DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

SIXTH ASSEMBLY

WEEKLY HANSARD

22 NOVEMBER

2005

Tuesday, 22 November 2005

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

Legal Affairs—Standing Committee
Scrutiny report 19

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

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 19, dated 21 November 2005, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 19 contains the committee's comments on one bill, 12 pieces of subordinate legislation and five government responses. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Crimes (Sentencing) Bill 2005
Detail stage

Clause 34.

Debate resumed from 15 November 2005.

MR STEFANIAK (Ginninderra) (10.32): I seek leave to move amendments Nos 13 to 16 circulated in my name together.

Leave granted.

MR STEFANIAK: I move amendments Nos 13 to 16 circulated in my name *[see schedule 1 at page 4462]*. I draw members' attention firstly to my amendment in relation to the "if any" provision throughout the government's bill. As we have already debated the issue and I have lost that amendment, I will say nothing further on that. That would obviously and logically be defeated. However, I draw members' attention to clauses 14 and 15, referring to clause 34 (1) (d) and (1) (e), in relation to irrelevant considerations in sentencing. Section 34 (1) states: "In deciding how an offender should be sentenced (if at all)…". I would accept that you are going to keep that wording. It continues:

> …a court must not increase the severity of the sentence it would otherwise have imposed because of any of the following:
>
> (a) a law that has not commenced;

That is fine because that is traditional. It would be unfair if that were changed. The second one reads:

> any alleged offences that the offender has not admitted in accordance with section 57 (Outstanding additional offences taken into account in sentencing);

That is a longstanding principle where an offender can plead guilty to a number of additional offences, which will be taken into account in sentencing. The third one reads:

> that the offender chose not to give evidence on oath;

Again, that has been a longstanding principle, although we have done away with DOCS statements. That is a different thing entirely. Subclause (f) reads:

> that the offender chose to plead not guilty;

A fundamental tenet of our justice system is "innocent until proven guilty". That has been in our system basically since the dawn of time. A more recent addition is subclause (g), which reads:

> that the offender chose not to take part, or chose not to continue to take part, in restorative justice for the offence under the Crimes (Restorative Justice) Act 2004.

That again is part of a provision of the restorative justice act, which was passed by this Assembly. I have no quibble with that but I have some concern with subclauses (d) and (e). Subclause (d) reads:

> that the offender may have committed perjury or been guilty of contempt of court during the proceeding;

Subclause (e) reads:

> the offender's behaviour in court;

Firstly, the offender may have committed perjury or been guilty of contempt of court during the proceedings. Whilst it might be said that additional charges can be brought, I think it is important for the administration of justice—and indeed if someone is in the process of being sentenced—for matters like that to be taken into account. You do not have to be charged with another substantive offence but if a person has committed perjury or been guilty of contempt of the court during the proceedings, I think it is a relevant factor—certainly contempt of court—in deciding what the sentence should be and whether that is an aggravating circumstance justifying an increase in severity.

The offender's behaviour in court is also important. If an offender shows contrition and genuine remorse in court—and we have that—that is something to be taken into account in mitigating the sentence. The corollary should surely apply—that is that, if an offender's behaviour in court is so bad that the court thinks, "This person is just showing contempt for the system, contempt for the victims, contempt for this court, contempt for everyone concerned here today; there is clearly absolutely no remorse; in fact he or she

just seems to have absolutely offensive behaviour towards the whole proceedings and the reason why they are in court," surely that is a very good reason for an increase in the sentence.

To enable appalling behaviour in court—and I have seen it on occasions—I think simply brings the system into contempt; it is a mockery of the system and leaves everyone with a sour taste in their mouths. I believe a provision like that, which precludes a court from taking an offender's behaviour into account, is not in the interests of justice. Victims will go away shaking their heads. It is contemptuous towards the police who brought the offender there and it is also contemptuous of the court itself. It takes away from the dignity of the court and the whole proceedings, which are basically to ensure that justice is done.

If an offender's behaviour is bad in court, that should be a relevant circumstance when imposing a sentence or, on this occasion, increasing the severity of the sentence. That to me is the most glaring example. Even if the government did not particularly want to follow subclause (d), subclause (e) is certainly something that happens much more often than people commit perjury. When it happens it is often quite stark and quite disturbing. For that to be highlighted here as an irrelevant consideration is not in the best interests of justice. It is just plain wrong.

DR FOSKEY (Molonglo) (10.38): As previously outlined, I cannot agree to the Liberals' proposed change of language in this bill in order to support a tough-on-crime stance. Paradoxically, this tough-on-crime posturing is often counterproductive and can lead to the entrenching and reinforcement of criminal behaviour. A criminal conviction can do this by stigmatising a first-time offender, jeopardising their chances of finding employment and alienating an offender from the community that we would prefer them to reintegrate with.

A tough-on-crime stance that leads to a jail term being imposed by taking away the option of a non-custodial sentence will introduce an offender to the broader criminal community and to criminal values they are sure to experience if sent to jail. Politicians should not be trying to muscle into the realm of individual sentencing decisions. *Canberra Times* polling results should not be the foundation on which to construct sentencing policies. The judge or magistrate will have heard all the available evidence and arguments and will have observed the offender in person over the course of the trial. They will know the prior history of the offender and they have the opportunity to ask their own questions of the offender. They are in an infinitely better position to decide on the most appropriate response to antisocial behaviour than populist politicians, media owners, editors or right-wing talk show hosts.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (10.40): Mr Speaker, in outlining his proposed amendments Nos 13 to 16, Mr Stefaniak has pointed out that proposed amendment 13 is consequential to the extent that it proposes to remove the adverb "how" from the phrase "in deciding how to sentence an offender". We discussed those issues at some length when we last met and debated earlier provisions within this legislation.

The position taken by the government in relation to previous such amendments was that the essence of the amendment proposed by Mr Stefaniak was really a change in language or style; that the language and style utilised in the legislation were the language and style preferred by the parliamentary counsel's office and which had been recommended by that office; and that the government was disinclined to accept the proposal by the opposition in relation to that. That remains the government's position. Mr Stefaniak acknowledged that in his opening comments. That deals with proposed amendment 13. Proposed amendment 14 will also be opposed by the government. The shadow attorney proposes to remove paragraphs (d) and (e) from clause 34 (1). Clause 34 (1) (d) reads:

> In deciding how an offender should be sentenced (if at all) for an offence, a court must not increase the severity of the sentence it would otherwise have imposed because of any of the following:

Subclause (d) reads:

> that the offender may have committed perjury or been guilty of contempt of court during the proceeding;

Subclause (e) reads:

> the offender's behaviour in court;

It is the position of the shadow attorney and the opposition that those two provisos should be removed from clause 34, which is headed "Sentencing—irrelevant considerations". The legislation as structured puts the position that the offender's behaviour in court and the fact that the offender may have committed perjury or been guilty of contempt of court during the sentencing proceedings are irrelevant considerations. But the shadow attorney argues that the prospect that an offender who is being prosecuted may have perjured himself, been guilty of contempt or may have behaved in court in a certain way are relevant considerations.

To take that to its logical conclusion, if an offender is in the dock and proposes a defence or explanation and perjures himself to the extent that his alibi is not believed, or the position he puts in his defence is obviously rejected, and there is a prima facie case or suggestion that he has not been strictly honest and it is found by the court at the end of the day that he has perjured himself, then the second offence—essentially perjury—should be taken into account in the sentence handed down in relation to the offence for which the person is in court in the first place.

I think we would all be surprised if some people who appear before the Criminal Court are strictly honest in what they say in their defence. We would all be aware of cases in which somebody charged with an offence has created a purely fictional defence. To the extent that defences are often ignored and completely disregarded when the court finds a whole range of other facts—in other words that they committed the crime—then, prima facie, the person has committed perjury.

I think that, in the context of law and justice and prosecutions and defences, it would be fair to assume that the vast majority of people who plead innocent and are subsequently

found guilty perjure themselves in their own defence. To some extent our system almost accepts and acknowledges that, at the end of the day, when a defendant who pleads innocent says, "I was not even there" and it is subsequently proven that they were there all the time—perhaps through the use of DNA evidence, fingerprints or security cameras—they are proven to have lied in their defence and perjured themselves.

Mr Stefaniak—or the opposition—suggests that, if you go along, plead innocent and create a defence which is a fiction and you are then convicted on the basis that there is other evidence adduced by the prosecution which proves that you are lying and you are found guilty and then sentenced for the offence, the court should say, "You lied in defending yourself; that is another offence; we will just load that on top of this other offence you have committed and which we have found you guilty of." I think the whole system of justice proceeds on the basis of the agitation of the prosecution and the defence cases. Taking the fact that a person in defending themselves commits perjury—in other words tells a lie—as a relevant consideration in the sentence that should be handed down goes very close to the prohibition we continue to maintain around double jeopardy which, in other words, is the suggestion that no-one should be tried and punished again for an offence for which they have been finally convicted or acquitted according to the law.

There is a provision within the Human Rights Act that encapsulates article 14 of the International Covenant on Civil and Political Rights that one not be punished twice for the same offence. I think that if the suggestion of taking into account the nature or truthfulness of a defence mounted by an offender being prosecuted does not infringe the proposition that you not be tried or punished twice for the same offence, it goes very close to infringing it. In other words, a person mounts a defence which the court finds lacking and completely fabricated—it is perhaps wholly dishonest; not a case of a mistaken position, view or viewpoint. I am sure we all know how often that happens but it is part of a system that we accept. In the context of how criminal justice has traditionally operated and in relation to our attitude to double jeopardy or double punishment, it is not appropriate that, all of a sudden, we begin to believe that the truthfulness of a defence mounted in a prosecution can be taken into account in determining the quantum of a sentence imposed by a court.

I take a similar position in relation to paragraph (e)—that the court should, in deciding on a sentence, have regard for the offender's behaviour in court. I think we would all be aware—and Mr Stefaniak points to this—that not infrequently in our criminal courts the behaviour of offenders is quite appalling and simply insupportable. It is a quantum leap to jump from acknowledging that some offenders, in the pressure cooker of a criminal court where they are potentially facing life imprisonment, do not maintain a level of decorum or do not behave in a way that we would perhaps wish all human beings to behave. I think some account should be taken of the enormous trauma, pressure and stress a person facing, say, a sentence of life imprisonment is under. I think we should have some regard for the pressures that motivate or induce some of the behaviour that we all know to be unacceptable but which we can nevertheless, I believe, seek to understand.

In the context of that sort of behaviour I believe our judicial officers have a capacity, through their experience and understanding of their roles and responsibilities, not to take into account the behaviour of a person in court as a relevant consideration in determining the length of a sentence. If a magistrate or judge could say, "I was going to sentence you

to 10 years jail but your behaviour during this trial has been so appalling, so intolerable, that I am going to send you to jail for 12 years," that would be a dangerous road to follow.

It is a remarkable position to put that a magistrate or judge, in determining the length of time somebody should be sent to jail, could say, "I sent the last 10 people who were convicted of this to jail for 10 years, but your behaviour is just appalling; I cannot stand your bad manners; you have been abusive and rude; and you are going to jail for 12 years." I do not believe that is an appropriate consideration for a court to take into account. I think it is a truly irrelevant consideration. The government will not support the proposed amendment. We have previously discussed proposed amendment 16. It is the same as proposed amendment 13 and the government will not support it.

MR STEFANIAK (Ginninderra) (10.51): I think both members who have spoken against this have missed the point. Firstly Dr Foskey, and to a certain extent the Attorney, has missed the point. They both seem to assume that my amendment—and I speak specifically to (d) and (e)—says that the courts should have regard for these matters. My amendment leaves it entirely up to a court as to whether it does or not. Here we are dealing with matters under the heading of "irrelevant considerations". It states:

> …a court must not increase the severity of the sentence it would otherwise have imposed because of any of the following:

In other words, it precludes a court from taking these relevant matters into consideration. In relation to the Chief Minister's comments about perjury, very few people in the ACT have ever been charged with perjury, and rightly so. When it happens occasionally it is usually not the defendant but rather a witness who has blatantly and deliberately lied to a court. There is the presumption of innocence and the offence must be proved beyond reasonable doubt. Of course defendants will gild the lily; of course they will probably be telling lies, but I do not think I have ever seen a defendant charged with perjury for simply defending their case in any way. I have on occasion seen witnesses have their papers referred to the commonwealth Attorney-General, but I have not seen too many people prosecuted for perjury in the ACT. If indeed anyone has been prosecuted, I could count them on a couple of my fingers. What we are talking about is very rare. I think the attorney misses the point there.

Dr Foskey indicated, and was quite correct, that judges and magistrates have the opportunity to observe a defendant during a trial or hearing. Judges and magistrates might have their own personal foibles; that is why there are sentencing guidelines in the criminal law. Whether it is what I am suggesting or what the government has in its bill, we are talking guidelines to help guide a court. Judicial officers are there observing a defendant during a trial and are well able to make decisions as a result of that, so why tie their hands? These two sections do exactly that. They take away from their discretion; they tie their hands saying, "You cannot, under any circumstances, take these two matters into account."

I am less concerned about the perjury angle because, in my experience, that simply does not happen often in our justice system here in the ACT. I think an offender's behaviour in court is very appropriate, just as an offender's good behaviour in court, showing contrition, is something a court must take into an account in imposing a penalty. It is

illogical in the extreme for the corollary not to apply. In taking this out, all it means is that the court might have regard for an offender's behaviour in court; it does not say they must, so both of you got that wrong. It just enables the court to take that into consideration, among many other things, should it wish to do so. At this stage they cannot take that into account and I think it is wrong. I reiterate the fact that I think you both missed the point there.

Amendments negatived.

Clause 34 agreed to.

Clause 35.

MR STEFANIAK (Ginninderra) (10.55): My amendment 17 is consequential and I will not proceed with it.

Clause 35 agreed to.

Clauses 36 to 39, by leave, taken together and agreed to.

New part 4.1A.

MR STEFANIAK (Ginninderra) (10.56): I move amendment No 18 circulated in my name which inserts a new part 4.1A, incorporating new clauses 39A and 39B *[see schedule 1 at page 4462]*. I listened with interest to what the attorney said when we did this last time about there being some problem which went to the High Court, which did not rule definitively in relation to this. This is very much akin to what occurs in New South Wales, in the guideline judgments, which serve New South Wales very well. New clauses 39A and 39B would enable our Court of Appeal—just like the Court of Criminal Appeal of New South Wales—on its own initiative, or at the request of the Attorney, to give a guideline judgment. That can be given separately or in any proceedings the Court of Appeal considers appropriate—and it lists why and how that can come about. It is a fairly simple provision that enables guideline judgments to be reviewed, varied or revoked in later guideline judgments and does not limit any power or jurisdiction the Court of Appeal has, apart from this section.

It also enables the attorney to request the Court of Appeal to give a guideline judgment, and that request may include submissions about the proposed guidelines. I know this is going to be voted down out of hand, which is a pity. If the attorney had a problem and did not want to ask the court for a guideline judgment, you could simply scrub 39B. I think it is very handy. I discount the argument raised earlier in relation to size of jurisdiction. I know New South Wales is a much bigger jurisdiction, but the size of the jurisdiction is irrelevant. I think it is essential for commonality in sentences and for some sort of certainty in serious matters—we are dealing with serious matters; this would only apply to serious matters; no-one is going to do it for a minor matter—that if you go before a court it does not matter who you get, there is a range applicable for that type of offence. It enables a superior court to issue a guideline judgment for the guidance of the court.

One of the biggest problems in sentencing is that there is often a very significant difference between what one judge or magistrate and another judge or magistrate might do. That is a real problem. Most people want some idea and certainty. It is appreciated by people who practise in the area if there is some certainty as to what the person is likely to get—what the tariff will be for a certain offence. That is a very important sentencing consideration. This enables the Court of Appeal, on its own initiative, to do that. That seems to have worked quite well in New South Wales, where it has been in place for over five years. It is equally applicable regardless of the size of jurisdiction.

Perhaps it is even starker in a smaller jurisdiction where you have fewer judicial officers. If one judgment is perhaps way out of kilter with the norm—it is hard to say what a norm is—or seems totally inappropriate, it is that much harder. I think there should be guideline judgments in relation to that, should any party take the matter up on appeal. It gives some consistency between courts and enables the superior court to issue guidelines. Of course there will always be differing circumstances that would justify a completely different sentence in any particular matter, but the guidelines are important. They have served other jurisdictions well and I would certainly commend them to members.

DR FOSKEY (Molonglo) (11.00): The Greens reject this guideline judgment proposal as an unwarranted interference in the independence of the courts. I want to respond to Mr Stefaniak's claim that we have misunderstood the purpose of this amendment and that its intention is to give the courts more power to set guideline precedents. I point out that that is not all it does; it also creates an avenue for political interference by the government of the day. Whether by design or default, this proposal weakens the independence of the judiciary.

Australia seems to be engaged in a fairly rapid slide away from an independent judiciary that has served us well since Federation. I find it astonishing that the people responsible for these changes have not been able to justify their actions with research or evidence and have not reflected on the consequences of this approach—or, if they have so reflected, they have chosen to pursue their own perceived short-term political advantage. It is almost certainly the case that jails are often run more humanely than they were in the past, but there is no justification for persisting with this ballot box focused populist campaign to increase penalties and limit the scope of the courts.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.02): I will not take too much of the Assembly's time on this. When we previously debated the bill, proposed new clause 33A was debated at length. Mr Stefaniak took the opportunity to respond to some of the arguments then. I stand by the position I put and make the same comment as Dr Foskey has made today. I think it is overstating the case—or, I am not sure that it overstates it but it does not reflect either position, as Dr Foskey has explained—to say that the position we put was one that lacked understanding or was put lightly in relation to our guideline judgments.

Mr Stefaniak, I think that, to some extent, you have done us a discourtesy in suggesting that our position was neither well thought out nor well put in relation to a fundamental philosophical objection to guideline judgments. I do not want to labour the point, other than to say that I share with Dr Foskey the comments she has just made in response to

your suggestion in relation to the attitude both the government and the Greens have taken to guideline judgments. I simply refer to the points or comments I made in relation to clause 33A in relation to guideline judgments and would reiterate everything I said on that occasion.

MR STEFANIAK (Ginninderra) (11.03): I will also be brief. I thank the attorney for being brief. I have one point. Dr Foskey mentioned this. It might take up something the attorney said earlier. It is not an unwarranted interference with the courts, because this is, if you read it, the Court of Appeal doing it itself. If you recall what I said, if the attorney did not want to be involved, I would be quite happy to have that part struck out.

Superior courts have regularly overturned inferior courts. Our Court of Appeal, according to the most recent stats on sentencing, upheld the crown's appeal against excessive leniency on three out of four occasions. It happens all around the country that a superior court such as the Court of Appeal, the New South Wales Court of Criminal Appeal or indeed the High Court, if anyone goes that far, will often tell the trial judge he or she got it wrong.

To reiterate my earlier point about this act dealing with a whole series of guidelines to a court: the courts get it wrong. Courts comprise judicial officers who are human beings. Often you will find, with one particular matter, if you had three different judges dealing with it, you would get three different decisions in terms of some things like sentencing.

Things like guideline judgments are an attempt to ensure a superior court can set guidelines which make it easier for a lower court to follow, to assist in terms of greater consistency which is what defendants especially, as much as anyone else, probably appreciate. You might get lucky perhaps; you might get unlucky. Surely consistency is something defendants appreciate more. That is what this aims to do.

Simply leaving it to a trial judge as the absolute, sole judge of everything is something that does not happen now. It is probably a divine right of kings-type concept; it is almost medieval. We already have superior courts that interfere with the judgments of lower courts. All this amendment does is make it easier for consistency by enabling a superior court to issue a guideline judgment.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

New part 4.1A negatived.

Clauses 40 and 41, by leave, taken together and agreed to.

Clause 42.

MR STEFANIAK (Ginninderra) (11.10): Mr Speaker, amendment 19 is a consequential amendment, and I will not be moving it. I advise you I will not be proceeding with amendments 20 and 21. Amendment 21 is also a consequential amendment. Amendment 20 is reasonably covered by what the government has here. My amendments 19, 20 and 21 will not be proceeded with.

Clause 42 agreed to.

Clauses 43 to 57, by leave, taken together and agreed to.

Clause 58.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.12): I move amendment No 5 circulated in my name *[see schedule 2 at page 4465]*.

In conjunction with clause 18 of the bill, clause 58 enables the court to impose ancillary orders for restitution, compensation, costs, forfeiture, destruction, disqualification or suspension. The bill currently would lapse these orders if a conviction or a finding of guilt is reversed or set aside. Rather than place victims in a situation where ancillary orders are made, enforced and then changed, these amendments will defer the execution of the orders until the normal appeal period expires.

Similarly, foreshadowed clause 133A provides for this deferral. The amendment to clause 58 (5) ensures that clause 58 will be subject to the foreshadowed clause 133A.

Amendment agreed to.

Clause 58, as amended, agreed to.

Clauses 59 to 66, by leave, taken together and agreed to.

Proposed new clause 66A.

MR STEFANIAK (Ginninderra) (11.13): I move amendment No 22 circulated in my name which inserts a new clause 66A *[see schedule 1 at page 4462]*.

This inserts standard non-parole periods. As members can see, if they read it, it applies if the court is setting a non-parole period for an offender under section 65 or section 66. What it does is set out a list of aggravating circumstances which the court can have regard to if they feel that the standard non-parole period is, in fact, not appropriate

because it is too low in the circumstances, or mitigating circumstances which the court can have regard to if they feel the standard non-parole period is too high.

This is based very much on what New South Wales has in relation to its standard non-parole periods, which came into effect back in 2002, with some extrapolation in relation to our particular offences. Offences 11, 12 and 13 in the table in proposed new clause 66A relate to quantities of serious drugs, their sale or supply and the volume that the person has for supply. An exponential increase in the recommended penalty of a non-parole period is dependent upon that particular quantity. The New South Wales provision is very similar to that.

The only other difference is in relation to burglary and is for repeat offenders rather than for somebody who might be making their first appearance. The rest deal with particularly nasty crimes. I suppose a good way to highlight it is murder. Over many years in Australia, there has been concern expressed that the standard period for murder seemed to be about 12 or so years non-parole. That is a deliberate act that takes another person's life and is probably the nastiest crime there is. For the particularly nasty murders, the penalties were somewhat greater. In another debate we talked about papers sometimes being marked "never to be released". However, for a more basic murder, where there is a deliberate act to take someone's life, there was a lot of concern shown that 12 years was too low.

New South Wales has—and I might have indicated this in my opening speech—quite effectively used this in recent times. If you read the Sydney papers and look at reports on the crime of murder, you will quite often see courts imposing a standard non-parole period of 20 years for murder. Sometimes it is far greater; other times it is far less because of mitigating circumstances.

I have seen cases in New South Wales where people that have been convicted of murder have not even had a custodial sentence imposed on them. I have made mention in the past of the battered wife syndrome, where the circumstances are so mitigating, and the behaviour of the victim so extreme, that the court has decided to impose no penalty. You have, at the other end of the scale, horrific murders such as the Anita Cobby murder where papers will be marked "never to be released."

There is a lot of angst in our community in relation to courts being too lenient when it comes to serious crimes. Most people probably do not have that strong an attitude towards property crime. Whilst Dr Foskey might not particularly like the *Canberra Times* survey I referred to, it was a very accurate indication of people's views. People would not necessarily see the need for custodial penalties in relation to property offences. But for violent offences, there is a real concern that our courts are indeed too lenient and that something needs to be done.

New South Wales has come up with a very good way of doing that. For these very serious crimes, they have recommended standard non-parole periods—periods that the court can deviate from. Basically a court has to show some good reason to do so. It is not mandatory sentencing. Those opposite in the past have said, "That is just mandatory sentencing." That is nonsense; it is not. Quite clearly, anyone reading this can see that. It has these guidelines. It imposes recommended non-parole periods which can be deviated

from but which are a very strong indication to a court that reflects the community's concern about particularly nasty crimes.

It is probably high time that this Assembly took note of the views of the community and the community expectations in terms of what they expect from a justice system. The community are not fools. The ACT community can differentiate between property crime and violent crime. They can see reasons why it would be unreasonable to have a provision that might jail someone who commits a property crime for the first time. The majority of that survey indicated they do not necessarily see jail as appropriate for someone who has committed a serious property crime and is before the court for the first time.

