DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

16 NOVEMBER

2005

Wednesday, 16 November 2005

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

Sub judice convention

Debate resumed from 19 October 2005, on motion by **Mr Stefaniak**:

> That this Assembly adopt the following practice when debating matters before a court:
>
> (1) the Assembly reinforces the basic principle that debate should be avoided which could involve a substantial danger of prejudice to proceedings before a court, unless the Assembly considers that there is an overriding requirement for the Assembly to discuss a matter of public interest;
>
> (2) debate shall be allowed in the Assembly on any matter before the courts unless it can be demonstrated by a Member of the Assembly that such debate will lead to a clear and substantial danger of prejudice in the courts' proceedings;
>
> (3) unless the matter before the Assembly could cause real prejudice to a trial or court hearing in the sense of either creating an atmosphere where a jury would be unable to deal fairly with the evidence put before it, or would somehow perhaps affect a future witness in the giving of evidence, whether for the prosecution or the defence, then the matter for debate or questioning before the Assembly should be allowed;
>
> (4) sub judice only applies to matters which are awaiting or under adjudication in a court; and
>
> (5) this resolution have effect from the date it is passed by the Assembly and continue in force unless and until amended or repealed by this or a subsequent Assembly.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.32): This issue that Mr Stefaniak has brought forward for consideration by the Assembly is an important one. It is the issue of the extent to which the Assembly should be restricted in its discussion of matters that are under consideration by a court or a similar body. It is also the issue of the extent to which the Assembly should engage in debate or comment that might prejudice the outcome of legal proceedings.

As I think we are all aware, the Assembly is currently governed by the practice of the commonwealth House of Representatives when it comes to applying the sub judice convention to debates or comment. That position was noted, explained and applied by you, Mr Speaker, in the Assembly on 11 December 2002. The definitive guide to that practice is set out in the fourth edition of *House of Representatives Practice*, edited by the then Clerk of the House, Mr Harris.

Key features of the practice of the House of Representatives are:

- that the application of the sub judice convention is subject to the discretion of the chair at all times;

- in exercising that discretion the chair should consider the basic rights and interests of members to raise and discuss matters of concern, the interests of people who may be involved in court proceedings, and the separation of responsibilities between the parliament and the judiciary; and

- in deciding about the application of the sub judice convention in a particular case, the chair should consider the likelihood of prejudice to the proceedings being caused by discussion or debate in the House.

Mr Stefaniak, by re-casting the practice, as he has in this motion that we are debating, seeks to narrow its focus and significantly reduce the discretion of the Speaker. Mr Stefaniak's motion in effect insists that everything is open to debate unless it can be demonstrated that a clear and substantial danger of prejudice will be caused by the debate. He wants a matter to be open for debate or questioning unless real prejudice could be caused, and his motion even tries to narrow down what will constitute real prejudice.

If the Assembly adopted the practice proposed by Mr Stefaniak, there would be a risk that, in working through the requirements for the application of the sub judice convention, so much detail of the matter in question would have to be discussed as to make the process pointless. How else would it be possible for a member to demonstrate that debate would lead to a clear and substantial danger of prejudice?

Adopting this motion would replace the discretion of the Speaker, who can exercise it in the context of the particular circumstances, having regard to the underlying principles of the sub judice convention and informed by the experience of the House of Representatives over decades. That flexible and sensitive framework would be replaced by narrow, inflexible, clumsy rules.

No-one contests the basic right and duty of the Assembly to consider any matter that is in the public interest, or its right to legislate on any matter within its power. The sub judice convention is about self-restriction. Applying it, the Assembly agrees to restriction on debate, motions or questions in order that its overarching rights do not conflict with the basic right of people in the community to justice unprejudiced by outside discussion of their matters.

When the sub judice convention is applied with discretion based on an understanding of the underlying principles, it provides protection to people in a range of circumstances where the outcome of a judicial or quasi-judicial process could be prejudiced by what might be said during discussion in the Assembly.

It is not the Assembly that would suffer from the introduction of Mr Stefaniak's practice in place of the current practice; it is community members whose affairs may be caught up in proceedings of some kind who will be the losers. The potential to provide them

with protection by the application of the sub judice convention to discussion in the Assembly would be substantially reduced.

Another area in which Mr Stefaniak would narrow the application of the sub judice convention is the kind of proceedings that would be covered. His motion would restrict the application of the convention to matters awaiting or under adjudication in a court.

Currently, applying the House of Representatives practice, the sub judice convention can be applied to matters before royal commissions or similar bodies concerned with the conduct of particular people. In some circumstances it may be entirely appropriate that the findings of such inquiries be protected from being prejudiced by discussion, or reports of discussion, in the Assembly.

Rather than allowing the Speaker to exercise discretion, based on the underlying principles of the convention that aim to protect the rights of both the Assembly and members of the community, Mr Stefaniak would preclude the application of the convention to those inquiries. On the other hand, retaining the current practice would allow the convention to be applied as circumstances require, providing protection from prejudice as is appropriate to our understanding of justice.

House of Representatives practice in relation to the sub judice convention draws on the practice of the House of Commons in the United Kingdom. With that in mind, it is worth noting that in 2001 the House of Commons, following a recommendation of its Joint Committee on Parliamentary Privilege, passed a resolution about application of the sub judice convention. That resolution is quite detailed in defining when a proceeding should be considered active and therefore not to be referred to in debate, motion or question.

The approach taken there, however, does not resemble the narrow approach taken by Mr Stefaniak in this motion. The House of Commons makes its detailed guidelines subject to the discretion of the chair as well as to the right of the house to legislate on any matter or to discuss delegated legislation. In addition, it makes explicit that matters referred by the House to any judicial body for decision or report and matters before coroners courts or fatal accident inquiries are covered by the sub judice convention.

While this Assembly should not feel tied to the practice of either the House of Commons or the House of Representatives, the approaches taken by those parliamentary bodies are worthy of serious consideration. A motion that would take this Assembly in a completely contrary direction requires substantial supporting reasons, especially when the result would be potentially to expose individuals to prejudice. No sufficiently persuasive reasons—indeed any real reasons—have been brought forward.

I have to say that, as far as I and the government are concerned, the present practice is flexible and appropriate. The alternative proposed by Mr Stefaniak is a poor substitute and would, quite genuinely, be a most retrograde step. One is then left to ask or to ponder what it was, or what it is, that has so moved the opposition to seek to undermine such a significant and fundamental principle of the practice of parliaments as the sub judice rule of convention in relation to proceedings within a parliament, in this case this Assembly.

What is it that has occurred that has led the Liberal Party in this place to propose that the sub judice convention be turned upside down, be turned on its ear—that we, the elected Assembly of the ACT, should not follow the practice that is adopted in every other parliament in Australia, including the federal parliament, the practice that is adopted in the House of Commons and probably, although I have not pursued it at this point, every comparable parliament in the world, including those, I am sure, in places such as New Zealand, Canada and other common law Western democracies.

What is it that has led the Liberal Party in the ACT to choose to break away from the application and operation of the sub judice convention as applied in the House of Representatives, in the Senate, in the New South Wales parliament, the Victorian parliament, the Tasmanian parliament, the British parliament, the New Zealand parliament and the Canadian parliament? What is it? Of course, it is the inquest into the 2003 bushfires. This is all about seeking shallow, partisan, political advantage in relation to an issue around which the Liberal Party in this place believes that it might have some political advantage to make or take. That is all it can be.

It is interesting to contrast this with the respect shown to the sub judice rule in a previous Assembly, particularly during the time of the long and extensive inquest into the hospital implosion. We in opposition at the time did not ask a single question or move a single motion or raise matters of public importance during the conduct of the inquest—not one. During the conduct of the inquest, we did not ask questions in question time. We did not propose matters of public importance. We did not discuss in here issues being agitated during the conduct of the coronial inquest into the hospital implosion in the way that this opposition has done over the last three years about the bushfires.

How many hundreds of questions have been asked? How many motions and matters of public importance have been pursued in relation to the bushfires? Just go out and compare the numbers of questions that have been asked by this opposition—I believe, skirting and flirting and ignoring the sub judice rule—in relation to a matter currently being agitated before the coronial inquest. To give some substance to the implications or effect or the very partisan and shallow political approach and attitude that has been adopted by the opposition in relation to this motion, this issue, one can draw on examples. I think each of us could do it—if not in relation to ourselves, certainly in relation to others in this place.

As we all know, half of the current opposition have been involved in legal proceedings before the court over the last few years. Just to bring this motion in to fine point, it is relevant to ask: how would members in this place feel or respond to this motion to wind back, to water down, the convention in relation to sub judice and a rule which requires that, in the interests of fairness and justice, matters being agitated before a court not be agitated or discussed or debated in this place out of fairness to those that are involved and in the interests of justice? That is what the sub judice rule is around: a rule designed to ensure anybody involved or caught up in a matter before a court is not disadvantaged as a result of a matter being pursued in relation to that issue in this place, where, of course, proceedings are privileged.

As I indicated before, this is about the expression or the imposition of some discipline on this place. As we all know, members attract and are covered by parliamentary privilege,

a privilege in relation to everything we say, but of course that particular privilege brings with it enormous responsibility. It requires a level of self-discipline and, in relation to the separation of powers and the role and responsibility of courts, an enormous responsibility to ensure that we do nothing in this place that disadvantages or affects anybody having to appear in a court to have a matter involving them dealt with and adjudicated by a court of law.

It is about recognition and acceptance of the separation of powers, the importance of supporting the rule of law and the fact that everybody is equal before the courts. The Leader of the Opposition has had to fight defamation actions over the last few years. Just imagine the implications for Mr Smyth if we had decided to debate in this place those defamation actions from Harold Upton and Ms Szuty—if we had chosen in this place to agitate and to debate whether or not Helen Szuty really was justified. But we did not; we respected the sub judice rule. If this motion of Mr Stefaniak's passes, it is inviting us to debate these defamation actions that are pursued periodically against the Leader of the Opposition—in the first instance from Harold Upton and, secondly, from Helen Szuty—because these are of course matters of public importance.

Mr Smyth: And what happened with Mr Upton?

MR STANHOPE: What happened in relation to Harold Upton suing Brendan Smyth is that it cost the ACT taxpayer $44,000 to defend Mr Smyth. Then, when Helen Szuty sued Brendan Smyth, it cost the ACT taxpayer $55,000 to defend Mr Smyth in relation to that action. We have those staffing issues—two or three of you have been sued by your staff for wrongful dismissal. Is it seriously being suggested by you that, as would occur if Mr Stefaniak's motion is accepted, you would have been happy for us in this place to discuss the basis of the civil actions taken against Mr Pratt and Mrs Burke? I think we know now that Mrs Burke or her company or her husband's company is involved in some legal action. Do you seriously suggest we should begin to discuss those matters here? We do not; we respect the sub judice rule. But those are examples.

You are saying that you want the right to discuss in this place matters affecting other people outside this place; you want the sub judice rule abandoned so you can get to the nub of legal actions involving other ACT citizens. But does Brendan Smyth want his defamation actions discussed in here? I know Mrs Dunne has been pursued through the courts in relation to a couple of small claims matters. Did Mrs Dunne seriously suggest she wants us to discuss those matters involving her in the Small Claims Court? Does Mr Pratt want his staffing issues discussed? Does Mr Stefaniak want his staffing issues debated in this place as they are being pursued? Does Mrs Burke want her myriad matters debated? Some of them are quite titillating, of course, and matters for debate. They are matters, of course, that would interest and titillate us. Does she want those debated in this place? Of course she doesn't.

Think about yourselves and think about whether you want us to debate your matters. You are happy to debate matters affecting people out in the community—but you do not want it for yourselves. Think about that when you vote on this.

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

DR FOSKEY (Molonglo) (10.47): It is a matter of concern to me that Mr Stanhope is looking at this motion only in the context of the coronial inquest into the 2003 fires. The Greens have looked at the motion and acknowledge that, while it might have been inspired by the situation around the government's concern about that inquiry, it relates to broader questions and issues. I have said a number of times to the Liberals that it is time to move on, and I have declined to join their censure motions. Now, in relation to this motion, it seems that Mr Stanhope requires the same advice.

I do not believe it helps the people of Canberra to have everybody's legal action trotted out with the monotonous regularity that I have experienced in my time here, and I do support the adoption by this chamber of some sort of conventional code of practice on the issue of sub judice. I note that most Australian legislatures have similar codes of practice and I generally agree with the point suggested by Mr Stefaniak. However, I cannot support Mr Stefaniak's second point, which seems to be out of step with the practice in other Australian legislatures and an attempt to weaken the power of the Speaker to determine, at first instance, whether a matter is properly sub judice. I say "at first instance" because, as I understand it, if a member disagrees with the Speaker's ruling on any matter, she can move a dissent motion and the Assembly can then debate the merits of the issue. I believe the amendment that I will move shortly would bring Mr Stefaniak's proposal within the bounds of practice in other Australian jurisdictions.

I share the Liberal Party's concern that rulings on sub judice must not be tainted by political expediency. However, there is a fine balancing act between the Assembly's right to debate any matter of public importance, the independence of the judiciary and the separation of powers. The separation of powers and the rule of law are integral parts of our democratic system. The judiciary provides one of the few remaining checks on the arbitrary and self-serving exercise of power by governments of all persuasions and at all levels. We should be extremely careful not to weaken the independence of the courts or to abuse parliamentary privilege. We must also be careful to avoid any discussion in this Assembly of issues before the courts which may encourage the public prejudgment of judicial matters which, like trial by right-wing talk-show and media interests, serves to weaken public respect or confidence for the judicial system.

Having said all that, I acknowledge the need to be careful not to curtail the Assembly's ability to discuss matters that are before a court when it is in the public interest that the issues involved are publicly debated. One example that springs to mind is the current SLAPP suit brought by the publicly subsidised woodchip company Gunns against numerous public champions of sustainable and responsible forestry practices. We must be very careful not to play into the hands of any of those who would stifle debate on issues of public importance.

I move the following amendment to Mr Stefaniak's motion:

> Omit the words "can be demonstrated by a Member of the Assembly" in paragraph (2), substitute "appears to the Speaker".

I will speak at more length about this amendment later on when I close the debate, but I have already—

MR SPEAKER: You won't get the opportunity to close the debate. It is not a motion; it is an amendment and you only get to speak on the matter once, unless you get leave from the Assembly to speak twice.

DR FOSKEY: Okay. I have already said that the amendment is just a very simple change in words to make this motion much more in line with what happens in other states and territories. By omitting the words "can be demonstrated by a Member of the Assembly" and replacing them with the words "appears to the Speaker", this amendment retains the Speaker's discretion to decide on sub judice matters.

I take some of the Chief Minister's points—and I am sorry that he is not going to listen, but I suppose someone is—that this amendment may serve to limit the application of the sub judice principle of the courts and thereby exclude royal commissions and inquests. I know that this motion will not be passed by the Assembly—we have already got that clear—but I do feel that this Assembly should have written guidelines on the application of the sub judice rule. Other legislatures have such guidelines. The Greens respect the propriety of leaving the determination of sub judice matters to the Speaker.

Given that the government chooses not to support my amendment, and I acknowledge that there may be some merit in their reluctance to support this particular motion, I believe it would be beneficial for the Assembly to have some guidelines or code of conduct on the sub judice principle and I suggest that this issue be taken up by the admin and procedures committee.

MR SESELJA (Molonglo) (10.53): I would like, firstly, to respond to some of what Mr Stanhope had to say and also some of what Dr Foskey had to say. In relation to what the Chief Minister said about how this motion would put us at odds with comparable parliaments around Australia and around the world, we have done a detailed study of what has been the practice in all parliaments around Australia, and this motion is very much framed around what the practice has been. So the Chief Minister's point is completely unjustified. I notice there was no justification of that claim; it was just put out there by the Chief Minister. So, firstly, I would like to refute what he said.

This is reflecting the practice that goes on certainly in other parliaments in this country. One of the things about practice in the House of Representatives, on which much of our practice is based, and the Senate is that the sub judice rule has never been used where a matter is only before a judge. They have certainly focused much more on issues where there is a jury involved or possibly a magistrate. That is something that has never been done, whereas it has been used in this chamber.

The point needs to be made also that, if the sub judice rule is applied too broadly, it essentially gives governments an out, any time they do not want to discuss an issue of public importance, by launching court action—and clearly that is not in the public interest—so that has to be put out there first and foremost.

If I can just go to a summary of the principle, sub judice simply means "under a judge" or "under the consideration of a judge or court". To summarise the principle as it has been applied particularly in the House of Representatives and in the Senate, an assessment needs to be made of whether there is a real danger of prejudice—and that is

real prejudice—and the danger of prejudice must be weighed against the public interest in the matters under discussion.

Thirdly, the danger of prejudice is greater when a matter is before a magistrate or jury, and chapter 10 of Odgers goes into why that is the case. The issue of juries is interesting. The courts are moving to a position where they do not see juries as so weak that some public discussion is going to necessarily affect them. In fact, in the 1992 case of Glennon the High Court said that jurors are not necessarily going to be influenced by reasonable public discussion. So that needs to be taken into account as well: even with juries, the courts have moved somewhat, and, of course, sub judice convention is based very much on how the courts rule on the issue of contempt. So we need to take that into account in looking at this convention.

This goes to the fundamental issue of freedom of speech. The basic principle in Australia and in modern Western democracies is that we have freedom of speech and that is fairly wide ranging, subject only to certain limitations, and obviously limitations such as defamation law are the first ones that come to mind. But, as a general rule, we should be able to say what we like, with some very limited exceptions.

This principle reaches its pinnacle in the parliament because in the parliament even the restrictions that apply outside, such as defamation law, do not apply, so this is the absolute pinnacle of freedom of speech and the chamber should reflect that. It should reflect the fact that we as elected representatives need to be able to discuss issues that are important to our community—issues that are in the public interest, issues that are of concern to our constituents. Any attempt to limit that, any attempt to gag that, needs to be done very carefully and only in very limited and clearly defined circumstances. It cannot be used as a blanket overthrow of the principle that parliament should be able to discuss whatever it likes; it should be able to discuss issues in the public interest.

A real danger of prejudice, which is what we are talking about here, is the crux of it—whether or not discussions could cause a real danger of prejudice—and judge versus jury is very important in that. Notwithstanding my earlier comments about the case of Glennon, where the courts recognise that juries are not necessarily influenced by all public discussion, the question of whether a matter is before a judge only or a jury is important in any consideration. So, where we are talking about, say, the full bench of the Supreme Court considering something where there is no jury, it is much less likely that any discussion in the Assembly would have any impact on such a case. In those cases, there is almost no foreseeable circumstance where, on a reasonable application of the sub judice principle, debate should be limited. Where there is a jury, it is a different matter; there is a greater case for limitation of discussion. But it is not an absolute; it does not mean that just because an issue is before a jury there should be no discussion.

The second part of it is dealing with the actual issues before the court—not peripheral issues; not just talking generally about the fact that there is a court case happening. It is talking about the actual issues that need to be proved—whether person X committed an assault; whether or not police acted appropriately—if that is something that is going to be looked at by a judge. To suggest that we just have this blanket application of the sub judice rule—that at any time there is a matter before a court we should shut it down—is wrong, and that is not the way the sub judice principle has been applied anywhere in this country.

That is why Mr Stefaniak has brought this motion forward, because it will clarify that, yes, there are circumstances where the parliament should limit itself and not discuss matters; but they are very limited matters, very limited circumstances, and that needs to be demonstrated. It should not just be that because something is before a court we cannot talk about it. There are principles there, some of which I have outlined, that have come about through years of practice in the House of Representatives, in the Senate and in parliaments around this country, and it is absolutely crucial that we uphold those principles because it is fundamental to our rights as a democracy, our rights as a parliament, to discuss issues of public interest.

The final part of the test is in relation to the public interest. Even where it can be demonstrated—and I have not in this chamber had it at any stage argued or demonstrated that particular discussions could prejudice a case in any substantive way—even where that test is satisfied, the ruling and the practice in the Senate and in the House of Representatives has been that there is also a public interest test. If a matter is of sufficient public interest, even where it could prejudice proceedings, discussions should still be allowed to go on, because there is such a significant public interest in this being debated in the chamber. That is the other thing that needs to be remembered here.

The fundamental principle here is, firstly, that we need to demonstrate substantial prejudice or potential substantial prejudice and, secondly, even if that is demonstrated, we need to show that it would not be in the public interest to discuss it. In terms of precedents, the Hilton Hotel bombing was one major precedent where things were discussed in the House of Representatives and in the Senate about the Hilton Hotel bombing because it was such an issue of concern to the Australian public. Obviously, the comparable one in the ACT would be the coronial inquest into the bushfires, which had such a massive impact on the people of the ACT and is of such massive public interest to them.

I would suggest that, in circumstances around the coronial inquest, since the Chief Minister has raised that as an issue, you would need to show that it could substantially prejudice Coroner Doogan, and, secondly, you would need to show that it was not in the public interest to discuss it anywhere. In the 50 seconds remaining to me, I simply say that I do not think Dr Foskey's amendment is ideal but, in the interests of compromise, it is important that we put something up that codifies it, so we will accept that amendment and support the amended motion as it is.

Let us just make this clear. Mr Stanhope was saying before about the coronial inquiry and about us debating things. This is about the public interest—and the blanket shutting down of all things related to court proceedings is in the government's interest and no-one else's. It is in their interest not to discuss these things. That is why they will oppose this. It is not because it goes against the sub judice convention. This reflects the sub judice convention as it has been the practice in parliaments all around Australia, and I would urge the Assembly to support the motion.

MR QUINLAN (Molonglo—Treasurer, Minister for Economic Development and Business, Minister for Tourism, Minister for Sport and Recreation, and Minister for Racing and Gaming) (11.03): I have to say that many a time in my few years in this place, particularly on this side of the house, questions have been asked in relation to

matters that might be considered either to be sub judice or to be candidates to be sub judice or subject to other inquiry and where, from what little I know, it would have been in the clear interests of the government to answer those questions forthrightly and not to invoke the claim of sub judice.

It does almost beggars belief to hear Mr Seselja say that this is not about politics, but about the public interest. If I thought for a moment that the motivation for this motion and the whole raft of questions that have been asked about the bushfire or matters that have been published arising out of the bushfire inquest was the public interest, I would not bother to enter this debate. That has clearly not been the case. Let me say, Mr Seselja, I do not believe that claim.

This is about mudslinging. This is about trying to take matters that are before an inquiry out of context and use them for political purposes. If the public interest was the main motivation, then the opposition would hold back, allow the coroner to do her job, take the findings of the coronial inquest in their context and then make whatever political capital they will out of that. But I think, no, that is not the case.

So many times it would have been in Mr Stanhope's interest to answer some questions. There was a whole period of: "Where were you on the night of the 15th, Mr Stanhope?" As far as I could see, that issue had absolutely no relevance to any public debate. Why persist with all this? It is because the opposition clearly adopted a tactic: we have got nothing going for us; we need to keep this alive; we need to actually use the victims of the bushfire who have not been able to move on.

Thankfully, a great majority have been able to move on, but I recognise that there are some victims of the bushfire who have not been able to move on. They are genuinely still in a recovery phase. They deserve our help and assistance, in an objective manner, of course. But I reckon there are a couple of characters out there with their own agenda climbing all over the matter as well.

This opposition was very concerned about the government's decision to bring an action against the coroner for an appearance of bias. They said, "What is the government doing? They cannot do that. Get on with the coronial inquest. We want the coronial inquest to give us the facts." But, at the same time, ever since the bushfire they have been asking questions and trying to pre-empt the whole coronial process.

They want this Assembly to throw out the precautionary principle, and that is what this motion is about. They have said that, unless we can convince them that there is a really good reason why they should not delve into a matter that a court is examining and will report on, they will continue. They say, "We want it now. We want it out in the media now. We want to talk about this particular matter. We want to climb all over the evidence of a so-called expert, as he has given it. We want to build some questions on it and talk about conspiracies. Why won't they tell us?" Their continual claim is that they are doing it in the public interest.

The standard claim is: people want to know; people come to us. That is easily said and difficult to disprove. I am a resident of Weston Creek. I have looked at the results of the October election. The government increased its vote across town—of course it did—but even more it increased its vote in Weston Creek, the affected area. That flies in the face

of the opposition's claim that people are coming to them in droves. They are not. Yes, some people have not recovered. But this motion is not about the principle of sub judice. It is about trying to keep the same old topic alive to milk the misery of the few that have not yet recovered, to try and get something out of it after this time, to keep it going—

Mr Seselja: This is about as weak as I have ever seen him.

MR SPEAKER: I warn you, Mr Seselja.

MR QUINLAN: because you are so lame that you cannot make positive contributions to the administration and the good government of this territory.

People come to me in droves, Mr Speaker, and tell me, "This is a negative, nasty opposition. What is wrong with them? Even when the government does something good, it is not big enough, not high enough, not soon enough, not wide enough. When are these turkeys going to make some positive contribution?" That is what people are saying to me.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (11.12): I will not take very much time, but I want to place on the record a couple of points that been missed. Paragraph (2) of the motion states:

> Debate shall be allowed in the Assembly on any matter before the courts unless it can be demonstrated by a member of the Assembly that such debate will lead to a clear and substantial danger of prejudice in the courts' proceedings.

I make my comments in isolation from Dr Foskey's amendment. Rather, they go to why on earth that requirement would be put into the motion. To whom would a member of the Assembly demonstrate? It would be the Assembly. Therefore, if the government has a majority and it is the opposition that is seeking to demonstrate, well, bad luck! It is just a numerical thing. That is giving an overt amount of power that is not necessary. It already exists within this place. It is a totally unnecessary practice to adopt.

Secondly, to underscore what Mr Quinlan has just said, I would like the record to contrast the approach taken by this opposition to the bushfire coronial inquest with the response of the Stanhope Labor opposition to the hospital implosion coronial inquest. An examination of the record reveals that the then opposition recognised the sub judice rule and refrained from going on witch-hunts and delving deep into the evidence and bringing it into this place. That is what this opposition should have done. It should have left the coronial inquest well alone until it was concluded. Then they could do what they like with it.

