bill 2005]

Detail stage

Debate resumed.

Clauses 79 to 86, by leave, taken together and agreed to.

Clause 87.

DR FOSKEY (Molonglo) (5.05): I seek leave to move amendments Nos 15 and 16 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 15 and 16 circulated in my name *[see schedule 1 at page 3105]*.

These amendments, which refer to the autonomy of commissioners to report to the minister, propose that clause 87 subclauses (1) and (2) be replaced. The clause as it stands contains the words, “The commission may, on its own initiative”. I seek to replace

those words with the words, "A commissioner may, on the commissioner's own initiative". I also seek to replace the words "If the commission gives" with the words "If a commissioner gives". These simple amendments will restore the authority of individual commissioners to initiate and produce reports for the minister without requiring approval from other commissioners and the president.

I understand that the government and the opposition will not be supporting these amendments. I am concerned that we might have created another bureaucracy with a hierarchical structure where the president has the power and ability to override the more knowledgeable intentions of commissioners charged with responsibility for particular groups. If the government opposes my amendments I am concerned that it has another agenda, which is not about providing commissioners with full potential power, in this instance, to speak to ministers. Surely that should be their basic responsibility. Commissioners might desire to report to ministers but the president makes the ultimate decision. I am concerned that the ability of the commission to deliver human rights will be compromised. As one of the agents of the Human Rights Act, that should be its primary aim.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.08): When I spoke earlier in debate on amendments Nos 13 and 14, I incorporated comments relating to amendments Nos 15 and 16 which have been moved by Dr Foskey. I indicated then the basis on which the government decided not to support these amendments. Essentially, the same rationale applies to a number of other amendments that have been moved. As a consequence of the model that the government has chosen to implement through this legislation, that statutory power is vested in the commission and not in individual commissioners. Dr Foskey does not believe that that is the correct approach. The majority of the amendments she has moved simply reflect the fact that she does not support the model the government supports. Essentially, we are philosophically divided in relation to that issue.

I maintain my opposition to these amendments and to other amendments. These amendments are reflective not so much of a disagreement at one level; it is just that we have taken a decision on an optimal model. That optimal model simply does not permit us to agree to the proposition inherent in Dr Foskey's proposed amendments, namely, that the commission be divested of functional power and that that function be reinvested in individual commissioners. Essentially, that would strike at the heart of the entire legislative scheme and I fear it would render it inoperable.

Amendments negatived.

Clause 87 agreed to.

Remainder of bill, by leave, taken as a whole and agreed to.

Question put:

> That this bill, as amended, be agreed to.

Ayes 8		Noes 5	
Mr Berry	Mr Gentleman	Mrs Burke	Mr Stefaniak
Mr Corbell	Ms MacDonald	Mr Pratt	
Dr Foskey	Ms Porter	Mr Seselja	
Ms Gallagher	Mr Stanhope	Mr Smyth	

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Human Rights Commission Legislation Amendment Bill 2005

Debate resumed from 7 April 2005 on motion by **Mr Stanhope**:

That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (5.14): I thought this bill was cognate to the Human Rights Commission Bill. My remarks in principle to the Human Rights Commission Bill apply equally to the Human Rights Commission Legislation Amendment Bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail Stage

MR STEFANIAK (Ginninderra) (5.15): I move the amendment circulated in my name *[see schedule 3 at page 3109]*.

This bill is consequential on the Human Rights Commission Bill. One of the problems in relation to these bills and to other bills that we will be debating shortly is the fact that the Ombudsman, while still playing a significant role, is being written out of settled areas. That is a matter of concern for a number of medical groups to whom Mr Smyth and I have spoken. We wanted to ensure that the Ombudsman was still able to deal with any issues sent to him as a result of this legislation. While the Ombudsman still plays a substantial role, in some respects that role has been weakened. We do not believe there is any need for that.

Obviously we are sympathetic to the views expressed by medical groups relating to the Ombudsman's weakened role. The Scrutiny of Bills Committee, in its report 14, dated 15 August, made a number of comments about the Ombudsman that I think are applicable here. My colleague Mr Seselja will mention some specific issues relating to this bill and to a bill on which we are yet to vote. However, there are some good general comments on page 26 of the Ombudsman Act that I think are applicable to my amendment.

Section 5 (1) (a) of the Ombudsman Act confers on the Ombudsman a broad power to investigate action that relates to a matter of administration and to deal with the complaint in a flexible and informal way including—and this is noted in the act—a broad discretion to decline to investigate. That informality is justified in part by reference to the

Ombudsman's lack of power to do anything other than make a recommendation that the agency alter its decision in some way. While this restriction on power stands in contrast to the powers of a court or tribunal to revoke or change agency decisions, the Ombudsman provides an inexpensive means of seeking redress for an ordinary person who cannot afford the cost, in money and time, of resorting to courts or administrative tribunals.

One virtue of the Ombudsman's scheme is the fact that the broad grant of jurisdiction to the Ombudsman in section 5 (1) (a) of the act avoids the legal complexity that arises out of grants and jurisdictions to courts and tribunals. An ombudsman's office is founded on the basic principle that its jurisdiction should extend to investigation of complaints against all agencies of the executive and administrative branches of government—excluding the actions of ministers who are seen as being responsible to the legislature—and of the court so far as it concerns the exercise of their judicial functions.

If this principle in the Ombudsman's scheme reduces jurisdictional complexity to a minimum it would make it easier for ordinary people to use the scheme. Furthermore, it would provide an even application of good administrative principles across the administrative arms of government. A qualification of this principle is to be avoided if possible. I note that this is a fairly limited qualification of what the government is doing. Nevertheless it is a qualification that should be avoided if at all possible. After consultation with parliamentary counsel I believe that to be the best way to ensure the Ombudsman continues to be properly involved in every aspect. My amendment will simply delete that part of the act.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (5.19): The government has decided not to support this amendment. The effect of the amendment, as explained by Mr Stefaniak, is to remove from the bill all the amendments to the Ombudsman Act. These consequential amendments flow from the establishment of the Human Rights Commission and the creation of the Health Services Commissioner in place of the Community and Health Services Complaints Commissioner. These amendments are essential in order that the Ombudsman Act continues to operate consistently with existing provisions and other legislation and does not contain redundant references.

In addition, the provisions in the bill will amend the Ombudsman Act to enable the Ombudsman to review the administrative processes of the Human Rights Commission. The government submits that this extremely important provision will ensure that the administrative processes within the Human Rights Commission are appropriate and timely. Important additional protection for complainants would be removed if the changes provided for in this bill did not go ahead. Because of the importance of these amendments to the Ombudsman Act the government cannot support Mr Stefaniak's amendment.

Amendment negatived.

Bill, as a whole, agreed to.

Bill agreed to.

Human Rights Commission (Children and Young People Commissioner) Amendment Bill 2005

[Cognate Bill:
Public Advocate Bill 2005]

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

> That this bill be agreed to in principle.