They have a very different view of violent crime. When 83 per cent think our courts are far too weak when it comes to sentencing violent offenders, when 12 per cent think they are probably too weak and only 5 per cent think they are getting it about right, that is something we need to take into account.

I was at a Neighbourhood Watch meeting in Florey last week. There has been a spate of offences there. Most of them, luckily enough, are not terribly serious. But a real concern amongst those present was that, even if the offenders were caught, nothing would happen when they got to court. These people were not mad rednecks or anything; they were just community people in a suburb who had concern. There has been concern—and it is regularly expressed by victims—that our courts do not take a serious enough view when it comes to dealing with serious offences. Sometimes they take the view that the courts are not tough enough on more minor offences. But I am not dealing with that here; I am dealing with very serious offences.

This is something that a Labor state, a state that surrounds the ACT—refer to New South Wales— has brought in. It appears to be working quite satisfactorily there. There is a real problem. I would like to see consistent sentencing right across Australia. That is something we might achieve at some date. It is taking us forever to get a national criminal code going. That is something we might see at some stage. But I would certainly like to see that across Australia. In the meantime, I do not think it is right that someone who commits an armed robbery in Queanbeyan could expect to get a certain number of years imprisonment for that armed robbery and, if they committed the same offence in the ACT, could get a lesser sentence and might even walk free without a custodial sentence.

These are guidelines. Yes, these are strong guidelines for a court. But they were certainly recommended to me by victims and certainly were something that the AFP was keen to see. Indeed, some lawyers who have been involved in criminal law for a number of years were quite comfortable with them. Obviously, a number of others would not be. I reiterate: they would bring us into line with New South Wales. They were brought in in New South Wales, a Labor state. Obviously, the Greens and the ALP are going to vote against them. But you should have due regard to proper community expectations.

Sentencing is more than just rehashing a series of acts and putting them into two; it is about taking the opportunity to look at what needs to be done here and now, especially what needs to be done to toughen up areas where there have been some glaring weaknesses in the past; and put down proper guidelines that will ensure that, for these

most serious offences, courts reflect, as far as they can, community expectations. As I indicated before, as applies in New South Wales, there are ample areas where courts can deviate from this. They do in New South Wales and they do here.

DR FOSKEY (Molonglo) (11.22): Mr Stefaniak is trying to grapple with a problem that the ACT confronts all the time. We are a small jurisdiction surrounded by a much larger one. But I do not agree with his proposal to gap the level of standardisation there, because standardising non-parole periods is essentially about imposing longer sentences and taking away the discretion of courts and parole boards. It also takes away a prisoner's incentive to demonstrate rehabilitation and good behaviour while in jail, in the hope of getting early parole.

The Greens do not believe that longer non-parole periods will have any great impact on an offender's consideration as to whether or not to commit a crime. The Greens would rather see much greater emphasis placed on addressing the reasons for crime and on crime prevention measures.

Contrary to Mr Pratt's statements the other day that the Greens would like to throw open the jails and absolve everyone from accepting the consequences of their own actions, I put on the record, again, that the Greens have supported the ACT government's new prison project, with provisos, and will do all that we can to ensure that it is best practice and human rights compliant. The opposition has consistently opposed it.

It is the case that the Greens believe that criminal behaviours are often the result of social and economic forces beyond the control of the individual. And the statistics on the number of prisoners who have severe mental health, drug and childhood abuse histories bear witness to the wisdom of the Greens' approach. The Greens' approach is an evidence-based approach. The correlation between these pre-existing problems in criminal behaviours is so strong that I am disappointed and sad but not surprised that the level of debate in this chamber has been such that I am accused of wanting to throw open the jails.

We need to acknowledge that there are a disproportionate number of women prisoners who are in jail solely for the reason that they are addicted to the use of illicit drugs and are living testimony to the failure of the war on drugs. We need to get rid of that image of the offender always being a particular stereotype that, I believe, is perpetuated in these kinds of debates.

Regardless of the reasons for criminal behaviours, the Greens believe that adult individuals must show some responsibility for their own actions where they are capable of taking responsibility. The Greens also believe that the punishment should fit the crime as well as the offender. I do not believe that these amendments are designed to achieve this purpose.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.25): The government will not support these amendments. Mr Stefaniak proposes, as he has explained, to introduce statutory non-parole periods, again to be in line with New South Wales.

Mr Stefaniak's amendment includes a table of 13 offences providing standard non-parole periods. The amendment states that the court must impose these periods unless there are reasons for not doing so. When setting a non-parole period the court must consider 26 aggravating or mitigating criteria. Apart from the extra workload upon courts, the amendment gives the impression of significantly reducing judicial discretion and would create unnecessary disputes for appeal.

Mr Stefaniak reasons that standard parole periods create greater certainty about the time the criminal spends in jail and are necessary because ACT sentences are out of kilter now with New South Wales. Mr Stefaniak, in speaking to his amendment now, also suggests that they are out of kilter with community expectations in relation to sentences that have been handed down for particular offences.

It has to be said, however, that Mr Stefaniak does not, in addressing this amendment, acknowledge that the treatment of parole periods in New South Wales and the ACT is fundamentally different. In New South Wales the time an offender spends on parole is counted towards completing the whole sentence. In the ACT an offender's parole time is not counted towards completing the sentence until the whole sentence is finished. If an ACT offender breaches parole the offender must serve the whole parole period in prison unless parole is again granted. If a New South Wales offender breaches parole they are only obliged to serve the remaining time of their sentence. Consequently, the incentive to abide by parole in the ACT is far greater than it is in New South Wales.

It can also be argued that Mr Stefaniak's amendment contradicts the Liberal Party's 2003 submission to the sentencing review itself. The Liberal Party made a submission, through the then spokesperson Mr Smyth, on 31 January 2003. Under the heading "Purposes of sentencing", Mr Smyth, in his submission, wrote what appears to be the crux of the submission. Mr Smyth said, on behalf of the Liberal Party:

> I believe that the most significant outcome we can strive for is to reduce future crime by improving the performance of our corrections system in rehabilitating offenders. In my approaches … to this area I emphasis rehabilitation not to elevate it above the other statutory objectives, but rather because it is the element which has the greatest significance for the post-trial management of offenders.

Those are most laudable aims, and in this bill the government has, in fact, acted on Mr Smyth's submission. But Mr Stefaniak would now seek, essentially, to contradict the position put by his leader, namely, that the most significant feature of a corrections system should be rehabilitation, not that it should be put apart from other objectives, as Mr Smyth says. It is the element with the greatest significance. That is a position that the government accepts.

The key purpose of parole is certainly to moderate a sentence of imprisonment to enable the offender to rehabilitate. It is the submission that Mr Smyth made on behalf of the Liberal Party and is the philosophy that underpins the sentencing legislation and this government's commitment to sentencing and corrections.

It is a position that is also supported by the High Court. In the case of R v Shrestha, (1991) 173 CLR, at page 48, the High Court acknowledged, as a key purpose of parole,

the moderation of a sentence of imprisonment to enable the offender to rehabilitate. Mr Stefaniak's proposed standard non-parole periods elevate jail time above the goal of rehabilitation, which the government supports, which the High Court advocates as the principal purpose of parole and which was the centrepiece of the Liberal Party's submission to the sentencing review when the review was launched.

The New South Wales scheme of standard non-parole periods is relatively new, having come into effect for offences committed after 1 February 2003. There are already a number of New South Wales Court of Criminal Appeal cases testing the new provisions in New South Wales. In R v Way in 2004 and in R v Pellew, again in 2004, the Court of Criminal Appeal has interpreted the provisions as not reducing judicial discretion but as an exercise in assessing subjective and objective factors about the offence itself to determine whether a standard non-parole period should apply. Presently the scheme—and this is an emerging conclusion within New South Wales—seems to simply add another tier of judicial consideration and avenues for appeal rather than work as an expedient means of setting consistent non-parole periods throughout the courts of New South Wales.

It also needs to be said that, at the heart of the philosophy underpinning statutory non-parole periods, in a way that is a softer version of mandatory sentencing. If one looks at some of the standard missals, the other issue one would have is the assessment of what the standard non-parole period should be. Mr Stefaniak would claim a link to community sentiment in relation to what it is that the community would expect the standard non-parole period to be.

Mr Stefaniak believes that the standard non-parole period for murder should be 20 years. He suggests that the standard non-parole period for a murder involving a police officer, an emergency services officer, a health professional, a schoolteacher, et cetera, should be 25 years. I do not know on what basis Mr Stefaniak believes that expresses the sentiment of this community. Mr Stefaniak says, "It is the sentiment of the New South Wales community or the parliament of New South Wales, and we will simply accept that as appropriate and an expression of this community's views in relation to some of these issues."

But at the heart of standard non-parole periods is the question: what about judicial independence? What about the fact that we put in charge of our criminal process people learned in the law, experienced magistrates and judges, so that they can assess every single aspect of the case, undertake and receive advice, psychological assessments, counselling reports, reports from psychiatrists in relation to an offender, look at that offender's history, look at the offender's family circumstance and look at whether or not there are genuinely a range of aggravating or mitigating factors?

Mr Stefaniak will come back and say, "I allow for that. The provision is based on the fact that this section applies if a court is setting non-parole for an offender. Under a section where there is a standard non-parole, the court must set the standard non-parole period for the offence unless the court considers that there are reasons for setting non-parole for an offence that is longer or shorter than the standard non-parole period."

I am sure Mr Stefaniak would insist, "It is only a guide. Essentially, this is what you would do unless you are going to set a higher or lower sentence." You would ask, "What

is the problem?" He says, "The court has this discretion to take into account a range of aggravating or mitigating factors if it does not want to accept this period; this is just sending a signal." But it does not work quite like that. The New South Wales Court of Criminal Appeal, in the cases of Way and Pellew, is interpreting the provision as not reducing this judicial discretion but as an exercise of assessing subjective and objective factors.

It is this overlay of issues that have to be taken into account. Subject to the conclusions you reach in relation to the list, you either impose the standard non-parole period or you impose a higher one or a lower one, on the basis that we, as a community, are now saying, "We expect a sentence of this unless you can find a reason to increase it or decrease it."

I am concerned at any legislation which moves or impacts on judicial discretion or the way in which sentences have been traditionally handed down in Australia. It is not good enough just to say, "This is how they do it in New South Wales." As I say repeatedly, Canberra is not Sydney; we do not need just to parrot what it is that the government in Sydney does, albeit a Labor government—and a good Labor government, at that. This is a good Labor government; in fact, this is a better Labor government. We will not do what they do in the New South Wales parliament and hold that up as a benchmark or as a measure against which we should mark or measure ourselves.

For instance, if one goes to the table setting out the standard non-parole periods—and I have issues with this—item 9 states:

> Offence against the Criminal Code, section 311 (Burglary), if the offender has been convicted of a burglary offence in the previous 5 years …

There is a mandatory sentence of imprisonment of one year. That requires a debate in itself. Mr Stefaniak simply presents us with an amendment with columns. I am sure Dr Foskey could give a half-hour speech on the considerations that one should take into account in relation to just that: where there is a burglary offence, if the offender has been convicted in the last five years of a burglary offence, then you have to go to jail for a year before you can get parole. This is my concern. I have issues with that. I would even debate that by itself.

Item 12 states:

> Offence against Drug*s of Dependence Act 1989*, section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 30 but less than 50 times the quantity prescribed as a trafficable quantity—

the sentence is a minimum 10 years in jail. Item 11 states:

> Offence against Drug*s of Dependence Act 1989*, section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 50 times the quantity prescribed as a trafficable quantity—

the sentence is 15 years in jail. As Mr Stefaniak knows, it is a form of mandatory sentencing. You have got your ifs and your buts, and your aggravating and your

mitigating factors, but this incremental shift to the removal of judicial discretion and the imposition of mandatory sentences is the first move towards a classic mandatory sentencing regime. This burglary offence, No 9, is: two strikes and you're out—all these philosophies in relation to sentencing that require the hardest consideration.

We can all conjure up a scenario—and that is the difficulty with this; we are not sitting in court in judgment of somebody that committed a burglary five years ago—of some young, mad, out-of-control kid, 14 years old, charged and convicted of burglary five years ago. He is now 19; he is now an adult; and he does some mad thing again. You say, "You were mad when you were 14, an immature, unformed kid, running wild and out of control, from a dysfunctional home, et cetera"—we could paint the scenario—"You are now a man; you are 19; you should have learnt. Go to jail for a year."

I honestly do not believe that that is good law, good sense and good corrections. We can all make such a scenario, if we go through each of these one by one. But anything that suggests, as your item 9 does, that a sentence for burglary should be based on whether or not you committed a burglary five years ago seems to me to be inherently flawed. It might be a factor that a court might take into account.

Then to say to the court, "Not only do you take it into account but you must then, unless you can find some other reason, sentence the person to a year in prison," is not good law and certainly is not backed by a philosophy that will be supported by the government. The government opposes this move to apply statutory non-parole periods in the ACT.

MR STEFANIAK (Ginninderra) (11.39): I certainly disagree with a number of things the government has said. The attorney's comments are quite predictable. This time around, in his argument, he at least acknowledged it is not mandatory sentencing. I thank him for at least coming that far, but I certainly do not agree with the comments he makes.

Fundamentally, again, yes, Canberra is different from Sydney. It is not Sydney, but it is not all that far from Queanbeyan and it is not all that much further from Goulburn. We are indeed surrounded by New South Wales. One of the problems the attorney has in any argument in relation to sentencing under the criminal law is the stark obviousness of the fact that we are an island surrounded by New South Wales and that these suggestions put before the Assembly by me are based on what a New South Wales Labor government has done, and has done with the concurrence certainly of the opposition in the state parliament and, I would imagine, of a number of Independent members.

In fact, there is debate as to whether they have gone far enough. We certainly think that what they have done is sensible and that they probably have gone far enough and have taken into account relevant considerations such as the fact that it is a recommended standard non-parole period and you can deviate from it. Yes, attorney, I am sure you and I could come up with a case where someone quite clearly should not get what is recommended in every single item here, because of the extenuating circumstances. Conversely, you can come up with cases where people should get more than that. There are always going to be cases like that. That is why there is a discretion with the court in relation to that.

There are aggravating circumstances and mitigating circumstances so that you do not get a situation where your example of a repeat offender in relation to a burglary would

necessarily be sentenced to one year. I would not necessarily see that occurring if at 14 he committed one burglary and at 19 he committed one burglary. Clearly that, in itself, would be significantly mitigating. When you look at the other points there, obviously the one year would not apply. But if he committed 30 or 40 offences at 14 and if he committed another 20 or 30 offences at 19, something like this clearly comes into play. In fact, a court could impose more.

I follow what happens in sentencing. We need better stats than we are getting at present. Take the offence of burglary. For multiple burglaries the courts have been imposing some jail terms and, in some instances, some significant jail terms. I do not see anything particularly extraordinary in relation to example 9.

Quite clearly, it is a case of wanting to be serious about having appropriate laws for serious offences. Both the attorney and Dr Foskey are saying, "You are interfering with the discretion of the court." "You are putting another layer," I think the attorney said, "of things a court has to consider." Standard parole periods are on top of what is there already. You are doing that with this bill we are debating anyway.

Twenty or 30 years ago sentencing under the Crimes Act was about one page long. It has only been since the early 1980s that there has been a plethora of additional legislation and additional clauses put in the Crimes Act in terms of guidelines for courts. And that is all I am doing, putting in these additional guidelines for courts so that they can address relevant, proper community expectations. Both you, attorney, and Dr Foskey are out of kilter with what the community expects in terms of dealing with serious offenders, especially serious violent offenders and offenders who pray on the weaknesses of others by supplying significant qualities of illicit drugs. That is what we are talking about here.

In terms of these bills being different to what my colleague put in the submission in 2003, that is nonsense. These bills, in a slightly different form but with these provisions, were before the Assembly. They might have even been sent by me to your committee around the same time Mr Smyth sent in his comments in relation to rehabilitation. This deals particularly with serious offences. Yes, it deals with ensuring that criminals who commit these offences get a proper period in jail.

Once they get to jail, the rehabilitation is essential. That is certainly something the opposition has been very keen to see in terms of an ACT prison. I note that the government is stressing rehabilitation. We are very supportive of that. One of the reasons why we want to see good rehabilitation programs for drug offenders is to get people who have used drugs off the drug whilst they are in jail, rather than propose a needle exchange, which we do not see as being particularly helpful but as perhaps counterproductive. We are very keen to see rehabilitation in jail. That is exactly what Mr Smyth has been proposing. It is exactly what I support and every member of the opposition supports.

We also support a stronger stance in dealing with serious crime. It is a real concern in the ACT community that, when it comes to serious crimes, our courts simply are not tough enough. Provisions like this assist the court. It is not like we are imposing any additional conditions. Twenty or 30 years ago you had one page of the Crimes Act dealing with sentencing and all you would rely on in sentencing would be similar decisions perhaps from interstate. It certainly is something I remember doing when I started prosecuting

offences in the Supreme Court. You rattled off what happened in New South Wales or South Australia as a guide to the court, because there was very little in terms of statute law. That seemed to work fairly well.

We have some significant concerns in relation to what is best in this difficult area of sentencing. There is the clear community desire to see sentencing toughened up in the ACT. All the people I talk to do not have any problem with our adopting the strong measures that the New South Wales Labor government has adopted.

I would be interested to follow through the attorney's comments in relation to parole. I do not necessarily think it is all that different, but it is an interesting point he makes there. I stress, in terms of what my colleague and I put in relation to these bills, there is no contradiction; they are different stages. One is dealing with the time of their sentence; the other is dealing with rehabilitation afterwards. It is crucially important and something we all support.

I note that this is going to be lost. I had no real expectation that it would get up. You are making a mistake. It is a shame that, when it comes to areas like this, this government is very much at odds with what its colleagues in New South Wales and elsewhere are doing. That is a pity. It is important to have consistency, not only in the ACT but also across Australia in terms of such important things as sentencing, especially sentencing for serious offences.

Once again, you have missed an opportunity. I do not think the community, certainly those who come into contact with the criminal justice system and are often the victims of it, will thank you for that. There is a real concern in the community in terms of what is appropriate for courts to do and the fact that there is a need for stronger laws when it comes to serious crime. Once again, the Assembly has missed an opportunity to give proper voice to those reasonable community expectations.

Question put:

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

The Assembly voted—

Ayes 6		Noes 9	
Mrs Burke	Mr Stefaniak	Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Pratt		Dr Foskey	Mr Quinlan
Mr Seselja		Ms Gallagher	Mr Stanhope
Mr Smyth		Mr Gentleman	

Question so resolved in the negative.

New clause 66A negatived.

Clauses 67 to 133, by leave, taken together and agreed to.

New clause 133A.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.52): I move amendment No 6 circulated in my name which inserts a new clause 133A *[see schedule 2 at page 4465]*.

The bill retains the sentencing courts' authority to make ancillary orders such as compensation for damage. For example, the bill currently would lapse these orders if a conviction or a finding of guilt is reversed or set aside. The bill enables reparation orders to be made for expenses incurred as a consequence of an offence or losses caused by theft of property. Rather than place victims in a situation where these orders are made, enforced and then changed, the intention of the government's amendment is to defer the execution of the orders until the normal appeal periods expire.

Clause 133A defers the effect of ancillary orders and reparation orders until the end of appeal proceedings. This clause also provides the appellate court with the power to give effect to an ancillary order or a reparation order before the appeal proceedings are complete, if justice would be served. If a conviction is set aside or overturned, clause 133A would automatically lapse ancillary orders and reparation orders.

DR FOSKEY (Molonglo) (11.53): I agree with this amendment to the Crimes (Sentencing) Bill, as it appears to make it more logical and administratively based in regard to the most appropriate manner for the courts to deal with and implement ancillary orders.

New clause 133A agreed to.

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

Bill, as amended, agreed to.

Crimes (Sentence Administration) Bill 2005

Debate resumed from 30 June 2005, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STANHOPE (Ginninderra—Chief Minister, Attorney-General, Minister for the Environment and Minister for Arts, Heritage and Indigenous Affairs) (11.55): I seek leave to move amendments Nos 1 to 20 circulated in my name together.

Leave granted.

MR STANHOPE: I move amendments Nos 1 to 20 circulated in my name and table a supplementary explanatory statement to the amendments *[see schedule 3 at page 4467]*.

There is a range of government amendments proposed. Many of them are technical in nature. The Crimes (Sentence Administration) Bill 2005 consolidates existing sentencing laws set out in a number of different statutes. The bill also sets out the administration of the new sentencing options provided by the Crime Sentencing Bill, which we have just been debating.

The bill creates a standard model for administering each sentencing option. It sets out the obligations upon offenders for each type of sentence: full-time detention, periodic detention and good behaviour orders. Apart from full-time imprisonment, the bill also sets out the consequences of any offender failing to meet their obligations.

It includes simplified procedures for dealing with breaches of good behaviour orders, periodic detention, parole and release on licence. It also requires the Sentence Administration Board to supervise critical aspects of periodic detention, parole and release on licence, such as breaches and amendment of the conditions consistent with these changes. The bill includes modern provisions for the board's proceedings and inquiries.

The government amendments address matters raised as a result of the Sentence Administration Board and the Supreme Court having considered the detail of the bill. I do not think it is necessary for me to go through each of those in detail today. Suffice it to say that amendment No 1 corrects a mistake. The majority of the other amendments are technical in nature. Some of them respond quite specifically to comments that were received by the government from the courts and, most specifically, from the Sentence Administration Board in relation to the operations of the board.

MR STEFANIAK (Ginninderra) (11.57): The opposition will be supporting these amendments. They clarify a number of issues, most of which, of course, come from the Sentence Administration Board.

DR FOSKEY (Molonglo) (11.57): The Greens support all the amendments, with the exception of amendment No 17 to clause 209 (3) (a). In opposing the amendment, I do understand that there are logistical reasons why this amendment is being proposed. But I think, on principle, it is important that I register my opposition. This amendment would allow remandees to be held for up to seven days, rather than two days, for each adjournment of the Sentence Administration Board hearing into their cases.

There would need to be a good explanation as to why the offender should be held on remand for a longer period, especially since the ACT government has been talking about how it is changing the Sentence Administration Board so that it can deal with cases

sooner and in a more flexible manner. I understand that when the ACT has its own prison, the logistical reasons for this amendment may fall away. Consequently, given that the amendment will be passed regardless of my stance on the matter, I propose that this provision be reviewed at a later date when we have our prison.

Amendments agreed to.

Bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Standing orders—suspension

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

> That so much of standing orders be suspended as would prevent Private Members Business Order of the Day No 3 being called on forthwith.

Sentencing and Corrections Reform Amendment Bill 2005

Debate resumed from 22 June 2005, on motion by **Mr Stefaniak:**

> That this bill be agreed to in principle.

Question resolved in the negative.

Health Records (Privacy and Access) Amendment Bill 2005 (No 2)

Debate resumed from 22 September 2005, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella—Leader of the Opposition) (12.01): The opposition will be supporting this bill. The purpose of the bill is to amend the Health Records (Privacy and Access Act) 1997. Members will recall that this act was amended earlier this year to fix a loophole whereby a person may have been able to gain access to the identity of people making mandatory or voluntary reports under sections 158 and 159 of the Children and Young Peoples Act 1999.

This amending bill is a general tidy up of the act, which has been in operation for eight years now. It sets in place some key timeframes, as well as making it easier for, for instance a deceased person's family to have access to their records. The bill sets out a new timeframe for keeping records. For adults it is seven years after the date of collection. For children under 18 years old, it is seven years after the child turns 18, that is, when the consumer turns 25 years old.

The bill better regulates the access to health records by third parties. Formerly, it was more of an all-or-nothing approach. There was some doubt, for instance, as to what

might have been released to an insurance company. This bill regulates that so that relevant sections can be released for the convenience and use of all.

It also allows better access to records by the families of deceased persons, especially when a person dies intestate. That obviously causes a great deal of angst. Often survivors are not able to access a hospital record or a doctor's records. In some cases they can have absolutely no knowledge of the treatment of a loved one or relative over a period of time. They may not have been aware of an illness. Sometimes this comes as a shock. It is reasonable, within the confines of the bill, to allow those people access to these records.