Thirdly, and I think this is probably the most important point of all, evidence produced in this place as part of a debate runs the risk of being inadmissible in court because of the privilege that attaches to this place. There is a very real risk that salient evidence innocently introduced into this place in debate or by the tabling of material would be ruled inadmissible. A really clever little lawyer could to it with mischievous intent so as to deliberately derail some court proceedings. This is, in my view, the real reason for the sub judice rule.

I accept the fact that there is an opportunity occasionally for judicial proceedings to be influenced by debate in this place, which is reported freely in the media. That will apply to judges, to juries, to magistrates. It depends, I suppose, on the strength and the experience of the individual holding that position. I am satisfied that in this territory that would not influence our judiciary, both judges and magistrates. Nonetheless, there is a risk of its happening, although I do not think it is a big risk.

Mr Seselja grins as though he has eaten somebody's canary. The big risk, for me, is the risk of salient evidence being ruled inadmissible. That has been a possibility in this place in my time here with the application of the sub judice rule being challenged by one or both sides of the house. I wanted to put those concerns on the record. I happily support the Chief Minister's position.

MR STEFANIAK (Ginninderra) (11.16): I thank members for their comments. I think it is a shame that the government is seeing this as just a political matter, rather than what it actually is, and that is an attempt to codify the practice followed in other Australian states and jurisdictions for the benefit of this and future Assemblies. That is what this motion is about. In fact, both Mr Seselja and I spent some considerable time on the subject to ensure that what we replicated here is, in fact, a current practice.

Firstly, I thank Dr Foskey for her comments. With any debate in this place, when a member raises a point, the member must demonstrate ipso facto that the point is valid. That has to be demonstrated to the Speaker. The point of the motion is to put the onus on a member to demonstrate that they know what they are talking about and to substantiate their comments. Obviously, the Speaker rules in parliament. Nevertheless, as Mr Seselja said, we are quite happy to accept Dr Foskey's amendment and I thank her for her contribution to the debate.

Chief Minister, this is not about the inquest into the 2003 fires. You seem to have an absolute hang-up about that. It is, in fact, about an attempt to clarify something that is vague and in need of clarification in this place. I will say a bit more about that later. As I said before, it is about codifying the practice in other parliaments. The Assembly, from time to time, has had issues with certain rulings. Mr Seselja and I have talked about codification in other parliaments. It helps the Assembly and it helps the Speaker. It does not matter who the government is; it applies equally. There are a number of motions of continuance in the standing orders and they have, by and large, stood the test of time.

The government is making great claims about how wonderful they were in opposition, how they never asked questions about coronial inquiries in the past. Members can correct me if I am wrong, but I seem to recall a censure motion as a result of a question. I seem to recall a motion of no confidence in the then Attorney-General in relation to something to do with the Bender coronial inquiry. The government probably needs to check the *Hansard*. It might find it is not quite as lilywhite as it would have people believe. I am not saying that what the opposition did at the time was the wrong thing to do.

We are not attempting to wind down the sub judice convention, as the Chief Minister alleges. We are simply attempting to codify it. The sub judice convention reinforces the basic principle that debate should be avoided where there is a substantial danger of prejudice to proceedings before a court. But there is also the overriding requirement for

any parliament to discuss a matter of public interest and not to be unnecessarily confined by the faint possibility of prejudice. There has to be a substantial danger.

Where there is a clear and substantial danger of prejudice in the court's proceedings, the rule should apply. But when that is not likely or when the court is able to give robust directions—and the more superior the court, the more able it is to do so—then the rule should not be applied. It is a rule that actually should be applied sparingly. There should be real prejudice to a trial or a court hearing, as the motion says, in the sense of either creating an atmosphere where a jury would be unable to deal fairly with the evidence put before it or where the evidence of a future witness, whether for the prosecution or the defence, could be affected. If those things do not apply and if there is not the real possibility of that happening, debate should be allowed on the matter. For the last 30 years or so that has been the practice in the federal parliament.

The sub judice convention can only apply to matters awaiting or under adjudication by a court. It cannot apply to a matter where charges have not been laid or a statement of claim has not been filed, because those matters are not before a court. It is important to stress that and to have that as a rule because there have been occasions in the past where the sub judice convention has been observed when a matter is not before a court. Again, the practice is that it applies only to matters awaiting or under adjudication in the court. Odgers *Australian Senate Practice* and *House of Representatives Practice* outline the practice in other parliaments and Mr Seselja and I faithfully adhered to *Australian Senate Practice* and *House of Representatives Practice* in drafting this motion

Mr Quinlan made a series of interesting comments. He said that the opposition should hold back and let the coroner do her job, as the Stanhope Labor opposition did. I remind Mr Quinlan that, instead of appealing in an unprecedented way in October 2004, perhaps the government should have held back and let the coroner do her job. Enough said about that. I remind him, too, that during the 1998 elections there was an important coronial inquiry going on. There were a number of issues in relation to the government, but I seem to recall the government doing very well in that particular election, indeed increasing the vote in certain areas quite substantially.

I come now to Mr Hargreaves. He asked to whom the member would demonstrate. I think I answered that, Mr Hargreaves. It must be demonstrated to the Speaker. At any rate, you need not worry about that because Dr Foskey has moved an amendment to the motion and we have accepted that amendment. If that is your main concern, maybe you should support the amended motion.

Mr Hargreaves then made the interesting point that if it is the opposition that is demonstrating, it is too bad. I remind Mr Hargreaves that it is up to the Speaker to rule and the Speaker will rule regardless of who makes the submission. Indeed, Mr Speaker and previous Speakers on many occasions have ruled against matters raised by the government. Mr Hargreaves seemed to suggest that the Speaker is automatically going to rule against the opposition. I hope you are not reflecting on your own Speaker. To my recollection, every single Speaker in this place has ruled against points made by his or her own side, and that is proper to the role of the Speaker.

Mr Hargreaves talked about the danger of evidence being ruled inadmissible. I hark back to *Australian Senate Practice* and *House of Representative Practice*, which outline

matters that have been deemed suitable or unsuitable for debate. Clearly, there is a fair bit of precedent. I would be interested, Mr Hargreaves, if you could point me to something said in the parliament in recent times to which the sub judice rule should have applied and where a court proceeding was actually interfered with.

It is right and proper to ensure that that does not happen. We will be assisted by codifying the practice, as we have attempted to do, not only to ensure the right of courts to go about their business without undue interference from parliament, but also to ensure that the right of the parliament to talk about matters in the public interest is protected. It is a fine balance and codifying it along the lines we have suggested would greatly assist this and future Assemblies.

Question put:

> That **Dr Foskey's** amendment be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Question put:

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

The Assembly voted—

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

Motion negatived.

Death penalty

MS MacDONALD (Brindabella) (11.31): I move:

> That this Assembly reaffirms its abhorrence at the use of the death penalty in any circumstances.

There are 16 Australians currently facing the death penalty overseas in prisons in Vietnam, Singapore, Indonesia and Kuwait. Most of these Australians have been charged with drug offences. Four have been convicted and sentenced to death and the remainder have either been charged and are awaiting trial or are appealing their sentences. Most notable at present is Van Nguyen, who, it is expected, will be executed in Singapore in just a few weeks. Despite Australia's extensive appeals, the Singaporean authorities have refused to show clemency.

The Bali nine, who were dramatically arrested in Bali earlier this year carrying a total of 11.25 kilos of heroin, have also featured widely in the news. These nine Australians face trial on 11 October and, if convicted in the next few months, will face the death penalty.

The number of Australians facing the death penalty overseas should not be surprising given that, at least legislatively, the death penalty is still quite common around the world. In total, there are 76 countries and territories that retain and continue to impose the death penalty. There are 85 that have abolished it for all crimes, 11 that have abolished it for all but exceptional crimes and 24 that can be considered abolitionist in practice, not having imposed the death penalty for the past 10 years.

It has been 38 years since Australia staged its last execution. This occurred in Melbourne in February 1967, when Ronald Ryan was hanged for shooting a prison guard during an escape attempt. This event was a turning point for capital punishment in Australia and led to some of the largest public protests ever seen in Australia. Pleas were made from all parts of the community, from the public, media, church leaders, prominent Liberal and Labor Party members, trade unions and university groups. As a result, the commonwealth, along with all other Australian states and territories, formally abolished the death penalty and for decades has condemned its use against Australians and non-Australians convicted of crimes overseas.

This commitment has been consistent with Australia's obligation under the Second Optional Protocol to the International Covenant on Civil and Political Rights, to which Australia acceded in October 1990 and which, at present, 87 nations and territories have either signed or ratified. Article 1 section 2 of this protocol commits Australia to take all necessary measures to abolish the death penalty.

Significantly, while Australia has acceded to the protocol, it has not yet been incorporated into Australian commonwealth domestic legislation and, as such, is not enforceable. At the time of the accession it was the opinion of the then foreign minister, Gareth Evans, that the protocol simply reflected the current abolitionist state of affairs in Australia and it was therefore not necessary to enact legislation to incorporate the protocol into domestic legislation.

As such, for the past 10 to 15 years Australia has more or less advanced the spirit of the protocol by maintaining a principled opposition against the use of the death penalty. In doing so, Australia has also contributed to the purpose of the protocol to ensure the enhancement of human dignity and the progressive development of human rights throughout the world.

At least up until 2003 the federal government maintained this principled opposition to the death penalty. Both in August and December 2002, the federal government condemned the use of the death penalty in Nigeria and Vietnam with respect to convicted Australian nationals in these territories. On these matters the Australian foreign affairs minister, Alexander Downer, issued a media release stating:

> The Australian government is universally and consistently opposed to the use of capital punishment in any circumstances. The death penalty is an inhumane form of punishment that violates the most fundamental human right: the right to life.

This statement was consistent with earlier statements from the Prime Minister in 2001, when he stated that Australia had a "pragmatic opposition to the death penalty that is based on the belief that from time to time the law makes mistakes and you cannot bring someone back after you have executed them". However, recent comments from prominent Australian politicians demonstrate a shift away from these commitments, with many refusing to condemn the death penalty for terrorists and dictators. On more than one occasion the Prime Minister has stated that he would not protest the death penalty under Indonesian law for the Bali bombers and in March 2003, on US television, the Prime Minister further stated that everybody would "welcome the death penalty for Osama Bin Laden", a statement supported by the foreign minister, Alexander Downer.

It seems that since the first Bali bombing in October 2002, the federal government's stance on the death penalty has shifted. It would seem that, at least with respect to terrorist offences, the federal government is willing to acquiesce to foreign punitive schemes that impose the death sentence. At most, it has supported the use of the death penalty overseas.

This stance distances Australia's longstanding and principled opposition to the death penalty. It undermines Australia's international commitment to abolishing it and diminishes Australia's ability to seek clemency for Australian nationals on death row overseas. These comments have split Australia's commitment to abolishing the death penalty. This commitment is split between active opposition with respect to Australian citizens overseas, but at the same time is marked by the execution of selected non-citizens. Ultimately, this has become a policy of selective opposition to capital punishment instead of the principled opposition to it that we have maintained for so long.

It is concerning that the federal government's endorsement of this policy of selective opposition has only recently been reaffirmed, this time in the prosecution of Zhang Long, the man suspected of murdering University of Canberra student Zhang Hong Jie, also known as Steffi, whose body was tragically found in her Belconnen flat six months after her death. Long is being held in custody in China after handing himself in for the crime and could face the death penalty, should he be convicted.

One of the problems facing Chinese authorities trying to prosecute Long is that because the alleged crime occurred in the ACT the evidence required to convict him remains with the ACT police. Presently Australian law prohibits the federal government from providing mutual assistance in criminal matters where an accused is likely to face the death penalty. Section 8 (1A) of the Commonwealth Mutual Assistance in Criminal Matters Act 1987 states:

> A request by a foreign country for assistance under this act must be refused if it relates to the prosecution or punishment of a person charged with or convicted of an offence in respect of which the death penalty may be imposed.

However, it seems that it is permissible for Australian authorities, including the AFP, to provide evidential and other support in the investigation of foreign criminal matters at a police-to-police level. This exploits something of a loophole in the provision by avoiding the restriction on government-to-government assistance for convicted or charged persons. Seeing that Zhang Long has not yet been charged, it would appear that police-to-police assistance in the investigation of this matter is not unlawful under Australian law.

In June this year, justice minister Chris Ellison wrote to our Chief Minister Jon Stanhope requesting that the ACT police provide assistance to the Chinese authorities to aid them in their preliminary investigations. Minister Ellison made this request aware that the Chinese authorities had failed to provide any assurance that the death penalty would not be used and also that the evidence requested might be enough to see Long charged, prosecuted and executed.

In fact, the director of the University of Sydney's Centre for Asian and Pacific Law, Vivienne Bath, has even suggested that China may well have the requisite evidence already, particularly given that witness statements might already have been taken from friends of both the victim and the alleged murderer who are now back in China. As such, any assistance provided to Chinese authorities by ACT police would potentially only seal Long's conviction and execution.

It is true that Australian states often request police-to-police cooperation in a great variety of criminal matters and, as such, this could be considered regular practice. However, standard Australian investigative or evidential assistance does not contribute towards an execution.

In August, the Senate Legal and Constitutional Committee criticised the federal government and the Australian Federal Police for their cooperation with Indonesian authorities that resulted in the arrest and possibility that some, if not all, of the Bali nine will be executed. More particularly, the committee noted the suggestion of the law council and recommended that the Australian government, in conjunction with the AFP and other stakeholders, review its policy and procedures on international police-to-police assistance. In particular, the committee recommended that the Australian government should ensure appropriate ministerial supervision of assistance provided to overseas jurisdictions by Australian law enforcement agencies where that assistance may expose Australians overseas to cruel, harsh or inhumane treatment or punishment, including the death penalty.

Unfortunately, the AFP and the federal government have employed an anything goes policy and have outsourced the use of the death penalty. The appropriate response from the federal government in any situation involving the death penalty should have been to express Australia's principled opposition to the use of the death penalty, to perhaps try to broaden Australia's extradition agreements and to encourage retentionist governments

like China and Indonesia to establish a cessation on executions and to consider abolishing the death penalty completely.

Jon Stanhope and the ACT government must be commended on the principled stance they have taken in their refusal to provide police-to-police assistance for the Chinese authorities, particularly in light of the pressures extending not only from the federal government but also from the Chinese authorities. It would be wrong to consider that the ACT stance is one of grandstanding. At all jurisdictional levels in Australia, governments have made a principled commitment to abolishing the death penalty, understanding that it is a barbaric punishment that has, and should have, no place in Australia or any justice system throughout the world.

A commitment to human rights cannot be considered negotiable or able to be compromised in light of any pressure. Any strong stance to buttress human rights in this country or around the world must be praised. Australia has made a commitment to abolishing the death penalty through the second optional protocol and through state and federal policy and law. This commitment must be maintained. The death penalty must be eliminated.

The ACT government platform with respect to the death penalty is the same as that which has been voiced by many other states, nations, organisations and groups. Amnesty International, in particular, has a strong commitment to eliminating the use of the death penalty and has described it as:

> The ultimate of cruel, inhuman and degrading punishments; a punishment that violates the right to life; that is irrevocable; that can be inflicted on the innocent; and that has never been shown to deter crime more effectively than any other punishments.

In line with the ACT government policy platform, this statement summarises the argument as to why the use of the death penalty should be opposed and therefore why the Assembly should support this motion. We can explain this stance in three ways. Firstly, the death penalty is irrevocable and does not allow for the fallibility of human services, such as the police and the courts. On this point it is encouraging to see that no body of professionals has been more vocal than the lawyers and judges responsible for the administration of justice in this country. Justices Ian Callinan and Michael Kirby have been particularly keen to illustrate this important fact. For example, at the Law Asia 2005 Conference in March, Justice Callinan spoke against the death penalty, explaining that his opposition to the death penalty could be summarised in one sentence:

> The criminal justice system is fallible and capital punishment as a result of it is irreversible.

No more clearly can this statement be seen than in the case of Darryl Beamish, whose murder conviction was quashed earlier this year by the West Australian Court of Criminal Appeal 44 years after his conviction. Mr Beamish was convicted and sentenced to death in 1961 for the murder of a young woman, Jillian Brewer. Mr Beamish's sentence was later commuted to a life sentence in prison and he spent 15 years behind bars before being released on parole in 1977.

In Beamish's acquitting judgment, the criminal Court of Appeal highlighted that 44 years ago the strength of the case against Beamish was very strong and that they would have agreed with much of what was said at the 1964 court in that regard. So strong was the case against Beamish that it took five previous appeals for him to receive the justice he deserved. At his acquittal, Mr Beamish is reported to have said:

> All I ever wanted was truth and justice. I have just wanted everyone to know for sure that I didn't kill anyone. Now they know.

In their concluding paragraph the Court of Appeal noted that there had been a significant miscarriage of justice for Mr Beamish. They stated:

> It is indeed a miscarriage of justice where man has had to spend 15 years of his life behind bars and the rest of his life clearing his name. But we cannot compare the injustice that would have occurred if the state had executed Mr Beamish.

The second major reason against the death penalty is that the death penalty is not a deterrent to crime. Many academic studies have shown that murder rates do not drop when the death penalty is imposed. While it is true that statistics can never tell the whole story, the current trend in studies coming out of the US demonstrates that, at least statistically, no deterrent is achieved by imposing the death penalty.

MR SPEAKER: The member's time has expired.

MR SMYTH (Brindabella—Leader of the Opposition) (11.46): I guess this is a timely motion, given the case of the young man in Singapore and his sit on death row; so I thank Ms MacDonald for putting the motion on the notice paper. It is interesting that it calls on the Assembly to reaffirm its abhorrence of the use of the death penalty. I am not aware that the Assembly has ever affirmed its abhorrence. Perhaps Ms MacDonald, in her closing speech, will tell us when a previous motion was passed. I asked the library and the clerks to check on that. The only debate that we have had on the death penalty was in December 1992, according to the library. The clerks are still checking for me. Ms MacDonald might like to correct that or at least tell us when the debate happened.

Traditionally in the Liberal Party, the death penalty is a conscience issue. My conscience on this is very, very clear. I am opposed to the death penalty. I do not believe in its use or that the taking of a life to make up for the loss of life of another or for some other crime brings justice or offers anything to a civilised society. I guess that is a consistent stance that I have taken and that is why I have always voted in favour of life. That is why I will vote against abortion; that is why I will vote against euthanasia; and that is why I will always vote against capital punishment.

For me, it goes back to 1967. I can remember, as a young second grade student at the school I was at in Sydney at the time, St Patrick primary school in Kogarah, the good Sister Angela made us all kneel and say the rosary when the Victorian government executed the last individual in Australia to be hanged, one Ronald Ryan, on 3 February 1967. That had a profound impact on me. I do not recall the discussion a great deal, but simply that the sister railed against the taking of any life. That has stuck with me for a long, long time.

I note that more than 30 years later the family of Ronald Ryan is still seeking to clear his name. There is some compelling evidence, with modern ballistics and modern science, that would indicate that he did not commit the murder which resulted in his execution. For me, that is the hub of it. When evidence comes to light, you can release from prison somebody who was wrongly convicted; you cannot release somebody from their coffin or from their cremation once they are executed. Death is permanent. Given the number of cases that have been overturned, we should not go to this position at all. That is the stance that I would have; that is the stance that I would always take.

It is interesting to look at the history of the death penalty in Australia. New South Wales was, in fact, the last state to completely abolish the death penalty. Oddly enough, New South Wales had capital punishment for certain crimes—treason and piracy—and it was not removed until 1985. In a general sense, New South Wales had removed capital punishment as early as 1955 for other criminal acts. Western Australia is then recognised as the last to abolish it in a general sense, and that was not until 1984. It was still on their statute books then.

The ACT removed it in 1973. As some of us heard at the Supreme Court the other day when Chief Justice Higgins was talking about the use of the death penalty, there were a number of people in the ACT sentenced to death but, thankfully, no executions were carried out here. My position on this is quite clear. I do not support the death penalty.

DR FOSKEY (Molonglo) (11.50): It would hardly be a surprise that I support Ms MacDonald's motion asserting the Legislative Assembly's abhorrence of the death penalty. The Greens global charter agreed to in 2001 in Canberra by 70 Greens parties from five continents is clear in its opposition to the death penalty. The Greens party opposes the death penalty in all circumstances, even for abhorrent murderers like Saddam Hussein. The death penalty, it seems to me, is about revenge and not about justice. It degrades our humanity and should not be condoned by anyone.

If the Australian government is genuine in its opposition to the death penalty, we should be opposing it not just in Australia but overseas as well. The Australian government's support for other countries' use—Iraq, Indonesia, Singapore, China and the USA—of the death penalty has left the Greens questioning Australia's real opposition to capital punishment.

Since the last man was sentenced to death and was hanged—and Mr Smyth has given us a little bit of history in regard to the fact that Australia was once a country where various states carried out the death penalty—we have taken a strong, principled stand against capital punishment. In 1986, diplomatic relations with Malaysia were strained when Australia protested the execution of two Australians, Kevin Barlow and Brian Chambers. The then Australian Prime Minister, Bob Hawke, went so far as to describe the death penalty as barbaric. As we know, that did not go down very well with the Prime Minister of Malaysia at the time.

In October 1990, Australia acceded to the second optional protocol to the International Covenant on Civil and Political Rights that commits signatory nations to abolishing the death penalty within their borders. In the introduction to the second optional protocol, it is made clear that the abolition of the death penalty contributes to the enhancement of

human dignity and progressive development of human rights. It also states that signatory nations desire to undertake an international commitment to abolish the death penalty.

Even the Howard government has, in the past, consistently condemned the use of the death penalty. In August 2002, in response to Nigeria's use of the death penalty, the Australian foreign minister, Mr Alexander Downer, issued a media release stating:

> The Australian government is universally and consistently opposed to the use of capital punishment in any circumstances. The death penalty is an inhumane form of punishment which violates the most fundamental human right: the right to life.

This policy was restated in December 2002, when the death penalty was handed down to an Australian citizen convicted of drug trafficking in Vietnam. I believe the government has been using similar but softer lines in regard to the recently convicted Australian drug smuggler Van Nguyen.

But the Australian government and, it seems, the Australian people have not been strong in opposing the use of the death penalty in some other cases involving Australians. Since the Bali bombing in October 2002, Mr Howard's position on the death penalty appears to have shifted. It would appear that, with respect to terrorism at least, he is willing to remain silent while another nation executes a fellow human being.

Similar sentiments appear to be expressed about the Australian Federal Police's involvement in the recent arrest of the Bali nine. The AFP cooperated with foreign police forces in investigations that may lead to some of the Bali nine being sentenced to death. The AFP has not always been so thoughtless of human life, and I would like to see the AFP revert to its principled stance against the death penalty even if their actions are only indirectly connected to it.

The New South Wales Council of Civil Liberties foi-ed internal AFP guidelines and found that the AFP has an anything-goes policy during investigations and prior to charges being laid. The *AFP practical guide on international police to police assistance in death penalty charge situations*, a very explicit title, states that assistance can be provided irrespective of whether the investigation may later result in charges being laid which may attract the death penalty. So that is of concern.

In August 2005, a Senate committee recommended:

> The Australian Government, in conjunction with the Australian Federal Police and other stakeholders, review its policy and procedures on international police to police assistance. In particular, the Australian Government should ensure appropriate ministerial supervision of assistance provided to overseas jurisdictions by Australian law enforcement agencies, where that assistance may expose Australians overseas to cruel, harsh or inhumane treatment or punishment, including the death penalty.

In 1996, Australia and Indonesia signed the bilateral treaty on mutual assistance in criminal matters. That treaty clearly states:

> Assistance may be refused for offences in which the death penalty may be imposed or carried out.

Under section 8 of the Mutual Assistance in Criminal Matters Act 1987, the AFP must—I repeat "must"—refuse any request to offer assistance if it relates to the prosecution of a person charged with an offence that attracts the death penalty. Only the federal Attorney-General may authorise such assistance. Under section 9 of the act, the federal Attorney-General may impose any conditions he likes on any assistance provided to a foreign country. The Attorney-General has delegated this authority under the act to the justice minister, Senator Chris Ellison.

This means that if the Bali nine are charged with offences attracting the death penalty the AFP cannot assist the Indonesian authorities without first being authorised by Senator Chris Ellison, through Attorney-General Philip Ruddock. In other words, that becomes a political decision. However, prior to charges being laid, the AFP's anything-goes policy allows Australian police to exchange information with Indonesian police even if it is likely that capital charges will be laid.

The Senate committee recommendation that I cited is a very significant one. I hope that we go beyond our re-affirmation or affirmation, whichever is relevant, of this Assembly calling on our major parties on the hill to see that this recommendation is implemented; for if it is not, Australia will definitely be moving backward.

MRS DUNNE (Ginninderra) (11.58): I thank Ms MacDonald for this opportunity to speak on this very important matter that relates to the dignity and the rights of all men. I use that word in a non-sexist term. The death penalty is one of considerable contention and considerable prominence.

As I said in the adjournment debate last night, when touching on the work of this Assembly and on behalf of Mr Van Nguyen, it is a very important matter which has been highlighted by this tragic case. I have to echo many of the words that Ms MacDonald used when she spoke about the death penalty being gross and inhumane and of no deterrence at all. The sad case that we are seeing currently in Singapore highlights many of those things. While appreciating and understanding the position of the Singaporean government—and in this context it may be advantageous for us to dwell upon that a little—we are going to have to say to our Singaporean friends, in friendship, that we heartily disagree with the position that they take.