MR SPEAKER: I understand it is the wish of the Assembly to debate this bill cognately with executive business order of the day No. 4, Public Advocate Bill 2005. That being the case, I remind members in debating order of the day No. 3 executive business, they may also address their remarks to order of the day No. 4 executive business.

MR STEFANIAK (Ginninderra) (5.23): These bills form part of a suite of bills that emanated from the Review of Statutory Oversight and Community Advocacy Agencies conducted for the government by the Foundation for Effective Markets and Governance. The review examined the powers and functions of the Community and Health Services Complaints Commissioner, the Community and Health Rights Advisory Council, the Discrimination Commissioner, the Community Advocate, the ACT Ombudsman and official visitors in the areas of mental health, disability, child protection and youth justice.

The review offered a number of options but the government opted for the one, big corporatist model of expanding the human rights office so that a swag of commissioners, all with their independent functions, were co-located with shared services. Eventually the Ombudsman will also be part of the co-location and shared services. Official visitors in the areas of youth and mental health, and the co-coordinator of the management assessment panel, will also be located in this office. However, I have been advised that the government has still not worked out how to do that. As yet there are no provisions for the child death review panel. It appears as though work in that area is still in progress.

The Human Rights Commission Act sets out the structure for the new mega commission—an issue with which we dealt earlier. The Human Rights Commission (Children and Young People Commissioner) Amendment Bill establishes the position of children and young people commissioner, whose role is to hear complaints about systematic issues relating to services for children and young people and their carers, which appears to cover quite a number of people. In the recent budget there is provision for an amount of $1.5 million to be allocated over four years to establish the position of children and young people commissioner.

The bill makes some minor amendments to the disability services definitions—amendments that appear to have been bunged in as an afterthought and that should have been incorporated into the principal act. The opposition opposes this bill and the cognate bill for the reasons I gave earlier in debate on the Human Rights Commission Bill. We believe that the children and young people commissioner would be more aptly named commissioner for the family. We are opposed to the establishment of a human rights commission and all its accoutrements.

We believe that such a position, which is needlessly bureaucratic, will cut across already established positions such as the Ombudsman. In fact, it will specifically prevent the Ombudsman from undertaking specific investigations and handing them over to the new commissioner. That will inevitably lead to some investigations falling through the cracks—an issue of concern to the opposition. The bill makes a number of consequential amendments that will delete the word "community" and insert the word "public". This bill is a rewrite of the Community Advocate legislation. The language and drafting style have been modernised and the name of the bill has been changed.

There are also some minor changes to the way in which delegations work. The real role of advocating for vulnerable children and young people rests with the Community Advocate and not with the children and young people commissioner. As my colleague Mrs Dunne pointed out, there is no need for this window-dressing legislation. This Human Rights Commission (Children and Young People Commissioner) Amendment Bill is just a cosmetic bill. I make the same points in relation to this bill that I made earlier in debate on the Human Rights Commission Bill. Whilst there is a need for a commissioner for the family we do not see a need for a mega corporation that will effectively cost an additional $2 million or so.

We therefore do not see any need for a Human Rights Act. I have already indicated that there are some problems in relation to that issue. It is obvious that this legislation will become law. It is obvious also that there will be further problems along the way. I hope this government will seek to rectify those problems. If the government and Dr Foskey do nothing to rectify those problems the opposition will. I reiterate the position of members of the Liberal Party. For the reasons I have given we are against a human rights act and anything that flows from it. There are a few loopholes in this legislation, which the opposition will watch carefully. If we are to have legislation such as this the government should ensure that it works properly.

DR FOSKEY (Molonglo) (5.27): I am going to begin with the Public Advocate Bill, as it is the easier of the two. I am going to support the bill, despite its being my personal preference that we retain the title "Community Advocate" rather than "public advocate." I accept that my personal preference is not, at the end of the day, a substantial objection; and, in the interests of consistency, I will refer to the Community Advocate as the public advocate in my speech in anticipation of this bill's being agreed to.

I am concerned about the issue raised in the scrutiny report that the protection of people providing information to the public advocate in clause 15 may interfere with the privacy of a third person and conflict with the section 12 of the Human Rights Act in relation to privacy and reputation. I do not think that there is a quick fix to this issue, and I agree with the analysis in the scrutiny report that the fact that the section is in the Children and Young Persons Act is not adequate justification.

I suggest that the government undertake consultation with relevant stakeholders and experts to review alternative options for protecting informants while also protecting the privacy of third persons. I also suggest that this matter be monitored by both the public advocate and the human rights commissioner on an ongoing basis.

Moving on to the Human Rights Commission (Children and Young People Commissioner) Amendment Bill, I am significantly more enthusiastic about the establishment of a children and young people commissioner and therefore am happy to support this bill. In responding to the bill, though, I would like to draw the Assembly's attention to the report *What was said means* …. This report summarises the findings of community consultation undertaken by the government on the topic of a children and young people commissioner. It is an important document and I commend the government on the extensive consultation that it undertook and the engagement of children and young people in consultation.

I think it is disappointing that the proposed functions for the commissioner as set out in the bill before us do not fully reflect the consultation findings. For example, the report states:

> … the views expressed in public submissions suggested the primary role of the Commissioner should be a proactive and educative function. The Commissioner should promote the rights, interests and wellbeing of all children and young people in our community.

Yet the Human Rights Commission Bill and this amendment bill would establish a commission that will be primarily focused on service delivery. The success of our amendment to the Human Rights Commission Bill, expanding the function of the commission overall, does go some way in addressing this. The commission now has a stronger statutory basis for undertaking proactive work.

Nonetheless, we were disappointed that the amendments proposed to expand the functions of individual commissioners were not supported. And we are particularly concerned that the children and young people commissioner is at risk of focusing too exclusively on service settings because of the substantial issues relating to the implementation of the government's response to the Murray and Vardon reports which concern the specific service system of child protection and out-of-home care.

There is no doubt that protecting and promoting the rights of children and young people in service systems, particularly those who are the most vulnerable, is very important. However, it must also be accepted that this is but one part of a much broader role that the community has envisaged for the commissioner. The establishment of a children and young people commissioner is an opportunity to provide a benefit to all children and young people, including, but not limited to, those within service delivery systems.

Many of the issues that affect a large number of children and young people are much broader issues of citizenship, community acceptance, involvement in decision making and representation. The consultations identified a much broader role for the commissioner, and that is what we would like to see. Of the eight key areas of functions for the commissioner identified in the community consultation report, only four have been adopted in the functions set out in the bill before us.

It is my understanding that the government intends to introduce further legislation concerning the children and young people commissioner in roughly six months time. Perhaps at this time they may plan to expand the role of the commission. I would prefer

to see the commissioner given a broader role from the outset; and, to this end, I have circulated an amendment to the functions of the commissioner to expand the role to be more proactive. I will talk about this in more depth at the detail stage of the debate.

I would also like to see the children and young people commissioner given a reasonable amount of autonomy within the human rights commission. I have raised similar concerns regarding the autonomy of the other commissioners earlier today. I believe that the bill, as it stands, would go too far in placing responsibilities and decision-making power with the commission rather than the individual commissioner. I will therefore move an amendment to give this commissioner greater autonomy and responsibilities, as I have done in relation to the other commissioners.