Something that pleases me is the improved access for carers. Currently carers cannot gain access to the records of the person they care for. This bill defines the circumstances in which a carer can access records. That can only lead to better outcomes for the person being cared for and, in particular, for the carer, who may have the care of a loved one just dropped on them or who may have taken up the task of caring for someone without really understanding the full implications of the condition that the person is suffering from. The doctor cannot disclose medical records or detail any complications that might occur without the permission of the person who is being cared for, and in some cases that person is not capable of giving that permission. I think that carers will find this a particularly useful revision of this bill.

I am assured that the bill does comply with the national health privacy code, which of course it should. With those words, the opposition will be supporting this bill.

DR FOSKEY (Molonglo) (12.04): I will be supporting this bill. The point of this amending bill is to build some flexibility into health records protection so that reasonable decisions can be made regarding health information when it is consistent with the patient's preference, where there are issues of safety at stake and when, without compromising privacy, better research can be conducted.

In analysing this bill, we considered the impact of these amendments on a range of people. I am aware that it was developed in consultation with a number of groups, including the law society and health care consumers, and that is reflected in the care with which some of the key provisions have been drafted. It was a reminder that there is a case to be made for the explanatory statements of bills to include a list of groups consulted in their development. I trust that when my legislation amendment bill is debated, the government will see fit to support that element of it.

One of the key provisions in this bill is the new amendment to the sixth principle of the act, which allows doctors and other treating health professionals to disclose personal health information where previously that was not permitted. There are often occasions when such disclosure would benefit the patient or health service consumer in terms of making them easier to look after when presumably they are in a condition where they cannot themselves communicate the information.

The patients' rights are protected by the limitation that the disclosure is made for compassionate reasons, that it would reasonably be expected by them and is not contrary to any wishes previously expressed by them. This provision is clearly a benefit to the patient or consumer and their carers, but it is also of clear benefit to health professions who, without a doubt, are trapped at present in an invidious position. Similar protections

are in place regarding amendments to the tenth principle, which allows for disclosure of otherwise private information to family members for compassionate reasons.

There are also amendments that allow the disclosure of information to carers where it is necessary for them to safely and effectively carry out their functions. Perhaps the most debatable amendment in this bill allows for identifiable data to be disclosed for research purposes or for the compilation or analysis of statistics.

The scrutiny of bills committee raises concerns that disclosure of medical records may be made to any entity and that there are no ethical controls in place. Offsetting these concerns is the limitation that applies to other medical records that the information should be protected and that it must not be used or disclosed for any other purpose. I am prepared to support this amendment but would ask the department to monitor the application closely and to bring this act back to the Assembly if any problems regarding disclosure eventuate.

I note that there is a broad project in train that is about improving the legal status and the practice of creating advance agreements that people may wish to put in place in anticipation of episodes of intense mental psychosis or in cases of terminal physical illness. I understand that this is not the business of the act before us, but they do run across each other. So I am using this debate as an opportunity to urge the Attorney-General to ensure that that project is pursued promptly. I believe it could deliver substantial benefits to health care consumers in the territory and, of course, to their practitioners.

In addition to some redrafting for clarity and style, other elements of this bill include updates to incorporate recent amendments to the Children and Young Peoples Act, a specification of domestic partners consistent with other ACT legislation, a provision to allow for health records to be accessed by immediate family members if a patient or consumer dies intestate and a stronger confidentiality protection when the consumer or the patient requires it. These are all intelligent amendments to the act and I am pleased to support them.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (12.08), in reply: I thank members for their support of this legislation. These are important reforms to provide better access to health records information to those who have a genuine and legitimate interest in having access to them and who have previously been restricted in their options in getting access to such records.

I would like to flag that the government has been advised that there are a small number of amendments that should be made to this legislation following scrutiny by the scrutiny of bills committee and, given that those amendments were only made available to me as minister today, I foreshadow that I will circulate those amendments out of session for members to scrutinise and propose to bring this bill back for debate in the detail stage at clause 1 on Thursday so that members have sufficient time to scrutinise what I believe are non-contentious amendments but which members should have the ability to look at prior to debate.

Again, I thank members for their support. I foreshadow that the government will recommence the detail stage debate on this debate on Thursday.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1.

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

Administration (Interstate Agreements) Repeal Bill 2005

Debate resumed from 20 October 2005, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella) (12.11): The opposition will not be supporting this bill. Despite the claim of the Chief Minister, we see it as a backward step in accountability and openness of government. In the final paragraph of his tabling speech, the Chief Minister said:

> These measures represent a major enhancement of the openness of the ACT government's intergovernmental relations.

In fact, the bill is cloudy at best. In reality, it is a retrograde step. The Administration (Interstate Agreements) Act was enacted in 1997 following the publication of the Scrutiny of National Schemes of Legislation Position Paper in October 1996. Historians and those with a recollection of the time tell me that in 1997 when it was passed unopposed in this place—it was passed on the voices—we were the envy of other jurisdictions.

What was the purpose of the act? It placed the parliament over the executive. It affirmed that primacy is with the parliament, not necessarily with those who are in charge. I would like to read from the position paper prepared by the Working Party of Representatives of Scrutiny of Legislation Committees throughout Australia, tabled in October 1996. On page 7, under the heading "The Role of Parliament as Lawmaker", the paper states:

> Parliament has a constitutional obligation to make laws for the peace, order, and good Government of the State.

That is the role of the parliament, not the executive. I will read another quote from the then Premier of Tasmania, Ray Groom. He says:

> It really concerns me that the whole matter is getting out of hand and laws are being created which are not really genuine products of the democratic process; they are not genuine products of the Parliaments—that might seem a strange thing to say but I really believe that that is the case. I do know that in certain cases we have had uniform legislation created without Members of Parliament really examining and

> understanding what the legislation is all about. Obviously on the face of it we see what it is about but no one has scrutinised it in any detail.

That is the whole point. At the end of the in-principle stage of the debate, I will be moving, under standing order 174, that we send this bill off to the justice committee. It has a crucial role in the whole process, as outlined by the act as it currently exists.

Without stating any reason why this bill should be passed, on 20 October the Chief Minister tabled the bill, and here we are a month later attempting to pass it. Obviously, over the last couple of months the Chief Minister has had some issue about bills being sped through parliament, and this one is going at a very rapid rate. In his tabling speech the Chief Minister made the bald statement:

> The interstate agreements act has proven, however, to be a limited and less than satisfactory vehicle for such consultation.

Why has it been limited? Why has it been less than satisfactory? What is the level of complaint? Has the case been made for repeal? We have got the Chief Minister's statement, but there is no evidence that the act is a less than satisfactory vehicle for consultation. Perhaps it is because governments—and I am willing to say successive governments—of either ilk have not adhered to what the act seeks to do. If members have not read it, they should do so before they vote on this bill because what they may well be doing is voting away some of their rights as legislators. The Administration (Interstate Agreements) Act 1997 is worth reading. Under "Object", the act states:

> The object of this act is to impose on Ministers—

That is, the parliament says to ministers, "You're responsible to the elected body for your conduct. You're not over the elected body." The act continues:

> duties to inform and consult with other members of the Legislative Assembly in regard to interstate agreements, so as to protect the freedom of the Assembly—

This act protects the Assembly:

> to carry out its legislative deliberations without being subjected to necessity or compulsion due to the actions of the executive, and shall be construed accordingly.

The act is saying that the executive is responsible ultimately to the house, and that is how it should be. That is what the people of the ACT think. That is why they elect their members. That is what everybody thought in 1997. Liberal, Labor and the crossbench all agreed on the primacy of the house. But now, the champion of Westminster, the man who in this place has said on many occasions, "I believe in the Westminster system", is saying, "There goes the primacy of the Assembly. It is up to the executive." So much for that famous statement on the morning of the election: You have nothing to fear from majority government.

The act deals with notification of negotiations. Section 6 (1) states:

> If a minister proposes to participate in a negotiation for an interstate agreement, he or she shall comply with subsection (3) as soon as practicable after becoming aware of the impending negotiation.

It is not when we are going to sign it, not when we propose to participate in negotiation, not after we have been in negotiation, not down the track, but when we start. This has probably not been complied with since 1997. The scrutiny of bills report actually says that the scrutiny committee was informed of only one such agreement.

What is it that is asked of the minister? What is so onerous that we are now going to repeal this act? Section 6 (3) states:

> A minister shall, in writing, inform each member of the Legislative Assembly of—
>
> (a) the nature of the negotiation or proposed legislation;
>
> (b) any timetable for the negotiation or proposed legislation;
>
> (c) the nature of any legislation that may be proposed as a result of the negotiation; and
>
> (d) any position the Minister is taking, or intends to take, in the negotiation.

So that is the role of our representatives on the executive and ministerial forums, and rightly so. I think we have probably all fallen down on this in the past. Section 7 refers to consultation regarding agreements. Section 8 (1) states:

> A Minister shall not, on behalf of the Territory, enter into a proposed interstate agreement until either—
>
> (a) a recommendation made by a committee consulted in accordance with section 7 has been received; or
>
> (b) 6 days have elapsed since the consultation was undertaken in accordance with section 7.

Section 7 basically requires that a minister must consult with the appropriate standing committee nominated by you, Mr Speaker, and with the Standing Committee on Justice and Community Safety. There are actually two committees that must be consulted on every interstate agreement. I suspect that both sides have fallen down on this requirement.

But that is what we are repealing today, members. It was put to the Assembly a month ago and, 30-odd days later, it is being repealed. We are going to replace it with a different system, a non-legislative system that involves placing a lot of trust in the government. In his tabling speech, the Chief Minister said:

> Following a review by my department of the operation of the act, the government has decided to replace the limited consultation provisions of the act with a range of new, non-legislative intergovernmental consultation measures.

Remember, the act requires the minister to consult the Assembly before negotiations start. When the minister has something on the table, it has to go to the committee and, before it is signed, the minister must have regard to the recommendation of the committee. What are we going to replace that with? We are going to compile and maintain a list of current negotiations towards intergovernmental agreements, from signature by ministers, for the information of Assembly members.

How will we get access to that? That list will be tabled approximately every six months. If you are not worried about the word "approximately", Mr Speaker, I certainly am. The hospital waiting list reports used to be tabled in this place. On approximately the 21st of the month they were made available and they were tabled in this place as soon as was practicable. Minster Corbell, the Minster for Health—one of the ministers who will be off negotiating and signing interstate agreements—then said, "We are going to reduce that to three months, but you will get more information."

When the first three-monthly report came out, the page dealing with hospital waiting lists was blank. Guess what? They were then put out every six months. So I worry about lists that are tabled approximately every six months by this government. The documents are getting thinner, they are coming less often and they are containing less information.

The Chief Minister has said that ministers will table in the Assembly the full text of intergovernmental agreements. I think we have to be worried about that because the only way to read that is that they will be tabled after they have been signed. The government will maintain a publicly accessible, whole-of-government register of new intergovernmental agreements. Again, it sounds to me like this is going to tabled or made available after the agreements have been signed.

I think there are some serious concerns here about whether or not the Assembly has some sway or some right over the executive. It is interesting to note that the ACT Assembly's representative on the working Party of Representatives of Scrutiny of Legislation Committees throughout Australia, whose report was signed off and agreed to in October 1996, was Rosemary Follett MLA, chair of the Standing Committee on Legal Affairs and former Chief Minister of the ACT. I assume she went there with some power and support from the Labor Party, something that apparently, under the Chief Minister who vowed to be more honest, more open and more accountable, is about to go out the window, probably just before lunch on one fine November day.

We sought some more information from the Chief Minister's office, and I thank them for providing that in a timely manner. I understand the Greens posed similar questions to ours, and Dr Foskey might have something to say as well. The new system is all based on a firm commitment that information will be tabled "as soon as reasonably practical" after agreements are signed. The new arrangements allow—they do not compel—ministers to consult the Assembly. Each minister will be responsible for ensuring appropriate consultation. There is no definition of "appropriate consultation". It is just here in the writing. How soon after an agreement has been reached must the minister inform the Assembly? It is as soon as reasonably practicable. It sounds a bit vague, a bit wishy-washy and a bit bland. It sounds a bit like: I do not wish to be scrutinised by the Assembly as to what I am doing as a minister.

I do not believe we should accept the repeal of this legislation. The Standing Committee on Legal Affairs (performing the duty of a Scrutiny of Bills and Subordinate Legislation Committee) Scrutiny Report No 18, dated 14 November 2005, actually makes the point:

> This Committee is (or should be)—

I think "or should be" is the interesting bit:

> informed in order that it might comment on proposals for legislation against its terms of reference. It may assist the Assembly to say that, in practice, this has occurred very rarely. While the Committee has received general information that some agreement is under discussion, there has only been one occasion on which the Committee has had the opportunity to evaluate a proposal for legislation in the way it evaluates proposed Territory laws against its terms of reference.

So there has been a failing, and I suspect it is on both sides. But what is the urgency? This bill was presented in October and it is being debated in November. Is the Chief Minister worried? On 26 October he sent us all a fabulous letter about anti-terrorism legislation. We got a couple of Jon Stanhope press releases. They are great reading if you are an insomniac. They will fix your insomnia, for sure. Then, this morning, the Chief Minister provided further notes on the subject. In bold print the Chief Minister poses the question and then gives the answer:

> Will ministers have to table the full text of any intergovernmental agreement (assuming it is not confidential for security matters and noting that it will be later made available on a web site)?

What hypocrisy! What galling hypocrisy! What it means is: no, we are not going to tell you unless it suits our purpose. We are not going to tell you unless the government can make some cheap mileage out of it. We are not going to tell you unless Jon Stanhope, the Chief Minister, can get up on his soapbox and parade around the country as the champion of human rights. The hypocrisy even in the answers supplied is galling, Mr Speaker. Maybe we need a definition of "confidential". Maybe we need a definition of what is confidential and what is not in this place so that ministers cannot pick and choose which bits they release and which bits they do not.

When presented by the Chief Minister it sounded like this: we have got something in place. It has probably not been working. We have come up with a new system that is going to be a major enhancement. We have worked on this. We found a problem and we are going to fix it. We are going to enhance how we make this information available to all, every six months—maybe.

But when you go to the detail, to the act and the original tabling speech and the position paper of the Scrutiny of National Schemes of Legislation, what becomes clear, and what we should take into account today, is that parliaments have the constitutional obligation to make laws for peace, order and the good government of the state, not the executive. That is why members of the Labor Party should not vote for this piece of legislation. The fears that were raised in 1996 still exist today. In 1996 Mr Groom said:

> Sometimes these things are not even being seen by the politicians, by the members of the various legislatures as they get to vote them through because the executive has agreed to it.

We will be opposing this bill. Some of the Chief Minister's comments are interesting. He says that successive governments have sought to implement both the letter and spirit of the act. According to the scrutiny of bills committee, it has had only one proposal to evaluate, so I am not sure how the Chief Minister's comments apply there. The Chief Minister then says that the dynamic of intergovernmental processes has limited the effectiveness of the legislation and that it should be repealed. Why not make it better? If you are interested in openness, Chief Minister, and if you want to make a major enhancement, leave the existing consultation and add the three dot points that you have listed there.

I thought of moving an amendment, but moving an amendment to a repeal bill seemed a bit silly. You either stop the bill or you do not. The opposition will not be moving an amendment today, but we will, under the standing orders, attempt to send it off to the JACS committee for discussion. I hope members see the sense in that. Fundamental to the Westminster system is the question of who actually is in charge, or have we gone back to the days of the monarchy when King Jon rules and he does whatever he wants?

It is a pea and shell trick. The Chief Minister says, "We are going to make it more effective. Watch what we are doing. Forget what it was all about." I just want to remind members what the act was all about. In his tabling speech the Chief Minster said:

> This approach will catch a wider range of agreements that the act has done, but without the uncertainty and definitional problems that attended the operation of the act.

If that is the case, put it into the act, do not repeal the other bits. Add something to make it work more effectively. If you are really worried about it, then let us get on with making it stronger, not weaker. Let us not take it out of the realm of legislation. The Chief Minister then said:

> … on rare occasions a government may become party to … negotiations… by their nature, are confidential, and releasing details would be against the public interest. Agreements pertaining to counter-terrorism or security may fall into this category.

That is interesting. Who makes that judgement? Maybe the JACS committee should decide. Maybe a committee of the Assembly should decide when releasing details would be against the public interest. The Chief Minister says:

> In such rare cases where disclosure is against the public interest the government may, as appropriate, consider providing appropriate briefings to the Leader of Opposition and other members of the Assembly.

It is all back on the executive. The executive is going to make all the decisions. It is not about members of parliament, representing the people they were elected to represent, having their say. It is about the executive making decisions and avoiding scrutiny when it wants to avoid it and using it when it wants to use it. That specifically excludes the

committee process. Committees in this place have a good reputation for conducting hearings and taking evidence in camera and making decisions. The committees could still be included in the process where detail needs to be kept secret.

By any measure, what the Chief Minister is attempting to do here today with this repeal bill is not a major enhancement of the openness of the ACT intergovernmental relations. It is a major backward step. It is moving back to pre-1996. It is moving backwards from the signature of Rosemary Follett and others who had aspirations, when they tabled that report, that we would actually have a better system in which the legislature has primacy over the executive and where the executive does need to be responsible.

Instead of a major enhancement, we have less openness, less accountability and less honesty by a Chief Minister who said we should not be afraid of majority government but who is using majority government to have his way. In this case he is weakening the position of the ACT Assembly. Mr Speaker, at the conclusion of the in-principle debate, I will be moving that this bill go to a committee. I hope that people see the sense of that. In terms of the process of law making in the ACT, if we vote in favour of this bill today, we will have abrogated our responsibilities.

MR SPEAKER: The member's time has expired.

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 12.31 to 2.30 pm.

Questions without notice

Budget—outlook

MR SMYTH: My question is directed to the Minister for Health. As we now know, the budget is under pressure and departments have been asked to find productivity dividends of between three and five per cent. There are a number of election commitments still outstanding. Ten million dollars for a new psychiatric services unit; $5.3 million to modernise the ICU at Calvary, plus $1 million of recurrent funding per annum; and $15 million for a surgical centre of excellence are among the promises.

These commitments are unfunded and are unlikely to be funded in the 2006—07 budget. Minister, why did you mislead the people of Canberra by making health promises that you could not possibly deliver on?

MR CORBELL: I didn't.

MR SMYTH: Mr Speaker, I have a supplementary question. Minister, what services will be cut to meet the ACT health department's three to five per cent productivity dividend?

MR CORBELL: As I am sure Mr Smyth is aware, no decision has been made in relation to any further efficiency savings that would be required of agencies. ACT Health, as with all government departments, will put forward options for government

consideration. But it is premature and it is speculation at this stage, because no decision has been made about further efficiency measures.

Homebirth service

DR FOSKEY: Mr Speaker, my question is to the Minister for Health. It concerns progress towards establishing a homebirth service in the ACT. I quote what Mr Stanhope, who was then the Labor health minister, said on 10 December 2002, when he expressed government support for insurance for midwives. It says:

> We have actively sought reinsurance cover to allow a home birthing system to be developed in the ACT. It has always been my desire and my intention to see home birth as an option for women in the ACT.

Since December 2004 the Northern Territory Department of Health and Community Services has contracted midwives to provide homebirth services in Alice Springs and Darwin. Clearly they have found a way to resolve the insurance issues around homebirth. Minister, in answer to a question from Mrs Burke on 17 March 2005, you indicated that you had been talking to your Northern Territory counterpart about developments there. Given these commitments and developments, what is the government's progress towards establishing a homebirth service for women in the ACT? In what way has the Northern Territory experience in homebirth insurance solutions been considered?

MR CORBELL: I thank Dr Foskey for the question. There has been no change in the current policy as it affects homebirths and insurance coverage for homebirths here in the ACT. As Dr Foskey has outlined, the previous Minister for Health, Mr Stanhope, was very proactive on this issue in trying to ensure that, if at all possible, private midwives were able to get the insurance cover they needed to be able to practise in the home. Regrettably, there is no private insurance body prepared to provide cover in those circumstances. The government was very proactive on that issue and went as far as sending representatives of the ACT Insurance Authority to London to speak with all the insurers represented in London, which is the worldwide base for insurance. They were unable to find any company prepared to offer insurance for midwives in private practice. So, regrettably, there are not many options open to the government with regard to private midwives.

In relation to midwives employed by the public sector, at this stage the government's insurance policies do not cover regular homebirths that are aided by public sector midwives. We have protocols in place whereby homebirths can be conducted in an emergency by a public sector midwife but the standard protocol is that, wherever possible, the woman going into labour should seek to go to either the birthing centre or one of the public hospitals to be assisted by a midwife in that setting. We have insurance cover for those practices.

The Northern Territory government has chosen to self-insure. Given the circumstances in the Northern Territory, with acute work force shortages and many remote and regional centres, they have obviously taken the decision that, on balance, it is in their interests to provide the assistance of a midwife, particularly where a hospital setting is not viable or available. They have chosen to self-insure.

At this stage the ACT government does not self-insure. There are considerable financial risks to the territory associated with self-insurance. It is not something the government has considered at this time. That said, I have asked my department to do further work on other options to facilitate the option of homebirth for women in the ACT because I believe it is important that we do everything possible to give women that choice. If they want to and are able to give birth to their child or children in their own homes, that option should be open to them. I have asked my department to explore all possible avenues to facilitate that. At this stage, however, there is no change to the policy as those options are being further developed.

DR FOSKEY: Mr Speaker, I have a supplementary question. Is the minister aware that there is now only one practising independent midwife in the ACT and that a number have left to seek work elsewhere? In the knowledge that many women who would prefer a homebirth and with the difficulty of getting into the birthing centre, is he prepared to do everything he can to speed up this process?

MR CORBELL: I do not believe it is the government's job to provide insurance cover for private health practitioners, whether they are midwives, surgeons, doctors or physiotherapists. It is their job to get insurance for their practice as private practitioners. The government has assisted in trying to find insurance products for those people but, at the end of the day, it is not the government's job to provide insurance to people in private health practice. The issue of public midwives is another matter. That is where I think we have to explore all possible avenues and that is what I have asked my department to do.

Housing

MS MacDONALD: My question is to the Minister for Disability, Housing and Community Services. Would the minister please update the Assembly on the recent performance of Housing ACT?

MR HARGREAVES: I thank Ms MacDonald for the question. The recent performance of Housing ACT across a range of key indicators has been very encouraging. I am pleased to be able to report to the Assembly that waiting lists for public housing have fallen from 2,537 in June 2004 to 2,350 as at 5.00 pm yesterday. I am also pleased to report that so far this financial year there has been a 46 per cent increase in the number of new tenants housed per month. An average of 79 new tenants per month have been housed in the 2005-06 financial year to date compared to 54 new tenants per month achieved in 2004-05.

As I noted in the Assembly last week, public housing is a resource in high demand. We have 11,560 public housing properties and around 500 community housing properties in the social housing system. This is up from the 11,454 we inherited from the previous government and it takes into account the 81 properties lost in the bushfires. The reasons for this growth are twofold: firstly, the $33.2 million capital injection in 2003-04 that enabled the purchase of 82 public housing properties for $27 million, with the balance of $6.2 million provided for expansion of community housing; and, secondly, the four-year $20 million capital injection that started in 2004-05. Sixteen additional properties were acquired in 2004-05 and a further 45 properties are expected over the next three years.

Members will be pleased to note that the stock of community housing in the ACT has also increased by 17.5 per cent over the 12 months from June 2004 to June 2005 and now stands at around 500 properties. When looking at total property numbers, it is worth noting that when the previous Liberal government was elected the ACT had around 12,500 properties, and over the term of that government the stock was progressively sold off—often with very little return for the social housing system overall.

The key issue in this debate is not that some ageing multiunit complexes need major restructure and refurbishment. The key issue is how such work is undertaken and what return is achieved for the social housing system. The previous government, for example, sold off 262 properties in Lachlan and McPherson courts and demolished 263 properties at Burnie Court. These decisions were not in themselves objectionable. What was objectionable was the paltry return to the housing system that the Liberal government achieved from these sales.

The Stanhope government has made it clear that we will not go down that path. We will not engage in fire sales of public housing properties. We will seek the maximum possible return for the social housing system from any joint venture redevelopments. This is how we have approached the Fraser, Burnie and Currong redevelopments and how we will approach future redevelopments.

