Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

31 MAY 2007

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Thursday, 31 May 2007

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Minister for Education and Training
Motion of censure

MRS DUNNE (Ginninderra) (10.31): Mr Speaker, I seek leave to move a motion of censure of the Minister for Education and Training for failing to correctly answer a question in question time yesterday and for failing to correct the record afterwards.

Leave granted

MRS DUNNE: I move:

> That this Assembly censures the Minister for Education and Training for misleading the Assembly in his answer to a question from the Leader of the Opposition on Wednesday, 30 May 2007.

Yesterday in question time, Mr Stefaniak asked the minister the following supplementary question:

> Minister, is it the case that some schools do not report the incident to the police and that some school authorities have actually discouraged parents from reporting to the police?

In answer to that, Mr Barr said:

> I am not aware of any. No instances have been brought to my attention whereby there has been a flagrant breach of any of the protocols that are in place.

I was quite alarmed when I heard Mr Barr say this, because of my recollection of some correspondence that passed between a constituent and Mr Barr and me, my office and Mr Barr's office, and me and Mr Barr. So I went back and checked the record and yesterday afternoon I wrote to Mr Barr in the following terms:

> I refer to the statement you made in the Assembly today in answer to the supplementary question from the Leader of the Opposition.
>
> In answer to the question about whether schools report all incidents of violence to the Police and whether some school authorities have discouraged parents from reporting to the police you said:
>
> > I'm not aware of any—no instances have been brought to my attention whereby there has been a flagrant breach of any of the protocols in place.

> I refer you to email correspondence from … which was received in my office on 3 April. This correspondence was also sent to you on the same date. This correspondence refers to an assault on—

this constituent's son at a Canberra school—

> on 1 March. This correspondence clearly states that the parents concerned were discouraged by staff at—

that school—

> from reporting the matter to the Police. The parents did so regardless of the advice from the school, but charges were not pressed at the request of the victim.
>
> While I was overseas my Senior Advisor wrote to your Chief of Staff specifically asking that the email be brought to your attention. My Senior Advisor specifically asked why Police were not called to assaults at schools.

In the letter that my senior staffer wrote, amongst other things he asked:

> Why aren't the police called to assaults at school?

My letter of 30 May continued:

> I wrote to you on 7 May about some of the issues raised by the parents but did not raise the issue of calling the Police at the request of the parents, who respected their son's decision not to press charges. The original correspondence was attached to my letter.
>
> It seems to me that there have been three occasions when the assault at—

this school—

> was raised with you along with the information that police were not called by the college authorities. I subsequently learnt that this was in breach of the protocols.

I learnt that as a result of information provided by staff of the department of education. I had inquired as to whether or not there were protocols about calling police and I was specifically told that there were protocols which should be adhered to. My letter continued:

> You admitted as much in Question Time today.
>
> Could I suggest that you review the correspondence you have received on this matter and also review the statement you made in Question Time today and consider whether you need to correct the record?

It is quite clear from the evidence that has passed through my office that Mr Barr could have made a mistake yesterday in question time when he answered Mr Stefaniak's question in the way that he did. I was sufficiently concerned that I put together the whole bundle of documentation to refresh the minister's memory on what

happened, and I gave him the opportunity to respond. Only this morning, my office received a response from Mr Barr, signed yesterday, in response to my letter of 7 May. While it does not address the issue of whether or not police were called—because I did not specifically raise it; it had been raised previously—knowing the way procedures work in offices, all of the attached correspondence would have been attached to that and the minister would have been reminded, once again when he signed this letter yesterday, that this matter had been raised with him.

I do not know why the minister said yesterday that he was not aware of any instances and that no instances had been brought to his attention where there had been a flagrant breach of the protocols and practice. This was a flagrant breach. This was an extraordinarily serious assault by one student upon another in a classroom—not in a playground—that should have been supervised and there were a considerable number of issues raised by the parents about the way that this matter was dealt with. They have been raised with the department directly and with the minister directly. I have raised those matters directly with the minister, and my senior staff member raised those matters directly as a matter of high priority when he first became aware of them, in my absence.

This is a matter that has been going on since 1 March and it is inconceivable that the minister did not know. It is possible that it may have slipped his memory yesterday during question time, under the pressure of answering questions, but it is inconceivable that he did not know, because there have been three instances that I know of where it has been brought to his attention—twice by my office, once by the parents concerned.

There has been a flagrant breach of the protocols. The minister's job when this is brought to his attention is to come in here at the earliest possible time and to correct the record. My staff rang Mr Barr's office this morning and reminded him of the correspondence and warned him that if he did not correct the record we would be taking further action. This minister has had every opportunity to correct the record. I know that he is the junior member of the Assembly and he has risen to great heights very quickly, but there is something called taking advice around the place. He has experience, having been a staff member in this place for some time, and he should know what the protocols are and how things stand.

The other day Mr Seselja came into this place immediately after question time when he realised that the words that he had used in question time were incorrect, and he corrected the record. I have done it on a number of occasions. It is a bit humbling when you have to stand up here and say, "I am really sorry, colleagues; I made a mistake." But it is far better that we go through that slightly humbling experience of saying, "I am sorry, colleagues; I made a mistake," and we all shrug our shoulders and say, "Thank you, minister", or member, "for setting the record straight." But this minister has had warning. I wrote to him yesterday afternoon. I ensured that my staff hand-delivered the letter to his office, pointed out to the person to whom it was delivered the importance of the letter and asked that it be brought immediately to the minister's attention. I understand that the minister was in his office at the time that the letter was delivered.

There is no excuse for this minister not coming in here this morning and saying, "When I said that I was not aware of any flagrant breaches of the protocol, when I said that yesterday in answer to Mr Stefaniak's supplementary question, I made a mistake. With the assistance of the department, my office and Mrs Dunne's office, my memory has been refreshed and I need to set the record straight." That is all he had to do—and he would not do it. He did not do it, despite being given the opportunity at about 10 o'clock this morning and being given a warning at about 10 o'clock this morning that we would take this action.

We are not doing anything untoward or undercover here. This has not been sprung on him. I waited for the minister to come in. He arrived here early with a great big pile of papers and nothing was done. Nothing was done, and I am quite disappointed because I have considerable regard for the minister and I thought that he would rise above the pettiness that you might expect from Mr Corbell, who would put off as long as possible having to correct the record and then at the last minute say, "I am really very sorry," when he was under pressure.

What has happened here is a very important breach of the thing that makes this or any other parliament work—that we have to deal honestly with one another. We may disagree, we may have differences of opinion and we may have differences of policy, but the cardinal rule in this place is that you tell the truth and, if you do not tell the truth, for whatever reason, you come and fix the record. I would have been satisfied with this minister standing up and saying, "Yesterday I made a mistake. I overlooked an incident. I am happy to talk to members privately about this incident." But he did not do it and that is why this minister should be censured. He should be censured so that he will learn and not repeat these mistakes.

These are important issues that go to the heart of parliamentary life. It is quite simple. When we go back through the correspondence we see correspondence from the parents who wrote to the minister and wrote to me and raised these issues. In response to that, almost immediately, my staff wrote to the minister's staff—because I was not here, they did what good staff should do. They took the matter up as senior staff to senior staff and asked that this matter be raised with the minister. It is exactly the right thing to do. The parents have raised it. The parents have raised it with the minister. The parents have raised it with the school.

This is such a serious incident that the departmental officials should have told the minister immediately that it happened. As soon as the departmental officials knew that this had happened, the chief executive of the department of education should have told the minister. When Mr Stefaniak was the minister for education—and I have discussed this with him on a number of occasions—all sorts of incidents that happened in playgrounds and around the school were reported to him: "Minister, you need to know this happened at school today."

I now know of two very serious instances where the department of education seem not to have told the minister when they became aware of serious events happening in ACT government schools. I am starting to have real concerns about confidence in the capacity of senior staff in departments to communicate with their ministers. Ministers should not be left in the dark about these things. Ministers do not get by with plausible

deniability: "Don't tell me about these things because it's too awful. I don't need to know." Ministers should know, and I have received undertakings from the minister's office that when serious incidents arise I will be told as a matter of courtesy so that we can deal with these issues and so that they do not become a cause celebre.

It appears that the minister was not told by the department. But he was told by the parents and he was told by my staff, because my staff told his staff, and it was raised with me. He still says that he does not know anything about it. I will forgive the lapse of memory yesterday under the pressure of question time, but this chamber cannot forgive the persistent lack of memory and the persistent failure of good grace by this minister to come in and say quite simply, "When I said X yesterday, that was not strictly true. I am here to say that an incident did occur and I am dealing with it. I am happy to talk to members about that because it is a matter of considerable sensitivity."

It is not my desire to take the dirty washing of ACT government schools out and air it in public. This is a serious matter and it should have been dealt with seriously by the minister. The minister's department seems not to have told him when this incident occurred. There seems to have been no briefing. I have worked in a minister's office and I cannot imagine, if an incident like this occurred, a minister standing up and saying, "I don't know anything about it. I have no recollection of a breach of protocol."

There was a clear breach of protocol. The parents raised with the minister the fact that the school authorities did not call the police and asked them not to call the police. My staff raised with the minister's staff the question of whether this was appropriate behaviour? My office subsequently learned that there is a clear protocol and that the clear protocol seems to have been breached. There is nothing that the minister has done to show that he is either aware of it or cares enough about it to do anything about it.

These are serious matters. The minister said yesterday in question time that acts of violence in schools were serious matters and that there was zero tolerance. If there is a zero tolerance policy, why weren't the police called if they were not called? If it is the case that the parents were discouraged from calling the police, why were they discouraged from calling the police? And why did the minister say that he was not aware of any flagrant breach of the protocols, when this serious assault, a very serious assault that resulted in the hospitalisation of the boy concerned, took place on his watch? When pressed on it yesterday, he said quite blatantly that he was not aware. When I alerted him to the fact that I had made him aware, that my staff had made him aware and that the parents concerned had made him aware, he did not come into this place, as he should have at 10.30 this morning, and correct the record. Therefore, this minister must be censured.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.47): I express my disappointment from the outset that Mrs Dunne has chosen this course of action, given that I have responded to these particular concerns. For the benefit of Assembly members I will read my correspondence to Mrs Dunne:

> Thank you for your letter dated 7 May 2007 about an incident at Canberra College on 1 March 2007. The Department has had considerable involvement in this issue.
>
> I would like to assure you the Department thoroughly investigated the procedures implemented by the college following this incident, and found that appropriate action was taken. Communication between the school, the parents, and the Department, appears to have been extensive throughout this process.
>
> It is my understanding the injured student received first aid treatment administered by a trained officer at the college. This was deemed the appropriate course of action. The student's parents were also contacted and advised to seek further medical advice. Subsequent contact was made to check on the student's well-being."

I will not mention the names of the parents, but the letter continues:

> … have been provided with information about processes for seeking reimbursement for medical expenses.
>
> I have been advised that the perpetrator was suspended according to Departmental policy, and re-entry procedures were followed. The school has taken measures to ensure the two students are not in the same classes on their return to school, and the principal has met with both students to ensure they feel safe in the college environment.
>
> The college also made every effort to provide the mediation that—

the parents—

> requested, however, the other parties have elected not to participate. As an alternative, individual meetings were held.
>
> I am advised that both the school and the students are satisfied that the incident is now resolved, and the students have resumed productive work at college.

I wrote that letter to Mrs Dunne yesterday. I signed it yesterday, 30 May. Mrs Dunne received that letter and the brief that I received from my department that I have noted the information and signed the attached letter, noting, as I was aware, that the allegation had been made and I have responded, Mrs Dunne.

I also refer Assembly members' attention to a letter from the director of schools for central Canberra in relation to this matter, who wrote directly to the parents at the time. Again I will not mention any names, but the relevant paragraphs are:

> I understand that you have concerns around the way in which this incident was handled. The Schools Directorate has looked at the school's processes in dealing with this situation, and has had communication with the school since the incident occurred.
>
> The school took appropriate action in relation to this incident, following departmental policy. Schools develop their own student management procedures, aligned with departmental policy, that are appropriate for their individual school environment. I support the Principal's action in this matter.

> The school provided first aid treatment in the care of your son, ... , … was contacted following the application of first aid and you were advised to take … to see a General Practitioner.
>
> Police can be called to school premises if deemed necessary by the school, however, in this instance the school did not feel that there was any further threat to your son that would require police support at a school level. I am aware that you provided the police with a report of this incident."

That letter was sent on 18 April directly to the parents from the department, in response to the particular concerns. Mrs Dunne, as she has indicated, has raised this issue with me. I have had many discussions with Mrs Dunne about my desire for these issues not to be elevated to the Legislative Assembly; that we do not need to air these sorts of issues that involve people's private lives; these issues are best handled outside of the political environment and nothing is achieved by this sort of debate. All it does is further heighten the anxiety, stress and suffering that has occurred in this instance. Nothing will be advanced by this process.

As a result of this, I will have my department check again and I will seek further advice from them on this. If this advice to me is wrong, I will come in and correct the record. But the advice that I received from my department following extensive investigation was that the college handled the incident appropriately, and it was with that in mind that I gave my answer yesterday. Until I am advised otherwise, and given the extensive nature of the investigation, all that we have at the moment is an allegation that has been investigated by my department and their view is that the school handled the matter appropriately. That was the advice I provided to the Assembly yesterday and that is the advice I provide this morning. But, for the benefit of Mrs Dunne, I will have this matter investigated again and if there is any contrary advice I will, of course, immediately advise the Assembly.

This is another regrettable incident that has occurred in a school. It is unfortunate that it has had to be brought to the public spotlight in this way.

Mrs Dunne: Well, you brought it to the public spotlight.

MR BARR: No, I did not, Mrs Dunne.

Mrs Dunne: You did.

MR SPEAKER: Order, Mrs Dunne!

MR BARR: I have sought to deal with you. My office has sought to deal with your office extensively.

MR SPEAKER: Minister, direct your comments through the chair, please.

Mr Pratt: No, you didn't. You didn't speak transparently in question time yesterday.

MR SPEAKER: Order, Mr Pratt!

MR BARR: You are kidding, Mr Pratt. You are kidding.

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

MR BARR: There has been a stream of correspondence on this issue between my office and Mrs Dunne's office. We continue to engage—

Mrs Dunne: I raise a point of order, Mr Speaker. The terms of the motion are purposely quite narrow. It censures the minister of education for misleading the Assembly in his answer to a question from the Leader of the Opposition on Wednesday, 30 May. It is not about the incident that occurred at this school. The minister must address the motion, which is about the minister not correcting the record—not about the incident at the school.

MR SPEAKER: There is no point of order, Mrs Dunne. It is a debating point which I am sure you will address when you get your chance to reply.

MR BARR: Thank you, Mr Speaker. In reference to what I said yesterday, I said that there were no instances that had been brought to my attention where there had been a flagrant breach of the protocols. The advice that I have from my department and that I provided—I have written to Mrs Dunne directly in response to her correspondence—indicates that there was not a breach of the protocols. What we have is an allegation from Mrs Dunne, an unproven one, that there has been a breach. I have had the matter investigated by my department and they reported back to me, both in April and again in a further briefing yesterday, that no breach occurred.

I will have a further investigation undertaken and have the department look at this matter again today because I am concerned that this issue does not continue as some sort of festering sore between Mrs Dunne and me. She may seek to use all sorts of little tricky things to suggest that I have misled the Assembly, but according to the advice that I have received consistently throughout this, through April and May, the briefing that I had yesterday and the letter I sent to Mrs Dunne, we can hardly be accused of some sort of cover-up here.

My office has been engaging with her office on this issue for months. It has been seriously investigated by my department, and the advice, if I need to read it again for those opposite who were not listening the first time, is that the department has thoroughly investigated the procedures implemented by the college following the incident and found that appropriate action was taken.

Mr Smyth: That is not the point in question; it is what you told the Assembly yesterday.

MR SPEAKER: Order, Mr Smyth!

MR BARR: Yes, and that is right, and based on that advice I told the Assembly there were no flagrant breaches of the protocols—and there were none, because the advice I had was that no breaches had occurred, and no-one has proven that there was a breach of any protocols. I have had the matter investigated. I advised the Assembly yesterday

on the basis of the advice I had from my department and, as I said, I am having the matter investigated further. If there is any change to the advice the department provides me I will of course advise the Assembly and correct the record. But as of yesterday when I provided this answer in question time the advice I had from my department following a thorough investigation was that the protocols had been adhered to and that appropriate action had been taken by the school.

I was not at the school during the time of the incident. I am in no position to do other than ask for the matter to be investigated and to receive the advice from my department, which I have done and which I have communicated to the Assembly and to Mrs Dunne and to her office extensively through this process.

If this is going to become the nature of our dealings, Mrs Dunne, I will have to review the courtesy that I have extended to you. If this is the way that the game is going to be played and you are going to seek to use for political purposes appalling incidents that occur in our schools from time to time that are unfortunate, that we all hope will not occur and that we have extensive protocols and practices in place to attempt to avoid—we know that in our society it is inevitable from time to time that incidents of this nature will occur, but if you are going to seek to elevate them to political point scoring—that is a reflection on you as a politician and you need to think about what you are doing here.

If I was in any way involved in some sort of cover-up or seeking to do anything other than to see the appropriate practices and procedures put in place, if I was being neglectful in my duty in not seeking advice from my department and not having the matter investigated thoroughly and being briefed on the matter, I would accept this charge. But I do not, because I have extensively sought to engage with your office, the department has sought to engage with the parents and I am advised that the school and the students are satisfied that the incident is now resolved. That is what I have been advised and I stand by that.

I have asked the department to look at the matter again and if there is contrary advice I will immediately come back and correct the record. But I stand by my letter to you and I stand by what the department has advised me. If that changes, of course I will come back and correct the record. But your allegation is unfounded, it is unfair, it is blatantly political and it reflects upon you as a politician and you as an individual and I am deeply disappointed in what you have just done. This issue should not be the subject of a debate of this nature. If you have concerns about my handling of the matter, raise them with me. You have done that in writing and I have responded to you.

Mrs Dunne: You didn't respond.

MR BARR: I did. Do you deny receiving this letter?

Mrs Dunne: It does not respond. It does not respond to the issues that I raised with you yesterday afternoon.

MR BARR: This is just outrageous, Mrs Dunne.

MR SPEAKER: Order, members! Mr Barr, please direct your comments through the chair.

MR BARR: Thank you, Mr Speaker. I apologise.

MR SPEAKER: Mrs Dunne, cease interjecting.

MR BARR: All I can say is that it is unfortunate Mrs Dunne has sought to raise it to this level. I am very sorry for the school and for the students involved that it has been brought to the Legislative Assembly in this way. That is unfortunate and I apologise to them. But all I can say is that throughout this process we have sought to engage with Mrs Dunne and with the parents and that the department has been very forthcoming in its processes of investigation and has responded quickly to this matter.

I do not see the point in Mrs Dunne taking the approach she has and I am sorry this has happened. But I stand by the position that I put to the Assembly yesterday and the advice I provided Mrs Dunne. But, as I said, I will get the department to have one more look at this and if there is contrary advice provided I will immediately return to the Assembly and correct the record; but at this stage I have no reason to do anything other than stand by the statement I made in the Assembly yesterday.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (11.00): Whilst I am grateful, given the numbers in this place, that Mr Barr has at least made that concession, he still misses the point. The point is that it is the tradition in this place, and in all similar parliaments, that a minister corrects the record as soon as possible. The matter itself does not really come into the equation and that is why in this debate no-one is mentioning the school or the people concerned or anything like that.

The principle is quite clear. In Erskine May at page 74 it is stated:

> It is of paramount importance that ministers give accurate and truthful information to parliament, correcting any inadvertent error at the earliest opportunity.

The ministerial code of conduct, which applies to ministers in this place, also states at page 2:

> Ministers should take reasonable steps to ensure the factual content of statements they make in the Assembly are soundly based and that they correct any inadvertent error at the earliest opportunity.

There might be a few new ones who do not, but certainly those of us who have been around for a while do, know—several on the government benches have done this; certainly Mr Smyth and I have when we have been ministers—that you do not get completely accurate information all the time. It is not completely uncommon for a minister to not have all the facts to make a statement in all good faith and so then has to correct it later, and the tradition is that it is corrected at the earliest opportunity.

In this matter Mrs Dunne did advise the minister earlier this morning—I would assume after she got his letter of 30 May, which I have read and which I do not think

really advances this too much further—that he should come in and correct the record. The question itself was really quite simple, as indeed was the answer. As a supplementary question I asked the minister:

> Minister, is it the case that some schools do not report the incident to the police and that some school authorities have actually discouraged parents from reporting to the police? You mentioned the protocols. Will you table those protocols by close of business today?

Mr Barr, in response to that, said:

> I am not aware of any. No incidents have been brought to my attention whereby there has been a flagrant breach of any of the protocols that are in place.

It may well be that in the heat of question time something may well have slipped his attention and that is why, after going back and checking, the minister should come into this place and correct the record.

I had some involvement in this matter, because Mrs Dunne was away and I was acting in the portfolio. Indeed, the father of the young man concerned who was the victim here I have known since he was about eight because a family friend used to go to school with his older brother. But there was a letter sent to Mr Peebles from Tio Faulkner, Mrs Dunne's adviser, which stated, and I will not mention anyone's name or the school, that the mother:

> was called to pick her son up after the assault and was told not to involve the police as the school would handle it.

I have also got some correspondence here, which was sent to the department, I understand, on 3 April 2007 by email with a letter attachment at 10.19 am. In that letter from the mother and father they said they went to the school, spoke to people there and:

> We were told they would get the boys together for mediation when … recovered and … was back at school. In the same call we were advised not to get the police involved, as the school would handle it themselves.

That is quite clear and no-one is really disputing those facts. No-one expects the minister necessarily to know absolutely everything in his brief. But it is quite clear that his office and the department were well aware of this situation and it is quite clear that the minister, by his answer, did not give a correct answer and accordingly, on reviewing the situation, having had it brought to his attention by Mrs Dunne quite properly, should at the first available opportunity have come in here and corrected the record. That is simply what it is all about.

The incident itself is largely irrelevant. It is the principle of ministerial responsibility, it is the principle of how we operate in this place, it is the principle of a minister's duty to the Assembly that dictates that the minister should come in here at the earliest opportunity and say, "Further to my answer yesterday, it was not quite right," and correct the record accordingly. That is a duty that ministers have and it is set out in the code of conduct of ministers, a February 2004 document. It is a principle enshrined in very similar terms by Erskine May in *Parliamentary Practice*.

That is the principle we are debating here and that is what the minister should be doing. Whilst I am heartened somewhat that at least he is going to have another look, the matter could very simply have been rectified by his coming in here and correcting the record at 10.30 today after this had been brought to his attention, and properly so, by Mrs Dunne. Mrs Dunne has been very proper in dealing with these difficult matters. These matters happen from time to time. We have concerns about the general issues of bullying, but in individual cases I think both sides in this house have been very careful to ensure that parties and schools are not named.

There has been a reasonable flow of information between the government and the opposition and that should continue. It certainly occurred with the previous government and it is something that should continue with this government. It is quite proper for Mrs Dunne to raise this issue as she has done, and I am disappointed that the minister does not just come in here and correct the record. That is the principle involved here and I ask the minister now to reconsider and to make an explanation. Then we can all get on with the rest of the business of the Assembly.

DR FOSKEY (Molonglo) (11.07): This is a very difficult topic and there is no doubt that providing education is becoming a more challenging thing to do in an environment where, I am told by my daughter who is currently in a public college, the use of the mobile phone with its camera and YouTube are adding extra dimensions to schoolyard activities. We have to be aware that we are operating now in a very different context from the one we as educators were operating in 10 years ago.

Mrs Burke: I raise a point of order, Mr Speaker, on relevance. We are not discussing the issue of bullying.

DR FOSKEY: I beg your pardon?

Mrs Burke: We are discussing the motion in regard to protocol in the Assembly.

MR SPEAKER: There is no point of order.

Mrs Burke: You were steering away from talking about bullying.

MR SPEAKER: This is about an education matter which is at the centre of the motion which was put to the Assembly.

DR FOSKEY: That was by way of introduction because it is not easy for me to say what I believe I need to say here today and I felt it essential to put it into context. I have been a teacher in public schools and I have had children go through public schools, so I do actually have a context to put this in.

This whole incident is new to me. I only heard about it yesterday and today and I have just caught up with it in a very quick time. From where I stand, I am afraid that it does look as though there has been a breach. The adjective "flagrant" was used by the minister as a way of somehow excusing a lack of attention to what I see as a generally accepted protocol. Like all other parents, as a parent it is important that I feel that my child is as safe as can possibly be when she goes to school. The whole reason why we

have protocol is that every morning we surrender our children to a system where we know these things happen, and when they happen we want them to know that they are dealt with appropriately.

To me a breach is a breach—flagrant, minor, whatever. The operative word is "breach". So for Mr Barr to excuse it, as he did in his speech yesterday and again in his letter, by not seeing it as a flagrant breach does not quite cut it as far as I am concerned. If the appropriate processes were followed—and I do not think they were—maybe they are not appropriate, because in this situation two things that are part of that protocol did not occur, or did not occur when they should have occurred. That is to me the crux of it.

The college environment is such that it is very difficult, for instance, to keep students apart, even though they may be in different classes. I do not want to do this in a way that attributes blame. I feel quite sure that the principals and the staff involved acted as they thought appropriate at the time. But the fact is that it was not appropriate. So in the end it comes down to the minister perhaps admitting that there is a problem here, instead of saying that everything was okay. I would certainly feel that my trust in the system was justified. I do trust the system and I prefer to see these things as exceptions in a very challenging atmosphere.

I would have liked to have heard the minister take a different approach to this. I am disappointed that we have to speak openly about what is going on in our public school system. It is the only way that we are going to be able to tackle such issues. This is an issue of currency and there are matters about parents' trust in the system to know that protocols are appropriate and that they work. That is what we need to have assurance about coming out of this censure motion today. I guess it is a coming of age for you, minister. It—

Mr Hargreaves: How patronising can you get.

MR SPEAKER: Order!

Mr Barr: When has age become an issue in this place?

MR SPEAKER: Order, Mr Barr!

DR FOSKEY: Sorry; it is not about age. It is a coming of whatever we like to call it; it is something that happens to ministers, Mr Barr.

MR HARGREAVES (Brindabella—Minister for the Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (11.14): I think we perhaps ought to flick this censure motion to the Greens over there, with their patronising, condescending comments. How ridiculous is that?

I must actually congratulate Mrs Dunne on one particular thing that she has done. She has put so much snow and bluff around this issue that she is confusing it. She is talking about a so-called breach of protocol, for which she has given no proof at all. Contrast that with the information the minister has put on the table—that his advice was that there was not one. He has convinced the Greens over here—those intellectual

giants over here—that the issue is about bullying in the schools. That is what she is talking about. This issue that we are talking about today has got nothing to do with that. It is about a breach in protocol. The point is that the Greens over here are going off and saying, "We've got some serious issues on our plate about bullying." We all agree with that. Welcome to the real world, Dr Foskey. Maybe it is a sign of her maturity in this place that she has finally woken up to it. Maybe it is not.

Let us go back a little on this. The issues as I read them—as they have come across in the speeches—are these. Was the minister aware of incidents happening in the schools? Yes, he was. Was the minister aware of there being a breach of protocol? Mrs Dunne says yes, he was, and he should have said so. The minister in fact has advised this chamber that his advice from his department was that there was no flagrant breach of the protocol.

Mr Mulcahy: Flagrant.

MR HARGREAVES: No, Mr Speaker, I do not pick up the idiot ramblings of the shadow Treasurer and accent the word "flagrant" at all. There was no accent on my use of the word "flagrant" at all. The minister has shown this Assembly that his advice from the department was consistent with what he said yesterday in question time. There has been no rebuttal of that proof at all.

What we are seeing is the creation of a straw man by Mrs Dunne at the expense of people out there who want to put this matter about the schools to rest. In fact, the minister has advised this place that the parents and the children involved actually want to get on with it now. And what do we do? What do we actually achieve by raising it in this place in this form? Mrs Dunne could easily have come back in question time today to elicit more information. Did she do so? No, she did not. Mrs Dunne could easily have picked up the telephone and rung the minister, who gives quite liberal access, and find out what was going on. No. What she did was tell the minister at 10 o'clock this morning, "Unless you do what I say, there is a censure motion on." Calling on the minister to contradict the truth is not the sort of thing that we do.

I ask also the Assembly to consider this. What on earth did Mrs Dunne expect to achieve by this censure motion? What on earth would we achieve? There is no advantage to the kids in the school who are receiving bullying attention. There was no advantage to the parents in that. All it is is self-aggrandisement or perhaps some misguided idea of championing a cause—in which case the cause is wrong.

If, in fact, we were talking about the minister's handling of an incident and whether it was appropriate or not, that would be a different subject, a different conversation. But we are not. We are talking about the so-called knowledge of the minister that there had been a breach of protocol. No such knowledge existed. Quite to the contrary: proof has been provided to this Assembly that his advice was that there was no breach of the protocol.

One of the things that were asserted was that the presence of the police showed that there was a breach of protocol. I might argue that in fact the presence of the police can, if one wants to take it that way, show the opposite. But there is nothing conclusive.

The case that has been put by Mrs Dunne and Mr Stefaniak does not actually hold up. Either inadvertently or deliberately, they are confusing two issues. The first issue is the seriousness of inappropriate behaviour in the schools. We can have that conversation, and I think we would all treat that conversation very seriously. The other issue that they are confusing it with is whether or not the minister was aware that there was a breach of protocol. He has read out a letter—a briefing from his department—saying, "Minister, we are advising you that there has been no breach of protocol." What did he say in answer to the question yesterday? "There has been no flagrant breach of protocol." It could have been any type of breach, but there was not one.

What the minister has said is absolutely consistent with the briefing that he received. From all conversations hitherto, there has not been one. But what happens? Yesterday, Mrs Dunne writes a letter to the minister and requires an answer—very smartly—after she gets question time set up. The minister responds to her with the speed of greased lightning. She does not like it. She does not like the answer. So what does she do? She says to him this morning, "Unless you get up and contradict the truth, I am going to put on a censure motion."

Mrs Dunne: Talk about contradicting the truth.

MR HARGREAVES: It is. Why does Mrs Dunne not just ask the question of Mr Barr, challenge the advice from the department and say, "Mr Barr, I do not think your advice is sound; I think it is wrong; will you look into it, please"? Mr Barr would have said, "Yes, most certainly, Mrs Dunne. I will do that." Mr Barr is treating these matters with the cordiality that this place demands. He has also treated this subject with the courtesy and the gravitas that this Assembly demands. That courtesy has not been extended to Mr Barr. The speed with which this censure motion has come on beggars belief.

Mr Speaker, let me summarise. There has been no proof provided that the minister was aware of any breach of protocol. On the contrary, there has been evidence produced by the department advising the minister that there was no such breach. Secondly, Mr Stefaniak could not prove the case either. A former public prosecutor could not prove the case. Well, good on you. Mr Speaker, this is a silly censure motion which should be treated as such.

MR PRATT (Brindabella) (11.22): I stand to support Mrs Dunne's censure motion. This minister must be censured. This minister has either inadvertently or deliberately misled the Assembly—I would think inadvertently. He at least has been sloppy in his duties as a minister—he has not been on top of his game with this particular issue, a very serious issue—and therefore he deserves to be censured.

Mr Barr, as the minister for education, has a duty of care and responsibility for the students of the territory in his charge. He has a duty of care to ensure that they can be educated safely and calmly in a secure environment. Let us not forget that, given the pressures of modern society, if as a community we are not on our toes, there will be bullying leading to violence in our schools and colleges. There are so many pressures on families that this is an issue that must be well managed in our schools.

There is no doubt in my mind that the subject incident referred to in Mrs Dunne's letter of 7 May was very poorly handled by the college in question. There is no doubt that there must have been a breach of protocol on the part of that school. The information that we have would indicate very serious violence. The information would be that the family were encouraged not to report the incident to the police. That in my book is a breach of protocol. The fact of the matter is that therefore this minister may not have been informed by his department about a breach of protocol.

It is very important that the minister have protocols in place. Just as important, though, is the Assembly's ability to scrutinise the minister and that in this place he is transparent about those protocols. Therefore, the minister's failure to answer truthfully yesterday was a breach—which is why he is here today subject to censure.

Whether or not the subject incident at the college has been proven, he should at least have had the presence of mind to refer to it in his answer. If, in his mind, the incident referred to at this college may not have been a breach of protocol but there were serious doubts about that, he should have at least in his answer yesterday said, "Well, look, you know, I do not think there have been any flagrant violations of protocol but there could well have been and there are a couple of incidents that I am looking at. I am seriously looking at a couple of incidents now." If he had said that, then that would have been a transparent response to a very serious question asked by Mrs Dunne. Mrs Dunne has a responsibility as the shadow education minister to ask this minister serious questions about safety in our schools. That is what transparency is about, and this guy has failed.

Mr Hargreaves: Give us the proof.

MR PRATT: The reason I am pretty sure that the minister at least did not truthfully answer because of an inadvertent failure to be on top of things is that we know that the minister has not always been aware of serious incidents reported in schools and in the territory. I refer to an incident last year. I am absolutely confident that, when a matter was brought to this minister's attention about another college and another very serious issue, he did not know about it. I genuinely do not believe that he knew about that. I believe that he was caught short and that, when Mrs Dunne and I raised the issue, he honestly did not know that something had occurred. Some days later, I am sure he did.

That is an issue which is not the subject of discussion here today, but it points to the fact that the minister did not know about a very serious issue which had involved the calling in of the police. Why is that, Mr Speaker? Why was the minister not aware? I will tell you why, Mr Speaker: this minister has not put the fear of God into his department to ensure that at all times serious matters involving possible breaches of protocol are briefed to him. He has not done that. As a minister, he cannot scrutinise his department. His department are not fearful—do not ensure that he is kept informed of such incidents. That is a failure on your part, minister. No wonder you misled the Assembly yesterday, minister. You are not on your game. You have not struck the fear of God into your department to ensure that they keep you informed about serious incidents.