I believe that it is important to avoid the human rights commission's becoming overly bureaucratic and essentially stifling the work of individual commissioners by inadvertently restricting access to resources and timely decision-making. It is equally important that the commissioner has appropriate working relationships with other statutory oversight agencies, in particular the public advocate.

Through the community consultation, stakeholders generally supported a model in which individual advocacy for children and young people remains with the public advocate, whilst systemic advocacy be provided by the commissioner—with the two offices liasing on matters of mutual interest. However, the bill before us sees the Community Advocate only taking on individual advocacy when the child or young person is under the guardianship of the territory, while all other individual advocacy is handled by the commissioner.

This effectively sets up a distinction and a division between children in care and those who are not, which I do not agree with. It could also be confusing for children and young people who may move in and out of care at various times and may then be uncertain about which office to approach if they have a complaint or an issue requiring advocacy.

There is also a concern that individual advocacy will absorb much of the resources available to the children and young people commissioner, leaving little time to systemic advocacy and broader advocacy. This point leads me to an item that is greatly supported by the community but not the government—child advocacy.

The public submissions strongly supported the commissioner undertaking child advocacy—a strategy aimed at changing social systems, institutions and structures in order to maximise children's possibilities of self-determination. Advocacy is not just about services and service complaints and not just about individuals or systems; it is about looking at the much broader issue of children and young people's rights and advocating for the improvement of these rights.

There appears to be broad support for the commissioner having a role that includes providing education on children and young people's rights as well as examining issues of children and youth participation in our community beyond the confines of service delivery settings. The bill, as it is drafted, does not preclude such activity but neither does it provide an adequate platform.

There are a number of other matters the community consultation considered which are not addressed by the government. There was a great deal of discussion about official visitors. In its submission, the Youth Coalition suggested that a community visitors program be established through the official visitors program. I look forward to the government's response to this matter and hope that they take up the idea. There was also discussion regarding the potential for out-of-home care services to be accredited by the public advocate.

Another issue that requires the government's attention is the lack of a robust appeal mechanism for decisions of the human rights commission. This is a concern that has been raised with my office by a broad range of stakeholders. I cannot hear proposed solutions. I am rapidly running out of time, but you can get the full text later if you want it.

On a positive note, the early appointment of the children and young people commissioner will allow for the consideration of the needs of children and young people to be considered during the process of establishing the human rights commission. We are very concerned that the human rights commission have a welcoming space for children and young people, because it is probably not appropriate that everyone share the same waiting room as needs would be different.

Lastly, to deal with the issue raised in the scrutiny report on this bill which identified the potential for conflicts of jurisdiction between the Ombudsman and the human rights commission: it is important to avoid this, and the solution proposed in the report whereby the Ombudsman is required to refer a matter to the commission if it is the more appropriate office to deal with a complain is the subject of my amendment.

MR SPEAKER: The member's time has expired.

MR SESELJA (Molonglo) (5.38): I can continue Dr Foskey's speech, to a degree, because I will be mainly dealing with the issue of the Ombudsman. So I am happy to put forward some of those points that have come out of the scrutiny report.

I think, in general, a lot of people in legal circles initially used to see the Ombudsman as a bit of a toothless tiger, but I think over the years that attitude has changed and we have seen, not just in legal circles but in the community generally, an acceptance that the Ombudsman performs a pretty important role. Even though it does not have enforcement powers as such, it plays an important role in investigating and highlighting areas of concern arising out of public administration. Of course, at times this makes governments uncomfortable; governments do not like scrutiny, especially if it shows up areas where they are not quite getting it right. Obviously, governments often resist and seek to limit some of that scrutiny. I think that might be part of what is happening here.

One of the points highlighted in the scrutiny report that Dr Foskey referred to is that the way the Ombudsman scheme is set up reduces jurisdictional complexity, thus making it easier for the ordinary person to use the scheme. The report goes on to say that qualification of this principle is, thus, to be avoided if possible. And this is exactly what this bill does. It does raise some concerns. The report talks about the potential for certain cases to fall between the cracks. I think that is the biggest concern that we would have.

It talks about "words of exclusion" and "the Ombudsman's jurisdiction may be wider than the words of inclusion of the jurisdiction of the Human Rights Commission". That is a real concern. I think it should be a concern to the government that by, moving these changes and excluding the Ombudsman from certain areas of investigation, there may be cases that fall between the cracks, so I would caution the government.

Mr Stefaniak will be moving an amendment later. I have not seen Dr Foskey's amendment yet, but I would obviously be supporting Mr Stefaniak's amendment in that it will hopefully avoid some of those cases that this scrutiny of bills report has referred to. I think they are legitimate concerns.

Given that the Ombudsman provides a very simple way of investigating complaints—there are no jurisdictional concerns because it is able to investigate any area of public administration—I would put it to the house that this could be dangerous; that there could be areas that fall between the cracks. Given that the government is going to use its numbers to get this through, I would caution the government to look at this closely and, if there are areas that cannot be investigated because of these amendments, to reconsider them.

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (5.41), in reply: The legislation we are considering today creates a children and young people commissioner of the ACT. The position will be unique in Australia, as no other jurisdiction has human rights legislation to provide for protecting, promoting and respecting children and young people. The bill is a further step in the government's delivery of its vision for children and young people in the ACT.

The bill amends the human rights commission legislation that has just been passed and establishes the role of the children and young people commissioner within the human rights commission. Complementing its introduction is the Public Advocate Bill 2005.

The ACT needs the children and young people commissioner. Children and young people represent around a quarter of the ACT population and need special protection. Their dependence and developmental state make them particularly vulnerable as they are more affected than adults by the conditions in which they live, such as poverty and poor housing. They have limited economic or social power, no right to vote and limited influence on the choice or composition of bodies responsible for decision-making.

The establishment of a commissioner acknowledges the importance of supporting and respecting these members of the community and working to address their unique needs. The establishment of a commissioner implements important human rights commitments by putting into practice article 12 of the United Nations Convention on the Rights of the Child, to which Australia is a signatory.

The establishment of a commissioner also supports section 11 (2) of the Human Rights Act 2004, which states:

> Every child has the right to the protection needed by the child because of being a child, without distinction or discrimination of any kind.

Finally, the establishment of the commissioner fulfils the commitment of the government in relation to Vardon report recommendation No 8.24. On 6 September 2004, I released a position paper for a proposed commissioner. On 8 April this year, I released the *Emerging themes* report on the views of children, young people and the report on the public consultations with 2,557 individuals and organisations through submissions, surveys and workshops.

The commissioner will not devolve the role and responsibility of parents who are the best advocates for the majority of children and young people. A commissioner is required because not all children and young people have parents or guardians or have parents or guardians who will advocate in their best interests.