The government is committed to strengthen social housing services. In the 2005-06 budget we allocated $117.7 million towards social housing services—an increase of over six per cent on total funding provided in 2004-05. The government also remains focused on establishing and sustaining public housing tenancies for those most in need. In 2003-04 the ACT was the second best performing of all jurisdictions in allocating new tenants according to the severity of their need. The ACT allocated 86.2 per cent of tenants in this way, bettered only by Tasmania with 89.7 per cent. By contrast, the national average for priority allocations in 2003-04 was just 36.3 per cent.

In conclusion, the public and community housing system is performing well in difficult circumstances. There is obviously more work to be done, but I am encouraged by the progress made in recent times.

Budget—outlook

MR MULCAHY: My question is to the Treasurer. In the 2003-04 budget, the government's finance statistics show that the forecast net operating balance, which is the end result of all of the government's revenue and spending activities, for 2005-06 was estimated to be minus $19 million. One year later, in 2004-05, the forecast net operating balance for the same year, that is, for 2005-06, deteriorated to minus $73 million. Now the budget for 2005-06 shows a collapse in the outcome to minus $356 million.

In light of the massive blow-out in the deficit, from $19 million to $356 million, over just three revisions and forecast GFS deficits averaging $265 million over the next three years, how can you credibly claim that "the budget will return to surplus over the next three years"?

MR QUINLAN: The government will return the budget to surplus over the next couple of years. That is the intention. We will do it according to the standard accounting processes. The territory's balance sheet is in very strong shape. We have just had Standard and Poor's assessment of a AAA plus credit rating. I understand that Moody's have also rated the ACT. We do not subscribe to the Moody's rating agency. We are reviewing whether or not we should. I understand that their rating of the condition and prospects of the territory is also at the peak.

MR MULCAHY: Thank you, Treasurer. Do you seriously believe that an increase in returns from superannuation investments and flooding the market with land sales will get your government out of trouble?

MR QUINLAN: That is a question based on a falsehood, an exaggerated premise, which is not unusual in this place, of course. I don't think you could claim that we are flooding the market with land sales. The premise of today is that we are flooding the market with land sales. Even Standard and Poor's are prepared to accept the inclusion of land sales in the ACT accounting as reasonable. Given the position that the ACT is in—having available land and the prospect of a continuous stream of land sales—it would seem to be commonsense, a rare commodity from time to time, to allow land sales to be included.

In terms of superannuation: yes, there is debate about superannuation, but you cannot just say, "Take all the earnings on superannuation investments out," because the Liberals want to see a bad bottom line; you have to account for the liability that is growing each year. You know that you are investing with the intention of building a fund to meet those liabilities. A little bit more sophistication is going to be required than Mr Mulcahy is injecting into the debate now. I hope that wasn't too confusing.

Emergency Services Authority

MR PRATT: My question is to the minister for emergency services. There was an advertisement on 15 November for a position in the ESA "to provide analysis on the identification of financial and resource anomalies". Minister, what financial and resource anomalies have been discovered within the ESA? Why does a special position need to be created to control what are obviously spiralling costs within the ESA?

MR HARGREAVES: I think that it should be noted that it is Mr Pratt's straw man that says that there are obviously spiralling costs. I reject the notion of spiralling costs, for the record. Mr Pratt has got it wrong yet again. He could not organise a conga line at a Christmas party, that bloke. The ad to which Mr Pratt refers pertains just to the normal recruitment processes when an officer is leaving the services and needs to be replaced. There is nothing insidious about it.

Mr Pratt searches around. He looks up the positions vacant column, trying to find a job for himself after the next election. He is searching early. Good luck to him; he is going to need all the help he can get. He just wanders through the paper, looking up the ads for job vacancies, thinking, "What mischief could I make out of this? What conga line of advertisements can I find in this newspaper?"

As usual, he has got it wrong. It is a normal part of processing. In terms of that sort of terminology, it is the job of a chief financial officer to look at all aspects of an organisation. I would be aghast if the contrary to that job description were advertised in the paper, as Mr Pratt would have it. Mr Pratt would have it that we do not want anybody to look at the efficacy of our financial systems. He would have it deliberately in their duty statements that they are not to look at whether their financial statements are good, bad or indifferent. My answer to Mr Pratt is that it is a normal part of recruitment processes. I do not see anything untoward about it.

MR PRATT: I have a supplementary question. Minister, as there are 44 staff in the corporate services area of the expanded ESA, why are there not sufficient resources already available within the ESA to enable this activity to be undertaken in the normal course of events?

MR HARGREAVES: As I indicated in my earlier answer, this advertisement is about a replacement position. The advertisement is not about an additional person on the books; it is about a replacement.

Prison—funding

MR STEFANIAK: My question is to the minister for corrections. Minister, the government has always stated that the new prison would be fully funded, that is, the cost of the prison would be met from current revenue. A consequence of this decision is that, as we saw in the May 2005 budget, the government had to allocate an additional $18.5 million to cover the increase in construction costs over the three years since the project was first announced.

Minister, why did your government decide to fund the prison from current revenue, rather than from borrowings? Did the business case for the prison contemplate alternative means for funding the prison, such as borrowings?

MR STANHOPE: Cabinet took the decision to budget fund the prison. It is a matter of record. The prison has been funded. I would have to look at the documentation to confirm whether or not there was a discussion about alternative funding methods. I am happy to do that. I imagine that there was, but I will confirm that. Ultimately, as has been reported, cabinet took the decision to fully budget fund the prison. Funding of $128 million for the prison has been appropriated. That will be the cost of the prison.

Mr Smyth: One hundred and twenty eight million has been appropriated?

MR STANHOPE: Yes, $128 million has been appropriated. Didn't you look at the budget? Are you the shadow Treasurer? When was the last time you looked at a budget? Did you pay any attention? Here it is. It is the single biggest item that has been appropriated. The fact that it has been appropriated to the tune of $128 million is, of course, a sign of the strength of this economy. The single biggest capital works project undertaken since self-government is fully appropriated. There is $128 million sitting there in the budget for the construction of the prison.

I think—I will not commit myself without actually checking—that a range of other options was considered through the cabinet process and the budget process in assessing the various options that presented for funding the prison. One of the options—it was certainly discussed, but I do not know to what extent it is formally reflected in the papers—was the prospect of borrowing. The Treasurer has made the point on many occasions to cabinet and makes the point publicly that, in the event that we, as perhaps the only government in Australia that does not have a history of borrowings, choose to borrow, a project against which one would borrow is a project such as the prison. At this stage—and I do not see anything on the horizon, anything that would cause me to change my opinion—the prison, to the tune of $128 million, is budget funded. That $128 million has been appropriated.

If we chose to borrow, if we felt the need to borrow, which at this stage we do not—

Mr Mulcahy: Why would you suddenly feel the need to borrow?

MR STANHOPE: I was asked a question and I am responding to the question. It was a foolish question. I am responding to the question: have you considered borrowing? Why? In responding to the question: have you considered borrowing, why would I not reflect on the fact that we might have considered borrowing, Mr Mulcahy? Didn't you listen to the question? Did you know, Mr Mulcahy, as shadow Treasurer, that the prison is fully appropriated to the tune of $128 million? I do not think you did, Mr Mulcahy. It is a sign of your ignorance and your lack of attention to your duties that you did not know that basic fact.

Without breaching the confidentiality of cabinet, from time to time Mr Quinlan does address us about options. If the government ever seriously contemplated or considered borrowing as an option—and it is an option that is presented to a government from time to time in submissions—then the sort of project against which it would be reasonable to borrow is a project such as the prison.

On its completion, the project will claw back from New South Wales payments that we make to them for the accommodation of our prisoners. We are paying somewhere between $16 million and $20 million a year to New South Wales. This is precisely the sort of project that you might borrow against in relation to the return that might be achieved.

MR STEFANIAK: I have a supplementary question. Minister, is it the case that your government is considering using borrowings to fund the prison because of desperation, rather than good financial planning?

MR STANHOPE: No, Mr Stefaniak, the government is not considering that for one second. Except perhaps in that phase before we took the decision to budget fund, the government has not considered borrowing to pay for the prison. Why would we? The money is in the budget, all $128 million of it, as a fantastic signal of the strength of the ACT economy. It is a pity that you keep talking it down. It is a pity that you keep trying to create a sense of crisis around the ACT's inherent economic strength. This is a great example of your total lack of understanding of the strength of the ACT economy and your total lack of understanding of what has been budgeted.

It is quite clear that Mr Stefaniak did not know that the prison had been funded to the tune of $128 million. The money is waiting there in that nice little bucket that we keep it in to be expended as the project develops. To date, of course, the project has consumed somewhere in the order of $10 million of the $128 million that has been appropriated. At this stage, much to Mr Stefaniak's chagrin, the project is proceeding on time and on budget. To date we have let contracts to the tune of about $10 million of a total of $128 million. This funding is all appropriated and waiting to be expended.

It is a fantastic signal of the strength of the ACT economy and the fact that we have, as a government, been able to be engaged in these major investments in the Canberra community. It is interesting to reflect on what this government has achieved in four years of investing in infrastructure and services that had been allowed to run down pitiably under seven years of Liberal government.

We are able to invest $128 million worth of budget funds in a prison and an additional $40 million-odd in a juvenile detention facility. We have been able to invest an additional $300 million or thereabouts in health. We have been able to invest to the tune that we have in education. We have dragged ACT public service wages up to commonwealth standards after seven years of Liberal Party neglect.

It is worth reflecting on the enormous investment over the last four years in essential infrastructure, in essential services and in the people that serve the people of the ACT. We see Mr Mulcahy out there still ranting about the fact that ACT public servants are overpaid and that they do not deserve the salaries they earn. The alternative and next Leader of the Opposition in the ACT, Mr Mulcahy, believes that ACT public servants are overpaid. He would not have given you the pay rises that you have achieved over the last four years because he does not like public servants. He does not like the work you do. He believes you are overpaid.

He is the only Australian outside the federal parliament who has received personal briefings on the current IR package that is being debated in the federal parliament. He boasted in this place that he knew, before it was released, what was in the package. He was on the inside, one of the insiders, as a result, I am sure, of all he learnt when working for the hotels association, particularly how to negotiate your own separation payment. Mr Mulcahy holds up his separation payment as the sort of deal that you can strike with an employer when you are working under an AWA.

MR SPEAKER: Order! Come to the subject matter of the question.

MR STANHOPE: I will, Mr Speaker. What I was saying was relevant. We were talking about the budget. I was talking about the Liberal Party's position on the budget. In that context, I was mentioning that Mr Mulcahy is starting to look a bit like Peter Costello, the "gunna be" challenger. He is the Peter Costello of the ACT Legislative Assembly, the leader in waiting who does not have the bottle to have a go! But he will be the next Leader of the Opposition and the point needs to be made when we are discussing budgets that Mr Mulcahy, as Leader of the Opposition, will ensure that no ACT public servant ever gets the wage rises they deserve.

Housing—budget funding

MRS BURKE: My question is directed to the minister for housing. On Wednesday last week, when I asked you whether you would meet your budget commitment for a $30 million capital injection of funding into the public housing system, you said:

> It is highly unusual for governments to pre-empt either government discussions or budgetary outcomes.

However, on Tuesday of that week the Chief Minister promised to fund all election commitments. Minister, why did you fail to confirm that you would meet this commitment, when the Chief Minister promised to do so the day before?

MR HARGREAVES: One, I did not; and, two, the Chief Minister is wiser than I am.

MRS BURKE: Mr Speaker, I have a supplementary question. Minister, will you confirm that you will meet your 2004 election promise of energy efficiency upgrades in ACT housing properties?

MR HARGREAVES: I thank Mrs Burke for reading one of the pages of the leaked cabinet document. I hope that, if she is doing that, she tables it so as not to be in breach of the motion. The Chief Minister said that we would be honouring the election promises. You've got to understand—

Mrs Burke: You just said you didn't.

MR HARGREAVES: Would you like to answer my question for me?

Mr Pratt: She'd probably do a better job. I'll line up. We might get a bit of transparency here.

MR HARGREAVES: We would get more transparency because we would look straight through this bloke. The other day in the house the Chief Minister indicated that this government would honour its election promises. However, Mrs Burke would like to see them honoured in the first five minutes of a budgetary term, or an election term, or a government's term. I remind Mrs Burke that we have three years to go. With respect to housing, had the Liberal government not left the incoming Stanhope government with the housing stock in such a parlous state—

Mrs Burke: Mr Speaker, I rise on a point of order. The minister has not at all addressed the matter of energy efficiency upgrades in ACT housing.

MR SPEAKER: You asked him whether he would be doing it and he is explaining—

Mrs Burke: I just want the answer to that question.

MR HARGREAVES: I was just about to do that, but the impetuous Mrs Burke let her mouth run away again. She will now have to catch it up. I was talking about the parlous state of housing stock. That goes to energy efficiency. We have the oldest stock in the

country. Of course, thanks very much to the Liberals over there, we started off the batting 1,000 units down. As I indicated just a moment ago in response to Ms MacDonald, we have recovered a lot of that.

I can inform the house, with respect to energy efficiency initiatives, that housing is embarking upon a trial of some energy efficiency treatment for externally located water heaters, which will reduce carbon emissions and reduce the use of electricity, and therefore reduce the cost of power consumption for the tenants, who are in receipt of rebates anyway. That trial will ensue. I am hopeful that it will be successful. We are getting on with looking at energy efficiency initiatives in housing. Those people across the road did nothing except sell off our stock.

Sport and recreation—hockey

MS PORTER: Mr Speaker, my question, through you, is to the Minister for Sport and Recreation. This weekend is the start of the women's hockey champions trophy tournament, which will see the international spotlight on the ACT. Could you please inform the Assembly of the investment that the ACT government has made in local hockey that has enabled this significant event to be held in Canberra?

MR QUINLAN: I thank Ms Porter for the question. The champions trophy is the Federation of International Hockey's premier annual tournament. It brings together the top six male and top six female teams in the world. In September 2002, Hockey ACT submitted a bid to Hockey Australia to host the 2005 tournament, both men's and women's. Hockey Australia fully supported the ACT's bid. In December 2004, the hockey federation announced that Australia would host the 2005 women's champions trophy.

We were enthusiastic for that to be held in Canberra. It was fairly clear that, for that to happen, there needed to be facility upgrades, which were beyond the immediate scope of the hockey, centre in the ACT and which would, therefore, require financial support from the government. And we have provided that support. We initially provided some $850,000 to upgrade a couple of the surfaces there—one sand-based pitch and one international standard water-based pitch.

In the 2004-05 budget, a further $4½ million was set aside to bring the facility up to the international standard. That money has been spent over 2004-05. These works include construction of the northern grandstand, an upgrade of the media facilities and improvements to parking and surrounds. As well as providing for the tournament, these works will address the ongoing physical needs of the facility over the next decade or so. The project came in on time and pretty close to budget.

The ACT investment was complemented by a federal government regional partnership grant of a princely $253,00. If you had seen Gary Humphries announcing that, you would have thought he had bought them a new hockey centre, himself. Nevertheless, the lion's share of the funding that has gone into the upgrade of the hockey centre has been provided through the ACT budget.

The 2005 women's champions trophy will be held from 26 November to 4 December. It includes teams from the Netherlands, Argentina, China, Korea, Germany and Australia.

As well as that funding, like major sports events in the ACT, additional funding is being provided through the Australian Capital Tourism Corporation. A commitment of up to $90,000 is aimed specifically at marketing and promotion of the event, particularly to interstate markets, to maximise the visitation benefit to the ACT. We expect this to be a very well attended event.

Hockey is a fairly popular sport across Australia and a very popular sport in the ACT. It receives, on an annual basis, regular peak body funding of around $42,000 and has received additional funding so that they can rationalise their former men's and women's associations.

At the same time as building up the hockey centre we have been able to maximise the benefit that will accrue by building what they call a very large athlete-conditioning centre. I keep calling it the gymnasium. There is a big one of those under the northern stand. It is available to the ACT Academy of Sport for conditioning. What we have now is a facility of international standard. It has been compared with the world's best by people involved in hockey just this week. We have that world-class facility and we have an extension of the capacity to provide for the Academy of Sport, in particular, a gymnasium that is readily accessible to athletes with a disability.

In the overall context, it has been a fantastic project for the ACT and for hockey. I hope members avail themselves of any invitations they have to pop out and look at some of the champions trophy.

MS PORTER: What media exposure will the ACT attract from hosting the women's champions trophy?

Mr Hargreaves: There is nothing in the *Canberra Times*.

MR QUINLAN: Not quite. The *Canberra Times* has covered the champions trophy and the build-up to it pretty well. You wouldn't reckon the ACT government made any commitment. That bit drops off the coverage. Nevertheless, the major point is that the event is getting publicity. There will be a worldwide focus on Australia.

I am advised that this will be the most broadcast women's champions trophy. There will be something like 14 hours on the ABC. Korea's games will be televised live by a cable network with 10 million subscribers. There will be ACT radio broadcasts of Australian matches. The hockey federation has negotiated broadcasts through Malaysia, Beijing, Argentina, Eurosport to London and Paris, Guangdong, the Netherlands, Shanghai and Dubai. It will get very considerable media coverage while it is on. It is certainly a much better investment than this territory has made in the past in sporting facilities in terms of international coverage.

I close by saying that there are several sports in the ACT where the ACT does fight above its weight. That includes both rugby codes, rowing, cycling and hockey. It is our intention to make sure that, over the years, we build on that capacity and make Canberra a genuine centre of excellence for those sports where we have some edge and build on that edge. I expect to see a continuation of representation from the ACT in national sides—in hockey and in other sports.

Belconnen to Civic busway

MR SESELJA: My question is to the Minister for Planning. I refer to the minister's answer to my question last week on the busway, in which he claimed that there would be an approximate 15-minute time saving between Belconnen and the city when the busway is completed. Minister, can you inform the Assembly what the expected time saving will be on an express bus service between Belconnen interchange and the city interchange, a trip which currently takes around 17 minutes, as a result of the introduction of the busway?

MR CORBELL: I thank Mr Seselja for the question. I thought Mr Seselja might follow this up. What is really interesting about the Liberal Party's position on this whole issue is that in no way are they putting forward any alternative when it comes to improving public transport in Canberra.

Mr Seselja: He's not going to tell us.

Mrs Dunne: Answer the question.

MR CORBELL: I have five minutes to answer this question, and I am going to take all five minutes.

Mr Smyth: I raise a point of order, Mr Speaker. Under standing order 118 (b) the minister cannot debate the issue. He has to answer the question. Talking about the Liberal Party has no relevance to this answer.

MR SPEAKER: The minister can respond to the question provided that he confines himself to the subject matter of the question.

MR CORBELL: The government has put forward a comprehensive program for public transport improvement through the sustainable transport plan. All we have from the Liberal Party is a constant series of knocking, criticism, and nay-saying when it comes to public transport in Canberra. Where is their alternative? Mr Seselja seems to think that it is all right for everyone to drive around in their car as much as they like. That seems to be his position: bugger the greenhouse gases; bugger the warming of the planet; we'll just keep burning fossil fuels willy-nilly. That seems to be the Liberal Party's position on this issue.

In my answer to the question that I was asked last week, I indicated that the time saving that the government is anticipating through the Belconnen to city busway project and the Belconnen interchange improvements is—

Mr Seselja: No, you didn't. Be careful! Be very careful!

MR CORBELL: in the context of up to 15 minutes—and I challenge Mr Seselja to go out to anyone who lives in Charnwood or Dunlop or Fraser and say, "Oh, by the way, I don't agree with reducing your bus travel time by up to 15 minutes."

Mr Seselja: Don't mislead; don't mislead again.

MR CORBELL: He should go and make that argument to the residents of west Belconnen when he says, "Oh, well, I don't really care how long it takes you to get to Civic on the bus. I don't care." That is Mr Seselja's position.

Mr Seselja: How much will the busway save?

MR SPEAKER: Order, Mr Seselja!

MR CORBELL: The issue is: are we serious about improving public transport in Canberra or aren't we? This government has a clear commitment record when it comes to improving public transport in Canberra. In contrast, the Liberal Party has been in opposition for nearly five years. Its sum contribution when it comes to public transport is Mrs Dunne going to a nice little conference in Spain and enjoying the TGV from Spain to France, but that is about it when it comes to public transport policy in Canberra—no records, no commitment and definitely no policies when it comes to public transport in Canberra.

Opposition members interjecting—

MR CORBELL: This government's record speaks for itself: increased adult patronage; reducing the fares; new bus fleet; real-time information on its way; SMS text systems for the buses and a range of other initiatives in place, operating, working; a sustainable transport plan with targets to constrain the growth in private motor vehicles and to increase public transport usage. And what do we have from the Liberal Party? A big fat zero when it comes to public transport policy.

Opposition members interjecting—

MR SPEAKER: Order!

MR CORBELL: I know they do not like it; I know they do not like being criticised on this issue. But when are they going to get serious about reducing greenhouse gases in this city? When are they going to get serious about addressing the sustainability issues our city faces? When are they going to acknowledge that in our city, when it comes to contributing to the greenhouse effect and global warming, the second largest factor is the use of the private motor vehicle? What are they going to do to address those challenges? They have had five years to put together a response—

Mr Smyth interjecting—

MR SPEAKER: Order, Mr Smyth!

Mrs Dunne: For you to push down bus patronage; bus patronage is down.

MR SPEAKER: Order, Mrs Dunne!

MR CORBELL: and they have failed absolutely and completely to address these issues.

Mr Stefaniak interjecting—

MR SPEAKER: Order! Mr Stefaniak, that's the last one.

MR CORBELL: It is no wonder that as far as many people in this community are concerned—

Mr Pratt: We won't have to put after-burners on our buses.

MR SPEAKER: I warn you, Mr Pratt.

MR CORBELL: they know that the Liberals are bad news when it comes to public transport. They know that the Liberals cut funding to ACTION, they put up fares, they do not replace the buses—they do nothing for public transport in Canberra.

Mr Seselja: What's the saving? How many minutes?

MR SPEAKER: I warn you, Mr Seselja.

MR CORBELL: In contrast, this government has a comprehensive strategy. This government has a comprehensive program in place. It has a commitment to spending the money and it will continue on that course of improving public transport in Canberra.

MR SESELJA: I have a supplementary question. Minister, I note that you did not answer my question in almost five minutes. Why are spending millions of dollars in preparation for an expensive busway when you do not know whether it will save time or increase patronage?

MR CORBELL: I draw Mr Seselja's attention to a document that was released before he was elected to this place. It is called the sustainable transport plan. Clearly, Mr Seselja has not read it, because if he had read it and if he had read the supporting documentation, including the public transport futures feasibility study and the examination of what are called elasticities or what are the demand factors and what are the supply factors in relation to public transport, he would have seen that a detailed investigation has already been done of what are the mechanisms we need to put in place to improve public transport usage in Canberra.

That document outlines very clearly that we have to increase and improve the reliability of public transport between our town centres and the city centre, that we need to guarantee rights of way between our town centres and the city centre, that we need to increase the frequency of service, and that we need to make sure that we provide facilities in terms of stations and interchanges as well as buses themselves which are reasonable for people to use and to enjoy.

Bus users are not second-class citizens. Bus users are not people to whom we should say, "You will get whatever is left over at the end of the day. Our main priority is people who use a car." I know that that is a bit of a radical concept for those of the opposition to grasp but, if we want to reduce our greenhouse gas emissions and if we want to improve the sustainability of our city, we must invest in public transport to boost patronage and to increase usage.

These justifications and the detailed studies that back them up are fully outlined in the sustainable transport plan, in the public transport futures feasibility study and in the public transport elasticity study, all commissioned by this government, which outline very clearly the rationale for proceeding with detailed feasibility work on the Belconnen to Civic busway. Perhaps Mr Seselja should do a bit of homework and look at those documents. They are all available on the web. They are not secret documents. They are not hidden away, Mr Seselja. The truth is not out there somewhere; they are all available.

Mr Smyth: I take a point of order, Mr Speaker. Standing order 118 (b) says that a minister shall not debate the subject to which the question refers. He is clearly having a debate with Mr Seselja.

MR SPEAKER: He is not having a debate.

Mr Smyth: The question was about whether it would save time or increase patronage.

MR SPEAKER: Order! Resume your seat, Mr Smyth. There is no question before the house, so there can be no debate. This is a response to a question for which the minister has five minutes, during which time he will stick to the subject matter.