Mr Hargreaves: They are not in the army, mate.

MR PRATT: Mr Hargreaves, if you do not care that our children and our youth are well cared for and that your ministerial colleague properly exercises a duty of care to look after our kids, you may as well pack your bags and go, mate. You may as well pack your bags and go if that is your attitude. If this is all about politics and spin and covering your mates, you are letting down your community just like this minister is. The point here is that this minister has not truthfully informed this place—perhaps inadvertently and perhaps because he is not putting the pressure on his department to ensure that they keep him informed about these issues.

Let us look at the facts around this particular case that Mrs Dunne has raised. Something very serious has occurred. There is a very high probability that the department, and perhaps even the school, have breached protocols, and you have not been informed. I would hope that this is a case where you have not been informed rather than a case of you allowing the department to sweep things beneath the carpet, minister. I really hope that that is the case.

Mr Barr made a number of comments here today where he said he was absolutely concerned that this matter had been elevated—I think the term was "elevated to the Assembly". Of course it has to be elevated to the Assembly. That is Mrs Dunne's responsibility as the shadow education minister. She has cottoned on to an issue that may have some serious fallout; she has to raise the issue. This is a place of democracy, democratic principles and transparency where ministers have to be held accountable. You do not want to be held accountable, minister.

Mr Barr made the comment that this is just a blatant political exercise. For the reasons that I have just outlined, it is not; it is the duty of the opposition to question and scrutinise this minister about departmental procedures.

The next point I would raise is this: Mr Barr has shot a comment across this chamber about Pratt and Smyth allegedly informing the student body at Kambah high school about another serious college incident. I will put the lie to that claim. Tough luck for you, minister, but sitting in my office right now is a young witness to the presentation made by Pratt and Smyth to the student body at Kambah high school last year who will absolutely refute any mention of any particular college—about any particular incident.

Mr Barr: What were you doing there? It was not a college; it was a high school. You can ask Mrs Dunne about it.

MR PRATT: If you would like me to, Mr Speaker, I will bring that witness to you—and to you, Mr Barr. He will tell you to your faces that Pratt and Smyth have never spoken to any student body at that high school about other violent incidents in other colleges. You might like to reflect on that, minister, and in future keep your mouth shut before you make such wild allegations.

Mr Barr's failure to follow protocol in this place to answer truthfully reflects a failure of protocol in his department to keep the minister informed about reportable incidents.

These failures go to the heart of our fundamental concern. Our fundamental concern is this: this minister has a duty of care towards the children and the youth of this territory. He must not only be on his game in this place to debate transparently and tell the truth but also be able to put the fear of God into his department to ensure that his department is responsive on very serious issues affecting the safety of our children. This minister has failed, and that is why he should be censured.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (11.32): The government, of course, will not be supporting this motion. I share the concerns expressed by the minister for education in relation to the inappropriateness of airing this particular issue in this way. It is not fair to the school, it is not fair to public education, it is not fair to the children involved, it is not fair to their families, and it is not fair to the police.

It really is a grubby exercise in political point scoring to elevate this incredibly difficult issue, which is a feature of our society, in this way—to seek to make it a matter of scandal, to make it a matter of scandal, to spread alarm, to denigrate the public education system, and to highlight and heighten the trauma that these children have suffered. It really is unfortunate. Everything that the minister has said in relation to this is absolutely correct. It was completely unnecessary for this issue to be raised and highlighted in this way. The minister and the department have handled this in an exemplary way. The parents and the students have handled it with maturity and appropriately.

Your elevation of this issue in this way is to seek to score a political point against the minister for education because he embarrassed you so soundly in question time yesterday with the seven Dorothys that you asked. That caused you to come back today to try to make the point that you could not make through seven questions yesterday—including, as we have all noticed, the first question this year on education by the shadow minister for education in this Assembly. That gives some indication of the regard which Mrs Dunne has for issues around education, and most particularly public education.

This motion is a direct attack on public education and on teachers within our public system. You are attacking the minister today because your attempts at attack yesterday failed so dismally. You really do not care about public education. You have no emotional attachment to or support for public education or those that use that particular system.

Heightening the outrage that I feel in relation to this motion is the utter hypocrisy—that Mrs Dunne, of all people in this Assembly, should move this motion this week in light of her behaviour in question time on Tuesday. Mrs Dunne misled this Assembly in question time on Tuesday.

MR SPEAKER: Order! Withdraw.

MR STANHOPE: I withdraw that, Mr Speaker. I move the amendment circulated in my name.

> Omit all words after the word "censure", substitute "Mrs Vicki Dunne for misleading the Assembly in her question to the Chief Minister on Tuesday, 29 May 2007.".

Mrs Dunne misled this Assembly on Tuesday in her question to me. I drew the fact of the errors contained in her question to her attention. I indicated in question time that I would review the *Hansard* and give consideration to coming back to move a substantive motion. I suggested in that context that she might wish to correct the record. I suggested it too to Mr Seselja. Mr Seselja responded in the terms just put to us most eloquently by the Leader of the Opposition—that a member has an obligation, upon advertently or otherwise misleading the Assembly, to correct the record.

Mr Stefaniak, in his presentation on this debate, has made the case for why Mrs Dunne should be censured. I drew it to her attention directly. I suggested that I would review the *Hansard* and come back to consider a substantive motion. I suggested that the record be corrected at the time. Mr Seselja stood in that context and corrected the record. He did what I suggested would be appropriate in the circumstance and what would be consistent with what Mr Stefaniak so eloquently, in his quotations from Erskine May and *House of Representatives Practice*, suggested was appropriate behaviour for members of this place—stand and correct the record. Mr Seselja did that. He stood with integrity and corrected an inadvertent misleading of the house at the time. He acted appropriately. Mrs Dunne does not believe that any of these rules, protocols or conventions apply to her; she is above that.

The record is clear in relation to the amendment I have moved. I received a question from Mr Stefaniak around the source of water. I said that the source of water was the lower Molonglo. Mrs Dunne interjected:

> So you decided not to use an illegal bore?

I responded:

> I stand by my answer: water from the lower Molonglo has been utilised in the planting of the trees.

Mrs Dunne then asked a question. In the preamble to her question she said, "You have made a decision, against advice, to plant trees." I received no such advice not to plant trees. That was not true. She said:

> … you announced that you were using water from the lower Molonglo water quality control plant to water those plants and that you were not going to proceed with a bore …

The only reference to not proceeding with a bore in question time on Tuesday was Mrs Dunne's suggestion in an interjection to an answer to a question from the Leader of the Opposition. Mrs Dunne interjected:

> So you decided not to use an illegal bore?

Mrs Dunne came back and said:

> … you announced … that you were not going to proceed with a bore which would have been in contravention of the 2005 bore moratorium.

I said no such thing. As I am sure you all recall, I immediately drew to the attention of Mrs Dunne and the Assembly the fact that I had said no such thing. I actually said it in these terms:

> It is difficult to answer questions based on these falsehoods. We have just had a question, the preamble to which said, "You have just advised" … "that you will not proceed to use the bore." Who else here remembers me saying in question time today that I had just announced that we were planting trees against advice and that I had just announced that we would not use the bore? Who else in this chamber remembers or recalls me saying any of the three things that have just been attributed to me, the … falsehoods that have preceded questions? It is impossible for ministers to answer questions based on lies.

Mrs Dunne stood and raised a point of order that I had called her a liar. Mr Speaker, you asked me to withdraw. I did. I said:

> The *Hansard* stands, of course, and I would be happy to review the *Hansard*. If Mrs Dunne is standing up now to say that she did not lie, I would be happy to review the *Hansard* now and to come back … after I have reviewed it and move a substantive motion. I withdraw it for the time being. I will review the transcript.

Mr Smyth then said:

> No, no, no, that's not the form; it's withdraw. You were ordered to withdraw.

I responded, "It was withdrawn. I did withdraw." I went on to say:

> I just withdrew it, and I am informing members who might wish to correct the record of an option open to me …

In response to that, Mr Seselja stood with integrity and with honour and corrected the record. Mrs Dunne sat silently and smirked. Today, two days later, she stands in this place with the audacity to suggest that the minister for education should be censured for misleading the Assembly.

There is a clear and blatant record of a misleading question by Mrs Dunne to me on Tuesday—which I drew to her attention; which I said was not true; which I referred back to; which I asked her to clarify, which she refused to do—in relation to which I said I would perhaps have no option but to move a substantive motion.

In order not to waste the time of the Assembly, I did not do that. Today is a day for government business. It is 11.40 am. We have legislation to debate and pass; we have to deal with a motion to establish a committee to conduct an important inquiry. We have wasted one hour and 10 minutes today on a spurious political point scoring motion by a member of this Assembly who herself clearly, blatantly and wilfully misled this Assembly the day before her allegation in relation to the minister for education. The bald hypocrisy that is displayed today by Mrs Dunne in relation to her own behaviour on Tuesday is just staggering—staggering. The minister for education has handled this matter appropriately—as has the school, as have the parents, as has the department, as has everybody involved with it. They have handled it appropriately.

This is the most appalling stunt. It brings the department of education, the public education system and this particular school into a situation of unnecessary scandal and conflict. You should be ashamed of yourselves. Mrs Dunne deserves to be censured—as much for her hypocrisy as for anything else—in daring, in light of her behaviour on Tuesday, to suggest, with puffed up umbrage, "How dare the minister mislead the Assembly." *(Time expired.)*

MRS DUNNE (Ginninderra) (11.42): I would like to speak to the Chief Minister's amendment and dwell on the issue that he raises in relation to the question that I asked the other day. To set the context, Mr Stefaniak had already asked a question and Mr Stanhope had said that the water for watering the arboretum would be coming from the lower Molonglo water quality control plant. I said:

> .. you announced that you were using water from the lower Molonglo water quality control plant to water those plants …

And I said:

> … and that you were not going to proceed with a bore …

Because of the juxtaposition of those words, the inference could be that I implied that the Chief Minister announced that he was not going to use the bore. That is a reasonable inference to draw. Reflecting upon what is written here, I think the Chief Minister is right to take umbrage at that possible interpretation. It certainly was not my intention to imply that the Chief Minister had announced that he was not going to use a bore. To the extent that that could be misinterpreted, I withdraw, and I would like to correct the record. What I should have more correctly said was "By inference, you are not going to use the bore"—not that he announced it.

But it was quite clear, Mr Speaker, over a number of months, that the minister had formed the intention of using the bore. For instance, in the *Canberra Times* of 18 December, an article by Graham Downie headed called "Drought hits $6m trees project" says:

> A minimum of 1300 kilolitres of water a year would be needed to irrigate the arboretum, with the Government issuing an official bore water licence for the site.

The next day, the *Canberra Times* said, in another article, headed "Arboretum tree planting delayed", that a spokesman for the Chief Minister, Jon Stanhope, confirmed an official bore water licence had been issued for the arboretum. This was an issue that Mr Mulcahy raised as well. The issue had been raised that there may be a bore licence issued. We were concerned that, because there had been a moratorium in relation to bores in effect since August 2005, there would be some problem with the legality of issuing a bore licence.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (11.45): In light of Mrs Dunne's withdrawal of the imputation, I seek leave to withdraw my amendment.

Leave granted.

MR STANHOPE: I withdraw my amendment.

MR SESELJA (Molonglo) (11.45): I assume that I am now speaking to the motion, not the amendment. Mr Speaker, am I still able to respond to any of what was said in relation to the amendment?

MR SPEAKER: The amendment has been withdrawn, so it is not a matter for debate.

MR SESELJA: I will respond, firstly, to some of what Mr Stanhope was saying before he moved the amendment. The first thing he mentioned was that somehow, by bringing this motion forward, the opposition elevated this issue and caused alarm in the community. The fact is that we have done no such thing. The school has not been mentioned here today. There has been no mention of the school or the individuals involved. That has not been made public. Great care has been taken to do that. I make that point.

The other thing is alarm about assaults. When you have these assaults—when you see them on the front page of the *Canberra Times*, when students have them on their mobile phones—it is hardly the mention of an issue in the Assembly, without mentioning names, that would somehow be raising alarm. The alarm has been raised by the fact that these incidents are occurring; that they have been on video, in some cases; and that students, teachers and parents are aware that these incidents are going on.

It is quite a furphy to suggest that somehow, by bringing attention to this issue about a mislead in the Assembly, we are raising alarm or denigrating the public school system—or any of the other terms that have been thrown around. That is complete rubbish. No one here is denigrating the public school system. It is not denigrating the public school system to raise an issue where there are concerns within the public school system, and it is not causing alarm to talk about assaults that are well known in the community—certainly in the communities where the students are affected and where we see significant talk about these issues. It is quite ridiculous to suggest that we are somehow causing alarm.

I would like to turn to the substance of the motion. We need to go back to the actual questions yesterday, to some of the correspondence that has been referred to and to some of the outline of the protocols that are in place. Let me go back to the supplementary question from Mr Stefaniak:

> … is it the case that some schools do not report the incident to the police and that some school authorities have actually discouraged parents from reporting to the police? You mentioned the protocols. Will you table those protocols by close of business …

There were interjections across the chamber. I think Mr Barr may have been responding to the interjection. Mr Barr said:

> I am not aware of any. No incidents have been brought to my attention whereby there has been a flagrant breach of any of the protocols that are in place.

Clearly Mrs Dunne has provided evidence of where a serious incident—what would appear to be a flagrant breach of the protocols—has occurred. Mr Barr says that nothing has been brought to his attention. The more correct thing would have been to say, "I have had no definitive advice from my department." But it would appear that this issue was brought to his attention. Let us look at some of the details of the issue. In the letter from the parents, we see:

> On the 1st march about 10.30 we were phoned by the Deputy principal … to … pick up our son … who had been savagely assaulted …

The letter goes on to say that the student who had assaulted him had been suspended until the following Monday as punishment. I think that is an issue in and of itself. But the letter goes on:

> We were told they would get the boys together for mediation when—

their son—

> recovered and the other boy was back at school. In the same call, we were advised not to get the police involved as the school would handle it themselves.

This seems to be a key part of the issue. This letter, which I understand went to Mr Barr's office, did raise this issue. It raised it, and it goes on in some detail, some of which I will come back to. But it does go to the issue that these parents were told by the school not to call the police, not to get the police involved. In evidence before the education committee on 8 May, Ms Melsom was answering questions and talking about the protocols for informing the police. She said:

> An incidence of violence might simply be a one-off, a particular outburst. Of course, there are degrees of violence as well. If it is extreme violence, it becomes a criminal act. If the child is over 10 years old, then we say to our schools, "You must report this; it's a criminal offence."

In his answer yesterday, Mr Barr said:

> But where matters such as the ones that have been on the front page of the *Canberra Times* are brought to attention, they are appropriately referred to police because they are assaults. It is not bullying; it is assault.

The issue we have here is an issue around this breach of protocol where the parents were apparently told not to call the police, where—

Mr Barr: Apparently.

MR SESELJA: We have had this brought to your attention. What Mr Barr is essentially saying in his defence is that, if a concerned parent brings something to his attention, it has not really been brought to his attention—it has been brought to his attention only if his internal investigation or his department definitively advises him one way or another. We are saying, "When you answered that question and said that it had not been brought to your attention that there had been a flagrant breach, that was a

mislead." That is why Mrs Dunne brought it to Mr Barr's attention yesterday and gave him the opportunity to correct the record.

This is an important issue about getting the facts on the table. The minister may laugh. We have seen the government's attitude to this with their churlish amendment. We have seen the government's attitude to this serious issue. The minister may laugh, but we do have the opportunity to put the facts on the table.

The correct answer would have been, "Well, incidents have been brought to my attention; it has been investigated and this was found. It is an internal investigation." Mr Barr led the Assembly to believe that nothing had been brought to his attention—that there was no evidence of a flagrant breach, and that no evidence that the police had not been called in these circumstances had been brought to his attention. It had. There was the evidence of the people closest to the incident, apart from the person who was assaulted—the parents. The parents brought it to his attention. But Mr Barr says to us that that does not matter, that that is not really bringing it to his attention and that it only matters if his departmental staff bring it to his attention or say, "This is the end result of this investigation."

I do not accept that, and Mrs Dunne does not accept that. That is why she has brought this motion on. It is because that answer was misleading. It suggested that this incident had not been brought to his attention when it clearly had—when we have documentary evidence that says that it was brought to his attention. He should have said that. He should have given us some of the words that he has given us today in responding to this censure motion; then we never would have seen the censure motion come forward.

This is why this censure motion should be supported. It is a clear case. It could have easily been fixed at 10.30 this morning. It was not. That is why it is being brought forward; that is why it should be supported.

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

> That the question be now put.

The Assembly voted—

Ayes 8		Noes 7	
Mr Barr	Mr Gentleman	Mrs Dunne	Mr Seselja
Mr Berry	Mr Hargreaves	Dr Foskey	Mr Smyth
Mr Corbell	Ms Porter	Mr Mulcahy	Mr Stefaniak
Ms Gallagher	Mr Stanhope	Mr Pratt	

Question so resolved in the affirmative.

Question put:

> That the motion be agreed to.

The Assembly voted—

Ayes 7		Noes 8	
Mrs Dunne	Mr Seselja	Mr Barr	Mr Gentleman
Dr Foskey	Mr Smyth	Mr Berry	Mr Hargreaves
Mr Mulcahy	Mr Stefaniak	Mr Corbell	Ms Porter
Mr Pratt		Ms Gallagher	Mr Stanhope

Question so resolved in the negative.

Federal budget—impact on ACT economy

MR STEFANIAK (Ginninderra—Leader of the Opposition): Mr Speaker, while we are in the business of correcting things, I seek leave to make a small correction.

Leave granted.

MR STEFANIAK: In reviewing *Hansard*, I noted that I need to correct something I mentioned in a speech yesterday, when I could have given the impression that GST revenue when we first got it was anticipated to be $47 million, and in fact was over $80 million, and GST revenue now is 16 times the amount. What actually has to be corrected, Mr Speaker, is at that time total revenue coming into the government was anticipated to be about $47 million higher than expected because of extra GST revenue. When the revenue figure actually came in, it was higher again, some $80 million over that anticipated, which just went to show how useful for the ACT economy the GST revenue was. The total amount of GST revenue in that first year, I believe, was some $435 million. Accordingly, I think it is important for me to make that point to clarify absolutely what I was saying in that debate so that no-one is under any misapprehension.

Petitions

The following petitions were lodged for presentation:

Planning—A10 areas

By **Dr Foskey**, *from 230 residents:*

> **TO THE SPEAKER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY.**
>
> The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that we, the undersigned are concerned that:
>
> (a) The current system of approving building in the A10 zones is being driven by speculating developers and does not have the long term interests of the city and its community at heart.

(b) That developments beyond dual occupancy violate the amenity and the quality of life of existing residents' life by rapidly increasing the ratio of dwellings in a given area with consequent increase in population and noise.

Your petitioners therefore request the Assembly to distinguish between approvals for dual occupancy and multi-unit developments on co-joined blocks, and place an embargo on inappropriate developments in the A10 areas.

Tharwa bridge

By **Mr Pratt**, *from 611 residents:*

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that the public safety and security of residents of Tharwa has unduly been put at risk by the closure of the Tharwa Bridge.

Your petitioners therefore request that the Assembly act to ensure that a formal request is made immediately to the Commonwealth Government for assistance in the installation of a temporary low level crossing at Tharwa.

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

Justice and Community Safety Legislation Amendment Bill 2007

Mr Corbell, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.00): I move:

That this bill be agreed to in principle.

The Justice and Community Safety Legislation Amendment Bill 2007 is the 16th bill in a series of bills dealing with legislation within the justice and community safety portfolio. These bills make minor and technical amendments to portfolio legislation. The bill I am introducing today makes the following amendments.

The bill amends the Agents Act 2003 to remove unnecessary words that made a section of the act difficult to read. In addition, the bill makes an amendment to confirm an editorial amendment that was made to the act.

The bill amends section 16 of the Civil Law (Wrongs) Act 2002, which provides for the survival of causes of action for the benefit of a dead person's estate. The bill

inserts a provision that allows the courts to award particular types of damages where the cause of action relates to a personal injury resulting from exposure to asbestos. Consultation on this amendment has been conducted with the legal profession and the amendment is consistent with legislation in other Australian jurisdictions.

In addition, the bill amends section 84 of the act, which deals with the limitations on expert medical evidence. The bill inserts a provision to provide an exception to the limitation by allowing an expert who has provided a health service for a claimant to also give expert medical evidence. This part of the act was originally introduced to discourage the use of numerous medico-legal witnesses and reports. While the court retains a discretion to permit more than one expert witness to give evidence on a matter, the policy objectives of this part are not diminished by relaxing the limitation in relation to treating doctors.

The bill also amends part 7 (1) of the Civil Law (Wrongs) Act 2002, which sets out the exclusions and limitations on damages that can be awarded for personal injuries. The bill amends this provision by providing that contributory negligence can be rebutted if at the time of the accident an injured person was not wearing a seatbelt because they were incapable of fastening it without assistance.

The bill amends schedule 4 of the act, which establishes a professional standards council enabling the creation of schemes to limit the civil liability of members of an occupational association. The bill amends the schedule to provide flexibility for members to hold costs-inclusive insurance policies as part of a national initiative to further develop professional standards legislation in all Australian jurisdictions. This amendment ensures that consumers will not be disadvantaged if they deal with a professional holding a costs-inclusive insurance policy because the costs involved in defending the claim will not erode a defendant's liability for damages to a successful plaintiff.

Amendments to the Classification (Publications, Films and Computer Games) (Enforcement) Regulation 1995 are included in this bill to update the regulation following amendments to the Classification (Publications, Films and Computer Games) (Enforcement) Act 1995.

The bill makes minor amendments to the Community Title Act 2001 to correct a reference to a section of the Residential Tenancies Act 1995 which was incorrect as a result of the renumbering of that act.

The bill amends the Crimes Act 1900 to correct the definition of prescribed penalty in section 441. The definition of prescribed penalty should be expressed as a monetary unit and not as a number.

The bill changes the default application date, the date when chapter 2 applies to pre-January 2003 offences, in the Criminal Code 2002 from 1 July 2007 to 1 July 2009. It is necessary to delay the application of chapter 2 to pre-January 2003 offences as work on harmonising them to conform with chapter 2 has been delayed. The bill also amends the definition of territory public official in the Criminal Code 2002 to clarify that an authorised person appointed under the Utilities Act 2000 is protected under the code.

The bill removes a temporary regulation that was made in the Criminal Code Regulation 2005 to extend the default application date in chapter 2 of the Criminal Code 2002.

The bill inserts a new section into the Discrimination Act 1991 to allow the Discrimination Tribunal to refuse to hear a complaint where the complainant has failed to comply with a reasonable direction of the tribunal. In addition, the bill omits the definition of a term that is no longer used in the act.

The bill amends sections of the Domestic Violence Agencies Act 1986 which provide for the appointment of members to the Domestic Violence Prevention Council. The bill clarifies the position of police officers, the domestic violence project coordinator, and the Domestic Violence Crisis Service as members of the council. The bill also extends the term of appointment for a member and clarifies the circumstances in which a person appointed stops being a member of the council. The bill makes other minor amendments to these sections to make them easier to read and to ensure consistency with the Commonwealth Bankruptcy Act 1966.

The bill amends section 6 of the Human Rights Act 2005, which sets out the main objects of the act. The bill reinstates those objects that had been erroneously removed in the past and removes duplications.

The bill amends the Judicial Commissions Act 1994 by updating the protection available to a person in relation to publication of a report of the proceedings before a commission. The bill provides that a proceeding before a commission is a proceeding of public concern for the Civil Law (Wrongs) Act 2002.

The bill makes a number of amendments to the Powers of Attorney Act 2006. The bill amends errors, and clarifies the use of words used interchangeably throughout the act. Additionally, the bill clarifies the situation of an enduring power of attorney in relation to property matters while the principal has decision-making capacity.

The bill repeals the Powers of Attorney Regulation 2007, which was made to temporarily modify the Powers of Attorney Act 2006.

The bill amends the Utilities Act 2000 by inserting a new provision providing that the Essential Services Consumer Council can issue a direction to reduce a capital contribution charge imposed by a utility that is excessive. The bill also makes minor amendments to the act to replace references to legislation that has been repealed.

The bill amends the Victims of Crime Act 1994 by inserting a new provision that permits the victims of crime coordinator to delegate its functions under the act.

The bill amends the Victims of Crime (Financial Assistance) Act 1983 by inserting a new provision that provides for the creation of a judgment debt.

I commend the bill to the Assembly.

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

Canberra Institute of Technology Amendment Bill 2007

Mr Barr, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.08): I move:

> That this bill be agreed to in principle.

I am pleased to present the Canberra Institute of Technology Amendment Bill 2007, which introduces amendments to the Canberra Institute of Technology Act 1987 to strengthen industry representation on the Canberra Institute of Technology Advisory Council. With this bill, the government is seeking to ensure greater industry involvement in the planning, design and delivery of vocational education and training in the ACT.

These amendments will change the membership arrangements of the Canberra Institute of Technology Advisory Council, or CITAC. CITAC was established by the Canberra Institute of Technology Act in 1987. It is a ministerially appointment advisory council which advises me in relation to educational student welfare, partnership and financial matters relating to the CIT.

The bill does not propose to change the number of members on CITAC but to revise the representation. The act currently requires one member out of 12 to be a representative of industry and six others to be people possessing expertise relevant to the management and operation of the CIT. The bill proposes that there be seven members representing key industry sectors in the ACT and region. For this purpose, industry is broadly defined as those sectors of the ACT economy that are the key business and employment sectors. The bill proposes two other members to represent key non-industry CIT stakeholders. These positions will reflect some of the broader links the CIT has in the ACT community and will provide some flexibility in determining the composition of CITAC. The staff and student representation on the council is to remain unchanged.

CITAC is well placed to provide expert advice on the delivery of vocational education and training and to continue its work in enhancing student education and welfare. The proposed amendments will enhance these important undertakings. The ACT government recognises the benefits of providing high-quality education and training and I believe the amendments enhance vocational governance in the territory and will ensure a broad and expert involvement in the planning, design and delivery of vocational education and training in the ACT. I commend the bill to the Assembly.

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

Planning and Development (Consequential Amendments) Bill 2007

Mr Barr, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.11): I move:

> That this bill be agreed to in principle.

This bill is consequential upon the Planning and Development Bill 2006, tabled in December last year. The government intends to debate both bills in the August sitting period. The Planning and Development (Consequential Amendments) Bill makes primarily technical amendments to a range of territory legislation. These amendments update or substitute references to the land act, the land act regulations and the existing territory plan for references to the Planning and Development Act and the new territory plan.

The consequential amendments bill also makes amendments to territory legislation to implement the reforms contemplated by the Planning and Development Bill. Amendments of these types include the following. The Administrative Appeals Tribunal Act is amended to make it clear that individuals, corporations and community associations which have made a representation in relation to a development application can be joined as a party to proceedings before the tribunal relating to that development application.

The amendments also relate to the situation where there is a reconsideration of a decision on a development application by the ACT Planning and Land Authority while there is also an application for review of the decision pending in the AAT. In this situation, if the planning and land authority reconsiders the decision and substitutes a new decision, then it is the substitute decision that is the subject of review by the tribunal. Transitional provisions have also been added to this act relating to the requirements for the planning and land authority to lodge documents relating to a decision with the tribunal.

Amendments are being made to the Civil Law (Sale of Residential Property) Act 2003 to enable the continuation of energy efficiency ratings through guidelines issued by the ACT Planning and Land Authority. Amendments to the Environment Protection Act 1997 and the Environment Protection Regulation 2005 retain the ability of the environment minister to require an environmental impact statement into an activity that is the subject of an application for an environmental authorisation. These amendments also make it clear that the minister may establish a public inquiry into the activity following receipt of an EIS.

The procedures for the EIS and the public inquiry are set out in the Planning and Development Bill, except that the environment minister and the Environment

Protection Authority, not the planning minister and the planning and land authority, would be responsible for the EIS or an inquiry process. For example, it is the Environment Protection Authority that is responsible for scoping the EIS. The environment protection regulation has been amended to refer to the updated terminology used in the new territory plan.

Amendments to the Gungahlin Drive Extension Authorisation Act 2004 make it clear that the repeal of the land act and the commencement of the Planning and Development Act do not affect the operation of this act. The Heritage Act 2004 and the Tree Protection Act 2005 amendments ensure consistency with the new development approval framework and referral entity processes in the Planning and Development Act.

The Land Titles Act 1925 is to be amended to establish new powers for the Registrar-General to keep and maintain a record of administrative interests. Administrative interests are not proprietary in nature, but are records of a decision or a notification made under territory legislation that affects a parcel of leased land. For example, the notification of a development approval under the Planning and Development Act would be notified and recorded as an administrative interest. Administrative interests are not about ownership and are legally independent of the land title and the indefeasibility attached to that title. The administrative interests register will operate in parallel with property interests recorded on the Torrens title register, creating a central repository for information relating to the land.

A new definition of territory lease to apply across all territory legislation has been inserted into the Legislation Act 2001. A territory lease means a lease granted under the Planning and Development Act or the Unit Titles Act, but does not include a sublease. This definition provides a clear distinction between leases granted by the territory and leases granted by the commonwealth. Both types of leases fall within the umbrella of a crown lease.

The Public Health Act 1997 amendments give the Minister for Health the power to declare that an impact track applies to a development proposal under the Planning and Development Act and sets out the circumstances in which this decision can be made. An application in the impact track must include an EIS. The amendments also give the Minister for Health the power to require a public inquiry into a development application in specified circumstances. If the Minister for Health makes this application, then the planning minister must establish the inquiry. Cognate amendments are being made to the Planning and Development Act to give effect to these changes.

Amendments are being made to the provisions of the Public Roads Act 1902 to clarify the circumstances in which the planning minister is able to close a part of a public road without public notification if it is only to include an encroachment onto an existing lease. The minor development criterion, a concept that no longer exists in the Planning and Development Act, has been replaced by clear requirements intended to maintain the use and amenity of the public road.

Finally, a number of miscellaneous amendments will be made to the Planning and Development Bill. These amendments include the correction of errors in the bill,

technical changes and amendments related to revised provisions in the Public Health Act. An amendment to this act enables the names and addresses of taxpayers held by the Commissioner for ACT Revenue to be disclosed to the ACT Planning and Land Authority to enable the authority to contact taxpayers in the course of administering the Planning and Development Act. Records held by the revenue office are frequently more up to date than those held by the planning and land authority. This information would be sought when the authority intends to contact a taxpayer about a development application on adjoining premises. This provision may also be used so that the authority can take compliance action against the person under the Planning and Development Act, or to give notice to a person in connection with a compliance action.

Amendments to this act also make the AAT review and notice provisions more consistent so that they apply in the same manner to individuals, corporations and unincorporated associations. I commend this bill to the Assembly.

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

Building Legislation Amendment Bill 2007

Mr Barr, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.18): I move:

> That this bill be agreed to in principle.

I am pleased to present the Building Legislation Amendment Bill 2007, which is cognate to the Planning and Development Bill 2006 and the Planning and Development (Consequential Amendments) Bill 2007. The Building Legislation Amendment Bill helps implement government proposals, as part of its planning system reform project, to simplify approval processes for some single houses in new estates by requiring only a building approval for construction.

Currently, both a development approval and a building approval are required. Removing the need for a development approval through exemptions in the planning system will save applicants between $483 for a two to three-bedroom house and $732 for a four-bedroom house in development application fees for most new houses. Certifiers, as a result of this bill, will be able to grant building approvals against a set of codified requirements that take into account both building and planning matters. This will remove duplication and ensure that the advice of other bodies, such as utility providers, is taken into account before a building approval is granted. The government estimates that up to 1,100 houses per year will no longer require development approval but will require a building approval only. Proposed regulations under the Building Act will also provide a wider range of exemptions from the need to obtain building approval. In some cases certain small structures will require neither a

development nor a building approval, depending on their location, such as certain decks, pergolas, carports and landscaping features.

Mr Speaker, the government, through these proposals, seeks to free up the construction of houses and small structures. The government, however, also accepts the importance of a robust regulatory framework to ensure that there is compliance with building rules to ensure that buildings are structurally sound and do not present a risk to health and safety. This bill allows for the early notification of possibly defective work, providing opportunities for early rectification. Other amendments introduce new offences and penalties. Existing sanctions and disciplinary processes in the Building Act and the Constructions Occupations (Licensing) Act continue to apply.

The bill's fundamental objectives are to facilitate the greater involvement and responsibility of the private sector in regulating housing development, to strengthen the regulatory environment that the private sector must work within, commensurate with these increased responsibilities, and to strengthen regulatory systems concerning unlawful or otherwise unsubstantiated building work.

A central focus of the bill is to facilitate making private sector building certifiers a one-stop shop for all of the plan approvals and associated certifications necessary to erect buildings that are exempt from requiring development approval. The government will continue to have a role in auditing and regulating certifiers' services and in issuing the certificates needed to occupy or use a building. But in most other respects builders and landowners will mainly deal with the private sector in approving and certifying building work that is exempt from development approval requirements.

One of the most substantial reforms under the Planning and Development Act 2007 is to cater for certain new houses to be exempt from requiring a development approval, provided the proposal satisfies codified exemption criteria. The function of verifying that such developments meet the development exemption criteria falls to the certifier, in that the certifier is prohibited from issuing a building approval where a required development approval is missing. This is not a fundamental change to the certifier's role, as certifiers have always been required by the Building Act 2004 to check that applications for building approval reflect the proposed work that either does not require development approval or is consistent with the terms of the respective development approval. Nevertheless, the government considers it appropriate to enhance the regulation of certifiers in their expanded role and has therefore included several new enforcement provisions.