Last Wednesday, when I called upon the High Commissioner for Singapore, he did me the courtesy of providing me with a copy of a media release that was about to be broadcast by the Singaporean authorities which was, in fact, a copy of a letter that the Singaporean foreign minister had sent to Mr Downer. I take this opportunity to read from the letter, because it sets in context the Singaporean case:

> Dear Minister Downer,
>
> I received your letter of 25 October with a heavy heart. I fully understand why the family of Mr Nguyen Tong Van and many Australians must find it hard to accept the President's decision not to grant clemency.
>
> I can only say this: in advising the President, the Cabinet carefully considered all relevant factors of Mr Nguyen's case including his sad personal circumstances and his value as a potential source of information. However, due to the seriousness of

> the offence and the need to hold firm our national position against drug trafficking, we are unable to change our decision. It was not a decision taken lightly.
>
> I accept that the Australian Government must try … to help Mr Nguyen. I have also been informed that the Speaker of the Australian House of Representatives has written to the Singaporean High Commissioner to convey to the Singapore Speaker of Parliament the text of a resolution passed on 31 October appealing for clemency. We, on our part in Singapore, have a responsibility to protect the people of Singapore from the scourge of drug addiction, which has destroyed many lives and inflicted great suffering on many families. We also have a responsibility to prevent Singapore from becoming a conduit for trafficking of illicit drugs in the region. Mr Nguyen imported almost 400 grams of pure heroin which would have supplied more than 26,000 doses to drug addicts.
>
> As the public has been informed that you have written to the Singaporean government, I am releasing this reply to the media.
>
> Yours sincerely
>
> George Yeo

As I said, while I can understand the position taken by the Singaporean government, it is fair to say that all of us here in this place heartily disagree with the Singaporean government, which we do in friendship.

When speaking on this matter, coming as I do from the background that I do, I should put in context the reasons why I hold this position and why I hold it most heartily. In some way, yesterday the Chief Minister touched on part of that belief system. All life is precious, from the moment of its conception to the moment of its natural extinction. No human hand should take part in doing away with a human life at any stage. Because there has been a bit of a tendency for this matter to be raised in this place in the last little while, I will read from a document of the Catholic Church:

> Preserving the common good of society requires rendering the aggressor unable to inflict harm. For this reason the traditional teaching of the Church has acknowledged as well-founded the right and duty of legitimate public authority to punish malefactors by means of penalties commensurate with the gravity of the crime, not excluding, in cases of extreme gravity, the death penalty.

Over the years, the wording of this teaching has been softened somewhat. In previous versions of the catechism there was stronger support for the death penalty. In times past, it used to say that, where there was no other alternative for securely maintaining the public order, the death penalty was permissible. It is no longer impossible, especially in Western society and in almost any society, to incarcerate someone in a way that would protect the public from their activities. Therefore, the small need that people might have seen in the past for inflicting the death penalty seems to have diminished even more.

It seems to me that, as legislators in a modern First World society, this is something that we should never, ever contemplate and should never, ever condone. It is important that, as legislators in a modern First World society, we should be using what little influence we have to ensure that the protection of human rights and that human life in all its phases is upheld on every occasion.

As members would have heard in the adjournment debate last night—and it is worth reinforcing it here—it is my intention to reinstate the Amnesty International parliamentary group for this Assembly because it is through measures such as this that we, as legislators, tell our fellow legislators across the world our views and make it clear that we will not condone the inflicting of death upon people by judicial means in the same way as we do not condone the inflicting of death by non-judicial means. There is no difference. We debase ourselves if we condone the death penalty in any place. That is my firm belief. We should, as legislators, work to ensure that we live in a world where people do not feel the need for recourse to the death penalty because, in doing so, we debase our whole humanity.

MR MULCAHY (Molonglo) (12.06): About 28 years ago, I walked into the South Carolina state penitentiary—not as an inmate, my colleagues opposite will be sorry to hear—in the company of an evangelical lay preacher who was administering pastoral care on a Sunday morning at that facility. I had the opportunity to meet a number of inmates. In fact, I sat in cells and chatted with various people.

With one exception, I did not discuss the reasons why they were in there but just spoke to them as individuals and tried to get a little bit of a picture of what they did before they were there. However, I could not enter one inmate's cell because he was in for multiple life imprisonments and, as they do in the United States, was in for 150 years or something. He volunteered, as we chatted, that they were about to get him on another crime he had committed in another state.

I looked out the windows of that establishment and saw high-tension power lines leading into another building where the electric chair was located, which I did not see. When I left that facility, I spoke to my friend about the people I had met and chatted to. I was stunned to know that everyone that I had met was on death row.

We talk a lot about these things. I would respectfully suggest there are not probably too many people, if any, in this establishment that have been inside a US prison and met and spoken with people who are facing that potential outcome. It brings home the barbarism of this practice when you see that these are human beings who have, for whatever reasons, committed various crimes, it is assumed, but who are, at the end of the day, living human beings.

There have been some attempts earlier this year to mischievously characterise my position as either ambiguous or unclear on this issue. I want to make it very clear today that there is not now and never has been any ambiguity in my position on these matters. I do not have a selective view about the sanctity of life. Some do, or they rationalise their position. I have a very strong view about the sanctity of life, even if it is an unborn child. As a parent, having seen the movement of that unborn child prior to birth, no-one will convince me that life is not within.

I live in constant concern about where the lobby groups for euthanasia might ultimately develop in this nation, as people are constantly talking about the cost of health care and the burden of the aged and elderly as the society becomes older. I certainly have, to use the words of the mover of this motion, an abhorrence of capital punishment of any form for any reason.

There has been a deal of work done on this topic, and I will draw from some of those. A paper was recently presented by Mr A J Glynn SC to the LawAsia conference in March this year under the heading—and this is quite topical—"Death penalty: to execute one terrorist is to reward terrorism". There will be those who argue that the death penalty must be reintroduced as a deterrent or an appropriate form of just desserts. And there will be others, particularly in politics, who may wish to capitalise on the public's apparent fear of terrorism and reintroduce capital punishment. There can be no case whatsoever to justify the introduction of capital punishment or the use of capital punishment in the war on terror. This is not a solution.

I was, in fact, the only member of this Assembly who had the opportunity to hear Geoffrey Robertson QC speak at a dinner recently organised by the parliamentary Amnesty group at the federal parliament where he canvassed the issues of war criminals and particularly speculated on what might be advocated in the case of the former ruler of Iraq. He very soundly pointed out the ill-advised course advocated by some parties towards the use of capital punishment should he be convicted of those crimes. There is no case for matching the removal of one life by taking another.

I am very pleased that Australia moved on from this era—it completely abolished the death penalty in 1985—with the last hanging in 1967. Regrettably, many countries in South East Asia and greater Asia have retained the death penalty for a variety of crimes.

Mr Smyth spoke of the Ronald Ryan case. As members would be aware, I had the privilege of working for, in my view, one of Australia's greatest premiers of all time, Rupert Hamer, who in fact was the Premier who moved to get rid of the death penalty in Victoria. Hamer was a visionary. He was a classic Liberal in the Deakin Victorian mould and demonstrated great capacity to lead, to run a sound economy but also to display compassion in his style of government. He is a model for any state politician or territory politician to which to aspire.

Ryan was convicted by the Supreme Court of Victoria in March 1966 for the murder of a prison guard during a prison breakout. Mr Smyth talked about new evidence on ballistics that has raised some doubts about it. I am not sure whether members are aware but, in 1986, a former prison guard Douglas Pascoe confessed, on national television, to firing at the now deceased Ronald Ryan during the escape, apparently believing he may have accidentally killed the prison guard. He did not say anything at the time as he feared he would be in trouble. He was 23 years of age at the time of the shooting and stated:

> What I do know is that had I not been such a devout coward, had I mentioned the fact I had fired a shot from the tower in the direction of the escape, there is no way they would have hanged Ryan.

Pascoe also thought that Ryan's death sentence would be commuted to life imprisonment as there had not been an execution in Victoria since 1951. Some of the jurors came forth and stated they would not have convicted Ryan of murder had they known that he would in fact be executed. As I have said, Hamer abolished the death penalty in 1975. Capital punishment has been abolished in all states and territories for many years and was abolished federally in 1973.

There are many examples, of course, of miscarriages of justice that have resulted in people being executed. The United States has an abundance of examples and, fortunately, we are seeing a decline in the number of people who are being executed. But one is too many. At the end of last year, there were 3,315 people on state and federal death rows, 63 fewer than in 2003, and last year there were 125 people in America sentenced to death. Thankfully at least, it is fewer than in 1973 but it is still an unacceptable state of affairs. Twelve states executed 59 prisoners in 2004, six fewer than in 2003. As you will see from statistics, Texas leads the way with their enthusiasm for this solution to crime.

All of Australia has inherited what is English law from the early 19th century, which provided the death penalty then for some 250 offences ranging from robbing a rabbit warren to cutting down a tree, as well as theft and, of course, murder. We saw an incredible number of examples of people being executed between 1830 and 1839. There are numerous studies that have demonstrated that there is no correlation between those jurisdictions that favour the death penalty and reductions in murder and crime. Indeed, the United States is a classic illustration of where there have been massive numbers of murders, and they are particularly prevalent in those states that advocate the death penalty.

I understand that at about this time this week the US Catholic bishops are poised to issue, and may even be in the process now of issuing, a very strong statement advocating the end of the US death penalty. The draft statement for the US conference of Catholic bishops calls for an end to the death penalty, which contributes to a cycle of violence in our society that must be broken. This campaign, which is proposed in the United States, certainly echoes the position of the late Pope John Paul II on the death penalty. It is an illusion that we can protect life by taking life. When the state, in our names and with our taxes, ends a human life, despite having non-lethal alternatives, it suggests that society can overcome violence with violence. Clearly, civilized people should not resort to capital punishment as a solution.

I support the sentiment contained in Ms MacDonald's motion and hope it will enjoy the complete support of all members of this Assembly.

MR SESELJA (Molonglo) (12.16): I voice my support also for the sentiment behind this motion. I am personally opposed to the death penalty. I am opposed to it for any reason and in any circumstance. I believe that the principle that we need to uphold in our society is the protection of human life. I believe the only circumstance where the taking of human life is justified is in self-defence or in the defence of others. The death penalty, for me, clearly does not fall within that category. I consistently believe that we need to protect life at all stages. As a society, if we give away that principle in any aspect or for any class of people, we do ourselves a disservice and fail the people we are elected to represent and the people we are elected to protect.

I guess my opposition to the death penalty comes from a number of factors. The overarching principle is that we should protect human life. I do not see how putting a convicted murderer, drug trafficker or someone convicted of any other offence seeks to protect human life.

I want to talk a little about some of the justifications that are used for implementing the death penalty and how I see them. Some of these have been touched on already. One is, obviously, deterrence. That is probably the one that is put forward the most: if we have very strong penalties, including the death penalty, then we are less likely to see hideous murders and are likely to see a reduction in the crime rate. I do not think there is any evidence that that is successful.

I do not know that, when faced with the proposition that if they commit a crime they could serve the rest of their days in a prison or might be put on death row, a person is likely to necessarily think twice. For the most part, people do not necessarily think about those sorts of things, especially with serious crimes—crimes of passion, murders and other heinous crimes. I do not think it logically follows or that the evidence backs that argument up in other countries such as the United States where the death penalty is practised.

Another one that is often put forward is cost. I do not think this stacks up either, because you are obviously comparing putting someone up in a prison for 30 or 40 years as opposed to putting them to death. As we see in a civilised society, there is a significant appeals process, as there should be, which means that people on death row end up—I believe I have seen figures that show this—costing the taxpayer more than those who spend life in prison, because of the nature of their incarceration and the nature of the processes that need to be gone through in order to arrive at that final conclusion.

The third one, which has been touched on by a number of members, is punishment or revenge. We can all understand the natural human reaction of those who have suffered greatly at the hands of murderers and others, those who have had their children taken away from them by criminals, of wanting revenge and wanting to see justice meted out. Whilst that is quite an understandable human emotion—and I do not condemn those victims for feeling that way—if we respond to that, in the cold light of day, by executing criminals, that is where we have taken it a step too far. As much as we can understand how people feel in those circumstances, it does not make it appropriate for us to take the extra step and execute people.

I have touched on the other arguments against, including society needs to protect human life. If you do not buy that argument, the other argument is the irreversibility of the death penalty. I do not think there would be anyone who would suggest that they would be comfortable with executing people who are not guilty of the crimes for which they are charged and convicted. We have seen a number of cases in the United States where people on death row have had their convictions overturned through the introduction of new evidence, through the introduction, in particular, of DNA evidence, many years after their conviction. There is no doubt that many who have been put to death were not guilty of the crimes that they were convicted of.

If we, as a society, are prepared to reject some of those other arguments, there is no more compelling argument than the one that we can never be absolutely certain that, if we have a regime where the death penalty is in place, we will not put to death people who are not guilty of the crimes for which they have been convicted. That should make all of us pause in terms of any future moves in this country, in particular, to try to reintroduce the death penalty.

We, as legislators, should oppose it. If you look at statistics and surveys, there is often a reasonable amount of support in the community for the death penalty. But I do not think the arguments stack up. Especially in light of the arguments we are having at the moment in relation to terrorism, where there will, no doubt, be increasing calls for the reintroduction of the death penalty, it is important that we, as legislators, make the case against it; make it in a rational and a reasoned way; not make it in a dismissive way against those who support it; but put the case and hold firm for what should be a universal principle which, in the end, is that we, as a society, should not mandate nor condone the taking of human life. If we stick to that principle and are consistent in that principle, we will have gone a long way to doing our job as legislators and as representatives of the people of the ACT.

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

Sitting suspended from 12.23 to 2.30 pm.

Questions without notice

Budget—operating result

MR SMYTH: My question is directed to the Treasurer. Treasurer, you receive regular updates on the state of the ACT budget and forecasts for the following year. Is it the case that you have recently received advice from Treasury regarding the operating result for the territory and that the forecast general government sector operating results for 2005-06 and 2006-07 are at risk? What factors have influenced—or potentially will influence—the budgeted financial results for the territory?

MR QUINLAN: The volatile areas are fairly obvious to us all. There is volatility in the housing market, in the level of return in the housing market and in the level of stamp duty. There is some volatility in the level of payroll tax. There is certainly volatility in the investment markets. From time to time numbers bounce around the place.

I talk to Treasury formally once a week—more often than not, more often than that. On Monday the investment side of it was going really well. But again, you cannot predict that until 30 June. It is at midnight on 30 June in any financial year that we measure the capital value of the investments held. Like any other year, there are some ups and downs in the budget.

MR SMYTH: Mr Speaker, I have a supplementary question. Treasurer, what action are you taking to improve the capacity of your government to fund new initiatives and to fund your outstanding election commitments?

MR QUINLAN: Only yesterday I was in here when a question was asked about the functional analysis that the Chief Minister has announced. Like any government—this is pretty standard—this government does not wish to impose any greater impost upon the taxpayers of the ACT. I said "wish"; so don't come into this place in three months time and say, "Mr Quinlan, you said you would never …", because you have put words into my mouth before Mr Smyth.

Mr Smyth: Point it out. Point out where.

MR QUINLAN: I think it is the case—to your discredit. Anyway, that is you. The government is in the process of putting its budget together. It will put its budget together. It will be a practical budget. It will be a budget that best serves the people of the ACT, given the level of services and the level of expectation that exists in the ACT about services.

Although from time to time criticisms are raised and incidents are taken out of context and are put forward as being indicative of the whole picture, the level of services provided in the ACT is high. The expectation of people in the ACT is high. That creates pressure on any government at any time in the ACT. The Grants Commission process sets us up to be, in theory, on a level footing with other states and territories in terms of taxation. While our gross taxation levels are maybe a smidgin above, but about, the national average, our levels of service tend to be, in the overall context, above the national average. There is a real effort involved in maintaining that.

Legal advice—professional privilege

MR STEFANIAK: My question is to the Attorney-General. Attorney, you have consistently stated that, on the grounds of professional privilege, you could not release the legal advice you obtained which you have said encouraged you to believe you should take legal action against your own coroner, Ms Doogan, on the grounds of apprehended bias and which made you believe your appeal would actually be successful. Yet, Attorney, you have now published all your legal advice on the anti-terror legislation and in fact asked the Prime Minister to publish his. Why does the principle of professional privilege not now apply?

MR STANHOPE: The legal professional privilege about which the shadow attorney speaks and about which I have spoken previously applies to all legal advice provided to all governments in every instance. As a matter of principle and of practice, governments generally do not release their legal advice.

Mr Smyth: Except when it suits them.

MR STANHOPE: Of course. There is a whole range of circumstances that apply in relation to the provision of legal advice, such as the subject of the legal advice or the purpose or nature of the legal advice. Legal advice that the ACT government received in relation to the coronial inquest goes to matters that are currently being agitated in a court. Yesterday and again today we have had interesting chats about the sub judice rule. At the heart of the debate we had this morning was the underlying principle of ensuring that anybody who might be affected by a matter being agitated before a court should be protected until the matter is concluded.

There are a number of parties with a significant personal interest in the coronial inquiry and in the outcomes of the inquiry. They are people whose reputations are very much on the line and who have a very real interest in the effect or impact of any advice that would in any way touch on their positions or reputations, indeed their legal rights, in respect of a matter that is currently before a court.

The coronial inquest is an ongoing inquiry in which a number of ACT public servants have a very direct and personal interest. Their reputations are very much on the line. At this stage it is not clear whether there is the potential or the possibility of an adverse finding being made against them. They have a very real stake in the outcome of that particular inquiry.

This is a matter, I know, Mr Stefaniak, of absolutely no moment to you or to the opposition. We know of your continuing disdain for public servants generally. We see it regularly, constantly and repeatedly. You disdain public servants, in particular ACT public servants. We see it in the constant remarks of Mr Mulcahy. He believes ACT public servants are overpaid. We see it the remarks made in the last week or two about the industrial relations campaign that is currently—

Mr Mulcahy: When did I say that?

MR STANHOPE: You say it constantly, Mr Mulcahy. It is on the record. Ever since arriving in this place, Mr Mulcahy has spoken against pay rises that have been granted by this government to public servants in the ACT. Mr Mulcahy speaks constantly against the ACT public service, their conditions of employment and their rates of pay.

Mr Smyth and Mr Stefaniak speak constantly against and undermine the rights of ACT public servants represented before the coronial inquiry. This question that has been asked in relation to legal advice goes, of course, to the rights, the standing and the position of ACT public servants. It is not just ACT public servants, but also the territory insofar as the territory is also represented and has an interest and a stake in the coronial inquest. At this stage that interest is not clear and has not been determined.

At the heart of the question, of course, and it is very much part of the theme that has been pursued these past two years, is a number of ACT public servants who have committed enormous amounts to this territory through their work. As far as Mr Smyth and Mr Stefaniak are concerned, they are completely, totally and utterly expendable. Every ACT public servant knows it. Every commonwealth public servant in employment in the ACT knows it. You will live to rue the day.

MR SPEAKER: The minister's time has expired.

MR STEFANIAK: I ask a supplementary question. Attorney, are you not confusing the professional privilege that applies to a client with your own position in commissioning paid advice that in fact leaves you free to release the legal advice concerning the bushfire inquiry appeal especially if, as you say, it is such good advice?

MR STANHOPE: I have been absolutely and rigorously honest in everything I have said about the basis on which I took the decisions that I took in relation to the action that was taken in respect of perceived bias by the coroner. It may be that at some stage, when the dust has settled on this matter and it really is history and the coronial inquest is over and the outcomes of the inquest have been concluded, it might be appropriate for the particular advice to be released. In that circumstance, I will release it, Mr Stefaniak.

I will have a chat to you outside this place, perhaps, about the steps that you will then take, the nature of the apology that you will then deliver in respect of that advice. Let me tell you here and now, Mr Stefaniak, that you can question and doubt my word, but I am being utterly honest when I say that the decision that I took and the action that the territory took in relation to this matter is fully supported by our legal advice.

You choose not to believe that and you continue to run the issue. You seek to apply pressure to gain access to a piece of legally protected advice that goes to the heart of a matter currently being agitated before a court in the territory in which a number of ACT public servants have a very significant stake. But you do not care. That is my point. You do not care what damage you do to those public servants with such a stake in this matter. At this stage the hearings have concluded, but you do not care.

Mr Mulcahy does not care about the pay or working conditions of ACT public servants. I have seen Mr Smyth in action as an ACT volunteer firefighter. I must say that I would love to be a fly on the wall on those occasions when Mr Smyth socialises or works with other members of the volunteer bushfire brigade who are represented. I wonder at the level of his hypocrisy when he faces them in a firefighting situation. Does he look at those volunteer firefighters and say, "I was in the Assembly today. I was doing my level best to undermine you. I was doing everything I could to ensure that you do not get the protection of the law that you deserve. But here I am, jolly and smiling and laughing."

We can just see the smile and the jolliness and the jerky little stumping around that he would be doing out there with those very volunteer firefighting officers who have so much at stake in this matter. Then he comes into this place and does everything in his power to ensure that that very person that he was out there jollying up to does not get an opportunity to have the matter agitated that so affects her life and her future. But you do not care. She is expendable. You would not have the guts, the integrity or the courage to walk up to her in that environment and say, "Look, I did my best today to trash you. I did my best today to ensure that you do not get the fair hearing that you deserve before the law, but let's be friends. It's nothing personal. I'm trying to trample you into the ground, but it's nothing personal." You hypocrite!

Industrial relations

MR MULCAHY: My question is to the Minister for Industrial Relations. On 2 November, your colleague Mr Berry terminated a meeting with representatives of the Canberra Business Council who had come to see him about improving the ACT workers compensation scheme. His refusal to talk to them apparently was in retribution for the business council's support of the federal workplace relations changes. Do you see any useful purpose being served by closing the door on Canberra's peak business organisation?

MS GALLAGHER: I think that the question probably would have been better directed to you, Mr Speaker, as it relates to a decision you made.

Mr Smyth: We want to know what you think.

MS GALLAGHER: I think that it is an interesting subject, one on which I have sympathy with the Speaker of the Assembly, in the sense that the policy documents under the WorkChoices legislation and the legislation itself make it pretty clear that collective bargaining arrangements are distasteful to the federal government. Certainly, a major push of that legislation is for negotiating individually with employees and moving them away from any kind of collective representation. In fact, we know now that in some cases, by asking for collective representation, you will get a $33,000 fine. Even for employers who say that they would prefer to bargain collectively and not to deal with individuals a $33,000 fine will apply. But it is an interesting subject.

On the flipside, the notion of collective employer representation is not dealt with under the legislation, that is, the desire to negotiate individually with businesses, with the employers of employees. So, on one level, collective bargaining and collective representation from an employee perspective should not be encouraged—

Mr Stanhope: Should be rendered illegal.

MS GALLAGHER: Should be illegal and fines should apply. Yet on the employers' side, representations from, say, the business council, ABL or the chamber are entirely appropriate; in fact, more weight should be given to that collective representation of employer interests than should be given to employee interests. It is an interesting conundrum, I think, for us to consider in terms of how we deal with our stakeholders in the community. I intend to continue to collectively bargain and the government will continue to collectively bargain with employees. I will certainly take any meeting requests from any organisation in Canberra very seriously. I determine whom I meet with. I cannot think of an organisation that I have refused to meet with. I will not be changing my position on how we bargain and how we negotiate in relation to industrial relations on either side. We will continue to speak to employers and we will continue to speak to employees. Where we can, certainly from my point of view, we will be doing that collectively.

MR MULCAHY: I have a supplementary question. Has Mr Berry been successful in persuading any of his Labor colleagues to follow this closed-door approach to industrial relations?

MR SPEAKER: I must say that I do not know what my actions have to do with the Minister for Industrial Relations, but I am sure that she will be able to apply a good enough answer to the supplementary question.

MS GALLAGHER: Mr Speaker, in relation to the industrial relations matters for which I have responsibility, I get numerous meeting requests. I imagine that I will continue to get meeting requests and I will determine which meetings I hold with whomever wants a meeting with me.

Industrial relations

MR GENTLEMAN: Whilst we are on industrial relations, my question is to the Minister for Industrial Relations. I understand that the ACT government recently declared Christmas Day and New Year's Day public holidays under the ACT Holidays

Act. Why was this measure taken, given public holidays are already allocated for those days?

MS GALLAGHER: I thank Mr Gentleman for his question. Mr Gentleman is right. Christmas Day and New Year's Day are both automatically declared public holidays under our legislation, the Holidays Act. However, this year both Christmas Day and New Year's Day will fall on a Sunday. Under the act, the public holiday status of both those days automatically moves to the following Monday. What it would have meant for employees that have to work on Christmas Day or New Year's Day, that is, the Sundays, is that those days would not have been observed as public holidays, along the same lines as last year when the two days fell on Saturdays.

The act gives me the ability to authorise additional public holidays. The ACT government, when considering our decision on these days, sees these days as opportunities for families to come together. Their status as holidays must be protected. I was concerned that, if we did not take this decision, workers, particularly workers in the hospitality and retail industries, would be forced to work on these days when they may have preferred to stay at home with their families. This declaration will ensure that workers have the choice to be rostered on for those days and, if they do work on those days, they will have access to appropriate remuneration for working on what we see as unique days in our calendar. I should also say that this declaration brings us into line with Victoria and New South Wales who have also taken special measures this year to protect the status of these holidays.

It is, again, in the environment that we are working in, relevant to talk about the impending WorkChoices legislation. In a climate of unprecedented fear of entitlements, conditions and protections being under threat from the federal government, it is important that the ACT government does whatever it can to protect working people's conditions, to look at where we can sensibly work together to ensure that people have access to appropriate remuneration and appropriate time with their families in what will be a very special time of the year. In light of the legislation proposed by the commonwealth, it is potentially the last time these workers will have access to penalty rates and leave loadings on these days.

We know the changes forecast by the federal government. We notice from the opposition yesterday at the national day of protest that this could be the last Christmas when some of those protections, some of those entitlements and some of those little add-ons that are there to support families at this time of year are not up for grabs.