MR CORBELL: Mr Speaker, the point I am making in my answer is that, if Mr Seselja wants to understand the justification in terms of patronage gain and addressing issues about the attractiveness of public transport in Canberra, he need only to go to those documents—the sustainable transport plan, the public transport futures feasibility study and the public transport elasticity study—and he will see it all there. Go and read them and go and understand the justification for doing the detailed examination for this type of infrastructure.

That is the basis of the government's policy. This is not some whim on my part as Minister for Planning. This is the basis of over 2½ years of policy work, which this government commenced in 2001 and which led to the development of the first and only transport plan this city has had since self-government. The challenge for the Liberal Party, as I said in my earlier answer, is whether they are serious about addressing the consequences of increasing car use and energy use for climate change they affect our city, our community and our children as much as they affect anyone else in this country.

The answer to date is that they have no transport policy. They do not support targets on reducing car use or constraining car use. They have no alternatives when it comes to increasing public transport use. All they are prepared to do is to criticise, whinge and complain, but not in a constructive way; it is done in a destructive and carping way. The challenge is on them: how are they going to address the greenhouse challenges our city faces when energy and car use is one of the key issues that we must address?

Schools—west Belconnen

MRS DUNNE: Mr Speaker, my question is to the minister for education.

MR SPEAKER: If I hear any more interjections from that side of the house, I will be naming people. Everybody is on a warning. The same goes for the government side.

MRS DUNNE: Thank you, Mr Speaker. My question is to the minister for education. Minister, I refer to the 55-odd unfunded election commitments, which it has been estimated will cost the government $257 million by the end of this term. I also refer to the commitments made by your and the Chief Minister in various places in relation to the cabinet authorisation for a $43 million megaschool in west Belconnen—a commitment that, in your own words in the annual reports hearings, was made outside of the budget round. In view of the blowout revealed by Treasury, are you able to assure the Assembly and the people of west Belconnen that you will maintain the commitment to build this new school?

Ms MacDonald: I thought you didn't want it!

MR SPEAKER: Order! I have issued a warning and I will be naming people. This has got out of hand today.

MS GALLAGHER: Thank you, Mr Speaker. The government is committed to a new school in west Belconnen. We are currently going through a consultation process, but that is the government's position. This has been on the table for a few months. We have a couple of months left of consultation around the new proposal but it is certainly the government's intention to continue talking about it. We have made it no secret that our preferred option is to build a new school. The commitment is costed around a $43 million-P to 10 school but we are currently consulting with the community on that. The government's position has been clear. There is a requirement to consult for six months. We are in the middle of that consultation period and will be making a decision at the end of that period, which will be towards the end of January next year.

MRS DUNNE: Mr Speaker, I have a supplementary question. Minister, if it is not possible to fund this school in the 2006-07 budget, what options will you consider to ensure that the school is operational within the proposed timeframe?

MS GALLAGHER: That is a difficult question to answer when we are in the middle of the consultation phase on the proposal we put to the community. Mrs Dunne has been a very strong critic of the consultation period and has accused the government of having a predetermined position on this from the beginning. I certainly say we have a preferred position on it but to answer that question would be to say that the proposal is going ahead, which is not something we can do in the context of the legislation surrounding this, nor in the commitments I have made to the community.

The government's preferred option is to move to build a new school. The proposal is to have that school operational by 2009. That would involve the closure of Ginninderra District High School from next year, but that is the proposal we are consulting on with the community at the moment. It would be wrong of me to say that the proposal is going ahead whilst we are in the middle of this consultation period. I imagine Mrs Dunne would be the first on my back if I were to answer that question in the way that she has sought an answer.

Professor Hilary Charlesworth

MR GENTLEMAN: My question is directed to the Chief Minister. Is the Chief Minister aware that the distinguished human rights lawyer, Professor Hilary Charlesworth of the Australian National University, was last week jointly awarded the American Society of International Law's 2006 Goler T Butcher Medal? What is the significance of this prestigious award?

MR STANHOPE: I am very pleased to respond to the question and, in doing so, to acknowledge the enormous standing and stature of Professor Hilary Charlesworth from the Australian National University in world academia and in societies, such as the American Society of International Law, that acknowledge the people from around the world who make a significant contribution to academia, to scholarship and, in this particular instance, to human rights.

Professor Charlesworth, as members would be aware, headed the Bill of Rights Consultative Committee, which this government appointed to advise the government on whether to proceed to put into legislation for the ACT, through a human rights act, aspects of our fundamental human rights.

The significance of this award, the Goler T Butcher Medal, which is one of the most significant awards—if not the most significant award—that a practitioner in international law or human rights might aspire to or be awarded, is many faceted. In the first instance, it is an enormous honour for Professor Hilary Charlesworth personally.

In the context of this government—the significance for the territory—it is a matter of honour and some comfort that it was Professor Charlesworth who advised this government on the path that we followed in legislating a human rights act for the Australian Capital Territory. I am certainly conscious—we would all be conscious—of the significant and important role that Professor Charlesworth had in guiding the nature or the structure of the legislation ultimately adopted by the Assembly in legislating a human rights act here in the territory.

I notice that that has been specifically acknowledged in the announcement of the award and in a discussion of Professor Charlesworth's commitment to human rights and international law. The CV relating to her and in relation to the award acknowledges that she was chair of that consultative committee and that it was her report and the report of the others that set the blueprint for Australia's first bill of rights.

Specifically—I will mention it and note it now—the award was very much a response to a major report prepared jointly by Professor Charlesworth and Professor Christine Chinkin entitled *The Boundaries of International Law: a feminist analysis*. This report took a critical look at how and why the development of international law has often failed to address the needs of women. That book cites such root causes as the absence of women in positions of power at both state and international levels, and advocates that the boundaries of international law be redrawn to correct those failures of leadership and to create more equitable status for and treatment of women in society. It was for that particular work that professors Chinkin and Charlesworth were specifically awarded the Goler T Butcher Medal for 2006.

It gives some real status to Professor Charlesworth's role at the Australian National University: that we have here in the territory, at the Australian National University, the premier university in Australia, the leading international human rights and international lawyer in the world for 2006—if one can use this particular award, which I believe one can—signals that.

It is also important—and something that we should reflect on—that it was Professor Hilary Charlesworth who was the first significant or notable academic in Australia to comment on the extent to which the commonwealth's current anti-terrorism bill was inconsistent with Australia's international human rights obligations, particularly those obligations as reflected through the international covenant on civil and political rights.

It is significant that the first major, significant learned commentary on the commonwealth's anti-terrorism bill came from Professor Hilary Charlesworth. It was through the agitation and the debate that was precipitated by her entry into the debate that many of the improvements we see in the subsequent drafts of the anti-terrorism bill were made. That is something for which we should all thank Professor Charlesworth, that she engaged herself in that debate. It was through her reputation—a reputation reflected in this award—that the commonwealth subsequently took the notice that it did of the backlash from people such as Professor Charlesworth, and from the community.

MR SPEAKER: The minister's time has expired.

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

Executive contracts
Papers and statement by minister

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

Contract variations:
Brett Phillips, dated 3 November 2005.
Bronwen Overton-Clarke, dated 17 and 27 October 2005.
David Collett, dated 19 October 2005.
Elizabeth Kelly, dated 26 October 2005.
Ian Hubbard, dated 21 October 2005.
Jennifer Brogan, dated 17 October 2005.
June Bronwyn Leslie, dated 28 October 2005.
Lana Junakovic, dated 28 September 2005.
Martin Hehir, dated 21 October 2005.
Maureen Sheehan, dated 21 October 2005.

Long-term contract:
Andrew Taylor, dated 22 September 2005.

Short-term contracts:
Helen Pappas, dated 19 October 2005.
John Robertson, dated 18 October 2005.
June Bronwyn Leslie, dated 19 September 2005.
Neil Bulless, dated 8 November 2005.

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

Leave granted.

MR STANHOPE: These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 15 November 2005. Today, I have presented one long-term contract, four short-term contracts, and contract variations. The details of the contracts will be circulated to members.

Violence against women
Discussion of matter of public importance

MR SPEAKER: I have received letters from Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Seselja, Mr Smyth and Mr Stefaniak proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, I have determined that the matter proposed by Ms MacDonald be submitted to the Assembly, namely:

> The importance of the United Nations International Day for the Elimination of Violence Against Women for women in the ACT.

MS MacDONALD (Brindabella) (3.37): Mr Speaker, this Friday will be 25 November, which is now celebrated as the United Nations International Day for the Elimination of Violence Against Women. Violence against women and girls is pervasive worldwide. In no country of the world are women immune and in no city of the world are they unaffected by gender-based violence, even in the ACT.

In the ACT, women constitute overwhelmingly the majority of victims of sexual assault and domestic, family, and cultural violence. Statistics show that one in three women over the age of 45 has experienced domestic violence and a large percentage of all reported sexual assaults are perpetrated against women. Worldwide, a quarter of all women are raped during their lifetime. Depending on the country, 25 to 75 per cent of women are regularly beaten at home and more than 120 million women have undergone female genital mutilation.

The United Nations Development Fund for Women, UNIFEM, report *Not a minute more: ending violence against women*, released in 2003, revealed that one in three women or girls will suffer violence during their lifetime simply because of their gender. Violence perpetrated against women and girls can shatter families, destroy relationships, and emotionally and physically scar victims forever. But, as noted by the World Health Organisation in 2002 in its world report on violence and health:

> Violence is not an intractable social problem or an inevitable part of the human condition. We can do much to address and prevent it. The global knowledge base is growing and much useful experience has already been gained which needs to be implemented.

Putting an end to gender-based violence requires the dedication and assistance of all members of the community. Violence against women and girls affects everyone in the community, including men and boys. Men's lives are personally affected if their girlfriends, wives, daughters, mothers, grandmothers or sisters experience violence or the threat of violence.

Harmful attitudes and beliefs in the community are a large part of the problem. Helping tackle these will help build a community that is safer for women and girls. The majority of men do not condone the use of physical or sexual violence against women and want to help reduce the violence. There are many ways that men in the community and business sectors can play a role to stop violence against women.

Being a strong role model for boys and speaking out against violence are two of the ways. Some perpetrators believe their friends condone their actions, so it is important for men to speak out if their friends, colleagues or mates brag about using physical force against a woman or forcing a woman to have sex. It is also important for men to challenge some attitudes and beliefs of other men in the community. Beliefs such as that women provoke men by the way they dress and talk, men have got uncontrollable sex drives, men are not responsible for their violent behaviours, men cannot help being violent when they drink, nice girls do not get raped, and real men do not take no for an answer are completely unacceptable and should be spoken out against.

White Ribbon Day, held on 25 November each year, is another way men can show their support for ending gender-based violence. On 17 December 1999, the United Nations General Assembly adopted 25 November as International Day for the Elimination of Violence Against Women, which is also marked by UNIFEM's white ribbon campaign. I am happy to note that this year the ACT branch of the Australian Labor Party has become an official project partner with UNIFEM for this important day.

Women's groups have been commemorating 25 November as a day to end violence against women for many years. The date was chosen to commemorate the lives of the Mirabal sisters, Dominican Republic political activists. The three sisters—Patria, Minerva and Maria Teresa—and their husbands became involved in activities against the Trujillo regime in the Dominican Republic. Despite Trujillo's persecution, the sisters continued to actively participate in political activities against the leadership, prompting Trujillo to declare that his two problems were the church and the Mirabal sisters.

On 25 November 1960, the three sisters were assassinated in an "accident" as they were being driven to visit their husbands, who were in prison. The accident caused much public outcry, and shocked and enraged the nation. The brutal assassination of the Mirabal sisters was one of the events that helped propel the anti-Trujillo movement and, within a year, the Trujillo dictatorship came to an end.

The sisters, referred to as the "unforgettable butterflies", have become a symbol against victimisation of women. They are symbols against prejudice and stereotypes, and their lives raised the spirits of all those they encountered and later, after their deaths not only those in the Dominican Republic but others around the world. It was 20 years after their deaths that a meeting of women's groups in Columbia decided that the murder of the

Mirabal sisters should be commemorated as the International Day for the Elimination of Violence Against Women.

In 1991, the first white ribbon campaign was launched by a group of men in Canada after the brutal mass shooting of 14 female students at the University of Montreal. Since then, many other countries have launched their own white ribbon campaigns and have adopted the white ribbon as a symbol of support for the elimination of violence against women.

The ACT government has addressed issues of violence and community safety for women by developing the framework entitled "Justice, options and prevention—working to make the lives of ACT women safe". The framework identified three major outcome areas: a justice system that provides protection, support and advocacy for women; assistance for women that is appropriate, accessible and responsive; and community understanding and acceptance of the right of all women to live their lives free of violence. It requires government agencies to develop action plans each year that identify tangible ways in which they will implement the goals of the framework.

The ACT women's 2005-06 action plan and the action plan addressing violence and safety issues for women in the ACT further highlight the government's commitment to ending gender-based violence in the ACT. The action plan links with the Canberra plan's strategic theme of investing in people. It places emphasis on further reviewing legislation and legal processes for women experiencing violence, strengthening services and programs that support women and children experiencing violence, and continuing to work with the community to prevent violence against women. Advancing the status of women and girls in the ACT is a government priority, and these plans provide a framework that supports government agencies to better meet the needs of all women and girls.

As previously stated, putting an end to gender-based violence requires the dedication of all members of the local, national and international community. Locally and nationally, groups and organisations such as the Women's Information and Referral Centre, the Domestic Violence Support Group, Men's Link, Women's Action Alliance, Lifeline Canberra, the National Foundation for Australian Women, Women's Emergency Services Network and the National Women's Justice Coalition help provide support and counselling to men and women affected by violence. These are just a few of the many groups that provide invaluable assistance to men and women in the ACT and across Australia.

The Women's International League for Peace and Freedom, WILPF for short, also aims to empower women to work towards peace and justice. The Australian branch of WILPF celebrated its 90th anniversary with a week-long festival of peace and I was fortunate enough to officially open this festival in the Assembly reception room this October.

At an international level, no organisation has worked as hard to improve women's safety as UNIFEM. Created in 1976, UNIFEM works in over 100 countries and provides financial and technical assistance to innovative programs and strategies that promote women's human rights, political participation and economic security. The establishment in 1997 of the trust fund in support of actions to eliminate violence against women has furthered UNIFEM's work on gender-based violence.

The international community has recognised that efforts to confront gender-based violence are central to human security and development. We all have to work hard to put an end to gender-based violence once and for all. Unfortunately, violence against women remains prevalent in our community, as can be witnessed by the regular media reports and articles. Violent acts occur daily across Australia and the world, and will only stop through the cooperation and combined efforts of the entire world community.

I end by quoting UNIFEM executive director Noeleen Heyzer:

> We need to say "No more and never again." If we commit ourselves to creating a world free from violence against women and girls, our children will say we stopped the universal and unpunished crime of all time against half the people of the earth.

MRS BURKE (Molonglo) (3.47): I rise to support the intent of the MPI today in its effort to acknowledge the importance of continuing to recognise the UN international day for the elimination of violence against women, and in particular the impact of violence against women in the ACT.

I note with interest that perhaps this MPI is seeking to build upon a motion put to this Assembly in February of this year by Ms MacDonald which, amongst other things, highlighted the efforts of the Office for Women to pull together the ACT women's action plan in 2004-05 and a continued focused via the 2005-06 plan to build upon the earlier initiatives and subsequently introduce new ones.

I believe that, during a previous debate relating to this matter, some members quite wrongly mistook my attempt to highlight the problems that men face within our community to mean that in some way I was implying that the focus should be redirected from supporting and caring for women faced with all forms of violence. That simply is not true. Again I put to the Assembly that the cause of the problem of violence whereby men abuse their perceived power and continue physically and/or psychologically to dominate or control women is an area that should be dealt with in the strongest terms.

I must add here that there are services in Canberra—Ms MacDonald alluded to many of them—such as such the Domestic Violence Crisis Service, the crisis accommodation providers and the family violence intervention program that are focused on and committed to assisting families which are combating all forms of violence. It was conveyed to me as recently as today that now, via an increase in support programs, media attention and community education, more and more people are building up the courage to seek assistance and, in turn, that is placing more pressure upon the available services.

I welcome the government's continued efforts to plan for and implement strategic changes to legislation and the particular processes women undergo when experiencing violence to allow for a positive environment to be offered that protects, supports and assists women. I would ask however whether there has been a significant change, up or down, in the rate of violence towards women. Has the government correlated any evidence to support the impact and effectiveness of programs that seek to assist women through the difficult times when facing violent situations?

We would all be aware that, since May last year, the federal government has run a serious advertising campaign that seeks to redress some of the problems that can be tackled in relation to the behaviour of men who seek to inflict harm on women. This genuine attempt is highlighting the point that all men, whether they are perpetrators or are a friend or relative of a perpetrator, have a serious responsibility to stand up and say that any form of violence is abhorrent and not acceptable, and that where necessary action should be taken to report an incident.

I certainly concur with the efforts of any government to eradicate violence from the community. I am sure that the majority of men in our community do not condone acts of violence. This point can be built upon. I am sure that the government is aware of the importance of having strong male role models for boys and young men. At the local level, I would hope that the government is taking the necessary steps to fill gaps in service delivery and is making genuine attempts to improve, for example, supportive programs that seek to actively engage young men, during an impressionable period of their lives, to obtain viewpoints and in turn to offer them the necessary skills and the ability to differentiate between what is and is not an acceptable way to treat and interact with their young female peers and women in the broader community.

I would agree that positive action has been taken by the ACT government to ensure that all schools in Canberra have an anti-bullying policy, for example. I anticipate that this program will go one step further and actually discuss the matter of violence that is gender-based and make it clear just how seriously this problem impacts upon our community, along with any other form of violence.

Acts of violence affect the social, emotional, physical and financial wellbeing of individuals and families and that, in turn, results in significant social and economic cost to the community. The entire community has a role to play in ensuring that we all have a right to feel safe and secure, regardless of who we are. There is constant need for a balanced perspective, particularly in dealing with violence against women. I will support the government in its continued efforts to address this serious social problem, but I will also continue to insist that, in proportion to the problem, the government monitor and respond to how men face personal difficulties, emotionally and psychologically, and subsequently why they commit acts of violence.

I have long been a supporter of the work of the Lone Fathers Association, which seeks to assist men in crisis with things such as accommodation, relationship issues and working towards rehabilitation of their lives after divorce or separation. I must mention at this point that this organisation was recently awarded a certificate of achievement under the regional achievement and community awards for New South Wales and the ACT for a program entitled "Stand up and be counted". They have also been nominated for the final for the community of the year award for a population over 15,000. This organisation is serious about tackling the problems associated with domestic violence, in particular violence against women, and I commend it for its efforts. I also commend the ACT government for its continued financial assistance to the Lone Fathers Association.

Mr Speaker, given that I have already debated this matter this year, and it is one that we cannot ever stop talking about, I would like to give other members time to have their say. I will close at this point by quoting Dr Foskey, who, during the debate in February this

year on gender-based violence, summed up the root cause of violence in our community so eloquently as follows:

> … while violence against women and girls, and men and boys, must be addressed and victims helped and perpetrators punished, we must also work on the conditions that nurture that violence. These include poverty, lack of access to appropriate educational pathways, secure housing, employment and respect from service providers. Sentences for violent offenders need to be as much about rehabilitation as punishment. The gender inequity at the base of violence against women is systemic and sanctioned in powerful areas of our society … We need to counter violence against women and girls systemically.

The issue of respect, nurturing and a sense of caring that men show towards women remains the key to breaking the cycle of violence and, once again, I welcome the opportunity to have this topic brought to the attention of the Assembly. I support the theme I have just expressed and I support White Ribbon Day on 25 November, which encourages men also to support efforts to end gender-based violence in our community.

DR FOSKEY (Molonglo) (3.55): The ACT Greens believe that families are the basic social unit in most societies and provide the context for the early lives of most people. We know that they can be a source of self-esteem and confidence where they are working well but, where they are not, of unhappiness and lack of confidence. Family patterns are played out from generation to generation, making positive interventions into violent and dysfunctional families an essential tool of social policy. I cannot emphasise strongly enough the fact that to prevent having violent adults we must make sure that we assist families in providing the best conditions for their children. Nonetheless, it will be a while before we catch up on that one.

In response to gender-specific violence, the ACT Greens support: enforcing laws against domestic violence; increasing the number of women in the police forces; improved training for police and security personnel for conflict-avoiding responses to increase their understanding of, and their ability to defuse, domestic and other potentially violent situations; banning the production, performance, display and distribution of pornographic material that depicts women, men and children as objects for, and perpetrators of, violence and sexual exploitation, and I think that we are seeing the return of advertisements portraying women as sexual objects, something that would have been considered quite improper just a few years ago; education, counselling and training services for men and women who are seeking to overcome violent behaviour and feelings; and mandatory counselling and training as part of an appropriate sentence for men and women convicted of domestic violence offences.

In response to family stress, the ACT Greens support: developing a strategy within the social plan for family support services, including parental training and education programs, and intervention programs for families at risk; a publicity campaign to encourage families to seek assistance as soon as they encounter difficulties; specific early intervention counselling services for men and women involved in family disputes or violence; providing legal aid and the Women's Legal Service with adequate resources to give advice and legal representation on family law matters; an increased role for men in parenting through the provision of parental leave and equal access to leave by both

parents to care for sick children; and encouraging positive images and role models of men for boys to emulate.

When I was speaking with the Domestic Violence Crisis Service earlier today to get an update, a number of problems were outlined by the organisation in regard to domestic violence in the ACT. Firstly, the DVCS noted that domestic violence is on the rise in the ACT, as are all types of violence. The most recent Australian data comes from a national survey of 6,600 women by the Australian Institute of Criminology in 2004. This survey found that, in the past 12 months, 10 per cent of Australian women had experienced at least one incident of physical and/or sexual violence from a man and that, over their lifetime, 57 per cent of women reported experiencing at least one incident of physical and/or sexual violence. Of these women aged 18 to 69, just under half had experienced physical violence and one-third had experienced sexual violence.

Similar findings came from a national survey in 1996 by the Australian Bureau of Statistics. I might say that that was about the last time, I think, the ABS did a specific complex analysis of statistics related to women. These and other services consistently find that anywhere from one-quarter to one-third—even up to one-half, depending on their whereabouts—of Australian women will experience physical or sexual violence by a man at some point in their lives. We know too that young women are at greater risk than older women, especially of sexual assault. Nonetheless, we know that it is often older women who feel most insecure.

Secondly, families are facing an increasing level of stress in day-to-day living. DVCS noted the work being done by the ACT government in regard to child protection, but was saddened by the limited improvements in family support. It could be argued that the management of domestic violence is similar to that of mental health in that assistance is not provided until the final critical stages are reached. There are many gaps in family support services that seem to be assisting families to fall through the safety nets into critical levels of domestic violence. DVCS remarked that a number of people who arrive in their hands could have been assisted much earlier in the process. The good workers delivering services to these people often wonder why the families were not helped sooner. There is a lack of holistic preventative support for families to assist them in coping with everyday stresses.

If we put more into prevention, we could minimise the extraordinary impacts that domestic violence has on the individuals involved and the community at large. A study last year by VicHealth found that, among women under 45, intimate partner violence contributes more to their poor health, disability and death than any other risk factor, including obesity and smoking. To focus on the economic costs, Access Economics estimated in a report last year that the total annual cost of domestic violence is $8.1 billion in terms of costs to the victim, others affected by the violence and the community. Perhaps governments at both levels should be looking into the family support services provided in the ACT while the work on the child protection review is winding down. We need programs to assist families in their parenting roles so that they can better care for children in themselves.

And then there is the housing crisis, which is exacerbating the situation for victims of domestic violence. We know that since the 2003 bushfires the growing backlog in priority one housing has been preventing women and children from accessing safe and

affordable housing. There is a diminishing availability of crisis accommodation, as much of what was available has been turned into medium to long-term accommodation, so women have nowhere to go. There is a backlog not just in public housing, but in all types of accommodation that supports victims of domestic violence.

The Toora Women's Refuge supports the assertions made by DVCS on this matter. Toora has noted that women's refuges do not have enough housing exit points at the moment, causing a backlog concerning medium and long-term residents and a lack of crisis accommodation for those people seeking to leave violent situations. Toora has also questioned the recognition that is given to children as victims of domestic violence and whether they are recognised in their own right, apart from their parents. Toora questions whether the services that are funded to support victims of domestic violence are well enough resourced to deal with children in their own right.

