Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

22 AUGUST 2007

www . hansard . act . gov . au

Wednesday, 22 August 2007

Wednesday, 22 August 2007

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

Members—standard of dress
Statement by Speaker

MR SPEAKER: Members should be aware that my attire is the end result of a very successful fund-raising event for the rescue helicopter. It was the good work of Gary Humphries, a former member here, that wrong footed me and got me into this position.

Mr Smyth: Mr Speaker, can I point out to members that you are wearing that garb this morning simply in your desire to gain a 10 out of 10 for doing a perfect job.

Home loan market

DR FOSKEY (Molonglo) (10.33): I move:

> That this Assembly:
>
> (1) notes the:
>
> (a) report "They want to take our house" by the Consumer Law Centre of the ACT (CARE);
>
> (b) increase in non-bank lenders in the home loan market; and
>
> (c) upward trend in the number of borrowers facing home repossession by non-bank lenders; and
>
> (2) calls on the ACT Government to:
>
> (a) implement recommendation seven of the CARE report; and
>
> (b) Introduce legislation related to this recommendation by the end of 2007.

There has been a growing problem in the ACT that has received little attention in the housing debate until now. I refer to the increase in the number of non-bank lenders in the home loan market providing high-risk loans to consumers who have not been able to demonstrate their capacity to meet mortgage repayments. In the ACT, since 2002, the ACT Supreme Court has dealt with an increasing number of non-bank lenders seeking repossession of a property due to the borrower's incapacity to make repayments. The problem has recently been compounded by increases in interest rates set by the Reserve Bank, and last week's crash in the US subprime mortgage market. Unfortunately, despite the growth in this problem for low-income earners over the last three years, it has not received due attention until now, because now middle- to high-income earners are suddenly being affected as well.

Standards for all home loans used to be overseen by the Australian Prudential Regulatory Authority and the Reserve Bank. However, non-bank mortgage providers, commonly referred to as subprime, do not have to meet the regulated standards, simply because they are not deposit-taking institutions. Given this deficiency in regulation, consumers of these products do not receive adequate protection.

My motion today requests that the ACT Legislative Assembly recognise the depths of the problem and calls on the ACT government to implement legislation to remedy it. The legislation which the Greens suggest that the government implement is similar to that introduced by the Greens in 2002 regarding credit cards. We think it is appropriate that the ACT government draft an amendment to the Fair Trading Act, requiring all home loan providers to undertake an assessment of a potential borrower's capacity to repay the loan before providing them with that product. This is a necessary minimum response to a situation with the potential to further worsen the home affordability crisis that the ACT is currently grappling with. It is the dark side of federal and territory housing policies which emphasise home ownership, so that no-one currently has secure housing unless they have achieved full equity in their homes.

In late 2006, the Consumer Law Centre, CARE, researched the impact of non-bank home loan products on home ownership in the ACT. CARE initiated this research because in 2005 it saw a dramatic increase in the number of clients seeking assistance due to home repossession. CARE found that the increase in home repossession was influenced by a number of practices within the non-bank lending sector, including the use of low doc and no doc home loans by non-bank lenders. CARE will, I believe, be publishing an update to this report in several weeks. From its research to date, it is apparent that the trend has only got worse. While the figures for the ACT are not as bad as those for other Australian states and territories, they are getting dramatically worse. We do not want to be leading a race to the bottom.

Until around a decade ago, non-bank lenders and non-conforming home loans had little place in the Australian home loan market. But the financial deregulation of the 1980s and 1990s saw the arrival of niche, non-bank service providers in several profitable markets. In the last 10 years, non-bank lenders' market share and non-conforming loans have grown to four per cent of the value of new housing loans, worth an estimated $8 billion. While non-bank lenders make up only four per cent of the home loan market, 68 per cent of actions for repossession in the ACT originate from the non-bank sector.

One must ask why home loans provided by the non-bank sector fail at a much higher rate than loans provided by banks and credit unions. The answer lies in the practice of no doc and low doc home loans, high interest rates and high fees. Applicants for no doc and low doc loans are not normally required to provide proof of income when applying for a loan. However, high-risk borrowers are charged higher interest rates than prime borrowers. Application costs can be as high as $30,000 and early exit fees can be $10,000 or more. These types of loans seem to be targeted at clients with poor credit histories, and are widely publicised. You just need to watch TV to see the number of ads proudly claiming that if the bank will not give you a loan, they will.

The ethics of subprime mortgages are controversial, as they are aimed at consumers who normally would not be able to receive a loan due to their incapacity to make repayments and also due to their lack of deposit. The loans are attractive to investors because they have high interest rates and they have the back-up of bricks and mortar if the loan is not repaid. The ethical question becomes greyer when one considers the opportunity for people on low incomes to attain a home loan when they normally could not. And not all borrowers do default. Many are able to meet the repayments and eventually own their own home, and that is a desirable outcome. For some, it is a successful opportunity for a person without an adequate deposit to advance their financial situation and to give themselves housing security. Yet the statistics showing the dramatic rise in repossessions are compelling. One could assume that the consumers who can meet their repayments would be able to demonstrate at the outset, when signing up for a loan, their capacity to meet the repayments.

The CARE report uses statistics compiled from ACT Supreme Court data. Between 2002 and 2005, there was a dramatic increase in the number of lenders seeking actions for property repossession, and obtaining repossession. The length of time between when the lender first brings an action to court and when the lender repossesses the property has also increased, suggesting that lenders are becoming less likely to respond positively to requests by borrowers to defer eviction proceedings.

Concern about practices of the subprime mortgage markets arises because the percentage of subprime lenders seeking property repossession was more than double that of the banks and credit unions combined. As I said before, 68 per cent of those lenders seeking repossession were non-bank lenders. The rise in interest rates over recent years, and especially recent weeks, has had an adverse impact on this problem. As borrowers in this field are high risk, the interest rates they must pay are often higher than those charged to borrowers from banks and credit unions, so any increase in RBA-set interest rates, say from five to six per cent, would see subprime borrowers face an increase in rates that are already much higher.

While it is true that current interest rates are much lower than were experienced in the early 1990s, the consumer ratio of debt has dramatically increased. The *Australian* newspaper has reported that average household debt in Australia has risen from 40 per cent of household disposable income in the late 1980s to 160 per cent now. So for every $1 that a household earns, on average it now owes $1.60 rather than 40c.

I must make mention of the recent collapse of the US subprime mortgage market. As a result of this event, some local borrowers will face an increase in their interest rates that is in addition to the recent rise announced by the Reserve Bank. Non-bank lender Bluestone, for example, which specialises in low documentation loans, has already said it will have to lift its borrowing rates in addition to last week's official RBA increase because of the US subprime collapse. About one-quarter of its customers already have credit problems. Depending on a customer's credit history, Bluestone now offers rates ranging from 7.8 per cent to 12 per cent, compared with the standard variable rate of 8.3 per cent.

On Monday, the media reported that Treasurer Costello was calling on state and territory governments to crack down on no doc and low doc mortgages. Some

governments commented that they were already looking into the problem and planning on introducing legislation. Apparently, there was a decision in relation to this by all state and territory governments at a ministerial council meeting that took place in September last year. I would be very interested to hear in this debate from the relevant minister, who I believe to be Mr Corbell, the Attorney-General, about what was decided by the ministerial council and where the Labor government's plan is taking us. I am concerned that the ACT government would rather wait and see what the other governments do, in contrast to taking unilateral action in the immediate future—action which other states and territories might follow.

The Greens introduced the 2002 credit card legislation because we were tired of waiting to see what would be agreed at a national level, and both sides of the Assembly backed us back then. I hope that the Labor and Liberal parties will once again agree that action must be taken in the ACT sooner rather than later. The ACT Greens and CARE recommend that, as a necessary and first precaution, the ACT government draft amendments to the ACT Fair Trading Act that are similar in principle to its section 28A—the section the Greens introduced in 2002 to counteract similar problems regarding credit cards.

There may also be an option to amend the credit code, or Consumer Credit (Administration) Act, but amendments to the Fair Trading Act appear more desirable as they would be enforced by the Office of Fair Trading and could receive a tougher penalty. Mind you, I do think the Office of Fair Trading would need more resources to be able to do that, but I believe they already need more resources, anyway.

I note the Attorney-General was quoted in yesterday's *Canberra Times* as saying that, under the Consumer Credit (Administration) Act, the ACT already had laws in place ensuring that lenders have assessed a debtor's financial situation before offering a home loan. The main section of the act seems to be 21 (a), which sets out the grounds for disciplinary action in relation to a credit provider, including "if the credit provider has provided consumer credit inefficiently, dishonestly or unfairly". This section is quite wide and ambiguous. It is mostly concerned with the registration of credit providers. It is a reactive measure rather than a precautionary or preventive one. It relies on low-income consumers, who are often financially and legally illiterate, as ASIC pointed out in its submission to the Productivity Commission inquiry, engaging a legal expert and taking to court a business that has many more resources at its disposal than they do.

If the ACT government contends that the Consumer Credit (Administration) Act provides enough protection, why isn't it providing that protection? It simply does not appear to be working. Why are no doc and low doc loans still accessible in the ACT? Why is the number of people facing home repossession from these subprime lenders rising so dramatically? Clearly, the legislation is not working.

I do not think that if this parliament did decide to enact such legislation in the future it would require the home loan sector to implement totally new practices. I think we would be greatly surprised and dismayed if we were informed that there were mortgage lenders out there who had never undertaken an income assessment of a potential borrower. I believe that this parliament should consider the financial cost that legislation change would place on the home loan sector, and whether the cost

would be passed on to borrowers. The financial cost would, I expect, have to be calculated for the regulation impact statement, which I hope the ACT government in this case would make available to members of the Assembly. A triple bottom line approach requires that a financial cost be weighed up against social benefit, and I would not be surprised if the social benefit far outweighed the financial impost in this case. In regard to the Greens' 2002 amendment, Mr Stanhope said in the Assembly:

> The bill will help prevent vulnerable consumers from obtaining unmanageable credit. It will protect them from being subjected to aggressive marketing of credit, causing real hardship in many cases.

I hope that he and members of the ACT government can see similar strengths in introducing a similar arrangement for home loan assessments. I commend my motion to the Assembly and seek the support of other members in the interests of protecting some of the most vulnerable people in our community.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (10:48): It is always good for the Assembly to debate motions such as this one. Dave Rugendyke, whilst not a predecessor of Dr Foskey, being an independent, was always keen to raise such issues, as the attorney might recall.

I will deal with a couple of points raised by Dr Foskey. She said that section 21 (a) of the act may be vague. She indicated the act may not be providing proper protection. I think the act does provide significant protection and clarity in that financial institutions have to be aware of the circumstances of the debtor, and they need to go into these matters in some detail. I can recall being in this Assembly when we passed some improvements to that section. I cannot recall whether that was as a result of uniform national legislation. It could well be, Dr Foskey, that the Office of Fair Trading needs to enforce that a bit more stringently. I am aware of some problems in the office, such as staffing problems. I think we discussed that during the estimates. Indeed, in relation to the office, there are probably several areas where they certainly have the power under the act, but the enforcement is not there. Perhaps they need to be a bit more robust in that regard.

My colleague Mr Mulcahy has foreshadowed an amendment to the motion, as has the attorney. Fundamentally, those amendments refer to the work being done on uniform legislation. I think it is preferable that it be done in that way. That is what normally happens here. When I was a minister, I attended ministerial council meetings and took issues from the ACT to those meetings on several occasions. I have seen Mr Quinton sitting at the back of the chamber; he came with me to the meetings and no doubt he still goes to them with the attorney. They are quite receptive to ideas from the ACT to improve the lot of consumers. In fact, we initiated some national legislation ourselves; I can recall the Victorians doing the same. Sometimes it does not occur as quickly as you might like. Dr Foskey referred to the 2002 legislation. I certainly recall that, with the noble intentions of Mr Rugendyke, we managed to get some of those matters included in the law, not only here but across the country.

Finance knows no boundaries. A lot of these loans are sourced from various places interstate. In the practice I was in with my old mate Bernard Collaery, I used to do a little bit of this myself. I had a fellow who would get these loans for people, and he

certainly was not in any way a rip-off merchant. He genuinely got great delight from helping people out of financial problems. I think there was only one instance when someone lost their house, and that was because they had some complex business arrangements—the business went bad. Unfortunately, those things happen.

There is certainly a market for loans which are different from normal bank loans and which provide a bit more flexibility. But I agree, Dr Foskey: it is crucially important that these things are regulated, that people are not ripped off and that the law is sufficient to ensure that people's rights are protected. At the end of the day, I do not think it serves any purpose if someone has to default on their mortgage and lose their house. They and their families suffer. It is a problem also for the financier. It is a problem for everyone, so it is important to get this right.

Mr Mulcahy's amendment to the motion that is before the Assembly refers to the regulation of consumer credit being the responsibility of all the states and territories, and ensuring that all state governments develop uniform legislation for the regulation of the mortgage broking industry. The wording is slightly stronger than that contained in the government's amendment, which notes that the government is working with other state and territory governments through the Ministerial Council on Consumer Affairs to investigate the extension of the general principles relating to responsible credit card lending to other forms of consumer lending, such as low doc loans. I would certainly agree with the government about the desirability of ensuring legislative consistency with other jurisdictions. That is what the national approach does. I think it has largely been very successful in consumer affairs. It can be a little slow but it is quite thorough, and it has served us well.

I understand that progress on this issue is underway. The Ministerial Council on Consumer Affairs, on which Mr Corbell represents us, agreed in September last year to develop a uniform approach to the regulation of mortgage brokers, which would involve the imposition of licensing, conduct and disclosure requirements on brokers. Having had a brief chat to Mr Quinton before we commenced today, I know that that is well advanced. New South Wales has been tasked with drafting legislation, and that is well advanced. I think that process should be allowed to continue. I move the following amendment standing in my and Mr Mulcahy's name:

> Omit all words after paragraph 1 (b), substitute:
>
> "(c) the responsibility of States and Territories for the regulation of consumer credit; and
>
> (2) calls on the ACT Government to press to ensure that the Labor States and Territories develop, as quickly as possible, uniform legislation for the regulation of the mortgage broking industry to be considered by the Legislative Assembly.".

I will now speak to that amendment as well as to the substantive motion. As I said, that process is well underway, and progress is being made. I think the benefit of a motion like this—and I do commend you for it, Dr Foskey—is that it does encourage our Attorney-General to press his colleagues on the need for this to be expedited as quickly as possible. The problem with these ministerial meetings is that they can be rather slow. But I found that, when you go in there and press the issue with your

colleagues, invariably they are as keen as you are to get something done. I am sure that, through the good offices of the attorney—and we can all keep him up to it—and through those of his staff, Mr Quinton and others, that can happen.