Those opposite get a bit tired of all this discussion about protecting people's entitlements and looking after those people that are forced to work on Christmas Day and New Year's Day. I don't know how many of those opposite, in the negotiations they had in their jobs over time, have been in a position where, potentially, they could have had those entitlements, those shift loadings or those penalty rates taken away. They are all up for grabs. Next year things such as penalty rates and leave loadings—certainly, for many, many Australians, including many people in the ACT—will be a distant memory because they won't be included in their remuneration package any more.

We will continue to examine the options that are available to us to protect working people's conditions and ensure that important days such as Christmas Day and New

Year's Day can be appropriately treated and ensure for those in the work force who have to be separate from their families on those days and have to go out an earn a living—and I have never had to work on Christmas Day or New Year's Day—the appropriate entitlements, remuneration and leave loadings are available to them.

MR GENTLEMAN: My supplementary question to the minister is: what has the response from the community been to these extra holidays?

MS GALLAGHER: I note with interest the comments of the chief executive of the Chamber of Commerce and Industry, Mr Peters, who, rather surprisingly, has welcomed these changes. In Saturday's *Canberra Times*, Mr Peters is quoted as suggesting that the two extra public holidays, coupled with recent wage increases, would ensure that this would be "a lucrative Christmas season for retailers". In fact, the heading in the *Canberra Times* is "Another sales record expected for Christmas".

Of course we support Mr Peters' comments, but I have to say that they are rather different to the comments he made about this matter last year. They are entirely sensible, given the number of businesses that charge a public holiday surcharge for opening on these days. Businesses who operate on these days will, obviously, make a profit from trading on Christmas Day and New Year's Day. We, on this side, think that employees should have a bit of a share of that profit in terms of the application of penalty rates.

Those opposite, until now—they are getting a bit worked up now—have been silent on this issues. Again, that is in contrast to last year when Mr Smyth put out a media release under the heading "Another nail in the coffin of business friendly Canberra" in which he suggested that all businesses were going to have to move to New South Wales, until they realised the same situation applied in New South Wales and it was no good racing over the border.

In that release Mr Smyth suggested that the overall economic impact of an extra two public holidays must be "huge". In some sense, Mr Smyth was right. The economic impact was huge; it was a huge boon, if you listen to Mr Peters. In the comments that he made to the *Canberra Times*, he said:

> The additional business they received was more than worthwhile, simply because their customers also have an extra public holiday and it is their customers that are out and about shopping.

Similarly, the Hyperdome centre manager, Shane McCann, said his centre would be open on the two extra holidays because "historically these were some of the best trading days of the year". Perhaps it is not surprising, then, that the opposition has not released any scaremongering press releases this year, given that the small business community—certainly those that are considering opening—seems to support the government's decision.

Mr Mulcahy has been very vocal in his opposition to recent increases in public sector pay. It is also worth putting on the record that Mr Peters identified, as one of the factors to ensure a bumper Christmas trading period, the increased wages in people's pockets. Because people are getting paid more, or paid appropriately, there is a little more cash going. That has a flow-on effect and businesses do quite well out of this.

All in all, it has been given the thumbs-up from the business community. They are expecting a huge boon this Christmas. The government has shown a good example in our approach to industrial relations, where we balance the rights of employees with the rights of employers, and show that where you work together you can create a stronger economy. That is clear from the statistics from last year's Christmas trading.

This approach to industrial relations—this cooperative, collaborative approach that tries to create that appropriate balance between employers and employees—is a position that the ACT government is very proud of and will keep. It stands in stark contrast to the environment that those opposite would pursue if they were in government. Certainly the federal government is pursuing it nationally.

Belconnen to Civic busway

MR SESELJA: My question is to the Minister for Planning. I refer to statements on ABC radio yesterday by the Treasurer in which he said that cabinet would make the final decision on whether the Belconnen to Civic busway is built. I refer to numerous public statements you have made in relation to the busway, including on 5 March 2004 when you said that "the ACT government will begin building dedicated trunk public transport routes between the town centres and Civic, starting with the Gungahlin to Civic and Belconnen to Civic routes". Minister, are we to believe you or the Treasurer on this issue?

MR CORBELL: I am very pleased to advise Mr Seselja that he can believe both of us, because we are not saying anything inconsistent on this matter. I do not know whether Mr Seselja has deigned to pick up his budget papers but, if he has, I would be really grateful if he would point out to me where the construction moneys are in the budget for the Belconnen to Civic busway. There are not any, Mr Seselja. Indeed, if Mr Seselja pays a little bit closer attention to the capital works program as outlined in the current budget papers, he will see there is money allocated to feasibility, planning and forward design, but there is no money for construction. The government has said very clearly, and I have said very clearly and the Treasurer has said very clearly, that this project, along with many other projects in the government, will need to be considered by the government in the context of future budgets.

I know that Mr Seselja might think that the truth is out there somewhere and that perhaps there is some major battle royal going on between me and the Treasurer, but I just draw to Mr Seselja's attention that, if he goes to the capital works budget in the current budget papers, he will not find any money for construction. There has never been any money for construction, because the government is not yet ready to make a decision on whether or not this project should be constructed. The government has committed money to forward planning, to design and to feasibility, and that will allow the government to make an informed decision as to whether or not construction should proceed. I can assure Mr Seselja that he can believe both me and the Treasurer on this matter.

MR SESELJA: I have a supplementary question, Mr Speaker. Minister, why have millions of dollars been committed to planning work for a project that may never go ahead?

MR CORBELL: Again, I do not know whether Mr Seselja understands how capital works happen, but you usually do feasibility, forward design and planning before you make a decision to commit capital works moneys. There is nothing different in this case.

Housing—budget funding

MRS BURKE: Mr Speaker, my question is to the housing minister, Mr Hargreaves. Minister, prior to the last ACT election the Stanhope government promised to inject $30 million into public housing, predominantly for new housing. When you were asked about the status of the promised funding by media outlet ABC, your response, aired on ABC TV on 7 October 2005, was, "That's a very good question that, deserving of a very good answer." When asked by the journalist, "You can't promise?" your response was, "Oh, I'd never promise anything." Despite your government's mishandling of the budget, the forecast $91 million deficit and pressure on the fiscal envelope, when will the Stanhope government inject the $30 million into public housing in the ACT?

MR HARGREAVES: There are two points. The first is that the government has not mishandled the budget; the government has done a fantastic job with the budget based on the seven years I have seen. Their government, in the first three years was pathetic. The Stanhope government in the past four years has been brilliant. Mrs Burke is trying to come into this chamber and ask, "When are we going to give you your $30 million?" My response is that Mrs Burke can use her intuition and find out herself.

MRS BURKE: Mr Speaker, I have a supplementary question. I ask again: minister, when will funding for this critical commitment become available, or are you unable to find the necessary funds? Is this the problem?

MR HARGREAVES: It is highly unusual for governments to pre-empt either government discussions or budgetary outcomes. I do not propose to start the process off now.

Prisons—syringe exchange program

DR FOSKEY: My question is directed to the Minister for Health and regards the possible introduction of a prison-based syringe exchange program in the new ACT prison. Mr Corbell, one of your departmental officers informed a community forum on this issue that you personally supported the introduction of such a program. Could you outline to the Assembly what evidence you have for this position and what you understand the health benefits to be.

MR CORBELL: I start by making very clear the government's position on this matter: the government has not yet taken a decision on the details of the corrections health plan for the prison. That is work currently being finalised. Obviously, as part of corrections health planning, the issue of disease communication in the prison environment, particularly blood-borne disease and the desirability or otherwise of a needle and syringe program, will need to be considered by the government, and it will be when the corrections health plan is considered by the government as a whole through the cabinet process.

That said, as Minister for Health, I have a responsibility to communicate and to advocate the importance of reducing the spread of blood-borne diseases in any environment, particularly in the prison environment, where we know that drug use and injecting drug use goes on. The evidence on the effectiveness of needle and syringe programs generally is well accepted, given the experience in the broader community. In the broader community, we know that the availability of clean injecting equipment leads to a reduction in needle-sharing activity, and leads therefore to a reduction in the spread of blood-borne diseases that can come about because of needle-sharing activity.

Because of programs such as the needle and syringe program in the ACT and other jurisdictions, over the past one to two decades we have seen very significant control over the spread of diseases. We also know that, where clean injecting equipment is not available, there is an increase in risk-taking behaviour, including the sharing of syringes and needles. That can lead to the spread of diseases such as HIV/AIDS, hepatitis C and so on.

The government is very conscious of these issues. We know that drug-taking activity takes place in a prison environment. We know that needles get into prisons, even maximum-security prisons. And we know that, where needles do get into prison and there is no possibility of getting a clean needle, those needles are used again and again. Those are serious issues for the government.

I know that my colleague the Chief Minister, Mr Stanhope, has raised concerns about security, and occupational health and safety issues. I reiterate those concerns. Those are very significant and serious issues that must be taken account of as the government considers this difficult but important issue. I will be paying close attention to the development of the corrections health plan and speaking to my colleagues about it as we consider this very complex and important issue.

It is important to stress that there is evidence in other jurisdictions overseas as to the effectiveness of these programs, particularly in Spain, which as a western European country has had such a program in place for some time. It has worked effectively in reducing the spread of disease without compromising health and safety issues in the prison environment. These issues need to be looked at closely to see whether they are applicable in the Australian context.

I note that the Liberal opposition has come out and said point blank, "No", that this should not even be considered in the prison environment and that its focus is on rehabilitation. Of course, rehabilitation is very important and we should be making every avenue available to assist people with rehabilitation.

But that general philosophical approach that we have heard from Mr Stefaniak in the last couple of days highlights the fact that the opposition still does not appreciate the importance of harm minimisation as one element of a strategy to reduce the spread of disease in our community. The logical extension of the Liberal Party's position is that there should be no needle and syringe programs available at all, anywhere to anyone, because the focus should be on rehabilitation.

I argue that that is a very dangerous and risky position for the Liberal Party to promote. It works fine for those people who are able to kick the habit and who are able to go through a rehabilitation program and detoxification program and get there. But it does not work for those who still engage in risky behaviour and need a harm-minimisation approach.

DR FOSKEY: Mr Speaker, I have a supplementary question. Given some of the issues that you raise minister, how can members of the public and community organisations who support a safe health prison-based syringe exchange program in the new prison assist the government in making its decision?

MR CORBELL: Those with an interest in this issue should make their views known to the government, as people do all the time on issues of interest to them. I encourage them to make their views known. The government will obviously take those into account in making its decision.

Housing—ministerial conferences

MS PORTER: My question is to the Minister for Disability, Housing and Community Services. Minister, I understand that you recently attended the national housing and the housing ministers conferences that were held concurrently in Perth. Could you please advise the Assembly of the outcomes of these conferences?

MR HARGREAVES: I thank Ms Porter for the question. I did attend both the Housing Ministers Conference and the National Housing Conference in Perth late last month. I can advise the Assembly that housing ministers reviewed progress on the implementation of a number of key measures towards improving availability of affordable housing. Ministers particularly focused on two crucial areas of activity. These were a framework for national action on affordable housing and an indigenous housing reform and investment strategy.

The framework for national action on affordable housing provides a strategic, integrated and long-term vision for affordable housing in Australia, with stated commitment from state, territory and Commonwealth governments. The framework will look at activities related to the direct delivery and management of affordable housing, as well as parallel policy parameters that influence the housing market more broadly and are managed outside housing portfolios.

A joint meeting of housing, local government and planning ministers endorsed the framework in August 2005 and agreed to develop initiatives to implement a range of actions over the next three years aimed at addressing a predicted shortfall in affordable housing. Housing ministers were provided with an update on the work done to advance the framework and discussed the range of resources and policy levers that could be applied to improve housing affordability, both home ownership and rental. These include: supply side programs, such as social housing programs supported by the commonwealth-state housing agreement; demand assistance such as the commonwealth rental allowance; taxes on property assets and transactions; purchase assistance programs such as the first home owners grant and other home ownership or shared ownership

initiatives; and regulatory structures affecting the not-for-profit sector, the private rental market, the supply of land and land use planning.

One area of particular interest to state and territory ministers was the targeting of the first home owners grant. Ministers undertook to look at ways to improve targeting of this grant to ensure that it was not being provided for million-dollar properties. This consideration would take into account regional variations and funding being retained to progress national affordable housing objectives.

Housing ministers also pledged themselves to national action on indigenous housing, including a reform agenda that features a commitment to increase the effort of mainstream programs in housing indigenous people; initiatives to increase indigenous home ownership; and measures to improve the standard of indigenous housing, particularly where dwellings are in a poor condition.

Along with these initiatives, all ministers acknowledged that there was an undeniable case for new investment to avoid a life cycle of poverty and ill health for indigenous people in housing need. Ministers agreed that, as a precursor to any new investment, which is a shared responsibility, it is essential that reform be initiated to improve the collection of rents, to increase training and job opportunities for indigenous people and to improve the maintenance of existing housing stock.

Ministers acknowledged an urgent need for additional dwellings in the social housing sector. Ministers also agreed to hold further discussions on possible new funding options in mid-2006 and to invite ministers responsible for indigenous affairs.

MS PORTER: I have a supplementary question, Mr Speaker. Could the minister please advise the Assembly how ACT Housing providers fared in the awards section of the National Housing Conference?

Mrs Dunne interjecting—

MR HARGREAVES: I did not hear the disparaging remark on our community housing sector that Mrs Dunne put across the chamber, and I am glad I didn't because that would be an appalling thing to do.

The national community housing awards formed a part of the National Housing Conference in Perth and were established in 1999 to identify and recognise best practice in community housing in Australia. The awards are part of a national system of encouraging a culture of continuous improvement in the community housing sector, and it is with great pride that I convey to you the success of our own Havelock Housing Association in these awards.

There are six award categories: overall excellence in community housing; excellence in service to tenants and communities; excellence in service to tenants and communities in remote and rural areas; excellence in organisational management; excellence in asset management; and excellence in corporate governance.

Havelock Housing Association, the largest community housing organisation in the ACT, was a finalist in five of those six categories—that is all categories other than the one

pertaining to rural and remote areas. Havelock Housing Association won the national award for excellence in organisational management. This award is for development of effective systems to manage its activities, as well as the extent to which tenant participation in the organisation is supported. Havelock was also highly commended in two award categories: overall excellence in community housing and excellence in asset management.

It is to the benefit of all Canberrans, but especially those who are less well off, to have a national leader in deliverance of community housing here in the territory, and I would like to sincerely congratulate Havelock Housing and hope that my Assembly colleagues join with me in wishing them well for next year's awards.

Policing—numbers

MR PRATT: My question is to the minister for police, Mr Hargreaves. Minister, in 2004-05, according to ACT Policing's annual report, there was a total of 571 sworn full-time equivalent police, almost 32 less than in 2001-02, when there were 602.7 FTEs. However, you said in debate in this Assembly on 7 August 2001, *Hansard*, page 2453:

> … we do not have enough police—

to enforce the law—

> We do not have enough police to address home invasions, even though the rate has gone down. We have not got enough police to address motor vehicle thefts …

Minister, if you did not feel that there were enough police officers in 2001 to sufficiently protect the Canberra community, and we actually had 32 more FTEs back then, why do you now claim that police numbers are adequate?

MR HARGREAVES: That was at the absolute height of the Liberal Party's ineptitude and incompetence concerning protecting the people of the ACT. That was at the screaming height of the Himalayas of ineptitude and incompetence to which the people opposite had subjected the people of the ACT. My predecessor did many things which were fantastic. One of the things that he did, I have to say, as an integral part of the Stanhope government, was that he endorsed the change in the way we do things.

I do not know how many times I have said it in this chamber, but I will say it yet again for the benefit of the man across the chamber: he has a serious problem with reading. He should go to remedial classes, try to listen when we speak, and read the *Hansard* of recently a bit more. The nature of policing in this town has changed. Everybody in this town knows that except the guy across there. Everybody else in this town knows it.

The nature of intelligence-led policing, yet again I will say it, has resulted in crime reductions in this town. Since the time when the characters opposite were in office we have had huge reductions. I also observe that in recent times, thanks to the direction of the new Chief Police Officer, Audrey Fagan—you may have noticed it, Mr Speaker; certainly the chamber must have noticed—there has been a greater presence of police within the community.

Mr Smyth: Er!

MR HARGREAVES: The people opposite can er, ah, um, oh or whatever they like, but it makes absolutely no difference to the truth. Motor vehicles thefts have gone down. Burglaries have gone down. Home invasions have gone down. Personal assaults have gone down. The only thing that has gone down with them is the absorption rate of Mr Pratt; he just does not understand it. Either he does not understand it or his is a classic case of making being a goose into an art form; one of the two. I am not quite sure what it is. I think he is trying to make being a goose into an art form, because the numbers speak for themselves.

MR SPEAKER: Mr Hargreaves, those sorts of personal reflections do not help.

MR HARGREAVES: All right, I withdraw and apologise to the goose, Mr Speaker. The thing is—

Mr Smyth: I take a point of order, Mr Speaker.

MR HARGREAVES: All right, I withdraw that, too. I am sorry for the goose. I withdraw that, too. That is a fair cop, Mr Smyth.

Mr Smyth: Mr Speaker, he cannot withdraw and qualify it in that way. Either he withdraws or he does not bother.

MR HARGREAVES: I did. I copped it fair.

MR SPEAKER: My request was that you withdraw it.

MR HARGREAVES: And I did that.

MR SPEAKER: Thank you.

Mr Pratt: What about the 32 police missing?

MR SPEAKER: Mr Pratt, you have asked one question and that is all you get the chance to ask. Let him answer it.

MR HARGREAVES: Come back with a supplementary, if you like. The way in which we are applying the police at the moment is a completely different model. It is having an effect. As I predicted in this place not too long ago, there will be a time when we plateau out. There will be a time, because you cannot have 40 per cent on 40 per cent on 40 per cent for ever more. Right now, I am particularly proud of the figures that the police are producing. Their responsive nature is, in my view, exemplary. The figures speak for themselves, and Mr Pratt can yell numbers around the place as much as he likes.

The other thing I want to say is that Mr Pratt perpetuates the nonsense of taking a number at a point in time and comparing it with a number at another point in time. He

forgets, conveniently, that the number of police is a full-time average operative staffing level taken over 12 months.

Mr Pratt: That is the number you budget to. Is it a meaningless number?

MR SPEAKER: Order, Mr Pratt!

MR HARGREAVES: He can take a number today and he can take another number in three weeks and they will be different. What we have then is a straw man for him to tear down. I am just not going to play that game.

MR PRATT: I have a supplementary question. Minister, if we had 32 more police, wouldn't we be able to do all those things you have just outlined that much better? Why have you now contradicted your 2001 position?

MR HARGREAVES: I will answer the second question first. I have not contradicted my statement of before. You guys did a pathetic job when you were in government and the Stanhope government has not done a pathetic job; it has done a great one. The second one is probably the only question that I have heard from Mr Pratt in all the time I have been exposed to his diatribe that has made any sense, that is, if you are doing a really good job now, couldn't you do a better job with more? The answer—

Mr Pratt: As you say you are.

MR SPEAKER: Mr Pratt, I warn you.

MR HARGREAVES: The answer to Mr Pratt's question is yes, we are doing fantastic things. The crime rates have dropped. Community confidence is up. Police visibility has increased. Can we do better with more people? Yes, of course we can. Mr Pratt and perhaps the others opposite would actually deny the successes that the police have achieved over the life of the Stanhope government, and I just will not cop that. They have done a fantastic job. Could we provide better educational outcomes with more teachers? Yes. Could we provide better health outcomes with more doctors and nurses? Yes. Could we provide better parliamentary debate with more opposition? No.

ACTION—Aranda route options

MRS DUNNE: Mr Speaker, my question is to the Minister for Planning. Minister, you will be aware of consultation around the proposed route of the Belconnen busway, which does not have any funding, and the impact that route option 2B will have on Aranda and especially on the residents of Arabana Street. Will you give an undertaking that route option 2B will be ruled out for further consideration because of its impact on the residents of Arabana Street?

MR CORBELL: I anticipate being in a position very shortly to outline the results of the most recent consultation in relation to the route options that have been out for consultation over the past couple of months, including route option 2B. I have received a number of representations directly from residents of Arabana Street, Aranda, in relation to their concerns with that particular route option. I am certainly taking those into close account. Equally, those residents have also taken the opportunity to use the consultation

process to raise their concerns. I anticipate that I will shortly make an announcement in relation to the revised set of route options as a result of the most recent public consultation process. I envisage that the timeframe on that will be before the end of the year.

MRS DUNNE: Mr Speaker, I have a supplementary question. Minister, will you rule out option 2B now?

MR CORBELL: I think I have answered the question.

Mrs Dunne: No, you have not. It is a yes/no answer.

MR CORBELL: You asked me that in the initial question as well as in the supplementary question. As I have made clear, I will be making an announcement on revised route options as a result of the public consultation process. I am taking into account the concerns raised by Arabana Street residents. I am very conscious of those concerns and am seeking to address those through the process. Further, it is worth making the point that route option 2B was actually proposed by the Conservation Council of the South East Region and Canberra. That was one that the government agreed to include in the consultation process because of their concerns about the impact of other potential routes. I have been pleased to have that tested through the consultation process. I will be in a position to make an announcement in relation to a final set of route options before the end of the calendar year.

Sustainable transport plan

MS MacDONALD: Mr Speaker, my question, through you, is to Mr Corbell, the Minister for Planning, and is specifically related to transport. Can the minister advise the Assembly whether the travel modes targets of the government's sustainable transport plan with respect to public transport are being met?

MR CORBELL: I thank Ms MacDonald for the question. I am very pleased to confirm that travel modes targets are being met.

Mrs Dunne: Mr Speaker, on a point of order: I seek your ruling whether this question is in order because there is an item on the notice paper standing in Ms Porter's name which relates directly to the sustainable transport plan.

MR SPEAKER: Could you repeat the question for me, please?

MS MacDONALD: Certainly. The question is: can the minister advise the Assembly whether the travel modes targets of the government's sustainable transport plan with respect to public transport are being met?

MR SPEAKER: It is very clear that you cannot ask questions that anticipate discussion of a matter on the notice paper. There is a matter on the notice paper under the name of Ms Porter which goes to the sustainable transport plan and which talks about patronage and so on. You have cut across that matter. I would, therefore, rule the question out of order.

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

Answer to question on notice
Question No 534

MR PRATT: Mr Speaker, I want to chase up an outstanding question on notice. I direct the attention of the Minister for Police and Emergency Services to question on notice No 534. This is due on 23 September, Johnny. I wonder whether John junior has got it handy.

Mr Hargreaves: What number?

MR PRATT: Question on notice No 534.

MR SPEAKER: Order! Mr Pratt, you have to use a member's proper title in this place.

MR PRATT: I withdraw that.

MR HARGREAVES: Mr Speaker, I did a bit of a count on the number of questions on notice so far this year and I think the opposition are on track to achieve a record high in this term. They hit 1,788 last term and I think they are tracking at about 2,300 now. The two people responsible for keeping two people busy in my departments until they drop are Mrs Burke and Mr Pratt. I am sorry, Mr Pratt, I will have to look into which one of those people is supposed to have answered this question for you and flog them.

MR PRATT (Brindabella) (3.32): In accordance with standing order 118A (c), I move:

> That the Minister has failed.

MR SPEAKER: Standing order 118A (c) goes to the issue. Mr Pratt, you can only move in relation to 118A (b) because an explanation was provided.

MR PRATT: Mr Speaker, I would submit to you that 118A (c) is quite clear in respect of the requirements of a minister to respond to questions on notice. I feel that I am well within my rights to move a motion in accordance with that particular standing order.

MR SPEAKER: It is very clear in the standing orders, Mr Pratt, that once the minister has given an explanation you cannot move a motion under 118A (c). If he has not provided an explanation then you can move in a particular direction. But in this case he has provided an explanation and whether or not you like it is not something that should trouble us. So, as I explained, you cannot move in relation to 118A (c). If you wish to move a motion, it has to be in relation to standing order 118A (b).

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (3.34): Mr Speaker, if it will assist the chamber, I am happy to try to give a supplementary answer to Mr Pratt.

Mr Stanhope: No, it will not.

MR HARGREAVES: I think it is important for the chamber to know. But if you rule that I should not proceed, I am happy to sit down.

MR SPEAKER: I am not going to stop ministers from giving explanations about matters, the subject of which has been raised in question time. If you want to offer a further explanation then it is up to you to do so. We will see what Mr Pratt wants to do after this.

MR HARGREAVES: Thank you and Mr Pratt can then choose to do whatever he likes. Mrs Dunne put in an FOI on a filing matter. I have forgotten the number of pages that resulted but I think we measured it in kilograms rather than pages.

MR SPEAKER: You had better come to the explanation.

MR HARGREAVES: I think Mr Pratt's question No 534 goes to the detail of that particular FOI and considerably more resources are required to sift through this information and answer the questions that Mr Pratt has raised. So the answer is that it is going to take a considerably greater length of time than is humanly possible to do because of the extra work that Mrs Dunne created, which is the reason why she is not the government whip any more.

Mr Gentleman: How much does this cost?

MR HARGREAVES: I don't know.

Mrs Dunne: Mr Speaker, I wish to speak to your original ruling: Mr Hargreaves said that he would go out and find the person who had not answered the question and flog them. That is not an explanation under any meaning of the standing orders. An explanation is, "I haven't had a chance to sign it off because" or anything like that. But to make a flippant comment is not an explanation under 118A (b) and, therefore, Mr Pratt is within his rights to move that the Assembly take note of the fact that the minister failed to make an explanation.

This is a standing order that I think most of the members opposite do not understand. It is not sufficient to stand up and say, "I will look into it."

Mr Hargreaves: I have just told you.

Mrs Dunne: That is not an explanation, Mr Speaker. The member is entitled to an explanation of why the answer has not been given in 30 days. To say, "I will go out and flog the person responsible" is not a suitable answer.

MR SPEAKER: Thank you. Mr Corbell on the point of order.