Turning to the end result that the ACT government must deal with, usually translated into calls to police in crisis situations, there are some statements in the ACT Policing annual report worth noting. During the 2004-05 reporting period, over 66,000 reports of incidents were received, an increase on the previous year. The annual report says that it has been identified that, despite the quality of the sexual assault and child abuse team, the successful prosecution rate for sexual assaults in the ACT is low. I think we have some problems there.

I note that much of Ms MacDonald's speech sounded familiar and I just want to point out that my office felt as though it did a lot of work assisting to organise and supporting the WILPF festival. Certainly, one member of my staff was busy running around every day. Ms Burke was also involved in the launch. There still remains a question of where the federal funding for indigenous programs to support indigenous people in regard to domestic violence is up to. I have more to say but, sadly, I have run out of time.

MR PRATT (Brindabella) (4.05): I rise to support Ms MacDonald's motion. It is a very timely one. As we are about to go into a program, the motion is perhaps, in terms of this Assembly's behaviour, a starting point for our contribution to community activities relating to White Ribbon Day.

White Ribbon Day was created in 1991 on the second anniversary of the massacre of 14 women by a man in Canada. Men took the action to urge men in general to speak out against violence against women. It was men who in fact coined the phrase, as I understand it, White Ribbon Day, but they clearly did that in cahoots and consultation with women who had been victims of violence. But the aim of that group of men was to create an activity whereby men were seen to be encouraging men to speak out against violence against women. What sprung from there was an occasion where a number of communities would seek to incorporate men or mobilise male leaders in communities to become involved in White Ribbon Day. In terms of the male contribution to this exercise, that is probably the essence of this exercise. Men, therefore, would call on their fellow men to take up the call and to spread the word, and where necessary to intervene to stop violence.

What should be clearly remembered is that in many cases women suffer violence in silence, and those cases of violence will be witnessed by other people. So the major issue clearly is to try and encourage neighbours, communities and families to take action

where necessary. I think that is one of the most important messages that male leaders in communities can send out to their male colleagues.

The United Nations Development Fund for Women, UNIFEM, institutionalised the date, White Ribbon Day, established by those Canadian pioneers, and now of course we see White Ribbon Day as a day with global significance and international status. What is becoming apparently quite routine around the world is to have 16 days of activism from 25 November through to 10 December. This is a period in which the community is encouraged to participate in "stop the violence" awareness activities. To this end I, and I gather Mr Gentleman and others, have quite happily stepped forward and volunteered to become ambassadors, to join the so-called gallery of men. I will happily do that and I will speak out as much as I possibly can on this issue.

What are the fundamental issues that need to be addressed? As Ms MacDonald pointed out, one in three women worldwide has experienced physical or sexual violence from men and, if you extrapolate that, God knows how many children have also suffered violence from men. The other problem here—just picking up on the point I made earlier—is the silent witnessing. There are too many families, there are too many men—there are too many men in those families and communities—who know that some of their colleagues deliver violence upon their women and who do nothing. So what we have in many cases—and we have seen this in recent history—is women suffering in silence, because often the women who are the victims of men-on-women violence do not speak out. They do not want to suffer the embarrassment, they do not want to supposedly compromise their male partner by going to the authorities or even seeking help from other members of family or community.

If you take these figures—one in three internationally—and even if you downgrade that to make it more applicable to the Australian landscape, there must still be a significant number of women and their children who are suffering in silence as the victims of assault and violence. So that is a major challenge that needs to be addressed. Somehow we need to be able to draw the victims of violence out of their silence cones. That is our job as leaders—that is our job as a community—to make sure that those encouragements are there so that people do not have to continue to suffer in silence.

I would like to congratulate Lifeline Canberra, Men's Link and a number of other programs and a number of other government-assisted programs. I would like to thank the ACT government for some of the work it has done, in partnership with those organisations, to try and draw out some of these lessons, particularly the need to find people who are suffering in silence and to give them assistance.

I would like to also draw attention to the massive problem that exists internationally. It is rather ironic that a number of the states that would criticise the open democracies in the world do themselves have shocking records in condoning wife-beating and child abuse. They justify this on the basis of it being acceptable in cultural terms. Women and children are not cattle, as they are sometimes thought to be in too many states around the world. Governments too often do turn a blind eye, and this is particularly so even in emerging democracies. We see around the world this terrible habit of condoning honour killings. It is sad to say that in Pakistan, India and Jordan—three states that I would immediately pick on in terms of this concern—this happens far too often. Of course, these are emerging democracies. In fact, India is a fairly advanced democracy. But

I suppose what we are seeing here in these open democracies is that at least the issue has been identified and is certainly being dealt with. God knows what the depth of this problem is in those countries that are not open.

As a leading nation, as a leading democracy, Australia has a role to play. Again, we can do that without being arrogant, but we should be persistent in influencing those nations with whom we have some influence, to address these sorts of problems. My wife has told me some harrowing tales of things she witnessed in her first country as she grew up, where direct physical and sexual violence may have occurred. But that is not even the issue; there is also the issue of psychological violence in those sorts of countries, in states such as Yemen and other older states where women are contained or periodically jailed. You cannot describe it in any other way—they are periodically jailed and prohibited from acting in a more wholesome way in their societies and making strong contributions to their societies. It is a major concern.

The removal of repression of women, and their democratisation in conflict zone countries and in some of these emerging democracies, is very, very important and will go a long way to progressing conflict resolution in those countries. If you empower women in these countries and give them stronger leading roles in developing their countries' social and economic structures, while the old fellows up on the hill put their guns down, this surely goes a long way. These are some of the challenges that international NGOs have found themselves embroiled in over the last years.

I will finish by saying that I am going to very happily write a card back to Amnesty International and that will be addressed to the Japanese Prime Minister to urge him to do something, to influence him to do something, about the outstanding issue of comfort women—those Korean, Chinese, Malaysian and Indonesian women who, whilst they must now be quite old, still carry the stigma of those issues. I will not read what the card has to say, but it is a very well-designed card and I congratulate Amnesty International Australia. I will sign it—I encourage my colleagues to do the same thing—and send it off to Amnesty International to put further pressure on the Japanese government. White Ribbon Day is a very, very important day. There are many things that we can do as men and people of all gender to make a contribution to resolving these issues.

MR GENTLEMAN (Brindabella) (4.15): I would like to thank my colleague Ms MacDonald for bringing this very important issue to the attention of the Assembly today. White Ribbon Day is an affirmation of the rights of all women and children to be free from violence. It also provides an opportunity for us, as men, to stand up in opposition to violence against women.

Violence against women is a global phenomenon and, disturbingly, it is not stopping. Despite widespread attention at international and grassroots levels, there is no sign of a significant decrease in such violence. The United Nations estimates that globally more than one in three women and girls are sexually abused or beaten in their lifetime—such a significant number and one that certainly makes me think twice about the message of the elimination of violence against women. In the words of Kofi Annan:

> Violence against women is perhaps the most shameful human rights violation. And it is perhaps the most pervasive. It knows no boundaries or geography, culture, or

> wealth. As long as it continues, we cannot claim to be making real progress towards equality, development and peace.

The impact of this violence on our community is immense. The impact of this violence on individual lives is unimaginable. Violence costs women their psychological and physical wellbeing for large parts of their lives. Further, this violence maintains the gender inequalities that prevent women from reaching their potential and participating fully and freely in our community.

We are often confronted by violence against women on a global scale. But, unfortunately, we do not need to look further than our own community to be reminded of its existence. Studies released by the commonwealth Office for the Status of Women estimate that in 2002-03 the total number of Australian victims of domestic violence may have been in the order of 408,100, of which 87 per cent were women, with 98 per cent of the perpetrators male. Furthermore, we know that these figures, unfortunately, do not paint the full picture. The Australian Bureau of Statistics has estimated that less than 20 per cent of violence against women is reported to police. This is apparent in the records here in the ACT. In 2003 in the ACT there were 844 recorded assaults on women and 113 recorded sexual assaults on women. As we have just mentioned, these figures only relate to recorded figures; they do not take into account the figures of women that do not realise what abuse refers to.

Abuse can take on several forms. There is, of course, physical abuse—this is the most noticeable—but what about psychological abuse? This is the hardest of all to both determine and to take figures on, as a lot of women have had to deal with this their whole lives and are unsure of the process by which to find help or accredit this form of abuse. Studies show us that many women in the ACT feel unsafe in public, which is hard to come to grips with. But the studies that really made me sit up and take note were the number of women that feel unsafe in their own homes, particularly at night.

So, if violence against women is so pervasive, what can we do to stop it? First and foremost, we need to acknowledge that the overwhelming majority of violence against women is inflicted by men. In helping to make other men acknowledge the fact that violence against women is not acceptable, I have been made an ambassador for White Ribbon Day. This involves me working with such organisations as UNIFEM, the YWCA and the Australian Baha'i community, as well as concerned members of the community, to bring to the forefront the message that men need to take a stand to stop violence against women. I have relished my role as ambassador, and I have engaged other male friends and former colleagues to become involved in the recognition of the elimination of violence against women. These include three times Australian rally champion Neal Bates. In that theme I will be portraying a large white ribbon on our rally car this weekend in the National Capital Rally in Canberra.

Not all men perpetrate violence, but far too many do. Just as women from all walks of life are subjected to violence, men from all countries, all races, all religions and all socioeconomic groups perpetrate violence against women. We live in a climate where some men use violence to assert power, privilege and control. Men often learn violence as young boys and grow up to see it as the best means to solve differences. Men often use violence to express masculinity in their relationships. At present we have unbroken cycles of violence that affect generation after generation. Children see and learn violence

from a young age. More than 180,000 children in Australia witnessed domestic violence in 2002-03.

If this situation is to change, men need to be part of the solution. Men must commit to full equality for women. Respect for women and girls is essential if we are to end violence against women. The culture of silence surrounding violence against women must be broken. We must talk about this violence and we must teach our children never to practise or condone violence. Further, we must re-examine the current conceived connections between masculinity and violence. And perhaps most importantly, we as men need to stand up and say to other men that violence against women is absolutely unacceptable. Ending violence against women is no easy task. It requires an end to discrimination against women, a change of social attitudes, law reform, and support for women who have suffered violence in all its forms.

It is clear from the statistics that men are responsible for the majority of violence inflicted on women. It is, therefore, fitting that men take the lead in bringing an end to violence in all of its manifestations. It is fitting that men stand up and say that violence against women is never acceptable. Wearing a white ribbon is a public pledge never to commit, condone or remain silent about violence against women. It is a message to the perpetrators of violence that we are appalled by their actions. It is also symbolic of our commitment to work with everyone in our community to end violence against women. I am proud to be wearing a white ribbon and I am encouraged to see that many of my colleagues are also wearing white ribbons to acknowledge the significance of this day. It is a simple gesture but it is also a very profound one.

I would again like to thank you for allowing me this opportunity to speak here today on this matter of public importance, the importance of the United Nations International Day for the Elimination of Violence against Women, White Ribbon Day in the ACT, this Friday, 25 November.

MS GALLAGHER (Molonglo—Minister for Education and Training, Minister for Children, Youth and Family Support, Minister for Women and Minister for Industrial Relations) (4.22): I would like to also thank Ms MacDonald for raising this matter of public importance. It is a very sad fact that today, in 2005, we are standing here acknowledging that violence against women remains a global problem.

In the ACT, in Australia and around the world, women and girls comprise the majority of victims of domestic, family and sexual violence and are much more likely than males to experience continuous abuse or repeated cycles of violence. Internationally, rape and domestic violence are listed as significant causes of disability and death, and, disturbingly, despite widespread attention at international, national and local levels, there is no clear sign of any significant decrease in this violence. Such violence constitutes a violation of the basic human rights of women and is an obstacle to the achievement of equality, development and peace.

In discussing violence against women, we cannot underestimate the cost to the community of this violence. Domestic and family violence take a number of forms, including physical and sexual violence, emotional and sexual abuse, threats and intimidation, and financial deprivation. Research shows that in Australia women and children are the main victims of domestic violence, resulting in significant social and

economic costs. The Access Economics report, which I think Dr Foskey referred to and titled *The cost of domestic violence to the Australian economy*, released in October last year, found that during 2002-03 domestic violence cost Australia $8.1 billion. Nearly half of this cost is borne by the victims of violence while many other groups in the community also bear the cost of this violence.

As many speakers have acknowledged here today, the overwhelming majority of violence against women is perpetrated by men. I guess we can only sit here and speculate about what drives a man to commit violence against women, but research indicates some men use violence to assert power, privilege and control. Men also learn violence as young boys and grow up to see it as a way to solve differences. These are not to be seen as excuses. We live today in a modern world, a 21st century enlightened society, and violence against anyone should not be tolerated. But research does give us some insight into what leads to perpetration of violence. We know children see and learn violence from a young age. Again, according to the Access Economics report, more than 180,000 children witnessed domestic violence during 2002-03. There is a real risk that this violence is perpetrated by later generations. Any of us visiting any women's service in the ACT today could hear stories of the circular violence that occurs: refuges see grandmums, mums, children, and later their sons, who have sometimes been residents at the refuges as children, turn up, after 15 years, as perpetrators of violence, resulting in their partners seeking refuge from them.

If we are to end gender-based violence, we must raise awareness of domestic, family, sexual and cultural violence occurring amongst our community. It is also appropriate that men take the lead in objecting to violence against women in all its manifestations. We need to work together to foster recognition of and respect for the equal role and equal rights of women in society. Turning a blind eye to this type of violence cannot be tolerated.

That is the importance of events like White Ribbon Day on Friday, which provide the opportunity for all members of the community to speak out for the rights of women to live their lives free from violence. Yesterday I signed off letters to members of the Assembly and senior executives within the government to provide them with a white ribbon. It seems I could have missed the boat, considering most members are already wearing them. But it is important that we as community leaders wear the ribbon on the day as a symbol of our commitment to and support for this cause.

It is our vision, and I think it is a vision shared by everybody in this place, that every woman in the ACT is free from violence and free from the fear of violence. I strongly encourage all members to support White Ribbon Day, and to never condone, commit or remain silent about violence against women and girls.

MR DEPUTY SPEAKER: There being no further speakers, the discussion is concluded.

Planning and Environment—Standing Committee
Report 17

MR GENTLEMAN (Brindabella) (4.27): I present the following report:

> Planning and Environment—Standing Committee—Report 17—*Wildlife corridors and DV231—East Gungahlin suburbs of Kenny and Throsby and Goorooyarroo Nature Reserve,* dated 22 November 2005, together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR GENTLEMAN: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR GENTLEMAN: I move:

> That the report be noted.

I have tabled in the Assembly today the report of the Standing Committee on Planning and Environment on the draft variation No 231 of the territory plan. The minister referred a copy of the draft variation 231 to the committee for consideration and report in May this year. The committee considered DV231 at meetings through June, July, August, September, October and November. We believe this variation to the territory plan may have a deep impact on the ability of future generations to enjoy their native environment here in Canberra, and so I am pleased that we were able to take a lengthy period of time to consider it.

There were many submissions received, with the majority of submissions commending the declaration of the Goorooyarroo and Mulligans Flat nature reserves. A number of submissions we received expressed concern over the proposed development of land adjacent to Goorooyarroo and Mulligans Flat nature reserves, also commonly referred to as "the neck". These submissions clearly called for a reduction in size of the residential development in the suburb of Throsby so as not to impact on the nature corridor. The committee is of the view that the ACT Planning and Land Authority review the boundaries of the suburb of Throsby and redraw them back towards Horse Park Drive so as to reduce the impact of residential development on the native corridor.

This recommendation has not been made lightly and is in line with the intergenerational equity principle. This is an important principle, which must be taken into account in the development of land use polices impacting on the Goorooyarroo and Mulligans Flat nature reserves. This principle helps to ensure that the economic interests of the present generations do not outweigh the rights and interests of future generations to have biodiversity conserved in an effective way.

Although the committee has recommended this, we are aware of the financial impact on the territory of reducing the residential development in the suburb of Throsby. The committee also notes the technical evaluation of the preliminary assessment by ACTPLA and their recommendations that 231 contain principles and policies which provide for

further studies to be undertaken at the appropriate planning stages for the proposed development areas adjacent to the Goorooyarroo nature reserve to ensure that the ecological values and peripheral areas of the reserve are not affected by the proposed nearby land uses.

In line with this, the committee recommends that the ACT government explore the opportunity of maintaining the 25 hectares of yellow box/red gum and red stringy-bark woodland adjacent to Goorooyarroo and Mulligans Flat nature reserves with a view to the provision of assistance to conservation groups to manage this area. This was discussed in the committee process with comments relating to the fact that the threatened status of the yellow box/red gum woodlands is well recognised.

It is clear from the air that there has been vast clearing of native vegetation to the north of the ACT in New South Wales and that this corridor remains the only link to the rest of Canberra from the north, connecting the Brindabella area to the rest of Canberra. It is stated that the yellow box/red gum woodlands are linked in a corridor from Gungahlin down the Majura Valley and into the Woden and the most southern sections of the ACT.

The committee recommends that all future draft variations that concern the expansion of residential areas or impact on Canberra nature parks should include maps and data that demonstrate how the proposed variation will contribute to ecological connectivity and regional targets for the protection of species in the public documentation produced by ACT Planning and Land Authority.

There were also discussions as to the implementation of cat containment policies and that ACTPLA will investigate cat containment in the suburb of Throsby. The committee agrees with this suggestion and recommends that cat containment be mandatory in both Throsby and Kenny. The committee recommends that the current array of policy documents on environmental management, including biodiversity conservation, be reviewed, integrated and streamlined and better integrated with environment protection and planning legislation.

It was recommended by the committee during deliberation on DV231 that the ACT government introduce a reporting system such as a state of the parks report which identifies programs to monitor management effectiveness and progress towards achieving protected area objectives. The committee expects that the proposed regional management framework will provide for biodiversity conservation and recognise wildlife corridors. We are, therefore, recommending that as a flow-on reform the advisory, program delivery and consultative committees involved in NRM on a local and regional scale be reviewed and better integrated.

With the ACT government having signed an agreement for the National Heritage Trust and as of 2001 being a signatory to the intergovernmental agreement for the national action plan for salinity and water quality, the committee has also made recommendations in relation to this area. The committee recommends that remnant vegetation with high conservation value on rural leases be better managed as wildlife corridors under land management agreements, with these to be the basis for increased funding applications under the National Heritage Trust and the national action plan for salinity and water quality.

The committee's final recommendation is in regard to the Canberra international arboretum and gardens. The committee recommends that the Chief Minister request the shaping the territory working group to assess the feasibility of incorporating the elements of the southern tablelands ecosystem park proposal in the Canberra international arboretum and gardens.

As committee chair, I would like to thank all of those involved in the consultation process, in particular the committee office and secretary, Hanna Jaireth.

MR DEPUTY SPEAKER: We appear to have lost power. We will suspend the sitting until the ringing of the bells.

Sitting suspended from 4.36 to 5.18 pm.

MR SESELJA (Molonglo) (5.18): I would like to make a few comments in relation to the report and the process. Firstly, I want to talk about the 87-page report. Mr Gentleman talked about the committee considering this issue since May this year. It seems odd to me that, suddenly, after no particular urgency, we first saw a draft of this 87-page report on Friday afternoon and it was rammed through at a special meeting today. The committee had to consider it in less than two working days, after several months of having had this draft variation before it. That is one of the concerns that I raised in the committee. I will come back to that after I have dealt with some of the more substantive parts of the committee report.

To the extent that I have had time to consider the report—and I have not had a chance to look at it in detail, but I certainly have had a look at the recommendations—a couple of concerns immediately came to mind. The first was in relation to some of the recommendations. To the extent that it is possible to consider such a lengthy report in any detail in the short time given, there are a couple of issues that I have with the recommendations, and I would like to talk about them.

I have a concern about recommendation 2—I think it is still recommendation 2; it was, in an earlier draft—about the redrawing of the boundaries of the suburb of Throsby. The committee recommended that ACTPLA review the boundaries of Throsby and redraw them back toward Horse Park Drive. It became clear, when we did our site visit, that this was an area that had been set aside for some time for residential use. For that reason, only limited, short-term pastoral leases were granted. This has obviously led to fewer incentives for lessees to develop the land, which is perhaps one of the reasons why it is seen to have more environmental value than it otherwise might have.

The concern is that, if we take that principle, every time that there is good, forward planning and you set aside some land for future residential, there is bound to be some increased environmental value of that land and, therefore, we are always going to find ourselves in a position where people want to turn it into a reserve. We need to find a balance between reserve and residential land use. The more we seek to artificially limit that—and that is what I see this as—the more there will be upward pressure on land prices. I have concerns about that. I have concerns, particularly for first homebuyers who are often buying in these greenfields areas, that that land will artificially be inflated in

value because of scarcity and because of an artificial creation of scarcity through wildlife corridors and other places.

I am not against protecting valuable land for the community. We do that pretty well in Canberra. We have to seek to find a balance, but redrawing boundaries that have been there for a long time and that have been set aside for residential land use would be a mistake. I counsel the government to not accept that recommendation. I do not think it is one that is well founded.

In recommendation 6—I believe it is now—the committee recommends that cat containment be mandatory in the proposed new suburbs of Kenny and Throsby. I opposed that one, on the same grounds as I opposed the legislation last week, which is that it is ill-thought-out legislation. The recommendation is along similar lines. It will, for all the reasons that I put to the Assembly last week, be counterproductive and not achieve any significant outcomes for the people of the territory. For the same reason as I opposed the cat containment legislation, I opposed recommendation 6.

In relation to the other recommendations, if I had had time to consider the report in more detail there may have been many more comments. This is where I want to go back to the process that we went through in this committee. Mr Gentleman said that the committee has been looking at this issue since May, and that is true. But the point is that, since we have been looking at it since May and have known all the time frames around that, there certainly has not been any rush to finalise the report. You would think, having looked at the issue for so long and producing what is a very lengthy draft report, an 87-page draft report—I do not remember our ever having a report that long, and I stand to be corrected on that, but it is probably one of the more significant reports that we have had over the past year from this committee—the question would be: why the rush?

I will take the Assembly through the process. On Friday afternoon we received a draft report. That is the first time that I had seen it. I do not know whether other committee members had seen it before. Why the sudden urgency to rush it through? If we are really concerned about getting this process right, if we are really concerned about the committee scrutinising this draft variation, why would we not take a bit of time to consider this 87-page report and have a debate about it? As it was, we barely had the chance to have any debate in the committee. I got shut down and then we had to reopen it in order to put a couple of points. But that was in the context of not having had any real time to consider the report.

I put on record my concerns at the way in which the committee process is now being completely disregarded. We have a government that is now paying lip-service to the committee process. That was demonstrated today when the daily blue, under "Committee Reports" listed "Standing Committee on Planning and Environment, Mr Gentleman to present report 17". This was prepared before the committee had met and agreed to this report being presented today. There was no deadline for it to be there today, expect a self-imposed deadline from the government. It is pre-empting the work of the committee.

Basically what we are getting from the chair of this committee and from the government is this idea that what goes on in the committee does not matter. It is becoming an absolute rubber stamp. It makes a mockery of the process. I go back to the election plan

of the Labor Party for good government. They spoke of having the courage to allow themselves to be closely scrutinised. Since they have had majority government they have turned the committee system into an absolute sham. I am sure that Mr Gentleman will get up again, as he has in the past when I have raised these issues, and verbal me and say, "Why don't you act in a bipartisan manner and why don't you cooperate?" It is pretty hard to cooperate when all we get from the government members of this committee is lip-service. They take their orders from the cabinet and do their bidding. It has got to stop if we are going to have any cooperation in the committee process.

I am told that, prior to the 2004 election, the committee process was one of the best parts of this Assembly. I am told by various officials of this place that it is something that we want to protect and it is something that has worked. We are seeing now that it is not working. It is not working, in part because of the actions of some of the chairs of committees, in particular the chair of this committee. The experience I have had is that it has become an absolute rubber stamp.