A feature of the children and young people commissioner bill is that parents and guardians, children and young people, agents and carers can approach the commissioner. In the bill, when someone is affected by the act of service, they are an aggrieved person. This may include families, parents, guardians or carers if the service was provided to them. When a person is aggrieved, they make a complaint under section 43 (1) (a) of the Human Rights Commission Act 2005.

Children and young people can also be an aggrieved person and make a complaint. Clause 24 adds a new subsection 43 (2) (b), which ensures that if a person has a legal disability they are not, excluded from making a complaint. By law a child or young person is considered to have a legal disability due to age. This clause ensures that a child or young person can make a complaint to the children and young people commissioner.

An agent of an aggrieved person can make a complaint. To be an agent, the aggrieved person or the human rights commission has to authorise the agent in writing. This provision is in subsection 43 (3) of the Human Rights Commission Act 2005.

Clause 23 provides that a parent or guardian can make a complaint on behalf of the child or young person who is aggrieved. Carers can make a complaint if they have guardianship or have control of the affairs of the aggrieved person under another law or an order of the court or tribunal. Carers include foster carers. If a person is a voluntary carer and does not have a legal mandate to care for the child or young person—for example, a relative or kinship carer—they could lodge a complaint as an agent of the aggrieved person.

If the complainant is unable to get a conciliation agreement or is unhappy with the way a complaint is progressing they may be able to seek a new decision about their complaint from the ACT discrimination tribunal. To approach the discrimination tribunal, the complaint must be about discrimination and fall under the Discrimination Act 1991. The complainant must also get a referral from the human rights commission to the ACT discrimination tribunal under section 53, section 64 or section 82 of the Human Rights Commission Act. A complaint cannot be referred to the discrimination tribunal if it is not a discrimination complaint falling under the Discrimination Act 1991 or, if it is a discrimination complaint, the parties to the complaint have made a conciliation agreement.

The Children and Young People Commissioner Bill does not include provision for child death review, employment screening or an expanded role for the Official Visitor, which were identified as possible functions for the proposed children and young people commissioner. These provisions will be included in phase two of the legislation, as further policy development and consultation is required to put in place an effective structure. Some further policy development in relation to the Official Visitor and children's services council will be addressed in the amendments to the Children and Young People Act.

The 2005-06 budget provides $1.5 million over four years through the Department of Justice and Community Safety to establish a children and young people commissioner in the ACT. The appointment of the commissioner is an appointment of the executive and, with the passage of this legislation, will be expected in late 2005 or early 2006.

The Public Advocate Bill 2005 changes the name of the Community Advocate to the public advocate, in line with the recommendations by the Foundation for Effective Markets and Governance, also known as FEMAG. The government agreed to make a change, choosing the name preferred by the Office of the Community Advocate itself, which was the ACT public advocate. As well as changing the name of the office, the bill is a re-write of the legislation into more up-to-date and accessible language.

With no substantive change to the provisions, the public advocate will be able to continue the valuable work of the Community Advocate, looking after the interests of individuals in our community who are vulnerable and need extra help. The name public advocate is intended to reflect the wide range of advocacy roles that the office carries out. It is important that we, as a community, provide for the more vulnerable members of the commonality to have someone who can advocate on their behalf when they need to deal with service providers or bureaucratic processes.

The public advocate will be there to advocate on behalf of individuals. The Human Rights Commission (Children and Young People Commissioner) Amendment Bill being debated will create a new commissioner within the human rights commission to have particular responsibility for statutory oversight of matters to do with services for children and young people.

As the Community Advocate has, from the beginning, exercised functions relating to the protection of the rights of children, this bill contains consequential amendments to ensure that there is no conflict between the provisions relating to the public advocate and those relating to the human rights commission. The main focus of the public advocate is to advocate on behalf of individuals to ensure their particular concerns and needs are addressed. The human rights commission will be concerned with situations where service delivery was not of the expected standard and with systemic issues relating to service delivery generally.

Because the cumulative experience of a number of individuals may point to systemic concerns, provisions have been included in this bill to allow the public advocate to refer issues to the human rights commission where appropriate. Complaints about services for children and young people will become the responsibility of the human rights

commission but the public advocate will continue to be able to investigate concerns, complaints and allegations about matters referring to the function of that office.

Also, there is a provision to protect people who, for genuine reasons, give information to the public advocate. This ensures that people who believe they have information that the public advocate ought to have in order to properly carry out the task of protecting the rights of children and young people and people with a disability will not be committing a breach of confidence or of professional conduct rules or ethics.

Members will be aware that the scrutiny of bills committee, in report 14 of 15 August 2005, commented on this bill and drew attention to the protection provisions in clause 15. The committee raised the issue of whether providing this protection to people giving information to the public advocate could be a breach of the right to privacy provided in the Human Rights Act. I have responded to the committee indicating my confidence that there is no incompatibility with the Human Rights Act. The provision is designed to avoid situations where a person who has information that could be used by the public advocate to better protect a child or young person or person with a disability is not constrained by professional conduct rules or fears of defamation action from passing that information on.

Other minor changes that this bill makes to the provisions supporting this office are:

- improved definition of client groups have been provided by including definitions of children and young people and clarifying the definition of people with a disability;
- the definition of forensic patient has been brought into line with the Mental Health (Treatment and Care) Act 2004 by referring both to mental illness and mental dysfunction and making it clear that the public advocate can help people whose behaviour is the result of either problem; and
- more efficient delegation provisions have been provided to ensure that the staff of the public advocate's office are in a position to provide continuous guardianship services to people who need them, unaffected by illness or other necessary absences of individual staff members.

This important work of supporting vulnerable community members will continue under the new name of the office of the public advocate.

In conclusion, I would like to thank officers from the Office of Children, Youth and Family Support, from the Department of Justice and Community Safety and from the Office of the Community Advocate for their work on this bill; also, all the community members, particularly the children and young people, who told us what they wanted in their commissioner.

This government is strengthening the ability of children and young people to participate in the issues that affect them. We are giving them a voice, through the commissioner. The introduction of the children and young people commissioner contributes to making our community a stronger and safer place for children and young people.

I am disappointed that the opposition will not be supporting this bill. I had hoped for a stronger argument from them as to why they could not support the role of

a commissioner for children and young people, other than that they do not like supporting human rights legislation. I think it is disappointing.

Their legislation on a commissioner for the family was defeated. This legislation is about establishing a commissioner who has the interests of children and young people as paramount consideration. To establish a commissioner for the family would mean that that paramount consideration could not be given to the children and young people. That is what this legislation does. It is extremely disappointing that the Liberal opposition have not been able to support it.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 12, by leave, taken together and agreed to.

Clause 13.