Mr Speaker, the main reforms in the Building Legislation Amendment Bill will be achieved through the following amendments. A building certifier's functions will be widened to include verifying that plans for building approval show sufficient information to determine if building and other related work is exempt from requiring a development approval under the Planning and Development Bill Act 2007. To date, certifiers' responsibilities have been confined to building work, but the reforms will widen the certifiers' plan approval responsibility to encompass other proposed site work, such as driveways, car parking areas and tree damage.

The certifier will not be able to issue an approval for building work unless the certifier is satisfied that the plans show that the proposed building work and its associated site work comply with all relevant code requirements and are therefore exempt from

requiring development approval. Issuing a building approval in contravention of these requirements will be an offence, with a maximum penalty of $6,000 for individuals or $30,000 for corporations. Licence disciplinary action will also be available with a range of licence sanctions, including cancellation of a certifier's licence as the most severe disciplinary action available.

Existing requirements in the Building Act that oblige certifiers to consult with bodies such as the ACT Fire Brigade and utilities will be amended. These referral advice entities with be provided with certain powers to veto a building approval application, but in exchange these entities will be bound by their advice in circumstances where their advice has been considered in the granting of a building approval. An intended outcome is to provide a greater level of certainty about the referral entities advice for all stakeholders in line with similar provisions of the Planning and Development Bill Act 2007.

Certifiers will be obliged to notify the ACT Planning and Land Authority of any suspicions that the certifier forms about site work being done in contravention of the Planning and Development Act 2007. This will enable the planning and land authority to take early action, if appropriate, to ensure that such work is rectified. A certifier will also have to notify the ACT Construction Occupations Registrar if the certifier finds building work that is fundamentally noncompliant with certain Building Act 2004 requirements. The new provision applies where work so grossly contravenes prescribed requirements that it is likely to have occurred deliberately or through significant incompetence. Regulations will prescribe criteria for determining if work is fundamentally noncompliant.

The bill extends the grounds that may be relied upon to prohibit carrying out building work by written notice, a stop work notice. The new grounds relate to building plans containing materially false or contradictory information or information that materially misrepresents the fact. The bill establishes a process to permit a certificate of occupancy and use to be issued in certain circumstances where the pre-reform provisions do not cater for the issuing of such a certificate. This provision is to cater for the circumstance where, due to unlawful construction or for legitimate reasons, the documentary evidence that building work complies with the requirements is not reasonably available.

An intended outcome is to provide a codified process for determining if such buildings are sound and, if so, to permit their occupation and use, otherwise it may be unlawful to occupy or use such buildings, and the only remedy may be demolition. The process has adequate safeguards to ensure it is a last resort and to deter exploitation. It will not protect an unlawfully constructed building from being subject to compliance action, but will allow it to be used in the meantime, if safe to do so.

Provisions in the Building Act currently only applying to individuals and corporations will be amended so that they can also apply to partners of a partnership, a possible way for certifiers to organise their business. This will ensure that all entities, individuals, corporations and partnerships must comply with the act and may be subject to disciplinary or other action under the Construction Occupations (Licensing) Act.

Amendments are being made to the Construction Occupations (Licensing) Act 2004 to make clear that certain matters do not stop the issuing of rectification orders requiring the rectification of unlawful and substandard construction work or other services. These amendments are necessary to address an issue raised by the recent decision of the Supreme Court of the ACT in the case of the ACT Construction Occupations Registrar v John Tokic. In that case, the Supreme Court held that the registrar could not take any rectification order action against a breach of the Building Act so long as a certificate of compliance, such as a certificate of occupancy under the Building Act, remained valid. The effect of the judgment was that unlawful building work could not be made the subject of a rectification order while the certificate of occupancy for the work was in force.

The court's judgment has significant unintended consequences. An example is where the work that is subject to a rectification order is defective concrete in some columns supporting part of a high-rise office building and the nature of the defect is that the columns are currently structurally sound but, in the long term, corrosion of their steel reinforcement will render the building structurally unsound. If a certificate of occupancy for the building has been issued under the Building Act, then, in accordance with the Tokic decision, that certificate must first be withdrawn in order to issue a rectification order for the columns' long-term rectification. However, under the Building Act, it is unlawful to occupy or use a building without a certificate under that part. In that case the currently sound building would be rendered unlawful to occupy or use merely to permit rectification of the building's defective but currently sound columns.

Mr Speaker, this is clearly an unnecessary impost on the building's occupants and owner when it is safe to continue to occupy the building whilst the columns are being rectified, particularly considering the rectification could take weeks. The proposed amendments seek to provide a practical means of ensuring rectification work occurs whilst not unnecessarily burdening the building occupants or owner.

Finally, I draw members' attention to the bill's explanatory statement, which provides a detailed explanation of the proposed amendments. I look forward to the upcoming debate on the government's legislative package to bring into operation the territory's new planning system.

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

Surveyors Bill 2007

Mr Barr, pursuant to notice, presented the bill, its explanatory statement and a Human Rights Act compatibility statement.

Title read by Clerk.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (12.30): I move:

> That this bill be agreed to in principle.

This bill is to regulate the practice of land surveying in the territory. Land surveying, or cadastral surveying as it is sometimes known, has been a regulated profession in Australia since colonial times. The accurate measurement of land is so fundamental to Australia's land markets that all Australian governments have chosen to regulate the practice of surveying by registering or licensing professional surveyors. In recent times, every state and territory has subjected its surveying regulations to competition policy scrutiny, and in every case some form of registration of professional surveyors has been maintained.

In the territory, professional surveyors have played a major role in the development of Canberra and, in particular, in the safeguarding and enhancement of our unique land tenure. Prior to 1967, ACT surveyors were registered in New South Wales and specially licensed by the commonwealth to practise in the territory. Under the first ACT surveyors ordnance of 1967, 97 surveyors were initially registered. The number of registered surveyors peaked at 210 in 1976. Driven by technological and administrative change, the number has since shrunk to about 70, but the work of those 70 professionals is vital to the orderly development of our city and to the confidence enjoyed by both buyers and sellers of ACT leasehold land.

The only major change to surveying legislation since 1967 occurred with the introduction of the Surveyors Act 2001. This act greatly simplified the regulatory infrastructure and replaced the then chief surveyor and the surveyors board with a single, part-time, statutory appointment: the Commissioner for Surveys. The Surveyors Act 2001 has in general served the territory well. Surveys for the making of land boundaries in the ACT are of a very high standard and complaints against registered surveyors are rare. The independent commissioner model, however, has proved less than ideal.

The regulatory role of the commissioner has not required the time and attention envisaged when the legislation was drafted back in 1999, but the independent status of the position prevents the commissioner from direct participation in many of the technical and management challenges facing the ACT Planning and Land Authority. Changes to the Surveyors Act are required to enable the most senior surveyor in the territory to play a more proactive role in the management of the surveying and spatial information activities of the authority.

The Surveyors Bill 2007 retains the best features of the 2001 act, but replaces the commissioner with a full-time public service position: the chief surveyor. The chief surveyor will have all the statutory responsibilities of the commissioner, but will also manage the surveying and spatial information programs of the authority.

The bill also introduces compulsory continuing professional development for registered surveyors to maintain parity with other surveying jurisdictions, creates a survey advisory committee to advise the chief surveyor on the practice of surveying and the professional development guidelines, and resolves some minor anomalies in the earlier legislation.

The disciplinary powers of the chief surveyor have largely been retained from the previous act, but it is acknowledged that these require some review to bring them into

line with legislative best practice. This will occur as part of a general review of ACT tribunals currently being conducted by the Department of Justice and Community Safety. Consequential amendments are expected to this act and other acts as a result of that review.

Whilst the practice of surveying is transparent to most of the Canberra community, surveyors themselves are vitally concerned with the regulatory framework that they work within. Surveyors have been consulted from the outset of the preparation of this bill. A community consultation paper was prepared and made public in September 2006. Feedback on the consultation paper was received from individual surveyors and from their professional institute. Surveyors were overwhelmingly in favour of the major change from the commissioner model to the chief surveyor but, as a result of feedback, some other proposed reforms were not included in the draft bill and others were modified.

The consultation paper was followed by consultation on the exposure draft Surveyors Bill, which provided further opportunities for submissions on the draft legislation. The exposure draft Surveyors Bill 2007 and the associated documents were available for public consultation from 20 March 2007 to 3 April 2007. A copy of the consultation paper and the exposure draft bill was provided to every surveyor registered in the ACT. Feedback on the exposure draft was universally positive. The Surveyors Bill 2007 will provide a simple but effective regulatory framework for the practice of surveying in the territory and substantially improve the utilisation of surveying and spatial information expertise within the authority. I commend the bill to the Assembly.

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

MR SPEAKER: I remind members, in extending debate at lunchtime, that there are lots of other officers around the place who rely on us finishing on time. Just keep that in mind in future.

Sitting suspended from 12.35 to 2.30 pm.

Questions without notice

Hospitals—pay parking

MR STEFANIAK: My question is to the Minister for Health. When the introduction of pay parking at the ACT's two public hospitals was announced, you noted that revenue of the order of $800,000 would be raised. Since then, you announced a number of concessions that would have reduced the revenue that you raised. As well, the government hired a consultant to establish the system and spent money in establishing the system. Minister, how much money was raised through pay parking? How much money did you spend in total in introducing it into our hospitals?

MS GALLAGHER: I thank Mr Stefaniak for the question. In the implementation of pay parking, the cost was $1.8 million in terms of some of the work that was required. That included some of the consultancy. It also included some changes to traffic arrangements at both sites, signage, parking meters—things like that. To the end of May it was expected that we would receive about $1.2 million in revenue. I had certainly informed the Assembly on previous occasions that revenue was higher than

it was originally anticipated, of around $800,000, when I said we were expecting $1 million to be raised. Towards the end of May that was around $1.2 million, and the shortfall in the cost of implementing pay parking and the revenue raised was a total of $618,000.

MR STEFANIAK: I have a supplementary question. Minister, why did you put thousands of Canberrans through the inconvenience of pay parking for so little result? Can you also tell us when the new $29 million multistorey parking bays will be up and running?

MS GALLAGHER: The government was clear from the beginning that the idea around pay parking was not only to raise revenue for the health system—and it would have been much-needed revenue—but also to manage some of the pressures that were being experienced at both the car parks: to remove the incentives for people to park and ride at the hospitals and also to create capacity for visitors to park close to the hospital and for staff to be kept in certain areas, particularly towards the back of the hospital for morning staff and closer to the hospital for evening staff.

Once you take away all the community feedback around visitor car parking and the dislike of pay and display, the issues around traffic management at the hospital and parking management at the hospital were much improved with pay parking. I know that you will never agree with that, but it was true. There was parking for visitors close to the hospital. You could actually get parking close to the hospital. I visit the hospital pretty frequently on official and unofficial business. I was always able to get parking at the hospital and pay for that parking. So there were some benefits from it. It removed park-and-ride people. Staff were able to access designated car parking. Doctors were able to. It created some order in the situation.

The removal of pay parking, based on community feedback, meant that we could not introduce pay-as-you-leave parking. Between 30 and 40 per cent at Canberra hospital could have become pay-as-you-leave, and around 20 to 30 per cent of Calvary could have become pay-as-you-leave if we had wanted two systems in place and implemented pay-as-you-leave at Calvary. But the fact is that at neither site could pay-as-you-leave be implemented 100 per cent. The government had taken the decision that, because of that, we would do one system of pay parking—pay-and-display. The community did not like that. We have accepted that view. We have removed pay parking. I have to say that there has been traffic chaos at Canberra Hospital for most of this week.

Mr Pratt: So you made a mistake?

MS GALLAGHER: It is because there is no regulation of the car parks now, because there is no ability to designate staff car parks as distinct from visitor car parks. But the evidence is that—

Mrs Dunne: Why?

MS GALLAGHER: Because there is no regulation at the car parks, because they are free.

Mr Pratt: Why don't you reorganise your bloody time zone parking?

MR SPEAKER: Order, Mr Pratt!

MS GALLAGHER: Because you cannot do it if you are not paying for parking. You cannot say, "These are free staff car parks and these are free visitor parks; you're a visitor and you're staff." You can't do it.

Mrs Burke: Why not? Other places do it.

MR SPEAKER: Order, Mrs Burke!

MS GALLAGHER: You cannot regulate a system that has no regulation to it. It is a free car park. If a staff member wants to park close to the hospital, they can—and they are. The impact of that—and I have just come from the hospital—is that people wanting to access visitor car parking and car parking close to the hospital are now in direct competition with staff for those car parks. And the anecdotal evidence is that park-and-ride people coming from Woden are back again.

You would like a system to deal with that? Again, we cannot. It is a free car park. We cannot have one person standing in each car park saying, "Are you a visitor or a staff member? If not, you are not welcome here and you are going to be fined." It is not the system. It is going to take about a week—

Mrs Burke: What about a staff sticker?

MR SPEAKER: Order, Mrs Burke!

MS GALLAGHER: It is going to take about a week to sort through some of these issues. The exact same number of car parks is in place as there were—

Mr Pratt interjecting—

MR SPEAKER: Order, Mr Pratt! That is the second time I have called you to order.

MS GALLAGHER: Exactly the same amount of car parking is in place today as there was last week but, because we have removed pay parking, some of the structures that supported traffic management at the hospital have been challenged again. We will continue to work through those.

There were some benefits with pay parking. We accepted that the pay-and-display was not a model that was supported. We walked away. We have accepted the community feedback. We are working through the implementation issues associated with that government decision. It is anticipated that a new car park—a five-storey car park where the current helipad is—will take between 18 months and two years to construct. Considering that it will be funded in this year's budget, it will have a construction date of 18 months or two years post that time.

Hospitals—performance

MS MacDONALD: My question is also to Ms Gallagher in her capacity as Minister for Health. Minister, the Australian Institute of Health and Welfare's Australian hospital statistics 2005-06 report was released today. Could you update the Assembly on the report's findings for the ACT?

MS GALLAGHER: I thank Ms MacDonald for the question. The Australian Institute of Health and Welfare report shows significant improvements in our public hospital system but that there are still areas where we need to do further work. The areas highlighted in this report that demonstrate the positives that are occurring in the health system are that our recurrent expenditure has increased by 8.7 per cent from the previous year. At the same time we are increasing health expenditure to ensure that we meet increasing demand, a key efficiency measure.

Mrs Burke: Same old—

MS GALLAGHER: You had better listen to this, Mrs Burke, because you have to learn your portfolio and it is a little technical, so maybe save your interjections and listen to a bit of—

Opposition members interjecting—

MS GALLAGHER: Mr Smyth knew all this, so I did not—

Opposition members interjecting—

MS GALLAGHER: No. Mr Smyth had some expertise in these technical matters. Mr Speaker, if the opposition stopped interjecting, the opposition spokesperson on health might start understanding some of these more complex issues that occur in the health system. I will just walk you through some of the positives because the media release that Mrs Burke put out earlier today clearly showed that she has not understood the report in its entirety at all.

The relative stay index continues to improve. What we are heading for with patient length of stay is a figure of one, and we have come from 1.06 in 2002 to below one, to 0.97, in this reporting year. A measure of one means that you are running an efficient system and for the first time we are below that measure—again a positive.

Another key positive of the report shows that the public hospitals provided the highest level of separations per 1,000 population of any public hospital system in the nation. In 2005-06 the rate increased to 238.4 people per 1,000 population whereas the national average was 213. This shows that we have a population that uses fewer hospital services on average than the rest of the nation but we have a high utilisation rate for public hospital services. This is against the context of having a population with the highest level of private health insurance in the nation.

What that says to us is that people are choosing to come to the public hospital system. It shows confidence in the hospital system, which is supported by other data in this

report. This is also supported by our consumer satisfaction surveys that we have conducted over the past year, and they always show a very high level of patient satisfaction at TCH.

The report also shows that whereas our costs were 30 per cent above average in 2002-03 they had come down to 24 per cent above average in 2004-05, and again this year our efforts to reduce our costs in terms of inefficiencies have made us now only 14 per cent above the national average. In the last budget the government set a target of being 10 per cent above the national average by 2008-09, and this is going to be clearly achieved. So it shows that, while we are increasing expenditure, our expenditure is going into the delivery of health services and our overheads are coming down, which is extremely pleasing.

The report shows that there are areas where there is more to be done. In category 3 and 4 emergency presentations we are not able to meet the national average in terms of timeliness. This is a concern to the government. We have been putting resources and reform work into the emergency department to deal with timeliness. But the report does show that once people are seen at the emergency department the duration of an event in the emergency department is very efficient, and the time in which people are seen and the quality are good when measured against the national average. But more work needs to be done in categories 3 and 4 to make sure people are seen on time.

In relation to elective surgery, I believe the figure from this year is misleading, and that is because we are targeting the long waits off the list. We have been targeting those who have been between one and two years on the list.

MS MacDONALD: I ask a supplementary question. Minister, could you say if there are any further positives in the report, and what they are?

MS GALLAGHER: I thank Ms MacDonald. In terms of elective surgery, we have funded an additional $22 million to provide an additional 4,500 elective surgery procedures that we would not have seen without this investment. Last year, for the first time, we exceeded 9,000 procedures. We are going to repeat that effort this year. We have been targeting those people who have had extended waits on the waiting list. The effect of that is that those people are seen by admissions, and that affects median waiting times.

I am very confident that the median waiting times will be reduced in the next reporting period. For example, in 2005-06, 269 people who had been waiting for surgery for more than two years were admitted, which was an increase of 52 per cent on the previous year. The number of people waiting one year for surgery has dropped by 26 per cent over the last two years as well. That has been the result of a conscious policy decision by the government to target long waits on the list, and that has been reflected in these figures.

The report also highlighted that the increase in available public hospital beds is starting to bear fruit. There was an increase of 5.2 per cent in available hospital beds in the last reporting year. We have moved from 679 beds to 714 beds, an increase of 5.2 per cent against a national decrease of 0.7 per cent. So while there were reductions

in other jurisdictions, we are investing to ensure that we achieve the national average in terms of beds per population. That is what we are striving for.

In the context of funding those extra 126 beds in this reporting year, the subacute and new beds such as the MAPU have not been taken into account. This has to be seen in the context of the 110 beds that were removed by the previous government. We were in a situation where we had 784 beds—

Mrs Burke: Six years and you still blame the Liberal government.

MS GALLAGHER: We had more hospital beds—

Mrs Burke: Poppycock!

MS GALLAGHER: It is not poppycock, Mrs Burke. The Australian Institute of Health and Welfare is a reputable organisation. It is part of their call. It is not poppycock.

Mrs Burke: It is what is coming out of your mouth.

MS GALLAGHER: These figures come from the Australian Institute of Health and Welfare.

Members interjecting—

MR SPEAKER: Order! Mr Barr, Mr Seselja and Mrs Burke, cease interjecting.

MS GALLAGHER: Let us take it back to basics. Who was in charge in 1996, and how many beds did we have? It was the Carnell government and there were 784 beds. That was published by the Australian Institute of Health and Welfare at that time. Then we see those beds decline year after year after year until, in 2001-02, we reached the all-time low of 670 beds. That was a direct decision of the opposition when it was in government to withdraw beds from the system.

Mrs Burke interjecting—

MS GALLAGHER: There is no poppycock about it. These are documented facts. In fact, if you go back through the *Hansard* prior to the Liberal government coming to power, in 1995 Kate Carnell promised that they would ensure that by the end of the decade Canberra would have 1,000 public hospital beds under a Liberal government. That was going to be quite an achievement when they had got down to 670. There were 110 fewer beds when they left power than when they came in. This is shown in the data.

Today the data shows that our investment in beds is paying off. There will be more beds reflected in the AIHW report of next year, and those beds are required in order for us to deal—

Members interjecting—

MR SPEAKER: Order! Minister, resume your seat, please. There are far too many interjections from both sides, especially Mrs Burke.

Mrs Burke: I have been quiet for the last three seconds.

MR SPEAKER: I have called you to order a couple of times, Mrs Burke. Discontinue interjecting.

MS GALLAGHER: Those beds are required, and more will be required if we are to keep pace with demand particularly for elective surgery and therefore recovery in beds in our hospitals. That is why these beds are being provided and that is why more beds will be provided, so that we can continue to ensure that record demand for elective surgery is met every year in the ACT.

Ambulance service—attendance at non-hospital births

DR FOSKEY: My question is to the minister for emergency services. It is in relation to ambulance officers attending non-hospital births. The community midwifery program had a policy whereby midwives were allowed to attend the birth at home if the mother was unable to make it to the birth centre in time. The midwife could go directly to the woman's house and provide the necessary care to ensure a safe birth.

Due to the government's inability to organise insurance, it revised this policy in November 2005 and withdrew this option from the midwives. Now we have a policy that an ambulance must be called out to the birth and a midwife can attend, although without suitable equipment.

Is the minister aware that this has created a higher risk situation whereby the ambulances do not carry oxygen pipes small enough for a baby, nor syntocinin, a drug which helps reduce the mother's bleeding? Was that risk considered when the decision was made?

MR CORBELL: I thank Dr Foskey for the question. I am not familiar with the details of the full range of equipment and medication that ambulances provide, but I am happy to take that element of the question on notice and provide further information to Dr Foskey.

The policy setting generally for home births is a matter for my colleague the Minister for Health. As I understand the issues about ambulance workers attending directly as a result of that very small number of cases where a woman has gone into labour and is unable to attend the hospital herself—either the delivery is proceeding at a fast pace of for some other reason she is unable to be transported to hospital by other means, which is the normal arrangement that most people undertake, either by their spouse, family or so on—it is appropriate and responsible policy for an ambulance to be called so that the ambulance can attend and assist, if necessary, with the birth.

Clearly, the government's policy in relation to home births—and, again, this is a matter for my colleague the Minister for Health, but I am sure she will not mind if I comment very briefly on this—is that, if births are under the care of the ACT

government's maternity services in one way or another, it is desirable that the birth occurs either at the birth centre or at the maternity ward of the hospital. We encourage expectant mothers to take appropriate steps to make sure that they are able to attend the hospital when they know that they are coming near to term.

The attendance of ambulances at homes is an exceptional circumstance. Clearly, there are circumstances where women proceed to labour in their own home and are unable to attend the hospital. In those circumstances, it is appropriate that the ambulance attend.

Most births are able to proceed in a very straightforward way. I am sure we would all agree that the minimal amount of medical intervention should be provided in relation to a birth and that you should not go to every birth in the expectation that you need to undertake some form of medical intervention. Clearly, ambulances provide only a certain amount of support. Beyond that, you need to be in a healthcare setting in the hospital or elsewhere.

I am happy to get information on the equipment that ambulances have. I hope I have been able to explain to Dr Foskey the parameters of this policy.

DR FOSKEY: I thank the minister for agreeing to seek that information, depending on what that is. Will the minister work with emergency services and the community midwifery program to ensure that midwives and ambulance officers are better equipped to attend emergency home births?

MR CORBELL: If there are issues being raised at the clinical level about the adequacy of equipment or services, I will treat the matter seriously and look at the issue. It has not been raised with me as a matter to date, either by the ambulance service or the health department. If it was or if it is an issue, I would look at that carefully. To date, it is not an issue that has been raised with me in any way.

Estimates 2007-2008—Select Committee

MR SMYTH: My question is to the Chief Minister and Treasurer. In February of this year your office, on your behalf, advised the Assembly committee secretariat that you would not be available for the first week of estimates hearings due to an overseas trip that had been planned for some time. On ABC radio on 24 May of this year, however, you said that you would not be going on an overseas trip. Then, in answer to a question on Tuesday, you said, "I did not say that I would not be in Canberra that week." Now, in today's *Canberra Times*, all these contrary statements are blamed on a diary mix-up. Chief Minister, as ACT Treasurer, where will you be from Monday, 18 June 2007 to 22 June 2007 during the first week of hearings of the estimates committee?

MR STANHOPE: I expect to be in Canberra.

MR SMYTH: Chief Minister, why do you find it so difficult to tell the people of the ACT where you will be as you are exercising your responsibilities as Chief Minister of the ACT?

MR STANHOPE: I do not.

Budget—taxation measures

MR MULCAHY: My question is to the Treasurer. What is the average cost per household of the new and increased tax measures that your government imposed in the 2006-07 ACT budget?

MR STANHOPE: I will take that on notice, Mr Speaker.

MR MULCAHY: Mr Speaker, I ask a supplementary question. Treasurer, why, one year after their introduction, can you not detail how much the revenue measures that you have introduced typically have cost Canberra households?

MR STANHOPE: I have taken the question on notice, Mr Speaker.

Hospitals—performance

MR SESELJA: My question is directed to the Minister for Health. Minister, the Australian Institute of Health and Welfare has just released its latest report on the performance of public hospitals. This report shows that the ACT's public hospitals continue to perform poorly relative to hospitals in other jurisdictions in a number of areas.

On ABC radio this morning you acknowledged a number of the problems that have been identified in this latest report from the institute, and you mentioned implementing a "comprehensive program". Minister, can you confirm that the ACT still has the highest cost for each casemix-adjusted separation of any jurisdiction in Australia? If so, why?

MS GALLAGHER: Yes, I have already outlined that we have, I think, the most expensive—14 per cent above the national benchmark when adjusted casemix is taken into account. When it is all put together, we are. That has come down from 30 per cent two years, to 24 per cent above average, to 14 per cent. It is largely to do with our staffing costs. That is reflected in the detail of the report as well. If you look at the tables at the back of the report, you will see that our staffing costs are higher than they are in other jurisdictions.

We have always set ourselves the target of getting towards 10 per cent above national benchmark. We think that is achievable. But we have never set ourselves the standard of trying to get to the national average because we have a very good, high quality system in place. We do not mind the expenditure into health when it is used in the most efficient way. The measure has to be seen in terms of the other measures of efficiency in the hospital system, which are also under reform and demonstrated in this report to be achieving good results as well.

We are seeking to get to a target of 10 per cent. We have a benchmarking review underway. That is largely looking at administrative positions and managerial positions within the hospital. We have been up-front about the need to seek savings there and

make sure that the administrative and management side of the hospital is not costing so much.

If we are looking for savings, they will be reinvested in the hospital system. That is what we are doing. That work is underway. We believe that will ensure that we will get down to 10 per cent above national benchmark. We are not setting ourselves the target of zero. We accept that Canberrans seek and receive a very high quality health system. That costs money. This government funds health accordingly.

MR SESELJA: Minister, how many more "comprehensive programs" will it take to start resolving the problems that exist in the ACT's public hospitals?

MS GALLAGHER: The reform work is underway, and that takes time. It is not about a new plan. It is about trying to ensure that the work that is already being done into setting up the hospital to deliver the best patient care that we can in the most efficient way is completed. There is work underway at the emergency department, but that work goes right through the hospital. It is following the patient journey from beginning to end. It is reforming the way we do work. We would like to have seen, particularly in categories 3 and 4, improvements earlier than we have seen them, but we are confident that we have in place a plan to address the situation. It is around improving access, particularly at the emergency department, in those two categories.

We need to put this report in context. There were three single areas in this report where the ACT did not perform well. Of all the measures in a 400-page report, there were three areas. They were category 3 in the emergency department, category 4 in the emergency department, and waits for elective surgery.

Mr Smyth: Reasonably important categories, though.

MS GALLAGHER: They are important. I am not saying that they are not important. I am just trying to put it in context. I have been to the hospital today. When these reports get put into the media and you have words like we have had today—that we have the worst health system in the country—that affects staff in our health system, because they are delivering excellent health services. Everyone knows that. Mr Smyth says that all the time; he will always back the staff. The thing that this report does when it gets out, perpetuated by some of the comments today, is that it reflects badly on staff, because they are accused of having the worst health system in the country.

Mrs Burke: No way. That's ridiculous.

MS GALLAGHER: That is how it happens, Jacqui. You can't just blame me.

Mrs Burke: Ha, ha! You are the minister.

MS GALLAGHER: Well, you can.

MR SPEAKER: Order! Mrs Burke, I warn you. Minister, it would be better for you not to be provoked by interjections. Direct your comments through me.

MS GALLAGHER: I know. They are hard to ignore, though, particularly when they are annoying and when they do not understand the issues.

MR SPEAKER: It just makes it easier.

MS GALLAGHER: Feel free to blame us. That is part of the job. But the impact of that and the impact of the insinuation that we have the worst performing health system in the country is that morale in the hospital plummets and people get concerned. Every day they turn up to work they do their best and, when you have reports like the one out today and you have people focusing on just three measures, not the whole system, and not looking at all the good things that this report says, there is an effect on the staff.

One of the issues we have in the emergency department is the recruiting of medical staff to positions. We are very short-staffed there at the moment and we have been pulling out all stops to fill those positions. Not having enough medical staff in your emergency department will affect the timeliness of people being seen, because there simply isn't the full complement of doctors working there.

We get into a vicious circle when we have people focusing on saying that we have the worst performing emergency department in the country in that it is very hard then to attract staff to work here. The market is very competitive. We do have a plan for reform. We believe that it will pay off. More needs to happen around categories 3 and 4, but we need to ensure that it is seen in a bigger picture of how the health system is operating. Mr Seselja is so interested in the answer to this question that he has actually walked away. We are dealing with the issues that have been highlighted in the report and I am very confident that we will see improvements in those areas. The dedicated staff that work in those areas should be congratulated and acknowledged by this Assembly.

Aboriginals and Torres Strait Islanders

MS PORTER: Mr Speaker, my question, through you, is to the Chief Minister in his capacity as the Minister for Indigenous Affairs. As we celebrate Reconciliation Week, can the Chief Minister outline for the Assembly how the ACT government is meeting its commitment to improve the lives of indigenous Canberrans?

MR STANHOPE: I thank Ms Porter for the question. I think we all acknowledge that it is a matter of abiding shame for every Australian that those who inhabited this land for tens of thousands of years before the colonial period remain, two centuries on, the single most disadvantaged group in Australian society. It is a matter of shame and a call to action.

Life expectancy for Aboriginal and Torres Strait Islander Australians is shorter, poor health is more of a burden, economic security is more elusive, standards of education achievement are lower and the chances of being a victim of crime are higher. A city like ours ought to be able to break out of this intergenerational cycle of disadvantage, if anywhere can. We are affluent and well educated. We understand the mechanics of disadvantage. And I believe, by and large, we are less prone to blame the victim for

their own circumstances and less ready to seek the comfort of racism—the comfort that absolves us of the responsibility to seek change.

Yet here in the national capital our indigenous residents still lag on almost every count of health, prosperity and achievement. Their disadvantage may not be as stark or as visible as it is in some parts of the country but it is real and enduring and our collective responsibility. In a year that marks not just the 40th anniversary of the 1967 referendum but also the 15th anniversary of the High Court Mabo decision and the 10th anniversary of the *Bringing them home* report, we are all forced to ask ourselves what we are doing to fulfil that responsibility.

As a territory, as a community, indigenous and non-indigenous, we have achieved some significant things. But always the gloss is taken off that achievement by a consciousness that so much more needs to be done. Thus, while intensive efforts in our schools have meant that almost every one of our indigenous children in years 3 and 5 achieve results in relation to national literacy benchmarks that are close to or indistinguishable from their classmates, we face real challenges in maintaining those results once the children reach year 7, let alone years 9 and 12.

Strategies in place in the field of education include indigenous home school liaison officers and dedicated Koori preschools. We have individual learning plans for every indigenous child in our government schools. We have the On Track program, which operates out of Narrabundah primary school and Birrigai outdoor school, and a college transition program. About 75 public schools have signed up to the national Dare to Lead program.

In the areas of justice, where indigenous Australians are tragically overrepresented both as victims and as offenders, we offer circle sentencing as an opportunity to divert individuals from the traditional criminal justice system. We have funded the establishment of the ACT Aboriginal Justice Centre, which is controlled by the community itself and which runs preventative programs and support programs and coordinates support to indigenous Canberrans caught up in the criminal justice system. Still we find that consistently almost 30 per cent of children that we as a community need to lock up, to imprison, are Aboriginals or Torres Strait Islanders. The proportion of adults imprisoned is similar, though latterly just less than that for juveniles—and this while indigenous Canberrans represent only just above one per cent of our population.

The Winnunga Nimmityjah Aboriginal health centre, which enjoys significant government support, is one of the stars of this city's health system, delivering everything from primary health care and dental care to midwifery, antiviolence programs, diabetes clinics and parenting classes. Every time I visit the centre I am heartened and humbled by the activity and passion of the staff and the board, and by the results delivered to our Aboriginal and Torres Strait Islander men, women and children by their community.

As Minister for Indigenous Affairs, I believe that we are a small enough jurisdiction to get things right—to ensure that, as far as is humanly possible, no indigenous child falls through the cracks. That is why I have established a task force on indigenous affairs to drive the delivery of improved services and outcomes for Aboriginal and

Torres Strait children in this city. The task force is made up of the heads of the departments of health, education and disability, housing and community services and is chaired by Ms Sandra Lambert.

What I want to see—and what I am starting to see—is a truly whole-of-government approach to indigenous children. What I want is not to react after a child comes to the attention of the system but to have the system see, hear and act on the very earliest warning signs, and to jump in, providing the support that is necessary for boys, girls and their families.

Hearing what our indigenous people themselves have to say about their needs and aspirations is crucial. We have a ministerial advisory body and we have the United Ngunnawal Elders Council. But since the shameful abolition of the Aboriginal and Torres Strait Islander Commission by the Howard government we have had no elected voice articulating the desires and thoughts of the ATSI community in Canberra or in Australia. That is why I have committed this government to the election of a representative indigenous body which will have that job and which I believe will assist us in achieving, in time, true reconciliation.

Hospitals—performance

MRS BURKE: My question is to the minister for health. Minister, the Australian Institute of Health and Welfare has just released its latest report on the performance of public hospitals. This report shows that the performance of emergency departments in the ACT's public hospitals continues to be the poor relative of that of hospitals in other jurisdictions. In the ACT, 80 per cent of people presenting to the emergency department are classified in triage categories 3 and 4. Minister, what precise actions are you taking to ensure that the people who are classified in categories 3 and 4 are treated in time, in accordance with national benchmarks?