The figures are of concern. Whilst they are not all that stark, they do give rise to the need to ensure that we do get this right, that the proper protections and enforcements are in place. The law needs to be fine tuned and further amended so that people taking out loans will, as far as you can possibly tell, have the ability to repay them. This is a difficult area because people's circumstances change, for all sorts of reasons. You will never completely stop the circumstances arising whereby people default. But I am pleased to see that action is being taken. Obviously, Dr Foskey's motion will not be agreed to, but it will serve to encourage the government, and hopefully all the other Labor state and territory governments, to expedite this matter as soon as possible. That, I think, will be to the benefit of everyone, including the finance industry and the people who take out these loans.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services (10:55): Can I just clarify whether the amendment that Mr Stefaniak just moved is different from the one circulated by Mr Mulcahy?

MR SPEAKER: It is the same one.

MR CORBELL: I see; there is a bit of a demarcation dispute over there. The government welcomes this motion from Dr Foskey but cannot support it in the form proposed, and I would like to outline our reasons for that and our thinking on this matter.

The government believes that issues going to prudential loan management and housing affordability are of very significant importance to members of the Canberra community. There are considerable concerns over the degree of regulation of so-called low doc or no doc lenders, which require little documentary proof of an applicant's capacity to repay a loan.

These products are the newest phenomena in the old "easy credit" market—the market where it is easy to get a loan but very hard to pay it off. The regulation of credit providers who offer low doc or no doc loans is already governed by the Consumer Credit (Administration) Act 1996 and the national Consumer Credit Code. However, the states and territories remain concerned about the role of finance and mortgage brokers in the consumer credit market. It is the activities of finance and mortgage brokers that are of most concern to us.

The reason for that is that the finance and mortgage broker has no risk in terms of their involvement in the market. The credit provider still has to face the prospect of gaining repayment of a loan should the recipient of the loan default. But the mortgage broker or the finance broker has no risk. They get their money as soon as they get the deal done and provide the finance, or facilitate the provision of finance, to the person seeking it. It is the activities of mortgage providers, mortgage brokers and finance brokers that are of most concern to us. That is where we are seeking to address this issue. The ACT is in partnership with the other states and territories in dealing with these issues concerning finance brokers.

So how does this market operate? Generally speaking, low doc or no doc loans are offered to people who do not qualify for a conventional home or personal loan from banks or credit unions because of a poor credit history. These people often include the self-employed, who cannot or do not want to substantiate their income, people with irregular incomes, professional property investors or people who have been rejected by previous lenders, have a limited savings history or have a history of previous loan defaults.

Low doc or no doc lenders have responded to a niche in the credit market where conventional banks and other financial institutions have not been prepared to offer credit services because of their perceived higher risk. Generally, these loans attract higher interest rate payments to compensate for higher risk and are more sensitive to changes in economic circumstances, including changes in interest rates and consumer prices. Typically, interest rates on these types of non-conforming loans are between one and three percentage points higher than standard home loans. That is a significant impost.

Some major banks and credit unions have also expanded into low doc or no doc loans. This market initiative has resulted in some more competitive rates being offered to low doc borrowers, similar to the current standard variable rate for traditional loans, and offer many of the same features. Much of this activity has been in the small business sector, because small businesses often have no collateral, no income or no financial history. However, it does appear that some low doc or no doc lenders have entered the consumer credit market by offering loans to low-income families wanting to buy a home. It is this development that we are most concerned about—the provision of easy credit in the home lending market.

I would now like to turn very quickly to the issue of how these lenders are regulated. Commonwealth and ACT law already regulates the behaviour of lenders and brokers in the consumer credit market, and banks and other credit providers are required to be registered under the relevant commonwealth or ACT law. Finance brokers are required to be registered under ACT law. The conduct of banks, credit providers and brokers is governed by ACT law, which provides that they must not act inefficiently, dishonestly or unfairly. They must not engage in false, misleading or unconscionable conduct, and they must not make false or misleading statements about the provision of credit.

The ACT Office of Regulatory Services has had a low number of complaints about the activities of both credit providers and finance brokers. The complaints generally relate to poor service and fees and charges. In relation to credit card arrangements, because of the high rates of interest associated with these products, the ACT has imposed stringent requirements on credit providers in relation to assessment of a person's capacity to repay a credit card loan. However, the national Consumer Credit Code also imposes strict disclosure requirements on credit providers. That code has been put in place legislatively by Queensland and has been adopted uniformly across the commonwealth and by the states and territories.

We believe that there are sufficient protections in this code to allow for action to be taken against low doc and no doc mortgage providers who act in a false, misleading or

unconscionable way, and it provides sufficient protections to consumers in that regard. The gaps in the law, as I have indicated previously, relate to the role of finance or mortgage brokers. These brokers do not face the risks of the credit provider themselves. They often act to engage people, to get people to take out a loan and to do so without properly explaining the risks, without properly making an assessment of those people's capacity to repay a loan, and they often act in ways that are unconscionable and put those people in jeopardy of moving into default.

It is in these areas that we are seeking to address the issue. The ACT is participating, through the Ministerial Council on Consumer Affairs, on which I represent the territory, in putting in place national uniform legislation to address this issue. That national uniform legislation is being developed by New South Wales and is in an advanced state. The matter has been discussed in detail at the last two meetings of the Ministerial Council on Consumer Affairs. All states and territories agree that a national uniform approach is needed, and New South Wales is the lead jurisdiction.

Given that New South Wales is the lead jurisdiction, it would be irresponsible for the territory to have a regime that is consistent with that of the region that surrounds us, and the fact that it would be a national approach is even more to the benefit of all consumers. The sticking point to date has been the role of the commonwealth. The commonwealth, through the Office of Best Practice Regulation, has indicated that it does not yet believe that a sufficient regulatory impact assessment has been done to justify the introduction of national uniform legislation.

This has been a matter of some concern and frustration for all consumer affairs ministers, including me. We believe that there is sufficient demonstration of the need for legislation to protect consumers against unscrupulous practices by mortgage and finance brokers. The commonwealth, through the department of finance Office of Best Practice Regulation, does not agree, and has put a series of additional requests over an extended period of time for more information to justify regulation in this area.

The states and territories are working to respond to those requests, because we are convinced that there is a need for national regulation in this area. It is frustrating when we hear complaints, as we did most recently by the commonwealth Treasurer, about the lack of activity by the states and territories on this matter when the legislation has effectively already been developed and it is only the consent of the commonwealth itself around the need for an appropriate regulatory impact assessment that is holding up the introduction of a national, uniformly consistently regime to protect consumers. Nevertheless, we will continue to work though those issues. We will address them. The Ministerial Council on Consumer Affairs, when it meets again later this year, will be discussing the issue again. Hopefully, we will have a resolution on the matter and ministers will be able to agree formally to introduce this national uniform legislation in each of our jurisdictions.

In conclusion, I welcome the proposal by Dr Foskey. She raises an important issue. Our preference is for this to be dealt with in a nationally uniform manner, which I think is in the interests of all parties and consumers across the country. I am hopeful that in the coming months we will see the matter finally resolved and legislation able to be introduced.

MR MULCAHY (Molonglo) (11.05): I welcome the opportunity to speak on this motion of Dr Foskey and in support of the amendment circulated in Mr Stefaniak's name. The amendment achieves much the same outcome as the government one—I would suggest that it is a little more crisp and succinct—so I am hopeful that the government will see its way clear to support that.

Whilst I note the first three points of the Greens' motion, the opposition will not be supporting the calls of the ACT government to implement recommendation 7 of the report of the Consumer Law Centre of the ACT titled *They want to take our house* or any proposed accompanying timeframe.

Let me say at the outset that, while I do not have any problem debating this issue, I find it remarkable that Dr Foskey has not consulted with relevant industry groups, like the Australian Bankers Association, before putting it on the notice paper. The Greens' constant refusal to deal with mainstream groups is intriguing; it is curious indeed. When they do not make any effort to receive the best possible advice, but in fact gravitate to the fringe, it is no wonder that they remain very much a fringe party.

I have reviewed the report *They want to take our house*. Certainly the jump in home repossessions from 2004 to 2005 is a matter of some concern and worthy of note. I would, however, be interested to see data from 2006 and into 2007 to know for sure that the trend identified by the author of the report is continuing. There is some dispute also as to whether there is connection between low doc, no doc, assets lending and the rate of default.

However, some of the case studies detailed in the report are extremely concerning. Predatory lenders should be stopped or prevented from abusing the system and putting people's financial affairs at risk. In evidence to a House of Representatives economics committee inquiry into lending practices, the chief executive officer of the Mortgage and Finance Association of Australia estimated that predatory lenders constitute no more than 0.5 per cent of the mortgage market but that "the damage they do to vulnerable borrowers and the reputation of the industry is immense and unconscionable".

Although there is protection in the existing uniform consumer code, it probably needs further work. Misleading behaviour by predatory lenders or brokers like that detailed in case studies in the report is unacceptable, but it is not uniform across the industry. This seems to be the essential problem that is not encapsulated sufficiently in Dr Foskey's motion. She notes the increase in non-bank lenders in the home loan market, but makes no concession to the fact that not all of these institutions prey on consumers. The so-called low doc and no doc loans—where limited, if any, documentation proving an applicant's income is required—are the vehicle by which many people can overextend themselves. They are also the types of loans that are exploited by predatory lenders and some brokers.

There is, however, a distinction to be drawn here. People have to have responsibility for their own actions and ensure that they do not overextend themselves. There must be a measure of personal responsibility that cannot be regulated; this must apply. However, it is true that protection is needed from predatory brokers who seek to mislead lending applicants.

There is no doubt that the protection of consumers is of paramount importance. The Australian government has committed to doing everything within its power to ensure that consumers have the strongest possible consumer protection framework, but I believe that this is an issue for states and territories to resolve. I understand that in September last year the Ministerial Council on Consumer Affairs—which, as the attorney has indicated, the ACT sits on—agreed to take a uniform approach to the regulation of mortgage brokers, which would involve the imposition of licensing, conduct and disclosure requirements on brokers.

As has been mentioned already, the New South Wales government was tasked with preparing a draft bill, which I understand will be finalised at some stage this year in collaboration with the other states and territories. As recently as last week, the Australian government called on the states and territories to accelerate this work. I support these calls today and look forward to hearing in the near future a report on the progress of this new legislation from the government. It amazes me that with Labor in government in all states and territories this sort of uniform agreement has not been reached in a more timely manner. We have seen it in regard to the failure to reach agreement for the reciprocity scheme for senior cards. I hope that similar delays are not experienced in this field.

It is important for the ACT to be part of uniform legislation. Uniform national law is generally needed to avoid inefficiencies and injustice. However, there are occasions when such a position is not appropriate for the territory's interest. The need for the ACT to be part of uniform legislation is exacerbated by the small size of our jurisdiction.

The cost of complying with legislation unique to the ACT may be prohibitively expensive for a number of non-bank lenders. Again I make the distinction here between non-bank lenders as a whole and the small percentage of predatory lenders. Non-bank lenders and brokers play an important role in the housing market in the ACT. If they cease operating in the ACT because of the cost of compliance with unique legislation, that could serve to reduce the availability of credit to ACT residents and, by extension, possibly increase costs. States and territories should progress uniform legislation as soon as possible.

Earlier, I mentioned Dr Foskey's failure to consult with the Australian Bankers Association. It is worth mentioning the ABA because, although this motion points to the increase in non-bank lenders in the home loan market, the recommendation in the report cited by Dr Foskey would result in the same red tape being applied across the industry. Potentially, if non-bank lenders leave the jurisdiction, banks whose lending practices are not faulty would also be affected.

The recommendation that Dr Foskey would have applied points to section 28A of the ACT Fair Trading Act as a useful model of reform. Although I was not a member of the Assembly when that section of the act was passed, I understand that it came about as a result of a deal between the current government and the Greens. It also took the ACT beyond the bounds of otherwise uniform legislation across Australia. Then, as now, industry was not aware of what was going on.

There are two points to be made about the passage of section 28 of the Fair Trading Act. Firstly, the red tape that it necessitated in the banking industry led to serious difficulties following the 2003 bushfires, when residents—many of whom had been left with nothing—were unable to obtain immediate advances on their credit cards because of the changes to the Fair Trading Act. Secondly, and most significantly, data collected over three years following the introduction of section 28 showed that there was no impact on the relative rates of arrears in the ACT compared with the rest of Australia. ACT accounts, which had always been lower than the Australian average, tracked at the same rate as the rest of the country despite the unique changes to the law. Breaking from otherwise uniform legislation does not in this instance provide any measurable benefit.

This is an important issue. It deserves more than a knee-jerk response from the Greens. The Liberal Party is not supporting the second part of the Greens' motion; the amendment that Mr Stefaniak has circulated is an appropriate response to this proposal.

Finally, it is worth noting that the current uniform consumer code does offer some protections, including, I understand, enabling a court to re-open unjust transactions. As the attorney said, there may be scope for strengthening in this area, but it is not an area that is bereft of protection.

Dr Foskey used the term "subprime loans", which is a term that is more appropriate in the United States environment. In this country the reserve bank uses the expression "non-conforming lenders"; they are lenders who do not conform to the lending standards that are applied by banks et cetera—in other words the APRA-approved arrangements. It is a myth to say that everybody in the non-conforming lending market is a bad lender. Generally speaking, banks are unlikely to lend to someone with a bad credit history, because they consider them to involve too much risk. There is a new lending market that will lend into this space, but if this is done properly with checks and so forth then it is possible for people to repair a poor credit history. The idea of saying that people who have run into difficulties—and there are many people in this country who at different times of economic downturn have run into difficulties—should never be able to dig their way out of that because of the lending policies of banks is a most unjust approach and line.

I do not favour practices where people who are clearly extremely high risk should be put into positions where they could be put into further jeopardy, but some sense is required. Banks have now instituted much more conservative lending practices, particularly since the late 1980s. We should recognise that there is a legitimate market and there are legitimate lenders meeting a need from our communities.

DR FOSKEY (Molonglo) (11.16): I thank Mr Mulcahy, Mr Corbell and Mr Stefaniak for their contributions to this discussion.

MR SPEAKER: You will be speaking to the amendment, will you? I think there are other members who wish to speak on the motion.

DR FOSKEY: Thank you. It is always a worry when both sides of the house agree in stopping progressive legislation. We need to look more closely at that. We have heard

both sides admitting that there is a problem, but neither of them actually wants to do anything about it in a big hurry—even though they realise that there is a big problem here. Or is it perhaps that they just do not want the Greens to be leading the action to do something? There is often a little bit of that in this Assembly.