DR FOSKEY (Molonglo) (5.53): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

DR FOSKEY: I move amendments Nos 1 and 2 circulated in my name together *[see schedule 4 at page 3109]*. These amendments would insert additional functions for the children and young people commissioner, in line with the desire of the people who were consulted. That requires the insertion of a new point in clause 13, proposed section 19B (1). This new subsection would seek:

> (aa) to promote the human rights and welfare of children and young people by—
>
> (i) promoting the provision of education, information and advice to children and young people; and
>
> (ii) promoting and monitoring public awareness on issues that affect children and young people; and
>
> (iii) conducting and monitoring research into issues that affect children and young people; and
>
> (iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect children and young people; and
>
> (v) promoting the participation of children and young people in making decisions that affect their lives, as appropriate to their age and maturity;

As I have already outlined in the in principle stage, I strongly believe that the role of the children and young people commissioner should be broader than that originally set out in the bill. I put forward similar amendments to expand the roles of the other commissioners in this morning's debate on the Human Rights Commission Bill. However, I think that these changes are particularly important in relation to the children and young people commissioner.

I am concerned that, even with our amendments to the overall functions of the commission, this bill focuses the functions of the commissioner on complaints processes and service delivery issues. Broader issues concerning citizenship and community attitudes are often at the heart of issues impacting on human rights; and, rather than looking only at how this plays out in the service system, commissioners may well identify issues that require a more preventative, whole-of-community approach.

These amendments seek to articulate a broader role for the commissioner in identifying and reviewing issues affecting children and young people beyond a service delivery setting. For example, the ACT commissioner might, as the New South Wales Commissioner for Children and Young People did, decide that research into the experiences of high school students undertaking paid employment is a matter of public importance worth investigating. This is an issue much broader than a service delivery system.

There are also circumstances where addressing vulnerability to human rights breaches for a particular group may lie in providing information and education to individuals, independent of service systems, or promoting participation in decision-making across service systems. The proposed amendments do not make the commissioner responsible for the treatment of a particular group across all areas of community life or broaden their function to address every issue facing individuals.

One of the things that I think is of particular importance is the generation divide. I imagine, in the demographic tendency towards an ageing population and in a smaller cohort of young people, we will always need bridging mechanisms to ensure that understanding between generations is facilitated. That is just one of the broad roles that a commissioner could play in terms of public awareness. I urge fellow members on both sides to support these amendments in the interest of future effectiveness of the children and young people commissioner.

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (5.57): The government is committed to a corporately functioning commission where the powers are vested in the human rights commission rather than in individual commissioners. Commissioners exercise their power as agents of the commission, not as separately empowered statutory entities.

The government agreed to Dr Foskey's earlier amendments to the objects clause of the commission and, therefore, to the objects to which the commissioners are committed in the exercise of their functions as agents of the commission. To agree to the amendments before us is to confer on individual commissioners their own discrete objects, which is contrary to the scheme the government has proposed.

Dr Foskey's proposed amendments labour under the misapprehension that the commissioners are only co-locating rather than, as we have already indicated, operating corporately as members of the commission. Therefore, the government will be opposing these amendments.

Amendments negatived.

Clause 13 agreed to.

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

Adjournment

Courage to care program and exhibition

MS MacDONALD (Brindabella) (6.00): I would like to bring to the attention of the Assembly a program that is operating in Canberra called the *Courage to care* program and exhibition. It is running at National Archives of Australia from 13 August to 25 September.

Courage to care is a multifaceted travelling program that emphasises the importance of standing up against human injustice. A racial tolerance education program directed towards students from years 5 to 12, *Courage to care* uses a mixture of real life stories from Holocaust survivors, memorabilia and audiovisual presentations to demonstrate the difference one person can make. The exhibition is open to the public and volunteers are available throughout the week to discuss the displays with visitors.

Starting with the stories of non-Jews who risked their lives to save Jews during the Holocaust, the education program relates these historic events to issues facing today's students, including bullying, stereotyping, racism, and aboriginality. Developed by the international Jewish service organisation B'nai B'rith, which is represented in 51 countries, the program has been seen by nearly 155,000 Australians, including 55,000 students.

The program has operated in New South Wales since 1998. It was developed with major enhancements from a model used in Victoria since 1992 and is regularly evaluated and updated. It has travelled to towns and cities in New South Wales, Queensland, Victoria and Western Australia. This is the first time the *Courage to care* program has run in the ACT and I encourage everyone to take the time to visit it.

The aim of *Courage to care* is to educate Australians about the positive outcome of racial harmony and the importance of individuals standing up against discrimination, racism and oppression. It also raises awareness of the Holocaust and draws attention to the heroism of the righteous among nations, which is a title given to extraordinary individuals, some famous, others not, who took an enormous personal risk to rescue Jews and others facing persecution and peril.

From the time Hitler came to power in January 1933 until the end of World War II in 1945, Jewish people were imprisoned, persecuted and killed. By the end of the war, an estimated six million Jews had perished, including 1.5 million children. Not only Jews found themselves as victims of Nazism at this time. Anyone who opposed the regime could find himself or herself imprisoned or persecuted. The Nazis took action to suppress various racial and social groups and to remove them from society. Gypsies, the disabled and the mentally ill were all perceived as undesirable for German society and during the late 1930s many of them were murdered.

The lessons of these events are as relevant for today as they were over 60 years ago. As an educational program *Courage to care*, exposes students to the personal experiences of Holocaust survivors and the remarkable stories of their rescue and promotes learning and understanding through inquiry, discourse and critical reflection of personal values. It does not seek to impose values on students but, rather, encourages them to question issues of racism, intolerance, and discrimination. At a time when more and more people in our community turn a blind eye to injustices, this program and exhibition teaches visitors to learn from history, develop empathy, take personal responsibility and appreciate diversity in democracy.

The response from many of those who have experienced the program has been very positive. Students particularly have commented on the part of the program where they met a survivor of the Holocaust. Students have said that meeting with a Holocaust survivor and hearing at first hand how they survived, sometimes with the help of complete strangers, has reaffirmed their faith in human good and taught them that a little bit of caring can go a long away.

I am sure most members would be aware of my Jewish ancestry and the fact that I am Jewish. My grandparents and my mother fled Nazi Germany and, were it not for the goodwill of, firstly, a Catholic hospital in assisting my grandmother to give birth and then other friends who were not Jews in protecting them, they would not be here today. I end with a comment by Pastor Dietrich Niemoller:

> In Germany they came first for the communists, and I didn't speak up because I wasn't a communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew.

MR SPEAKER: The member's time has expired.

Disaster planning

MR PRATT (Brindabella) (6.04): Today in the question time we heard the Chief Minister answering the question we asked about terrorist threat evacuation planning. I pointed out that I thought the Chief Minister had misled the community on the facts behind what had actually been completed in terms of emergency management evacuation planning.

I want to remind the house what the Chief Minister said in response to Mr Stefaniak's quite precisely defined question last week about the terrorist threat evacuation plan, not

the general emergency, general evacuation plan or even the bushfire general evacuation plan. In response to Mr Stefaniak's question, Mr Stanhope said:

> I am advised, in fact, by Commissioner Peter Dunn, the Commissioner for the Emergency Services Authority … 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 this jurisdiction.

Those are Mr Stanhope's words. The point here is that today, when we sought clarification of this matter, the Chief Minister really split hairs and started to shift ground on what he actually did say or what he is actually planning. He said it was "a question of terminology". He said that we really are talking about "broad emergency management plans" and that these were "virtually completed". Now, this is all broadside targeting, obfuscation, smoke and mirrors so that we do not get down to the nitty-gritty of what is essentially an important issue—whether the community has been briefed and warned by this government about the terrorist threat evacuation plans in high risk areas across the ACT.