MS GALLAGHER: Over that reporting period, the number of presentations in the emergency department increased overall, against all five triage categories, by 6.3 per cent, up to a total of around 99,622—pretty much equally split between both our public hospitals: Calvary 46,000 and TCH 52,000. Of these presentations, the biggest increases in triage categories were in categories 3 and 4. We saw decreases in category 5 during this time, but categories 3 and 4 saw increases of between 19 per cent and 14 per cent over the two years—between 2004-05 and 2005-06—to make up the total of 80 per cent of total ED presentations.

We have funded a range of initiatives in the emergency department. We have had the access improvement program go in. It is a workplace design solution for areas which delay or tie up staff unnecessarily. There has been a range of minor workplace solutions put in place to deal with the waits and make sure that people are seen on time. We have implemented the fast-track service to deal with the less urgent cases—that they get through quickly. We have the after-hours GP services working, which we subsidise—again as a way of ensuring that we can free up emergency department time to deal with the more serious, more urgent patients.

We recently opened the MAPU, which will take patients who present to emergency and who are quite complex. There were often long delays in their being seen and

getting through the emergency department. They are now moving pretty much as soon as possible—I think the benchmark is within four hours—into a ward situation where they will be dealt with. We have implemented a new paediatric area where children can be seen. Designated and dedicated staff work in that area to make sure that children are being seen quickly and to free up other areas of the emergency department for work with other patients.

Obviously there is more to be done. I accept that these figures are not acceptable. They are below the national average in category 3, where on average people wait 20 minutes extra, and category 4, where on average they wait 18 minutes extra. That is not acceptable and we need to do further work to address that.

Staffing is a big issue. In making sure that we have our full complement of doctors on duty, we have been looking at rates of pay to make sure that we are competitive with other jurisdictions. For some time, we have been trying to attract doctors to work in our emergency departments. Those attempts have been unsuccessful, so we have to look at the employment arrangements around that.

We are advertising internationally for staff, and of course we will look nationally. We will look to our own staff—the junior doctors and the registrars—as they can move forward as emergency department specialists. We will look at how we employ them and how we make sure we retain them. If need be, we will have to look to private providers if we need to contract staff. If we seriously cannot get employees—get them on deck and get them working—that puts significant pressure on the emergency department. I think that there are 10½ emergency department specialists funded in the department and at this stage only six of those positions are filled. That puts enormous pressure on those doctors and affects the workload there.

We have been doing everything we can to attract doctors and try and keep them working here, but it is proving to be very difficult. There is an international shortage of emergency specialists. The medical workforce is international. It is not about working in your home town any more; you have to attract people from overseas. That is proving to be very difficult.

I have gone through a range of initiatives which we are working on to ensure that we are getting people through the emergency department and that those people who maybe do not need to be seen in the emergency department are moved into other areas of the hospital.

MRS BURKE: Thank you, minister. What priority are you placing on ensuring that the proportion of all patients receiving care in the emergency department within the required time has increased from 52 per cent?

MS GALLAGHER: I have probably answered that in the first part of the question. Another area we are looking at is a review of triaging. We are having some external independent experts come and have a look at that, to make sure that those processes that are in place are working and that there is not further work that needs to be done to address that. At the end of the day, the decisions on triaging and who gets seen and who gets seen first are decisions that are taken every minute of the day in the emergency department by staff. Those are clinical decisions.

We need to ensure that we create the capacity for that throughput to occur. I certainly do not dictate who gets seen first. I do not think Mrs Burke is even suggesting that I should say that categories 3 and 4 need to be focused on. Categories 1 and 2 will always come first in terms of access to the emergency department.

In the next month I am visiting a number of emergency departments that are meeting the national benchmark, including a completely revamped and very modern emergency department. I am having a look at that from a building perspective because our emergency departments are getting old and we need to ensure that the environment that staff are working in supports the productivity that we are going to need to ensure that we are improving our position and meeting national benchmarks in categories 3 and 4.

That is certainly what we are trying to do here. We are trying to achieve improved results. We are already seeing improved results in the emergency department. Based on the AIHW report to me, it is not enough in terms of timelines for categories 3 and 4. Access block has come right down from 40 per cent 18 months ago to 27 per cent in this quarter. They are measures directly as a result of increased resourcing to the emergency department and the access improvement plan. We are seeing improvements in the emergency department, but I accept—and I will not walk away from the responsibility—the need to address timeliness of access to care for categories 3 and 4 patients.

Arboretum

MRS DUNNE: My question is to the Chief Minister and it relates to the arboretum. Chief Minister, on 18 December 2006 the *Canberra Times* reported that the planting at the arboretum had been put on hold due to drought and that planting would be delayed until at least the autumn. The *Canberra Times* quotes Professor Peter Kanowski, who is an adviser to the arboretum project, as saying:

> My advice is that it is not a risk worth taking.

Chief Minister, today in your abortive attempt to censure me you told the Assembly, in relation to my statement on Tuesday, that you had not received advice not to plant trees. You said:

> I received no such advice not to plant trees. That is not true

Chief Minister, did Professor Kanowski or anyone else advise you or your officials about the undesirability of planting trees at the arboretum during the drought? If so, by whom, when and in what form did you receive advice? Did you mislead the Assembly this morning in your statement that you had not received advice?

MR STANHOPE: I always enjoy these attempts by Mrs Dunne to rewrite history. Essentially, the motion of censure was withdrawn because of Mrs Dunne's abject and grovelling acknowledgement of the fact that she had misled and was aware that she had misled and, in the context of the motion and the speech I gave in relation to it, was aware of the appalling comparison between herself and Mr Seselja, a member

most recently arrived to the place who acted with decorum and the integrity required of a member of this place, as against a more senior and experienced person who has been around the Assembly for some years and who just did not have it within herself to follow the example set by her more recently arrived colleague Mr Seselja. It was that grovelling acceptance, and I was simply embarrassed at the nature of it—embarrassed on Mrs Dunne's behalf—

Mr Mulcahy: Have you got over that now?

MR STANHOPE: I have. In fact, it is quite interesting. As I walked out of the chamber after that debate, Ms Gallagher said to me that I should now watch the grace with which Mrs Dunne actually acknowledges the wrong and the fact that it was she who, by her own admission, may inadvertently have misconstrued what I said. This led me, as I say, out of sheer weariness, to withdraw the motion of censure.

In retrospect, of course, and bearing in mind Ms Gallagher's prediction to me at the time that I should now wait and see how Mrs Dunne deals gracelessly with the withdrawal of the motion, I ask myself: why am I surprised at Ms Gallagher's prediction about the absolute lack of grace that we now see represented by Mrs Dunne here today? It was fully predicted, fully expected and none of us is a bit surprised. You really are an embarrassment, Mrs Dunne. You really are.

In relation to the question, it is quite clear that Mrs Dunne misled the Assembly grievously on Tuesday in relation to her suggestion—

MR SPEAKER: You can withdraw that.

MR STANHOPE: I withdraw that, except, Mr Speaker, Mrs Dunne admitted—

Mrs Dunne: You still have to withdraw.

MR STANHOPE: I have withdrawn, but I note that Mrs Dunne admitted during the censure debate this morning that she had in fact misconstrued and misled the Assembly. She has admitted it, so can I now rephrase my comment? As Mrs Dunne herself admitted this morning, she had misled the Assembly, perhaps inadvertently. She was misconstrued, she said, but she did mislead the Assembly. I stand by the statements I made in response to the question I was asked on Tuesday.

MRS DUNNE: I will give the Chief Minister an opportunity to answer a supplementary question. Did he mislead the Assembly this morning when he said:

> I received no such advice not to plant trees. That is not true.

MR STANHOPE: I stand by the answers I gave on Tuesday.

Hospitals—waiting times

MR PRATT: My question is to the Minister for Health. Minister, on ABC radio this morning you were asked about the latest report on the performance of hospitals, prepared by the Australian Institute of Health and Welfare. On being questioned about

waiting lists you expressed concern about the increase in the median waiting time for elective surgery in the ACT's public hospitals. You said that the median waiting time had "gone up quite dramatically". At the same time you said that there was a deliberate targeting of patients who had had long periods waiting for their surgery; that is people who have been waiting for surgery for more than one or two years. Minister, how can the median waiting time for elective surgery have increased when there has been a 20 per cent reduction in people waiting for long periods for surgery?

Mrs Burke: Twenty-six per cent actually.

MR PRATT: Sorry, 26 per cent; I correct that. I withdraw my mislead, Mr Speaker.

MS GALLAGHER: It is interesting—we talk about these things in caucus from time to time—the strategies at question time. They had been forming a combined effort, and a bit of a strategy was emerging of everyone asking the same minister a question. We in fact commented on how together the opposition were in getting organised and that they obviously had a great strategic mind somewhere behind writing the questions. It is a shame they did not actually get the questions right to put pressure on the ministers, but there was a strategy—or a skeleton of a strategy—in place, which has to be acknowledged. But today we see the breakout group. Who are they, the breakout group? It is a classic—

Mr Mulcahy: I raise a point of order, Mr Speaker. We are now one minute into a dissertation. As interested as we are in the workings of caucus, it has absolutely nothing to do with Mr Pratt's question.

MS GALLAGHER: I am getting to the question.

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

MS GALLAGHER: I am, because it is relevant to the question. In terms of the questions I have been asked on health today it is relevant because we had the leader, who started the charge with health, and then we saw his loyal subjects back him up. We have had Jacqui Burke back him up. We have had Steve Pratt back him up. We have even had Zed, interestingly, back him up. But then we have had the breakout group of Brendan—

Mr Smyth interjecting—

MS GALLAGHER: Brendan's obsession with the Chief Minister's diary. Richard has had a bust-out on Treasury and Mrs Dunne on the arboretum.

Mrs Burke: Haven't you got anything better to do than—

MS GALLAGHER: We have to provide comment when comment is due. I take again the opportunity to talk through why, despite investment in elective surgery and more throughput than ever before—exceeding 9,000 procedures; that is over 9,000 people removed from the list, which is also in the report in terms of elective surgery performance—the median waiting time has increased.

More people were removed from the list than ever before and that was directly because of this government's investment in elective surgery. We have provided an additional $22 million into elective surgery, which has delivered 4,500 more procedures that would not have been funded had that investment not occurred. An objective of this additional investment was to ensure that those waiting beyond the standard time frames of care would get access to care whilst ensuring at the same time that those who had urgent need for care were also seen. So we have targeted those people who were very long-wait patients, who were waiting longer than one year, perhaps between one and two years, and in some cases longer; 269 people waiting longer than two years for surgery have been removed from the list. The measure is taken when they are admitted for surgery. It is not looking at the list; it is looking at the time from when they joined the list to when they were admitted to surgery. So it makes sense that when you are removing large groups of people who have had long waits that will blow out the median waiting time, and that has been seen.

Opposition members interjecting—

MS GALLAGHER: It does! I can keep talking; I can keep saying it: that is what happens. We are removing people whose wait has been 700 days. We are focusing on those people as opposed to those who have been waiting for three months. Of course there is a one-year impact; when you are removing those surgeries, that will have impact on your median waiting times. That is the story. I cannot see what your problem is in understanding that. It seems pretty clear to everyone else.

MR PRATT: Mr Speaker, I have a supplementary. Minister, for our benefit can you explain what the "median waiting time" means?

MS GALLAGHER: It is the length of time from when you join the list to when you are removed and when all the removals are put together—

Mr Smyth: No, no. It's the midpoint.

MR SPEAKER: I warn you, Mr Smyth.

MS GALLAGHER: I have answered this question. I do not understand the confusion about the fact that in one year we have targeted long-wait patients off the list. We have delivered more patients than ever in that category off the list. Hopefully that has had a one-off effect in extending that measure in that performance indicator. Unless you can stand up and tell me that I am wrong, I will stand by what I have said in all of the answers I have given around this.

Fireworks—safety

MR GENTLEMAN: My question is to the Minister for Police and Emergency Services. With the Queen's birthday long weekend fast approaching, can you please advise the Assembly on the steps the government is taking to ensure that Canberrans are aware of how to safely enjoy fireworks night?

MR CORBELL: I thank Mr Gentleman for the question. Yes, the Queen's birthday

long weekend is traditionally in Canberra the fireworks weekend. The government continues to support—

Mrs Dunne: On a point of order, Mr Speaker: there is a general convention in this place that we call things by their proper name. This weekend is not fireworks weekend or fireworks night, but the Queen's birthday weekend.

MR SPEAKER: I am not aware of such a convention. If we were bound to call everything by its correct name, some of us would not have much to do.

MR CORBELL: It is the weekend during which fireworks are used. The government continues to remind Canberrans of the importance of using fireworks safely and in accordance with the law. As members would be aware, fireworks are legal for sale over the seven-day period commencing next Monday, but only from an authorised retailer and only for use during Saturday, Sunday or Monday of the long weekend, between 5.00 pm and 10.00 pm.

The government will be taking a series of steps to ensure that both retailers and consumers know their obligations but also are adhering to their obligations under the law. Firstly, the Office of Regulatory Services will be conducting spot checks of retailers throughout this period, particularly over the long weekend period itself, to make sure that retailers are complying with their obligations to sell fireworks in accordance with the law and to make sure that they are informing consumers of their own obligations in relation to use.

In addition, over the long weekend itself, the Office of Regulatory Services inspectorate and ACT Policing will be mounting a joint operation to ensure that any complaints about fireworks use are promptly attended to. The Office of Regulatory Services will be placing an officer within the police communications room to provide a quick response to any complaints about fireworks use during the Queen's birthday long weekend and to make sure that either police of ORS inspectors are available to attend as soon as possible to address any concerns arising from complaints associated with fireworks use.

Traditionally, we get an increase in the number of complaints at this time of the year. In particular, we are confident, as a government, that the use often continues past the long weekend into the following weeks. This is illegal. If people have fireworks that they have not used during the long weekend period itself, they cannot continue to use them after that time legally and need to dispose of them in a safe manner without letting them off.

There are significant penalties in place for those people who fail to comply with these requirements. For an individual, a $3,000 fine is a possibility for illegal use. The possession, supply or use of prohibited fireworks can lead to fines of up to $200,000. We will be paying particular attention to any retailer who is selling illegal fireworks, fireworks that have not been approved for consumer use, as well as anyone who uses such fireworks over the coming period. Hopefully, this means that we can enjoy, overall, a safe and enjoyable fireworks long weekend.

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

Public Accounts—Standing Committee
Report 8—government response

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts): For the information of members, I present the following paper, which relates to a report that was presented to the Assembly on 14 December 2006:

> Public Accounts—Standing Committee—Report 8—*Review of Auditor-General's Report No 5 of 2004: Leave Management*—Government response.

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

Leave granted.

MR STANHOPE: Mr Speaker, the Auditor-General's performance audit report No 5 of 2004 on leave management presented the results of a performance audit on whether leave management practices implemented by ACT government entities were compliant with certified agreements, legislation and government and agency policy. The audit report was presented to the Assembly on 3 August 2004.

This report was referred to the Standing Committee on Public Accounts, which sought and received a government submission in relation to the audit report. The committee examined the issues raised by the Auditor-General in relation to leave management and the government's submission and, in November 2006, the committee presented to the Assembly its report No 8, *Review of Auditor-General's Report No 5 of 2004*, which included five recommendations.

As noted by the committee, since the original presentation of the Auditor-General's report and the government's response, the implementation of a new whole-of-government human resource management system "Chris21" and establishment of the shared services centre has occurred. Following consideration of the committee's recommendations, I am pleased to present the government's response to the committee's report, which either agrees or agrees in principle to four of the recommendations and notes the last of the recommendations.

Auditor-General's report No 9 of 2006
Paper and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): For the information of members, I present the following paper, which relates to a report that was presented to the Assembly on 12 December 2006:

> Auditor-General Act—Auditor-General's Report No 9/2006—Sale of Block 8, Section 48, Fyshwick—Government response.

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

Leave granted.

MR BARR: The government was pleased that the report by the Auditor-General found that the sale process was conducted transparently and fairly for all bidders. In light of the criticisms about particular aspects of the sale, the audit found that there was no conflict of interest or preferential treatment given to any bidder seeking information about the potential uses of the land; that the planning and associated sales documents, including the lease and development conditions, were comprehensive and clear enough to enable bidders to conduct normal commercial due diligence; that the price paid for the land—$39 million—was an appropriate return for the territory. The amount paid represents a return of 86 per cent above the Auditor-General's own retrospective valuation of $21 million; and that the relevant land use policies, while needing to be clarified, cannot be interpreted in a way that would mean Fyshwick is to become another town centre. The government has considered the report of the Auditor-General in detail and prepared a formal response to the three recommendations.

I will go through the main points of the audit report in respect of the audit objectives. Firstly, was the sale of block 8, section 48, Fyshwick in accordance with relevant legislation, policy and accepted better practice? The LDA had appropriate policies and procedures in place for the sale of block 8, section 48, Fyshwick. The policies and procedures are in line with those used in other Australian jurisdictions.

Documentation relating to the sale was sufficient to enable bidders to conduct normal commercial due diligence. However, there was a lack of clarity in relation to the planning controls in the territory plan that were applied to the lease and development conditions for the site. The clarity of the sale documentation could have been improved with the inclusion of an appropriate interpretation of the territory plan as applied to the site.

Secondly, was the sale conducted fairly with appropriate accountability? The sale of block 8, section 48, Fyshwick was in general conducted fairly and with appropriate accountability separately by LDA, as the vendor agency, and by ACTPLA, as the planning regulator. However, there was a weakness in communications between the LDA and ACTPLA and interested parties, which could be remedied to provide greater public confidence in the probity, fairness and transparency of the sale process.

In particular, key government agencies should operate through a single point of contact in LDA for inquiries from and dissemination of information to interested parties during a major land sale process. There was no evidence of any actual or perceived conflict of interest, nor of any intention by LDA to mislead or restrict potential bidders. ACTPLA afforded no preferential treatment to Austexx, or to any other potential purchaser.

Thirdly, did the sale achieve appropriate financial and planning outcomes for the ACT? The sale of block 8, section 48, Fyshwick returned an appropriate financial outcome for the territory based on the permissible uses for the site of bulky goods retail, non-retail commercial, restaurant and shop uses. The auction price of $39 million attained was well above that of an independent backcast valuation

commissioned by this audit, which took into account various scenarios of mixed uses, including direct factory outlet use. Further, as it was not the government's policy intention to allow a major town shopping centre on the site, it is unlikely that the said land would have achieved a value as much as $60 million, as has been suggested by some interested parties.

The sale of block 8, section 48, Fyshwick generally conformed to the government's strategic planning policy intentions to the extent that it allowed increased diversity and flexibility of general retailing and obtained a specific planning outcome intended for the EpiCentre development on section 48, namely a significant bulky goods facility. The sale was also consistent with perceived consumer and industry demand for bulky goods and other retailing opportunities. Audit did not examine and form a view on the impact of the approved Austexx development on ACT retail hierarchy.

I table the government's response to the Auditor-General's report and the three audit recommendations. I will deal with those recommendations in turn. Recommendation 1 states:

> The LDA should develop and implement specific probity plans and risk management plans covering all stages of all major land sales it undertakes.

The government's response is that it agrees in principle with the recommendation. Risk management processes are already embodied in the Land Development Agency's documented sales procedures. In this context, the Auditor-General's report noted:

> LDA has sound policies and procedures for the sale of land that are generally in accordance with good practice principles observed in other jurisdictions.

The LDA had a probity plan for the call of expressions of interest to select shortlist bidders and there was no requirement for a probity plan for the commercial auction, which was conducted in accordance with the agency's land sale policies and procedures. The government will, however, review these procedures to take into account the audit recommendation.

Recommendation 2 states:

> For major Government land sales:
>
> - LDA, as the Government's vendor, should act as a single point of contact to process all inquiries from, and dissemination of information to, interested parties about the sale, planning and other key regulatory matters.

The government again agrees in principle with this part of the recommendation. The LDA acts as a point of contact for the government in its dealings with land sales. However, it is not feasible for the LDA, as the vendor, to respond to each kind of technical inquiry that may be made by interested parties during a sales process. It is important that the role of government land vendor is kept separate from that of the regulator to ensure that the separation of statutory functions is maintained at all times. This is a well-documented policy in other jurisdictions, such as New South Wales, Victoria, Queensland and South Australia.

To respond to this recommendation, and recognise where the practical expertise exists within government to deal with the relevant inquiries for major land sales exercises, the LDA will, in conjunction with other relevant agencies, including ACTPLA, obtain relevant statutory information pertaining to the site. This information will be made available as a common resource for any interested party. Should the sales process involve an expression of interest, the LDA will be the point of contact for inquiries made and, where appropriate, the LDA will seek formal advice from relevant agencies for forwarding to inquirers. The LDA will advise inquirers that it will make any such information available to other parties involved in the sale process.

Beyond the expression of interest process, the LDA will formally refer any inquiry made to it from a prospective purchaser to the relevant agency or agencies, for formal advice. Again, the LDA will advise inquirers that it will make any such information available to all parties involved in the sale process. The current ACTPLA/LDA protocol is being reviewed to ensure that these processes are incorporated and separate agreements will be documented with other regulatory agencies to reflect similar arrangements.

The second part of recommendation 2 states:

> - Alternatively, ACTPLA and other key regulatory agencies should take responsibility for formally advising LDA about matters important to the sale process to enable LDA to properly inform the market.

The government agrees with the second part of the Auditor-General's recommendation, that ACTPLA should take responsibility for formally advising the LDA about matters important to the sales process to enable the LDA to properly inform the market once it has formally advised ACTPLA of the sale processes and identified its information needs.

Recommendation 3 from the Auditor-General states:

> ACTPLA should undertake further clarification of the Territory's industrial land use policies, particularly in respect of permissible uses and land use restrictions.

This recommendation is also agreed. In the context of the specific matters raised in the audit report, the current industrial land use policies are sufficiently clear in respect of permissible uses and land restrictions. This relates to issues of clarity in respect of the territory plan in the audit report, which ACTPLA suggests is not in doubt, following legal advice obtained, and if a competitor wishes to dispute it then it is a matter for the courts to decide.

The fact that two parties were prepared to pay $39 million and $38 million—well above the audit's own value backcast valuation—is a very clear indication that there were no issues of clarity in respect of permissible uses and land use restrictions. The government's current planning system reform project includes the development of a new territory plan. This includes the development of zones, which will apply the test of permissible uses and land use restrictions to all land use policy areas. The government, the Planning and Land Authority and the Land Development Agency are

committed to making the improvements recommended by the Auditor-General. I would like to thank the Auditor-General for her report on this matter.

I move:

> That the Assembly takes note of the paper.

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

School—closures
Ministerial statement

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (3.44): I seek leave of the Assembly to make a ministerial statement concerning public consultation on the future use of former school sites.

Leave granted.

MR HARGREAVES: I thank the Assembly for granting me leave to make this ministerial statement. As part of the school's renewal policy which was announced in this Assembly on 13 December 2006 by my colleague the Minister for Education and Training, several schools and preschools have been or will be closed. The government, in consultation with the ACT community, now needs to decide what to do with these sites.

The Stanhope government is committed to engaging with the community on a range of issues. As Minister for Territory and Municipal Services, I am very pleased to announce to the Assembly that we will be shortly commencing a two-stage consultation process with the intention of gaining the ACT community's views on future uses for the schools and preschools that have closed or are to close. By conducting a two-stage consultation process, the government is ensuring that the public are actively involved in deciding the future use of each site.

In the first stage of the consultation process, the government will engage an independent consultant to run consultation forums in Belconnen, Woden, Weston, Tuggeranong, Hall and Tharwa. In these forums, the government will be seeking community input on a regional basis on a number of potential future uses that can be tested against each site, and suggestions from the community about any additional uses that could also be considered.

This consultation process will in stage 2 encompass the majority of preschools and primary schools that have been identified for closure as part of the schools renewal policy. This includes a number of schools and preschools which have not yet closed. However, three preschool and two primary school sites will be subject to community consultation about their possible future uses only during stage 1. This is because the preschool sites—Giralang, Macarthur and Mackellar—are very small and not adjacent to a vacant primary school site, while the condition of the Rivett and Kambah Mount Neighbour primary school buildings is such that significant capital investment would be required to bring them up to a suitable standard for ongoing tenanting.

There will also be some sites that will not be part of either stage of the consultation process; for example, where they have been identified for government or community need, such as the Causeway preschool, which was transferred to the Department of Disability and Community Services for community education programs. In relation to the Page and Isabella Plains preschools, the government will defer any long-term decision on future use, noting their close proximity to planned preschool to year 2 schools. In the interim and following their closure in 2007 and 2008 respectively, the sites will remain available for short-term tenanting.

The Department of Education and Training has significant human resources activity at Higgins primary school. Accordingly, the government will reconsider this school and the attached Higgins preschool site closer to their closure dates of December 2008. This will enable an evaluation as to whether the school should be retained in whole or in part for government use.

I can also advise that the two-stage consultation process will include the former Downer and North Curtin primary schools which closed some years ago. While these sites are already tenanted, the government recognises they are in prime locations and should also be the subject of review and consideration concerning their long-term future use. This is particularly pertinent for the North Curtin site, given the government's previously-announced decision to move the emergency services authority to a new consolidated headquarters site, in line with the McLeod report recommendation.

In stage 2, the government will seek the community's views about which of the potential future uses identified during stage 1 would best suit each site. This will be done by the independent consultant conducting community forums at both a regional level and in each of the suburbs/towns for the remaining schools or preschools that have closed or will be closed. The government will use the outcomes of the community consultation process to determine how these properties can best be utilised. The government intends to announce the outcomes by early 2008.

So far, the government has developed four broad options for possible future uses of the sites, and these will be used to help guide both stages of the consultation process. I would like to assure the Assembly that the government recognises that these options are not exhaustive, not exhaustive by any means, and that the community will be encouraged to suggest any additional options that they can think of during the first stage of the community consultation forums.

In terms of the options developed for testing so far, the first is for the government to retain the school buildings for community use and convert the surrounding grounds into urban open space. The second option is for the government to retain the school buildings for community use, develop part of the rest of the site and make the remainder of the site converted to urban open space. The third option is that the government retain some of the school building or buildings for community use, with the remainder of the building or buildings to be included with some of the site which would be developed for aged care housing or other uses and the remainder of the site converted to urban open space. The fourth and currently final option would be to completely redevelop the sites.

These options and any others agreed as part of the community consultation process will be discussed in detail with the community over the last quarter of 2007. Depending on the outcome of this process, it is possible that there will be territory plan variations required. If so, the variations would of course include a further round of public consultation. This means that over the coming months the government will be consulting with the community on the possible future uses of 12 primary school sites and eight preschool sites on at least one occasion, and in many cases three times. This community consultation program represents a fantastic initiative by the government, which is committed to involving the community in the decision-making process. I look forward to seeing what the community comes up with.

Another fantastic initiative of the Stanhope government that I would like to bring to the attention of the Assembly is the proposed investment of a whopping $90 million for upgrading every public school in Canberra over this year and the next three years. This includes new and improved classrooms, play equipment and specialist teaching areas. We are also spending $20 million on providing state-of-the-art information technology in schools, including upgrading broadband links to every public school. In addition, between now and 2011 the government will be spending over $175 million on building four new schools in Gungahlin, west Belconnen and Tuggeranong. These schools will provide students with modern teaching and learning environments.

Finally, I would like to express my appreciation to Stephen Ryan and Kristin Blume of the property group for all of the work that they have done in developing these options in this consultation process. I would also thank very sincerely Kim Fischer from my office, who has spent an enormous amount of time making sure that the process is welcomed by the community.

Mr Speaker, I present the following paper:

> Public consultation on the future use of former school sites—ministerial statement, 31 May 2007.

I move:

> That the Assembly takes note of the paper.

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

Economy—management
Discussion of matter of public importance

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

> The importance of responsible financial management in providing the basis for the delivery of sustainable, high class services to the ACT community.

MS PORTER (Ginninderra) (3.54): Mr Speaker, there is no doubt that responsible financial management is essential for the delivery of sustainable high-class services. Indeed, it is even more important in a small city-state such as the ACT. It is important that governments recognise this reality and take a longer-term view of financial management: financial management that not only funds core services now but also ensures our children and future generations are not burdened by debt.

Sound financial management is the cornerstone of any strong economy and enables a government to meet its people's needs. The ACT, more than any other Australian jurisdiction, depends on a focused strategic approach to managing its finances. The ACT government balances a complex range of local and state functions. It has a relatively small revenue base which it must use to fund the same services delivered in the large states. With scarce resources, it must target expenditure to areas of greatest need. At the same time, it must maintain basic services for all Canberrans, such as hospitals and schools, to a high standard. That is not an easy task, as we all know.

For two decades, ACT governments have maintained expenditure and a way of living that hark back to the days when our bills were paid for by the commonwealth. Since self-government, all governments had continued down this path. General government spending has been around 20 to 25 per cent above the average of other jurisdictions. This level of spending was funded through high levels of commonwealth transitional assistance in the early years and later through land sales. This was clearly not sustainable.

Mr Speaker, it was this forward-thinking government which decided that we had to put the territory finances on a sustainable footing. To this end, the government began a reform process in the 2006-07 budget. These reforms were designed to maintain our capacity to invest in physical and social infrastructure, preserve the quality of our services, and continue to deliver services in priority areas. The reforms were also to provide a buffer against any future fiscal downturns. The government began a process of reducing the cost of administration while maintaining expenditure and high standards in core government services. There was no crisis, but there would have been one for future generations if the government had not acted.

These reforms involved reprioritising services to areas of greatest need, consolidating and streamlining functions, and increasing some fees and charges. New revenue measures were introduced to expand the revenue base, achieve parity with other jurisdictions where appropriate, and recover more of the real costs of delivering high-quality services. Obviously we would all like to keep fees and charges as low as possible. But, in the context of providing funding for all those services that make Canberra such a great place to live, I think most people would agree that a modest increase in fees and charges is a small price to pay. That is exactly what this government has done in order to sustain the high quality of our services. In fact, numerous people approach me at my regular mobile offices to say that they prefer that this approach by this government be maintained.

Looking into the future the territory, like all jurisdictions, also needed to address the effects of the ageing of the population, growing health care costs, increasing superannuation liabilities and the needs of a growing economy. Our health system is

on a sustainable growth path, as the minister outlined earlier, while maintaining its quality and range of services. There are now greater education options for students in government schools, as we know. The government has reduced the cost of administration through streamlined structures and processes. Taking advantage of the ACT's small scale, the government has made efficiencies in service delivery.

Mr Speaker, the government has restructured the territory's finances without compromising the services it delivers. It has achieved this through sound financial management. It has reduced the cost of government and provided simpler and better access to services. Expenditure has been tightly controlled and efficiency gains directed to front-line, high-priority services. Indeed, the government has, within a climate of fiscal constraint, enhanced funding for programs for the disadvantaged, enabling people with disadvantage to access the services they need. It goes without saying that, without the government's responsible financial management, the high-quality services we now enjoy would not be sustainable.

Over the past 5½ years the government has achieved significant results for the ACT community. These results have been achieved despite cuts in commonwealth payments to high-need services such as hospitals, disability services and housing in the order of 10 per cent over the last five years. Let's take a few examples of what this government has been doing. In education, the budget is now higher than at any time previously. In fact, expenditure on government schools has increased by around 26 per cent. This investment has funded smaller class sizes, skilled teachers and modern equipment, particularly in information technology. Learning and teaching environments in our public schools have been improved by a record $90 million investment over four years and $20 million is being used to improve information technology.

In health, this government has increased expenditure even more significantly—by over 70 per cent to just over $756 million. Expenditure on hospital services has increased by around $220 million, or 80 per cent, to around $490 million. We have funded more hospital beds and more elective surgery. We have enhanced intensive and critical care and provided more medical and nursing staff and a greater operating theatre capacity. Our hospitals have also managed a 29 per cent increase in demand for inpatient services over the past five years or so. An additional $22 million has been provided for increased elective surgery throughput.

Mental health expenditure has increased by $25 million, or 97 per cent, with more specialist mental health providers, more facilities for mental health inpatients, more supported accommodation for young people with serious mental illnesses and more early intervention strategies having been funded. Additionally, increased disability services have been funded. Expenditure has increased by 76 per cent over the past five years. There are now more services for individuals with a disability and those with complex needs, with more respite care, community assistance, crisis intervention and, importantly, support for carers.

Funding for the care and protection of children has increased by 174 per cent. There is additional funding for substitute care and foster carers, strengthened support for children at risk and more front-line staff. Greater support is being given to young people at risk of not achieving their potential. Police facilities have been upgraded and

there are now more than 120 additional police protecting Canberrans than when this government was elected. Our emergency services have been improved, with expenditure increasing by well over $41 million, or 116 per cent. The responsiveness to fire, emergency and ambulance call-outs continues to be fast. Public and community housing has been strengthened, with over $83 million being provided since the government was elected. This includes support for affordable housing. Around $15 million has been provided to address homelessness and emergency accommodation.

Mr Speaker, the ACT is experiencing a period of sustained economic growth and prosperity. The last few years have seen increased economic activity providing a strong foundation for increased confidence in the ACT. This has been assisted by the government's sound financial management, which has created a framework for ongoing growth. At the same time, the government has strengthened the services that the community expects. It is because of the government's financial strategy for taking care of the future of this territory that we have enjoyed and will continue to enjoy in the ACT the best services in Australia.

MR MULCAHY (Molonglo) (4.05): They were fascinating words, Mr Speaker. The frightening thing is that I think Ms Porter actually believes some of them. I am glad to speak on this topic today, because it gives me a chance to speak on an area of financial management which has caused some confusion indeed to the territory government. That issue is the issue of sustainable service delivery and budget requirements to sustain government services. This has been an issue which the Chief Minister has had some difficulty with in the last few days, culminating in some strange statements in the Assembly and a rather unfortunate press release which show that he really does not understand the issue and is quite hostile to those who do. So let me take this opportunity to explain how sustainable service delivery works and the financial management that must underline this goal.