Mr Corbell: Mr Speaker, I think the opposition have not listened to what you said in relation to your ruling. As I understand it you have said that Mr Pratt is entitled to move a motion under standing order 118A (b) but it is not open to him to move a motion in relation to 118A (c), which is what he sought to do about five minutes ago. He cannot move a motion in relation to 118A (c) because the minister has provided an explanation.

Mr Pratt, as you quite rightly point out, may not be happy or satisfied with that explanation but the standing order actually makes provision for a member who is not satisfied with an explanation to move a motion under 118A (b), and that should be the course of action open to Mr Pratt if he chooses to pursue it.

MR SPEAKER: Thank you for that, Mr Corbell.

Mr Pratt: Mr Speaker—

MR SPEAKER: Mr Pratt, I want to deal first with what Mrs Dunne raised. Just resume your seat. I cannot make a judgment on the acceptability or otherwise of an explanation. An explanation was given. A member might be dissatisfied with an explanation or, for some other reason, might be entirely satisfied and might want to provide accolades. I don't know. Standing order 118A (b) provides the avenue for that to occur. You make no point of order in the matters you raised because, as Mr Corbell quite rightly pointed out, the minister did provide an explanation. Mr Pratt, do you want to do anything with this?

MR PRATT (Brindabella) (3.38): Speaking to the motion that I moved, I do not accept that the explanation given was an explanation.

MR SPEAKER: Well, I have ruled, Mr Pratt. As the minister has given an explanation, you cannot move a motion under the standing order.

MR PRATT: However, I do accept the second explanation, or at least the second attempt to provide an explanation. I am prepared to leave it at that and we will see what happens.

MR SPEAKER: Okay, that is good.

MR PRATT: If we had been given an explanation in the first place we would not have had this trouble, Simon.

Canberra Hospital obstetric service
Paper and statement by minister

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

> An own initiative investigation into the obstetric service at The Canberra Hospital—Report by the Complaints Commissioner, Community and Health Services, under the Community and Health Services Complaints Act 1993, dated October 2005.

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

Leave granted.

MR CORBELL: Mr Speaker, for the information of members, I have tabled a report by the Community and Health Services Complaints Commissioner entitled *An Own Initiative Investigation into the Obstetric Service at The Canberra Hospital*. At the

outset, I would like to say that the commissioner's investigation concludes that there was no issue of public safety in the obstetric service at the Canberra Hospital. Nor did the evidence obtained in the investigation indicate an unacceptable level of avoidable adverse patient outcomes.

The commissioner has also concluded through his investigation that, while the evidence obtained in the investigation indicated issues of concern in the management of some cases, there was no issue of public safety in the practice of individual clinicians. The commissioner further concluded that the evidence obtained in the investigation identified some aspects of the obstetric service that could be improved.

Let me give members some more detail. The review of obstetric services at the Canberra Hospital was an own initiative investigation by the Community and Health Services Complaints Commissioner. It was undertaken in response to a letter written on 29 September 2003 by the chairman of ACT state committee of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists to the ACT Medical Board, expressing concern about the pattern of obstetric care at the Canberra Hospital and identifying one particular case with an adverse outcome.

The medical board decided to refer the matter to the Community and Health Services Complaints Commissioner. On 3 December 2003 the commissioner notified ACT Health of an investigation into obstetric services at the Canberra Hospital, the purpose of which was to determine whether the complainant's allegations were justified. The commissioner decided that an expert and peer opinion on the standard of care delivered in the cases of adverse outcomes brought forward by the ACT state committee of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists would be an appropriate measure of the safety of the obstetrics service.

The commissioner appointed two experts—who, under the Community and Health Services Complaints Act 1993, cannot be identified—to undertake a review and requested that they provide an opinion on the performance of the Canberra Hospital's obstetrics services against the performance indicators of the Australian Council on Healthcare Standards and the Women's Hospitals Australasia benchmarks. The two experts reviewed all the material provided by the ACT state committee of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, the clinical data for the obstetric service itself and the clinical records and statements provided by practitioners involved in the care given in the individual cases under review. Their review covered the period 1994 to 2003.

Overall results for perinatal mortality and morbidity during that period do not indicate a problem with the care provided by the Canberra Hospital obstetrics unit. It is reassuring for the Canberra community that the Canberra Hospital obstetrics unit's performance against the Australian Council on Healthcare Standards' indicators and Women's Hospitals Australasia benchmarks showed that there was no significant deviation from the overall pattern seen in other similar institutions. The report makes six recommendations, four of which were related to improving the obstetric service at the Canberra Hospital. Recommendation 1 states:

> The Canberra Hospital Obstetrics Unit develop and implement an assessment protocol for ongoing assessment and performance concerning APGAR scores.

For those members who are not familiar with this, APGAR scores are a simple way of assessing a baby's health immediately after birth by scoring points for heart rate, breathing, skin colour, tone and the baby's reactions on five criteria—appearance or colouring, heart rate, responsiveness to stimuli, muscle tone and respiration.

The Canberra Hospital has reviewed the assessment protocol for ongoing assessment of performance concerning APGAR scores and has introduced a four-tiered approach to assessing our performance in relation to APGAR scores that includes weekly audit meetings, monthly morbidity and mortality meetings, six-monthly benchmarking of Australian Council of Healthcare Standards indicators, and annual Women's Hospitals Australasia benchmarking. Recommendation 2 states:

> The Canberra Hospital Obstetrics Unit reviews, in the light of the findings of conclusions in this report, its policy and clinical practice guidelines on the use of Prostin.

Recommendation 3 states:

> The Canberra Hospital Obstetrics Unit reviews, in the light of the findings and conclusions in this report, its policy and clinical practice guidelines on the use of Syntocinon.

The Canberra Hospital has had policies for the use of Prostin since 1995 and Syntocinon since 1993. The Canberra Hospital have reviewed their policies regularly and have decided, in response to the report, to send the policies and clinical practice guidelines relating to the use of Prostin and Syntocinon to the maternity and gynaecology clinical management meeting for review.

In response to recommendation 4, that "ACT Health considers the establishment of a territory-wide system for the clinical audit and review of obstetric care", ACT Health has established the ACT Health Clinical Audit Committee as the territory-wide system for clinical audit and review of all health care. The ACT Health Clinical Audit Committee conducts clinical reviews whereby staff reflect upon adverse events and identify opportunities for improvement. The other two recommendations made by the commissioner will be referred for action to the Royal Australian and New Zealand College of Obstetricians and Gynaecologists and the Medical Board of the ACT, as requested by the commissioner.

I welcome the commissioner's report, as it reassures the Canberra community that there was, and is, no issue of public safety in the obstetric service at the Canberra Hospital, and that the obstetrics service at the Canberra Hospital delivers a high quality of care to Canberra women and their children. Health care consumers have the right to expect nothing less than the very best that can be delivered.

Undeniably, all health care systems have unexpected adverse events that can cause patient harm. ACT Health is actively undertaking multiple initiatives to improve patient safety and the quality of care and services. ACT Health, under this government, has taken huge steps forward in establishing a clinical governance framework and providing explicit lines of accountability and responsibility, including specific committees to monitor clinical audit processes.

To date, the ACT Labor government has invested significantly in quality and safety. Furthermore, the government is increasing its investment in quality and patient safety infrastructure, allocating half a million dollars in 2005-06, increasing to $900,000, or $0.9 million, each year from 2006-07 onwards. This additional investment in quality infrastructure is one way of further supporting our drive to provide the best possible health care services to the people of the ACT.

This initiative will provide for the identification of areas where errors are made in our public hospitals, such as the provision of medication and hospital acquired infections—and the development of programs and mechanisms to address and eliminate these problems. ACT Health has established territory-wide reference groups to focus on key priority areas, monitor the development of evidence-based clinical practice and reduce clinical risks, including falls prevention and the quality use of medicines.

Recent policy initiatives include the mandatory reporting of significant incidents policy and the Health Professionals Act 2004. These initiatives will ensure that clinicians have the appropriate skills and experience necessary to provide safe care, that all significant incidents are reported and actioned, and that an appropriate process is in place to manage complaints about clinicians. These incident monitoring and clinical review programs will identify areas of concern and refer them to specific committees for investigation and follow up.

I would like to thank Mr Patterson who initiated this investigation when he was Community and Health Services Complaints Commissioner. I also thank Mr Philip Moss, the outgoing Community and Health Services Complaints Commissioner, for his diligent efforts in putting together this comprehensive investigation. I thank the relevant staff of the commission for their work. I also want to thank the obstetric staff at the Canberra Hospital for their patience and cooperation during what would have been a difficult time for them, and congratulate them on their continuing high standard of care.

Death penalty

Debate resumed.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (3.48): Mr Speaker, at the outset I congratulate Ms MacDonald for the motion that is being debated by the Assembly today. This is a very important and timely motion in the context of events, particularly in relation to a young Australian citizen facing the death penalty in Singapore and issues in relation to a number of young Australians facing criminal trial in Indonesia. At the moment there is public awareness of and public sensitivity to issues around the application of the death penalty. There is a need from time to time for parliaments and politicians, and for community leaders, to reaffirm the commitment that Australia has made as a nation to oppose the death penalty at any time and for any crime.

I think it is important that we are today debating this motion. I think it is important for Australia to restate—and to immediately restate in the bluntest terms—its total

abhorrence of the death penalty at a time when, I think it has to be said, there are some patches beginning to appear in the blanket opposition to capital punishment that has been Australia's national position for more than 30 years now. We focus on this issue today, as we have in recent times, as a result of the approaching and imminent hanging of an Australian citizen, Van Nguyen, in Singapore. This has focused our minds on the barbarity of the death penalty. The fact that an Australian, Van Nguyen, is facing death in Singapore focuses more generally on what might be described as a creeping complacence about the subject of Australia's commitment of opposition to the death penalty.

In that context, we reflect on Australia's proud record as one of the first nations to ratify the 1991 second optional protocol to the International Covenant on Civil and Political Rights. It is on the basis of that proud record of this nation's opposition to the death penalty that we need to express some concern about utterances in recent times by prominent figures, including the Prime Minister of Australia.

As I have previously indicated, I concede that, along with the Prime Minister of Australia and the Australian Minister for Foreign Affairs, significant leaders from within the Labor Party, both federal and state, have done less than condemn the death penalty that is being applied to terrorists, certainly within Bali. They have been less than willing to condemn the death penalty, for instance and most specifically, for terrorists where the death penalty is being carried out in accordance with another country's domestic law, as if that somehow provides an escape for those who within Australia express their abhorrence of and opposition to the death penalty as it applies to Australians in Australia but have been less than assertive, and indeed somewhat equivocal, in relation to the application of the death penalty to non-Australians in places other than Australia.

Now that an Australian faces death in Singapore and a number of young Australian are being prosecuted for offences which carry the death penalty, we see again the equivocation in respect of the inconsistent separation that some have made between the application of the death penalty in Australia as it applies to Australians and the possibility of the death penalty applying to non-Australians in places outside Australia as opposed to Australians in places outside Australia. This shows the extent to which any equivocation on this issues does weaken one's moral capacity to argue and to argue with vigour and force at any time around the death penalty.

It is instructive that neither the International Criminal Court not the international criminal tribunals for the former Yugoslavia and for Rwanda provided for the death penalty even for the most serious crimes, including genocide, crimes against humanity and war crimes. In the context of that precedent and background it is vitally important that we do not use the so-called war on terror as an excuse to weaken our principled opposition to the death penalty in all circumstances, wherever it occurs in the world and no matter how heinous the crime committed by the offender.

That is certainly the attitude that the ACT government has adopted in relation to refusing to assist the Chinese investigation and possible prosecution of a person detained in China for the alleged murder of a Chinese national within Canberra. We, the ACT government, will not provide assistance in the prosecution of the person detained in China for that alleged offence without a clear, unequivocal and written statement and undertaking by the Chinese government that if that person is prosecuted, and if evidence provided by the

ACT government is utilised, the death penalty will not apply. In the absence of that undertaking, the ACT government will not cooperate in the provision of evidence that would lead to that possibility.

Further—and I think this is at the heart of some of the concern some of us have felt in the last year or two in relation to the extent of the commitment of Australia in its opposition to the death penalty—we must not give the impression that we are happy to export the death penalty or happy for other nations to carry out this most inhumane and irreversible punishment. If we are seen to be prepared to export the death penalty, it makes it almost impossible for us to advocate on behalf of our own citizens facing the death penalty in foreign jails, as Mr Van Nguyen is at the moment. Unless we oppose the death penalty as an assault on the most fundamental of human rights, we as a nation cannot effectively claim those rights for our own citizens in the position of Mr Van Nguyen beyond our borders.

I conclude with a couple of remarks of others who have engaged in this debate over the years. George Orwell, writing in 1944, observed that no commentator, no-one who had ever watched an actual execution, whether it be Plato, Byron, Bennett, Thackeray or Walpole, ever wrote about the event with approval. George Orwell said that the dominant note of all those commentators across the centuries, across the millennia, was always one of horror. Recalling his own experience, George Orwell, in watching a man hanged, said there was no question that everybody concerned knew the hanging to be a dreadful, unnatural action.

Dr Philip Opas QC, the barrister who defended Ronald Ryan and later campaigned against the death penalty, said:

> … our emotions may cry for vengeance in the wake of a horrible crime but we know that killing the criminal cannot undo the crime, will not prevent similar crimes, doesn't benefit the victim, destroys human life and brutalises society. If we are to still violence, we must cherish life.

I think it is important—and I again thank Ms MacDonald for the motion—that Australians, parliamentarians, people in positions of influence and authority within Australia, need to restate in this way vocally and publicly Australia's opposition to the death penalty under any circumstances and Australia's commitment to the inherent dignity of all human beings. This is not an issue in which one can pick and choose in the circumstance of the issue the people in relation to whom we might support the application of the death penalty. This is an issue in which there is there is no grey. This is an issue in which we must as a people and as a nation continue to maintain absolutely in all circumstances at any time and in relation to any crime our opposition to the death penalty.

MR PRATT (Brindabella) (3.58): I rise to speak against the death penalty. Although I am not speaking for or against Ms MacDonald's motion, I certainly understand the spirit of that motion. While I have no doubt that many of the perpetrators of horrendous crimes we have witnessed here and in other parts of the world do not deserve to walk this earth—and one can entirely understand the feelings of and sympathise with the communities and families of victims and their desire for revenge—in all conscience I have determined in my own mind that the state has to be much better than that.

A civilised state has to demonstrate in the cold, hard light of day when administering justice that it does not stoop to the level of the murdering offender or offenders. Over the years, from time to time I have viewed the death penalty as a seemingly attractive idea. There have been some very powerful arguments mounted in support of the death penalty in the past. But in addition to the overriding argument against it that I raised earlier—namely the civilising factor—there is overwhelming evidence that, in the past, we have seen in this country and other democracies, and certainly in non-democratic states, the sentencing to death and final execution of people innocent of the crime for which they were sentenced.

We still see the pardoning of people sentenced to long prison terms for murder in this country. Imagine if they had been sentenced to death under the regime standards of the 1950s and early 1960s. Therefore, I am saying that the strong arguments for the death penalty are outgunned by the arguments against it. Further, whilst ever democratic countries maintain a death penalty—and the USA is the overriding example with its influence on the world stage—we see the encouragement of non-democratic states and even some emerging democracies to hang onto their death penalty regimes, some of whom are clearly cavalier in their application of the penalty in the execution of innocent people. As a world democratic leader, this is another powerful argument for why we should oppose the death penalty. It is our responsibility to do so.

I stress that Australia's position and, by extension, the ACT's position should be led by quiet and diplomatic example. I believe it is inappropriate to hector and lecture other countries about their death penalty regimes, although it is right and proper for this country to raise with dignity, firmness and diplomacy our concerns with the innocent and reckless execution of the citizens of other states. That ought to be graduated to vigorous action, though, when we see wholesale state murder—for example, Saddam Hussein's direct killing of, on average, 68,000 Iraqis annually over 25 years—or the turning of blind eyes to communal killings in, for example, Sudan and Zimbabwe.

I have lived and worked with the legacy of Saddam's death reign and totally understand the deep feelings of revenge for the killing of Saddam by the peoples who have survived his regime. Even if I cannot support their desire for revenge, I entirely understand it. We should always bear in mind the sensitivities of those realities.

A clear distinction is to be drawn between these examples and those of democracies and emerging democracies with internationally accepted judicial systems who, in most other respects, demonstrate civil standards but still maintain the death penalty. I think it is supremely arrogant to do any more than firmly state our opposition to such states and firmly encourage those states to reverse decisions of death sentencing to appropriate incarceration sentencing.

I stress that this also applies in cases where Australian citizens are on death row overseas. While we must vigorously campaign to reverse the death sentences put upon Australians, we must not demonstrate disrespect, and we must not be arrogant about that. The Nguyen case in Singapore is a deeply sad and shocking case which most of us surely think is a massive overreaction to the crime committed. We do not support that sentence; we believe it is entirely out of place.

However, we must understand, in this case and other related South East Asian cases, that these states are struggling with very serious drug trafficking and dispersion problems with deeply serious impacts on those societies. Those states have chosen harsh regimes that we consider to be unacceptable. We need to understand the deeply challenging social backgrounds to the decisions that have been taken by those states. We must also aggressively campaign against the appalling circumstances we see in northern Nigeria, to take another example, where under sharia law we recently saw the condemnation to death by stoning of a woman who, incidentally, was with child. This is surely barbarity in the extreme. If one can put shades of difference on these different examples, I suppose one might determine those sorts of differences.

When considering these examples and when considering some of the cases closer to home, to say that we should criticise the AFP—as some here have done—for embarking on investigations into drug trafficking in cooperation with our Asian neighbours because there may be a risk of Australians being arrested and condemned to death I think is entirely unacceptable. I do not believe for one moment that Commissioner Keelty, or any government, deliberately sets out to ensure that young, naive and stupid Australians are ensnared to their possible deaths. Yes, there may be some risk but please do not forget that the trafficking of drugs to this country, on the known statistics, has resulted and will continue to result in a significant death rate of young Australians. What do you do? Do you perhaps save more lives by heading off the trafficking of drugs, or do you simply take no action at all because you are concerned about other issues, important though those issues may be?

Turning to home, while I do not support the death penalty, I am deeply concerned that our judicial system is so lax that we do not have substantial sentencing to deal with those who it might otherwise be argued qualify for the death penalty under the old standards. We must ensure that we have in place a regime of life sentencing, where life means incarceration for the rest of one's natural life. I decry the weakness of most state and territory governments who are not willing to ensure substantial sentencing for the most heinous crimes and ensure that our courts hand out the severest penalties where the severest penalties are justified.

While standing in solidarity with you on the issue of rejecting the death penalty, my challenge to the Stanhope government here today is that it put in place, or at least ensure that we have in place, meaningful penalties of life imprisonment and that the government demonstrates its strength and leadership to ensure high standards and more consistency in our courts for dealing with the ultimate crimes which justify the ultimate penalty—in this case, life sentencing. Surely we are relying too much on the strength of judges to exercise the protocol of marking papers "never to be released" for the most heinous of offenders. Are our laws benchmarked with a clear enough standard of what must constitute life imprisonment? How concerned are our judges to meet the community's expectations for the ultimate offenders? How satisfied are the families of victims of extreme crimes that justice is going to be achieved, or has been achieved in the past?

I put it to you, Mr Speaker, that, right across this nation and to no lesser extent here in the ACT, the community has a waning faith in the meting out of justice at all levels of crime generally but particularly with the most horrendous crimes. Our citizens know that those amongst us who have a disdain for human life, who refuse to live a civilised

existence, in turn know they are likely to be paroled or are likely to con the system that they have rehabilitated themselves. The community's fear is that life imprisonment is vulnerable to change of government and therefore to change of legislation. The challenge is for governments to join together to ensure a reliable regime that will withstand the test of time. I do not support the death penalty but I challenge the government to demonstrate unequivocally that life imprisonment means life.

MR SPEAKER: The member's time has expired. Mr Pratt, during your speech you referred to the judiciary in a rather offensive tone by declaring that they were lax. I ask you to withdraw that.

Mr Pratt: I withdraw that, Mr Speaker.

MR STEFANIAK (Ginninderra) (4.09): I welcome this motion from Ms MacDonald. It is timely. I concur with a lot of what Mr Pratt had to say. I will deal with just a few points. The motion is timely because of the Nguyen case, on which all 17 members of this Assembly signed a petition to the Singaporean government. I have been following that case very closely and I was delighted to be one of the members who signed that petition. He is a young man who certainly has committed a very serious offence but who, to all intents and purposes, has cooperated with the authorities there.

I take Mr Pratt's point about not being arrogant with other governments, but I am somewhat amazed that the Singaporean authorities would not take into account the fact that he was cooperative—I understand that he might even have been a very useful witness in relation to some bigger fish further up the chain—and that they have maintained their stance in relation to this young man. I must say that all the attempts on behalf of so many people in Australia, this Assembly included, seem to be coming to nought in relation to that, which does indeed sadden me.

Mr Pratt, as I said, made some excellent points in speaking to Ms MacDonald's motion, which is about a very difficult issue. Like Mr Pratt, I have certainly had some fairly strong views on it in the past. In terms of the words "in any circumstances", I still need some convincing there, given the Nazi horrors of World War II and the fact that, for example, the concentration camp commandant of Auschwitz committed one of the nastiest crimes ever by any human being.

I encourage members to watch *Nuremberg*, a magnificent video for hire about the Nuremberg trials. It highlights just how fair the judges were for the time—1946, when I think all countries had the death penalty—because some of the war criminals got off, some of the offences were dismissed, some received certain periods of imprisonment and some, as was a custom of the time, were sentenced to death, including the Butcher of Auschwitz. It is difficult to say exactly what to do when people commit such horrendous crimes against humanity.

Mr Pratt referred to something which lots of people have highlighted in this debate, which has been going on for a long time, that is, the need for true life sentencing for very horrendous crimes, be they local or international, whereby the perpetrators are never to be released. I do not particularly care how you do it. The Americans have systems whereby people can be sentenced to 200 years imprisonment and, unless you are talking about Albus Dumbledore, no-one is going to outlive anything like that. Obviously that is

for the term of your natural life. In Australia, papers have been marked "never to be released".

Mr Pratt made a very important point in terms of the importance of having the most severe penalty available for those most horrendous crimes for the civilised Western society in which we live in the first decade of the 21st century. He is right in saying there is some commonality there across Australian jurisdictions. I think that it is important that courts right throughout the country, including in the ACT, are able to mark papers "never to be released" or that there be some mechanism in the law whereby people who commit horrendous crimes are not going to be released. That is very important and is a natural corollary of where society is at present and what community expectations are.

It is probably hard to say that there is anything like a common murder, but for normal murders, whether they be a crime of passion or perhaps even where someone intended to kill someone else but there was nothing particularly brutal or extraordinary about the situation, society expects a lengthy term of imprisonment but not necessarily imprisonment for the term of one's natural life. But where you have horrendous murders—for example, those by Martin Bryant—society certainly expects the papers to be marked "never to be released".

I am not certain whether that applies across all Australian jurisdictions. I cannot recall whether the ACT has provision for that or that it has ever occurred. Maybe, thankfully, it has never occurred that someone has been sentenced to imprisonment for the term of his or her natural life. If anyone has figures on that, I would be interested in having them get back to me, but I cannot recall it. Maybe that is a good thing. Maybe it means that we have not had particularly horrendous murders. We have had some pretty nasty ones here, and the territory courts have been operating since the 1930s. But it is important, I think, that we do have consistent laws across the country. Perhaps that is something the model criminal code could take up for the most horrendous of crimes in this country. I think that victims, law enforcement agencies and most people in the general public would welcome such a move.

MS MacDONALD (Brindabella) (4.14), in reply: As I ran out of time earlier, I will finish the speech that I was making before I address the comments that have been made, but I will go back a little bit. The second major reason against the death penalty is that the death penalty is not a deterrent to crime. Many academic studies have shown that murder rates do not drop when the death penalty is imposed. Whilst it is true that statistics cannot ever tell the whole story, the current trend in studies coming out of the US demonstrates that, at least statistically, no deterrence is achieved by imposing the death penalty.

The majority of homicides throughout the world are spontaneous rather than premeditated and are fuelled by drugs, alcohol and the availability of lethal weapons. That has been argued and statistically backed for many years and it is important to keep these facts at the forefront of our minds. With that in mind, it is even more difficult to make any sense of the federal government's actions and words over the past few years and to understand why it has selectively endorsed and acquiesced in the execution of human beings overseas. For terrorist Amrozi, this is perhaps retribution; but for Zhang Long and the Bali Nine, it appears to come down to a basic disregard for human rights.

That brings us to the final and perhaps most significant argument against the death penalty: the state should not have the power of life and death over its citizens. This argument places as fundamental the human rights that inform our way of life. This argument states that human rights are not conditional, are not selective and cannot be commodified. I am aware that proponents of the death penalty would argue that murderers and terrorists forfeit their human rights when they take another's life, that by violating their social contract with the state they are therefore voluntarily subjecting themselves to the laws of the state, knowing that their own human rights and freedom in life are forfeited by their actions. Clearly, however, the state should always observe the most fundamental human right, the right for human life.

A punishment cannot ever fit the crime. Even the most violent or destructive of crimes cannot be made good by the execution of the person responsible. To do so only perpetuates a cycle of violence and cheapens life to a transaction within the legal system. Imposing the death penalty is the calculated and premeditated murder of that individual. This action brutalises those involved in the execution and, more significantly, brutalises the state.

The pending execution of Van Nguyen reminds us of that. The Singaporean criminal justice system is brutal and barbaric. Singapore's 73-year-old executioner has put to death more than 850 people and in one day has hanged 18 men. Even in light of this brutality, the federal government remains unwilling to pressure governments in our region, including Singapore, to abolish the mandatory penalty of death for trafficking offences. Again the Prime Minister has failed to state unequivocally his opposition to the death penalty. I note that the foreign minister has written to the president and I note the letter in response that Mrs Dunne read out in this place earlier. I am aware that some pressure has been imposed; I will leave it at that.