Just to follow up on that, I thought I would read the memo prepared by the SES to really illustrate what the circumstances are regarding where the hell we are at with the terrorist threat evacuation plan. The memo states:

> Commanders et al
>
> There have been some discussions recently about evacuation planning and how evacuations might be carried out in Canberra and the major town centres if such a situation was warranted. Some volunteers have raised with me the approach that NSW has taken in relation to the SES and RFS volunteers in the Sydney CBD taking formal part in evacuations of the CBD, and whether or not there might be a similar role for ACTSES volunteers in Canberra.

The memo goes on:

> I met with Peter Dunn this morning to discuss the whole issue of evacuations. Included in our discussions were:
>
> - the need for comprehensive evacuation planning to be undertaken,
> - need to have predetermined evacuation centres identified,
> - role of the ACTSES in conducting evacuations,
> - need for commercial buildings to have evacuation plans and have appointed building wardens to assist with evacuations.

The writer goes on and makes some very good points. Clearly, he is saying, "Let's get our act together. These are the issues that we need to come to grips with. These are the issues that need to be identified. Where are we at with this?" This memo is proof concrete that this government and its agencies, its senior authorities, have not really begun putting these terrorist threat evacuation plans in place.

The Chief Minister was quite right today when he said that we are not talking about a general evacuation that fits all contingencies. We are definitely talking about bushfire evacuation plans, other natural disaster evacuation plans and certainly terrorist threat

evacuation plans identified across the ACT for all high-risk areas, be they town centres, iconic targets, federal targets, where ACT residences may be collateral damage, or the city centre itself. When is this government going to brief the community on what they have got in mind? I am not talking about the detail, the secret detail. Where is the outline concept?

MR SPEAKER: The member's time has expired.

Environmental grants

MR GENTLEMAN (Brindabella) (6.09): I rise tonight in the adjournment debate to provide members with information on the environmental grants that I was privileged to announce yesterday, on behalf of the Chief Minister, at Kaleen High School.

The environmental grants are funded annually by the ACT government to assist the community to participate in worthwhile environmental projects. This year the ACT government refined the grants program to encourage a broader range of community-based projects that complement the government's own environmental priorities, particularly in relation to the Canberra plan's strategic theme—living with the environment: our bush capital. This addresses our relationship with the environment in terms of resource use, nature conservation and opportunities for sustainable environmental interaction.

The community's role in conserving and enhancing our local environment is absolutely fundamental. Twenty-seven applications for funding were received for the ACT environment grants. This is a strong response and a good indication of the ACT community's commitment to our environment. Of the 27 applications received, the government is pleased to support 11 of the projects. Three of the grants go to schools, at a total of more than $113,000.

A broad range of applications was received that complement the government's priorities for community engagement in implementing nature conservation strategies and action plans; complementing ACT government and community events; delivering walks, talks and activities and environmental subjects; involving the local Aboriginal community in local environmental initiatives; encouraging the wise use of resources and reducing environmental impacts and having a positive and desirable effect on the environment.

As I said, there were 11 successful applicants. The Canberra Ornithologists Group will undertake the ACT grassy woodland bird monitoring project. This project will monitor threatened bird species abundance and distribution in grassy woodlands at 135 monitoring points. The Australian Capital Territory 2005 National Water Week community frogwatch program, which will be conducted by the Ginninderra Catchment Group Inc, will involve 200 volunteers monitoring frog habitat and breeding sites across the ACT and region.

The Australian Network for Plant Conservation Inc will undertake a project facilitating community involvement in the conservation and rehabilitation of native grassy ecosystems. This project will focus on building community skills in conservation and rehabilitation of natural temperate grasslands and yellow box/red gum grassy woodlands.

The indigenous plants program run by Melba High School will look at the establishment of an indigenous garden at Melba High School. Kaleen High School Parents and Citizens' Association Inc won a grant for Kaleen High School's open grassy woodland landscape project. The project aims to create an open grassy woodland landscape by planting a wide variety of native grasses and wildflowers endemic to the Canberra region at the front of the Kaleen High School.

Macgregor primary school will undertake the Macgregor primary rejuvenate and reuse project. This project proposes to educate students through recycling, composting, worm farms and chickens while reducing waste. The Friends of the Mount Majura Parkcare Group received a grant for rehabilitation of the Majura dams. This project proposes to improve environmental and community value of the two dams at Mount Majura nature park.

The Australian institute of Landscape Architects ACT branch received a grant for its project sustainable gardens workshops and field trips. This project will look at landscape sustainability for Canberra gardens, followed by two one-day field trips. The National Parks Association of the ACT Inc received a grant for the great Australian bushwalk. This project will look at managing and organising one-day public events to expand public awareness of the local environment.

On the outside, a Canberra Youth Theatre production, received a grant. It is a theatrical presentation about the plight of endangered species in the ACT. It is proposed for staging at Tidbinbilla Nature Reserve amphitheatre. *Bush Capital Year*, by Mr Ian Fraser, a project involving the research and writing of at least 120, 500-word essays on ACT species, habitats, reserves and ecology suitable for compilation into a book also received a grant.

I would like to take the opportunity again to congratulate the successful applicants. I look forward to the outcomes of these grants.

Youth forum

DR FOSKEY (Molonglo) (6.13): After our talk about children and young people today, I thought it would be a good idea to refer to an event that occurred in this very chamber last Friday that was part of a two-day event involving at least 70 year 11 students from across Canberra's colleges and schools in a study of the constitution and mechanisms for changing it through practical involvement.

While they had a look at the case study of the Franklin River debate and the subsequent influence that had upon the federal election, it was decided to run an exercise on changing the constitution to give the commonwealth jurisdiction over the management of rivers. Mr Gentleman and I were invited to give the yes and no cases on this topic. I have to say that I have never seen such an avid group of young people. As a teacher I have seen many groups of young people, but one is very rarely in the position where they are really involved and engaged. I suppose the schools took the trouble to choose the four or five most interested students from their classes. But I was also interested to discover that only two of the schools represented actually teach politics and civics. That is right across the system, so most of the students probably came from legal affairs and study of society and environment and perhaps commerce classes. I think that that is a real lack. There was

a definite thirst and hunger there among students to be involved in issues that so concern them.

It was very clear to me that young people are passionate about the environment. They care very much. When they went away in their small groups, which, unfortunately, I was not privy to, and if I was I would have had to have had a number of bodies to have gone to all of them, their concern was which arrangement would best suit the management of our rivers. It was very hotly argued. Both Mr Gentleman and I saw that in the questions and statements that students made following our presentations.

In fact, this was the first ever of this series of constitutional learning experiences where students actually voted yes. Having been told that referenda very rarely bring in a positive response, those students did vote yes. In that case, of course, I take some credit because I did argue the case that the commonwealth should have control. Mind you, I suppose if I had been given the other side, I would have argued that quite persuasively, too, because I do not think it is a question to which there is a black and white answer.