I would like to comment on the amendments and on the comments made by the previous speakers. The Attorney-General says that there is action happening at the level of the states and the commonwealth. But of course, as he himself pointed out, while New South Wales may be well advanced in this process—and we apparently are hanging onto their coat-tails—if Tasmania is slow and if the commonwealth is dragging its feet, the whole process is slowed down. I cannot say that I see things occurring at the pace that is probably needed to tackle this problem. Nor can I see why it is going to be a problem for the ACT to take some action, perhaps as an interim measure. I do not feel that that concern was addressed by the Attorney-General or the Liberal Party spokespeople.

By the way, the ACT credit card legislation is cited as best practice. I wonder if some of the delays that Mr Mulcahy was talking about are related to lack of resourcing of the Office of Fair Trading. We must remember that legislation is only as good as the resources to back it up.

Mr Corbell says that he cannot support the motion but that there is a big problem. He said that the ACT Office of Regulatory Services had had only a small number of complaints. However, part of the problem is that consumers need to make those complaints. As ASIC points out in its submission to the Productivity Commission on the inquiry into consumer protection, "consumer protection regulation is justified to protect disadvantaged and vulnerable consumers". The submission goes on to say:

> In our experience, some consumers with low levels of financial literacy are significantly disadvantaged in financial services markets. ANZ's 2005 survey of adult financial literacy in Australia identified a number of categories of consumers with especially low levels of financial literacy, including:
>
> • consumers with an education level of Year 10 or less
> • unemployed consumers and people working in unskilled and casual jobs
> • consumers with low levels of savings
> • young consumers aged 18–24
> • older consumers aged 70 years or more

It continues:

> Indigenous consumers and consumers from non-English speaking backgrounds can also be very vulnerable to unscrupulous financial services operators who target them with illegal and inappropriate products and selling practices.

The submission also says:

> … economically disadvantaged consumers often buy more expensive, unsuitable products because they have fewer options than other consumers. For example, consumers with very low incomes often experience difficulties obtaining credit through mainstream credit providers and have no option but to deal with fringe credit providers such as payday lenders.

And so on. I really have to reject the imputation that our motion is saying that the whole sector is at fault. Of course it is not. But we are finding—for instance, in response to a question I asked on notice during the estimates process—that the office of fair trading has had five complaints about one credit lender and yet we are still waiting for court action against that lender. So at the moment I do have concerns about the ability of the office of fair trading to take action. It must be under-resourced; that is the best interpretation of its lack of action. At times it is up to ASIC to take action where the OFT has failed.

The institutions that we have got are not working. At the very least let us hope that we can get something out of this debate. My motion has been more or less rejected. The Liberal amendment even takes out reference to part (c) of my motion, which says that there is an "upward trend in the number of borrowers facing home repossession by non-bank lenders", even though, in the speeches, it was admitted that that is the case. I cannot see why it has been removed from the motion; I do not think it hurts to recognise that.

I have not heard from Mr Corbell that the commonwealth and the states and territories are going to come to an agreement any time soon. Perhaps we can hear a bit more about that. The problem is here now; we do not want it to drag on and on. Nor do I want to see this develop into a states and territories versus the commonwealth issue; again, that is a recipe for nothing happening.

The government and the opposition are offering very similar amendments. It will be interesting to see which one prevails. I am sure that CARE will be surprised to find itself being allocated to the fringes by Mr Mulcahy. It is very obvious that this motion is a quick response; however, we have had the CARE report for over a year. The Greens have been concerned about this issue for over a year. We have been talking to CARE. The issue has been precipitated into the spotlight by a situation in the US and by CARE's continuing dealings.

CARE is the place where people go as a first resort; it is through their assistance that people follow up the channels that do exist whereby there can be some help. But it is too late for most of them. We need some legislation that kicks in before people find themselves in this situation so that they do not have to go to make a complaint about an institution when they are already locked into an arrangement whereby they stand to lose their house because they were not informed. Let us face it: when we put the emphasis on the consumer, as the tendency is, we have to make sure that consumers are informed.

There should be an obligation on all lenders to make sure that people get all the documentation required. Maybe some of these lenders do not actually care if people cannot pay back their loans. You can get a loan with some of these people through filling out a form over the internet. You might never personally interact. This is what we are talking about here. We are not talking about all the good, respectable people that help.

I remember a time when women could not get loans from the banks to buy houses. I am not saying that we should go back there. I am saying that we should do this from

the point of view of protecting consumers—not intruding into their privacy, not increasing the costs for these lenders, but looking at ways in which we can make this market a fair one that still assists people who can afford to buy houses to do so.

This is an important issue. Mr Mulcahy, I would like to hear how you would solve it. I am not sure that you have any details there, but I would like to hear that at some point. And I would like to hear a bit more admission here in the Assembly that the credit card administration act is weak. There is a role for the ACT to take interim measures. We can wait—the commonwealth and the states will reach an agreement but the ACT could do this right now. It could take the lead and maybe push them towards acting faster as well.

Question resolved in the negative.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (11.26): I seek leave to move the amendment to Dr Foskey's motion circulated in my name.

Leave granted.

MR CORBELL: I move:

> Omit all words after paragraph (1) (a), substitute:
>
> "(b) regulation of credit providers which offer low-doc or no-doc loans are already governed by the *Consumer Credit (Administration) Act 1996*;
>
> (c) ACT Government is working with other State and Territory Governments, through the Ministerial Council on Consumer Affairs, to investigate the extension of the general principles relating to responsible credit card lending under the Consumer Credit Code to other forms of consumer lending, such as low-doc loans; and
>
> (d) desirability of ensuring legislative consistency with other jurisdictions on matters of consumer credit.".

I find it somewhat frustrating that a process which has been deliberately focused on trying to get a uniform approach to what is a national issue is degraded in this place by Dr Foskey because she wants to be the first out of the blocks. That is what it comes down to at the end of day; it is just about who is first out of the blocks. I am not interested in playing that game, but I am interested in getting a good legislative policy response to what is a serious issue: an issue of legitimate concern and one that I acknowledge Dr Foskey is interested in and has concern about, as do I.

The CARE report that Dr Foskey refers to does highlight incidents where people have been taken advantage of by low doc and no doc lenders. According to the CARE report, the incidents of this occurring are not as significant as in other jurisdictions, but that is not to diminish the issue or the problem or the impact that bad lending practices has upon low-income individuals and banks, because they do. There is a very serious impact and it hurts those people directly in a very unfair and often predatory way.

Dr Foskey's motion calls on the government to introduce legislation by the end of 2007. The Ministerial Council on Consumer Affairs will meet before the end of this year. As I previously indicated, hopefully it will have resolved the outstanding issues between the states and territories and the commonwealth around justifying the need for a national response and I will be in a position to bring to this Assembly a package which will outline a nationally consistent approach to deal with this issue.

Dr Foskey's timeframe is the end of 2007. That is what the government anticipates as well. Where we disagree is that we are not going to act unilaterally. We are not going to act unilaterally when we have engaged in good faith with all the other jurisdictions around the country and have agreed that it is desirable that there be a uniform national approach on this matter to stamp out predatory practices by mortgage brokers and finance brokers who act in unconscionable ways. That is the best way of addressing the issue, and that is what we are going to do.

It is not a case of the government rejecting progressive legislation. We have been progressing progressive legislation for the past two years, Dr Foskey. The Ministerial Council on Consumer Affairs and all the Labor states and territories have been progressing this matter for the last two years. That is our commitment to the issue. We are not Johnny-come-latelies to these debates. We have been progressing the matter in a consistent, detailed and consultative manner for a considerable period of time, and we are close to finalisation.

These are the arguments that my amendment seeks to address. It recognises, first of all, that through the Consumer Credit (Administration) Act, there are protections for consumers in terms of credit providers. But the problem is not so much the credit providers as the finance brokers and the mortgage brokers—the people who do not have any risk, the people who do act unconscionably, the people who do sell credit products to people, the people who get their money when they get the people to enter into the finance arrangement and then are gone.

The credit provider, at least, still has to pick up the mess if someone defaults; that costs them time and it costs them money. I am not saying that they are all saints—they are not—but at least they have got some risk. But the mortgage broker, the finance broker, has no risk. Those are the people who we particularly need to ensure are acting conscionably at all times.

The other parts of my amendment are to note that, through the Ministerial Council on Consumer Affairs, the government is working with other state and territory governments to investigate and extend the general principles relating to responsible credit card lending to products such as low doc loans, that that work is ongoing and that it is desirable that there be a national agenda in this regard.

That is our approach. We anticipate that we will have legislation available for debate in this place late this year. The ministerial council normally meets around September or October of each year. Hopefully, by that time outstanding issues will have been resolved by officers across other jurisdictions and with the commonwealth. As I indicated previously, at the last meeting of consumer affairs ministers the sticking point was with the commonwealth's insistence that they did not believe that a need for

regulation in this area had been demonstrated. If you want to adopt national uniform legislation, you have to go through the national regulatory process.

I know that is not as glamorous, as sexy and as immediate as the process that Dr Foskey proposes, but there is nevertheless the hard work of crunching through a policy issue to get it implemented and get it done. That is what we are doing. I recognise that these issues are of significant concern to people in the ACT, especially people who are subject to unscrupulous practices.

It is important that we put this problem in some context. The consumer law centre report suggests that for administrations under the Bankruptcy Act there is a downward trend in the number of bankruptcies in the ACT. That is from their most recent published figures, for the year ending 30 June 2006. Like other members, I would be interested to see what the status has been in the last 12 to 18 months, particularly with the interest rate rises. Are we seeing a change in that or are we seeing a relatively constant rate? From a policy perspective, it would be very useful to understand that.

In the ACT, there were 258 personal administrations in the financial year ending 30 June 2006 compared to 794 in the previous financial year. That was a decrease of 68 per cent in the two years. Clearly the figures do move around a bit. However, this downward trend appears to continue: statistics for the quarterly period of January to March 2007, issued on 11 April 2007, showed that there were 49 personal administrations in the ACT for that period compared to 69 in the corresponding quarter in 2005-06. That is a decrease of 29 per cent. So personal administrations were down for that quarter compared to the previous comparative quarter.

So it is not affecting a large number of people. I accept that personal administration is not the only measure. Obviously, families that are in financial stress are not captured by the administrations data if they have not gone into bankruptcy—but they may nevertheless be facing stresses. Those are the figures that we should keep in our minds. Obviously, increases in interest rates may well change this picture.

We need to keep the issue under close surveillance, and the government is doing so. The government is developing a national approach which we will be able to legislate here in the ACT. Our timeframe is similar to the one proposed by Dr Foskey. The only area where we are in disagreement is that we do not propose unilateral action; we propose a consistent national action. That is a stronger position for the territory to take.

If the national approach does not proceed, then of course the territory will consider acting unilaterally. But at this point, given that we are down the path of very detailed discussion and consultation with all the other states and territories, it would be a sign of bad faith to act unilaterally. Given that we are nine-tenths of the way there, it would be reasonable to complete that process and then act nationally in a consistent manner. That will be in the interests of all consumers around Australia.

That is the approach the government adopts; that is the approach that is outlined in my amendment. I commend the amendment to the Assembly.

DR FOSKEY (Molonglo) (11.36): I would like to respond to Mr Corbell's remarks and to reject the amendment. It is very similar to the one moved by the opposition and,

interestingly enough, removes two clauses from our motion. Apparently the government does not want to recognise the increase in non-bank lenders in the home loan market or the upward trend in the number of borrowers facing home repossession by non-bank lenders. I am interested in why it is important that we remove that from the motion. I have not heard any of the speakers justify that.

I am really pleased to hear about the progress in the process that has been happening at commonwealth level, with state and territories involved in those discussions. But we heard nothing about that until today. Mr Corbell says that we are nine-tenths of the way there. This has been an issue in the public eye for at least a year, since the CARE report was published. I am sure that every member of this place got an invitation to the launch of that report, so there is no reason why anyone here should have been ignorant of its contents.

I am very pleased that Mr Corbell seems to feel confident that he will be able to come back before the end of 2007 with some uniform legislation. But we still do not know what is going to be in that legislation. Will it, for instance, apply to no doc and low doc lenders? Will the national approach require income assessment—the very things that Mr Mulcahy seemed to be concerned about, that might add to the costs?

I am hoping that, in closing discussion of his amendment, Mr Corbell will respond with answers to those questions. What exactly are we looking forward to you tabling before the end of December that can reassure us that real action is taking place? I still do not understand why we cannot make some moves here at the ACT level. I would also like to hear from the Attorney-General that he will have discussions with the office of fair trading and talk about what they need in order to increase their surveillance, given that that is what we have got at the moment. Consequently, I am rejecting this amendment. I am still hoping to hear what is in the commonwealth, state and territory package so that we can rest assured that the problem is being adequately addressed.

Question put:

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

Question resolved in the affirmative.

Motion, as amended, agreed to.

Members—standard of dress

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services): Mr Speaker, I am seeking your guidance on a matter about dress and conduct in the chamber. Mr Speaker, I cannot let you off the hook. I note that these matters are ultimately at your discretion, but there is some precedence in regard to this. In the Assembly, we rely on *House of Representatives Practice*. It states:

> In 1999, Speaker Andrew noted that Members had traditionally chosen to dress in a formal manner similar to that generally accepted in business and professional circles … It was widely accepted throughout the community that the

> standards should involve good trousers, a jacket, collar and tie for men and a similar standard of formality for women.

Mr Speaker, I was wondering if you can comment on whether or not you consider that your dress this morning, which was unusual by your standards, did indeed involve good trousers. Can you comment on the issue of the lack of a collar and tie and whether or not a leather jacket is acceptable dress in terms of neatness, cleanliness and decency, as former speakers have ruled in regard to?

MR SPEAKER: Thank you for drawing to my attention the ruling of Speaker Andrew. I am not aware that he has ever been involved in a fundraising effort for a rescue helicopter. Nor has he been awarded a vote on his skills as a dancer by such a wily judge as Senator Gary Humphries. The good senator put on his vote a condition: that I wear this garb—the good trousers, the nice leather jacket and the white T-shirt—into the chamber if he was to award his vote. I was hungry for the vote because it was for a good cause. As you know, I always deliver. It should not be taken as a precedent.

Mr Pratt: Mr Speaker, I would like to move a motion in support of Mr Corbell's inquiry: that you be punished forthwith by having to wear a wig in the old Westminster tradition for at least three months.

MR SPEAKER: I do not think you have leave for that motion. I live in terror that it might be carried!