It is encouraging that Australians have backed the movement to see clemency for Van Nguyen. It is even more encouraging that a petition from the ACT Assembly opposing Van's sentence was circulated and sent to Singapore's president and cabinet. As a community opposed to this sad human tragedy, no less could have been expected. As Justice Kirby stated on Australia's accession to the second optional protocol in 1990, we have:

> … set ourselves upon a path to a higher form of civilisation. It is one committed to fundamental human rights. Such rights inhere in the dignity of each human being. When we deny them we diminish ourselves. We become part of the violence world.

The Prime Minister's statements, or lack thereof, on the death penalty are out of step with international human rights standards. These are standards that bind Australia by principle. His statements have altered Australia's principled opposition to the death penalty and have diminished Australia's moral authority on the international stage. Even when it comes to terrorists, the issue of the death penalty should be defined by the same principled opposition that defines our broader opposition to the death penalty. To advocate the death penalty only weakens international human rights standards and we are at a time and in a climate when these standards should be of the utmost priority. I urge all members in this place to go on the record and confirm their unwavering abhorrence at the use of the death penalty in any circumstance, without equivocation.

I would like to address some of the comments that have been made. Comments were made by a few members of the opposition about the issue of abortion in relation to certain members of the opposition being opposed to abortion and supporting life in all cases. My position on this issue is on the record, but I will summarise it. I respect the views of those opposed to abortion but do not agree with them. I think that all members of this place know of the difficult position I am often placed in with regard to being married to somebody who is pro-life while I am pro-choice. I am not one that believes that life begins upon conception, and that is the difference between us. This is a very different issue. When we talk about the death penalty, we are talking about life; unequivocally, we are talking about life.

I thank members for lending their support to this motion. A number of things were said today which I thought were of great value in contributing to the debate and I do appreciate the tripartisan support in this place for this motion. I think it is incredibly important that we do affirm our opposition to the death penalty in all circumstances.

I would say in relation to Mr Pratt's speech that I was a bit confused by it. There are a couple of things that I do want to address about his speech. He said that he was neither for nor against this motion, but he was opposed to the death penalty. That is an interesting stance to take because this motion quite unequivocally puts forward an opposition to the death penalty. So, if you are opposed to the death penalty, you would support this motion.

There was also the comment made that it was inappropriate to hector other countries over their stance on the death penalty. How can we expect to get rid of the death penalty if we are not prepared to put to other countries our opposition and a coherent argument against why the death penalty is wrong? I do not accept that you can make a distinction between different countries on the basis of their economic or democratic status.

The fact is that the death penalty is the same, that it has the same result, whether you are in Zaire, China or Australia. It is not showing disrespect to tell another country that they are wrong to take people's lives. Mr Pratt talked about trafficking in drugs resulting in more deaths, et cetera. That is not an argument for allowing countries to use the death penalty. The death penalty has not actually acted as a deterrent against people doing that, and that is the bottom line. The death penalty does not deter people from committing those crimes.

There was also discussions by both Mr Pratt and Mr Stefaniak about putting in place proper life sentences whereby certain people are never to be released. This argument often comes up from those people in favour of stronger, harsher sentences. I would just point to the separation of powers between this place and the judiciary and say that it is up to the judiciary to make the decisions as to what sentences are given. Obviously, we legislate but they make the distinction.

I think that it is fitting to finish with the words that Mr Stanhope quoted: "If we are to still violence, we must cherish life". I think that is it at the end of the day. Finally, I thank Tim Goodwin from Amnesty International for coming down from Brisbane for the day.

Standing orders—suspension

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

> That so much of the standing orders be suspended to require a vote to be taken on the question.

Question put:

> That **Ms MacDonald's** motion be agreed to.

The Assembly voted—

Ayes 17 Noes 0

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

Question so resolved in the affirmative.

Motion agreed to.

Public housing issues—authorisation of member's participation in proceedings

DR FOSKEY (Molonglo) (2.29): I seek leave to move the motion standing in my name.

Leave granted.

DR FOSKEY: I move:

> That this Assembly:
>
> (1) notes the provisions of section 15 of the Australian Capital Territory (Self-Government) Act 1988 relating to conflict of interest and those of standing order 156 which provide that the Assembly may decide how those provisions may be applied;
>
> (2) notes that Dr Foskey has declared that she has a residential tenancy agreement with the ACT Government; and
>
> (3) decides that, notwithstanding Dr Foskey's residential tenancy agreement, it is in the public interest to allow Dr Foskey to participate in any future discussion of a matter, or vote on a question, in relation to public housing issues.

I just want to state that this motion has been proposed by the Clerk. If carried, it would mean that every time there is a debate related to housing, understanding that I have a contract with the department of housing, it would cover the period while I am in government housing and preclude the necessity for me to ask for permission to speak every time. I commend the motion to members.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (3.31): Dr Foskey raised this matter with some members of this place, including the government, on an earlier occasion. On that occasion, the government did indicate to Dr Foskey that, whilst we accept that her tenancy of an ACT government housing property should not in the normal course of events restrict her from participating in debates in relation to public housing—in fact, it is potentially of some benefit—we also believe that a catch-all motion such as the one proposed by Dr Foskey that, regardless of the circumstances, she should be permitted to debate issues to do with ACT housing is not appropriate.

The reason for that is that there may be instances where Dr Foskey's continued tenancy of an ACT government property may be in direct conflict with a matter that is to be debated in this place. Therefore, it is the government's preference that, when these matters come about, the Assembly decide on the merits of the case as and when it arises. That is no different from the process that is required of, for example, ministers in cabinet whereby, whenever there is a potential conflict of interest, it is brought to the attention of the meeting for the meeting to decide whether or not the minister should continue to participate, rather than moving a catch-all provision regardless of the circumstances of the matter under consideration.

Given that the government have previously advised Dr Foskey's office of this position, I think it is appropriate that we maintain that position. The government cannot agree to a standing exemption but is prepared to consider exemptions on a case-by-case basis.

Motion negatived.

Public housing waiting lists—authorisation of member's participation in proceedings

Motion (by **Dr Foskey**, by leave) agreed to:

> That this Assembly:
>
> (1) notes the provisions of section 15 of the Australian Capital Territory (Self-Government) Act 1988 relating to conflict of interest and those of standing order 156 which provide that the Assembly may decide how those provisions may be applied;
>
> (2) notes that Dr Foskey has declared that she has a residential tenancy agreement with the ACT Government; and
>
> (3) decides that, notwithstanding Dr Foskey's residential tenancy agreement, it is in the public interest to allow Dr Foskey to participate in Private Members' business, notice No 2.

Public housing waiting lists

MRS BURKE (Molonglo) (4.38): I move:

> That this Assembly calls on the Stanhope Government to alleviate the pressure on public housing waiting lists by:
>
> (1) assisting and encouraging public housing tenants, wherever possible, to move into the private rental market or home ownership; and
>
> (2) improving the management of its housing asset base, particularly in regard to the redevelopment or rejuvenation of Government owned multi-unit complex sites.

Today I have the pleasure of bringing on further debate regarding public housing waiting lists, a subject that really needs to have continual debate in our community. It is imperative that we have a debate that incorporates the importance of maintaining open space wherever possible. At the same time, we should be embedding some core principles of urban life into both the planning of new suburbs and the infilling of established urban areas that will provide a mix of housing options to accommodate the shift in perceived housing needs in Canberra.

It is inspiring to note that Griffin had plans to "show a pronounced level of connectedness and accessibility between the residential, commercial, cultural and official functions" of Canberra. Naturally, there was a perception that Canberra would be a far more compact city than it is today. Some of the principles of the ideals of Walter Burley Griffin and Marion Mahoney Griffin are still achievable. I highlight the fact that there are some unique opportunities to revitalise certain sections of the city, particularly within the inner city, that will allow for truly equitable housing options to emerge. I believe that there needs to be more debate on public housing waiting lists and how policy and action might impact upon them.

Firstly, if we look at the eligibility criteria for access to public housing, applicants must, along with other criteria, currently meet a specified financial criterion connecting the household income threshold to be eligible for social housing with the national average weekly earnings, AWE. Given that the commonwealth-state housing agreement stipulates early on that all forms of public or social housing should be provided to applicants who are specified, and I highlight this point, as most in need, eligibility should reflect the fact that the provision of public housing should be made on the basis that at some point, if the financial circumstances and stability within a household's income reaches, for example, 1.6 times the AWE, steps should be put in place to assist that household to enter into the private rental market or, where possible, to enter into home ownership, which the government currently does. I am pleased to see that it is also advocated by the Chief Minister.

The agreement also maintains a solid commitment to "provide appropriate, affordable and secure housing assistance for those who most need it, for the duration of their need". The ACT is also obligated under such an agreement to "develop and deliver affordable, appropriate, flexible and diverse housing assistance responses that provide people with a

choice and are tailored to their needs, local conditions and opportunities". Critics will simply say that if you underpin public or social housing eligibility criteria with financial parameters, you may set up a poverty trap. That is another debate indeed, but I would argue stridently that, if a person is doing well, they would not suddenly want to reel and go backwards.

I welcome constructive criticism and debate on this point and I welcome members' comments, but most Canberrans have been finding it very difficult to be convinced that any public housing tenant who is receiving a substantial income and who is not faced with any significant financial difficulties or other hardships should remain in public or social housing, as opposed to other members of the community who are in dire need of an affordable housing option yet cannot ever see the prospect of receiving public or social housing assistance because the waiting lists are now unmanageable.

I agree with recent government sentiment towards affordable housing. I note that the relevant ministers are not ignoring the difficulties in tackling the problem of providing some affordable housing options. I acknowledge that some effort is being directed towards housing stress and affordability issues, yet there has been no outstanding solution forthcoming from government aimed at significantly reducing the waiting lists for public housing.

If the Stanhope government cannot deliver an increase in the number of dwellings it offers for public housing, there appears to be no prominent solution other than perhaps to adopt some significant changes to the configuration of mixed housing options in order to house some of the most disadvantaged people in our community. To reinforce this point: through its own admission in the asset management strategy, the Stanhope government concedes:

> … the increasingly adverse impact on rent revenues as a result of targeting housing provision (and increased rental rebates) to those most in need, together with a decline in CSHA funding, will have detrimental impacts on the ongoing viability of the public housing system. Attempts to rejuvenate the stock will also be seriously constrained.

Therefore, to combat the issues of funding the system and the rejuvenation of multiunit complex sites, the government must pursue housing options that are flexible, that will offer dwellings that suit retirees and pensioners who wish to downsize, investors that are attracted to offering affordable rental options, and young people aspiring to enter home ownership for the first time or catering for the public housing sector.

All of the different housing options can be infused to create an urban environment that services specified needs yet, more importantly, creates a community that truly reflects the diversity of people across our city. By highlighting some of the symbolism of the true intention of the creation and development of this unique city into our national capital, I am in turn expressing a connection between some of the egalitarian ideals held in the planning of this city and the need for a shift towards a rethink about how we develop community inclusion by way of residential planning and consideration for the blend of affordable housing options, be they ownership or rental, within an existing or new housing development.

The window of opportunity must be pursued now. Ideas conceived from new housing options must be explored and given due consideration. Recently in the federal arena, the House of Representatives Standing Committee on Environment and Heritage delivered a report on sustainable cities. A case study of community housing was projected as a sustainable housing development that can, I believe, be adapted to encompass a blend of housing options. Not only does this model embrace the use of land sensibly and in a viable manner, environmentally and economically, but also it provides a sense of hope that new communities can be nurtured within a suburb with very little impact on the streetscape and with no major shift in the distinct feel of a neighbourhood or suburb.

Any such development must demonstrate that a blend of housing options can be constructed giving consideration to conservation of energy and utility, embracing the principles of recycling and environmental impacts and, most importantly I believe, creating a community space for residents to interact and share in the responsibility and a sense of ownership for their space.

There appears to be very little room to move in terms of the Stanhope government's commitment to additional funds for capital injection into public and social housing options. Now is perhaps the time to further commit to partnerships with the private sector, as clearly required by obligations under the commonwealth-state housing agreement, particularly to revitalise some sections of the inner city areas with more condensed mixed housing options that will provide some relief in Canberra's tight housing sector.

Some members may look hesitantly upon the need to change some land use and the integration of mixed housing options in established suburbs. The ACT government needs to look seriously at incentives, rather than mandating specific requirements, to elevate the prospect of more condensed urban developments. Government can invest in such projects by taking a vested interest. I acknowledge that steps have begun whereby the government has sought to initiate some larger public-private partnerships, such as on the Fraser and Burnie court sites.

The mixed housing option that I highlight as an example provides a possible insight into creating communities where a real opportunity exists to blend the types of housing options that could see the progression of people through public housing and into home ownership, if that is what people desire and aspire to achieve. This is all pointing to assisting and alleviating that public housing waiting list that continues to balloon out at the bottom. There seems to be a real block in the system and we need to look continually at ways in which we can free up properties and free from the system those that are able and willing to move through.

I must add that I do not overlook the fact that people who live in public or community housing value their properties as much as, if not more than, home owners in the private sector. Members may be aware that, after the recent national housing conference, research was released indicating that some of the most vulnerable people in our community, likely to reside in public housing, for example, single mothers, the unemployed or some people on low to middle incomes, are the people who care most for their homes and place a very high value on maintaining their tenancies. The Liberal opposition welcomes this evidence and, in order to protect and provide for this sector of

the community, a holistic approach to policy making must be pursued that also encourages people to make the right decisions when adopting the most suitable, flexible and socially responsible housing option to meet their needs.

As a whole, government can be a leader in developing and nurturing a community that fosters unity rather than perceived stigmas against any sector of society. Government is in the position to lead through partnerships in the revitalisation of some residential sites currently utilised by multiunit complexes, for example, in the inner city. The government has committed to deliver on its obligations to improve social and economic reforms and it can achieve that through combining some urban regeneration with community building.

In regard to the commitment to controlling urban development and the impact it has upon the environment, the planning minister indicated through the launch of the Canberra spatial plan that through projected urban growth and providing a more accessible Canberra it will be achieved by increasing the number of homes within 7.5 kilometres of the city centre in key locations over the next 15 years, that locating extra homes within this area will ensure that residents are close to major employment areas and existing services and facilities, such as schools and the like, and that putting homes along key routes and at key locations, such as town centres, rather than spread around the suburbs will also help to retain the character and amenity of neighbourhoods.

I urge members to support this motion today and its genuine intention of providing a sensible approach to affordable housing options, displayed in the partnerships forged between the private and public sectors. If the government is so committed to the key principles of the Canberra spatial plan, the commonwealth state-housing agreement and, I would go one step further, community and social inclusion, it must also place a priority on rejuvenating the government-owned residential asset base and amend its policies that impact so severely upon and in no way alleviate the pressure on the ACT public housing waiting list.

I commend this motion to the Assembly today. I welcome other members' input to the debate. Remember that whilst ever we talk about it and keep it out in the public arena we will get that feedback that Mr Hargreaves and I and others in this place look for. I would say at this stage, as I have said before, that I think we already have a lot of the answers that we need. I note that Mr Hargreaves is continuing to talk about a housing summit in 2006. I would put it to the minister that I do believe that that is a little long to be waiting for some of the solutions that we could perhaps come up with now. I will continue to urge him to push his Treasurer to look at capital injection into the system, given that he has said time and again that the properties that we have are ageing and perhaps older than those in any other state and territory in Australia.

I wish him well with that one. I do not necessarily advocate that there be more properties. What I do say to this minister is: do not be a minister of delay, do not sit on your hands, and certainly do not think that just by throwing money at the problem it will go away. This whole issue needs better management. A total revamp is needed. We need to look again at how we are still left with the legacies of the 1960s in regard to public housing and move on like other states.

Indeed, Mr Hargreaves alluded to Western Australia. It has made some very progressive moves forward that I do not believe are unduly impacting upon people in that state, as has New South Wales. If we are not careful, we will continue to get a flood of people putting further pressure on our waiting lists. As has been clearly identified at recent Shelter meetings, it is starting to happen now. The minister must act now. The minister must take action to stop our waiting list ballooning out any further. I commend the motion to the Assembly and look forward to support for it.

DR FOSKEY (Molonglo) (4.52): For a good part of Mrs Burke's speech I really felt that she had moved along on this issue. I am pleased that she has been reading the federal government's sustainable cities report because it might mean that she has some commitment to increasing the environmental efficiency of houses generally and public housing especially. I look forward to her future support on motions I put to this house on that topic.

I believe I only have time to address the first part of Mrs Burke's motion, which argues that people in public housing ought to be assisted and encouraged into the private rental market or home ownership. In most of the western world government housing is not welfare housing. Mrs Burke's speech indicated that she has come around a lot more to the idea of building communities when we build houses. But perhaps for the Labor members here rather than the Liberal members, for whom it appears the notion of a communitarian society is either offensive or irrelevant, it is worth emphasising the Australia-wide post-war housing project where greater government responsibility for housing delivered undeniable benefits for poor and working Australians.

We know Canberra would not exist if it were not for the great investment the government put into housing in the 1920s and the 1970s. This was of course necessary to lure people to the limestone plains, which was not an attractive place for people whose families were in Melbourne or Sydney. This is not a city that has grown up with charitable housing trusts and low-cost private accommodation, housing people on fairly limited means; it has always been a public housing city and government housing on a large scale has always been important.

I would like to make it clear that the Greens support the continued presence of government and social housing across the city. The fact that public housing exists in all areas is one of the strengths of the ACT. From the very beginning, Canberra was designed to be an egalitarian city. There are a number of suburbs, including Hawker, where it was agreed not to put public housing. Apparently we needed our little elite segments. This means children from a range of socioeconomic backgrounds attend the same local school. I hope this is largely true and that people still use their local primary school.

Rich and poor people do their shopping together at the local shops, and that contributes to a healthy democracy. Concentrating government housing—or, more disastrously, welfare housing—into areas where the land is cheaper would have damaging social and political consequences. At the moment, to see that we only have to look at what is happening in suburbs of Paris, where immigrant groups have been concentrated together because those are the only areas where they can afford housing. We must not let that happen here.

The issue of social mix within the public housing community needs to be addressed here too. It is particularly convenient for those with an interest in reducing the stock of public housing in the ACT—and that includes private property developers, some residents living in high-value suburbs and some areas of government—to ignore the evidence that a social mix of tenants, including a reasonable proportion paying market rent at any time, has positive social benefits for the tenant body and Canberra's wider population, on the one hand, and assists the housing provider to manage its property portfolio on the other. The paper commissioned by Housing ACT to specifically look at that issue came to the same conclusion. So when property owners, would-be developers or even proud government officials, make the point that the ACT has a high proportion of public or government housing by Australian standards, that is no argument to cut the proportion back.

Our view is that, based on the available evidence and experience, we need to grow the government housing stock in the territory. Furthermore, I do not think the private rental market is a better place to be in than public or community housing. However, I understand the very real benefits for many people of individual and collective home ownership. Security of tenure plays a big part and is probably the main reason why living in their own home is such a desirable option for so many in Australia. Helping people into home ownership is a good idea that the Greens support.

The proportion of government housing in the ACT used to be much higher. There are many people in this room, I would suggest, who lived in and purchased their guvvie house under helpful circumstances. Constituents have advised me of members of this Assembly who live in ex-guvvie houses, those who had government housing and those who were able to buy their government houses. I am not making a moral judgment here. Providing support for people to buy their government houses is not an unreasonable way to spread some of the benefits of our affluent society.

When we recently passed legislation in the Assembly defining "concessional leases", one of the provisions specifically excluded such home blocks because they were in part a gift to the home owner from the government. If we had not excluded them from the list of concessional leases in the ACT, the ACT community would still have an interest in them. At the end of the 1960s, if you wanted to buy your government house—and people were freely encouraged to do so—it would have been assessed at cost price; that is, how much it cost the Department of Works to build it. You would have put down five per cent of that as a deposit.

Mr Hargreaves: No.

DR FOSKEY: You would borrow the remainder from the housing commission or the department—

Mr Hargreaves: No.

DR FOSKEY: This was at the end of the 1960s.

Mr Hargreaves: Yes, I know; I did it then.

DR FOSKEY: We can correct that later.

Mr Hargreaves: Yes, I will.

DR FOSKEY: —and pay it back at five per cent or so over 50 years. To shift to more recent times, by the mid-1990s you paid nearer market price, although arguably perhaps not quite as high. To help you into home ownership, if your income was at the right level—not too high and not too low—and you had a 10 or 12 per cent deposit, you could borrow the remainder from the housing trust, I think, at very reasonable interest rates, with repayments adjusted to your income.

In the current context we should remember that any property sold to a tenant is a diminution in housing stock. In addition to reinstituting support for that sale process, Housing ACT needs to be funded to grow its stock. As members of this place would be well aware, one of the strategies employed effectively in many other jurisdictions but rejected here is inclusionary zoning, where a proportion of all housing development must be public or social housing. Concerns have been raised by members when I have put this proposal forward as a motion, but there are enough devices available to business and government to address those concerns and make this work. The benefit—and perhaps the problem—is that that ensures public housing stock will grow rather than shrink.

If we want to encourage tenants to purchase their homes at the other end of the spectrum, then a supply of new properties is essential. Unfortunately, the Howard government has chosen to shift the focus of commonwealth funding support from housing provision to rental rebates. Directing funds towards the rent bill assists people on low incomes but does not deliver more affordable housing; in some cases it simply supports higher rents. As a consequence, we have seen state housing providers reducing stock and targeting tenancies increasing tightly to people in desperate need.

The shift to rental rebates, combined with the negative gearing provisions in Australia's taxation regime, has resulted in a boom at the higher end of the market. Increases in private rents make saving more difficult and thus create another barrier for people to get a deposit together for home ownership. That is why we have argued for the ACT government to pursue shared equity schemes, where people can buy into home ownership in partnership with a community housing provider or other appropriate partner. We know such schemes need to be carefully constructed because locking people into unsustainable loans will deliver the worst rather than the best outcomes. I am aware that CARE financial counselling is very concerned that such schemes can do real damage. I accept that we need to be very careful in the way those schemes are set up, but there are many programs around the world where people own a part, and then eventually all, of their home.

The BedZED development in Beddington in outer London, for example, is a zero emission development—hence the "z" in BedZED—which generates its own energy through biomass electricity generation from local suburban tree prunings. It incorporates easy, efficient and cheap car-pooling into the building design in community organisations. It consists of about one-third public housing, one-third private housing and one-third shared equity housing. The key ingredient in the success of this development is the sense of community that the mix of housing types and the commitment to zero

emissions and affordable efficiency has delivered. People love living there. Couples who bought into the development are looking to buy larger units now that they have children. The value of the units has risen appreciably faster than surrounding or comparable property.

While the ACT government has rejected using its superannuation resources in this way, as it has rejected the notion of borrowing specifically for this purpose, perhaps by issuing bonds, I believe these ideas warrant much closer scrutiny. There are other ways of scaffolding people into home ownership. There are co-housing groups established which have the resources between them to create their own community of housing. I know of one that has won a community housing grant from the ACT in order to include people on very limited incomes into a collaborative housing model. Unfortunately, the last I heard, the LDA or ACTPLA had taken a year or two to sort out the paperwork for the land purchase and the community housing grant was in doubt. I am not sure, but discussions with Mr Corbell may have fixed that matter.

There has been a great deal of progress in thinking about ways of progressing affordable and social housing in our very different economic climate. It is not the same place as it was in the 1950s when we were trying to entice people to Canberra. We now have a commonwealth-state housing agreement that is subsidising rents more and more, rather than building houses. However, from the conversations that go on in this place about the topic, you would not know about this thinking. We should remember that the recommendations of the government's affordable housing task force propose a strategy, but the progress report on affordable housing tabled in June this year shows that most of those recommendations have not yet been pursued.

I am looking forward to the housing summit. That may get us moving and may bring in some of the excellent research that groups like AHURI have been doing. This is a problem common to every city in Australia—not just the ACT—and we all need to work together. I have no doubt that there are many working in ACT Housing who would be very keen to lift the stock of affordable housing and improve the buildings that are running down but, so far, I have found that this government's resistance to criticism and failure to consider other models I have proposed in this house is holding back solutions to the ACT's affordable housing shortage.

I believe Mrs Burke has today indicated a willingness to pursue some of these ideas. We did not get into the specifics and I am waiting to hear about those. I am also waiting to see the Liberal Party's policy on housing, which, I am sure, will be available soon. I am very pleased that Mrs Burke is reading and citing the sustainable cities report but I have yet to hear her make a commitment to the social mix we so value in our cities. However, I believe she has moved along and I look forward to working with both parties on increasing our supply of affordable housing.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services) (5.07): I move:

> Omit the words "calls on", substitute "notes the work of".

I will speak to the substantive motion after the vote has been taken on the amendment. I congratulate Mrs Burke on embracing the government's social plan. I think it is wonderful; I think it is absolutely brilliant. Mrs Burke talks about social inclusion. That is what the social plan is all about. She is trying to appropriate government policy and claim it as her own idea. She will not get away with things like that, but I am really pleased. Imitation is the sincerest form of flattery, of course.

The amendment changes the wording from the Assembly "calls on" the Stanhope government to do X, Y and Z to read "notes the work of". The reason for that is that we are already doing all of those things. I will address that in the context of the substantive motion. There are a couple of things I would like to put on the record. Dr Foskey said that selling public housing depletes public housing stock but the work we have been doing shows that this is not necessarily the case. The economic theory Dr Foskey espoused is correct—I have no difficulty with that—but it forgets two small points. The first is that, under the CSHA we are obliged to put the money back into stock.

It is true that, if you sell a house for, say, $300,000 and the cheapest one in the marketplace is $320,000, the housing stock is going to be depleted over time. That is the theory put forward by Dr Foskey. I have no difficulty with that, except that our stock is scattered all over town. O'Malley and Hawker are about the only two suburbs that do not have any stock. I cannot remember; there might be another one; but predominantly we have stock in every suburb of Canberra.