Sustainability, as we are aware, refers to the capacity to continue a practice without substantial change and without exhausting the resources which are required to continue. In the case of sustainable service delivery, you must have enough income coming in to continue to provide the services you are providing without allowing those services to deteriorate. Of course, this income must be from some ongoing source. It must not be from a one-off source.

To give some concrete examples, if you are in business or you are a business owner and you receive dividends from an ongoing business concern, then this would be considered sustainable income and a proper basis for sustainable service provision. On the contrary, however, if you are receiving income from selling that business, then this would not be sustainable income since you cannot sell the same business again. It also goes without saying that if you are putting assets aside in order to meet with superannuation liabilities for your employees then this is not your income and is not a basis for sustainable service delivery.

So how does this bear on government financial management? In order to be able to deliver sustainable services, you must know how much money you have coming in and how much money you have going out. You must be honest about whether you are operating in the red or the black, and this means that you must be able to look at your

budget and find the correct figures, the correct accounting treatment that would allow you to make this assessment. It is for this very reason that governments have now adopted the government finance statistics, also known as GFS, accounting method which replaces the former Australian accounting standard, or AAS, method.

So what is the difference here? The AAS method includes land sales, amongst other things, in the budget bottom line and therefore does not reflect sustainable revenue to the government. On the contrary, the GFS method excludes land sales. In a March 2004 report, the ACT Treasurer stated:

> GFS financial reporting requirements have been developed specifically to accommodate differences in the activities of governments compared to activities in the private sector.

In addition, the government's own 2006-07 budget states:

> It should be emphasised that this adjustment is not simply required to ensure consistency with the GFS results reported by state jurisdictions. It is also required to provide an accurate assessment of the longer-term sustainability of the budget position.

I urge Ms Porter to review this very point. Moreover, even under the GFS, we must still be careful to read the correct figures to get to the sustainable income position. The GFS figures in the budget provide the net operating balance, excluding gains in superannuation assets and also the net operating balance after adding gains in superannuation assets. As I have said, it makes no sense to include in your calculations gains in superannuation assets which belong to those employed in the public sector. This is clearly the case where, as is currently the case, these superannuation assets do not even cover the liabilities that they intended to cover.

So how do we find out our sustainable income? Well, it is pretty simple. You go to the GFS calculations in the budget and you look at the figure for the GFS net operating balance, excluding gains in superannuation assets. What does the ACT position look like? Adopting this method we can turn to the ACT budget position to see if the government is delivering services in a sustainable manner.

The 2006-07 budget provides for a deficit, under the proper GFS accounting system, of $147.5 million, excluding gains in superannuation assets. In 2005-06, this deficit was $196 million. Indeed, we even had deficit after deficit under this government. Even if we were to include the superannuation gains, we would still have deficits. After adding expected gains in superannuation assets, the budget still provides for a deficit of $80.3 million in 2006-07 and a deficit of $162.3 million in 2005-06.

In some cases, where we are looking at a different question, it may be proper to use a different accounting method or to include superannuation assets. It really depends on the question we are asking, but if we want to get a clear picture of the sustainable income to the territory—which is what this MPI is about—which will allow for sustainable service delivery, then this is what we need to look at.

We can see that the government is not able to deliver sustainable high quality services. We know that there are serious problems in ACT services. But even excluding an

assessment of the merits of the services, we can see that the government cannot even sustain the services they are currently delivering. This is in fact quite extraordinary. Here we have a government which has imposed massive increases in taxes and charges desperately trying to get itself back in the black. They are taxing anything they can lay their hands on, but they just cannot keep up with their runaway spending. We can see from the figures—they are there in black and white—that this government's spending binge is out of control and is not sustainable. We do not have sustainable high class services to the ACT community. Instead, we have deficient services and unsustainable levels of spending.

Mr Corbell: Tell us the services you are going to reduce.

MR MULCAHY: The first thing, of course, that Mr Corbell needs to get on top of is efficient management. We saw what the Chief Minister thought of the way he managed planning in this city and the cries of joy I am hearing from all over the property sector in the ACT. They said, "Hallelujah." I have to say they are all praising the Chief Minister. I will give him credit. They are saying, "At last he dumped the planning minister. We might be able to get a few things done." It is not all about cutting money. It is actually also about management, and we have seen today with the rather poor defence of the health department that a lot of it is just simply bad management and poor leadership.

But why am I going on about accounting methods and GFS and AAS? Why am I going into the nitty-gritty of how to read a budget? Surely the government already knows this. Surely they know that they are supposed to be using the accounting method that is recommended by their own Treasury and their own budgets. You would think so, but unfortunately this is not the case. The Chief Minister and Treasurer would have us believe that there has never been a Labor government deficit in the last two years. He really is kidding us.

Indeed, not only did Mr Stanhope deny ever having had a deficit budget. He went into a frenzy, issuing a bizarre media release saying that these were "misleading" and "preposterous" claims, and saying that any talk of a deficit must be a result of a lack of mathematical capacity. If you have a few spare minutes, I commend a read of the Chief Minister's release yesterday. It is the best laugh you will get all day.

Of course, this is a pretty standard tactic from the Chief Minister. Whenever any legitimate criticism is levelled at his government, especially one of his own portfolios, he decides that he has to go on the attack and try to suppress any dissent. Mr Corbell, I would have thought, could relate to the suppression of dissent because he got the chop as soon as he questioned a few things.

The Chief Minister goes into a rage and tears down straw men left and right. He argues against statements that were never made and against criticism that never existed. He cites promises that were never made. He does that time and time again. But does he address the criticisms that were made? Did his press release make any mention of the different accounting methods or which one he was using? Did he make any attempt to justify his calculations? Of course he did not.

This really is beyond the pale. For the government to hold that they have never incurred a deficit is simply ridiculous and is belied by their own Treasury and their own budget. There it is in black and white in the budget papers year in, year out. I have got them in my office. I imagine every member here has the budget papers in their offices. He knows the truth of it. This is an attempt to mask the fact, as is plainly available in the budget papers, that this government has not been able to balance the books.

It is clear that sustainable provision of services, which Ms Porter proclaims to this Assembly are so important, is vitally important for the ongoing operations of government. I do not think we would disagree with you there. This service delivery should not rely on constantly increasing levels of rates and charges, and certainly should not rely on revenues from land sales or asset appreciation or expected gains in superannuation assets.

In light of the fact that the 2007-08 ACT budget is just around the corner, it is imperative that Mr Stanhope become more acquainted with the concept of sustainable service delivery. The government must learn to listen to criticism and must make sure that its readings of its own budgets are in line with proper practice recommended by its own Treasury.

It was interesting that when I responded to the first budget here after being elected to the Assembly in 2005-06, I was howled down when I said that we need to move away from AAS and move to GFS. I was told that was preposterous, that what was in place was great. And what happened 12 months later? Suddenly this is the great way to go. The backflip was extraordinary. Obviously, after Mr Stanhope managed to get himself across some aspects, the Treasury people impressed upon him the need to make this reform, a reform, incidentally, that was demanded by the credit rating agencies that were insistent on the ACT bringing itself up with modern practices in the management of public finances.

I have to take issue with something else that was said in the previous speaker's remarks. She said there was no crisis last year, that the government simply reached this view that it was spending 20 to 25 per cent too much on services and that it was going to take a new approach to the way it does things. There was a crisis. I met with Standard & Poor's. I sat down with their top people, and they said that the ACT was on the verge of getting a downgrade of its credit rating if it did not change the way it was operating. It was not just over the accounting system. It was over the way this territory was managing its affairs.

If we had had that adverse credit rating outcome, which we came very close to experiencing, it would have had ramifications on the territory in a host of different areas. So whilst I commend the Treasury for getting their act together and persuading, no doubt, the government to make these reforms and to rein in some of its activities—a reining in, incidentally, that the Attorney-General says is impossible to do—we saved the bacon in terms of the credit rating. But it was a very close call because this cabinet had taken its eye off the game.

Mrs Burke: It is about management, something you do not understand within your own business.

MR MULCAHY: As Mrs Burke points out, it is poor management which is the hallmark of this government. They have never actually come to terms with how you improve management. They just say, "Well, it costs this, so let us tax more." They are so beholden to interest groups and unions that they are too scared to make tough decisions.

Two years ago the AHW report showed that when Mr Corbell was health minister our health system was costing, from memory, about $80 million—I do not have it with me—compared with other states because it was poorly run and poorly overseen. Unfortunately, we have not turned the corner in relation to health management yet. We have made some improvements with planning. We have had a change of minister. That is hopefully going to improve the processes for those trying to invest in our city, but we have a long way to go. There are a range of other agencies and ministries that are clearly in need of better management.

Life is not all about just slashing and burning. It is about good management, and certainly we have seen at the federal level that the Howard government has been able to deliver 10 consecutive surpluses and still deliver reductions in taxation and a high quality of services across the Australian community. As I said yesterday, I think there are lessons that can be taken from that.

I will conclude at that point, but I hope I have clarified the issue in regard to accounting systems and the statements by the Chief Minister made outside of this place incorrectly claiming that there have been no deficits under his administration. We know there have been.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (4.19): I thank Ms Porter for raising this important issue. I would like to start by alluding to a letter to the editor that I saw in the paper the other day that I thought was very apt. It said, "Even a drover's dog could preside over good economic management, given the state of the Australian economy at the moment." I thought that said it all.

Ms Porter has spoken in some detail about the government's record on delivering services, and I would just like to set the record straight on a few points that the opposition has made in this place. The shadow Treasurer has said that state and territory governments should reduce taxes. Since the introduction of GST, the fiscal imbalance between the commonwealth and the states and territories has actually increased. The commonwealth's share of total taxation by all levels of government has increased and the share of taxation by state and local governments has actually decreased.

In 2000-01, commonwealth taxes comprised 82 per cent of the total taxation by all levels of government. In 2005-06, this share had increased to 82.3 per cent. The commonwealth's taxes have grown at a much faster rate than the states' and territories' taxation. Between 2001 and 2006-07, commonwealth taxes increased at an average annual rate of 6.6 per cent. State government taxes, on the other hand, increased by an average annual rate of 5.8 per cent, or nearly a full percentage point less.

The so-called "rivers of gold" have indeed been flowing towards the commonwealth and despite its increasing share of taxation the commonwealth has reduced its contribution to key services such as acute care, disability services and housing assistance. For the ACT specifically, between 2001-02 and 2005-06, per capita specific purpose payments actually decreased by more than 10 per cent in real terms. That is right. John Howard reduced funding to disability services, housing and acute care by 10 per cent over that period. So much for a caring government!

In 2001-02, the commonwealth contributed 31 per cent of acute care costs in the ACT. This has now dropped to 23 per cent. In 2001-02, the commonwealth contributed around 20 per cent towards the costs of disability services. This has now dropped to 14 per cent. The federal Liberal government has reduced funding to disability services and state governments have been left to make up the difference in costs in an environment where not only is the population ageing, but clearly the need for services is growing. It is quite telling also that at a time when housing affordability is at its most problematic, the federal Liberals have reduced funding for housing assistance in real terms.

The government's record on financial management is a strong one. The current government has delivered five successive audited accounting standard surpluses, including the biggest and the second biggest since self-government. By contrast, there were record deficits in the successive years of Liberal rule: $344 million in 1995-96; $170 million in 1996-97; $157 million in 1997-98 and $161 million in 1998-99. The figures speak for themselves. There were successive record deficits under the Liberals, and this is the comparison on financial management, the same accounting standard and same basis.

Mr Mulcahy made the extraordinary claim in the debates earlier this week that the government has not made savings. It is fair to say the government inherited a number of programs and service areas that were severely underfunded, and these included services for the most vulnerable in our society. Remember mental health. When we came to government we had the lowest per capita expenditure on mental health in the nation. That was the legacy of Brendan Smyth and Michael Moore.

We had record problems with disability services. Let us remember the Gallop inquiry into disability services. What an absolute shemozzle we inherited there! And, of course, there were the ongoing issues with child protection. The government has properly resourced these programs to ensure that the most disadvantaged members of our community are able to access the services they need. At the same time we have ensured that the services are efficiently provided and the cost of administration is reduced.

The shadow Treasurer said yesterday that the government has not made savings. This is simply incorrect. The government's structural reform program introduced in last year's budget will deliver $383 million in savings from more streamlined structures, more efficient processes and increased productivity. At the same time, the same budget provided the single largest investment in public schooling since self-government, a growth envelope for health that is above the growth rate of revenues and provision for growth in demand for health care services.

Cancer treatment services are funded at eight per cent growth per annum. The same can be said in acute care services, at eight per cent per annum; mental health services at six per cent growth per annum with home and community care funded to achieve nine per cent growth per annum. That is the strong and sustainable budget management that this government has put in place.

We have directed efficiency gains to front-line services in high priority areas while constraining overall expenditure. For example, since 2005-06 the government has funded an additional 126 hospital beds, making up for the legacy we inherited from Mr Smyth and Mr Moore and all of those others from that failed previous administration that actually reduced hospital beds by over 100. That was the legacy of the Liberals—100 fewer hospital beds than when they came to office.

Contrary to suggestions by the Liberal opposition, the ACT is not a high taxing jurisdiction. The Commonwealth Grants Commission 2007 update, the most recent update from that body, assessed that if the ACT applied average state tax and other state revenue rates it would raise $2,081 per capita. The ACT's actual own source revenue from the most recent period was $1,970 per capita, well below the assessed average rate of taxation that the grants commission uses and well below the state average of $2,519. The most recent data from the ABS also indicates that the total of state and local government taxation in the ACT is $2,386 per capita. The national average is $2,594 per capita.

How can the Liberal opposition claim that this is a high taxing jurisdiction when we are below the national average when it comes to the average tax take? We are lower than New South Wales, Western Australia, Victoria and South Australia. How can the claim be made that we are a high taxing jurisdiction when we tax below the national average?

Mr Seselja: Comparing us to New South Wales.

MR CORBELL: That is the grants commission figure, Mr Seselja.

Mr Seselja: What about the small jurisdictions? How do we compare with them?

MR CORBELL: Do you not agree with the grants commission? The grants commission has made the assessment. The ACT is less than the per capita average on a national basis.

Mr Seselja: That is because New South Wales takes it right up.

MR SPEAKER: Order, Mr Seselja!

MR CORBELL: That is even after including the additional tax measures introduced in last year's budget. We are still below the national average. That is what the Chief Minister means when he refers to putting our service delivery on a sustainable basis.

From 2001 to 2006-07, the ACT's taxation revenue increased at an average rate of 4.2 per cent. This includes the taxation measures introduced in the 2006-07 budget.

By comparison, all states' taxation grew at an average of 5.8 per cent. I should point out that the commonwealth's own taxation take has increased at an average of 6.6 per cent per annum, higher than the states and much higher than the ACT's.

In summary, the government's record on financial management is a sound one. We have consistently delivered surpluses. We have properly funded programs and services that the previous government left unfunded: mental health, hospital beds, child protection—all of those areas. The government has made efficiency savings and reinvested these in priority areas. Taxpayers are getting the benefits of the sound financial management of this administration.

MRS BURKE (Molonglo) (4.29): It is timely for Ms Porter to highlight that she believes the Stanhope government has some form of magic bullet approach to offering the hope that it practises responsible financial management and that it can therefore provide and deliver sustainable and high-class services to Canberrans. I think we need to remember those words, "sustainable" and "high-class". That is not the feedback I am getting at this stage. I do not know about other members.

How can it be that we are all paying more taxes in the ACT? I was surprised to hear Mr Corbell say that. I do not know who he is listening to. What people are telling me is that they are paying more, yet we are receiving a much lower level of service delivery in many sectors across the community, not the least, of course, being in the area of health.

Today I received a copy of the Australian Institute of Health and Welfare's latest report on the performance of the nation's hospitals. We have heard the health minister trying to talk up the state of play in our health system. The minister said that only a few things were highlighted. I point out that very major things were highlighted. We are talking about waiting lists and emergency departments. I do not think there are any more pressing and urgent issues to be faced by this government.

The minister talked about state of play in our health system. Once you cut through the gobbledygook there is not really much substance to what the health minister actually says. She has no answers. We are going around in circles. We have had three health ministers during the term of this government. That indicates that you cannot fix the problem; you will not get to the nub of it. How can you deliver sustainable high-class services to the ACT community when we get reports like the one we have had today, which shows clearly that you are failing the people of Canberra?

What are the primary issues? Waiting times for elective surgery and public hospitals continue to deteriorate. The current expenditure is up overall. Resources and performance are also key issues of concern to the commonwealth government. One of the key areas of the ACT budget is the health sector. It is a very big part of our budget, but it is in the health sector that we find the ACT government continually failing to improve its performance? It is very alarming.

For the Minister for Health to downplay the seriousness of the deficiencies in our health system by saying that ACT public hospitals provide a safe, efficient and high quality service is simplistic at the very least. It also displays a lack of insight into just how poorly we perform in comparison with other states and territories. I would say,

too, that it is very poor form of the minister to stand in this place and say that somehow we are targeting our comments to the staff and personnel at the hospital—the nurses and the doctors on the front line. That is disgraceful.

Mr Seselja: The usual defence.

MRS BURKE: As Mr Seselja says, it is the usual defence. When in doubt let us jump for the personal attack; let us just go the personal. There is no way that we would ever say anything against the nurses and doctors in our hospital system. The health minister has failed to fix the system. As I said, we have already had three health ministers since the Stanhope government came into office, yet the Australian Institute of Health and Welfare report clearly signifies that there has been no impact in terms of making efficiency gains, where needed, to be able to pump the necessary resources back into the system.

Mr Corbell talks about money going down and money not going up in the ACT and that the government is not taxing more. I do not know what government members read. What figures are they looking at? Yesterday Mr Stanhope was talking about commonwealth figures. He has got no idea. It is all about management. I am not sure, but I do not think anybody on that side of the House has ever run a business or been in business. I do not know. I will stand corrected if I am wrong. That is why they are not good managers.

Mr Corbell: Mary has.

MRS BURKE: Yes, a big business, a private business. You have no idea.

Mr Corbell: That is the only qualification to be in parliament, is it?

MRS BURKE: Not at all. You cannot talk about management, particularly financial management.

Mr Corbell: Did Zed run a big business?

MR SPEAKER: Order!

MRS BURKE: You have got no idea.

Mr Corbell: Has Bill run a big business?

MRS BURKE: This is relative to being in the position to deliver sustainable, high-class services to the ACT community, to name but two areas where you would expect to see attention focused, and it simply has not been prioritised.

Mr Corbell: Yours was a very successful business, wasn't it, Mrs Burke?

MRS BURKE: It is about prioritisation of funding. You do not know anything about that, Mr Corbell. You lost the planning portfolio and you are feeling a little bit out of sorts; so you decide to attack Mrs Burke. I am sorry. It is not working.

Mr Corbell: No, it is just the absurdity of your comments, Mrs Burke.

MR SPEAKER: Order, Mr Corbell! Take no notice, Mrs Burke. Do not be distracted.

MRS BURKE: The ACT has been warned it must combat areas of highest need, such as attending to cutting the waiting lists for elective surgery or seeing patients in the emergency department within specified time frames according to triage categories.

On Tuesday, quite out of nowhere really, I noted the comments made by the Treasurer in his attempt to reset the focus towards what funding arrangements are in place with the commonwealth. The question is: why do we need to be focusing so intently on this? As I have said earlier, when in doubt, this lot blames or point the finger at someone else—they get to the personal and avoid the issue.

Well published data shows that the commonwealth is continuing to meet its share of the national health bill over the decade to 2004-05. Funding to the states and territories went from 44 per cent to 47 per cent. Mr Stanhope, how would we seek to achieve a more significant proportion of funding from the commonwealth? Providing further evidence that we actually can justify it might be a good start. Improvements in service delivery and efficiency gains would be great. That is the problem. You cannot take it to the commonwealth government. No, you would rather play politics with people's lives. You blame the commonwealth. You say, "They will not give us more money. We have spent all ours, but the commonwealth will not give us more money."

Much of the commonwealth's health expenditure is focused on caring for people in the community setting and, in turn, the private hospital sector to allow for a reduction of pressure on state public hospital services.

Mr Corbell: That is a great policy, isn't it? It just does not work very well.

MRS BURKE: Mr Corbell sits over there waffling away, trying to cover over the bad state of affairs in the ACT. We have had so much money pour into this territory and what have you lot done with it? You have squandered it. Or are people across a large section of the community lying when they say they are not getting good service?

Chief Minister, the GST revenue is fed to the states and territories. Mr Corbell did not want to have to mention the GST at all. It was very awkward for him to have to somehow skirt around the fact that all this GST that is coming into the ACT economy is being wasted. He has blamed the commonwealth for a breakdown in funding disability services. What was the GST for? It was to be used for those specific things that we need to point our attention to. We must have prioritisation of funding.

The health minister—I applaud her for alluding to this—said that they are starting to tackle efficiency gains, particularly in the health services sector. As the minister said today, the ACT has performed the worst in terms of medical labour costs and recorded the worst emergency department performance. If the Chief Minister does not see this as unacceptable, and dare I say an intolerable situation, then I do not take too much comfort in believing that today's MPI topic reflects the current approach taken by the Stanhope government. That is a sentiment echoed by many, many Canberrans who are

totally disillusioned with this government's capacity to manage the finances of this territory. I think Ms Porter's motion will alert many community groups and send a very mixed message to them about their ongoing viability under the Stanhope government. You can see it—rationalisation all the way through.

Finally, not one speaker from the government has been able to bring himself or herself to talk about GST revenue to the territory. Perhaps they think that if we do not talk about it, people will not question how they have squandered it.

MR SESELJA (Molonglo) (4.39): I had to laugh when Mr Corbell started his speech with the usual refrain from the Labor Party that a drover's dog could have delivered the kind of economic benefits that we have seen over the past 11 years under the federal government. What is he basing that on? Over the last 11 years we have seen the Asian financial crisis, a major recession in the US and most major European nations go through a recession at some stage—yet the Australian economy has continued to grow and has continued to perform well.

In that time we have seen $96 billion of Labor Party debt paid off. We have seen taxes cut year after year. We have seen not just an income tax cut for the last four years but a cut in the top marginal rate. The Labor Party thought in 1996 that people on $50,000 a year were rich—so presumably they now think that people who are on about $65,000 or $70,000 are rich, because that would be the inflationary rate—and they were slugged with the top marginal tax rate at $50,000. We have seen that go up. We have seen the middle rate cut. We have seen low rates cut. We have seen family tax benefit flow to those families who most need it. Low and middle income families with children are seeing the benefits of this economic management.

Mr Corbell says, "Well, a drover's dog could have done it." Despite all the evidence to the contrary, despite the federal government having had to deal with national security challenges and despite the increase in funding for Medicare, for roads and for education, he says, "A drover's dog could have done that. They could have paid off $96 billion of debt. They could have established a future fund, an endowment fund, cut taxes, increased funding to Medicare, increased funding to national security and increased funding to roads." The analysis that Mr Corbell has engaged in is laughable.

What we are seeing now is a result of sound economic management, most of which has been rejected or opposed by the Labor Party. Who would forget that they voted—was it the year before last?—against the tax cuts? Mr Beazley voted against the tax cuts. They voted against the GST. The Chief Minister, of course, is anti-GST. I think if he had his way he would be giving it back. He would be giving back all of the extra revenue that we are now seeing, because we know that he came in this place at the time and said what a terrible, unfair tax it was. But of course he is happy to accept that money. In fact the states and territories have never had it so good in terms of revenue they are receiving from the commonwealth as a result of the GST.

Ms Porter invites us to compare legacies in her proposal as a matter of public importance: "the importance of responsible financial management in providing the basis for the delivery of sustainable, high class services to the ACT community it." It is clear that there has not been good financial management at this end, in the ACT government, under the Labor Party over the past five years. If anyone was in doubt

about this government's economic management credentials it could be seen today when we were asking the question about pay parking at the hospital.

We found out today about the extraordinary situation where the government imposed pay parking at our hospitals, put a lot of people through a lot of grief, and actually lost money. Who knows of another government that has lost money on pay parking? If there is one thing that pay parking normally delivers to government it is a net return, a net positive gain. If you are going to put patients, relatives and others through the pain, the annoyance and the distress of having to pay for parking upfront—pay and display—you would expect to see a return. But this government has the extraordinary record of a pay parking system that lost money. That must be some sort of record—for a pay parking system to have lost money. And if you cannot run a pay parking system how can you run a health system; how can you run an education system? If you cannot run the little things and do the little things right, how do you go with the big things?

We have seen how this mob look at economic management. We are in a time of absolutely booming revenues. The Australian economy and the ACT economy are going gangbusters. We see record low unemployment. We see inflation under control. We see interest rates under control. And we see record revenues coming to the ACT government as a result. And what have they done with it?

As opposed to the federal government, which has paid off debt, lowered taxes and delivered more spending to crucial areas such as health, national security and infrastructure, what do we see here as a result of this government's economic management. Last year we saw mass school closures and massive increases in rates and charges. At the end of this boom we see a government that has not planned for the future. At a time of drought, this most serious and pressing issue for the people of the ACT, and indeed the people of much of Australia, this government has not responded. So not only has this government had massive extra revenue coming in; it has also failed singularly to put in place the necessary infrastructure, whether it be road infrastructure or water infrastructure, to ready the ACT to deal with the challenges before it.

So let us compare the legacy of this government with that of the federal government. Pay parking is not normally seen as a spending measure, but under this government we have seen a net loss from pay parking at the hospital. So we can put that down as another spending measure that has gone wrong—$600,000 lost on pay parking; untold numbers of people annoyed and $600,000 net loss for the government.

We have seen this government simply waste money in so many areas—and a government that wastes money one year is going to keep doing it in the next year, and we have seen that with this government. We have seen it waste about $4 million on a busway—a busway that was dead, then alive and then dead again. We never know what is going to happen. The one thing we do know is that if it is ever built it will be a severe waste of money. It will be a $115 million-plus waste of money. Yet we have already seen $4 million wasted on this—$4 million apparently just to reserve a plot of land, we are now told.

The planning minister at the time said it could well go ahead in 2006, but now the Chief Minister tells us it was really just a long-term planning exercise—a $4 million long-term planning exercise. The government felt the need to market the project and to say, "It may well go ahead as of 2006, but really it was a long-term planning exercise." It is a $4 million waste of money. It has been an absolute waste of money.

We are going to see $128 million spent on a prison that we do not need—and we know that is the capital cost. The government tell us that it will cost only $20 million a year to run, or it will not cost more than we currently pay in recurrent expenditure to New South Wales. But we know that the ACT government currently pay $200 a day to New South Wales and $450 a day to keep people at Belconnen Remand Centre. That is how they manage things. So the ACT community could have no confidence whatsoever that $20 million is going to be the end of it. It simply will not be. I make this prediction now: the government will blow that recurrent expenditure; we will be paying more in recurrent expenditure as a result of building this prison than we pay now for corrective services. You can guarantee it.

How do we know that? W know it because we have seen this government in every area fail to rein in their spending. We see the legacy projects like the arboretum. We saw the Chief Minister be astounded—shock, horror—that there are 2,300 extra public servants. This is how this government have managed. They have failed to rein in spending at the end of about 15 years of economic boom, after massive extra revenue. This government have not delivered and at the end of this period they are raising our taxes, closing our schools and have failed to provide the crucial infrastructure needs for the future of this territory. They stand condemned, and I thank Ms Porter for bringing this matter of public importance forward.

MR SMYTH (Brindabella) (4.49): I am indebted to Mr Corbell for making the analogy of the drover's dog—"a drover's dog could have organised the economic goodness that blesses Australia today". Well, if a drover's dog can do it in Australia, why isn't it happening in economies like Germany, Japan and the USA?

We have had something like 50 quarters of economic growth. That is an outstanding effort. So, if the economic performance of John Howard and his government is the economic performance of a drover's dog, what does that make Mr Stanhope's performance? It is kind of hard to come up with an analogy. The only one I can think of is a cat. Jon Stanhope often behaves like a cat: if you do not pay him attention, if you do not stroke him, he gets a bit scratchy and a bit snitchy and I am reminded of that song about a dead cat in the middle of the road, stinking to high heaven. That represents the economic performance of the ACT Labor Stanhope government. It stinks because it is a marvel of ineptitude and missed opportunity.

On the one hand the Howard government this year has delivered a $10 billion surplus—a $10 billion surplus after 11 years in office and having come through, unscathed, the HIH collapse, the Ansett collapse, the Asian meltdown, all the troubles in Russia, the SARS epidemic and September 11. It has been able to help the growth of the new nation of Timor Leste, efforts in Afghanistan and Iraq, $1 billion in humanitarian aid for the victims of the tsunami—and still it can deliver record economic growth and record surpluses, with unemployment at its lowest for 32 years

and real wages growth of almost 20 per cent in the last 11 years as against 1.4 per cent. Yes, that is right: wages growth was a measly 1.4 per cent under 13 years of Labor.

What do we see now? We have seen from this government the wholesale abandonment of its efforts of the first three years when we had a white paper, a social plan, a spatial plan and a Canberra plan. But, because of Ted envy—anything that Ted did has got to go—the white paper has gone. Because of Simon envy the spatial plan has gone. Because the Chief Minister does not understand social issues the social plan has gone. And what does this government do? It resorts to breaking promises. Yes, this is the Chief Minister who said his would be a low-taxing government—oddly enough in what we refer to, Mr Corbell, as his "drover's dog" speech. Yes, it encompassed everything. It was to be the panacea. And what did the Chief Minister say? He said he would reduce taxes.

It is really interesting when you look at the six years of the Stanhope government because we have had the fire and emergency services tax, the land use permit, the false alarm fee, ACT WorkCover fees, extra water fees, the city heart tax and then pay parking in Belconnen and Tuggeranong. It is now applying the wage price index rather than the consumer price index to general rates and other admin fees and charges. What the list does not include are all the failed tax measures that were dumped over the years, including things like the bushfire levy. This government was going to levy people to pay for its mistakes in allowing the city to burn. This is the whole approach of this government: "We're in trouble, we'll just raise taxes."

But over that same time this government has received record funding through the GST. The entire country has received $2.4 billion above what it would have collected through the old tax system—$2.4 billion, and this government has squandered it. Where is the economic growth? Where is the economic development? Where is the money put aside? Where are the new industries? Where is the expanded tax base? They do not exist—and they do not exist because Jon Stanhope does not understand, and that is why it would be fair to say that his tax policy, his business policy, his economic policy and his general policies are encompassed in that wonderful song about the dead cat in the middle of the road, stinking to high heaven.

Let us look at just one portfolio, the ministry for cuts. This government got extra money, more money than it ever expected—$900 million above what it estimated—and what did it do? It cut. What did it cut? It cut education to the tune of 23 schools. It cut tourism. Andrew Scissorhands, the minister for cut at work, cut education by 23 schools. The government then slugged tourism, which makes it money. The government has a report from Access Economics that says that for every dollar the government spends in tourism there is a return. For those on the other side who do not understand the word "return", it means money you get back for your investment. So if you spend $1 in tourism you get about $5 or $6 back. That is what the Access Economics report said. But, no, Andrew Scissorhands, the minister for tourism, cut tourism to the tune of $4.5 million. Then he cut sporting organisations by $400,000, then he cut the maintenance and recovery of ovals by $500,000 to try and save the existing ovals, then he cut the ACT Academy of Sport by about 100 athletes.

By the way, minister, I am still waiting for an answer to the FOI request, which I should have had months ago, with details of when those decisions were made. I have

not forgotten and I would like that information. I know it is sitting on somebody's desk and it would be really nice to have it back.

So Andrew Scissorhands just went cut, cut, cut in the ministry of cuts. At the same time his colleagues have cut the number of shopfronts, they have cut libraries, they have cut funding for business support programs and they have even cut maintenance for the community walking tracks. The walking track up Mount Taylor is not being funded.

MR SPEAKER: The time for this discussion has expired.

Executive business—precedence

Ordered that executive business be called on.

Corrections Management Bill 2006

Debate resumed from 14 December 2006, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SESELJA (Molonglo) (4.55): I would like to point out that this was not due to come on until another five matters had been dealt with.

Ms Porter: Surely you have prepared yourself, though.

MR SESELJA: Sorry?

Mr Corbell: It has been on the notice paper since December, I think.

MR SESELJA: Thank you very much for that, but this was not due to come on until later and my notes are not here. I am waiting for them to come down, but I will speak briefly without notes on the Corrections Management Bill.

Mr Corbell: Poor Zed. It has only been on the table since December.

MR SESELJA: Simon Corbell is heckling from the sidelines as usual, but he really does not have much to say. I do not understand why common courtesy was not applied here—simply a "Yes, we will be calling it on; we will be skipping the other things"—so that we could have prepared for this. That is basic courtesy, which we rarely, if ever, see from Mr Corbell.

The opposition will be supporting the Corrections Management Bill as we believe it provides a reasonable framework in which to manage corrections in the territory. It is quite a detailed bill and it is clear that there is sufficient scope for the relevant officers to deal with corrections management in the territory. The bill sets up a framework and broadly talks about the principles of corrections management.

We could debate the emphasis or other issues around that, but I am satisfied that this legislation sets up a framework that deals with our concerns about how corrections are

dealt with. It is not going to be sufficient, because we need the directions and any regulations that are made under this bill in order for it all to work properly, but when the opposition looked at this bill we looked for, firstly, protection of the public; secondly, protection of prison officers and those who work in a prison environment; and, thirdly, and importantly, the humane treatment of prisoners and remandees in the territory. They are the three main concerns and the three things that this bill needs to balance.

We believe it provides a framework. It is in some ways policy neutral in the sense of how it is applied. There will be plenty of scope in the application through directions that are made and through the individual decisions made under this act and under subordinate legislation as a result of this act. That will be where the real test comes. How this is applied in practice will determine whether or not the public are kept safe, whether or not the prison guards and prison officers are kept safe and have a safe and reasonable working environment and whether prisoners and remandees are treated in a reasonable and humane way in accordance with the law of the territory, which includes the Human Rights Act.