We saw that in previous deliberations about City West. We had discussion about whether or not we should have something specific about gender balance. We had an argument about it, and the committee came to the view that no, we did not need to have anything specific. Then government members came back a day later and said, "We have to change that because government policy is that we have gender balance on boards." What is the point of having a committee? What is the point of having a committee process when it is simply going to reflect government policy? We might as well all pack up and go home.

If Mr Gentleman is going to get up and say that I need to cooperate and I need to do this, and we have had all these months, the fact is that we had two days to consider an 87-page report. The meeting that was hastily convened to consider the report was pre-empted by the notice paper, the daily blue. What we see is just a rubber-stamping process. We have seen it before; now we are seeing it again.

As I have said, Mr Gentleman has lectured me in the past in this place on how I need to cooperate and do this and that. I have got some advice for Mr Gentleman. It is important that you do your job as a committee chair, that you seek to scrutinise what the government is doing, that you do not take orders from the government about what their time frame is and why this should be pushed through now. No-one has put to me a real argument as to why we suddenly had to have this hasty process and push this report through and have it tabled.

We talk about disallowance periods. As I say, we have known about it since May. We could have had plenty of notice and plenty of time to consider it, but we did not, for whatever reason—mismanagement by the government. If the government is concerned about it being disallowed, is there a government member who is planning to vote for disallowance and cross the floor? I do not think there is any danger of that. It would have been better if we had taken a little bit of time, had a week or two, as is often the practice specifically for lengthy reports, to consider it.

I suggest to Mr Gentleman, especially if he is going to get up and lecture me, which I am anticipating he will, if the committee process is going to work it will take all sides working together but it will take an understanding of what we as a committee are there to do. We are not there to rubber-stamp government policy. We are there to scrutinise, on

behalf of the people of the territory, on behalf of the Assembly, government action. If we fail to do that, if we rubber-stamp things, as we have seen today, as we have seen in the past, then we are failing as a committee, and the committee system will be the sham that I fear it is becoming.

MS PORTER (Ginninderra) (5.29): Mr Seselja has demonstrated his commitment, or lack thereof, to the committee process here today. He seems to object to a responsible, economic and environmentally balanced compromise that encourages the redrawing of the boundaries back towards Horse Park Drive but still aims to maximise the land available in east Gungahlin for residential development. He complains about not enough time to carefully consider the matter. For six months we have been discussing this matter. I encourage you to engage in the process a little more in future, Mr Seselja. That trip you had to the site was not just a little jaunt in the countryside, you know.

The committee structure here is an important element of the non-executive members' role, and it deserves the commitment of all members. You claim you have not had enough time to read the report. That is evident from your ill-advised dissenting comments. You claim you have had enough time, though, to read and make comments. I do not think both things fit together, in my mind anyway. You cannot have it both ways. I know that I received the report on Friday. I do not know what you do on the weekend, Mr Seselja, but a lot of my weekend is spent working.

I fully endorse the comments of Mr Gentleman. The committee has spent a number of months and numerous meetings considering the implication of draft variation 231 for Canberra's structural, financial and natural environments. This is essentially the challenge we had before us: to balance the important economic and growth considerations which are inevitably associated with expansion or development, with a responsibility to protect the natural environment for the enjoyment of all Canberrans, both in the present and long term. The report which Mr Gentleman has today presented to the Assembly on behalf of the Standing Committee on Planning and Environment has achieved that balance.

While noting the general downturn in housing demand means that the urgency of expansion in the east Gungahlin area had diminished slightly, the committee felt that there was no need to forgo environmental growth, protection and longevity in the area in order to ensure quick development. We, instead, believed that a careful process of consideration was needed and that a balanced solution should be sought. Mr Gentleman has outlined the recommendations which have emanated from our committee discussions, and I am sure most in this place would agree that they reflect this intended balance.

In my opinion, there is no more important recommendation in the long term than the suggestion to establish an overarching reporting system in a similar fashion to the New South Wales *State of the parks* report. As Mr Gentleman indicated, there is a particular need to monitor our progress towards environmental sustainability and conservation. It is my hope that an ACT *State of the parks* report would allow us to collectively monitor the effectiveness of programs that have previously been implemented.

Getting back to the report in hand, the committee noted the existing problems associated with the predatory nature of domestic cats and, subsequently, has recommended the

implementation in the planned suburbs of a program based on the principles of cat containment.

The committee has also considered the relationship between wildlife corridors and the proposed Canberra international arboretum and gardens. It is clear that the arboretum has a big role to play in the protection of endangered flora and fauna and that the construction of this arboretum concept, especially given the successful tender for the 100 gardens/100 forests, will mean that awareness of endangered species will be a focus, something we can all be proud of.

This inquiry process was not without tough decisions, and all members of the committee were forced to balance the merits of economics and environmental considerations in order to reach a decision. However, the scientists assembled at the international conference on biodiversity, science and governance in Paris, in January 2005, agreed:

> The primary causes underlying the loss of biodiversity are demographic, economic, and institutional factors, including increasing demands for land and biological resources due to the growth in the human population, world production, consumption, and trade, associated with a failure of people and markets to take into account the long-term consequences of environmental change and the full array of biodiversity values.

This is the challenge before the ACT government. I quote further from this report of the conference in Paris:

> This biodiversity, which is the product of more than 3 billion years of evolution, is an irreplaceable natural heritage and a vital resource, upon which humankind depends in many different ways.

In conclusion, I support Mr Gentleman's conclusions that he brought earlier about this report. It presents a fair and balanced compromise that reflects the committee's commitment to the development of Canberra in both an economic and environmental sense. I am delighted to join with him in commending the report to the Assembly. I thank Hanna Jaireth, the secretary to the committee.

MRS DUNNE (Ginninderra) (5.35): This is an important variation to the territory plan in relation to the suburbs to our very north and the impacts that they may have on the Goorooyarroo nature reserve. It is an important issue, but more important than the issue itself are the issues raised by Mr Seselja about the process. One of the things that we have seen a lot of in this Assembly is the complete disregard for proper process in this place.

As a former chairman of the planning and environment committee, I can say that the account that Mr Seselja gave today of the attitude of the chairman of the planning and environment committee is unprecedented and unprofessional. The fact that a 78-page chairman's draft might appear on someone's desk on Friday and then, on a sitting day, they rush through a brief meeting to sign it off is an entirely unprofessional way for an impartial chairman of a committee in this place to behave. And it says a great deal about the way many of the committees of this place work and about how this member works in this place. This member seems to think that, when he is on a committee, his job is to do

everything to uphold and reflect government policy. Mr Speaker, through you, that is not the role of the member of a committee of this place.

In the previous Assembly, there were members of committees who had the courage to go against their party's policy when they realised, looking at the evidence before them, that their party's policy was not right. This is not something that this member is prepared to do. This member is not prepared and does not have the courage to allow his government to be scrutinised.

Mr Seselja referred to the government's policy on openness, accountability and good governance. This government says it has the courage to allow itself to be scrutinised but it uses its members on committees to do everything to circumvent scrutiny. I draw to your attention an example of this, Mr Speaker. This is a photocopy of an email which one of the opposition staff found lying around in a photocopying room. It goes to the very heart of the way this member carries out his duties as a member of a committee—not the planning and environment committee on this occasion, but another committee. His staffer writes to a ministerial staffer about annual reports:

> Hi …
>
> I am assuming that most questions from Ms Dunne will surround the Ginninderra High closure amongst other things. I wanted to run past you—I was thinking that the best way to get this discussion away from the Dunne rant was to ask questions about Amaroo and its success in terms of enrolment and academic outcomes—but if the answers aren't that favourable it probably isn't a good idea.
>
> What do you think? Should Mick go on about Amaroo and try to draw parallels with the intended outcomes of the proposed school or is there another preferred option (aside from asking Ms Dunne not to attend) with handling the inevitable line of questioning from Ms Dunne?

This is a shameful act by a member of the education committee to even contemplate finding a way for another member of that committee not to attend a public hearing in relation to annual reports. This is a member who does not understand the difference between his role as a member of the Labor Party backbench and a member of a committee. Being a member of a committee means that you have to have courage, you have to stand up, you have to say things which—

Mr Corbell: On a point of order, Mr Speaker: this motion is to take note of the standing committee's report in relation to draft variation 231 of the territory plan. Mrs Dunne has been going on to some extent, personally attacking Mr Gentleman, but she is not referring in any way to the report that the Assembly is taking note of in this motion. My point of order is relevance. Mrs Dunne should confine her comments to the motion before the chair.

Mr Mulcahy: On the point of order, Mr Speaker: it is most pertinent, when we receive a report from a committee chair, to address the matter of the chairman's conduct and regard for the appropriate processes. We have had cited here the fact that the work of the committee was completely pre-empted by announcing on the daily program the decision of the committee before the meeting had been held.

MR SPEAKER: What is your point of order?

Mr Mulcahy: My point of order is: I am speaking against what Mr Corbell is arguing. It is relevant. I think it is relevant.

MR SPEAKER: It is important that we debate the question before us, and that is that the report be noted. It is fair enough to raise passing issues about certain committee members' behaviour, but we should stick to the subject matter of the question that the report be noted. Yes, you have touched on those issues that concern members' involvement in it, but I do not think the motion encourages members to rave on for hours about individual members. It would be nice to hear about the report as well.

MRS DUNNE: Whilst taking that on board, I suggest to members that we should vote against the fact that this report be noted because of the behaviour of the member who did not allow sufficient time for the proper scrutiny of this report. The fact that there were two working days, when members have other things to do, to scrutinise this report is inappropriate and shows the haste to do the bidding of the planning minister rather than to properly provide advice to this Assembly, which is what this committee is doing. It is not doing the bidding of the planning minister or the planning department; it is advising this Assembly.

Based on the advice that Mr Seselja has given, I can only come to the conclusion that this advise is not well considered; we should not note this report. It should be sent back and be given proper time to be considered by the planning and environment committee in a way that does the bidding of the Assembly, not the bidding of the planning minister.

MR CORBELL (Molonglo—Minister for Health and Minister for Planning) (5.42): The government will respond to this report in a considered way in due course, and I will try not to pre-empt the government's consideration of the report's recommendations. But I do want to make a point about the conduct of the committee in the preparation of this report.

The assertion made by Mrs Dunne that in some way the committee and the committee chair have done my bidding is a gross maligning of the conduct of Mr Gentleman and, to a lesser extent, Ms Porter. I only have to draw members' attention to one of the findings in the report. I do not know whether Mrs Dunne has read the report. If she has, she should have seen that the main recommendation is that the variation be substantially changed.

I sign off on draft variations before they go to the committee. Clearly, the variation before the committee is my, as planning minister, and the government's preferred position in relation to a variation to the territory plan.

I do not know whether Mrs Dunne has noticed, but Mr Gentleman and Ms Porter are not agreeing with the variation as proposed by me to them. So to suggest that in some way the planning committee is doing the bidding of me as the Minister for Planning is a nonsense and simply ignores the fact that the committee have come out and disagreed with the government's variation.

The issues around whether or not the recommendation should be agreed to would be something that I and the government will be considering. But it is ignoring the facts to a gross degree to say that they are doing my bidding. Look at the recommendation, Mrs Dunne. They disagree with the variation I have put to them. It clearly shows she has not read the report because, if she had read the report, she would know that that is in there.

In passing, can I just say that for Mrs Dunne to use a piece of correspondence left on the photocopier, clearly the property of another member, and not return it to that member shows the sort of person she is and shows us the conduct she is prepared to get up to in this place. She knows that that correspondence belongs to someone else. She has chosen not to return it; she has chosen not to bring it to their attention; instead, she has chosen to use it for political means. That says a lot about Mrs Dunne and, unfortunately, the Liberal Party in this place.

Motion (by **Dr Foskey**) proposed:

> That the debate be now adjourned.

The Assembly voted—

Ayes 7		Noes 8	
Mrs Burke	Mr Pratt	Mr Berry	Mr Hargreaves
Mrs Dunne	Mr Seselja	Mr Corbell	Ms MacDonald
Dr Foskey	Mr Stefaniak	Ms Gallagher	Ms Porter
Mr Mulcahy		Mr Gentleman	Mr Quinlan

Question so resolved in the negative.

MRS DUNNE (Ginninderra): Mr Speaker, I seek leave, under standing order 47, to speak again, to explain where I have been misquoted and misunderstood.

MR SPEAKER: There are standing orders 46 and 47.

Leave granted.

MRS DUNNE: In his response, Mr Corbell claimed that I had not read the report. Of course, part of the problem is that, because the government will not allow these things to be adjourned—

MR SPEAKER: I am not going to allow this to be used at a second speech, introducing new material. You must stick to the facts of the matter.

MRS DUNNE: Yes, I am trying to stick to the facts of the matter. Mr Corbell said that I had not read the report. I did not at any stage claim that I had read the report.

MR SPEAKER: Indeed!

MRS DUNNE: The thing that needs to be pointed out is that Mr Corbell then went on to defend his dignity and Mr Gentleman's dignity about my claim that Mr Gentleman was doing his bidding. He uses, as the evidence for that, that the committee had in fact disagreed with his variation.

Mr Corbell: On a point of order, Mr Speaker: Mrs Dunne is debating the issue. She is not making a personal explanation, nor is she trying to explain certain words. She is abusing the standing order, Mr Speaker, and you should direct her to complete her comments.

MR SPEAKER: It is very clear from that standing order that no debatable matter can be brought forward. You have to stick to those parts of your speech that have been misquoted or misunderstood.

MRS DUNNE: The part of the speech that I am particularly referring to is where I said that Mr Gentleman was doing the bidding of the planning minister. The planning minister refuted that by saying that the committee had, in fact, rejected the variation. I would like to read, for everyone's edification, the first recommendation:

> The Committee recommends that the proposed variation to the Territory Plan—

MR SPEAKER: Order! That was not part of your speech, Mrs Dunne, so you cannot claim to have been misquoted or misunderstood. It is not something that you read into your speech.

MRS DUNNE: I am not claiming that I read it in my speech; I am claiming that Mr Corbell attempted to gainsay what was said on the basis of the recommendation, that we misrepresented those recommendations.

MR SPEAKER: Order! The only issues that you can raise are areas where you have been misquoted or misunderstood, nothing more. No debatable matter can be introduced. For you to attempt to raise a portion of the report, which was not used in your speech, is not permitted under this standing order. It is not something that you used in your speech that you can claim that Mr Corbell misunderstood or misquoted.

MRS DUNNE: Mr Corbell made claims in his speech about me and used as evidence my apparent misunderstanding of the whole premise of this, on the basis that he said that the committee had rejected his variation. That is not the case.

Mr Corbell: On a point of order—

MRS DUNNE: Recommendation 1 clearly shows that that is not the case.

MR SPEAKER: Order! Resume your seat. I have already asked you to desist from that line of discussion and I have withdrawn leave for further comment under that standing order.

DR FOSKEY (Molonglo) (5.56): My reason for moving the adjournment of the debate was that at this time, given that the report was tabled about an hour ago, give or take

20 minutes for an electricity failure, and given that I have not been able to read the report, I cannot use this opportunity to speak about it with full information. That was why I was hoping to adjourn the debate.

I reiterate: the only thing that I can say, with full knowledge, is that it is not possible for me to debate the report, given that I have not seen it. It is very likely that the Greens have a contribution to make to this debate. I have been represented on the committee. Consequently, I hope that opportunity will arise in the future.

MR MULCAHY (Molonglo) (5.57): I would like to say that I, also, share the concerns in relation to the report and the presentation by Mr Gentleman that had been outlined by my colleague Dr Foskey. We are presented here today with 11 recommendations on a proposed change to the territory plan. There are many issues that warrant consideration by the Assembly. It troubles me that the whole process seemed to be one of trying to rush things through.

We are told that this process of consultation occurred and various points of view were taken into account. The very concerns that Mr Seselja has raised strike at the heart of the process of our committee system. We have seen a changed direction this year. Although I am just now into my second year in the Assembly—

Mr Corbell: On a point of order, Mr Speaker: Mr Mulcahy needs to refer to the report. The question before the chair is that the report be noted. As you have already ruled, getting into the detail of the motivations of members, the attitude of the government towards the committee system, is not relevant to the question before us.

MR MULCAHY: Mr Speaker, on the point of order: I did not talk about the motivations of members; I talked about the 11 recommendations and the process and the discussion we have had with—

MR SPEAKER: Come back to the subject matter of the debate, that is, that the report be noted. I have said before that it is fair enough for members to touch on performance of members of the committee, but the substance of the matter is the report, one would think.

MR MULCAHY: I will talk about the noting of this report, because it troubles me that our capacity to review, as thoroughly as we would like, the 11 recommendations that cover a raft of different issues seems to be being hastily pushed through. It is not an unreasonable view that Dr Foskey has advanced that she, and certainly other members, would certainly find it valuable to review these recommendations. Whilst the recommendation, in the first instance, supports the proposed variation of the territory plan, the report then goes on to raise a host of other issues. We did debate, on a previous occasion, legislation that relates to recommendation 6.

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

Adjournment
RU486

DR FOSKEY (Molonglo) (6.00): First of all, I want to say what I failed to say when I was speaking to Ms MacDonald's matter of public importance this afternoon, that is, that I support her MPI. I think I forgot to say that and it is important that I have that on the record.

We have been talking today about women—there was Ms MacDonald's matter of public importance and there was my question about women's access to home births with midwives whose insurance is covered—and this evening I want to speak about the ban on the drug RU486. People are probably aware that there is a discussion now occurring nationally as a result of the Democrats in the Senate giving the government notice that they will move an amendment to the Therapeutic Goods Act when the government introduces its own amendments to this piece of legislation, which may be as early as next week.

It is very good that this debate is occurring and that the federal government has had to take a stand on the issue, but it is very unfortunate that this debate is shaping up to be, again, one about the rights and wrongs of abortion and therefore there is now a discussion about its being a matter for a conscience vote in the federal parliament. I note that Labor set the tone for that by giving its members a conscience vote a few weeks ago. The Prime Minister is now playing catch-up and signalling that the government may do the same.

I want to emphasise that this is not a debate about abortion, which is and will remain legal in Australia. It is a debate about whether drugs—it is incidental whether they induce early non-surgical abortion or treat cancer—should be evaluated by the health minister or by the Therapeutic Goods Administration. It is really about whether medical evidence or the personal religious views of the health minister should determine whether RU486 is safe and effective and is available to the women of Australia. It should be noted that Australia is one of the few OECD countries where RU486 is not available through a doctor's prescription to women.

As it stands, RU486 is the only drug that is currently evaluated by the health minister and not by the Therapeutic Goods Administration. We really need the government to take the lead on this issue and support the Democrats' amendment, which is designed to lift the ban on RU486. Once the ban is lifted, all questions about the drug's safety and efficacy for city and country women will be turned over to the Therapeutic Goods Administration, which is actually the only body with the capacity to deliver an impartial ruling based on the medical evidence. As health minister, Tony Abbott has demonstrated that he cannot be trusted to act with the necessary degree of professional impartiality on this or other questions to do with women's reproductive health.

I wanted to raise this issue here because I am a member of the lobby group Reproductive Choice Australia. I have been a member of the Australian Reproductive Health Alliance for some years and I think it is extremely important that we get the facts of this debate out into the public and also that those people who are concerned about this issue have the

opportunity to write to the various members of the government, the Democrats, the Greens and the Labor opposition in the federal house to show that they believe that we women should have this choice over our bodies, as we should have access to the various ways of delivering children, from home birth to hospital birth.

American Thanksgiving Day
Woden police station
Chief Minister

MR MULCAHY (Molonglo):(6.05): Mr Speaker, as many members would be aware, this week the United States recognises the traditional holiday of Thanksgiving. Considering the close political and social links between the United States of America and Australia, I think it is appropriate that I make a few comments today describing the historic holiday and its importance.

I am fortunate enough to be attending tonight a Thanksgiving dinner hosted in Canberra by the Australian-American Association. This event is an important family holiday in the US, where extended families often join together, literally to give thanks for the fruits of their year's labours.

Mr Quinlan: You are not going coat tugging again, are you?

MR MULCAHY: Mr Quinlan derides having contact with the Americans who are resident in our city, but a lot of us are not at all ashamed of the great relationship that Australia enjoys with Americans, and what the association has done in Canberra is worthy of support. Thanksgiving is usually celebrated with a turkey dinner, which Mr Quinlan will relate to, and for people of all faiths it is a chance to give thanks for their health, prosperity and the future.

Indeed, this celebration traced its origins back to 1621, when the pilgrims held a three-day feast to celebrate the bountiful harvest they reaped following their first winter in North America. This event is closely related to the harvest festivals that had very much been a traditional holiday in much of Europe. There were various occasions when that was referred to. I thought it significant that, when this occasion took place in the first recognised gathering, the pilgrims who had settled from Europe in Plymouth in Massachusetts joined with the local population of native Americans to celebrate the outcome of their harvest.

It is an occasion that over the course of history in the United States has served to forge a common national identity. In many ways similar to the way we as Australians draw on the Anzac legend to provide a sense of who we are, the Americans have traditionally associated themselves with the story of Thanksgiving that has developed over the past few centuries.

Whilst the exact nature of the holiday varies from home to home and community to community, the message of thanks is one that is central to all the people of American descent. I therefore think that it is important to take this opportunity to wish the American people, both those who are resident in the Australian Capital Territory and those living elsewhere, sincere goodwill on this day, one of their most important national holidays.

Mr Speaker, I would like to raise a couple of other matters as well. I would like to take the opportunity to support comments made by Dr Foskey. We are not often aligned philosophically, but I agree with her remarks about the poor performance of the government in terms of extending the courtesy of providing invitations to certain events. In particular, I refer to the opening of the Woden police station. As the only member of the Assembly resident in Woden, I thought it was disappointing that the decision was taken to exclude non-government members from that event, certainly not to invite them.

Whether that was due to oversight or by design, I think it was in any event a discourtesy and most inappropriate that that error should have occurred. It was not an isolated occasion. I share Dr Foskey's view that this happens more often than not. I am one who is always willing, believe it or not, to give the benefit of doubt for these oversights, but I think that that one was a very poor situation and I would like to put that on record and support Dr Foskey in that perspective.

Finally, I must say how pleased we were to see Mr Stanhope back in the Assembly today. We missed him last week while he was off playing international statesman. Quite seriously, I do want to put on the record that I believe Mr Stanhope's role is not to be a leading figure in international politics. I do not think it is his job to fly off to Adelaide to go in to bat for David Hicks, as his press release indicated, nor to be constantly running a lone battle against the Prime Minister and his Labor colleagues over the handling of anti-terrorism measures.

I think that it is critical for the Chief Minister to focus on the task of serving the people of the ACT and to get a better handle on the management of the ACT's economy. Clearly, Mr Quinlan has major difficulties on his plate and, for however much longer he will be in the role of Treasurer, it is clear that he needs a measure of support from his leader.

It was very evident last Thursday that Mr Stanhope's absence interstate on other matters came through in the government's performance. I would strongly suggest that the people of Canberra do not have expectations of him being the international statesman. He can run for a federal seat, if that is his wish. I think that his job here is to be at home and focus on the more fundamental ACT domestic issues.

Mrs Dunne—quotation from document
Industrial relations—Qantas

MR GENTLEMAN (6.10): Firstly, I would like to talk about a matter that came up earlier today, that is, the discussions of Mrs Dunne on some document from my office, apparently. I think it is quite outrageous that a member of the Assembly would get up and talk about such a document. If she does have this document from my office, I would certainly urge her to return it. I would be very concerned about possible interference with mail in this place. I will review *Hansard* to see what was actually said on that, but I think it is quite outrageous that that should occur. I guess we will have to have InTACT take a look at the email system to see what has happened there.

On a more pleasant note, Mr Speaker, some time ago I informed this Assembly about the case of Ross Hocking, a long-time loyal employee of Qantas who had his employment

terminated due to a workplace injury. Tonight I am pleased to inform the Assembly that Qantas has been shown the error of its ways and has decided to maintain Mr Hocking's employment.

I remind the Assembly of the particulars of Mr Hocking's case. After 14 years of work as a baggage handler at Canberra international airport, Ross sustained his fifth injury. Two weeks after the injury, Qantas made a decision to terminate his employment. I stated at the time that the injury received by Mr Hocking could have and should have been avoided. Qantas was aware of employees working 200 hours in a two-week period and it was aware of the physical demands placed on baggage handlers at Canberra airport.