If we have the opportunity to sell public property in premium suburbs to tenants, we can buy more than one piece of stock for the asset base. For example, if we were to sell something in Weetangera, we would probably pick up a three-bedroom house on a quarter acre block for somewhere between $400,000 and $450,000, or we might be able to buy a couple of apartments in a multiunit development.

Mr Smyth: Yes, but are you?

MR HARGREAVES: The short answer is yes, because we are salt-and-peppering the suburbs. I make the point that Dr Foskey says it depletes the stock and I am saying that that is not necessarily so.

There is another thing we need to understand. I think we need to start being a touch careful with our language. I am not putting this as a general caution; this is not a lecture; I want us all to do this. I am probably as guilty as anybody else. I have said in this place—I know Mrs Burke has said this out in the ether and I am sure Dr Foskey has as well—that home ownership is not the panacea we think it is. It is not the cure-all for affordable housing. It is a part solution; it is not the total solution. We need to make sure that home ownership is not a status symbol.

Dr Foskey talked about kids from different socioeconomic backgrounds going to the same school. She is spot on. All too often people say, "Do you own your home?" Therefore home ownership is a measure of status that we must get rid of. Renting a home is not a disease when measured against owning a home. There is nothing wrong with renting. Renting a publicly owned home is not a disease either. We should be saying to

people who are able to rent a home, "You can be proud of it." I commend the amendment to the Assembly.

MR SMYTH (Brindabella—Leader of the Opposition) (5.13): I will take this opportunity to speak to this curious amendment. Normally when you move an amendment you back it up with statistics, a few facts or maybe a single fact. Instead we have the John Hargreaves school of real estate sales, where you can own a house in a premium suburb and sell it in another suburb and therefore you might make money. You might not buy just one more house; you might buy two more houses.

Mr Hargreaves, you did not tell us whether or not the government has actually done that. You said, "The short answer is yes." You then qualified that by saying it is not necessarily so. If the answer is, "Yes" and it is not necessarily so, then what is the answer? I hear that you are going to try to come back and talk to the amended motion, which is fine. Perhaps then, instead of just the babble, the self-praise and the argumentative attitude you have taken, you might address the matter with some substance and some evidence, or perhaps even some proof, that what you are saying is even vaguely true. When Dr Foskey queried the reduction in stock you said that this is not necessarily the case. The simple question is: is it or isn't it? Have you or have you not reduced the stock? It is not a very hard question to answer. You then gave us the real estate lesson about premium suburbs. Again you said that the answer is yes, but you did not say what yes was the answer to.

If we are going to accept your amendment, which deletes the words, "calls on" and inserts the words, "notes the work of", you need to give us some indication of the work the government has done. We know there are programs that encourage public housing tenants to purchase their homes. We set some of them up, wherever possible, to move into those markets. Both I and Mr Stefaniak were housing ministers and we know about those programs; they operated when we were in office. We are saying that the government should work on it more and improve the way it is done.

The second part of the motion, where we are meant to note the work of the Stanhope government, is about improving the management of its housing asset base, particularly with regard to the redevelopment or rejuvenation of government owned multiunit complex sites. Again, I do not think the minister even spoke about those sites. If you want us to accept your amendment, let us forget the babbling and self-praise. Give us the substance, give us the evidence and give us the proof. When I was housing minister and I said we would fix MacPherson Court, we did. There were 144 bed-sits—built in the 1950s, obsolete by the 1970s and certainly out of date by the 1990s—when I got there.

We set up a great program where we got the housing tenants out of that substandard place—I think squalor—and, through a very good process, assisted them all into the suburbs they wanted, in the sort of accommodation they wanted to be in, so they would be better off. MacPherson Court later disappeared and we got City Edge. That development has won numerous awards. It should win an award for the process from start to finish, because the community, local residents, the government and ACT Housing all worked together to get a better outcome for everybody. That development sets the standard. I put it to you, minister, that nothing either you or your predecessor, Mr Wood, have done comes anywhere near to matching the comprehensive nature of the redevelopment achieved in the City Edge development. That is the point.

Let us talk about Lachlan Court—a series of bed-sits built very early in the life of Canberra that had reached their use-by date by our time in office. We got rid of it by the same process. We transferred ACT Housing teams into Lachlan Court and worked on site with the tenants. We found out what they wanted and got them suitable accommodation elsewhere. We reaped a benefit, which went back into ACT Housing, as per the agreement.

Mr Hargreaves: Did it just?

MR SMYTH: You are quite right; as per the agreement. We had a process whereby we were rejuvenating those sites. Looking now at Burnie Court, I can remember taking a sledgehammer down there with Michael Moore in late 2001 and personally starting to knock it down. It was great because we followed the same process. We talked with the tenants, ascertained their needs and helped them to move to other locations.

The minister asks, "How much extra stock?" There is no extra stock because you have not done anything about it. It has been vacant for four years under your governance, minister, because neither Mr Wood nor Mr Hargreaves could get off their hands to make a decision. Obviously Mr Hargreaves did not listen to his own lesson about selling in premium suburbs and buying in other suburbs. They set the reserve too high; they misread the market; and they could not make the money they thought they should be able to make. Burnie Court has been idle and empty for four years because this government does not understand how the market works. Part of Burnie Court has had some APUs put on it, which is a good thing, but the majority of the Burnie Court site has had nothing done to it; it sits there vacant and idle. I think that is what Dr Foskey is talking about and it certainly concerns me.

I was the minister responsible for the review of the multiunit strategy, or the MUP strategy as it became known. The strategy was quite clear. It looked at the 19 "big-flat" complexes, as they were known—complexes with more than 25 flats; it suggested we sell some and keep some. It stated that some needed refurbishment and that some were okay. Nothing has happened there since. Nothing has happened in four years under Labor with regard to the multiflats strategy.

Mr Hargreaves: We picked up your policy in a hurry.

MR SMYTH: Maybe you can do the check—maybe not. You can tell me where you have seen activity, certainly in your electorate, courtesy of this government with regard to big flats. It has not happened. The minister wants us to note his work but does not present any evidence to suggest it has happened. I think that is why he was happy to sit back down after talking to his amendment without talking to it, and saying a great deal, but saying very little in the end.

We have some promises, one of which was the infamous $10 million Treasurer's advance for fire safety. Perhaps when the minister leaps back to his feet to give us all the information that I am sure he has at his fingertips, he will tell us how much of the $10 million in the fire safety area is still outstanding. Three years after it was used to run down the budget, has the money been spent? Have we got $10 million worth of fire safety in the flats strategy?

Then there is the promised $30 million for public housing, which I suspect will never eventuate. In the government's own document it says they were going to spend $30 million. There was meant to be $10 million in the 2005-06 budget—that is this financial year—$10 million next year and $10 million the year after.

Mr Hargreaves: No, there wasn't.

MR SMYTH: There wasn't? Your promise wasn't to spend $10 million?

Mr Hargreaves: It was $30 million over three years.

MR SMYTH: But there are only three years left—2005-06, 2006-07 and 2007-08. If it is $10 million a year over three years, unless it is not going to happen in this term, that would, of course, break the word of the Chief Minister, who said yesterday in this place that the government will keep all its election promises. That promise was $30 million in this term of this government, which is $10 million a year. In the minister's own words, there will be $10 million a year. There are only three years left. There has to be $10 million this year. Where is the money?

Mr Hargreaves: No. This is the fourth year. We were elected for four years, by the way.

MR SMYTH: There is a second approp coming. Is that the story, Mr Hargreaves? Have you told the Treasurer that there is a second approp coming?

Mr Hargreaves: We were elected for four years.

MR SMYTH: This is the problem: no activity, no action. If we look in the budget, we see that there is only $44 million cash available for capital works. The super school in your electorate—and I know you are very supportive of the super school concept—is going to take up $43 million of that amount. That has already been said. Forty-three million out of $44 million leaves a million dollars. A million dollars does not come up as $10 million this year, $10 million next year and $10 million the year after.

The numbers do not add up, Mr Hargreaves. I am sure you will jump to your feet and give us all the evidence; you will give us substance; you will give us proof; and I look forward to it. The problem is that this government has no money, unless they intend to borrow. Have you been talking to the Treasurer about borrowing, Mr Hargreaves? Is that it? Are we now going to borrow to pay for public housing? I know the Treasurer would advise against borrowing, but perhaps there is a strategy of increased government borrowings. We know there is no capital works money left. We know they are meant to put in $10 million a year for three years. We know there are only three years left in this term, so it is a case of either borrow or break the promise. The Chief Minister said yesterday that he is going to keep all his promises; there will be no broken promises. That is the dilemma.

Members should not support this amendment because there is no evidence; there is no proof that this government has done anything of substance, particularly in the multiunit complexes they control, except move the residents of Currong out, move students in and then leave students hanging as to whether or not they have housing in substandard

accommodation. What are you going to do with Currong? Again, there is no management. This amendment should not be accepted by the Assembly because Mr Hargreaves has not proved why we should accept it.

MRS BURKE (Molonglo) (5.23): It is interesting that the government is never able to play a straight bat on these things. This fundamentally changes the whole focus of this motion today. Mr Hargreaves continues to live in the past. The wording of this motion simply refers to past actions. Minister, you are going to stand up and give us the whole list of what you have done. I call on you to alleviate the pressure on public housing waiting lists by assisting and encouraging public housing tenants, wherever possible, to move into the private rental market or home ownership and improve the management of the government's housing asset base, particularly with regard to the redevelopment or rejuvenation of government owned multiunit complex sites.

As you know, minister, I always give credit where it is due. I acknowledge that some things have been done, but I still say that this wording is an absolute fob off. It is just a blanket cover for your ineptitude in the management of this portfolio. We are now four years into your government and we have seen very little change or movement in the waiting lists. Do not tell me you did a review. Well, a review was done and we saw the figures come down, but that is in the past. People moved off the list were only those who were not needing public housing anyway, or those who had moved elsewhere.

Mr Hargreaves interjecting—

MRS BURKE: That is a false indication of the true and present situation, which remains critical. I know your staff go to ACT Shelter meetings but I do not know how often you go. We are hearing ad nauseam every month we go to that meeting about the crisis within crisis and emergency accommodation. We hear lots of talk and we see lots of glossy brochures. I mention the various plans the government has out there in the hope that one day we may see some real action, but we are tinkering around the edges. We might be doing some good things with regard to tenants but this does not relate to that, minister. Fundamentally, you have tried to craftily say what you have done, not what you are going to do. It is always a case of, "We have done this and we have done that." Quite frankly, as Mr Smyth said, you are now trying to skirt around the fact that there is no more money to do anything. Capital works money has all been spent and there is no more money there.

Mr Hargreaves: That is bollocks—absolute bollocks!

MRS BURKE: Pardon?

Mr Hargreaves: It is bollocks.

MRS BURKE: On a point of order, Mr Speaker, I would ask Mr Hargreaves to refrain from using such language in the chamber.

MR SPEAKER: I did not hear it, I am sorry.

MRS BURKE: Mr Hargreaves knows what he said. If he wants to lower the tone of the debate, then that is his problem.

Mr Hargreaves: That is basically wrong.

MRS BURKE: The pity is that this minister can sit there making silly, ridiculous comments but he has nothing constructive to say with regard to alleviating the pressure of public housing waiting lists at this time—now. We are going around in ever-increasing circles with more talking and more tinkering around the edges. I feel that the wording "notes the work of" is simply fobbing off the whole issue, as we see so often from this minister in this place.

Point two refers to improving the management of the housing asset base. We are not talking about his soon to be announced partnership with Fraser Court and the old Burnie Court site, which of course we will welcome. That is long overdue. It has taken four years or more. It is ridiculous. I am not asking what you have done in the past. I am asking you to move forward, as both Dr Foskey and I have tried to do in our speeches, into the future. I find it simply unconscionable that the minister cannot find the words to show some leadership and vision and tell us what is in store for the future. There are all the things he has released before, but I want to see more innovation and action, not delay. I will not be supporting the amendment.

Amendment agreed to.

MR HARGREAVES (Brindabella—Minister for Disability, Housing and Community Services, Minister for Urban Services and Minister for Police and Emergency Services): I seek leave to speak again.

Leave granted.

MR HARGREAVES: I thank members. I wanted to respond to some questions that Mr Smyth asked. He said, "How much of the $10 million have you spent on fire safety?" The answer is $12 million, and there is $4 million more yet to be spent. It is committed. He said that the super school was going to cost $43 million. He makes out as though it is going to happen in one year. Wrong, again. It is either a misunderstanding of the way in which building projects are undertaken over a number of years or it is a bit of convenient Garyising of the capital works program.

The government will be supporting the amended motion today. The government is one of the largest landlords in the country. The ACT's public housing assets total some 11,560 properties, valued at $2.9 billion. The 2005 Productivity Commission report on government services shows the ACT has the highest level of public housing in Australia. At about 8.6 per cent of all dwellings, the ACT's level of public housing is almost twice the national average of 4.5 per cent. Since coming to office in 2001, the ACT government has focused housing policy, and continues to focus housing policy, on providing accommodation to those most in need.

The government is committed to the retention of a strong and viable social housing system and has supported this commitment through the provision of unprecedented levels of funding for public and community housing. This included a special allocation of $33.2 million in 2003-04 to increase the supply of public and community housing stock. This funding was supported in the following budget by a further $20 million over

four years. Moreover, in the 2005-06 budget, the ACT government allocated over $117 million for total expenditure on social housing services. This represents an increase of over 6 per cent on the total funding for social housing services provided in 2004-05.

The government has also moved to assist those most in need to gain access to public housing, as well as sustain their tenancies. These initiatives are wide ranging and are aimed predominantly at ensuring that people are not unnecessarily put at risk of homelessness.

Mrs Burke claims that the needs of our most disadvantaged Canberrans, those on the public housing waiting lists, are not being met. I would agree that, despite the high level of public housing by national standards, there is a considerable demand for public housing in the ACT. I am pleased to report, however, that, while there are currently 2,344 applicants on the waiting list, this is 238 fewer than in June 2004.

Mrs Burke: That is a furphy; admit it.

MR HARGREAVES: She cannot accept—can she, Mr Speaker?—that, when you say that something has dropped and is going towards what she is trying to tell us to do, it is working.

Moreover, in the financial year to date, Housing ACT is providing a home to an average of 79 new tenants per month. This is a significant increase over the average of 54 new tenants per month achieved in 2004-05. I hope this trend will continue and we will see further reductions in our waiting list.

More public housing tenants in the ACT are provided with a rental rebate. Most public housing tenants are provided with a rental rebate. Recipients of this rebate do not pay more than 25 per cent of household income in rent, ensuring that public housing remains affordable for all tenants.

Let me say that the government acknowledges that public housing should be targeted to those most in need and that, if you are above the financial eligibility criteria, you should seriously look at your options around moving into the private rental market or purchasing your own home. There is considerable logic in that position, and the government recognises that.

The key issue here is encouragement versus compulsion. The government favours encouragement. The opposition favours compulsion. Mrs Burke has been saying; "Boot them out. As soon as they get to a level; boot them out; get rid of them; fob them off, they are market renters."

Mrs Burke: Where is your evidence?

MR HARGREAVES: The evidence is in press releases a yard thick. We have a sale-to-tenants program and encourage those who have the financial capacity to exit the public housing system to look at their options.

That said, we believe that, at the end of the day, security of tenure within the public housing system is important. People should know that when they are allocated property

they are going to be able to stay in that property until they are ready to move on. That surely is the strongest possible encouragement to people to care for that property, to nurture it, to treat it as their own, to turn it into a home.

The Liberal government moved away from this policy in January 2001. Not only did they begin to kick people out of their homes for managing to increase their incomes and improve their life circumstances, they also depleted the public housing stock by about 1,000 properties. Mrs Burke, I am sure, looks back proudly at the achievements of the previous Liberal government in this realm. Giving people in need fewer housing options—to the tune of 1,000 fewer dwellings—and threatening to evict them if they changed their life for the better is a record you ought to hang your head in shame about, Mrs Burke. Public housing tenants in this city have a lot to fear from you if we are ever unfortunate enough to see you in government again.

Mrs Burke would have us reward our housing tenants who have spring-boarded to a better life by kicking them out of their homes. In the ACT, as in other jurisdictions, there are a small proportion of public housing tenants who pay full market rent for their property. These tenants are commonly referred to as market renters, and their numbers are falling. They currently comprise only 14 per cent of all public housing tenants, compared with 22 per cent in 2001. Many of these people are longstanding tenants and are contributing to the development of Canberra through their public or private service.

In addition, 96 per cent of market renters pay less than the current median rent in the private rental market. Given the lack of low-cost housing available in the private market, it cannot be assumed that these people would be able to find affordable housing if, as Mrs Burke proposes, they are removed from their home. Our tenants are people with families, homes, memories, feelings and lives. They are more than numbers on a page, and our policy reflects this.

I now turn to Mrs Burke's call for the redevelopment or rejuvenation of multiunit complexes. She must have read our public housing asset management strategy while surfing the net one night. Rejuvenation and redevelopment are exactly what we are doing. We are addressing the commonwealth legacy of an ageing public housing stock—the oldest in Australia. Guided by the ACT government's five-year public housing asset management strategy, we have been rejuvenating the public housing portfolio and responding to new and evolving needs such as the ageing population, through the purchase and construction of specially adapted properties.

Further, as part of the disability modification program in 2004-05, we adapted 470 homes, at a cost of over $1.5 million, to provide individually tailored modifications for ageing public housing tenants and those with a disability. Rejuvenation is also being undertaken across the portfolio of multiunit sites. $12 million has been spent on the important area of improving fire safety provisions and safety for these complexes. Expenditure of a further $4 million to complete this work will be undertaken shortly.

The Northbourne flats have recently been refurbished, as have the Ainslie and Griffith flats. Refurbishment of Kanangra Court in Reid is expected to commence this year. None of that is mentioned. The aged persons flats in Ainslie and Reid have also been upgraded. Following the successful first stage of Illawarra Court, the remaining works and programs are to commence in February 2006.

Moreover, the government's planned maintenance program provides for ongoing rejuvenation initiatives such as the replacement of windows and doors. This has recently been completed at Gowrie Court. At Red Hill external repainting will soon commence. This work is part of a planned maintenance program that is the central focus of a $30 million facility management contract for public housing. These contracts include key performance measures and encourage a redirection of maintenance funds away from the immediate band-aid maintenance solutions and into long-term revitalisation of housing stock.

As I said before, we are doing a whole heap of things and we will continue to do a whole heap of things. We are encouraging people, with a government home buyer concession scheme; we have got the rental bonds housing assistance program; we have got the people that can buy their own homes. In fact, the government's home buyer concession scheme benefited 1,662 people in 2005, each of them receiving an average stamp duty saving of over $6,100.

We have been doing a whole heap of things since we came to government in 2001. We have picked up an absolute, screaming mess, which is what the Liberals left us—1,000 properties down—and have managed to start to claw this back. We have got better and more relevant stock. On top of that, we talk to the tenants.

Mr Smyth: Mr Speaker, I would like—

MR SPEAKER: Mr Smyth, you have already spoken.

MR SMYTH (Brindabella—Leader of the Opposition): Yes, but I seek leave to speak again.

Leave granted.

MR SMYTH: Thank you, members. The tirade and vitriol from the minister cannot go unanswered. We have gone straight back to the standard answer when you have not got an answer: blame the commonwealth. The commonwealth relinquished control of this 16 years ago. You have been in control of this for the last four years, through your government, Mr Hargreaves. And what have you done? What could you answer to the questions? You could not answer a single question that I asked. This is almost straight off ACT Health's budget estimates guide for 2003. When you do not know what to say, blame the commonwealth; then go the commonwealth for underfunding; then twist with a knife. This is terrible.

We quoted the number. There have been 470 modifications. How many of them were existing houses that you put some baths in, Mr Hargreaves, and how many of them were houses that you purchased? That is the question. You said, "You left us this screaming mess." I loved the "screaming mess". You said, "We were 1,000 properties down." What is the usage rate at this minute? How many properties are empty under this government because they have not maintained them properly? How many of the properties at Northbourne flats are empty? How many at Fraser Court are empty? How many at Currong are empty? How many at Gowrie Court are empty? How many at Stuart are empty? How many at Red Hill are empty?

There it is, the broken record: "You left us 1,000 down." I do not accept the number. Prove the number, minister. But the question for you is: how many have you made up? How many, with all the money that you quote, $107 million spent on housing? We spent relative amounts to that as well—$30 million this year, $20 million that year. They are great numbers. What did it result in? If you had an answer and if the number had gone up, you would be spruiking; you would be down here like the head rooster crowing about your success.

The very fact that you are not crowing, Mr Hargreaves, which you do so often and so foolishly, is an indication that, for all the money that you have spent, we have probably got less public housing under the Stanhope Labor government. And that is the problem. That is the point of the motion. When you are spending it, it is not working.

Mr Hargreaves: We started 1,000 down.

MR SMYTH: That is your claim. Prove it.

Mr Hargreaves: We started 1,000 down.

MR SMYTH: How many is it now? Mr Hargreaves constantly interjects, "We were 1,000 down." Good. Tell me how many you are up, Mr Hargreaves. End the argument here. I will give you leave to rise in your place and speak again.

MR SPEAKER: Order, Mr Hargreaves! Mr Smyth, it would be helpful if you did not respond to any disorderly interjections.

MR SMYTH: You are right, Mr Speaker. The argument can be ended immediately if Mr Hargreaves—and I will give Mr Hargreaves the courtesy, if he wants—jumps up and say that it is two houses more, it is seven houses more, it is 70 houses more or it is 700 houses more. I am sure he has got the number. But the very fact that he does not rise to tell us how many extra houses, how many extra people are accommodated under the Stanhope Labor government's housing reforms, is an indication that there are not any more.

Then he says that the rate went from 54 to 79. Does that mean that 79 premises have become empty because people are leaving the system in droves because you are not maintaining them? What is the net gain? You say that you placed 79 people in a given month. That is a good thing. But how many left? What is the net growth? Did it lead to more people being housed, or was it fewer? These are the questions that the minister refuses to answer.

He made the claim, "We fix windows and doors." The previous government did that; the previous government to that did that; the Follett government before that did that; and the Alliance government before that did that. They all fixed windows and doors. But it does not tell us how many more people you have housed and how you are managing.

Mr Gentleman: A thousand down!

MR SMYTH: Prove it, Mr Gentleman. Can you prove that it is 1,000 down? You interject, "A thousand." Now you sit there, mute. Prove it, Mr Gentleman. Prove it is a thousand down. You are like a parrot; you sit there, all puffed up, with your yellow badge on and you go, "We're 1,000 down." You follow Mr Hargreaves's lead. You are turning into a parrot. You have got to be careful, Mick.

MR SPEAKER: Order! Refer to Mr Gentleman by his proper name but not whilst you are responding to disorderly interjections. Mr Gentleman will be quiet as well.

MR SMYTH: Mr Speaker, perhaps you could tell me what the proper name for a parrot is. Is it the superb parrot that he reminds you of? Is it the south-eastern parrot? Does he look more like a galah? If you could tell me what the proper name is, Mr Speaker, I would be happy to use it.

MR SPEAKER: Order! Those sorts of imputations are disorderly, and you know it.

MR SMYTH: Mr Speaker, I will not respond to the interjections. We then had the statement: "We have done a whole heap of things." The minister has done a whole heap of things. Jolly good, minister! Can you tell us what the whole heap of things were? "We have got rebates; we have got bond schemes." Goodness me, governments since self-government have had rebates and bond schemes. What is new? What is getting better? Answer: nothing.

We still have not got to the bottom of the missing $30 million. There is no commitment. What Mr Hargreaves said during question time today was interesting. He said, "This government has not mishandled the budget." But he cannot tell us where the $30 million is. Then he went on to say, "Mrs Burke wants me to come into this chamber and say when we are going to give you $30 million." My response is that Mrs Burke can use her intuition and find out for herself"

If the minister looked at the documents that he has got access to, there was meant to be $10 million capital in the 2005-06 year. Where is it, Mr Hargreaves? It is missing in action. It has gone, because you have squandered it; you have mishandled the budget. The money is missing. And we do not have extra public housing. If we did, I am sure the minister would stand up and tell us, whether it was seven, 77 or 777. But he cannot; he is mute. I have asked him. He will not answer.

It is interesting, then, that the minister gave a commitment that there will be no budget leaks in the coming year. In answer to a supplementary question from Mrs Burke at question time he said, "It is highly unusual for governments to pre-empt budget discussions or budgetary outcomes and I do not propose to start the process off now." I am sure Mr Mulcahy will keep an eye on that in the lead-up to the budget, when there will not be any pre-emption and there will not be any leaks. Mr Hargreaves is an honourable man and he would not break his word. I will say it again: "It is highly unusual for governments to pre-empt budget discussions or budgetary outcomes and I do not propose to start the process off now." The question might be: when do you propose to start the process—March, maybe; April, maybe?

The questions—and they still remain unanswered—are: how many extra premises have you, Mr Hargreaves? What have you done? When will we know what will happen with Currong? There was this intimation the other day that something is about to happen in Fraser Court.

Mr Hargreaves: I told you.

MR SMYTH: "I told you." There is this intimation something is about to happen at Fraser Court. What is about to happen at Fraser Court? "We will know in December." And that is the whole point. By December, they will have been in government for four years and two months, and nothing will have happened at Fraser Court—not a lick of paint. Nothing will have changed at Fraser Court because of this government's ineptitude in budgetary management and this government's ineptitude in delivering public housing for the public.

Mr Mulcahy: There are plenty of dramas over there.