Emergency services—mobile data communications systems

MR PRATT (Brindabella) (11.43): I move:

> That this Assembly:
>
> (1) notes that:
>
> (a) the 2003-04 budget announced funding of $23.6 million for the implementation of a range of communications programs for the Emergency Services, including the mobile data communications and automatic vehicle location system;
>
> (b) the Government approved the use of a single select tender for the purchase of the mobile data communications and automatic vehicle location system on the basis that it be operational for the 2004-05 bushfire season;
>
> (c) FireLink has cost in excess of $4.5 million, $1.3 million over the initial budget forecast;
>
> (d) both Mr Corbell and his predecessor, Mr Hargreaves, in their capacities as Emergency Services Ministers repeatedly stated that FireLink was fully operational and working effectively;
>
> (e) the Minister for Police and Emergency Services, Mr Corbell, announced in July that the contract for mobile data communications and automatic vehicle location system, FireLink, would be discontinued; and

> (f) as a result of the cancellation of the FireLink contract, there is no other mobile data communications and automatic vehicle location systems currently in place for Rural Fire Services and State Emergency Services operations ready for the imminent bushfire season;
>
> (2) condemns the failure of the three ministers to develop a mobile data communications and automatic vehicle location system; and
>
> (3) calls on the government to report to the Assembly by 5 pm on 30 August 2007 what mobile data communications system will be in place for the bushfire season 2007-08, due to commence on 1 November 2007.

My motion is in regard to the emergency services FireLink project and the fact that that project has now been cancelled. I will outline what I believe to be the chronology of events that led us to where we are today, $4.5 million worse off and with no mobile data communication or automatic vehicle location system for front-line bushfire fighting vehicles. The motion demands that we know what the government intends to do now to satisfy the need for the mobile data system—that is, the replacement of FireLink—and whether the government will be ready with a replacement capability for the next bushfire season.

I need to look at the history that pre-dates the decisions taken by the government recently with the project FireLink. I refer to the sad and disastrous events of January 2003, the bushfire disaster, and, on the back of that, the McLeod report, which identified many weaknesses in the system, made many comments and recommendations and drew many conclusions about the state of the emergency services communications systems that we so vividly saw break down in the 2003 bushfire disaster.

On the back of the 2003 bushfires, the Emergency Services Bureau submission to the McLeod report stated:

> … radio communications systems did not meet the substantial demands created by an event of this magnitude.

That is from page 110 of the McLeod report. Current projects were also identified in the Emergency Services Bureau submission, one of which was a need for a mobile data subsystem with automatic vehicle location in urban Canberra and beyond. In response to the Emergency Services Bureau submissions, McLeod commented as follows:

> Communications are a vital element of safe firefighting, and the highest priority should be given to ensuring that an adequate system is in operation to support all firefighters, both in Canberra and in rural areas. Inadequacies in communication systems have been a recurrent theme in past coronial inquiries.

That was the observation made by McLeod in the report in late 2003 on the back of the disaster. He was reaching back and identifying that subsequent coronial inquiries had pointed out the weaknesses in communications systems. Of course, the Emergency Services Bureau's list of communication needs had actually been

identified after the December 2001 fires. Indeed, in 2002-03 the Emergency Services Bureau was already embarking on upgrading a computer-aided dispatch system for fire brigade and ambulance services.

On the back of its analysis of communications systems, the McLeod report concluded, first, that "coverage problems, particularly in the Brindabellas and other remote areas of the ACT, if necessary through supplementary use of mobile communication facilities" were needed. Secondly, "commonality across emergency services and compatibility with ACT Policing" was a need. That means a mobile data and vehicle location system, so that all services are able to interoperate. Thirdly, McLeod said that there was a need for "improved interservice compatibility".

On the back of the McLeod recommendations, observations and conclusions, the appropriate moves were taken by government. They certainly were. In 2003-04 budget paper No 3, we saw outlined an initiative which clearly identified funds for the following purposes:

> This initiative provides for an upgrade of the Emergency Services Bureau communications infrastructure that supports operational delivery of services by the Fire Brigade, Ambulance, Bushfire and Emergency Services to the community. It will provide radio interoperability with appropriate land management agencies' response vehicles. The initiative includes a new radio communications system, portable emergency radio communications, mobile data and automatic vehicle location equipment, and radio relay equipment that support front line field personnel.

This initiative identified in budget paper 3 was clearly based on cabinet objectives drawn up in 2003-04. These were the objectives laid down by the government against which programs, including mobile data, were identified and managed by government—or, as it is now becoming quite clear, in many cases, grossly mismanaged by government.

There is another point to note here in terms of the argy-bargy currently underway between the government and the ex-commissioner, Mr Peter Dunn: these objectives for a mobile data communications system were set out well before the Emergency Services Authority was created in July 2004 and before Commissioner Peter Dunn assumed office. That is a very important point to note.

I want to now refer to the capabilities available in 2003-04 in terms of what the government needed to do to identify and develop a vehicle location system or a mobile data system—that is, the issue of whether the computer-aided dispatch system, the CAD system, might have done the job or whether the new project called FireLink was needed.

In my investigation of this matter, I have found two vigorous schools of thought about what sort of mobile data and vehicle locating communications system should have been introduced in 2004 hard on the heels of the McLeod inquiry.

Experienced ESB officers who continued serving with the new ESA in 2004-05 were adamant that ATI's FireLink product, while an excellent system in other fields, was an expensive and too sophisticated overkill for the needs of the territory. Interestingly,

some very experienced RFS people—but not all of them—very clearly supported that view. These experienced ESB officers were saying that the 2004 updated CAD system then in service with the fire brigade and the ambulance service should have been adapted for service in the RFS and the SES.

These officers told me then, and continue to say, that, for the sake of $700,000 to outfit 125 vehicles at $5,500 per Mobitex box, as they call it, and an additional $250,000 to place the same types of boxes on nine existing trunked radio network towers, for an-all up cost of $1 million, with vehicles adapted and boxes placed on towers, you could have developed an effective mobile data and vehicle locating system in the space of a number of months for $1 million—not $4.5 million, as we have seen with FireLink, a system that would have used four major existing telco communications channels.

The other school of thought vehemently rejected—and still to this day rejects—the CAD Mobitex option, saying that it simply would not work. This school of thought, represented by Peter Dunn and his senior officers—now ex-ESA people—says that the government should have persevered with FireLink, that FireLink was not too sophisticated and that the government failed to implement the sorts of software upgrades needed to address the speed of transmission problem affecting accuracy of vehicle location.

There are a number of questions, but the government must firstly answer this: what action is it going to take to replace FireLink; if it is not, why not? The government needs to indicate what it believes to be the true picture as to CAD versus FireLink and whether there was a mistake made in 2004—that perhaps CAD and Mobitex should have been taken up instead of the then project managers persevering with FireLink.

We have talked in this place before about the single select tender decision that was undertaken in 2004 with FireLink. We now know that the project managers of the ESA decided to snap up FireLink and run with it as a single select tender decision. They argue that this was because FireLink was the only product in the ACT that would provide a mobile data system to meet the needs. They also say that the urgency from needing to have a mobile data system in service by bushfire season 2004-05 was the driving factor in that decision. It was a single select tender; they did not go out to broadly tender other options. It was the government's decision then to single select tender instead. Now we see an argument between the minister and the ex-commissioner about who said what and what decisions were taken in terms of project management in those days. Frankly, we see the government walking away and washing its hands of the problem.

I move to FireLink itself. Some time in mid to late 2004, that process went on, but what we see now is this. The minister has indicated that the government was unaware of what decisions ESA were taking at that time. But that is just plain fanciful. I put it to you, Mr Speaker, that, while this minister would not have known much about the issue at the time, his predecessors must have known what the hell was going on with the decisions around the selection of FireLink. If they did not, they must have been off the planet. This clearly goes to the heart of the incompetence of this government in project management.

I want to finish off in this final phase by saying this: in the *Canberra Times* of 14 July 2007, Mr Corbell entirely blamed senior management for the project management disaster that became FireLink. Yet in 2005 and early 2006 his predecessor as emergency services minister, Mr John Hargreaves, received ample warning from full-time or volunteer officers in the services that FireLink was not working—and, indeed, in the view of some veterans, was not even needed. I do not necessarily agree that it was not needed, but that is a view expressed, and I want to see what the government thinks about that.

Minister Hargreaves's successor, Mr Corbell, received exactly the same advice. This advice culminated in the FireLink review exercise of 2 September 2006, a substantial exercise testing the most critical performance requirements. It was at this point at least that Mr Corbell should have either shut FireLink down or announced publicly that there were major problems with FireLink and that he intended to rebuild it. He needed to come back to this place to argue for more resources and more time to rebuild FireLink, to ensure that our front-line services had the mobile data system that they needed and that McLeod had said had to be put in place.

Instead, we have seen Minister Corbell merely perpetuating the three years of Stanhope Labor government neglect regarding FireLink and the mobile data system. Under scrutiny about FireLink, all Stanhope ministers have fervently misled the community since mid-2004 when the first alarm bells began to ring. In *Hansard* of 19 October 2006, Mr Corbell said:

> We stand by our investment of money into new communications equipment, new vehicles, new protective equipment, new radio communications …

In *Hansard* of 12 December 2006, he said:

> FireLink does work. It is operational currently in RFS and SES. It does work and it is an excellent piece of technology.

And let us not forget the mother of all misleads from Mr Hargreaves, who said on 16 November 2006 that FireLink was fully operational and being successfully used.

When we go back to the estimates hearings and annual report hearings of 2005-06, we see cagey answers in response to all questions about FireLink. What we want to know is this: what is the government going to do to replace FireLink? Will it have something in place by bushfire season 2007-08? That is the question. *(Time expired.)*

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services (11:59): I move:

> Omit all words after "notes", substitute:
>
> "(a) the ACT Emergency Services Agency (ESA) took the responsible and informed decision to withdraw the FireLink system;
>
> (b) that decision was based on two independent reviews of the ICT programs for the agency;

(c) those reviews concluded that FireLink was unsuitable for the ESA's ongoing operations; and

(d) the ACT Government has provided the ESA with substantial funding to address communications issues following the 2003 bushfires which has provided emergency services personnel with advancements with the trunk radio network and computer aided dispatch system.".

I welcome Mr Pratt's motion; it gives me the opportunity to put on the record the government's disappointment and frustration with how this project has run its course.

The first thing I want to say very clearly is that, throughout the period that FireLink was operational, the government consistently received advice from the then Emergency Services Authority—in the later days, from the Emergency Services Agency, as late as late last year—that FireLink was operational, that it was performing according to its requirements and that it was delivering the services the Emergency Services Authority or agency expected of it. That advice to government was not correct. Ministers were not properly informed as to the performance and status of the FireLink project. It is a singular failure, on the part of the Emergency Services Authority in the main, that it failed to advise me and my predecessors of the problems with FireLink, of the widespread concern about the implementation of FireLink and of its failure to implement an appropriate mobile data system for the ACT's emergency services.

As I have previously said, this is not a commentary on the FireLink technology per se. FireLink was designed for particular applications in the defence environment and was then adapted for use in a civilian emergency services environment. The failure is not on the part of the technology provider, ATI. The failure was on the part of the ESA—the failure to properly scope and understand its requirements before proceeding to tender and procurement of this technology.

Shortly after I became minister, the now Emergency Services Agency commissioned two independent investigations into all of the agency's ICT programs. That review concluded, amongst other things, that the FireLink technology was completely unsuited to the ESA's needs. Further, it concluded that the ESA, as a statutory authority, had failed to properly scope its requirements prior to proceeding to tender, failed to properly consult with the various emergency services that would be responsible for the use of this technology from day to day and failed to properly implement that technology once it had been acquired. It was a singular failure on the part of senior management within the then Emergency Services Authority.

Quite frankly, this is a key example that underpins this government's determination to bring a greater level of accountability and management responsibility to our emergency services, and it is the reason why we chose to re-establish the ESA as an agency within the justice portfolio. The statutory authority proved itself to not be accountable to government on key issues around project procurement, management and finance expenditure. That is the bottom line. It gives me no joy to say it, but those are the circumstances that we are now addressing—and, I am pleased to say, addressing effectively and appropriately.

It is wrong of the opposition to perpetuate the idea that there is now no adequate communication infrastructure in place for our emergency services. There is. First and foremost, the trunked radio network—TRN, the new digital radio—is performing extremely well. The same reviews that concluded that FireLink was unsuitable for the ESA's needs have concluded that TRN has been a very effective activity and implementation project. TRN provides us with high quality digital radio coverage across the urban and a large part of the non-urban area of the ACT, and we will achieve full coverage across the non-urban areas of the ACT once additional work is done on coverage through a number of towers in the southern areas of the ACT.

Further, we have upgraded the existing computer-aided dispatch. Computer-aided dispatch is now being used via the new computer-aided dispatch system provided by the technology provider, Fujitsu. It is being used by the ACT Fire Brigade and the ACT Ambulance Service. It is a modern, state-of-the art system similar to one being used by some 50 fire and ambulance services across the United Kingdom. We will be exploring the option that Mr Pratt highlighted of using computer-aided dispatch for the RFS and SES as well. As Mr Pratt highlights, there are certainly some efficiencies in doing so in terms of cost of deployment of that system. That is something that we will be exploring; it is being done now, in fact, as a matter of urgency.

That does not mean that our emergency services are not properly protected for this coming bushfire season. It is important to note that Mr Pratt has not identified when the bushfire season properly starts. The bushfire season commences on 1 October, not 1 November; that is the statutory date in the Emergencies Act. I draw Mr Pratt's attention to his oversight.

For this fire season, we will use the existing CAD system to manually enter into the CAD the location of RFS and SES vehicles. We will also use manual tracking of those vehicles through mapping to identify where vehicles are. This system obviously works well in many jurisdictions, works well for individual incidents and can work for us for this season, but it is not the long-term solution. The long-term solution is the potential use of CAD, and that is being developed at this time.

The government took the responsible course of action when these matters were brought to its attention. When it was clear, when the ESA provided appropriate advice, that there were problems with the FireLink system—with the ESA's management of it, with the implementation of it and with the ongoing maintenance of it—the government took action. I am grateful for the support and the work of the current commissioner, Mr Manson, who has shouldered a significant burden in addressing some of the legacies left by previous management. He is working through those matters systematically and comprehensively; we are ticking them off and we are getting them right. Whether it is issues around the relationship between volunteers and management, issues around this technology or issues around the headquarters, we are ticking them off and we are getting them right. That is what the ACT community expects. It is a matter of real regret, frustration and anger for me that this money has, in effect, been wasted—and I am on the public record as saying so.

When you establish an independent statutory authority, statutory officers need to take responsibility for their actions and their decisions. I am confident that when shortly

the Auditor-General releases her report on this matter, it will only highlight the fact that in this instance senior management in the then statutory authority failed to properly scope and manage the implementation of a major ICT project, failed to consult with the end users, failed to properly ensure that they were acquiring technology that met their purposes, and failed to advise the government of problems with the system when they were occurring.