I want to say in conclusion that I think it is really important that young people's concerns about their future and their desire to be involved in decisions about it should be taken seriously, that young people are, perhaps, like other members of the community, already rather cynical about politics and politicians, and that we in this house have a really strong obligation to nurture any interests that they might have and to show them that we, as politicians, are as concerned about the issues as they are, that we care about them, that we listen to them and that, as far as possible, we want to represent their interests.

Good neighbour day

MRS BURKE (Molonglo) (6.17): I draw members' attention to a front page article in the *Canberra Times* today entitled "Move to avert a city of strangers" by Megan Doherty. I will read a portion of the article:

> Leading social commentator Hugh McKay is at the head of moves to prevent Canberra from becoming a city of strangers.
>
> A special day could be held in Canberra next year just to help people get to know their neighbours as big changes across society, such as increasing divorce rates, and local factors, such as the national capital transient population, make it more difficult for communities to connect.

I just wanted to say how intrigued I was to read that article. Yes, the Liberal opposition have been very vocal in calling for the abolition of the Community Inclusion Board and fund and I think that really we are standing on very solid ground in doing that. It must be said, though, at the outset, and I make this point quite emphatically, that this is in no way a personal attack on board members. They are some very fine upstanding people. However, $8.548 million over four years I think is money that could be better spent on frontline critical services. Indeed, in March this year I wrote to the minister for community services, Mr Hargreaves, and on Sunday, 6 March I put out a media release entitled "Good neighbour day should be adopted in ACT". It states:

> Shadow Minister for Community Services, Jacqui Burke, has written to the Minister for Community Services asking him to consider adopting a scheme called "Good Neighbour Day."

> The scheme, endorsed in the United Kingdom by the National Neighbourhood Watch Association, places greater emphasis on positive relationships between people in a neighbourhood.

I understand from the article that there is a similar scheme happening in New Zealand. My media release continues:

> Mrs Burke said with greater emphasis on the importance of Neighbourhood Watch in our community it was important that neighbours fostered greater relationships.
>
> Good Neighbour Day could be used by the ACT Government as a positive public awareness campaign to better connect neighbours across the Territory.
>
> The connection of neighbourhoods can lead to reduced levels of crime, improved social harmony and a greater sense of community, where people want to look out for each other.
>
> Groups like Neighbourhood Watch have admitted publicly that they are always looking at ways of rejuvenating the scheme across Canberra.
>
> I am encouraging the Government to get on board and establishing "Good Neighbourhood Day" in Canberra, which would allow Neighbourhood Watch to extend its links in the community.

And so it goes on. I received a letter from the minister. In the concluding paragraph, he says:

> The government will continue to seek ideas to enhance the Canberra Community and I thank you for your suggestion and I will have my department investigate it further.

Obviously, they must have done. They have told Mr Mackay. I will be very pleased if that goes ahead next year. I need to point out to the government and the board that it is not a new idea. It has taken an awful lot of money to come up with suggestions that laypeople in the community, and even MLAs, can come up with from time to time.

Heritage grants

MS PORTER (Ginninderra) (6.21): I rise this evening to speak about the 2005-06 ACT heritage grants program. Members would be aware that this program is the major source of government funding for community based heritage projects and assists in the conservation, preservation and promotion of heritage in the ACT.

This year, 58 applications were received and, of those, 26 projects were successful in being awarded grants. Last Friday morning it was my privilege to present letters of offer totalling $262,000 to the successful organisations. Many of those who received grants are organisations that comprise either entirely, or almost entirely, volunteers.

Coming as I do from a long history of community involvement, I know at first hand how much can be achieved when those with a common interest and goal come together. With relatively few resources they are able to achieve great things. Partnerships are important

and our partnerships between community and government invariably result in outcomes that are significantly greater than the funds expended due to the enthusiasm and hard work of those involved.

How appropriate that we were gathered at the Reid preschool, which was built in 1944 and opened in 1945 as a mothercraft centre. It provided a focal point for women living in the area and was developed through community interest and effort. The Reid preschool is the oldest preschool in Canberra. It paved the way for the establishment of all preschools in the ACT, of which there are now 80. It is an important landmark in Reid and provides a memorable link to the early days of Canberra's history and community. The Reid Preschool Parents Association was among the successful applicants and will publish a history of the preschool to mark its 60th anniversary.

Among the other successful applicants was the Kosciuszko Huts Association, which will undertake conservation and repair work on the Gudgenby Hudson ready cut cottage. The National Trust of Australia ACT branch also received funding for the William Colliers stone cottage, which has recently been added to the ACT heritage register. Their grant will be used to develop a conservation and management plan, as well as an interpretation plan.

Another successful applicant was the Burringiri Association, which has received funding for the identification and return of the Ngambri cultural material. Those in our community who spent many a long, hot summer's day at the Manuka Pool will be pleased to know that the Southside Community Service will record eight oral histories of people who have had a long-term association with the pool.

These are but a few of the projects that have received funding in the current round of grants. However, it does indicate the diversity of the work that is being undertaken to preserve the historical aspects of structures, artefacts and memories that have played their part in the development of this wonderful city. This year the Chief Minister has also agreed to fund two projects to foster effective partnerships to conserve the ACT's unique heritage. These are the much loved annual Canberra and Region Heritage Festival, which celebrates its 25th anniversary next year, and the continuation of the Heritage Advisory Service, which helps owners of heritage property by providing free technical advice.

I would also like to take this opportunity to thank the dedicated members of the ACT Heritage Council and the grants task force who assisted in the difficult task of assessing the many worthwhile grant applications. I congratulate all recipients of this year's grants and look forward to seeing the results of their projects over the coming year and during the 2006 heritage festival.

Chief Minister

MR SESELJA (Molonglo) (6.24): I opened today's *Canberra* Times at the letters page and I was interested to read the headline. It said: Jon Stanhope a politician of integrity and decency. I thought, "Wow! What do you have to do to get a headline like that? My goodness! I wish I could get headlines like that." I looked at some of the letters and there were some great lines. One letter said, "I wish there were more politicians like Stanhope who are prepared to stick to their guns and not sell out for some short-term political gain." I thought, "Wow! He's popular in the electorate."

Another one says, "You can agree with him or not, but there is no denying that his government is providing leadership on important issues." The PR machine is in full swing. I thought, "What do you have to do to get these letters?" I am told that there are some links, though. Normally, to get a headline like that, you would need a few letters saying what a wonderful person Jon Stanhope is, and then he gets a headline. I am told that the author of one of the letters, the person who says "there is no denying that his government is providing leadership on important issues", is the wife of his chief of staff. I found that interesting.

So I thought, "How else would you get a good letter?" I understand that the first letter writer is an ALP member. I guess self-praise is no praise at all, Mr Speaker. We see a couple of slightly critical editorials in the *Canberra Times* and the PR goes into full swing. The ALP letter writers get going, the officers get to work to try to express community opinion that, "No, we really have a Chief Minister who is a politician of integrity and decency." It is always a bit embarrassing, I guess, when these things are shown up.