MR SMYTH: There are plenty of dramas. The drama goes on. We have passed the amendment; the government did it with the weight of numbers. But I note, even though he took another 10 minutes, there is still no substance; there is still no evidence; there is still no proof; there is no documentation to prove any of his claims; there is no documentation to prove that they have done anything at all. If he had it, he would have used it. He would have tabled it or he would have quoted it. Maybe he could mime it or sign it or something—I do not know how—maybe smoke signals. No, no smoking here during sitting days. That is right; we do not want smoke through the roof.

We have got nothing from this minister in this debate, except for a whole lot of drivel. It is very, very important that the minister is held accountable for this. He must help, assist and encourage public housing tenants, wherever possible and appropriate, to move into the private rental market or home ownership. We believe that they must improve the management of its housing asset base, particularly in regard to the multiunit complex sites. They have been particularly neglected under this government and particularly neglected under this minister.

MRS BURKE (Molonglo) (5.47): That was an interesting debate, wasn't it? Quite frankly, the minister's response and the government's response were disappointing. It shows me how little passion this current minister has in terms of the portfolio. The former minister, Mr Wood, showed a lot more enthusiasm and interest in this portfolio area.

I will start on the asset management strategy. It is really interesting to note that this asset management strategy was formulated from the 2001 former Liberal government strategy and has changed little, quite frankly. The government have never made and paraded a new one; so I can only assume that they are quite happy to go along with what was an agreed position before.

I should mention, on that note, that, as the minister well knows—in fact, Mr Gentleman would like to hear this one, too, and he might need to get his hands on the asset management strategy—there was an agreed position to remove a few hundred garden

bed-sit units from the stock that were simply unusable. That was a position that was agreed in this place. They keep throwing furphies like that into the mix.

The point is that we are now four years into this government. When, oh when, are the Stanhope government and this current minister, Mr Hargreaves, going to stop blaming former Liberal ministers and the former Liberal government? Come on; get with the program. It is your job, your responsibility; you should be moving this agenda forward.

Today, what have you done? You have set it again in concrete. You have got your feet down on the floor, with no room to move, and all you can do is put out the rhetoric, put out the diatribe, about what you have done. In fact, there was nothing to support what you have done—nothing at all. There were no real, solid, concrete facts there.

Why don't we talk now about the housing waiting lists in relation to the turnover of stock? Mr Hargreaves should take note of his own words. He is quite concerned, in fact, about the length of time it is taking to turn over stock. He is disappointed, I note. I agree with his disappointment. The 28 days or more is too long. To have people in our community sleeping in cars, sleeping with friends, sleeping wherever—and Mr Hargreaves likes to use these figures when it suits him—is not acceptable. There are some 1,200 people who are classed as homeless or without proper shelter at any one time. He uses that when it suits him. These people are simply unable to make any headway in the public housing sector in terms of getting proper, suitable accommodation. It is one thing being provided appropriate accommodation, but is it suitable?

We are also verging on the problem where people are now starting to take matters into their own hands. They ring my office, saying; "I am going to break into this property if I can't get some satisfaction."

I particularly commend the work of the departmental liaison officers that are working, and have worked since my involvement in housing, in Mr Hargreaves's office. He should feel really blessed that he has people like that that support and help him. Quite frankly, without them, where would he be? It is a shame that he is not supporting those people in some of his own decision-making. We have seen more delay and more delay. As I said, after four years we seem to have sunk a lot of money into public housing but yet we do not seem to have much of an outcome. That is the problem. Lots of money is being sunk, but we want to see the net gain.

Mr Gentleman yelled across the chamber that 69 people have been housed. Is that a net gain?

Mr Gentleman: Seventy-nine.

MRS BURKE: Compared to what, Mr Gentlemen?

Mr Gentleman: Fifty-nine from the year before.

MRS BURKE: Compared to what, though? Is this a net gain? I do not think you know. You are now the housing minister, are you? I see that Mr Hargreaves now has another new housing minister, along with the—

MR SPEAKER: Direct your comments through the chair.

MRS BURKE: I am, through you, sir; I am indeed. Mr Hargreaves has another helper, apart from the Chief Minister who likes to talk on public housing. He now has Mr Gentleman. Maybe Mr Gentleman can impact the thoughts of Mr Hargreaves and direct his energy and efforts to public housing. Leadership is the thing. You cannot expect government officials to be plugging away and slogging away if you are not backing them and supporting them and showing some leadership, too.

We have also seen here—and I am sick and tired of hearing it; it is a silly debate now, when we talk about security of tenure—Mr Hargraves saying, "The Liberals like to boot people out." Where is the evidence? Where is the proof that I have ever said we will boot people out? That is absolute nonsense. You continue to live in the past. You need to get with the program, Mr Housing Minister. If you do not, we are going to have a big problem in the ACT. That was not foreshadowed by me; that was foreshadowed at a Shelter meeting, as I have said earlier.

I am flagging with you here that I thought my speech was lateral thinking; it was forward looking; it was visionary. You did not do anything other than tell me what you have done. We already know that; it is history; it is not news; it is not news at all.

Most reasonable Canberrans would expect their taxes to be used to provide a roof over people's heads when they find themselves in a vulnerable situation—we all agree—and for as long as that situation dictates. If Mr Hargreaves can prove to me that I or any of my colleagues have ever said we would, to quote Mr Hargraves, "Boot people out," then I challenge him to table that now. I challenge him to show me where I said, "I will throw people out on the street."

It is an absolute disgrace and highly disingenuous of you, Mr Hargreaves, to continue to make falsehood statements in regard to security of tenure. You, in fact, have changed the security of tenure. You are talking now more in line with Liberal sentiment. You now have to bring yourself into line with New South Wales housing policy and, possibly as you have cited today, WA.

I know you are looking around the country. I can see what you are doing. You are looking at what the other states and territories are doing. So am I. But I have the courage and the guts to stand up on behalf of Canberra taxpayers and say to you, "Put this portfolio right." You said today, and paraded in front of us, that we have an asset base worth, what, $2.9 or $3 billion. I say to you that it is still a poor show when we now, four years down the track, have dragged our heels in terms of rejuvenation of public housing stock. We have seen little to no money being afforded to do any more works anywhere. Unless you have got something up your sleeve which is going to be either a nice budget announcement or an election sweetener, or we see that you are going to be the one to have to stand up here and say, "We are going to raise taxes," I am going to be waiting with bated breath.

It is disappointing to all those people languishing on the public housing lists that Mr Hargreaves cannot give them any strong hope for the future. He cannot say to them, "This is the plan. We have a plan." All he can say is: "We are going to have another

talkfest in February." I know I will keep saying this, but the minister knows what he needs to do and he knows now. Another six months will eventuate and there will still be no more action. There will be lots more talking and lots more shiny pamphlets. I will bet you that I will be sitting at Shelter meetings and will be told by the same people that the sector is under pressure and continues to be.

I have tried to find homes and accommodation for three people this week. The Canberra Emergency Accommodation Service cannot put people anywhere anymore. Their books are still closed. I read reports from Shelter. The place needs a good shake-up. The minister needs to have the courage to make some strong and firm decisions in relation to this portfolio—none as important as finding ways to move people through a system that was there to protect the vulnerable. It was not there to provide a house forever and a day for people who can make and have choices to do other things.

Vulnerable people do not have other options. You know that, minister. If you can keep sitting there saying that everybody should have a public housing property for as long as they live, then how many houses are we going to need? What is that doing to people?

One thing that I will finish on, too, is this: you talked about homeownership. I was flabbergasted at what you said. You said something about homeownership being—

Mr Smyth: A status symbol.

MRS BURKE: A status symbol. That is right. Thank you, Mr Smyth. It was a status symbol. How ridiculous is that. Here we go again. What we see is the chardonnay socialists at this lower level saying, "Everybody is the same; the lowest common denominator; let us be all the same." A lot of people aspire to owning their own homes.

MR SPEAKER: The member's time has expired. Mrs Burke, would you withdraw the word "falsehood", please.

Mrs Burke: I withdraw it.

Motion, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Remembrance Day

MR STEFANIAK (Ginninderra) (5.58): I rise today to talk about Remembrance Day, not the one 30 years ago—I note Mr Mulcahy covered that very well the other day, and for my comments see the *Canberra Times* on 11 November this year—but the original Remembrance Day, because it commemorated a magnificent effort by the young Australian nation in that most terrible of conflicts, World War I. It was really where the Australian nation was formed, and Australians there—ordinary people doing extraordinary things—performed brilliantly.

I am not going to harp about Gallipoli—we all know about that—but it is interesting to note the number of battles Australian troops fought in and in fact played a decisive role in after Gallipoli. In the Middle East, the Light Horse and the Camel Corps and other Australian units, after the infantry divisions went to France, participated in Romani in August 1916, in Maghdaba in December 1916 and Rafa in January 1917. The first battle of Gaza was on 27 March 1917, which would have opened the way to Palestine except that the British commander pulled the Australians back after they had taken the town.

The second battle of Gaza was in April 1917. General Murray, a rather incompetent British general, was then replaced by General Allenby, who was much more competent, and under Lieutenant-General Harry Chauvel the Australian Corps there participated in such magnificent battles as Beersheba, the last great cavalry charge by the British commonwealth and empire troops. Gaza fell as a result of that and Allenby and Chauvel and their troops moved forward to liberate Jerusalem. The Australians took Damascus—it was the Australians rather than Lawrence of Arabia—and that concluded the war on that front.

All of those battles were punctuated by sterling deeds by the Australians, sometimes having to carry some of the British units with them. On the Western Front in 1916 Australian troops arrived just in time to take part in the dreadful battles of Pozieres and the Somme—examples of outdated generals having no idea of, or no regard for, manpower, throwing troops in with basically 19th century tactics against modern weapons such as gas, artillery and machine guns. Australians participated in Guadencourt in 1917, Bellecourt battles Nos 1 and 2, Messieres and the third Ypres battle, and indeed who can forget the muddied Passchendaele and the absolute waste and useless slaughter there in October 1917.

Events looked up in 1918. In all of those earlier battles, Australian troops fought magnificently, often taking German positions and holding out against incredible odds. The commander on the Western Front, of course, was Field Marshal Haig, who was known as "butcher Haig". I suppose one thing that can be said to the man's credit was that he finally realised that he and General Rawlinson were not really quite up to it, and they found a magnificent general—the best general on the Western Front according to Field Marshal Montgomery, Basil Liddell Hart and any number of military experts—and that, of course, was Australia's very own General Sir John Monash.

The Australian Corps was formed under Australian leadership and the results were spectacular. Not long after the German offensive of March 1918, which pushed huge holes through the British and French lines, forcing them back, Australians held at Villers-Bretonneux in early April of 1918 and then counterattacked the town, which was taken on Anzac Day in 1918. With Monash in command, the battle of Hamel was fought. This was a textbook battle on 4 July 1918, where Australian troops, supported by some American troops, advanced and easily took the town, with absolutely minimal casualties. Monash was a breath of fresh air; he combined fire and movement, use of planes, use of tanks, coordinated arms and meticulous planning. The man was a genius, and he was very concerned for the lives of his troops.

Amiens followed on 8 August 1918. Ludendorff, the German field marshal, said it was a black day for the German army, and things just did not look up for the Germans after

that. Spearheaded by Australian and Canadian troops, the British armies and the French armies got to the Hindenburg line. Germany sued for an armistice, of course, on 11/11/1918. It was a magnificent effort by all Australians there. In the battles from Amiens to the end of the war, in the three months, some 5,000 Australians, and some 60,000 Germans, of course, were tragically killed. But, even though those casualties were huge, they were much lighter then what had occurred under incompetent generalship beforehand. It was a fantastic effort by Australians. We can say that Australia and Canada played a major role in winning the war on the Western Front, and General Monash, of course, was hailed as the greatest general of that war. It was a fantastic effort by a fledgling nation.

Industrial relations

MR GENTLEMAN (Brindabella) (6.03): Yesterday I rose in the adjournment debate to outline the incredible response by workers and their families around the country to the federal government's Workplace Relations Amendment (Work Choices) Bill. At the outset of my speech I advised the Assembly that 360,000 workers had amassed in cities and towns across Australia to stand in solidarity with their comrades and families to listen to the Sky Channel broadcast. As I mentioned the massed group of 360,000, the opposition howled across the chamber, "The ACTU said it was going to be half a million!"

Well, rarely will it be said in this house that the opposition was right. The ACTU did say it hoped to get half a million people to the rally. I was wrong about the 360,000 people, and I do apologise. The correct figure for the rally, as reported in today's media, is 545,000 people, well over the 360,000 I stated, and well over the half a million expected by the ACTU; and hardly an irrelevant group, I will remind Mr Mulcahy. Mr Smyth suggested earlier in the chamber today that he thought I was a parrot. I love parrots, so in that vein I will just repeat the number: 545,000 people.

This was the largest gathering of citizens in this country. Arguably it will go down in history as as important to our identity as the great shearers strike of 1891, which, coincidentally, was the same year our great party, the ALP, was formed. By further coincidence, the strike in 1891 was about securing the right to organise collectively. Yesterday will go down in history, despite Mr Mulcahy's views, as the largest rally of union people in Australia, and perhaps only second to the Whitlam dismissal as an event in Australia's political history. Evidence of this is that I understand every single newspaper in the country carried the story on their front page today. Almost every Australian television channel broadcast scenes from the event as their lead story last night, with many following today.

Let me just give you a few quotes from these sources. The *Canberra Times* stated that "thousands of Canberra workers defied the federal government and packed into Canberra Racecourse yesterday morning to call for the scrapping of the new industrial relations changes before Parliament". Further, it reported how our Chief Minister received a standing ovation on conclusion of his address to the reported 5,000 in attendance. The *Sydney Morning Herald* stated:

> A young protestor said; "They didn't tell us they were going to do this. They didn't go into any detail on this. I voted for him—

That is Howard—

> at the last election. Had I known I would have voted Labor."

The *Daily Telegraph* stated: "While Australians across the country protested against the Howard Government's industrial relations changes, the Prime Minister was in Sydney, proclaiming the public had been misinformed about his legislation." Even the *Australian* had a report on the protest—and I am sure this was much to their disgust.

To sum up: 545,000 people, standing ovations, lead story and media coverage in every newspaper and on every TV channel, and strategic planning to continue the action plan fight right through to the next election—hardly the stuff of an irrelevant labour movement, Mr Mulcahy. But at least your views are consistent with those of your leader, Mr Howard: he too refuses to acknowledge the great level of distrust surrounding his work choices.

It was magnificent to witness 545,000 people gathering together in solidarity on their first day of action. I congratulate the labour movement here in the ACT and across all of Australia.

Prisons—needle exchange program

DR FOSKEY (Molonglo) (6.07): I thought I would use this adjournment debate as an opportunity to try to correct some misinformation that I believe is adrift amongst people in this place in relation to occupational health and safety and other issues related to needles in prisons. People are probably aware that on Monday night I hosted a forum that was organised by CAHMA to raise issues related to this, because there are people in the community who want to make sure that at this stage of planning for the ACT prison, which is supposed to be a state-of-the-art, human rights compatible prison, we start talking about this issue now. We are well aware that in Australia there are as yet no prisons with safe injecting equipment programs and it seems to me that the best policy approach is to bring in such a program at the beginning rather than deal with disastrous health issues later on.

I heard Mr Stefaniak saying in the media the other day that he felt it was an occupational health and safety issue; that, if people had needles in prisons, there would be more danger to officers. What he probably is not aware of is that, while injecting equipment is illegal, such equipment—often made from the outside of a biro, a pin or even the actual pointed bit of the biro without the little ball—is used, and people who have this equipment, which is very rare, have a lot of power in a prison. So it becomes a bargaining tool and, of course, we lack the ability to clean this or any dangerous and very dirty equipment, so that just exacerbates the issue.

The fact is that drugs are not being kept out of prisons now, and not allowing something like a needle and syringe exchange program is not going to make our prisons drug free. That is a sad thing, but it is a fact. It is about facing facts—not closing our eyes—and not letting people who may have been given a short sentence in a prison have a life sentence of illness, which they may communicate to their friends, their partners and anyone else they might share a needle with later on or, of course, have unprotected sex with.

There are prison-based syringe programs in Switzerland, Germany, Spain, Moldova and Kyrgyzstan and they are soon to be introduced in Italy, Portugal and Greece. Canada is also looking into the provision of syringes in prisons. It seemed very important to Mr Ryan that countries like Canada, New Zealand or Britain should have such a program before we consider it. Well, Canada is looking at it.

In current programs, 98 to 100 per cent of syringes are returned by prisoners, there were no incidences of needles being used as weapons, there were no new infections of any blood-borne viruses, the consumption of drugs either remained stable or decreased—it is important there be programs to assist prisoners to get off drugs—and there was a significant reduction in the number of overdoses that occurred.

We are talking here about having the provision of a service similar to what people would have outside. We have good needle exchange programs outside prisons but we can blow it all if once people get in there they have to revert to this very dirty and dangerous practice of sharing needles, with the kinds of power games that go with some people having that equipment and others not.

I just want to point out that Mr Stanhope, who is another person who has said in the media that he has got concerns about safety issues, said in 2002 that no prison or remand centre in the world had been able to achieve the goal of preventing needles entering remand and detention centres. Mr Ryan of corrective services also said that only by eliminating contact visits and isolating prisoners will we keep drugs out of corrective institutions.

Housing

MRS BURKE (Molonglo) (6.12): Yesterday during question time Ms Porter asked the Minister for Disability, Housing and Community Services, Mr Hargreaves, to advise the assembly how the ACT performed in the Australian Institute of Health and Welfare's public housing national social housing survey 2005. The minister informed the Assembly that, since the last survey of 2003, Housing ACT, through the efforts of its staff and management, had performed well in relation to tenant satisfaction via an improvement in figures from 59 per cent in 2003 to 65 per cent in 2005, with the level of dissatisfaction falling three per cent to 14 per cent.

Not only do I support this improvement; I agree with the minister and would say that I have confidence in the staff of Housing ACT. In addition, I would say that it would be encouraging to see the level of satisfaction continue to be maintained at this level or rise further. I agree with the government that its initiative Raising our Voice and the subsequent allocation of $90,000 to assist with projects designed to support tenant participation will also assist Housing ACT to see further improvement in the negotiations and liaison that occur between the department and housing sector groups and so further solidify relationships between staff and tenants.

I flag a note of caution here, in that the minister says that they will be able to apply for a slice of the $90,000. I simply hope that those people will get a sizeable slice of that pie and that their efforts will not be dissipated because of lack of funding. I hope that it is not going to be spread too thinly.

I take the minister to task for saying that my press release of 11June 2005 implies that staff or management of Housing ACT are corrupt. The minister's statement in response to Ms Porter's question is incorrect. My press release refers solely to the public housing system in itself and the Liberal opposition's concern that there are a proportion of tenants in the system availing themselves of government-subsidised housing who are clearly in a financial position to support themselves in another form of housing but choose to remain in public housing—above those who are clearly in need of the support of the housing assistance program. Many such cases have been brought to the attention not only of me but also of the minister, but I will not go into details now.

Through the inflexibility of a security of tenure program and the inability to house people most in need, this government is not encouraging a proportion of people who are clearly able to do so to enter into private rental or home ownership. This is the tragedy of this situation. If the minister believes that I would stoop to the level he did yesterday when he implied that my press statement is targeted at departmental staff, the standard in this Assembly has hit a low point. His inability to read the statement leaves me with the impression that the minister is not aware that he, as a member of executive government, is in a position to act as a change agent, to make significant inroads in this vital portfolio area and, by enacting change in policy development, to see some vital corrections made to the public housing system.

It is a pity when people's views are taken out of context in that way. They are fairly serious allegations that Mr Hargreaves has made and he talks about my offering an apology. I have no apology to make. I was simply saying that we need to be alert to the devices of some people who have been unscrupulous—and the minister knows about these people. I was merely highlighting the point and alerting the minister to the fact that he needs to be on his toes and on guard because other people, public housing tenants and private people alike, are watching with great interest what is happening. They are not stupid. The community are telling us things. What are we saying? "We don't believe you; it's not true." So they go away and pull their hair out in sheer frustration. You cannot have people amassing a big asset base. They may be asset rich and cash poor; that could be true. What I put out on 11 June simply said that the system needs urgent reform, and I stand by that statement.

Mr Craig Curry

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (6.16): I would like to take the opportunity to draw to the attention of the Assembly that Mr Craig Curry, the Executive Director of Education within the ACT Department of Education and Training, has been nominated and accepted as a fellow of the Australian College of Educators.

The Australian College of Educators aims to provide a strong national voice for educators and to promote high professional standards, recognise excellence and foster professional learning. Ultimately, the association aims to enhance the status of the teaching profession. Fellowship of the college is a highly prestigious national award and is in recognition of outstanding and distinctive contributions to the advancement of education by educators as members of the college. The college council awards

fellowships on the recommendation of its national awards committee and as such is recognition by education professionals of their peers.

Mr Curry came to the ACT from New South Wales in 2001 to take up the position of Director, Southside Schools and Student Services. He was appointed Executive Director of Education in 2003. Mr Curry was nominated for outstanding contribution to school education in Australia, especially in relation to advancing professional reflection and learning about inclusive education by promoting the quality of education of children with special needs.

He has exemplified a commitment to the social justice and equity considerations of this important work through providing determined, professional leadership. As such, Mr Curry has helped to focus school and systems shared vision for special education both in New South Wales and the ACT. As part of this commitment, he has made a strong contribution to the development of national standards for the education of students with disabilities, under the national disability discrimination legislation. He was particularly influential in the direction of those standards, opening up opportunities for students with disabilities, and in collaborating with key government and non-government stakeholders. This has resulted in positive professional dialogue and improved educational strategies for improved student outcomes.

In the ACT, Mr Curry was directly responsible for the implementation of a student-centred process to identify the resources required to support students with disabilities in all educational settings. He co-authored a discussion paper for ACT school communities called *The inclusivity challenge*, aimed at raising social justice and ethical issues within schools and, importantly to the government and the ACT, he has demonstrated outstanding educational leadership with his commitment to effective school planning and continuous improvement using the school development processes.

Mr Curry was a strong contributor to a number of significant initiatives in the ACT, including school excellence and improvement, review of counselling services and development of a multidisciplinary model, and the introduction of student pathways planning for secondary students. He has strong commitments to the benefits of tailoring education to meet the needs of the individual—personalised learning, as it is now known.

In addition, Mr Curry has delivered papers at education conferences, positively represented the ACT at major national meetings and, as executive director of education, provides positive, strategic educational leadership for public education in Canberra. The awarding of this fellowship acknowledges that leadership.

On a personal note, I have worked with Craig for the past three years and I enjoy working with him very much. I respect him enormously as an educator and as a person with a great passion for quality public education for Australian children and young people. I would like to publicly congratulate Mr Curry on this recognition by his peers and to thank him for his educational leadership and contribution to ACT education.

Industrial relations
A figure of speech book launch

MS MacDONALD (Brindabella) (6.20): I rise this evening to talk about two events that

I attended yesterday, both with pleasure but for different reasons. Firstly, it was my great pleasure to attend the day of action yesterday morning, not because of the need to attend the day of action and the reasons that brought thousands of us there together but, by virtue of standing with thousands against what I believe, and what tens of thousands, if not millions, in this country believe, to be very draconian legislation that was passed in the House of Representatives last week. I refer, of course, to the so-called WorkChoices legislation.

I was struck yesterday—as I am sure you would have been, Mr Speaker—when we went to the televised nationwide event, which was being conducted out of Melbourne, by the singing of the national anthem by the thousands of people across the country. I thought: "This is fantastic. Here are thousands upon thousands of people in this room that I am standing in who are patriotic Australians—and there are those in the Liberal Party, and some in the National Party as well, federally who would have us believe that we are unpatriotic because we do not support the WorkChoices legislation."

It was also my very great pleasure yesterday to attend the launch in Canberra of Graham Freudenberg's political memoir entitled *A figure of speech*. Graham Freudenberg, I believe, is probably the best political speech writer that this country has ever known. Of course I am biased, because he wrote for leaders such as Hawke, Whitlam, Calwell, Wran, and Bob Carr most recently. He also has written for a few others.

I have just started reading his book. I read a little bit of the introduction today and I was bemused—I think that would be the way to describe it—by what he says about the making of George Bush:

> Then came September 11, and the making of George Bush: his speech in Washington's National Cathedral, where he became the first leader to declare war in a cathedral since Pope Urban II preached the First Crusade …

With words like that, I am looking forward to reading the rest of the book. It was my great pleasure in June this year to attend the New South Wales conference where Graham gave a speech on behalf of the life membership recipients within the New South Wales Branch of the party. He has quoted it in his book, so I would like to finish with that:

> The fact is that John Howard has embarked on a massive rewriting of Australian history. Because he knows that controlling history is the key to controlling the future. Howard is the Regius Professor of what I call the GBM School of Australian History—the notion that there is nothing worth knowing about Australia, except Gallipoli, Bradman and Menzies. There is nothing more disgraceful in his career than his manipulation and politicisation of the Anzac legend in the interests of the Liberal Party. I'm entitled to resent that as much as anybody in this room. My father was a stretcher-bearer on Gallipoli.
>
> But if you understand this about John Howard, that he wants to rewrite Australian history in his own image, you have an essential clue to what he is doing, his hostility towards reconciliation, his hostility towards multiculturalism and, above all, first, last, and always, his hatred of the union movement of Australia. It is not only a case of driving the unions out of the workplace. It is a case of writing the unions out of Australian history, and out of Australia's future. Well, there is nothing new about it, delegates. The Great Strikes of 1890 and 1891 were about this very issue, the

> workers' right to organise and be represented by their union. And that's why the unions formed the Labor Party in this city in 1891.
>
> Delegates, I emphasise that this isn't a matter of clinging to the past or living in the past. It's not the unions but John Howard whose ideas are stuck in the 1950s. No institution has transformed and renewed itself more than the union movement in the last twenty years. The greatest strength of the Labor Party is its ability to change and adapt. That's why it remains the party of Australia's future.

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

Question resolved in the affirmative.

The Assembly adjourned at 6.26 pm.