I have reviewed all of the documentation provided to ministers—both to me and to my predecessors in this role—about the decision to implement FireLink and updates on its progress in terms of implementation and performance. There is one brief to then Minister Wood outlining that the ESA would undertake a trial of the FireLink technology—from Mr Dunn to Mr Wood. Only one. Then there is a series of reports that outline its performance, all of which highlight that the system was performing and met the ESA's needs. It was only when the government returned the ESA to the justice portfolio that we saw coming to the attention of government more accurate reporting on the status of this project and the identification of increasing problems in terms of its performance.

That is the work that the government has undertaken. It is a responsible course for the government to take to address the problems and to provide solutions. That is what we are doing. My amendment outlines these points; I commend it to the Assembly.

MR SMYTH (Brindabella) (12.11): Mr Speaker, you always know that Mr Corbell is in trouble when he adopts that sort of pious, calm, measured tone instead of going on the attack and proving the opposition wrong. There is the adoption by Mr Corbell of this Pontius Pilate approach, where he would just wash his hands of the matter and say, "But we did not know." He says that statutory officers need to take responsibility for their decisions. Perhaps ministers need to take responsibility for all of their ministerial responsibilities instead of picking and choosing which ones they will take credit for and which ones they will divest themselves of.

You only have to go to the process. Mr Corbell forgets that when the FireLink project started the Emergency Services Authority did not exist: it was the old ESB, and it was inside JACS. Mr Corbell omitted to tell the Assembly the process that JACS presided over—a government department, part of it responsible to Mr Stanhope, the Attorney-General at the time, and part of it responsible to Mr Wood and subsequently to Mr Hargreaves. He forgets to tell us about that.

The process is quite accurately outlined. A unilateral decision was not taken by the ESA; the contract had to be endorsed by five levels of government scrutiny. Did we forget about this, Mr Corbell? There were five levels: the procurement board, the Treasury-approved procurement unit, the Government Solicitor, the insurance commission and InTACT. All of this started and occurred before the ESA existed. It came into existence on 1 July 2004. They are facts that Mr Corbell just ignores. He does not refute them, but just ignores them: "If I ignore them long enough, they will go away." You can see him sitting with his hands over his ears going "La, la, la, la, la; I cannot hear you saying this."

But they not only did that, Mr Speaker: FireLink was the subject of a $97,000 trial when the Emergency Services Bureau was still within the department. The trial started

before ESA did. That was all under the direct control of a minister—at that time Mr Wood, followed by Mr Hargreaves.

You cannot ignore this. This government started a process. Even before the McLeod report was released in August 2003, the government had identified the failings of the communication system on the day—and, to their credit, started a process. In the 2003-04 budget, before the ESA existed—which you helped to approve, Mr Corbell, through a cabinet process for which you must take responsibility, along with the then Treasurer, the Chief Minister and the other ministers—the decisions were made to allocate this money to the then Emergency Services Bureau inside JACS, a government department. The statutory authority did not exist at that time, and you know it, Mr Corbell. You know it as a fact and you ignore it.

MR SPEAKER: Direct your comments through the chair, Mr Smyth.

MR SMYTH: Mr Corbell knows it is a fact, and Mr Corbell simply chooses to ignore it. The minister has gone on to allow Mr Manson to blame the volunteers for not being up to using this sophisticated piece of equipment. We blame the users, the volunteers. I can tell you that in my brigade I have got a guy that actually sells these systems; he actually sells land data systems all around the country. The problem is that the government started this process, the government ran this process and we had a string of ministers, including Mr Corbell, telling this place—indeed, one could say misleading this place—that the system worked.

Mr Corbell: Point of order, Mr Speaker.

MR SPEAKER: Withdraw that, Mr Smyth.

MR SMYTH: I withdraw the comment, Mr Speaker. But let us look at it. Here is Mr Corbell saying, in answer to a question, on 19 October:

> As I have just indicated, it is working. It has … been working comprehensively for at least the past month.

It does not just work, Mr Speaker; it works comprehensively. He went on:

> That is very pleasing. I look forward to that continuing in the future.

A little bit of irony in his voice there no doubt! If it is working, and if it is working comprehensively, why get rid of it?

Let me quote the ministerial code of conduct for Mr Corbell's benefit:

> 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.

The earliest opportunity was yesterday. Mr Corbell has not come into the Assembly and explained his inadvertent error, so obviously it was not inadvertent: when Mr Corbell told the Assembly that it was working and it was working comprehensively, it was the truth.

But the matter goes on. On 12 December 2006, when he is asked a question, Mr Corbell says:

> FireLink does work. It is operational currently in RFS and SES. It does work and it is an excellent piece of technology.

We all know that Mr Corbell, like myself, is an RFS volunteer, so no doubt he was speaking from not only ministerial experience but also from volunteer experience. He goes on to say, "It provides. It does provide." If it does provide, if it does work and if it is an excellent piece of technology, why get rid of it? If it is not, why have you not corrected the record? You had an opportunity in the debate just now; you had 15 minutes in which to correct the record. You have not corrected the record; therefore, what you have said stands. We might get to matters about this later.

Mr Corbell goes on in answer to the supplementary question. Mr Pratt asked:

> … how much longer will we have to wait and how much more money will have to be spent before FireLink works properly.

Mr Corbell says:

> No more money has to be spent and no more time has to be waited because the system is now operational.

It is operational, Mr Corbell; it works! If it is operational, it has no more need for money. If it has no more time to be spent on it, if it is currently operational, if it provides our emergency services with abilities that were required of it, why get rid of it? If it had been working comprehensively for months at that stage—remember that this is December, so it is October, November and December, for three months it has been working comprehensively—why get rid of it? Why, Mr Corbell? Mr Speaker, that is the question that Mr Corbell has to answer: why?

If, as he purports, Mr Corbell was duped by the ESA in what they told him—a volunteer who has been in the field with this equipment—why has he not come back into this place and actually apologised and withdrawn his statements? His statements are unambiguous; they are clear. They are more than clear. We are throwing in adjectives: it is working comprehensively; it is fantastic. We have nothing from Mr Corbell except mute silence—Mr Corbell the serial interjector, Mr Corbell who always jumps to his defence, Mr Corbell who is wrong on this matter, Mr Speaker.

It needs to be on the record. The government did know, because Mr Pratt asked questions on notice. He got questions from the Chief Minister. The Chief Minister knew that this process went through the procurement board. The Chief Minister knew as well. We now know that JACS knew; we know that InTACT knew; we know that the Treasury-approved procurement unit knew. The Government Solicitor knew; the insurance commission knew; the procurement board knew; the Chief Minister knew. We have two ministers—not just one, but two ministers over a period of time, including Mr Hargreaves, who says that the FireLink system is fully operational. It was fully operational before April 2006 when Mr Corbell became the minister.

This is the problem. Either the Assembly has been misled or the Assembly is owed apologies. And, most importantly, Mr Stanhope needs two ministers to comply with the code of conduct. If those ministers have been duped or misled, they should come down and correct any inadvertent error at the earliest opportunity. Mr Speaker, that was at 10.30 yesterday.

MR SPEAKER: Mr Smyth, you are clearly attempting to impute that somebody has misled the Assembly. You are not permitted to do that without moving a substantial motion. Withdraw those comments, please.

MR SMYTH: I withdraw at your direction, Mr Speaker. This whole litany of the FireLink saga is indicative of the financial management of this government. It is curious that when things go right it is because of their good management, but when things go wrong it is always somebody else. It is interesting to hear Mr Corbell say that statutory officers must take responsibility. What about the minister?

DR FOSKEY (Molonglo) (12.21): I am talking to Mr Corbell's amendment. I will also speak to the substantive motion. It is quite difficult to tell if Mr Pratt wanted FireLink to work or what he thinks is a better system. That is my problem with his motion. I am not really sure what he is getting at except condemning Mr Corbell and his predecessors for being involved in the procurement and being the ministers while FireLink failed to succeed—and it cost so much money. I would be interested in hearing Mr Pratt outline what he sees as an alternative; that does seem to be a very basic problem that emergency services is contending with.

I also want to say that apart from the error of fact that Mr Corbell pointed to—that the fire season actually starts on 1 October—it is not true to say, as 1 (f) does, that there are no other mobile data communications and automatic vehicle location systems in place. Whether they are adequate or not is another matter and is not for me to determine.

The difference between Mr Pratt's motion and Mr Corbell's motion is that Mr Pratt's motion calls for some kind of action, which Mr Corbell's does not. Mr Corbell's motion merely puts an alternative view on the state of events; it does not say, for instance, that he is going to assure the Assembly that there is something in place that we can feel secure about.

It may be that Mr Pratt's time line is a bit unreasonable—to call for the government to report by 5 pm on 30 August. It may be unreasonable. Of course, one would like to believe that the government knows which mobile data communications systems will be in place. We have already noted that there are a couple that are in place, but we would like to hear about the coverage that those are capable of.

Mr Pratt and Mr Smyth have made some points about there having been perhaps a lack of attention to this issue, to put it kindly. Mr Smyth put it in quite different terms in his quotes from transcripts, questions asked and so on—that the ministers have not had their ears to the ground on what exactly was happening with this exciting venture, which the installation of FireLink was in the beginning: a great thing. It was a great move forward. It also gave work to a cutting-edge Canberra company, I believe.

The whole process has become decidedly tainted. In the process, it appears to have tainted some ministers, and probably commissioners and public servants along the way. But it is not particularly useful to just seek to find blame. We have people using the media to blame each other. That is not particularly constructive and does not tell us anything more than we already know. I think that the public does want to know exactly what went on here. I am interested to hear from the Auditor-General, who is doing an investigation. That will certainly help us understand.

At the moment, I feel that, while Mr Corbell's motion is probably correct, it does not really take us anywhere. I would like to see added onto it something that says that Mr Corbell will report to the Assembly by the end of, say, September, given that the fire season begins the day after that.

Mr Corbell: We will respond to the Auditor-General's report.

DR FOSKEY: I do not know when the Auditor-General's report is coming out. I feel that there is perhaps a need for an interim response before the Auditor-General's report comes out—if the Auditor-General's report is not going to be out in time for that to occur—because it looks as though we are moving into a fire season that is at least equivalent to the fire seasons we have had in previous summers. It is true that there is less to burn, and that is some kind of ironic protection.

We are moving, I hope. I feel that this minister has got a handle on the emergency services portfolio. I do have some confidence, but that confidence is just based on the fact that I think Mr Corbell does now know what is going on. When he made those comments in response to Mr Smyth's question, he may not have known what was going on to the extent he does now. I believe that it is safer to indicate the areas where one is not well informed. But I think that now we do have that attention to the detail. Mr Corbell could probably help a lot if he told us what was going on. I suggest that he report by the end of September. I am not moving that as an amendment; I am just putting that as a suggestion. As it stands at the moment, I find it difficult to support the motion or the amendment to the motion.

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

Sitting suspended from 12.28 to 2.30 pm.

Questions without notice

Budget—forecast

MR STEFANIAK: My question is directed to the Chief Minister and Treasurer. You used a forecast of an $80 million deficit for the 2006-07 budget as a reason to sharply increase taxes and charges, and close schools and other community facilities such as the Griffith library. However, your budget forecast was wildly off the mark, as the government finished with a $117 million surplus.

The *Canberra Times* reports that Phil Lewis of the University of Canberra accused you of peddling "dodgy numbers" and of poor economic management. It continues by

stating that "the government was either incompetent or had deliberately plotted to use the threat of a deficit to pursue its financial agenda".

Treasurer, why were your estimates for the last financial year so inaccurate? Why were they so wrong? Was it due to incompetence or did you use the threat of a deficit to pursue your agenda of tax increases and cuts to vital community services?

MR STANHOPE: I thank the Leader of the Opposition for the question. A number of statements made by the Leader of the Opposition in his preamble are simply not correct. I would challenge the Leader of the Opposition to find a suggestion that I used a budget deficit per se as the basis for decisions that the government took in last year's budget.

I know that it was reported thus. But the underlying rationale for the budget handed down last year, which was a result or a feature of the undertaking of the strategic functional review, was around a range of inefficiencies; around the need for efficiencies to be found within the ACT government administration across the board, in acknowledgement of the fact that historically—since self-government and indeed before—the levels of government expenditure within the ACT have ranged somewhere between 20 and 30 per cent above national averages.

If there were an underlying rationale or reason for the decisions that the government took in last year's budget, it was that: it was around the inherited inefficiencies and the inherited level of expenditure that have been a feature of governments within the territory since self-government and—indeed as all of us long-term Canberrans know—before self-government. We know about the levels of investment infrastructure, which was a feature of commonwealth administration of the territory. We know about the level of investment in our schools, roads and other physical infrastructure. We know about the traditional levels of investment in health and education which pre-date self-government.

And, on self-government, successive governments have striven to maintain that level of government service delivery. We have done it to the extent that—even today on perhaps the most up-to-date analysis; Treasury began this task—we continue to invest in government services within the territory at a level significantly higher than the national average. It is a simple equation: you cannot keep delivering government services in health and education, and across the board at between 20 and 30 per cent above the national average and maintain an average level of taxation effort unless you have another source of income.

Governments since 1989 have found that other source of income in land. What every government since self-government has done is balance its budgets through the utilisation of the Australian accounting standard, which essentially deals and accounts for land sales or an asset sale in a way that is unsustainable. It is a finite resource. It is an asset. It has been applied to recurrent expenditure. It has been used to balance budgets.

Those were the reasons that the government instituted the budget or the change. Because we as a government—the first government since self-government—decided to look the issue in the face, take the hard decision and bear the consequence, the

political consequence. We had the courage and the faith to take decisions on—for instance, the level of health expenditure, which as recently as 14 or 15 months ago was 24 per cent above the national average.

Expenditure in the ACT on health is 24 per cent above the Australian average. And this is an expenditure of $750 million. So we are talking about a lot of dollars—$750 million—24 per cent above the Australian average for expenditure on health service delivery. That has now been reduced to 14 per cent as a result of last year's budget. It has been reduced to 14 per cent as a result of decisions taken last year.

We have established a Shared Services Centre, which has in its first year achieved precisely the savings sought of it and will now in this full year—its first full year—and into the future deliver savings of $20 million a year. *(Time expired)*

MR STEFANIAK: Mr Speaker, I have a supplementary question. I thank the Chief Minister and Treasurer for his answer. Chief Minister, you mentioned the functional review. Why won't you table the findings of the functional review so that the community will itself be able to judge the quality of the financial advice which you have been receiving and on which you say you have based your decisions?