We still have concerns about the prison and how that will work. We think some of the issues in terms of the management of this prison that is being built will come from the fact that this is such a small jurisdiction. The question that I have raised and will continue to raise is: how will we ensure that the breadth of programs that we currently pay for in New South Wales for our prisoners will be able to be provided in the ACT when we are talking about only a few hundred prisoners in the system and about one prison?

It is more difficult, I would argue, to put some of these programs in place, whether they be programs specifically for women, indigenous prisoners, prisoners with disabilities or any of the other diverse range of prisoners and remandees that we will have in our prison and in our remand centre that forms part of it. We have concerns that we will be able to manage that in a humane way where those kind of programs are delivered properly, that our prisoners do not suffer as a result of that and then, importantly, that the community do not suffer when some of those people return to the community.

I and the opposition take the view that rehabilitation is a crucial element of our corrections system. It needs serious resources and the question that the government has not been able to answer yet is: how in such a small jurisdiction, where we are seeking to essentially do everything that the New South Wales system does now and that we now pay for and buy from several different prisons across New South Wales, will we be able to provide that level of service in an effective and humane way but also in an efficient way that does not end up costing the taxpayers of the ACT much more than we pay now?

I made the point in my last speech on an MPI that that is a real concern. The government assures us that the recurrent costs will be around the same or less. I have severe doubts about that, for the reasons that I have outlined. Even on an issue like the separation of gang members, we simply do not know how that will be done properly. I understand that in New South Wales where there are members of notorious gangs in prison they can be put into different prisons and separated in that way, and there are

all sorts of good reasons at times for doing that. It will be much more difficult with just one prison to do that properly and effectively in a way that protects other prisoners and the community as a whole.

Issues have been raised about human rights principles, in particular under section 38 of the Human Rights Act, looking specifically at the provisions for offences of strict liability in clauses 145 (2) and 147 (3). The legal affairs committee often raises the issue of strict liability. I think strict liability offences are an important regulatory tool but that they have tended to be overused by this government in recent times and the committee has commented on that at times. You really do need to justify why you are putting in place strict liability clauses; you do not just do it as a matter of course. You do not just do it because of lazy drafting or because it is easier not to have to prove the mental element of an offence.

The Liberal Party in the ACT did not support the Human Rights Act, but that is the law of the territory and with the Human Rights Act in place we need to take account of it. These strict liability clauses come up time after time, often without justification. Sometimes they are well justified; sometimes it is well documented in the explanatory statements, but other times it is not, so I raise that issue. When I see strict liability offences that have terms of imprisonment, as these do—the maximum penalty for both of these offences that I mentioned is 50 penalty units or imprisonment for six months—I have real concerns. I have real concerns about putting someone in prison potentially without having to prove a mental element.

If we are going to put people in prison we should have to prove the usual mental fault elements of an offence. It is a good principle and it is a principle that we should stick to. It really does call into question what effect the Human Rights Act has when we consistently get provisions like this which really do not seem to take account of those general principles. You would think that in implementing the Human Rights Act the government would, firstly, do its best to avoid offences like that—imprisonment for offences with strict liability—and, secondly, seek to justify clearly when there are strict liability offences whether that is an imprisonment offence or not. In both cases the government has failed.

I refer to the scrutiny report 38 of the Fifth Assembly. The committee drew attention to the possibility that derogation from this important principle would not be justifiable where the potential punishment included imprisonment. In its report it quoted the words of Lamer CJ of the Supreme Court of Canada in R v Wholesale Travel Group Inc, a 1991 case:

> The rationale for elevating *mens rea* from a presumed element … to a constitutionally required element, was that it is a principle of fundamental justice that the penalty imposed on an accused and the stigma which attaches to that penalty and/or to the conviction itself, necessitate a level of fault which reflects the particular nature of the crime.

Moreover, the severity of the punishment for an offence may be such that it will derogate from the Human Rights Act right not to be treated or punished in a cruel, inhuman or degrading way, which is section 10 (1) (b). To imprison a person for committing an act they did not intend to commit might well be regarded as breaching this right.

Whether we have a Human Rights Act or not, surely it must be a reasonable principle that we do not imprison people when we cannot prove fault. We use strict liability offences for all sorts of good reasons. We use it for traffic offences and it is quite reasonable in those circumstances because drivers know that they need to take care not to go over the speed limit, to take care not to be over the blood alcohol level limit and all those things. With speeding offences strict liability works pretty well because drivers have that responsibility to take extra care and ensure that they do not breach the law.

We do not see that with other offences and where we see imprisonment that is a real concern and it calls into question what effect the Human Rights Act has and how much it is changing behaviour in the government when they draft their legislation? Some time ago the government presented us with a bill—or it might have even been a regulation—that would have allowed a tribunal member to detain someone without charge for failing to attend a tribunal meeting. That had been drafted and with it we had a little statement that said, "This legislation is Human Rights Act compatible."

The government were embarrassed into withdrawing it eventually when it was drawn to their attention by the committee, but it must be said that when we see these statements that say that an act complies with the Human Rights Act we have got to question what it means when we had a provision that allowed a tribunal member to lock someone up indefinitely without any sort of proper process. We saw the Chief Minister rail against the terrorism legislation, which had all sorts of safeguards in it, and yet his government presented this legislation, which had no safeguards—none whatsoever—and presented it as Human Rights Act compliant. It really does make a mockery of the Human Rights Act when time after time we see legislation come in here that is clearly not compliant with general human rights principles yet it says that it complies with the Human Rights Act. Either the statements are wrong or the Human Rights Act is not worth the paper it is written on. Those are the only two conclusions we can draw.

The explanatory statement justifies the provision of strict liability in this case by asserting that "Providing for mental elements of the offence would diminish the regulating purpose of the offence." That is a very bland sort of statement. I do not quite know how that justifies having strict liability in this case. It is a pretty brief justification that does not seem to go as far as it should.

The explanatory statement acknowledges the critical significance of setting clear boundaries to the exercise of administrative power. It states:

> The Bill is drafted with the intent of clearly setting the boundaries of any power allocated to the Territory's corrections authority. This aims to assist any court reviewing a decision to ascertain the extent of the powers the Assembly intended to give the Minister, the chief executive or corrections officers.

That goes back to my initial statement about this bill setting the framework. We do need to set a framework. We need to set clear boundaries for the exercise of administrative power in these cases.

As I rifle through my notes, I will see whether or not there is anything else that I would like to draw to the attention of the Assembly. The use of firearms was raised by the scrutiny of bills committee and it does seem to be unclear as to the scope of when they can be used. The committee drew attention to the fact that it is a broad issue of where the safety of the people is in question and it does not seem to draw a line as to how remote the safety of the public may be in that circumstance. The committee certainly raised that matter and I do not think there is anything in the government amendments—I could be corrected there, Mr Corbell—that deals with that issue. We will not be amending it at this point, simply because we have not even had any discussion with the minister. We got the government amendments only today, I believe, and we had no notice that this was being brought on. I acknowledge the drafting challenge of trying to get that right. But we will have to monitor the use of firearms with a view to possible future amendment in terms of whether that is too broad a definition.

In conclusion, the ACT opposition will be supporting this bill. We will be supporting it because we believe it provides a sufficient framework for the management of corrections in the ACT. It is not sufficient for a good corrections system. There will be significant issues to deal with when the new prison is built, as it now will be. There will be significant issues around how the delegated authority and the delegated legislation that come from this bill are put in place, and that is where the nuts and bolts will be and that is where we will get a better picture of how corrections will be managed to take account of those three principles that I outlined at the start of my speech: that the public are protected, that the officers and employees of corrections facilities in the ACT are protected, that prisoners' rights to be free of any inhuman or cruel treatment are respected, that their need to be rehabilitated is respected and that we are able to put in place systems that give the maximum possible chance of offenders who go into our corrections system being rehabilitated.

We have concerns about how that will operate in the prison and whether that will be able to be done in an efficient, humane and cost-effective way, but we think this bill provides a sufficient framework and sufficient flexibility for corrections to operate in a reasonable way in the ACT and that is why we will be supporting it.

DR FOSKEY (Molonglo) (5:14): The ACT Greens will be supporting the Corrections Management Bill 2006 in principle. However, we do have a number of concerns about the process by which the prison project and this legislation is coming into existence. It is also appalling that, yet again, the government has not been able to provide us with a copy of their amendments until today. Without knowing what the final form of a bill would be, it was quite difficult to reach a considered view as to whether I should support it or move further amendments of my own. As you know, I have tabled some amendments

I would like to join with the International Commission of Jurists in congratulating the officers who have worked on this bill. The time and effort they have put into researching human rights principles for corrections is evident. Here I have the problem that I am going to be focusing on what I see as the weak points in the bill. Unfortunately, I do not have time to praise it, but let that be said.

I remind the government that the standards it set itself go beyond merely complying with minimum human rights standards. With his speech in this chamber in August 2004, the Chief Minister raised the bar far above minimum human rights standards. It remains to be seen whether the new prison culture will be able to rise above the existing Australian prison industry mentality and priorities and actually deliver a culture based on respect, harm minimisation, rehabilitation and health priorities. This is no easy task, and I have a lot of respect for those corrections officers who keep their humanity and professional integrity in the face of what must be at times an incredibly difficult, thankless and sometimes dangerous environment.

In my 15 minutes I will not be able to cover all the issues that have been raised with my office, but I will focus on the issues of health services, complaints, and children and young people. A major concern with the bill that has been raised by community groups is in regard to clause 52, which provides that the chief executive of corrections is ultimately responsible for the provision of health care to detainees. It would be inappropriate for health professionals to have ultimate responsibility for security, which is, of course, the overarching priority in a prison setting. Health services should be provided by the same organisations that provide health services to the community and it is the responsibility of corrections to ensure the prison population has access to these services.

The voluminous literature concerning corrections health care is almost unanimous in recommending that the provider of health services should be the same as that which provides health services to the community, which in this jurisdiction is ACT Health. The best arrangement may be an independent prisons health service, and I urge the government to investigate setting up an ACT justice health unit similar to the one operating in New South Wales.

While having serious misgivings about the ethical dilemmas that will face any health professional whose legislated responsibility is to provide non-therapeutic services and to answer to the corrections authorities, the Greens believe that clause 52 of the bill is in line with human rights principles and will not be proposing any amendments.

But there are serious issues that arise concerning the confidentiality of health records. It is essential that detainees have confidence that their communications with health professionals and their medical records relating to illegal drug use, mental illness or sexual activity will not be disclosed to corrections staff. This is the essence of harm minimisation. While it is essential that prison staff be aware of medical problems that may result in harm to a detainee or other detainees or to staff, this legislation places a lot of trust in corrections officers not to abuse their power by demanding from health professionals medical information to be used for disciplinary purposes. The use of these powers needs to be closely monitored and reported on. In the absence of an independent prison advisory board, perhaps a parliamentary committee should maintain a close watch on practices at the new jail.

There have been some differences of opinion between the ACT government and members of the ACT Community Coalition on Corrective Services, and they remain unresolved. This is partly the result of irreconcilable differences of opinion, but it is also partly the result of a lack of consultation. The coalition received one briefing, and

that is clearly inadequate. I was surprised to hear that the coalition did not even become aware that the bill had been tabled until around late February or early March. Why did the ACT government not notify the coalition of the bill as soon as it was tabled or even think to show them an exposure draft? Like Assembly members, the coalition certainly was not notified about the final form of the bill until today.

The need for community consultation occurs not only at the start of a project, but also throughout its life. Just because the ACT government consulted with community organisations in the early phases of the prison development process, it does not mean ongoing consultation was not, and is not, required for this legislation and future legislative instruments. I am disappointed that the ACT government did not make a greater effort to work with the coalition and to address their concerns. The coalition's papers on this legislation contain a number of good suggestions and I urge the government to give them serious consideration. There should at least be an explanation from all relevant agencies, not just corrections, as to why the coalition's proposals should be implemented or rejected.

Another major problem facing community groups and MLAs is that we have not been able to read this bill in conjunction with the prison health plan as corrections and health are still negotiating its contents. We do not yet know if the policies and procedures for the prison health services will meet human rights requirements, will give priority to harm minimisation or will be effectively gutted by ostensible security and public safety imperatives.

For example, will a needle and syringe program be run? Such a program is already provided to the community, and I imagine it would be necessary to comply with this legislation and accord detainees their human rights. Deadly blood borne diseases are rife in the prison population, as we know. A prison sentence should not become a death sentence, which is the reality in many jurisdictions where corrections officers and populist politicians are unwilling to accept or implement realistic solutions to blood borne disease transmission problems that also address their legitimate security concerns.

Total abstinence is not a realistic solution. It never has been, and this is where the evidence based realists part company with authoritarian wishful thinkers. No prison has been able to totally stem the flow of drugs into jails. The level of coercion required to come close to achieving a no-drugs regime is so counterproductive to rehabilitation and therapeutic objectives that it completely undermines those objectives. It also contains internal contradictions in that it encourages unsafe practices and risky behaviours, such as sharing scarce and dirty needles and creating a prison premium for drugs and drug paraphernalia that results in increased violence, intimidation and distrust. Paradoxically, it may actually increase the danger to corrections staff by increasing antagonism and boosting the prevalence of communicable diseases in the prison population.

Evidence based responses are also required to address the problems of outlaw tattooing in jails. Again, it remains to be seen whether the government and corrections management are willing and able actually to deliver the exemplary health services that this bill envisages but does not actually prescribe.

The AMA has stated that prisons have become the mental health institutions of the 21st century. I hope the relevant ministers and their cabinet colleagues appreciate that a coercive authoritarian culture in prison is actually antithetical to mental health therapy and rehabilitation. Drugs, mental illness, low levels of literacy and a history of sexual and physical abuse are standard features in the personal histories of the majority of detainees, particularly female detainees. Every effort must be made to address and treat the causes of self-harming behaviours. Merely denying them, removing them and making them the subject of disciplinary punishments is counterproductive.

While it is difficult, if not impossible, to prescribe best practice in legislation, I am hopeful that the prisons health policy, regulations to this bill, ministerial directions, recruitment policies and staff training are all aimed squarely at realising corrections best practice in the ACT. This task is too important to leave to corrections alone. While they are obviously the central agency in the prison project, the vision that the Chief Minister presented in August 2004 will depend on other agencies being given the authority to move their agendas up the list of priorities and considerations.

The bill lacks a satisfactory mechanism for resolving disputes between the prison executive and other agencies. A number of times in the bill a line appears that says a certain entitlement can be withdrawn if it "circumvents any process for investigating complaints". Restrictions on entitlements include: denial of access to religious, spiritual and cultural needs, visits by family members, making or receiving telephone calls, sending or receiving mail or access to accredited people.

On first reading it is difficult to understand why a detainee should be denied access to essential minimum entitlements, most especially access to accredited people, such as an official visitor, in light of a complaint that is being considered. However, during consultations, the examples we were given of when these powers would be used did appear reasonable. Again, much will depend on the culture that develops in the new jail.

I think it is also important to note that while detainees have had their right to freedom removed as punishment for their crime, their right to freedom of speech should remain intact. These powers should only be used in the most serious circumstances and their use should be monitored closely to prevent abuse or corruption.

Chapter 4 of the bill provides the police and courts with custodial powers and clause 6 (3) deals with the Children and Young People Act. I am disappointed to see that the vulnerable status of children and young people is still not recognised in all legislation regarding corrections. Their vulnerable status, especially in regard to searches, will not be treated as such until perhaps the Children and Young People Bill of 2007 is passed, which could be some time. Even then, I doubt that this concern will be fully resolved when it comes to the AFP.

The ACT government's failure to correct this problem promptly is disheartening given the number of times this issue has been raised in the Assembly and the vulnerable status of these people. Despite the human rights compliant search provisions introduced in the Children and Young People Amendment Act 2006, a

problem remains in that these search provisions only apply to children and young people held in Quamby. They do not apply when they are in the custody of the AFP or the courts. Adult search provisions prevail there.

Why is it that human rights compliant search provisions only apply to children and young people in one out of the three locations where they can be held for corrections purposes? It is not fair that young people's vulnerable status in corrections will not be recognised until, conceivably, 2008. Debating the Corrections Management Bill today without seeing such issues addressed is another lost opportunity to improve the rights of children and young people as soon as possible.

In a little over 12 months the AMC doors will open and many community groups expect that they will need to service its population, but they are yet to see any detail from the ACT government about how they will do so. Twelve months out they are also yet to be promised any funding in assisting in paying for the services they may be invited, or expected, to provide. The ACT government needs to understand that if community groups do not receive funding for this new category of consumers, community groups will not be able to afford to provide any services. So with only 12 months to go I hope to see the ACT government outline some provision of funding for this purpose in the budget next week.

I believe there is a lot of goodwill in the government and bureaucracy to make this project work. I am not sure if this bill is the ideal vehicle to realise that objective. There is still time to finetune this legislation before the jail opens. I hope the Labor party sees that harm minimisation and therapy is the way to achieve better social and personal outcomes from periods of incarceration. It is much better than tried, and failed, authoritarian wishful thinking.

I seek leave to table documents which are representations made by the corrections coalition, ACTCOSS and the AMA. There are a number of criticisms of this bill and the government's consultative processes in these documents, and while I do not agree with all the points raised in the documents there are many compelling arguments made in them. I urge the government to give them serious consideration. I seek leave to table them so that other members also can see them. There is a submission from the Families and Friends for Drug Law Reform in that bundle.

Leave granted.

DR FOSKEY: I table the following papers:

> Copy of letter to the Attorney-General from the President, Australian Medical Association Ltd, Australian Capital Territory Branch, dated 30 May 2007.
>
> Copy of letter from the Chair, Community Coalition on Corrections, dated 24 May 2007.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services and Minister for Planning) (5.29), in reply: I thank members for their support of this important piece of legislation. I note the range of issues that members who

have contributed to this debate have raised this evening and I will seek to address a number of those in my comments in closing debate on this bill.

I would like to address concerns that have been raised in the community health sector. ACTCOSS and others have expressed concerns about the provisions regarding detainees' right to healthcare and the appointment of doctors for each corrections centre. The concern was that the provisions intended to create a type of healthcare which was divorced from the ACT's mainstream health services.

The international documents on healthcare in prisons established two clear principles. Firstly, those accountable for administrating prisons are responsible for ensuring that detainees receive healthcare equivalent to the healthcare available to the community as a whole and, secondly, doctors and other people providing therapeutic services cannot be involved in any custodial matters that are not directly therapeutic. There is also a human rights standard that emphasises that prison medical services should not be isolated from a community's normal healthcare system. The United Nations standard minimum rules for the treatment of prisoners states that medical services should be organised in close relationship to the general health administration of the community or nation.

The government supports this concept, and I would like to take the opportunity to say that the Corrections Management Bill enables doctors, nurses and other health professionals to act as they normally would in any other setting. The AMC will have its own community health centre to service two distinct functions. One will be a 10-bed crisis support unit to provide a place where prisoners at a heightened risk of suicide and self-harm can receive additional support and treatment. The other function will be three lots of two-bed wards providing for specialist non-emergency medical treatment and clinical areas servicing psychiatric, dental and general medical care. Prisoners who need emergency medical services will be escorted securely to public hospitals within Canberra and will be treated while still in the custody of escorting custodial officers.

The bill also ensures that there is one doctor appointed for each corrections facility in the ACT. This doctor has the statutory responsibility for the overall provision of health services, including the prevention of disease. But this statutory doctor is not the only doctor or health professional that will be providing services to prisoners. To leave no doubt as to the doctor's independence, I am foreshadowing a government amendment during the detail stage of the bill that changes the responsibility of appointing a therapeutic doctor from the Chief Executive of the Department of Justice and Community Safety to the Chief Executive of ACT Health. The amendment emphasises that the doctor should be perceived to be part of the territory's health system like any other doctor.

A number of other issues have been raised in the debate this evening as well. The first is in relation to the provision for strict liability offences. The government provided a detailed reply to the matters raised by the scrutiny of bills committee prior to the debate this evening, but for the benefit of the debate I would like to reiterate what the government said in relation to the commentary on strict liability offences.

The government, first of all, agreed with the committee's interpretation of the defence provisions in clauses 145 (4) and 147 (5) of the bill. It was always, and remains, the government's intention that a person has a defence to the offence if the person proves to the evidential standard of proof that the person took reasonable steps to comply with the direction. The government is of the view that the strict liability offences are justified, however, as the critical aspects of the offences are the physical elements, not the motivation of the individual involved.

Examination of the intention of the person or any other mental element does not have, in our view, significant bearing on the purpose of the offence. The purpose of the offence is to ensure that visitors abide by reasonable directions in the centre, and that is essential to the security of the centre. So the government maintains its view in relation to that matter.

The other matter that was raised in the debate this evening is the issue of the use of force. Again, I draw members' attention to the issues that were examined by the committee and the government's response to those issues. The key issue here is not about the use of firearms per se. It is about the use of appropriate levels of force, what is a reasonable level of force to deal with any potential incident inside the prison.

The essential ingredient is training in the use of force, not training in the use of a weapon per se, but training in the sense of the methods of de-escalation, minimising harm and managing violence and so on. The training regime that custodial officers will be put through will focus on reducing the potential for undue force by corrections officers. It does not deal specifically with firearms or other weapons. It is not about an emphasis on the use of particular weapons. It is about an approach to managing potential incidents of violence in the prison, de-escalating those, minimising harm and, where violence is occurring, using the minimum amount of force needed to deal with the situation.

This is consistent with findings of the European Court of Human Rights, which examined various aspects of the use of force in custodial settings. Citing earlier precedents, in 1996 the court said that the reasonableness of the use of force should be decided on the basis of the facts which the user of force honestly believed to exist. It also found—and this is the important element, I believe—that there was a strong obligation on the managers of a custodial facility to establish an environment where you do not see an escalation in violence that will lead to an escalation in the use of force. So there is a clear obligation, and that is the philosophy we are intending to bring to this facility.

Dr Foskey raised some other issues about the provision of healthcare services in the prison. These matters are subject to finalisation between by department and the Minister for Health and her department, and those matters are close to finalisation. I think it is difficult to justify the establishment of a complete stand-alone justice health organisation. If you want to abide by the principles of having as much of a mainstream provision of health services as possible—which is the human rights principle—that is, that the healthcare facilities in the jail should be, as much as possible, comparable with the provision of healthcare services in the broader community, then you seek, I think, to have those health services integrated into the

mainstream healthcare provision to the extent that that is possible, and that is what we are endeavouring to do.

The other issues that Dr Foskey raises about drugs and so on are matters that are first and foremost in our minds. The use of illicit drugs in the prison is always going to be a matter of concern. We will have to be diligent and we will adopt a harm minimisation approach to the use of drugs in the prison. The key issue is focusing, first of all, on preventing illicit substances from getting into the facility. That is an important element. Equally, measures to prevent the spread of blood borne disease are important and they will be considered closely in the corrections health planning framework. Obviously, rehabilitation will also be an important element of care and support for people who are in the custodial setting.

Finally, Dr Foskey dealt with the issues around the search powers for people in police cells and in court cells. I will not comment on the issues on court cells because it is not directly a matter I can comment on at this point, but in relation to police cells, as members would be aware, this Assembly does not have powers to legislate for the activities of the Australian Federal Police. They are a commonwealth agency. They are governed by commonwealth legislation and we are actually explicitly precluded from making laws in relation to the activities of the Australian Federal Police. Nevertheless, the issues that Dr Foskey raises are matters of interest and concern to me and I will be seeking some further information following her comments this evening. I thank members for their support for this bill and I commend it to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 20, by leave, taken together and agreed to.

Clause 21.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.40): I move amendment No 1 circulated in my name *[see schedule 1 at page 1361]*. I table a supplementary explanatory statement for these amendments.

Government amendment No 1 enables the chief executive responsible for the Public Health Act to appoint a doctor for the purposes of clause 21. The doctor contemplated in clause 21 would be responsible for the overall health services in a corrections centre, including the prevention of disease. The purpose of this amendment is to leave no doubt as to the doctor's independence. The amendment shifts the responsibility of appointing a therapeutic doctor from the Chief Executive of the Department of Justice and Community Safety to the Chief Executive of ACT Health.

I am pleased that we have been able to reach agreement on this important matter and to clarify what has always been the intention of this legislation, which is to ensure the independence of the doctors responsible for therapeutic care in the AMC.

DR FOSKEY (Molonglo) (5.41): I am very pleased with this amendment and the progress that has been made, and I fully support it.

MR SESELJA (Molonglo) (5.42): The opposition will be supporting the amendment. I understand these amendments were finalised on about 25 May and only circulated today, which is disappointing. I would also make the point that in relation to the bringing on of debate Mr Corbell had the courtesy to inform the Greens office, but not the opposition.

Amendment agreed to.

DR FOSKEY (Molonglo) (5.43): I move amendment No 1 circulated in my name *[see schedule 2 at page 1362]*.

This amendment, which seeks to insert subclauses (6) and (7) into clause 21, represents a security check on the exercise of the corrections chief executive's use of his or her power to override a doctor's direction under subclause (4). My office has received assurances that this power would only be used in exceptional circumstances and that it would be promptly reported to appropriate persons. I accept these assurances from the current office-holders. However, it is not our job to build a legislative framework that relies only on trust—if only it were so.

My amendment acts as a check on the abuse of the power under clause 21 (4) by creating a clear legislative requirement that at least one accredited person is promptly informed of the exercise of this power. I have been advised that the monitoring body should not be the Human Rights Commission. If the commission was notified by corrections of a decision to disregard a doctor's direction and allowed it to occur, the commission could not appear as an independent expert witness if the case came to the courts at a later stage.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.44): Mr Speaker, the government will not be supporting this amendment. The key reason is that it would create confusion as to who was ultimately responsible for the safe custody of prisoners. The government does not want to create in the legislation an ambiguity whereby there could end up being an argument between two agencies about who is responsible for the safe custody of a prisoner.

At the end of the day, for accountability purposes and for a clear understanding of how and who is responsible for decision making in particular areas of the prison, it is important that this power is vested in a single position, not in an alternating arrangement, which is what Dr Foskey proposes. Ultimately it is the entity responsible for the custody of prisoners that has to have the final decision on custodial matters. That is a principle upheld by human rights jurisprudence.

The power in clause 21 for the chief executive not to follow a health recommendation is provided only to be used when absolutely necessary. The government envisages that ACT Health and ACT Corrective Services will have, first of all, established relevant agreements and protocols to foster a close working relationship between health service providers and corrections officers and that, secondly, these relationships will exist.

These decisions are not made in the absence of deliberations and serious consideration. It is, in the government's view, appropriate and right that the ultimate decision about custodial matters must lie with the chief executive of the justice department alone, and they are the ones who should be accountable for that decision. Dr Foskey's amendment places the Official Visitor in the difficult position of being a de facto arbiter to a high-level decision where security and health decisions are at stake.

The decision made by the chief executive is reviewable under administrative law and can be examined by the Human Rights Commissioner or the Ombudsman. Drawing the Official Visitor into the mix potentially prejudices them if they make any recommendation to the minister. If the Official Visitor recommends the decision is right or wrong, the visitor is then susceptible to review themselves for a decision that should properly lie with the chief executive of the department.

DR FOSKEY (Molonglo) (5.47): I want to point out that my amendment does not specify the Official Visitor. In fact, it does not specify who that person should be. It is in fact a safeguard for the chief executive officer as well as for the prisoner. Mr Corbell did add more specificity to this amendment than is, in fact, within it.

Amendment negatived.

Clause 21, as amended, agreed to.

Proposed new clause 21A.

DR FOSKEY (Molonglo) (5.48): I move amendment No 2 circulated in my name *[see schedule 2 at page 1362]*.

This amendment inserts a new clause 21A and is intended to ensure the independence and integrity of the corrections health services. While health professionals who work in a corrections environment will need some special skills, their health skills should be paramount. In order to advance the government's professed health priorities, it is more appropriate that the chief health executive recruit health professionals. It is also essential that their reporting obligations are primarily to ACT Health rather than to corrections, which should only receive information which is necessary for security and safety considerations. This amendment clarifies that all therapeutic health professionals and not just the doctor appointed under section 21 (1) under the government's amendment, which I nonetheless greeted happily, has the health of detainees as paramount responsibility.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.49): The government does not agree with this amendment. Clause 52 of the bill already provides for the provision of health services and the appointment of health professionals, through regulations, by the chief executive of the Department of Justice and Community Safety. Giving a further power of appointment to the chief executive of ACT Health is not conducive to providing a coherent health service. More importantly, the responsibility for managing custody cannot be divided into separate components. The chief executive has to be responsible for all aspects of custody.

Those aspects of custody which relate to the provision of health services will be governed by the requirement in the bill to provide adequate health care, the human rights standards which require detainees to receive health care equivalent to the health care available to the community as a whole, and the general law of governing the provision of health services in the ACT. A health professional must provide a standard of care equivalent to that available in the wider community regardless of how he or she is appointed. That is the safeguard, in the government's view, that ensures that detainees and prisoners receive quality health care.

Proposed new clause 21A negatived.

Clauses 22 to 40, by leave, taken together and agreed to.

Clause 41.

DR FOSKEY (Molonglo) (5.51): I move amendment No 3 circulated in my name. *[see schedule 2 at page 1362]*.

This amendment ensures that detainees are able to dress appropriately. While I do not suggest that ACT corrections staff will actually use clothing as a way of humiliating or prejudicing the legal position of detainees, it is best to make certain that they do not have that discretion. Anyone who has watched the A list in the Magistrate's Court will know that many people are brought before the court in the clothes they were arrested in, having spent a night in police custody, and this can prejudice them. There is no doubt that the state should not be able to tilt the scales of justice by, for instance, requiring them to wear something like the Guantanamo-style orange jumpsuit—or red, blue or whatever. My amendment affords some protection against that happening. Proposed clauses 41 (l) and (1C) of my amendment recognise that sometimes it is not appropriate for detainees to wear their choice of clothing, but this should be a rare exception.

MR SESELJA (Molonglo) (5.52): The opposition will not be supporting this amendment. There comes a time when you can go a little bit too far in putting particular and specific rights into legislation and I think this is an example of that. I think that we can rely on corrections staff to act reasonably and not to force detainees into wearing things which are humiliating or otherwise. Going the extra mile and having a particular clause that requires the chief executive to ensure the remandees are allowed to wear the remandee's own clothes while in detention is, I think, taking it a step too far and is more prescriptive than I would want to see in this legislation. I think it is probably taking the rights culture just a step too far, so the opposition will not be supporting this one.

MR CORBELL (Molonglo–Attorney-General, Minister for Police and Emergency Services) (5.53): The government will not be supporting this amendment. The reason we are not supporting this amendment is not around issues to do with putting some sort of indignity onto prisoners and remandees. It comes actually from the perspective of saying that these are matters which are important in terms of actually protecting the health and wellbeing of the person who is incarcerated as well as ensuring that the prison itself can operate in a reasonable way.

I will draw members' attention to two issues. The first is that when a detainee is received into custody, there is a duty of care obligation on officers to ensure that there are not elements of clothing that can be used to cause self-harm. So things such as shoelaces, belts, draw-cords and other potential ligatures need to be removed, because we know that they have been used to cause self-harm and to commit suicide. So there are good operational and safety reasons for not permitting those items of clothing to be present in the prison. Detainees, under the model we are proposing, would be issued with safe, clean clothing which includes footwear with, for example, velcro fasteners so that there is no ability to use shoelaces as a ligature.

There are other important operational and safety rules that actually protect the interests of prisoners as well. A person coming into a prison with expensive clothing, for example, could be subject to bullying and being stood over in the prison because the expensive clothing could become a commodity. That would actually put that person at risk in the prison. So you need to stop it being a commodity in the prison as well. That is another important provision.

Those are the two most important elements. There is also the issue about permitting people to wear their own clothing during visiting times. The immediate problem that that raises is: how do you distinguish between the visitor and the prisoner? We are not going to be putting prisoners in a situation where they are sitting behind a glass panel and talking through a telephone. That is not going to be the way it works; it will be a much more humane setting. But there will still be a need to be able to distinguish between the prisoner and the visitor. For all those reasons, the government does not support this amendment.

It is not about saying that we want to force people to be in conspicuous and degrading prison clothing. That is not what it is about. It is actually about ensuring the safety of the people who are in remand and in the prison itself and it is about ensuring that we uphold our duty of care in terms of looking after the people who are in that setting.

MR SMYTH (Brindabella) (5.56): Mr Speaker, this has got to be probably the most impractical amendment that has ever been attempted to be moved in the Assembly. As both Mr Seselja and Mr Corbell have outlined, for a number of reasons it simply would not work. To try to hang on the chief executive of the department this incredibly onerous and impractical amendment is to show a complete lack of understanding of how correction systems must work. The other problem here is how, for instance, one ensures that this clothing remains clean. Are we going to have separate laundries for each of the prisoners? Are we going to ensure that different detergents are added to ensure that the wash is done in the most appropriate way? If something is ruined by the prison laundry, is the department liable?

When you get to this level of detail in the actual act, while the attempt to make the place more humane might be commendable, one has to have a practicality behind it. After all, this is about a prison, and incarceration does carry with it some restrictions to one's liberty, and that includes choice. For instance, the storage of particular items of clothing can become a nuisance. When you add that to what Mr Corbell has said about safety and whether somebody could use a piece of clothing, whether it be a shoelace, a belt or some other apparel, for self-harm, what you have here is an indication of a lack of understanding of how corrections systems work.

Amendment negatived.

Clause 41 agreed to.

Clauses 42 to 49, by leave, taken together and agreed to.

Clause 50.

DR FOSKEY (Molonglo) (5.59): I move amendment No 4 circulated in my name *[see schedule 2 at page 1362]*.