All of this knowledge did not result in changes to operations at Canberra airport and Mr Hocking's injury should not have happened; neither should he have had to fight to retain his position. But fight he did, with the assistance of my office and his union, the Transport Workers Union. At his request, I spoke with representatives of Qantas about Mr Hocking's injuries and his subsequent termination. I would like to think that my involvement had little to do with the outcome. Whilst I believe it right for me to represent the interests of constituents, I also firmly believe in the right of union representation.

I am grateful that I was able to assist Mr Hocking, the TWU and Qantas in resolving this dispute. However, I am concerned that the changes to federal industrial relations legislation will mean that the involvement of parties outside the normal scope will no longer be the exception. What is of greater concern to me is the right of workers like Ross to dispute their unfair dismissals. When he had his employment terminated, Mr Hocking was legally entitled to challenge this determination with the support of his union and without fear of the financial burden of a civil case.

As we in the Assembly are well aware, the right to dispute an unfair dismissal will be lost to employees with fewer than 99 colleagues under the federal government's proposed changes to industrial relations. Qantas quite clearly has more than 100 employees. Should it choose to do the right thing by its thousands of employees across the country, it will continue to maintain existing contracts. But Qantas also has the option to employ the strategy of Patrick Corporation, that great friend of the Howard government, and divide its work force into myriad subsidiaries so as to make it in just under that magic number of 100.

Like the maritime dispute in 1998, public opinion surrounding WorkChoices is coming as a shock to the federal government. Why? It is because people believe in a fair go. Ross Hocking believed in a fair go. He had the courage to take on the Australian icon and he won. His courage has meant that he no longer has to worry about meeting his mortgage repayments, about finding the $750,000 in wages and entitlements in potential earnings he would have otherwise lost. I congratulate Mr Hocking, the Transport Workers Union and Qantas for reaching an outcome that is fair and just.

Mrs Dunne—quotation from document
Driving behaviour

MR PRATT (Brindabella) (6.15): Mr Speaker, I have a couple of issues to raise. Firstly, I say "Hear, hear!" to Mr Mulcahy's comments earlier about the Chief Minister's

disconnect with the ACT Assembly and the people in terms of the delivery of essential services. I would also like to comment on the hypocrisy that we have just had demonstrated over there regarding the allegations about Mrs Dunne and an email document. Compared with the fantastic betrayal by Mr Stanhope of the federal government's draft counter-terrorism legislation, I find it monumentally hypocritical that we should be concerned about that.

Ms Gallagher: Was it given to Mrs Dunne or has she taken it—stolen it? It is a little bit different.

MR PRATT: We are talking here of a degree of difference of a ratio of about 1,000:1. Well done the national interest!

Ms Gallagher: A bill versus private correspondence.

MR PRATT: Well done the national interest!

MR SPEAKER: Order! Conversations across the chamber are disorderly. Direct your comments through the chair.

MR PRATT: I turn my attention to the incidence of drug driving. I would like to point out to the Assembly concerns raised in recent days by AAMI, which has undertaken an analysis of driving behaviour in the ACT that, very interestingly, dovetails with a range of trials and reviews conducted round the country. Today, I renew my calls for drug driving tests, at least trialing that concept, to be undertaken in the ACT. I will be tabling legislation in December to encourage the government to take that up and put in place something that I believe is essential to driver safety and community safety in the ACT.

We have had, for example, the insurance company AAMI referring today to a report which would indicate that 10 per cent of ACT motorists reviewed think that recreational drug use is kind of okay and it does not really affect their driving ability. The picture drawn by AAMI is one that we should be taking a strong look at and be quite deeply concerned about.

The research by AAMI also found that 12 per cent of Canberra's drivers had admitted to taking drugs and then taking to the roads and that in many cases marijuana, cocaine and ecstasy have been in their system when they have jumped behind the wheel. The AAMI analysis found widespread support across this country for random drug testing of drivers. After analysing their crash index and then talking to the public, they found that there was a strong feeling amongst 90 per cent of the people across this nation for the introduction of those sorts of strategies.

I call upon the Stanhope government, as we did in July, to at least implement a trial. Take a look at the Victorian model and get something going here as well. I note that Premier Bracks said yesterday that Victoria is continuing its roadside random drug testing beyond the initial 12-month trial period and that his government is so convinced by the results of that trial that it is likely to become institutionalised as a normal instrument of government. So concerned are they about what they have found in their analysis of driver behaviour that they will seriously consider increasing penalties against drivers who have been found to have drugs in their system at the time they are pulled up.

Again, we urge the Stanhope government to take note of the trials in Victoria and the research in Queensland that analysed driver deaths and found that 40 per cent of those drivers had drugs in their system. I think it is about time that we had the government taking a much more serious approach to this concern. It is something that we probably do not have a full understanding of. We need to research it far more deeply. We may be looking at the tip of the iceberg.

Community fire units

MS PORTER (Ginninderra) (6.20): I rise this evening to bring to the Assembly's attention an important event that took place on Saturday last, that is, the commissioning of 28 community fire units. Following the 2003 bushfires, the ACT government recognised the willingness of the community to have more involvement in the preparation and protection of their homes in the event of a bushfire.

As you know, Mr Speaker, the ACT has a wonderful record of volunteering, with 42 per cent of the adult population in the ACT regularly volunteering. It is that wonderful volunteer spirit that the government has been able to work with to recruit, train, and equip these 28 units, involving 450 active volunteers, based on a successful model in New South Wales. These units are not meant to replace the ACT's fire service; but, with their specially designed and equipped trailers, these trained volunteers working in suburbs and streets on the fringe of the city will protect property until the arrival of either the ACT Fire Brigade or the ACT Rural Fire Service.

On Saturday, speaker after speaker mentioned the hidden, though very real, benefit that these units have brought to their communities. On chatting to my own Hawker unit after the formal part of the ceremony, I heard again how forming the units has built community capacity in these neighbourhoods. Once, neighbours did not know one another; people lived in dormitories rather than in communities. Now, as one volunteer related to me, "We all know one another in our street. We all look out for one another and we know when someone is needing help." Another volunteer said, "We know when someone is going to be away and we can make sure their place is looked after."

Mr Speaker, when I first became involved in supporting the Stanhope government's initiative to introduce these units and became involved in training the first batch of officers that would be supervising the volunteers, I knew that further benefits such as we are observing would flow. I commend all who were involved in this initiative. I commend Steve Gibbs, who has been involved from the beginning in organising the fire units. I commend all the fire brigade officers who work with the teams. I commend the coordinators of the teams and all the volunteers, in particular Garth Brice who was instrumental in setting up the community fire units post-2003.

Chief Minister
ACTION bus service
Pakistan

MR STEFANIAK (Ginninderra) (6.23): Mr Speaker, I wish to make a number of points. Firstly, I was rather amused to see the Chief Minister's media release yesterday

about his grandstanding on the national stage in Adelaide at some event sponsored by Amnesty International. It involved Mr Hicks and Mr Hicks senior and, of course, the Chief Minister used it as a way of bashing the Prime Minister and pushing for an Australian bill of rights, amongst other things. I think that he should spend a lot more time looking after the ACT, especially given the disastrous state of our economy.

I do not think the Human Rights Act has covered itself in glory in its first 12 months of operation in the ACT. A sensible piece of government legislation which was passed today about place and person association orders has been queried by a couple of lawyers as something that might breach the government's own act. That sensible piece of legislation gives due regard to the rights of victims and society, and probably will be of immense benefit to the criminal himself or herself in terms of not having them associate with certain people and not having them go to certain places, yet it seems to offend our Human Rights Act.

What is the point of having an act that panders to criminals and lacks complete commonsense, one of the problems which Bob Carr, Peter Beattie and people like that gave as one of the reasons why they do not entertain having one, yet our Chief Minister continues to push it. I would like to see his travel report and see why this particular excursion was of benefit to the people of the ACT. I fail to see how. Perhaps he is thinking of a career in national politics: watch out Bob McMullan and Annette Ellis!

Mr Quinlan: We are, you are, we are all Australians.

MR STEFANIAK: Let us come back home, Ted, and talk about buses. There is a very good bus service that this government has introduced; there is a series of them. I take the 313 bus occasionally, and there is a 312 and a 314. The 313 bus starts all the way down in Lanyon, comes up through Tuggeranong, goes through Civic to the Belconnen interchange, and then goes through Page and Scullin, up Florey Drive, which is where I get off, and proceeds on through Charnwood to Fraser; a wonderful service.

I was very concerned a few nights back when I sought to take the bus at 9.28 pm, only to find that it had stopped. It does go from Civic after 6.28 pm; they are all 300 services. I got on another bus thinking that it was good that we had a new flexiservice. The bus driver did not know what number to ring for the flexiservice. When I got to the Belconnen interchange, which was pretty well deserted at that stage, the bus driver said that the next bus probably would be in about half an hour, and he was spot on there, but there were no signs or anything else there to indicate whom to ring about this flexiservice.

I commend to the government—I have mentioned it briefly to Ms Porter—that it take that on board. If you want people to patronise your bus services, do not get rid of good ones. If you want people to use something like a flexibus, for goodness sake advertise it properly and make people aware of how they can get in contact with it, as most of us carry mobiles. That really was not a good call, guys. I think you can do a lot better. Let's put it down to teething problems. But how can we have any confidence in bus patronage increasing if perfectly good services are being cut and nothing readily available is being put in their place A bit of tweaking is required there.

Finally, I commend the Australia-Pakistan Friendship Association and the Western District cricket club for organising a great fundraiser last Sunday which, sadly, was not brilliantly attended by the general public despite some publicity being given to it, namely, a cricket match between Pakistan and the rest of the world. The rest of the world won, but all of its members were members of the Western District club. The members of the Pakistan team were all born in Pakistan. I commend the Western District club and the Australia-Pakistan Friendship Association for their efforts there.

For those members going to the hockey games, I point out that I have, I hope, facilitated some fundraising at those matches, and I thank Graham Carter for that. The bucket will be passed around and all funds will go to the relief effort in Pakistan. The cricket match, as I said, was a great day out. About $700 was raised from the small crowd there. I certainly hope that, thanks to ACT Hockey and the Australia-Pakistan Friendship Association, a lot more will be raised at the hockey matches. As Pakistan is a very significant hockey nation, I think that is a most appropriate venue. Over 90,000 people have been killed so far in Pakistan. There are real concerns for the 200,000 or 300,000 who will be north of the snow line in about four weeks. Help is urgently needed and a bucket should be being passed around for people going to the hockey to put in some money to help the Pakistan disaster relief.

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

Question resolved in the affirmative.

The Assembly adjourned at 6.28 pm.

Schedules of Amendments

Schedule 1

Crimes (Sentencing) Bill 2005

Amendments moved by Mr Stefaniak

13
Clause 34 (1)
Page 35, line 14—

omit everything before clause 34 (1) (a), substitute

(1) In deciding the sentence to be imposed on an offender for an offence, a court must not increase the severity of the sentence it would otherwise have imposed because of any of the following:

14
Clause 34 (1) (d)
Page 35, line 22—

omit

15
Clause 34 (1) (e)
Page 35, line 24—

omit

16
Clause 34 (2)
Page 36, line 4—

omit

In deciding how an offender should be sentenced

substitute

In deciding the sentence to be imposed on an offender

18
Proposed new part 4.1A
Page 41, line 13—

insert

Part 4.1A Guideline judgments

39A Guideline judgments—generally

(1) The Court of Appeal may, on its own initiative or at the request of the Attorney-General under section 39B, give a guideline judgment to be taken into account by courts when sentencing offenders.

(2) A guideline judgment may be given separately or in any proceeding that the Court of Appeal considers appropriate.

(3) A guideline judgment may be given in a proceeding even if it is not necessary for deciding the proceeding.

(4) A guideline judgment may be reviewed, varied or revoked in a later guideline judgment.

(5) This section does not limit any power or jurisdiction that the Court of Appeal has apart from this section.

39B Guideline judgments—request by Attorney-General

(1) The Attorney-General may request the Court of Appeal to give a guideline judgment.

(2) The request for a guideline judgment may include submissions about the proposed guidelines.

22
Proposed new clause 66A
Page 65, line 9—

insert

66A Nonparole periods—standard periods

(1) This section applies if a court is setting a nonparole period for an offender under section 65 or section 66 in relation to an offence for which there is a standard nonparole period.

(2) The court must set the standard nonparole period as the nonparole period for the offence unless the court considers that there are reasons for setting a nonparole period for the offence that is longer or shorter than the standard nonparole period.

(3) When setting the nonparole period for the offence, the court may have regard to any relevant aggravating circumstance mentioned in subsection (4) (other than a circumstance that is an element of the offence) and any relevant mitigating circumstance mentioned in subsection (5).

(4) Aggravating circumstances to which the court may have regard include the following:

(a) the victim is a police officer, emergency services worker, correctional officer, judicial officer, health professional, health or community worker or teacher and the offence arose because of the victim's occupation;

(b) the offence involved the actual or threatened use of violence;

(c) the offence involved the actual or threatened use of a weapon;

(d) the offender has a record of previous convictions;

(e) the offence was committed in company with someone else;

(f) the offence involved gratuitous cruelty;

(g) the injury, emotional harm, loss or damage caused by the offence was substantial;

(h) the offence was committed without regard for public safety;

(i) the offence was committed while the offender was on bail in relation to an offence or alleged offence;

(j) the offender abused a position of trust or authority in relation to the victim;

(k) the victim was vulnerable because of age or occupation;

Examples

1 the victim was very young or old

2 the victim had a disability

3 the victim was a taxi driver, bank teller or service station attendant

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

(l) the offence involved multiple victims or a series of criminal acts;

(m) the offence was part of a planned or organised criminal activity.

(5) Mitigating circumstances to which the court may have regard include the following:

(a) the injury, emotional harm, loss or damage caused by the offence was not substantial;

(b) the offence was not part of a planned or organised criminal activity;

(c) the offender was provoked by the victim;

(d) the offender was acting under duress;

(e) the offender does not have any record, or any significant record, of previous convictions;

(f) the offender was a person of good character;

(g) the offender is unlikely to reoffend;

(h) the offender has good prospects of rehabilitation, whether because of age or otherwise;

(i) the offender has shown remorse for the offence by making reparation for any injury, loss or damage or in any other way;

(j) the offender was not fully aware of the consequences of his or her actions because of the offender's age or any disability;

(k) a plea of guilty by the offender;

(l) if the offender is tried on indictment—the degree of pre-trial disclosure by the defence for the purposes of the trial;

(m) the degree to which the offender has assisted, or undertaken to assist, law enforcement authorities in the prevention, detection or investigation of, or in a proceeding in relation to, the offence concerned or any other offence.

(6) If the court sets a nonparole period that is different to the standard nonparole period for the offence, the court must state the reasons for the difference.

(7) The ***standard nonparole period*** for an offence mentioned in table 66A, column 2 is the period mentioned in column 3 of the same item.

Table 66A Standard nonparole periods

column 1 item	**column 2 offence**	**column 3 period**
1	offence against *Crimes Act 1900*, section 12 (Murder), other than an offence to which item 2 applies	20 years
2	offence against *Crimes Act 1900*, section 12 (Murder), if the victim is a police officer, emergency services worker, correctional officer, judicial officer, health professional, health or community worker or teacher and the offence arose because of the victim's occupation	25 years
3	offence against *Crimes Act 1900*, section 19 (Intentionally inflicting grievous bodily harm)	7 years
4	offence against *Crimes Act 1900*, section 20 (Recklessly inflicting grievous bodily harm)	5 years
5	offence against *Crimes Act 1900*, section 27 (4) (b) (Acts endangering life etc)	7 years
6	offence against *Crimes Act 1900*, section 51 (2) (Sexual assault in the first degree)	15 years
7	offence against the Criminal Code, section 44 (Attempt), if the offence attempted is murder	10 years
8	offence against Criminal Code, section 310 (Aggravated robbery)	7 years
9	offence against Criminal Code, section 311 (Burglary), if the offender has been convicted of a burglary offence in the previous 5 years	1 year
10	offence against Criminal Code, section 312 (Aggravated burglary), if serious injury is caused to a person	7 years
11	offence against *Drugs of Dependence Act 1989*, section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 50 times the quantity prescribed as a trafficable quantity	15 years
12	offence against *Drugs of Dependence Act 1989*, section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 30 but less than 50 times the quantity prescribed as a trafficable quantity	10 years
13	offence against *Drugs of Dependence Act 1989*, section 164 (2) (Sale or supply) if the quantity of the drug to which the offence relates is at least 20 but less than 30 times the quantity prescribed as a trafficable quantity	5 years

Schedule 2

Crimes (Sentencing) Bill 2005

Amendments moved by the Attorney-General

5
Clause 58 (5)
Page 56, line 23—

omit clause 58 (5), substitute

(5) This section is subject to section 133A (Operation of ancillary and restitution orders).

6
Proposed new clause 133A
Page 109, line 1—

insert

133A Operation of ancillary and restitution orders

(1) In this section:

finalised—proceedings in relation to an appeal are ***finalised*** if—

(a) the appeal is dismissed, withdrawn or struck out or ends without a retrial being ordered and the period for making any further appeal against that decision ends; or

(b) if a retrial is ordered—the proceedings on the retrial are finalised within the meaning of paragraph (a).

relevant order means—

(a) an ancillary order under—

(i) section 18 (Non-conviction orders—ancillary orders); or

(ii) section 58 (Ancillary orders relating to offences taken into account in sentencing); or

(c) a reparation order.

(2) A relevant order takes effect on the day after—

(a) the end of the period for appealing against the conviction or finding of guilt to which the relevant order relates; or

(b) if an appeal in relation to the conviction or finding of guilt is made within the period for making the appeal—the day proceedings in relation to the appeal are finalised.

(3) However, an appeal court may, on application or its own initiative, if satisfied it is in the interests of justice, order that a relevant order take effect on a stated day earlier than the day fixed under subsection (2).

(4) A court may, on application or its own initiative, by order, give such directions as it considers appropriate for—

(a) the custody of property to which a relevant order relates; or

(b) the giving of security, with or without sureties, for payment of an amount under a relevant order.

(5) A relevant order automatically lapses if the conviction or finding of guilt to which the order relates is reversed or set aside.

(6) An application under this section may be made by the director of public prosecutions or a person whose interests are affected by a relevant order.

(7) This section is subject to section 61 (Reopening proceedings to correct penalty errors).

Schedule 3

Crimes (Sentence Administration) Bill 2005

Amendments moved by the Attorney-General

1
Clause 17 (3), example heading
Page 10, line 17—

omit

par (b)

substitute

par (a)

2
Clause 43 (1) (c)
Page 28, line 15—

omit clause 43 (1) (c), substitute

(c) any change in the offender's contact details is approved by the chief executive under subsection (1A);

3
Proposed new clause 43 (1A) and (1B)
Page 29, line 2—

insert

(1A) If an offender applies to the chief executive for approval for a change in the offender's contact details, the chief executive must—

(a) approve, or refuse to approve, the change to which the application relates; and

(b) give the offender notice of the decision, orally or in writing.

(1B) An application for approval under subsection (1A)—

(a) may be made orally or in writing; and

(b) must be made—

(i) before the change to which it applies; or

(ii) if it is not possible to apply before the change—as soon as possible after, but no later than 1 day after, the day of the change.

4
Proposed new clause 66 (3A)
Page 45, line 12—

insert

(3A) If the chief executive applies under section 59 (Failing to perform periodic detention—referral to board) for an inquiry, the board must conduct the inquiry as soon as practicable.

5
Proposed new clause 68A
Page 46, line 28—

insert

68A Cancellation of periodic detention—repeated failures to perform

(1) This section applies if—

(a) the chief executive applies to the board under section 59 (Failing to perform periodic detention—referral to board) for an inquiry in relation to an offender; and

(b) at the inquiry, the board decides that section 58 (Failing to perform periodic detention—extension of periodic detention period) applies to the offender in relation to 2 or more detention periods of the offender's periodic detention period.

Examples of s 58 applying to offender

1 or more of the following apply to the offender:

- without approval under section 55 (Periodic detention—approval not to perform etc), the offender fails to report to perform periodic detention for a detention period
- without approval under section 55 (Periodic detention—approval not to perform etc), the offender reports late to perform detention for a detention period and is directed under section 58 not to perform periodic detention and to leave the reporting place
- when reporting to perform periodic detention for a detention period, the offender gives a positive test sample in response to a direction under section 45 (Periodic detention—alcohol and drug tests) and is directed under section 58 not to perform periodic detention and to leave the reporting place

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

(2) Without limiting section 68, the board must cancel the offender's periodic detention as soon as practicable under that section.

6
Clause 101 (2) and (3)
Page 69, line 7—

omit clause 101 (2) and (3), substitute

(2) The corrections officer must report the belief to the sentencing court.

7
Clause 105
Page 71, line 1—

omit clause 105, substitute

105 Good behaviour—summons to attend court

(1) This section applies if information alleging that an offender has breached any of the offender's good behaviour obligations is before the offender's sentencing court.

(2) The sentencing court may issue a summons directing the offender to appear before the court to be dealt with under this part.

(3) The registrar of the sentencing court must ensure that a copy of the summons is given to each interested person for the good behaviour order.

8
Proposed new clause 120 (7)
Page 85, line 8—

insert

(7) Despite subsections (2) and (6), a regulation may limit the making of special parole applications.

Note The power to make regulations includes power to make different provisions in relation to different matters or different classes of matters, and provisions that apply differently by reference to stated exceptions or factors (see Legislation Act, s 48).

9
Clause 136 (1) (c)
Page 97, line 24—

omit clause 136 (1) (c), substitute

(c) any change in the offender's contact details is approved by the chief executive under subsection (1A);

10
Proposed new clause 136 (1A) and (1B)
Page 98, line 9—

insert

(1A) If an offender applies to the chief executive for approval for a change in the offender's contact details, the chief executive must—

(a) approve, or refuse to approve, the change to which the application relates; and

(b) give the offender notice of the decision, orally or in writing.

(1B) An application for approval under subsection (1A)—

(a) may be made orally or in writing; and

(b) must be made—

(i) before the change to which it applies; or

(ii) if it is not possible to apply before the change—as soon as possible after, but no later than 1 day after, the day of the change.

11
Clause 142 (2) and (3)
Page 101, line 11—

omit clause 142 (2) and (3), substitute

(2) The corrections officer must report the belief to the board in writing.

12
Proposed new clause 155 (1) (ab)
Page 108, line 18—

insert

(ab) counsel or warn the offender about the need to comply with the offender's parole obligations;

13
Clause 160 (2)
Page 112, line 14—

omit

offender's release date for the sentence

substitute

offender's parole release date

14
Clause 177 (2) (a)
Page 126, line 14—

omit

meetings of the board,

substitute

meetings of the board (other than a meeting of a division of the board)

15
Proposed new clause 177 (2) (ab)
Page 126, line 15—

insert

(ab) if the member is assigned to a division of the board and is absent from 3 consecutive meetings of the division without leave approved by the chair; or

16
Clause 179
Page 128, line 2—

omit clause 179, substitute

179 Meaning of board's *supervisory functions*

For this Act, the board's ***supervisory functions*** are—

(a) its functions under the following provisions:

(i) chapter 5 (Periodic Detention);

(ii) chapter 7 (Parole);

(iii) part 13.1 (Release on licence); and

(b) any other function of the board declared by regulation to be a supervisory function.

17
Clause 209 (3) (a)
Page 143, line 12—

omit

2 days

substitute

7 days

18
Clause 210 (1)
Page 144, line 2—

omit subclause 210 (1), substitute

(1) The chief executive must ensure that a sound or audiovisual record is made of each hearing for an inquiry in relation to an offender.

19
Clause 300 (1) (c)
Page 215, line 5—

omit clause 300 (1) (c), substitute

(c) any change in the offender's contact details is approved by the chief executive under subsection (1A);

20
Proposed new clause 300 (1A) and (1B)
Page 215, line 17—

insert

(1A) If an offender applies to the chief executive for approval for a change in the offender's contact details, the chief executive must—

(a) approve, or refuse to approve, the change to which the application relates; and

(b) give the offender notice of the decision, orally or in writing.

(1B) An application for approval under subsection (1A)—

(a) may be made orally or in writing; and

(b) must be made—

(i) before the change to which it applies; or

(ii) if it is not possible to apply before the change—as soon as possible after, but no later than 1 day after, the day of the change.