MR STANHOPE: As I have indicated on numerous occasions, the functional review was a review commissioned for the purposes of cabinet. It attracts cabinet confidentiality. As with all other cabinet documents of this and every other government since self-government—and indeed for hundreds of years in every Westminster democracy around the world—cabinet documents attract confidentiality. This is one of those documents and will be treated in exactly the same way as every other document that attracts confidentiality in that way.

Mr Pratt: That is because they are bum covering documents.

MR STANHOPE: In relation to the issue of the budget and the surplus, the budget did deal with the hard issues—the issues which a government lacking in competence, such as those that the Liberal Party has produced—

Mr Pratt: All right, bottom covering documents.

MR SPEAKER: Order, Mr Pratt!

MR STANHOPE: has reduced, for instance, the 31 per cent of vacancy or excess capacity within our public school system. There is nobody who seriously argues that that is not a good thing. It is a good thing. As a result of that, and with the savings that were generated through the removal of 31 per cent of excess capacity in our public school system, we have injected over $300 million into our public school system.

That is a level of investment 15 times greater than the annual savings generated as a result of those decisions. The system will benefit. We are determined to ensure that public education maintains its position as the education system of choice. We are devoted to the system. We will support it to the death, as we do. And, to that extent, we will put in the resources that reflect our commitment to public education.

It is an investment of over $300 million in public schools in the past two years. That is unprecedented. For a jurisdiction of this size, that is a massive investment in education. It will return dividends for this community for years and decades to come. It is a sign of this government's commitment to public education. The dividend will be reaped.

I think we are all touched by the irony that the Liberal Party is continuing its campaign about this grievous error in budget in the face of yesterday's announcements in relation to the unexpected $3.7 billion surplus that Peter Costello, the shadow Treasurer's hero—

Mrs Dunne: He didn't close anything.

Mrs Burke interjecting—

Mr Pratt: He didn't close anything.

MR SPEAKER: Order! Chief Minister, resume your seat. Mrs Dunne, Mrs Burke and Mr Pratt!

MR STANHOPE: The shadow Treasurer, we know, sits at the feet of the federal Treasurer and tugs the old forelock as he is wont to do. He has no comment to make on the $24 billion understatement of revenue which is a feature of the last three federal budgets. The federal Treasury has underestimated revenue of $24 billion in the last three years, including $3.7 billion last year. According to the *Canberra Times*—a journal which only ever speaks the truth, of course—in 2005-06 alone the federal Treasury underestimated income tax receipts by $6.9 billion. There was a $6.9 billion underestimation in income tax in 2005-06. There was $3.7 billion last year, a significant proportion of which was company tax underestimation. There has been $24 billion of unanticipated revenue in the past three years. But it is incompetent for the ACT Treasury to not estimate $30 million of conveyancing duty in the face of an enormous spike in the last year!

I might conclude on this point. The Leader of the Opposition quotes a Phil Lewis of the University of Canberra. I might just say that Phil Lewis's twin in this was a Mr Saul Eslake—

Mrs Burke: Do you know him?

Mr Mulcahy: You finally know who he is.

MR STANHOPE: I did not know him. I made some commentary about him as a result of which he rang my office to disown entirely—in its entirety—the quotes attributed to him in the *Canberra Times* by a *Canberra Times* journalist. He said that he was embarrassed, that he apologised, and that he could not believe that it was the same Saul Eslake.

Budget—forecast

MR MULCAHY: My question is to the Treasurer. Treasurer, the *June quarter 2007 consolidated financial report* shows that initial forecasts of the GFS net operating balance were out by $209.4 million from the year-end figures. The same quarterly consolidated report shows that there has been a $90.8 million turnaround on the figures that you published on 5 June—just over two months ago. Treasurer, how can you claim that the financial basis for the 2007-08 budget is still sound when it has already, in the space of two months, required an adjustment of nearly $100 million?

Mr Pratt: Bloody embarrassing management, that!

MR SPEAKER: I warn you, Mr Pratt!

MR STANHOPE: I thank the shadow Treasurer for the question. It allows me to continue the theme. It is a theme that I am pleased to be able to continue, particularly in light of federal events in the last day or so. It allows us to compare. The shift over the last few months in the position of the ACT, particularly in revenue, is represented by a $32.4 million increase in residential conveyancing, compared to a $3.7 billion shift in the federal budget position, I presume since its mid-year review, which incorporated over $1 billion in company tax receipts.

In the context of the hue and cry, the outrageous commentary and the charges of incompetence and of deliberate misleading by both the Treasury and me—and this is at the heart of the Phil Lewis type of suggestion—there is the defamatory suggestion that these were dodgy numbers, confected presumably by Treasury. The suggestion is that within the ACT Treasury we have a group of officials who have deliberately confected a set of numbers, for what purpose we do not know, although some quite scurrilous suggestions to that effect have already been made by Mr Phil Lewis.

That is at the heart of the comparison that we can make today. If we are making comparisons, the shadow Treasurer charges that an underestimation of revenue, to the tune of $32.4 million, is a sign of gross incompetence, that an undervaluation of $24 billion over three years is a sign of good economic management and that the $1 billion in company tax receipts that the federal Treasury picked up over the last month somehow could not be anticipated, expected or were of a different genre—

Mr Mulcahy: On a point of order, Mr Speaker: standing order 118 (a) requires an answer to be concise and confined to the subject matter of the question. The question was: how can he claim that the financial basis is still sound when already, in the space of two months, it has required an adjustment of nearly $100 million? What it has to do with company tax receipts is beyond me.

MR SPEAKER: Stick to the subject matter of the question, Chief Minister.

MR STANHOPE: I am explaining quite appropriately, Mr Speaker, that traditionally there are significant divergences and variations in estimates that different governments make over time. It goes to the heart of the question regarding how we can make the claim. I cannot claim that there will not be a variance.

I am asked whether I can stand by the predictions within the 2007-08 budget. The ACT government traditionally has a very good forecasting record. In particular, we have a very low mean percentage error in terms of government forecasts at budget time. Indeed, I can go through the mean percentage error for each Australian jurisdiction over the last five years. The mean percentage error in budget forecasts in each of the five years as between the budgeted position and the delivered position are as follows: for New South Wales, the figure over the last five years was 3.9 per cent; for Victoria it was 4.8 per cent; for Queensland it was 8.8 per cent; for Western Australia it was 5.9 per cent; for South Australia it was nine per cent; for Tasmania it was 6.3 per cent; and for the ACT it was 2.4 per cent.

With respect to the budgeted position, as against the delivered position, and averaged out over five years, of all the states and territories, the ACT government has the lowest mean percentage error in budget forecasting of any jurisdiction in Australia. It varies from year to year. Some years we are higher; some years we are lower. The mean average over five years paints the ACT and the ACT Treasury as the Treasury and jurisdiction with the lowest mean percentage error in budget outcome of any jurisdiction in Australia.

It is on that basis that I can continue to have faith in the operations of the Treasury and in the budget that is brought down. That is after taking into account long-term averages, the conservative nature and bias of the way in which the budget is put together and our record—a record in Australia that is second to none. It is on that basis that I have such confidence, while accepting of course that we have not been able to predict the enormous spike in construction activity, particularly in the residential market, between the first three quarters and the last quarter. *(Time expired.)*

MR SPEAKER: Mr Mulcahy, do you have a supplementary question?

MR MULCAHY: Thank you, Mr Speaker. Treasurer, how can the people of Canberra be assured that the economic and taxation decisions are being made wisely and prudently when you are so inaccurate in your revenue forecasts?

MR STANHOPE: I did just answer that question. I am happy to repeat that the record of the Australian Treasury and of this government over the last five years is the best in Australia. You cannot get better than this.

We have the best record in Australia, through our Treasury and through the last five successive budgets, of actually bringing a budget in, as delivered. The mean percentage error in the ACT is 2.4 per cent against an all states averaged mean percentage error of 5.9 per cent, with some states averaging nine per cent. South Australia is averaging nine per cent, Queensland is averaging 8.8 per cent and the ACT is averaging 2.4 per cent, with a mean error rate across the states of 5.9 per cent. We have the best record in Australia.

Mr Mulcahy: The best record for tax.

MR STANHOPE: The interjection was that we have the best record for tax. Of course, this is the other furphy that runs with this particular debate. We tax at average

levels. We are right in the middle on taxation levels. We tax at the average level across Australia. I do not have the numbers with me. Ours is an average taxing effort. We are not a high taxing jurisdiction, despite the efforts of particularly the property council in relation the fire levy and of the real estate institute in relation to land tax.

Everybody has their favourite little tax. Chris Peters would want us to abolish payroll tax. The property council wants us to abolish the fire levies. The real estate institute wants us to abolish land tax. Everybody can find a tax that they want us to attack. Everybody has their favourite. But across the board, in a jurisdiction such as ours, with a narrow economic base—

Mr Smyth: Well, what have you done to broaden it?

MR STANHOPE: We have no mines. We have not yet been able to attract a uranium mining export licence. Our gold and silver mines are not producing particularly well. Our reserves of coal are yet to be discovered. Iron ore is not doing too well for us. The woolclip has not come in. The wheat fields are not doing too great. Ours is a narrow service based economy. We have no mines. We have no agricultural industry. Fifty per cent of our agricultural production is from a single chook farm. Pace farms constitutes 50 per cent of the entire ACT agricultural output. We are an economy with a very narrow base.

I find it remarkable that the property council and the real estate institute—indeed, the Liberal Party—decry the fact that we have a reliance on property for our taxation effort. Identify within the context of the ACT economy that other source of taxation revenue available to us. What is it? Do you anticipate the discovery of mineral wealth here within the territory? Is that what you anticipate? Is that what you are going to base your policies on? I find it remarkable that anybody in the ACT, understanding the nature of this economy, its narrowness, would suggest that we should not have the degree of reliance on property that we do. Give me your insight into what, if not property, we use for revenue?

When you take the suite of revenue measures that are pursued within the territory and measure it against every other state and territory in Australia, ours is right at the average. It is right in the middle of all the states and territories. That is our taxation effort. Yet, on the basis of that, on the strength of an average level of taxation, we continue to invest in government service delivery a mile ahead of the national average. At one level, of course, that is a sign of the success of this government's economic management. We have delivered the strongest balance sheet and the largest cash surplus in ACT government history. *(Time expired.)*

Schools—Harrison

MS PORTER: My question is to the Minister for Education and Training. Has a principal been named to lead the new $23 million P-6 school in the Gungahlin suburb of Harrison?

MR BARR: I thank Ms Porter for her ongoing interest in education in the ACT. I am pleased to advise the Assembly that I have formally announced Mr Dennis Yarrington as the principal of the new school in Harrison. Mr Yarrington brings to this new

school a wealth of experience within the ACT education system, most recently as principal of the Cranleigh School in Holt.

The expansion of education facilities in the suburb of Harrison provides a tremendous opportunity for that community to be involved, as it has been from the commencement of the design work of the new facility and through the construction phase. I had the opportunity to be on site today with the new principal and some of the prospective school students and their families. The facility we are establishing at Harrison will set a new benchmark for public education facilities in the territory. It is an outstanding building. It is one that will enable state-of-the-art information technology. It will enable a variety of wonderful education opportunities for students at the school.

Through the government's $23 million investment in this school and through the leadership of the new principal, Mr Yarrington, we are going to see more than 450 students attend this new school. I can advise the Assembly that already we have 66 enrolments for preschool, 64 for kindergarten and 21 in years 1 to 6, before we have even gone to the very formal process of seeking enrolments. There will be further information nights for parents in the region. They are planned for September. I can advise that one will occur on the 11th.

What is occurring in Harrison is a reflection of what is possible through the government's education investment. Through the difficult decisions that were made in 2006 to reprioritise expenditure within the education portfolio and to put new school infrastructure in areas of high demand, we have—

Mr Stefaniak: Point of order. The minister has completely strayed from the question, which was to name the new principal.

MR SPEAKER: I do not think the minister was asked to name the new principal.

MR BARR: I was asked in relation to the $23 million new school at Harrison.

MR SPEAKER: The minister may continue.

MR BARR: I know the opposition does not want to hear about this investment. We know the view of the opposition. We know Mrs Dunne has already categorised every dollar that the government is spending on public education as throwing good money after bad. We know that—we heard that quote.

Mrs Dunne: No, I did not.

MR BARR: We heard the quote.

Mrs Dunne: Potentially throwing good money after bad.

MR SPEAKER: Order! I warn you, Mrs Dunne. The minister will return to the subject matter of the question and leave Mrs Dunne out of it.

MR BARR: Through this investment the government targeted an area of high growth within the ACT community, where there is a growing population of school-age children. We are investing $23 million in this new facility. Construction commenced last summer and will be completed by December of this year, with a view to the school opening for the 2008 school year.

I congratulate the P&Cs from the surrounding schools, particularly Amaroo, which has been so supportive in working towards the establishment of a P&C for the school and which has already undertaken a fundraiser to assist the newly forming Harrison P&C to get underway. It has been a tremendous partnership from all of those in the local community. I particularly acknowledge the work of the Gungahlin Community Council.

Again, these sorts of investments and quality public school facilities would not have been possible had the government not made the difficult decisions to reprioritise expenditure last year, to put quality first and to ensure that our public education system, our schools within our public education system, lead the nation and the world in the quality of facilities, the quality of teaching and the quality of learning that takes place.

There is no doubt the parent community of Harrison and surrounding suburbs is thrilled with the quality of facilities it will get to begin the 2008 school year. We are seeing already, with the level of enrolments and the level of interest in the community, that this will be a tremendously successful school in an area of high demand. That is where the government should be investing in new education facilities, where we have a growing school-age population. (*Time expired*.)

Schools—closures

DR FOSKEY: My question, which is directed to the Minister for Territory and Municipal Services, concerns community consultation on the use of so-called surplus school sites. Minister, you described this process as a two-stage process to be completed by November this year, with the first stage being about possible uses of the school sites generally and the second stage being about particular communities and specific outcomes for those sites. In May you advised us that the first stage would occur in July-August. However, the consultant who will conduct that process has only just been appointed. Can the minister advise the Assembly whether that consultation will still run for the four or five months, which is what was first promised, or whether the timeframe will be cut in half so that the report can still be finalised and handed to government by the end of November?

MR HARGREAVES: Before I go into some of the detail I thank Dr Foskey for her question. The delay in the acquisition of a consultant will not cut anything in half. We have had an extension to the time that we had hoped to take to finalise the awarding of the contract, but it is not 50 per cent of that time. The delay in the selection of the consultant occurred when expressions of interest were sought in the first place. The amount put forward by proponents—and I will not detail those amounts—was considerably greater than we had been advised and we asked people to revise their expressions of interest, which is why the delay occurred.