At 6.00 pm, in accordance with standing order 34, the debate was interrupted. The adjournment of the Assembly having been put and negatived, the debate was resumed.

DR FOSKEY This amendment needs to be read in conjunction with proposed section 50A. I agree with ACTCOSS that it is essential for detainees to have an entitlement to direct access on a private phone line to accredited persons at all reasonable times. Without this entitlement, detainees may be understandably afraid that they will suffer retribution if they complain or report on alleged malpractice by corrections staff.

These amendments are required to ensure the effectiveness of the accredited persons system. While agencies like the AFP or ASIO could apply for a warrant to eavesdrop on conversations, these amendments would at least provide a partial safeguard for detainee communications with accredited people. These amendments would also bolster the health system in the jail by removing a disincentive to full disclosure by detainees of their problems and concerns to accredited people.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.02): The government will not be agreeing to this amendment. The amendment seems to imply that government should guarantee the availability of people and entities that are either not part of the government or are independent of the executive as a whole. Clearly, we cannot guarantee to provide access to people who are not part of the government. Secondly, the amendment may actually limit communication with accredited people, as it relies on the chief executive determining a reasonable time. Under the current drafting, it is envisaged that detainees will be able to communicate with their lawyer at any time, depending on the importance or urgency of the communication.

MR SESELJA (Molonglo) (6.03): The opposition will not be supporting this amendment.

Amendment negatived.

Clause 50 agreed to.

Proposed new clause 50A.

DR FOSKEY (Molonglo) (6.03): I move amendment No 5 circulated in my name *[see schedule 2 at page 1362]*.

This amendment seeks to inserts a new clause 50A. I note with appreciation the effort that the ACT government has gone to to meet many Aboriginal and Torres Strait Islander requirements and considerations throughout the Corrections Management Bill. Whether the new jail complies with many of the recommendations of the deaths in custody royal commission will depend on what shape the prison health plan takes and what priority will be given to harm minimisation and health concerns relative to security and zero tolerance considerations. This amendment is intended to ensure that a detainee is given the choice of informing a relative or other person if they are transferred. While I do not expect the government to support this amendment to the legislation, I do hope that these concerns will be covered in the regulations.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.04): The government will be agreeing to this amendment. Chapter 9 of the bill already addresses the kind of communication monitoring and recording that would be authorised. Chapter 9 does not authorise the monitoring and recording of communications during a visit and, as members would be aware, a government must be given a lawful power to engage in activity that affects the rights of a person. The bill does not give this authority, so the government is not able to do it. The government is prepared to agree to the amendment on the basis that it simply summarises the effect of the bill as it stands.

Proposed new clause 50A agreed to.

Clauses 51 to 85, by leave, taken together and agreed to.

Proposed new clause 85A.

DR FOSKEY (Molonglo) (6.05): I move amendment No 6 circulated in my name. *[see schedule 2 at page 1362]*.

This amendment seeks to insert a new clause 85A. The speech I made previously should have gone with this amendment, so I will leave it as read.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.07): The government does not agree to this amendment and will not be supporting it. Apart from subclause (1) (b), Dr Foskey's amendment seems to be a summary of what the government envisages would have been part of the operating procedure under clause 14. The government cannot accept the amendment in its current form, as it would create a new obligation that applied to everyone that was held in a police cell overnight. The obligations in relation to maximum times in police cells are set out in chapter 4 of the bill. Dr Foskey's amendment creates a thoroughly new obligation that would apply to everyone held in police custody following arrest and anyone who was held overnight by police in a police cell while in transit between states.

Proposed new clause 85A negatived.

Clauses 86 to 97, by leave, taken together and agreed to.

Clause 98.

DR FOSKEY (Molonglo) (6.08): I move amendment No 7 circulated in my name. *[see schedule 2 at page 1362]*.

The amendments to clause 98G and clause 129 (2) are presented in an abundance of caution and serve as much as a direction to decision makers as they prescribe actual behaviours. They spell out that decisions made under these clauses must be made on reasonable grounds.

It is a feature of administrative law that all administrative decisions must be based on reasonable grounds, but the level of reasonability is that of the so-called Wednesbury unreasonableness test, and case law indicates that that level is very low indeed. The standard description of the test is "a decision so unreasonable that no reasonable person could possibly make it". What may appear to be unreasonable to a vast majority of people can easily be found to be reasonable by a court or tribunal if there are even tenuous grounds for it and it is argued by a brace of expensive senior counsel.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.09): The government will agree to this amendment. Reasonable grounds are usually added where a power itself is articulated. Clause 98 of the bill is about things the chief executive needs to consider when exercising powers in part 9 (3) regarding the monitoring of detainees.

In administrative law there is a common law presumption that all administrative decisions must be rationally connected to the power being exercised. The Human Rights Act 2004 also required public servants to apply an interpretation and exercise any powers in a manner consistent with human rights. As noted in the explanatory statement to the government's bill, clause 98 requires the application of the human rights principle of proportionality. Proportionality requires that the exercise of powers must be necessary and rationally connected to the objective, least restrictive in order to accomplish the object, and not have a disproportionately severe effect on the person to whom it applies. The government is of the view that clause 98 requires a proportionate decision to be made which must inherently be reasonable. The government is prepared to agree to the amendment, as it has the same effect as the clause currently stands.

Amendment agreed to.

Clause 98, as amended, agreed to.

Clauses 99 to 128, by leave, taken together and agreed to.

Clause 129.

DR FOSKEY (Molonglo) (6.11): I move amendment No 8 circulated in my name *[see schedule 2 at page 1362]*.

The argument for this amendment is similar to the one I just gave for amendment No 7. My amendment seeks to omit the phrase "considers appropriate" and substitute "considers, on reasonable grounds, to be appropriate", and the same reasons apply.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.11): The government agrees with and will support this amendment, although it is unclear why it is felt to be necessary to amend a provision that is about the administration of things already belonging to the territory. Clause 129 (1) enables the chief executive to decide on reasonable grounds to forfeit something to the territory after reasonable inquiries and efforts are made to establish an owner of the thing or to say that the thing is prohibited or unsafe.

In terms of the potential for a person's property rights to be affected, the critical power is foreshadowed in clause 129 (1). Clause 129 (1) is the power that would forfeit property to the territory on reasonable grounds. Clause 129 (2) does not affect property rights as it is a discretion in relation to property already belonging to the territory. Once things are forfeited on reasonable grounds in clause 129 (1), they belong to the territory. Clause 129 (2) gives the chief executive a power to do something with the forfeited thing. It is expected that the thing would be disposed of in an appropriate way. Given that the power in clause 129 (2) affects no one but the territory itself, the government is prepared to support the amendment.

Amendment agreed to.

Clause 129, as amended, agreed to.

Remainder of bill, by leave, taken as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.13): Mr Speaker, I seek leave to move together amendments Nos 2 to 7 circulated in my name together.

Leave granted.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (6.13): I move amendments Nos 2 to 7 circulated in my name together *[see schedule 1 at page 1359]*.

Speaking to the remainder of these amendments together, government amendment No 2 is in relation to clause 506. Clause 506 links the transitional provisions of this bill to chapter 17 of the Crimes (Sentence Administration) Act 2005, which provides transitional arrangements to enable existing custodial laws to apply until the Corrections Management Act commences. This government amendment extends the existence of this transitional provision for two years. Extending this time will assist in any future interpretation or clarification of the law that applied during the operation of the transitional provisions.

Government amendment No 3 deals with clause 507 (4). Clause 507 (4) currently recites section 88 of the Legislation Act 2001. Section 88 ensures that any transitional laws that have been made and are later repealed can still be used in circumstances

relevant to the transitional laws. Clause 507 also provides for transitional regulations, and the clause expires after two years. After that time, any further transitional amendments would need to be made by legislation. Consequently, clause 507 (4) is redundant and this amendment omits it.

Government amendment No 4 deals with proposed new section 75 (3) examples. Clause 117 provides a means for the Sentence Administration Board to grant an extended period of leave or refer a matter back to the sentencing court if a periodic detainee cannot serve periodic detention due to exceptional circumstances or serious health reasons. The amendment corrects the example in that clause. The example should refer to table 79 in the Crimes (Sentencing) Act 2005.

Government amendment No 5 deals with proposed new section 82A (2). Clause 118 enables a sentencing court to cancel periodic detention or to resentence an offender following a referral back to the sentencing court by the Sentence Administration Board. The original clause in the bill is incomplete, and this amendment completes the wording of proposed new section 82A (2).

Government amendment No 6 deals with proposed new amendment 1.18A. Schedule 1 part 1 (3) of the bill amends the Crimes (Sentence Administration) Act 2005. Proposed new amendment 1.18A to schedule 1 qualifies the definition of interim custody period in section 603 (1) of the Crimes (Sentence Administration) Act 2005. The amendment means that the interim custody period lasts until the commencement of chapter 3 of the foreshadowed Corrections Management Act, rather than the act as a whole, and this will allow certain parts of the foreshadowed act to be commenced ahead of other parts. The government envisages, for example, that schedule 1 itself will commence ahead of other parts of the foreshadowed act.

Finally, government amendment No 7 deals with amendment 1.20. Schedule 1 part 1. 3 of the bill amends the Crimes (Sentence Administration) Act 2003. Amendment 1.20 in the bill is an amendment to section 612 of the Crimes (Sentence Administration) Act 2005. Section 612 is part of chapter 17 of that act, which ensures that the ACT's custodial laws will continue to operate in harmony with the Sentencing Act until the Corrections Management Bill 2006 is enacted. In order that the statute book should continue to make clear what arrangements apply during the period after 2 June 2006 and before the commencement of the foreshadowed Corrections Management Act, the amendment enables the transitional provisions to appear on the statute book for a conservative period of two years.

Finally, I take the opportunity to thank those officials of the ACT government, particularly the Department of Justice and Community Safety, who have worked for a significant period on developing this legislation. As members would see, this is an extremely complex piece of legislation that involves intersection with a wide range of other pieces of legislation, particularly those that deal with sentencing. I am very grateful for their work and their support over this period. I know that this has been a significant project for the department and this bill itself establishes a significant foundation for the operations of our first prison, one that I think will greatly benefit from the significant work that has occurred to date in establishing and creating this piece of legislation. I thank those involved for their work.

Amendments agreed to.

Remainder of bill, as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Adjournment

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

> That the Assembly do now adjourn.

Schools—bullying

MRS BURKE (Molonglo) (6.19): I just wanted to mention an article that was in the *Canberra Times* on Wednesday, 30 May. It was written by Emma Macdonald, the education reporter. I think it has some significance to one of the issues that has been talked about in this place this week, and that is the issue of bullying. I want to commend the federal government and the federal education minister Julie Bishop for the implementation of $90 million being spent on chaplaincy services in schools.

The headline says "15 government schools sign up for Howard's 'God Squad'". Actually, it is very clear Mrs Bishop has stipulated that the chaplains, according to the article, "would have to sign a code of conduct that banned proselytising and discouraged the use of theological language or the assumption that people had the same beliefs".

I really commend the government on this move. Obviously what we have been doing so far to try to address bullying is not working or it is not having the desired effect. I think we have to try anything in terms of a different approach. If you want something different you have to do something different. I think clearly that this is a different approach.

I was very pleased to see that 15 government schools across the ACT applied for a chaplain under the Howard government's controversial school chaplaincy proposal and I actually know of two young guys in Mr Smyth's territory—in the electorate of Brindabella—who are going to be the chaplaincy to, I think, three of the schools down there; so that is very positive.

I think chaplaincy in government schools is almost seen as a bit of a luxury. The assumption is that private schools have these facilities, which is good and positive. I know that Clive Haggar from the education union was a little concerned and would have preferred the $90 million being spent on—and I again quote from the article—"professional counselling services in schools".

In fact, I would have to say that many of these chaplains are actually trained professionals in what they do. They are not picked just because she or he is nice and positive. These persons, and particularly the two young gentlemen I know, are very well-trained and very highly skilled. I think they will deliver an excellent service to the schools to which they are attached.

John Howard, the Prime Minister, is quoted as saying

> Chaplains in schools would be able to provide support for students in crisis, during bereavement, and in times of stress, as well as helping them deal with welfare services.

I think this is a positive initiative. I think it is one that the Howard government are to be commended for introducing. It is a difficult and tough call, but I think it is a very humanitarian call. It reaches to the point of people's need. I just wish the program every success and look forward to the feedback in ACT schools.

Journey of Healing commemoration

MS MacDONALD (Brindabella) (6.22): Mr Speaker, it was my very great privilege on the weekend, and I know that a couple of members have already spoken about this, to represent the Chief Minister at the Journey of Healing ACT's commemoration of the 10th anniversary of Sorry Day. As I say, it was a very great privilege and I think it is a great thing that we can actually have a celebration of the survival of the first peoples of Australia. I think there is—

Mr Smyth: And the boys ignore her as well.

MS MacDONALD: I think that is a very sad thing to say, Mr Smyth.

Mr Smyth: I think you are very sad quite regularly.

MR SPEAKER: Order, members! Order, everybody! Ms MacDonald has the call.

MS MacDONALD: I think it is a very sad thing to say.

Mr Smyth: Oh, Ms MacDonald; just get on with it. That is why your colleagues have turned their backs turned on you.

MR SPEAKER: Order, Mr Smyth!

MS MacDONALD: So it was a great privilege to be in attendance at that celebration of survival and also commemoration of the stolen generation 10 years since the *Bringing them home* report was brought down on Saturday.

I was there with Senator Kate Lundy. There was talk about how all of the state and territory governments have managed to apologise to the stolen generations but that there still has been no apology from the federal government since that report was brought down. I want to quote briefly from an article which my good friend Senator Ursula Stephens has had published in *Eureka Street* magazine. She has written an article which is entitled "Why is it so hard to say sorry?" She says:

> Why is it so hard to admit that the most human of qualities, fallibility? Regret, atonement and forgiveness lie very much at the core of spiritual values. John Howard's refusal to say sorry to Aboriginal Australians is a denial of an unsavoury truth in the face of irrefutable evidence, and as such demeans us as a

> nation. His intransigence has created an impasse in the Australian psyche, allowing no room for forgiveness, healing or hope.

Mr Speaker, I agree with that statement. I think it sums up my concern and despair at the Prime Minister's inability to apologise to the stolen generations. In the time that I have been a member in this place, I have become more and more aware of the injustice, I suppose, in the fact that we have such a discrepancy between the standards of living between non-indigenous and indigenous Australians. I personally think that it is my duty, as well as every other elected member's duty, to ensure that we fix that up.

I know that there is an attitude amongst some within the federal government that it is practical reconciliation as opposed to the making of a statement of apology being what matters, but I think the two go hand in hand. While I do not believe that John Howard will ever change his opinion on this, I do hope that one day the federal government, of whatever political persuasion, is able to say, "We are sorry for the injustices that were caused to you in the past."

Minister for Education and Training

MRS DUNNE (Ginninderra) (6.26): I note Ms MacDonald talked about the great attribute of admitting one's fallibility and owning up to when one has done the wrong thing. I would like to go back to the issues raised this morning, without reflecting on the vote in any way. Had I had the opportunity to conclude the debate I would have said these things then. The issues that arose this morning in relation to the motion of censure of Mr Barr were entirely of Mr Barr's making in that I think I had given him fairly ample opportunity to set the record straight.

He could have set the record straight. I made these notes this morning and I really feel that I should put them on the record. He could have come in here this morning and said, "Yesterday in question time I said such-and-such and Mrs Dunne has raised these issues with me and thinks that may not have been an accurate reflection of the issues. I have sought advice. I think that my version is correct."

However, because Mr Barr has done quite the right thing and said, "There is still some doubt and I am going to institute another inquiry and have this matter looked at again," if he had come in here and said, "I am going to have this matter looked at again and I will get back to Mrs Dunne and, if necessary, the Assembly when that arises," that would have been the end of the matter. It would have been the end of the matter because we could have got on civilly and dealt with the issues that we had on the day.

Mr Barr: When I said that in my speech you could have withdrawn the censure, Mrs Dunne, like the Chief Minister did.

MR SPEAKER: Order, Mr Barr. Order!

Mr Barr: Sorry, Mr Speaker.

MRS DUNNE: This is how the whole matter could have been avoided. At no stage did Mr Barr express concern that there was, at the very best, a misapprehension or a misconnection about what the facts were.

It is not sufficient when you actually come in here and are confronted with a censure to bluff your way through. At no stage did he say that he had made a mistake and that as a result of that mistake he was having the matter reinvestigated. Mr Barr could have resolved the issue. He could have got to a situation where, simply by acting in a parliamentary fashion, we did not spend, as Mr Stanhope said, an hour and a half or an hour and 20 minutes on this debate this morning.

On the subject of some of the issues raised by the Chief Minister this morning—I put this on the record again—Mr Stanhope and the Labor Party have the capacity to fall into very cliched positions on issues. When it comes to education, it is where the cliche machine runs hard and fast. The Chief Minister this morning was saying that the opposition is not concerned about government education. He said, "Mrs Dunne does not care about government education." I think he used the words "Mrs Dunne has no emotional attachment"—or words to that effect—"to government education".

I would like to put it on the record again, and some day the members of the Labor Party will learn this, that the two Dunne children who are currently in school attend, very happily and to the great satisfaction of my husband and I, ACT government schools. At the moment we would not have it any other way. We have been regular users of the ACT government school system. We have not used them exclusively. As many people in the ACT do, we pick the school that suits our children and currently the schools that suit our children are ACT government schools. Probably for half their schooling life our children have attended ACT government schools.

When you are talking about five children, that is a substantial number of years. The ACT opposition is absolutely and utterly committed to great education in the ACT irrespective of the sector. We do not pick favourites and we do not pick enemies. We want both systems to prosper. That is why I have constantly spoken about my concerns about the failure of this government to address the drift to the non-government system, especially in the high schools.

Mr Barr, by his own admission, says that unless we do something the ACT government high school system will become the system of last resort for children, and that would be a disgrace.

But as yet Mr Barr as the minister for education and Mr Corbell and Ms Gallagher as previous ministers for education—indeed, no-one on that side of the chamber and I do not think anyone in this chamber—can tell us definitively why people are moving from one sector to the other. We all have our theories, but we do not know why and until we know why we cannot address the problem and Mr Barr will not find out why.

Debate interrupted.

Supplementary answer to question without notice
Schools—performance

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.32): Yesterday in question time Mr Mulcahy asked a question in relation to studies or surveys that are undertaken in relation to bullying in ACT government schools and I took part of that question on notice.

I can advise the Assembly that each year one-third of ACT government schools conduct the school satisfaction survey as part of their school review cycle, and this survey of students, staff, parents and carers asks a range of questions on their perception of school performance. In 2006, as in previous years, the survey did ask a number of questions relating to bullying, harassment, acceptance of differences, tolerance and safety at schools. Schools also are able to undertake their own surveys as part of the national safe schools framework action plan in relation to bullying.

Adjournment

Debate resumed.

Wikipedia

MR SMYTH (Brindabella) (6.33): Mr Speaker, it is great to have the minister for education here this evening. He might be able to explain to the Minister for Health what the median is, because we seemed to have the Minister for Health on the run at question time today as far as her understanding of the latest AIHW report is concerned. She does not understand what "median" means. We only have to look at question time today. What was the Minister for Health's definition of "median" as she said in the Assembly today? It is the length of time from when you enter the list to when you are removed.

Mr Speaker, that is wrong. There are a number of ways you can find out the definition of median, you could go on line to Wikipedia. Their definition on line says, "In probability theory and statistics, a median is the number dividing the higher half of a sample, a population, or a probability distribution, from the lower half. The median of a finite list of numbers can be found by arranging all the observations from lowest value to highest value and picking the middle one."

Let us consider the definition from the *Macquarie Dictionary*. Mr Barr as an economist, knows all about this. It says, "The median is the middle value of a series of values arranged in the order of size". If that is too difficult for the Minister for Health, she actually could have considered the definition that is contained in the AIHW report itself.

If she turns to page 121 it says, "The median is the middle value in a group of data arranged from the lowest to the highest value." Clearly evident from the minister's filibustering today when she had absolutely no idea about how to deal with the question on what was the median point of people on the waiting list, was the fact that she just does not understand.

I think the silly comments she made on ABC radio this morning prove that. What she demonstrated is that she simply is not across her portfolio, particularly when she gets out of familiar territory. The Minister for Health said today in question time that the outcome of the report by the AIHW was good for the ACT. What was the reason it was good? It was 400 pages long and in that 400 pages there were only three matters of concern: triage of category 3 and 4 patients in the emergency department and waiting lists.

Of course, at the heart of any hospital system is the triage system when you approach the emergency department and getting on or off an elective surgery waiting list. So to say it is 400 pages and only three bits were wrong is silly at best and disingenuous at the same time. We also highlighted the disparity in the cost of separations with the ACT at the top of the list.

Let us turn to hospital beds. The minister said today that the ACT, under the Stanhope government, would aim to achieve national benchmark for hospital beds on a per capita basis. Why did she say this? She said it because this is another poor indicator for the ACT in the institute's report. But what does it mean, Mr Speaker? It means that the ACT needs an additional 194 beds. Yes, that is right. That is what the minister committed to today—an additional 194 beds.

What that would do is bring us up to around four beds per thousand of population. We look forward to that commitment being honoured in the budget on Tuesday. We look forward to the costs of 194 beds being in the budget on Tuesday, and we look forward to the minister keeping her commitment. It is great that the minister for education is here, because he is also the minister for sport and recreation. You could not let the night go past without having a comment about his failure to come up with real solutions to address the crisis we face with ovals.

As I have said a number of times here, Andrew Scissorhands has cut off the water to our ovals. They are just going to be allowed to deteriorate. We are doing ground zero—a scorched earth policy—here. There is no water for ovals, but there is no attempt whatsoever to come up with other solutions.

He should have listened to the Chief Minister who said there is plenty of water. He said that it flows out of the end of lower Molonglo. If you bring your truck down we will fill it up for free, and off you go. I think the sporting community is saying, "Well if there is water coming out of lower Molonglo, where is the minister's initiative?" There is absolutely no initiative from the one trick pony that is the minister for sport and recreation. All he knows how to do is cut; so now we are going to cut off the water to the ovals.

Other solutions may include rotation. Let us face it: he worked for the former minister who was responsible for the maintenance of ovals for almost five years; so it is a problem he should be right across. He should have known. Mr Hargreaves had responsibility for ovals as minister for urban services. That is where responsibility for them used to sit; it was—

Mr Barr: Not for five years, Brendan.

MR SMYTH: Not for five years—how long?

Mr Barr: I worked for him for about 18 months when he was the minister.

MR SMYTH: That is only 18 months; I do apologise. It is only 18 months but it was 18 months in which the drought deepened and obviously the former minister responsible for the maintenance of ovals said nothing about it; the new minister will do nothing about it. We need ideas and the minister must respond with not just cuts otherwise the tag "ministry for cuts" will stick. Andrew Scissorhands will go down in history as the minister who cut everything he touched.

Question resolved in the affirmative.

The Assembly adjourned at 6.38 pm.

Schedules of amendments

Schedule 1

Corrections Management Bill 2006

Amendments moved by the Attorney-General

1
Clause 21 (1)
Page 15, line 2—

omit clause 21 (1), substitute

(1) The chief executive responsible for the administration of the *Public Health Act 1997* must appoint a doctor for each correctional centre.

2
Clause 506 (4)
Page 174, line 16—

omit

1 year

substitute

2 years

3
Clause 507 (4)
Page 175, line 1—

omit

4
Schedule 1
Amendment 1.17
Proposed new section 75 (3), examples
Page 184, line 22—

omit

set out in table 79

substitute

set out in the *Crimes (Sentencing) Act 2005*, table 79

5
Schedule 1
Amendment 1.18
Proposed new section 82A (2)
Page 185, line 13—

omit proposed new section 82A (2), substitute

(2) The Court may—

(a) if satisfied that the offender should serve the remainder of the offender's sentence in accordance with section 79 (4) (Periodic detention—effect of suspension or cancellation etc)—cancel the offender's periodic detention; or

(b) in any other case—re-sentence the offender for the offence (the ***relevant offence***) for which the offender was ordered to serve periodic detention.

6
Schedule 1
Proposed new amendment 1.18A
Page 185, line 21—

insert

[1.18A] Section 603 (1), definition of *interim custody period*

after

Corrections Management Act 2006

insert

, chapter 3

7
Schedule 1
Amendment 1.20
Page 187, line 4—

omit

This section expires 1 year

substitute

This chapter expires 2 years

Schedule 2

Corrections Management Bill 2006

Amendments moved by Dr Foskey

1
Proposed new clause 21 (6) and (7)
Page 15, line 15—

insert

(6) If the chief executive does not comply with a direction under subsection (4) because of subsection (5), the chief executive must give the official visitor written notice of the noncompliance.

(7) The notice must not include information that identifies a detainee to whom the direction relates.

2
Proposed new clause 21A
Page 15, line 15—

insert

21A Other health professionals—health service appointments

The chief executive responsible for the administration of the *Public Health Act 1997* may appoint a health professional (other than a doctor)—

(a) to provide health services at a correctional centre; or

(b) to assist in protecting the health of detainees at a correctional centre.

3
Clause 41 (1)
Page 29, line 13—

omit clause 41 (1), substitute

(1) The chief executive must ensure that—

(a) sufficient, suitable clothing is provided for detainees; and

(b) any particular clothing, including a uniform, issued to detainees is not likely to degrade or humiliate detainees.

Example—par (b)

inconspicuous clothing of a type worn by the general community

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).

(1A) In particular, the chief executive must ensure that a remandee is allowed to wear the remandee's own clothes while in detention.

(1B) The chief executive must also ensure that a detainee lawfully absent from a correctional centre is allowed to wear the detainee's own clothes.

(1C) However, the chief executive may give directions denying or limiting the wearing of items of a detainee's own clothes if the chief executive suspects, on reasonable grounds, that the wearing of the item creates, or is likely to create, a risk to—

(a) the safety of anyone else at a correctional centre or elsewhere; or

(b) security or good order at a correctional centre or any other place where the detainee remains in detention.

4
Clause 50 (1)
Page 37, line 24—

omit clause 50 (1), substitute

(1) The chief executive must ensure that a detainee has access, at all reasonable times, to an accredited person, whether by telephone or mail or by a visit from an accredited person.

Note ***Accredited person*** is defined in the dictionary.

5
Proposed new clause 50A
Page 38, line 10—

insert

50A Visits—protected communications

The chief executive must not listen to, or record, a communication at a visit between a detainee and any of the following people:

(a) a lawyer representing the detainee;

(b) an official visitor;

(c) the human rights commissioner;

(d) the public advocate;

(e) the ombudsman;

(f) a person prescribed by regulation.

Note 1 Electronic communications between a detainee and a person mentioned in this section must not be monitored, see s 102.

Note 2 For restrictions on monitoring mail between a detainee and a person mentioned in this section, see s 104.

6
Proposed new clause 85A
Page 66, line 14—

insert

85A Notice of transfer to another correctional centre, hospital etc

(1) This section applies in relation to a detainee if the detainee is to be—

(a) transferred to—

(i) another correctional centre (including a NSW correctional centre); or

(ii) a hospital (including a hospital inside a correctional centre); or

(iii) a police cell or court cell under section 34 (Detainees accommodated away from correctional centre); or

(b) held overnight in a police cell or court cell.

(2) The chief executive must take reasonable steps to find out whether the detainee wants a particular person (the ***nominated person***) told about the transfer or overnight holding.

(3) The chief executive must take reasonable steps to tell the nominated person about the transfer or overnight holding.

7
Clause 98 (g)
Page 75, line 16—

omit clause 98 (g), substitute

(g) anything else the chief executive considers, on reasonable grounds, to be relevant.

8
Clause 129 (2)
Page 96, line 8—

omit

considers appropriate

substitute

considers, on reasonable grounds, to be appropriate

Answers to questions

Environment—noise pollution (Question No 1481)

Dr Foskey asked the Minister for the Territory and Municipal Services, upon notice, on 28 February 2007:

(1) What legislation and/or regulations does the ACT Government have in regards to the level of decibels that can be emitted from audio systems in vehicles;

(2) In what manner is this legislation and/or regulations policed.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The *Environment Protection Act 1997* and the *Environment Protection Regulation 2005* apply to noise emitted from vehicles other than those driven on a road or road related area, except in limited circumstances, such as speed trials (see section 8 of the Act). The applicable noise standards, which vary depending on the area of the ACT affected by the noise are set out in Schedule 2 of the Regulation. Section 394 of the *Crimes Act 1900* can potentially apply to noise emitted from vehicles whilst they are driven on roads. That section does not prescribe decibel levels.

(2) The *Environment Protection Act 1997* and its attendant Regulation is enforced by officers authorised under that Act. Enforcement of the *Crimes Act 1900* is a matter for ACT Policing.

Environment—climate change (Question No 1498)

Dr Foskey asked the Treasurer, upon notice, on 28 February 2007:

Has the ACT Government commissioned a study on the likely impacts of climate change on the ACT economy.

Mr Stanhope: The answer to the member's question is as follows:

The ACT Government has not commissioned or undertaken a study on the impact of climate change on the ACT economy.

Youth worker in schools program (Question No 1510)

Dr Foskey asked the Minister for Education and Training, upon notice, on 28 February 2007:

(1) Will the Youth Worker in Schools program trial be evaluated when it finishes in June;

(2) Will the evaluation be made public;

(3) What are the criteria by which its success will be judged;

(4) What is the rationale for reducing the number of hours of counselling is available to schools;

(5) What will the new teams, to which some counsellors have been appointed, do and how will they operate;

(6) What steps is the Government taking to ensure that new counsellors are available to replace those that retire;

(7) Has consideration been given to encouraging psychology graduates to become school counsellors by giving scholarships for diplomas in education.

Mr Barr: The answer to the member's question is as follows:

(1) The Youth Support Workers in High Schools program is an ongoing budget initiative of this Government and will continue beyond June 2007.

(2) Refer to (1).

(3) The Department of Education and Training will draw feedback fro principals, teachers and students in relation to the value of the Youth Support Workers initiative. The focus will be on student engagement and learning, student wellbeing and school and community connectedness.

(4) There has been no reduction in counselling services to schools.

(5) A cluster model for counselling, special education and student management service delivery is being developed. This means that these services will be delivered in an integrated way across four regions of Canberra. To provide a more effective service, counsellor time is allocated in three ways:

- a direct allocation to schools based on student population
- a targeted allocation to schools based on identified need (students with special needs; Indigenous students; students from culturally and linguistically diverse backgrounds; indicators of social need; early intervention support, Care and Protection issues)
- an allocation to cluster teams. Cluster teams provide a responsive service based on emerging needs of individual schools.

(6) The Department of Education and Training has taken a number of steps to recruit qualified school counsellors and to encourage qualified teachers to retrain as counsellors. This includes interstate advertising and recruiting teachers who would be interested in obtaining the necessary qualification in psychology to attain registration with the ACT Psychologist Board.

(7) See (6).

Disabled persons—car parking (Question No 1543)

Mrs Burke asked the Minister for the Territory and Municipal Services, upon notice, on 15 March 2007:

(1) How many disabled car spaces are there in ACT government managed car parking lots in the Civic precinct;

(2) What plans are there to increase the number of disabled car spaces in ACT government managed car parking lots in close proximity to Garema Place and City Walk.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Presently there are more than 120 mobility parking spaces within Territory parking areas in Civic.

(2) There is no immediate plan to increase the number of mobility parking spaces within Territory parking areas in close proximity to Garema Place and City Walk.

Health—food business inspections (Question No 1548)

Mr Smyth asked the Minister for Health, upon notice, on 1 May 2007:

(1) How many food businesses in the ACT did the Health Protection Service (HPS) have the power to inspect during the financial years of (a) 2001-2002, (b) 2002-2003, (c) 2003-2004, (d) 2004-2005, (e) 2005-2006 and (f) 2006-2007 to date;

(2) How many premises were inspected by the HPS in the years listed in part (1);

(3) How many improvement notices were issued by the HPS or authorised officers under the *Food Act 2001* in the years listed in part (1);

(4) How many improvement notices issued by the HPS or authorised officers under the *Food Act 2001* were complied with without extension in the years listed in part (1);

(5) How many extensions were granted for improvement notices issued by the HPS in the years listed in part (1);

(6) How many improvement notices issued by the HPS or authorised officers under the *Food Act 2001* were not complied with in the years listed in part (1);

(7) How many (a) prohibition notices were issued, (b) reinspections were conducted and (c) clearance certificates were issues by the HPS or authorised officers under the *Food Act 2001* in the years listed in part (1);

(8) How many prosecutions under (a) section 87 and (b) Part 3 of the *Food Act 2001* were initiated in the years listed in part (1);

(9) Of the prosecutions initiated under Part 3 of the *Food Act 2001*, how many were for (a) serious offences and (b) other offences in the years listed in part (1);

(10) What was the (a) budget for the HPS and (b) reason for any reduction in the HPS budget for the years listed in part (1);

(11) How many full-time equivalent staff were employed within the HPS in the years listed in part (1);

(12) How many full-time equivalent staff were authorised officers under the *Food Act 2001* and were employed to actively conduct inspections of food premises in the years listed in part (1);

(13) What was the incidence of food poisoning in the ACT in the years listed in part (1);

(14) How many of the incidents of food poisoning in the ACT resulted in (a) hospitalisation and (b) death in the years listed in part (1);

(15) How many of the incidents of food poisoning in the ACT were the result of food bought in the ACT in the years listed in part (1);

(16) When will mandatory food safety programs be implemented across the food sector;

(17) What steps has the Government taken to ensure businesses and other organisations are ready for the implementation of mandatory food safety programs;

(18) If any category of food business will not be subject to mandatory food safety programs, why has the Government chosen not to implement mandatory food safety programs for each category;

(19) If mandatory food safety programs are to be implemented in a staged way, why was each category selected for implementation ahead of each of the others;

(20) What steps has the ACT Government taken to prepare for a serious food poisoning outbreak;

(21) What projections have been made in terms of cost of a serious food poisoning outbreak to the ACT Government and the ACT economy.