Of course, this government has form. I believe it was one of Mr Gentleman's staffers, whom I certainly will not name—Mr Gentleman would—who wrote a gushing letter in praise of Mr Corbell's health system. She said, "Why does that nasty opposition keep saying that the health system's not going well?" The point I made at the time, and the point I will make again, is that all these kinds of things do is erode public confidence. The next time Mr Corbell gets up to read a letter, we will not know where it has come from. We will not know whether it was written by a staffer or whether it was written by a Labor Party apparatchik. As we are seeing here, the Labor Party PR system is in full swing in defence of our Chief Minister. It is great to see that at least some people in the Labor Party still think that Jon Stanhope is a great bloke.

Disaster planning

MR SMYTH (Brindabella—Leader of the Opposition) (6.27): I will use the last couple of minutes to complete what Mr Pratt started to talk about, the evacuation plans that I look forward to seeing. It is interesting that the final paragraph of the email from the head of the State Emergency Services in the ACT actually says:

> the ACTSES is to take the lead role in the development of plans, the identification of sites, and possibly the development and delivery of training as appropriate.

I would have thought that if, as the Chief Minister claims, the evacuation plans were ready, it would not be necessary to develop any more, that the sites would have already been identified and that development and delivery of training, as appropriate, would have already been undertaken. This email was sent out yesterday afternoon, Monday, 22 August 2005 at 2.11 pm. So the discussion with Peter Dunn, the head of the Emergency Services Authority, took place on the morning of the 22nd. Clearly, on the morning of 22 August, there were no evacuation plans, as claimed by the Chief Minister.

MR SPEAKER: Order! The time allotted for the debate has expired.

The Assembly adjourned at 6.30 pm.

Schedules of amendments

Schedule 1

Human Rights Commission Bill 2005

Amendments moved by Dr Foskey

1
Proposed new clause 6 (aa)
Page 4, line 3—

before clause 6 (a),insert

(aa) to promote the human rights and welfare of people living in the ACT by—

(i) promoting the provision of community education, information and advice in relation to human rights; and

(ii) identifying and examining issues that affect the human rights and welfare of vulnerable groups in the community; and

(iii) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect vulnerable groups in the community;

2
Clause 8 (2), proposed new note
Page 6, line 17—

insert

Note ***Disability*** is defined differently for complaints about discrimination on the grounds of disability (see *Discrimination Act 1991*, s 5AA).

3
Proposed new clause 21 (1) (aa)
Page 13, line 6—

insert

(aa) to promote the human rights and welfare of people with a disability, older people, people who use community services, and their carers, (the ***groups***) by—

(i) promoting the provision of education, information and advice to the groups; and

(ii) promoting and monitoring public awareness on issues that affect the groups; and

(iii) conducting and monitoring research into issues that affect the groups; and

(iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect the groups; and

(v) promoting the participation of people in the groups in making decisions that affect their lives;

4
Clause 21 (2)
Page 13, line 9—

omit clause 21 (2), substitute

(2) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.

5
Clause 23 (3)
Page 15, line 3—

omit clause 23 (3), substitute

(3) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.

6
Proposed new clause 25 (1) (aa)
Page 16, line 4—

insert

(aa) to promote the human rights and welfare of people with a health or mental health issue, and their carers, (the ***groups***) by—

(i) promoting the provision of education, information and advice to the groups; and

(ii) promoting and monitoring public awareness on issues that affect the groups; and

(iii) conducting and monitoring research into issues that affect the groups; and

(iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect the groups; and

(v) promoting the participation of people in the groups in making decisions that affect their lives;

7
Clause 25 (2)
Page 16, line 7—

omit clause 25 (2), substitute

(2) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.

8
Clause 26
Page 16, line 11—

omit clause 26, substitute

26 Human rights commissioner

There is to be a Human Rights Commissioner.

9
Clause 27 (3)
Page 17, line 1—

omit clause 27 (3), substitute

(3) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.

10
Clause 34 (1), example
Page 19, line 12—

omit the example, substitute

Example

The discrimination commissioner may be appointed to be the human rights commissioner.

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).

11
Clause 34 (3), example
Page 19, line 22—

omit the example, substitute

Example

If the discrimination commissioner is also the human rights commissioner, the number of members is taken to be 4. Therefore, 2 members (rather than 3) would need to be present at a meeting to carry on business.

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).

12
Clause 45 (2) (a)
Page 26, line 9—

omit clause 45 (2) (a), substitute

(a) within 90 days after the day the commission receives a complaint—

(i) carry out an initial consideration of the complaint; and

(ii) decide to allocate, or not to allocate, the complaint for consideration; and

13
Clause 51 (1)
Page 31, line 4—

omit

The commission may

substitute

A commissioner may

14
Clause 51 (2)
Page 31, line 10—

omit

The commission may

substitute

A commissioner may

15
Clause 87 (1)
Page 52, line 5—

omit section 87 (1), substitute

(1) A commissioner may, on the commissioner's own initiative, give the Minister a written report about any matter of public importance related to the commission, the commission's functions or a matter that may be complained about under this Act.

16
Clause 87 (2)
Page 52, line 10—

omit

If the commission gives

substitute

If a commissioner gives

Schedule 2

Human Rights Commission Bill 2005

Amendments moved by Mr Stefaniak

1
Division 4.2 heading, proposed new note
Page 28, line 1—

insert

Note to div 4.2

The commission must close certain complaints. For example, the commission must close a complaint that is frivolous or vexatious, or a complaint that has been or is being dealt with by a court or tribunal (see s 78 (2), esp par (c) (ii) and (iii)).

2
Clause 78 (1) (e)
Page 44, line 24—

omit

3
Proposed new clause 78 (2) (da)
Page 45, line 26—

insert

(da) the complaint has been referred to a health profession board; or

---

Schedule 3

Human Rights Commission Legislation Amendment Bill 2005

Amendment moved by Mr Stefaniak

1
Schedule 1
Part 1.10
Page 50, line 17—

omit

Schedule 4

Human Rights Commission (Children and Young People Commissioner) Bill 2005

Amendments moved by Dr Foskey

1
Clause 13
Proposed new section 19B (1) (aa)
Page 7, line 5—

insert

(aa) to promote the human rights and welfare of children and young people by—

(i) promoting the provision of education, information and advice to children and young people; and

(ii) promoting and monitoring public awareness on issues that affect children and young people; and

(iii) conducting and monitoring research into issues that affect children and young people; and

(iv) making recommendations to government and non-government agencies on legislation, policies, practices and services that affect children and young people; and

(v) promoting the participation of children and young people in making decisions that affect their lives, as appropriate to their age and maturity;

2
Clause 13
Proposed new section 19B (2)
Page 7, line 8—

omit clause 19B (2), substitute

(2) The exercise of the function mentioned in subsection (1) (a) is subject to any decision of the commission about the management of the commission's administrative affairs.