The timeframe will remain the same. For the information of Dr Foskey, she has the process almost right. We will have a two-stage process. The first will be on a regional basis. Let us take Tuggeranong as a relevant example. Schools that are either closed or that are to be closed will be discussed over time with the consultant and the community. The second phase will then kick in. Site-specific schools will be discussed and the community's desires, wishes and needs will be made known to the government.

At this stage of the game we have put out five proposals, which is by no means the end of the process. If the community can come up with another proposal or mixture we would be delighted to hear about it. We have no preconceptions, bar a couple that I have already announced. For example, going back to the Tuggeranong analogy, the use of Mount Neighbour School will not be the subject of consultation about what it can be used for. The site will be the subject of consultation but not the school, because that school has been determined to be removed. Given articles in the newspaper today it is opportune for me to place on the record today something that will clarify issues concerning who can and cannot get access to these surplus school sites.

We have no preconceptions about how it would work—for example, whether all or part of a school should be removed and developed or put to open space, or whether it should be totally tenanted with community groups or a mixture of all those things. The best way to describe it would be for me to read the information that I have already given out to some people in the non-government school sector. The government has made a decision not to lease any closed public school to a non-government school. I ask members to bear with me for a couple of seconds. If the outcome of the evaluation process is that a school is to be sold, non-government school providers will, of course, be able to participate in that process.

That information has been conveyed to the people who approached the government to lease space at these schools. In the context of those schools to be closed and those that are closed, that is the information we have conveyed to those people, which is quite clear now. The process which is occurring is now open. I just wish to reaffirm and restate the government's decision. In conclusion, we hope to have all community input in, digested and into government around the end of the year or, at the absolute most, very early next year. However, in the future we do not want a series of closed and vacant schools on premises scattered around Canberra any longer than we need to.

DR FOSKEY: I ask a supplementary question. When does the government plan to announce its determination on these sites? What would be the consequences of holding off finalisation and implementation of those changes until after the 2008 ACT election?

MR HARGREAVES: In response to the last part of Dr Foskey's question, there is no connection between the election and this exercise. The consultation process will not occur one at a time; groups of consultations will occur at the same time. The government hopes that the information is available to it by the end of the year so that it can take its recommendations concerning these sites to cabinet towards the end of this year, or at around Christmas time.

The government wants to make that announcement early next year so that it gives the Canberra community a sense of certainty about what is happening in relation to these sites. I cannot give the member a firm date on that. Once the consultant has all the information from the community it has to be put together, analysed, synthesised and put into a recommendatory document. I cannot give the member a firm date on that but I can say that it will not be in time for any election.

Dr Foskey: I wonder whether I could seek clarification.

MR SPEAKER: Order! No. Dr Foskey asked a question and a supplementary question and that is the end of the matter.

Budget—forecast

MRS BURKE: My question is to the Treasurer. You received $200 million from the community more than you budgeted for during the 2006-07 financial year. Despite this, you have ruled out relieving the tax burden on Canberrans in your media release of 15 August.

Phil Lewis, a professor of economics at the University of Canberra, told the *Canberra Times*—which comments you now say he refutes—that you had an obligation to explain how you have used this windfall revenue. He said, "It's not his money; it's the taxpayers' money." Treasurer, why aren't you prepared to review the level of taxation on Canberrans given that the tax increases in last year's budget were not justified?

MR STANHOPE: I thank the member for the question. I certainly thank Professor Lewis for his insight and his advice that surplus cash accumulated through good governance and good budgeting and management should be used for capital purposes. As I have indicated before, this insight into budgeting that capital funds should be expended on capital projects will revolutionise government and budgeting around Australia.

Professor Lewis went on, I understand, to suggest that the government needed to announce how it would actually spend this capital fund. I understand that on his wish list was that we should spend it on a new dam at the Cotter, which is interesting because this rests with Actew. If a new dam is to be built at the Cotter, the dam will be built and paid for by—

Mr Mulcahy: That is not what she asked you, though, is it?

MR STANHOPE: I am just going to Professor Lewis's grasp of governance within the territory. We have the very fine advice that, yes, capital funds should be spent on capital projects. He then suggested or proposed that leading the list of capital projects in which an ACT government should invest would be the Cotter dam. That did puzzle me to the extent that it indicates that Professor Lewis obviously does not understand that our utility is statutorily independent and that, to the extent that a new dam will be built within the territory, it will be built by Actew and funded by Actew. The suggestion from Professor Lewis that an ACT government might budget fund a new

dam at the Cotter really was a new perspective for me. So there is much to be learnt from these particular insights from experts that are consulted from time to time.

I say again, Mr Speaker—and I think it is relevant—that it is ironic that a Liberal Party that governed in the territory for seven years is now suggesting that surpluses are a bad and evil thing. This is not consistent with any sort of modern theory or position but by any government. The Liberal Party in this place would be comfortable with the notion that surpluses are evil and should not be sought after or delivered or that there should be no aspiration. In seven years in government the Liberal Party really only ever had experience with deficits.

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

MR STANHOPE: I think it is relevant to any question around a $200 million turnaround that delivered the territory's largest ever surplus.

MR SPEAKER: My understanding was that the question was about taxation.

Mrs Burke: Thank you, Mr Speaker. The question was about reviewing the level of taxation on Canberrans.

MR STANHOPE: We will, as we do every year, review the level of taxation. We do it every year as part of the budget process. In no year since we have been in government and I have been Chief Minister have we not reviewed levels of taxation within the ACT.

The answer to the question is yes. The ACT government will again in the next budget context review our taxation regime. We do it every year and we will do it again. Of course we will. One of the reasons we will do it is to ensure that we do not deliver a set of budget bottom lines such as those delivered by the Liberal Party. The Liberal Party in its first year in government delivered a deficit of $344 million.

Opposition members interjecting—

MR SPEAKER: Order! Chief Minister, resume your seat for a minute. There are a few people on that side who are on a warning. That is the threshold. I call the Chief Minister.

MR STANHOPE: One of the reasons we review our taxation regime every year is because we do not want to go back to the dark days of the Liberal government, which in its first budget delivered a deficit of $344 million. In its second budget in 1996-97 it delivered a deficit of $170 million. In its third budget in 1997-98 it delivered a budget with a deficit of $152 million. In its fourth budget in 1998-99 it delivered a budget with a deficit of $161 million. It then delivered three very small AAS surpluses. In its seven years in government the Liberal Party delivered an aggregate deficit of $657 million under the Australian accounting standard. Let me repeat that. In its seven years in government—*(Time expired.)*

MRS BURKE: Mr Speaker, I have a supplementary question. Whilst the commonwealth can explain what they have done with their surplus, Chief Minister,

will you now explain to the Canberra community what your government will do with your surplus?

MR STANHOPE: We will continue to invest in government services for the people of the ACT. We will continue to unravel the damage that the Liberal Party did in government. We will continue the record levels of investment, for instance in mental health. Under the two Liberal Party health ministers, Kate Carnell and Michael Moore, mental health expenditure was the lowest of any jurisdiction in Australia. How shameful is that? The most prosperous community in Australia—under the Liberal Party; under Kate Carnell and Michael Moore—invested less in mental health than any other jurisdiction in Australia.

We will continue our record of investment in mental health. Since coming to government, we have increased expenditure on mental health by 92 per cent. We will continue the massive historic levels—and increase them—of investment in child protection. This is an area where we have increased expenditure by about 150 per cent since coming to government. That is what we will do.

We will continue to unravel the dismantling of bed ratios within our public hospitals. We will continue the process of increasing incrementally the number of beds, having now at last overhauled the 100-bed cut that the Liberal Party introduced into our public hospitals while in government. We have now made up the difference. We have undone the damage. We have undone the damage of the 100-bed public hospital cut—a legacy of Bill Stefaniak and Brendan Smyth. We will continue to increase the number of beds within our public hospitals. We will construct a new psychiatric facility at the Canberra Hospital—a state-of-the-art facility. We will construct a forensic mental health facility.

We will continue to invest heavily in our emergency services—an area in which we have almost doubled expenditure since coming to government; where we have undone the traditional low levels of investment in our rural fire service, in our urban fire service, in our ambulance service. We inherited from the Liberal Party the historic low levels of investment in our emergency services, which of course are part and parcel of the mix in relation to issues we faced in 2003—the seven years of under-investment in our emergency services.

We will continue the historic high levels of investment. We will continue to invest as heavily as we are in education. In the last two years alone there has been an additional $320 million of investment in public education in the Australian Capital Territory. That is massive; that is unprecedented. Do a comparative analysis across Australia of the pro rata level of investment by this government in public education against that of any other state and territory in Australia, even before that level of investment. Go out and do your sums; do the comparison.

Have a look at whether any other government in Australia, on a pro rata basis, is investing anywhere near the $320 million which this government has committed to public education in the last two years. It is unprecedented, unheralded. There is no level of investment of that order anywhere in Australian in public education. It is a reflection of our commitment to public education and the need to ensure that we maintain our position as the leading jurisdiction in Australia in the context of educational outcomes, just as we do in relation to health outcomes.

We will continue to invest in all of these areas. We will undo the damage that was done in seven years of the Liberal Party. We will continue to invest. I think that in relation to disability services we have increased expenditure by almost 70 per cent—I believe it is in the sixties—as a result of having inherited the Gallop royal commission report into disability service delivery under the Liberal Party in the ACT. Who can forget the Gallop report? Who can forget the scarifying report into the performance of the Liberal Party in government in relation to the delivery of disability services and the response by this government to that report, which led to a massive increase in funding for disability services within the territory?

Mrs Burke, in answer to your question as to what we will do, that is what we will do: we will continue to invest massively in this community to undo the damage which you did in government, having delivered to us aggregate budget deficits under the Australian accounting standard of over $600 million.

Budget—forecast

MR GENTLEMAN: My question is for the Treasurer. Treasurer, can you explain some of the major factors in revenue growth for the ACT over the 2006-07 year?

MR STANHOPE: The major reason for revenue growth within the last financial year has undoubtedly been the property market—both commercial and residential. The growth in property in the residential and commercial sectors within the ACT is the strongest in Australia. It has defied the predictions of even the private sector—the private sector which would pride itself on its capacity to predict the future. The Liberal Party and the private sector now take as a major failure of this government the fact that it did not predict $40 million of increased revenue as a result of conveyancing activity over the last quarter.

The predictions that were part and parcel of the budget were consistent with the predictions that the private sector was making at the time. Earlier this year, in the 2007 real estate outlook for Australia—this year's outlook—the Real Estate Institute of Australia was still predicting—at the beginning of this year—a continuing slowing in demand for property despite positive population growth in all States and territories during 2006. According to the Real Estate Institute of Australia, this slowing in demand for property that started this year would limit price growth in 2007. That was the prediction of the Real Estate Institute of Australia earlier this year.

In June 2007, the property council was forecasting an increasing shortfall in investment in residential housing. In the March quarter, up to June, investment in residential housing within the ACT increased by 63 per cent over the previous quarter. Yet, on the back of that, the property council was still predicting an increasing shortfall in investment.

Let me go to a press release from the property council dated 10 August 2005—two years ago. I just happened to come across it in my office. Two years ago, two years ago within a week of the budget announcements of last week, the property council—Catherine Carter and Tony Hedley—predicted that by 2008 vacancy levels in Civic would equal those of 1996—15 per cent. Two years ago this month the property

council of the ACT predicted vacancy rates within Civic of 15 per cent within five months. The vacancy rate is 1.3 per cent and falling, but the property council's predictions—its crystal ball, its magic wand—forecast, for now, vacancy rates of 15 per cent.

Yet last week I saw the property council out there again castigating the government for the fact that our conveyancing revenues were up 32 per cent—that there had been a massive spike in conveyancing activity and turnover in the March quarter, a spike that we should have predicted despite the fact that they did not and despite the fact that two years ago they were predicting 15 per cent. Imagine it! Two years ago, the property council, the peak organisation with the territory, predicted a 15 per cent vacancy rate in the commercial property market in the heart of the city. They are out by 14 per cent—massive in the context of commercial accommodation.

The major changes within the budget are around the strength of this economy, something of which we can all be proud and something of which I am proud.

Mr Mulcahy: You can thank John Howard.

MR STANHOPE: We thank John Howard, I understand, for everything except interest rates. Interest rates are the responsibility of the states and territories. What if I offered Peter Costello and John Howard the choice that I would accept responsibility for interest rates if I could also accept responsibility for low unemployment and high participation rates? Let us deal this out. The commonwealth believes that the states and territories should accept responsibility for interest rates and the recent increase in interest rates. I am prepared to strike a deal with Peter Costello and John Howard on this. I will take interest rate rises if I can also take responsibility for low unemployment and high participation rates. *(Time expired.)*

Budget—forecast

MRS DUNNE: My question is to the Chief Minister and Treasurer. Chief Minister, according to your own figures for 2006-07, you have taken out of the pockets of Canberrans $200 million more than you budgeted for in the 2006-07 financial year. Despite these results, you have ruled out reopening any of the schools that you closed last year or propose to close this year or next year. Why don't you reconsider opening schools, given that the forecast that your decision was based on has now proved to be wrong?

MR STANHOPE: This is consistent with the question that I was initially asked by Mr Stefaniak, around false suggestions in the preamble to the question. As I indicated then, the rationale for the decisions which the government took in last year's budget was around the need for efficiency and the need to take some hard and unpalatable decisions—decisions which, through the subsequent debate, we now know that the Liberal Party in government would not have the fortitude or the courage to take.

If anything has been revealed over the last year, in the context of the debate that we had on last year's functional review and last year's budget, it is that the Liberal Party in government would not have either the capacity or the courage to take the decisions that this government took. We have here a shadow treasurer who spouts the need for

efficiency and rationalisation, but when it comes to the hard decisions, he is prepared to turn around a decision that deals with a 31 per cent oversupply of public education capacity.

Here is the champion of economic rationalisation. Here is the champion of efficiency. Here is the champion of the need for mean, lean government. Here is the champion of the need to reduce taxes across the board. But when push comes to shove, he will not take the hard decisions. He will not demand efficiencies in relation to infrastructure.

MR SPEAKER: Come back to the subject matter of the question, please.

MR STANHOPE: This is the subject matter. The subject matter of the question is schools and school closures. Having taken the responsible decision to ensure that we have an efficient education system, one of which all Canberrans can be proud, one in which we can confidently invest massively, as we are doing, which party with any semblance of responsibility would take a system with a one-third spare capacity and invest in it at the levels that have occurred?