Ms Gallagher: The answer to the member's question is as follows:

Any information provided for financial years 2001 – 2002 and 2002 – 2003 is obtained from electronic records only, as all files were lost during the 2003 bushfires.

(1) How many food businesses in the ACT did the Health Protection Service (HPS) have the power to inspect during the financial years of

(a)	2001-2002,	not available
(b)	2002-2003,	2095
(c)	2003-2004,	2071
(d)	2004-2005,	2122
(e)	2005-2006	2072
(f)	2006-2007 to date;	1818

(2) How many premises were inspected by the HPS in the years

(a)	2001-2002,	1025
(b)	2002-2003,	1164
(c)	2003-2004,	1819
(d)	2004-2005,	2081
(e)	2005-2006	1354
(f)	2006-2007 to date;	1178

(3) How many improvement notices were issued by the HPS or authorised officers under the *Food Act 2001* in the years

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	2
(d)	2004-2005,	3
(e)	2005-2006	4
(f)	2006-2007 to date;	2

Improvements notices are rarely issued as most premises are in compliance upon inspection. This has been achieved as the work of the last 10 years has focused on educating premises owners and operators to comply with requirements. This program continues to achieve a high level of compliance and as such very few improvement notices are issued.

Improvement notices are issued where premises are not complaint upon reinspection or for serious variations from the Food Standards Code or the *Food Act 2001*.

(4) How many improvement notices issued by the HPS or authorised officers under the *Food Act 2001* were complied with without extension in the years

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	2
(d)	2004-2005,	3
(e)	2005-2006	1
(f)	2006-2007 to date;	2

(5) How many extensions were granted for improvement notices issued by the HPS in the years

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	0
(d)	2004-2005,	0
(e)	2005-2006	3
(f)	2006-2007 to date;	0

(6) How many improvement notices issued by the HPS or authorised officers under the *Food Act 2001* were not complied with in the years

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	0
(d)	2004-2005,	0
(e)	2005-2006	0
(f)	2006-2007 to date;	0

(7) How many (a) prohibition notices were issued, (b) reinspections were conducted and (c) clearance certificates were issued by the HPS or authorised officers under the Food Act 2001 in;

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	0
(d)	2004-2005,	0
(e)	2005-2006	2
(f)	2006-2007 to date;	1

Prohibition notices are only issued for critical food safety issues where public health is at risk. It is not possible to give numbers for reinspections. All food premises in the ACT must obtain a clearance certificate before they can commence business; no records are kept to identify this criterion.

(8) How many prosecutions under (a) section 87 and (b) Part 3 of the *Food Act 2001* were initiated in the years listed in part (1);

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	1
(d)	2004-2005,	1
(e)	2005-2006	2
(f)	2006-2007 to date;	0

(9) Of the prosecutions initiated under Part 3 of the *Food Act 2001*, how many were for (a) serious offences and (b) other offences in the years listed in part (1);

(a)	2001-2002,	not available
(b)	2002-2003,	not available
(c)	2003-2004,	1 serious
(d)	2004-2005,	1 serious
(e)	2005-2006	2 serious
(f)	2006-2007 to date;	0

(10) What was the (a) budget for the HPS and (b) reason for any reduction in the HPS budget for the years 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006 and 2006-2007 to date;

The budgets for the Health Protection Service for the years 2001-02 to 2006-07 were:

(a)	2001-2002,	$9.012m
(b)	2002-2003,	$9.925m
(c)	2003-2004,	$11.052m
(d)	2004-2005,	$11.473m
(e)	2005-2006	$10.918m
(f)	2006-2007 to date;	$14.002m

In 2003-04 an amount of $135m was transferred within ACT Health to the Office of the Chief Health Officer following a reorganisation of functions.

In 2004-05 the Health Protection Services budget was reduced ($756,300) for the rent of the Holder property following the transfer of ownership of the property to ACT Health.

In 2005-06 the Health Protection Service was required to make efficiency savings of $0.160m. This was achieved through a reduction of one position in support services and one position in environmental health services, which delivered no loss of service to the community.

In 2006-07 the Smoke Free Area Regulation and Tobacco Licensing functions were transferred to the Department of Justice and Community Safety ($0.236m). In addition, the Health Protection Service was required as part of a range of whole of government initiatives to save on motor vehicle costs, procurement processes and information technology leasing costs. The budget reduction for these items totalled $0.187m. In 2006-07 the HPS was granted a budget initiative of $0.210m for the introduction of food safety programs, which offset the transfer of staff to the Department of Justice and Community Safety.

There have been variations to the budgets across the years largely due to changes to Commonwealth vaccination programs.

(11) How many full-time equivalent staff were employed within the HPS in the years;

All FTEs' listed below, are the average across that respective financial year or in the case of 2007 it is the average as at end April 2007.

(a)	2001-2002,	74
(b)	2002-2003,	72
(c)	2003-2004,	74
(d)	2004-2005,	77
(e)	2005-2006	82
(f)	2006-2007 to date.	82

(12) How many full-time equivalent staff were authorised officers under the *Food Act 2001* and were employed to actively conduct inspections of food premises in the years

(a)	2001-2002,	12
(b)	2002-2003,	12
(c)	2003-2004,	12
(d)	2004-2005,	12
(e)	2005-2006	12
(f)	2006-2007 to date;	12

(13) What was the incidence of food poisoning in the ACT in the years

(a)	2001-2002,	408
(b)	2002-2003,	365
(c)	2003-2004,	375
(d)	2004-2005,	390
(e)	2005-2006	404
(f)	2006-2007 to date;	386

The above figures are approximates and have been determined using local and national data for notifiable diseases. The numbers of notifications for a range of diseases have a percentage possibly attributed to food borne pathogens.

(14) How many of the incidents of food poisoning in the ACT resulted in (a) hospitalisation and (b) death in the years

		Hospitalisations	Deaths
(a)	2001-2002,	unknown	unknown
(b)	2002-2003,	8	1
(c)	2003-2004,	2	0
(d)	2004-2005,	3	0
(e)	2005-2006	0	0
(f)	2006-2007 to date;	1	0

(15) How many of the incidents of food poisoning in the ACT were the result of food bought in the ACT in the years

This type of information is not captured on a Territory or National basis.

(16) When will mandatory food safety programs be implemented across the food sector;

Food safety programs will be implemented in the following four highest risk food business sectors in line with the decision of the Australia and New Zealand Food Regulation Ministerial Council (ANZFRMC) from December 2003:

- food service for vulnerable populations;
- producers, harvesters, processors and vendors of raw ready to eat seafood;
- catering operations serving food to the general population; and
- producers of manufactured and fermented meats.

A deadline for the introduction of mandatory food safety programs for the identified food business sector within each jurisdiction is two years after the gazettal of the respective standard:

- Producers, harvesters, processors and distributors of raw oysters and other bivalves will need to have food safety programs introduced by 26 May 2007.
- Producers of manufactured and fermented meats will need to have food safety programs by 24 November 2007.
- For food services in which potentially hazardous food is served to vulnerable populations the mandatory food safety programs will come into effect by 5 October 2008.
- A standard for catering operations serving food to the general public, for example, spit roast caterers, etc. has not been finalised yet. At this stage, it is expected that

catering businesses serving food to the general public will need to have food safety programs introduced in the second part of 2009.

(17) What steps has the Government taken to ensure businesses and other organisations are ready for the implementation of mandatory food safety programs;

Food businesses that will need to introduce food safety programs in 2007 were approached in December 2006 and reminded of the requirements. ACT Health's public health officers have been working with these food businesses clarifying the requirements and establishing their needs. The dedicated project team is currently preparing supporting material for food businesses including fact sheets, posters, brochures and templates.

An amendment to the Food Regulation 2002 has been drafted to facilitate the introduction of food safety programs.

(18) If any category of food business will not be subject to mandatory food safety programs, why has the Government chosen not to implement mandatory food safety programs for each category;

The decision to introduce food safety programs for certain highest risk food businesses was based on the findings from the National Risk Validation Project; Food Safety Management Systems - Costs, Benefits and Alternatives Report; including a cost-benefit analysis, which showed a significant cost-benefit ratio for mandating food safety programs for these highest risk food business sectors.

In future, after a cost-benefit analysis, the ANZFRMC may be asked to consider whether further food business sectors may be required to have food safety programs.

(19) If mandatory food safety programs are to be implemented in a staged way, why was each category selected for implementation ahead of each of the others;

The introduction of food safety programs for the identified highest risk food business sectors is at the national level and is determined by the Food Standards Australia New Zealand work on the development of appropriate standards within the Food Standards Code. ACT Health participates in this process.

(20) What steps has the ACT Government taken to prepare for a serious food poisoning outbreak;

The Health Protection Services routinely responds to notification of food borne illness, within a 24-hour period. In the event of a major incident the ACT has been participating at a national level to determine the best way to manage large outbreaks.

The HPS has an Acute Response Team that meets as soon as a potential outbreak is identified and routinely as time elapses to identify and minimise any potential outbreaks. The team also meets regularly to ensure that we are prepared for and trained in response requirements.

(21) What projections have been made in terms of cost of a serious food poisoning outbreak to the ACT Government and the ACT economy.

There have not been any projections on the cost of a serious food poisoning outbreak to the ACT Government and the ACT economy.

As mentioned in response to Question 20, the ACT is working to reduce this risk and is also participating at a national level to determine an appropriate response to large outbreaks.

Disabled persons—car parking (Question No 1550)

Mr Seselja asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

(1) How many disabled drivers (a) are there in the ACT and (b) were in the ACT each year from 2000 to 2006;

(2) What is the projected population of disabled drivers in the ACT for the next five years;

(3) How many current parking passes are on issue to disabled drivers;

(4) What was the total number of parking passes on issue to disabled drivers each year from 2000 to 2006;

(5) What provision for disabled parking has been made in forward planning for the next five years;

(6) What comparisons have been made between the (a) disabled driver population and (b) the provision of disabled driver parking in the ACT compared to other jurisdictions;

(7) What was the result of those comparisons.

Mr Hargreaves: The answer to the member's question is as follows:

(1) There are no records kept on the number of disabled people that hold ACT Driver licences.

(2) As there are no records kept, no projections have been prepared for the next five years.

(3) Permits are issued to both disabled drivers and non-drivers. At 13 May 2007 there were 15,359 mobility parking permits on issue.

(4) Due to the introduction of a new computer system, figures are not available prior to June 2003. At 31 December the following number of mobility parking permits were on issue:

2003 = 10,401 2004 = 12,057 2005 = 13,499 2006 = 14,899

(5) Provision for parking for drivers with disabilities is required under the *Building Code of Australia* (BCA) or under the *ACT Parking and Vehicular Access Guidelines* (the Guidelines). As development applications are lodged or developments proposed, they are screened for a wide range of requirements, including parking provision for drivers with disabilities. Generally, the requirement is for one space for drivers with disabilities per 100 car parking spaces.

The provision rates for parking spaces are set out in the BCA and the Australian Standard. In structures, which are subject to BCA requirements, the provision rate is

one space per 100 parking spaces or part thereof. For surface car parks, the provision rates are to in accordance with Australian Standard AS2890.1 – 1993. The recommended provision rate is between one and two spaces per 100 parking spaces for retail centres. Surface car parks in the ACT meet these requirements.

The Australian Standard is currently under review and if, when the standard is promulgated by Standards Australia, it requires a different parking provision rate than is currently required under the BCA or the Guidelines, these will be amended as necessary.

(6) None, but the ACT provisions are consistent with national standards.

(7) See 6 above.

Motorcycles (Question No 1552)

Mr Seselja asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

(1) How many (a) motorcycles and (b) motor scooters were registered in the ACT each year from 2000 to 2006;

(2) What is the projected rate of registrations for (a) motorcycles and (b) motor scooters each year for the next 5 years;

(3) How many accidents involving (a) motorcycles and (b) motor scooters have occurred each year from 2000 to 2006.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Motorcycles and motor scooters are not recorded separately on the rego.act database, so it is not possible to provide the number of registrations for each category. The total number of motorcycles and motor scooters registered at 31 December are:

2000 = 5,961	2001 = 6,378	2002 = 6,744	2003 = 7,041
2004 = 7,503	2005 = 8,049	2006 = 8,725	

(2) Based on an average annual increase of 460 registrations in each of the last six years, the rate of registrations for the next five years is projected to be:

2007 = 9,185	2008 = 9,645	2009 = 10,105	2010 = 10,565
2011 = 11,025			

(3) Separate data is not available for motorcycle and motor scooter accidents. The number of accidents involving both motorcycles and motor scooters are:

2000 = 197	2001 = 160	2002 = 186	2003 = 153
2004 = 169	2005 = 191	2006 = 149*	

* To end of November 2006

Parking—revenue
(Question No 1554)

Mr Seselja asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

(1) What was the total number of registered vehicles by category in the ACT for each year from 2000 to 2006;

(2) What was the annual revenue collected through paid parking each year from 2000 to 2006;

(3) What is the projected revenue from paid parking for the next five years and is there a target revenue sum expressed as a percentage of cars registered;

(4) What comparisons have been made with other jurisdictions in terms of revenue from parking expressed as a percentage of car registrations.

Mr Hargreaves: The answer to the member's question is as follows:

(1) See attached.

(2) As published in the department's annual reports the revenue collected through parking fees was:

Year	**$'000**
2005-2006 Parking Fees	13,131
2004-2005 Parking Fees	12,746
2003-2004 Parking Fees	11,554
2002-2003 Parking Fees	10,240
2001-2002 Parking Fees	10,714
2000-2001 Parking Fees	10,485
1999-2000 Parking Fees	11,191

(3) No revenue projections have been prepared and no target expressed as a % of vehicle registrations.

(4) None.

(A copy of the attachment is available at the Chamber Support Office).

Development—Civic section 19
(Question No 1555)

Mr Seselja asked the Minister for Planning, upon notice, on 1 May 2007:

(1) What current plans exist for the development of Section 19 in the City;

(2) Has a Development Application been lodged for Section 19.

Mr Barr: The answer to the member's question is as follows:

(1) No current plans exist for the development of Section 19 in the City.

(2) No Development Application has been lodged for Section 19 City. Section 19 City is a Designated Area and therefore development is subject to Works Approval by the National Capital Authority.

Phillip oval
(Question No 1556)

Mr Seselja asked the Minister for Planning, upon notice, on 1 May 2007:

(1) What plans exist for future development of Phillip Oval;

(2) If no current plans exist, what likely future developments are likely to be considered;

(3) What timing is associated with this or any likely future development of the site;

(4) What parking provisions will be made associated with any future development;

(5) How long will current parking arrangements apply at Phillip Oval.

Mr Barr: The answer to the member's question is as follows:

(1) Phillip Oval is being restored to the standard of an enclosed oval. The initial stage in the redevelopment will include a new playing surface, public parking for about 180 cars, new change rooms, fencing and landscape improvements. Land fronting Launceston Street that is not required to meet long term sporting needs will be considered for commercial development.

(2) Planning for Phillip Oval is described in the response to Question 1 above.

(3) Tenders for a consultancy to prepare the master plan and the detailed documentation was advertised on 10 February 2007. A consultant has been appointed and tenders for the first construction package are expected to be called in August 2007. This package will include the playing surface and the parking area. The second construction package that will include the change rooms and landscape works is expected to be called in early 2008. The new playing surface will need 12 months to harden off which should allow for summer sports to be played from October 2008.

(4) 185 new public parking spaces will be created as part of the oval reconstruction. In addition, 165 new public parking spaces will be created through the redesign of the existing car park between the swimming pool and the oval. In total 350 new public parking spaces will be added to Woden's parking supply by the end of 2007.

(5) At the start of 2007 140 temporary parking spaces were created on the western side of Phillip Oval to help ease the current parking shortfall. These spaces will remain until the additional 350 spaces described in Question 4 are created and until 230 new parking spaces at IP Australia become available in November 2007. At the end of 2007, when 580 new parking spaces are available to workers in Woden, the temporary

parking will be removed to make way for construction of the new amenities building as described in Question 3.

Solar power
(Question No 1557)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 1 May 2007:

(1) Given that in March 2007 the West Australian Parliament approved the Greens' Compulsory Solar Hot Water Bill which makes it compulsory to replace old water heaters with solar hot water systems, will the ACT Government consider implementing an initiative of this kind, given its stated commitment to promoting 'green' power sources in the ACT;

(2) Given the greater cost of solar hot water systems, would the Government be prepared to offer a rebate scheme for those changing to solar hot water;

(3) Can the Minister outline any steps the Government will be taking to encourage ACT residents to switch to solar power.

Mr Stanhope: The answer to the member's question is as follows:

(1) The ACT Government does not at this stage intend to make it compulsory to replace hot water heaters with solar hot water systems as the costs are significantly higher for households. We do encourage solar hot water systems and provide rebates for installation.

(2) The ACT Government currently offers a rebate on solar hot water systems through the ACT Energy Wise Rebate program. We have recently changed our Energy Wise Rebate program to include solar hot water heaters. The cost of the first $1000 for a 5 star gas, electric heat pump, or solar hot water services that replace an electrical hot water service may now be used to calculate the $2000 expenditure on improvements eligible for the $500 rebate.

(3) The ACT currently offers a rebate on solar hot water systems through our energy audit rebate.

Gungahlin Drive extension
(Question No 1559)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

(1) In relation to the Gungahlin Drive extension and particularly the installation of traffic lights opposite Shannon Circuit, Kaleen, about which several constituent complaints have been received, has the Government conducted an impact study on the effect of these traffic lights on traffic flows, noise and pollution; if so, where can this study be accessed;

(2) Is the Government aware of the negative impact of these traffic lights on the residents of Shannon Circuit, particularly increased noise and pollution from stop-start traffic;

(3) Will noise barriers be erected in this area to deflect the increased traffic noise from the Gungahlin Drive extension;

(4) Will the Government consider compensation for the residents of Shannon Circuit given the loss of amenity they have suffered because of the Gungahlin Drive extension.

Mr Hargreaves: The answer to the member's question is as follows:

(1) Yes.
http://www.tams.act.gov.au/move/gungahlin_drive_extension/the_full_story/referencedocuments#preliminary_assessment_western_alignment

(2) Predictions of the environmental impact of the Gungahlin Drive Extension have been made in the above referenced document.

(3) The predicted noise levels in Shannon Circuit are within the guidelines for existing residential areas. Actual noise levels will be measured after the completion of the Gungahlin Drive Extension. At this stage no additional noise mitigation measures are planned for Shannon Circuit.

(4) Refer to answer to question 3.

Graffiti
(Question No 1561)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

In relation to Graffiti Art projects, specifically provision of art work on the bridge underpass area under Justinian Street, on the approach to the Woden Cemetery, can the Minister confirm, as alleged by an anonymous representative of the Community Arts Program on 18 April 2007 to Susannah Dunkerley, a News.com journalist, that a telephone call was made to the Pratt office at the ACT Legislative Assembly by an employee of the community arts program to allegedly inform the office of the legality of graffiti at the above location; if so, please provide details of the (a) caller, (b) recipient of the call and (c) time and date of call.

Mr Hargreaves: The answer to the member's question is as follows:

There was no contact by the graffiti management area of TAMS to Mr Pratt or his office.

Graffiti
(Question No 1563)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 1 May 2007:

(1) What is the ACT Government policy regarding the identification of legal graffiti art sites;

(2) Who is responsible for the provision of signage designating legal graffiti art space;

(3) Why is there no signage in the vicinity of graffiti artwork the left side of the bridge underpass area under Justinian Street, on the approach to the Woden Cemetery;

(4) Are there any legal graffiti art sites across the ACT that are not identified with appropriate signage; if so, what are details of these sites.

Mr Hargreaves: The answer to the member's question is as follows:

(1) It is important to understand there is a difference between legal mural sites and legal practice sites. Legal practice sites are identified but legal mural sites are not identified to avoid drawing the attention of graffiti vandals.

(2) The Graffiti Programs Coordinator organises the sign posting of legal graffiti practice sites.

(3) The Eddison Park mural under Justinian Street on the approach to the Woden Cemetery is a legal mural site and consequently is not signed.

(4) No.

Native animals—care (Question No 1568)

Dr Foskey asked the Minister for the Environment, Water and Climate Change, upon notice, on 2 May 2007:

(1) Given that protected native animals or special protected species may not be kept by wildlife carers, must be reported to Environment ACT within 24 hours and are not to be released from captivity, who holds licences to care for these species and what is done with them once rehabilitated;

(2) Given that native animals which do not live naturally in the ACT may not be kept, and must be reported within 24 hours to Environment ACT, what is done with these animals;

(3) What is the status of dingoes, in terms of wildlife rehabilitation;

(4) Given that Eastern Grey kangaroos and their joeys are not able to be kept for a period longer than 48 hours, why does this policy differ from the NSW policy for wildlife rehabilitation;

(5) Can the Minister outline what methods of euthanasia are used on Eastern Grey kangaroos which are unable to be rehabilitated.

Mr Stanhope: The answer to the member's question is as follows:

(1) Both the RSPCA and Wildlife Carers licences state that if Protected Native Animals or Special Protection Status species are received, licensees must advise an Officer from the Licensing and Compliance Unit, Environment Protection and Heritage, within 24 hours.

Licenses for rehabilitation of Protected Native Animals or Special Protection Status species may be granted by the Conservator of Flora & Fauna, providing the applicant has the appropriate qualifications and/or experience to keep the particular species.

When ready for release and where possible, the rehabilitated animal shall be released on or near the site where it was found, in an appropriate habitat, at an appropriate time and/or season. If an animal cannot be released near the site where originally found, advice shall be sought from the Research and Monitoring Unit, Parks Conservation and Lands in relation to a suitable release site.

(2) The two issued wildlife carers licenses do not allow for keeping of native animals which do not occur naturally in the ACT. These would be primarily escapees from private aviaries or licensed keepers.

Environment Protection and Heritage Licensing Officers would make enquiries with known licensed keepers, in an attempt to locate the owner of the animal. If an owner cannot be identified, arrangements would be made for the housing/holding of the animal as; a companion animal to others of its species which are legally kept in captivity (a Register of native animals is kept by the Conservator of Flora and Fauna); as a legitimate educational or scientific resource; or to be placed in an established collection.

(3) Currently there is no ACT Dingo rehabilitation policy. Dingoes are classified as a native animal living naturally in the ACT and are afforded the same protection under the *Nature Conservation Act 1980* as other native animals naturally occurring in the ACT. However, dingoes are also declared as a pest animal under the *Pest Plants & Animals Act 2005*. Any requests for the rehabilitation of dingoes would be assessed on a case-by-case basis.

(4) The ACT is committed to a policy of evidence-based management of kangaroos by the (> 50) recommendations in the reports of the Kangaroo Advisory Committee, which have been adopted by successive ACT governments as the policy framework for kangaroo management. The ACT Government policy is not to issue general licences for the keeping of injured or orphaned Eastern Grey Kangaroos as this species is abundant in the ACT.

(5) The methods for the euthanasia of Eastern Grey Kangaroos are specified in the Code of Practice for the Humane Destruction of Kangaroos in the ACT. These include shooting by authorized persons, lethal injection or cranial destruction with a captive bolt.

Police and Citizens Youth Club (Question No 1569)

Dr Foskey asked the Minister for Police and Emergency Services, upon notice, on 2 May 2007:

(1) Further to the reply to question on notice No 1485, is it the Government's intention that the Police and Citizen's Youth Club (PCYC) site at Turner will be refurbished at any point in the future; if not, what will be done with the land at this site;

(2) What was the estimated cost of refurbishing the site;

(3) Has the Government conducted an analysis of the cost of demolition and clearing of the site versus the cost of refurbishment;

(4) Who conducted the analysis of the demographic needs of the Canberra community which led to the decision being taken to relocate the PCYC to an outer suburb and where can a copy of this study be found.

Mr Corbell: The answer to the member's question is as follows:

(1) The Board of the Canberra PCYC is committed to returning the PCYC to the Civic area of Canberra and the Board has appointed Development Facilitation Pty Ltd as its project managers to consider options.

(2) The cost of refurbishing this facility is estimated to be twice the cost of demolishing the existing building and constructing a new facility.

(3) As per the above response.

(4) The PCYC Board employed the services of KPMG in 2005 to conduct a demographic analysis of youth within the Canberra region and the results of this analysis assisted the decision to locate an additional Canberra PCYC facility to the west Belconnen region. A PCYC facility will, however, still be located in the Canberra Civic area. A copy of the analysis is held by the PCYC Board.

Libraries—radio frequency identification technology (Question No 1570)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 2 May 2007:

(1) In relation to ACT public libraries and the Library Services Consolidation Project: A Report into ACT Library Services of September 2006, is the ACT Government considering installing radio frequency identification technology (RFID) as recommended by the report; if so, at what stage of considerations is the ACT Government currently at, for example, what work has been done to date;

(2) Does the ACT Government agree with the report's assertion that the initial capital cost would be $1.64 million; if not, what does the ACT Government expect the initial capital cost to be;

(3) What annual and ongoing financial costs does the ACT Government expect to be associated with RFID;

(4) What impact does the ACT Government expect the installation of RFID will have on ACT public library staff, noting the problems ACT public library staff have had with previous electronic technologies installed like the ACT Virtual Library;

(5) If the ACT Government is considering installing RFID, what strategies is the ACT Government preparing to ensure staffing problems with the new electronic technology are minimised.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The ACT Library and Information Service has been investigating the history of RFID implementation in other similar library services, and is gathering information to assess the potential of RFID in relation to the ACT public libraries.

(2) Initial capital costs for implementation of RFID in the ACT Public Library would need to be confirmed through a tender process.

(3) Annual and ongoing financial costs for RFID implementation would need to include:

a) Annual maintenance costs for supplier maintenance of the RFID application
b) Costs of RFID tags to be inserted in each new library item as it is acquired.
Annual and ongoing financial costs for RFID implementation could not be determined until a successful RFID supplier is contracted to the library service.

(4) The ACT Government anticipates that the installation of RFID would assist ACT Public Library staff by:

- Reducing the manual handling of library materials that have been returned and require processing for reshelving; and
- Providing library customers with much more reliable means of checking out their own library materials, thus reducing manual handling of library materials by library staff.

(5) The ACT Government's strategies for preparing for an RFID installation to minimise problems with the new electronic technology for staff would include:

- Appropriate testing of the RFID application in a test site prior to going live;
- Staff training that is thorough and delivered prior to going live;
- Ensuring that the contract with a successful RFID supplier provides for appropriate and timely supplier back up and troubleshooting procedures.

Libraries—survey (Question No 1571)

Dr Foskey asked the Minister for Territory and Municipal Services, upon notice, on 2 May 2007:

(1) In relation to the ACT Library Opening Hours Survey, what is the process for this survey and the data it collects;

(2) At what stage is the survey in this process;

(3) Who was responsible for designing the survey;

(4) Who is responsible for (a) collecting and (b) analysing survey answers;

(5) Who is responsible for developing recommendations to the Minister as a result of the findings;

(6) Are any consultants being engaged for any of the above purposes; if so, (a) who are they, (b) what are their specific purposes and (c) how much is the ACT Government paying them;

(7) Will the results of the survey be made available publicly.

Mr Hargreaves: The answer to the member's question is as follows:

(1) The survey responses have been considered in conjunction with library statistics and use patterns, and a recommendation to amend opening hours has been made.

(2) The survey has been completed, and a recommendation made.

(3) The survey was designed by TAMS staff, to elicit from the community their preferences for times to access the library.

(4) Survey responses were (a) collected in print format at branch libraries and electronically via online survey software. All print responses were entered into the same online survey software as those received electronically.
(b) Analysis of the survey responses was automatically generated via the online survey software.

(5) TAMS staff.

(6) No consultant has been engaged for any of the above purposes.

(7) A summary of the survey results will be made available to the community.

Vending machines (Question No 1573)

Dr Foskey asked the Minister for Health, upon notice, on 3 May 2007:

(1) How many vending machines selling chips, chocolates, soft drink and other junk foods are there in (a) ACTs public hospitals, (b) community health clinics and treatment facilities and (c) the Department of Health offices and workplaces;

(2) Who are the contractors who provide the catering services in the public areas of the ACT's public hospitals, for example, public kiosks, cafes etc but not food served to patients;

(3) Are there any restrictions on the kind of food and drink products allowed to be sold;

(4) Does ACT Health have any policies or guidelines on the kinds of food and drink products which can be sold within its premises.

Ms Gallagher: The answer to the member's question is as follows:

(1) (a) There are 15 vending machines in the Canberra Hospital (TCH) that sell various confectionary items, potato chips, chewing gum, cold drinks and hot beverages. There are 8 machines at Calvary Public Hospital and 1 at Clare Holland House that sell various confectionary items such potato chips, chocolate bars and cold drinks.

(b) None.

(c) There is one vending machine at 1 Moore Street Civic. There are two vending machines located at 11 Moore Street Civic.

(2) The Canberra Hospital has one independently operated cafeteria 'Café Hoz' and one coffee shop in the main foyer area. These are managed and operated by Coachbin Pty Ltd. Calvary Public Hospital has two cafeterias operated by the Calvary Auxiliary.

(3) There are no restrictions on what food is offered for sale.

(4) There are guidelines on the type of food sold within the staff only cafeteria, however there are no official policies or guidelines on the cuisine offered or sold within commercial premises or vending machines.

Public service—consultants (Question No 1580)

Mr Stefaniak asked the Chief Minister, upon notice, on 3 May 2007:

How much did the Minister's department spend on consultancies during
(a) 2001-02
(b) 2002-03
(c) 2003-04
(d) 2004-05
(e) 2005-06 and
(f) 2006-07 as at 1 May 2007.

Mr Stanhope: The answer to the member's question is as follows:

(a) This information is available in the Department's Annual Report 2001 – 02.
(b) This information is available in the Department's Annual Report 2002 – 03.
(c) This information is available in the Department's Annual Report 2003 – 04.
(d) This information is available in the Department's Annual Report 2004 – 05.
(e) This information is available in the Department's Annual Report 2005 – 06.
(f) This information will be in the Department's Annual Report 2006 – 07 which will be released in September 2007.

Public service—consultants (Question No 1582)

Mr Stefaniak asked the Minister for Business and Economic Development, upon notice, on 3 May 2007:

How much did the Minister's department spend on consultancies during (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05, (e) 2005-06 and (f) 2006-07 as at 1 May 2007.

Mr Stanhope: The answer to the member's question is as follows:

(a) This information is available in the Chief Minister's Department's Annual Report 2001 – 02.

(b) This information is available in the Chief Minister's Department's Annual Report 2002 – 03.

(c) This information is available in the Chief Minister's Department's Annual Report 2003 – 04.

(d) This information is available in the Department of Economic Development's Annual Report 2004 – 05.

(e) This information is available in the Department of Economic Development's Annual Report 2005 – 06.

(f) This information will become available in the Chief Minister's Department's Annual Report 2006 – 07 which will be released in September 2007.

Public service—consultants (Question No 1583)

Mr Stefaniak asked the Minister for Health, upon notice, on 3 May 2007:

How much did the Minister's department spend on consultancies during (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05, (e) 2005-06 and (f) 2006-07 as at 1 May 2007.

Ms Gallagher: The answer to the member's question is as follows:

Information regarding ACT Health's use of consultants is publicly available in its annual reports for the years 2001-02 to 2005-06, with the total amount paid to contractors and consultants shown in the notes to the financial statements together with a table listing all significant consultancies by name and I refer the member to these documents.

Since 1 July 2003 details of all new Government contract with a value of $50,000 or greater are also included on the ACT Government Website at www.contractsregister.act.gov.au

For 2006-07, similar information will be available in the ACT Health annual report which I intend to table in the Assembly on 25 September 2007.

Public service—consultants (Question No 1584)

Mr Stefaniak asked the Minister for Disability and Community Services, upon notice, on 3 May 2007:

How much did the Minister's department spend on consultancies during (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05, (e) 2005-06 and (f) 2006-07 as at 1 May 2007.

Ms Gallagher: The answer to the member's question is as follows:

(1) These details can be found in the Department of Disability, Housing and Community Services Annual Report for the following financial years, 2002-03, 2003-04, 2004-05, 2005-06, the information for 2006-07 will be provided after 30 June 2007.

Public service—consultants (Question No 1585)

Mr Stefaniak asked the Attorney-General, upon notice, on 3 May 2007:

How much did the Minister's department spend on consultancies during (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05, (e) 2005-06 and (f) 2006-07 as at 1 May 2007.

Mr Corbell: The answer to the member's question is as follows:

a) I refer the member to the Department of Justice and Community Safety's (JACS') Annual report 2001 02.

b) I refer the member to the JACS' Annual report 2002-03.

c) I refer the member to the JACS' Annual report 2003-04.

d) I refer the member to the JACS' Annual report 2004-05.

e) I refer the member to the JACS' Annual report 2005-06.

f) This information will be available in JACS' Annual Report 2006-07.

Public service—consultants (Question No 1586)

Mr Stefaniak asked the Minister for Police and Emergency Services, upon notice, on 3 May 2007:

How much did the Minister's department spend on consultancies during (a) 2001-02, (b) 2002-03, (c) 2003-04, (d) 2004-05, (e) 2005-06 and (f) 2006-07 as at 1 May 2007.

Mr Corbell: The answer to the member's question is as follows:

a) I refer the member to the Department of Justice and Community Safety (JACS) and ACT Policing's Annual reports 2001-02.

b) I refer the member to JACS and ACT Policing's Annual reports 2002-03.

c) I refer the member to JACS and ACT Policing's Annual reports 2003-04.

d) I refer the member to JACS, the then Emergency Service Authority (ESA) and ACT Policing's Annual reports 2004-05.

e) I refer the member to JACS, ESA and ACT Policing's Annual reports 2005 06.

f) This information will be available in JACS and ACT Policing's Annual Report 2006-07.