How do you make that work? How do you take a decision to invest $316 million in a system that you know is performing at one-third less than its capacity? Do you just invest in all of those schools with 70 or 80 children that were built for 500 children? Do you continue to invest at those levels? Just explain it to me: how do you invest in a high school which was built for 800 or 1,000 students and which has 120 students at current levels? How do you do it? How do you justify it? What is the investment that you make? You have a school built for 1,000 children; it currently has a cohort of 120 children. Do you think, "Oh well, we'll invest in that," in the same way that we invest in all of those other schools that we now have determined will represent state of the art in terms of physical infrastructure and teaching capacity? Explain it to me at some time.

The weak-kneed, populist, unthinking response of those without the courage to govern for all Canberrans is: "We'll just reopen it. We've done a little bit of spot polling.' It seems that we do not need leadership in relation to government expenditure; we do not need leadership in relation to ensuring we have a first-class, world beating public education system. In their hearts, they do not really care all that much about public education. We have seen it again today. Mrs Dunne is prepared to abandon year 12. In fact, when she was the shadow attorney, she was prepared to abandon the pilot system altogether.

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

MR STANHOPE: The subject matter of the question is the integrity of public education and this government's willingness to commit to it, and we have shown that willingness on a level which those on the other side never will. Those on the other side do not show the commitment in their words or their actions to public education. They never have and they never will. They never will. As far as they are concerned, they are happy for public education to slip into being the system of second choice. We are not. Public education represents a commitment to a fair go, to egalitarianism, to equality, to the capacity of every person in society to meet their potential in order to be a member of this community, as an equal with all others. This is done through

having a strong, healthy public education system. You cannot do that in a system that is running at over 30 per cent below its capacity. You simply cannot achieve the outcomes you need for those children that depend on public education as the great equaliser in life. This government will never betray that principle in the way that you have, and in the way that you will if you ever get back into government.

MR SPEAKER: Is there a supplementary question?

MRS DUNNE: Chief Minister, why won't you do anything substantive to address the drift to non-government schools? Is this another example of your incompetence in government? You got the figures wrong and you cannot address why people are moving from government to non-government schools when they are paying for the privilege of doing so.

Mrs Burke: Hear, hear! Unplanned cuts as well.

MR SPEAKER: Order, Mrs Burke! I have called you to order several times. What do I have to do?

Mrs Burke interjecting—

MR SPEAKER: I warn you, Mrs Burke.

MR STANHOPE: It is probably fair to say, although it sounds a bit trite, that I can think of 320 million expressions of our determination to support public education and to ensure that it remains the system of first choice for Canberrans. It is at the heart of everything that we have done over the last year and a half in public education. It is why we are prepared to stand up and take the hard decisions. Do you think that a government does these things for fun?

Inherent in this line of questioning, this nonsense, is the suggestion that my colleagues and I—and most notably the minister for education—have enjoyed the last 1½ years in relation to education reform in the territory. It has not been much fun. It is the hardest thing to do in government. We all know the emotional attachment which communities have to their schools. Do you think we did this without knowing what the response would be? Do you think we did not know the level of disquiet, angst and anger that this particular decision would generate? Of course we knew, but we did it anyway.

We did not have to do it. We could have fluffed it; we could have left it for another day and another government. We could have not sought the efficiencies. We could have continued to pretend that we could balance our budgets under the Australian accounting standards. We could have continued to sell land and invest it recurrently. We could have turned a blind eye to 31 per cent spare capacity within the public education system. We could have left until another day the drift from the public to the private sector. We could have been content that it was all about choice. We could have found a thousand reasons and explanations.

We could have fluffed it and fudged it in the way that you are fluffing it and fudging it. Of course, it is easy, it is populist and it avoids the need to take the hard decisions.

You do not have to show a commitment to a system that you do not really have, anyway. But we decided to take the hard decisions, and it has not been much fun. It has not been much fun. But we did it, we are proud of it and we will deliver a legacy in the form of the excellence of public education in the ACT that, in the years and decades to come, will be acknowledged as being a direct result of the decisions that were taken last year.

For the first time in decades, we took decisions in relation to public education in the territory that no other government or minister would take. And we followed up those decisions and those actions with a massive, historic investment, to the tune of $320 million to date and counting, in ACT public education—including, of course, a commitment to upgrade all of our science labs. There is a commitment to do something which, on reflection, at one level is an indictment—to ensure that every high school in the ACT has a gymnasium. Imagine that: we were fostering a system that allowed government high schools in the territory to persist with not having a gymnasium. We have fixed the problems, we found the money, we have made the investment, and we will continue to do so.

The level of IT investment, networking and infrastructure are second to none in Australia and befitting of the sort of system that we aspire to deliver to the people of the ACT. Educational outcomes are the envy of the rest of Australia. But there is much more to be done, we are aware of that and we will continue to do it. We will do it for children that traditionally have struggled—children with a disability, and indigenous children. There are areas of underperformance but we are addressing them. We saw that most recently at Duffy primary school, with the opening of new, state-of-the-art services. The innovation and level of resourcing and investment that we are now making in special units in our schools have been applauded by everybody. They are the envy of Australia, and they are an investment that could only be made realistically as a result of the decisions that we took. We wanted to ensure that there was an efficient system that could be invested in with confidence to the levels that we have. *(Time expired.)*

Housing—rents

MR SMYTH: My question is to the Chief Minister. Chief Minister, a significant outcome from your government's approach to "squeeze investors until they bleed but not until they die," is a shortage of rental properties. According to the latest information provided on rents for the March quarter 2007, Canberra has the highest median weekly rent of all capital cities—at $354 for a three-bedroom house. Chief Minister, why are private sector rents higher in Canberra than they are in any other capital city?

MR STANHOPE: We certainly do have high rents at the moment. Similarly, over the last year or more the housing market in the ACT has exhibited the strongest growth in price. Indeed, we have the strongest housing market in finance approvals within Australia. To some extent the ACT is beating the nation on issues such as housing finance commitments and residential start-ups. I do not have the full list of numbers in front of me, but they are very significant and something for which we can be particularly grateful.

It is a sign of the strength of the ACT economy. On each of the recent indicators that I have seen, the ACT is performing as well as every place in Australia, except Western Australia and Queensland—the big resource-booming jurisdictions. In the area of growth, in the last quarter's figures I saw the ACT was second only to Western Australia in economic growth. The growth that we observed recently in the housing market is significant and high, the highest in Australia. There is catch-up and there is significant growth in the market, driven as much as anything by a booming economy, an economy driven by significant commonwealth expenditure as well as a significant expansion in the private sector.

The trend level for building approvals is improving. I believe that housing finance approvals in the last year were the second strongest for the decade. That is an indication of the extent to which there is a second boom in housing. The previous boom was in 2003-04—somewhere roundabout there—and in this last year we came within 20 or 30 housing finance approvals. So there is enormous pent-up demand as a result of employment decisions at one level taken by the commonwealth but also as a result of significant growth and strength within the ACT economy.

We continue to have the lowest unemployment rate in Australia, we continue to have the highest participation rate in Australia, we continue to have the second and third strongest economic growth in Australia, and we have a major, massive employer within the territory employing just under 30 per cent of all people employed in the commonwealth and it is expanding its organisation.

Median house prices and median rents within the territory are high. So, of course, are median incomes and average household disposable incomes. In the context of the affordability indicator or index utilised by the Real Estate Institute of Australia, rents and houses in Australia, on the real estate institute's index, are the lowest in Australia. An average employee within the ACT earns just on $200 more than the Australian average, just over $800 a month and just under $2,000 a month for an average two-person household, which leads, of course, to a significant difference in household disposable incomes among Canberran households. It is a sign of our prosperity; it is a sign of the strength of this economy, a strength in which I take significant pride and for which my government is happy to accept some responsibility.

This economy is driving as strongly as it is, unheralded, stronger than it has ever been in our history, as a result of which disposable incomes within the territory exceed the national average for each individual by nearly $200. As a result of that the economy is strong. An instance of that is the enormous demand for housing at this stage. Of course, rents and mortgages are high but, as I said, so are incomes, so is disposable income, and so is the capacity of the majority of Canberrans to meet their rental and mortgage commitments at a level that is greater than that for the average Australian.

It should never be forgotten that many Canberrans, along with many Australians, are under significant stress, whether it be in the purchase of a home or in rental accommodation. That is why this government has delivered and is in the process of implementing the most far-sighted and comprehensive housing affordability package anywhere in Australia—a package which, through its implementation, will deal to the extent that any government can with issues around affordability and the cost of rental housing.

MR SMYTH: I ask a supplementary question. Chief Minister, when will Canberrans see the benefits of this much lauded reform package on the affordability of housing in the ACT?

MR STANHOPE: I am sure that they are already seeing significant benefits. For instance, I was advised just yesterday that in the most recent in globo release in west Macgregor—the land was sold only four months ago—180 pre-sales had already been made as a result of the release to the market of west Macgregor. So there is an immediate benefit. As a result of that single initiative 180 Canberra families have identified land and pre-purchased it. There is an example. If the member wants to know when the benefits of the taskforce report and its implementation will be shown, it is now; it is immediately.

I think that is an example of both the pent-up demand and the decisions that the government has taken. There has been significant progress on a range of other initiatives. Just two weeks ago my colleague the Minister for Housing presided at the formal transferral of 132 houses to Community Housing Canberra—a proposal which with a loan facility of $50 million and a capital injection of $3.2 million, plus the transfer of 132 homes, gives Community Housing Canberra enormous capacity to leverage the delivery, as is expected of it, of 1,000 houses within the next 10 years.

The process has started and the houses have been transferred. The loan facility is in the process of being finalised. The capital injection of $3.2 million will be made. Community Housing Canberra fully expects on the basis of this new arrangement to be providing 500 homes for rental and 500 homes for purchase within 10 years. That is a massive change in the nature of the provision of social housing and housing for those who might otherwise not be able to enter the market. There is another example.

We are well advanced in the development of proposals across the board. There are 60 recommendations and we are in the process of implementing them all. They will make a very significant difference. The housing affordability taskforce report is lauded across the spectrum within the ACT, whether it be by organisations such as Shelter, ACTCOSS, CHC, the Master Builders Association, the Housing Industry Association and the Property Council. There has been broadscale, wholesale unanimous support and endorsement of the package and its initiatives. We are working in very close collaboration with all stakeholders.

Of course, we have the constant carping from the Liberal Party, which really does not have a policy and that has never had an idea, we would never have imagined what might have been achieved in the delivery of affordable housing to people of the ACT. It is through this very innovative reform package that what is being done in the ACT has received the plaudits that it has. I look forward to its continued implementation. I acknowledge, of course, that in relation to issues around planning, the delivery of land and the capacity to meet the level of demand that there is, it will take time.

Housing—investment

MR SESELJA: My question is to the Treasurer. Treasurer, you have been cited in the media blaming changes in the superannuation laws for people investing in

superannuation rather than in properties and, therefore, contributing to the housing affordability crisis. In contrast, experts in tax have pointed out recently that rates and land tax, which have been increased under his government, are more likely to dissuade investors from the Canberra market. Treasurer, what evidence do you have that supports his argument that new superannuation laws, rather than higher rates and property taxes, have discouraged investment in housing?

MR STANHOPE: It is probably fair to say a myriad of reasons influence decisions around investments. Some investors will take into account issues such as land tax or stamp duty, just as some other investors will choose to invest in the share market rather than housing. Other investors will choose to put any excess funds into superannuation. It is clearly nonsense for anybody to say—as I have seen recently in a newspaper report—that no investor has chosen between superannuation and housing, because some investors have. I know them.

Some investors have decided to invest in superannuation instead of in housing. Investors who previously sought to utilise the attractiveness of negative gearing and to invest in housing have shifted to superannuation. I have spoken to such investors. I do not have broadscale, detailed evidence.

Mr Mulcahy: Where is the empirical evidence? Even Michael Bannon's year 11 economic student would not come up with that theory.

MR STANHOPE: That is what I mean. For somebody to come out and say this is nonsense, that it would never happen, is just crazy. Any reputable economist who would suggest that no investor has ever chosen to move from housing to superannuation is talking arrant nonsense. It is reasonable to suggest that one of the factors that has affected investment in housing is the move by some investors to other forms of investment, whether it be superannuation or shares. I stand by that.

I challenge anybody to suggest that there are not people now investing in superannuation who previously might have been investing in housing. It cannot be done and nobody would dare suggest it. I stand by the statement I made. There are a myriad of reasons for decisions that investors take. One of them is that they find superannuation easier, less messy, than a house. Others like the share market, some like housing. The bottom line is that the investment proportion of housing finance commitments in the ACT has remained essentially static over the past five years. The five-year average in investment in residential property within the ACT is 31 per cent. In the much-vaunted March to June quarter the level of investment in residential property in the ACT was 37 per cent—six per cent above the long-term average.

The Real Estate Institute and its president pontificated that there has been a rush of investors out of the ACT. That is not what the facts show. It is not what the statistics show. That is not what the finance commitments show. What they show—

Mr Mulcahy: You just contradicted yourself. You just said they had taken their money out of housing and put it into superannuation.

MR STANHOPE: I said some. Some would. I have spoken to them. I am not contradicting myself at all. I am contradicting the Real Estate Institute. I am

contradicting the doomsayers who say there has been a rush of investment out of the ACT, because quite clearly there has not been. In the most recent statistics available to us, the March quarter figures, March to June, the percentage of housing finance commitments in the Australian Capital Territory for investment was 37 per cent—significantly above the long-term average.

MR SPEAKER: A supplementary question, Mr Seselja?

MR SESELJA: Yes, Mr Speaker, and I seek leave to table the article that the Chief Minister and I referred to, perhaps to clear up some twisting from the Chief Minister.

Leave granted.

MR SESELJA: I table the following article:

> "Stanhope's super mistake on property"—article appearing in the *Sunday Canberra Times* on 12 August 2007.

Thank you, Mr Speaker. Treasurer, what relief from the burden of increased rates and taxes can the people of Canberra expect under the Chief Minister's leadership?

MR STANHOPE: The relief that Canberrans are experiencing in appropriate levels of taxation in the Australian Capital Territory is the relief of not having the lowest level of expenditure on mental health in Australia, which, of course, was the legacy of the Liberal Party. That is the relief. Canberrans are relieved that we no longer spend on mental health the shameful levels that the Liberal Party did. The ACT electorate is relieved that it will never again—unless it re-elects a Liberal government—have to experience an episode such as the Gallop royal commission of inquiry into disability service delivery in the Australian Capital Territory.

The people of Canberra are relieved that they will never again have to deal with or experience a government that in its period of government cut 100 beds out of our public hospitals. That is the sort of relief that Canberrans can expect under the taxing regime of this government. It is the relief that they will not have to experience or tolerate a government that did not fund child protection, a government that did not fund disability services, a government that cut hospital beds, a government that set out to pursue a $12 million infrastructure upgrade of Bruce Stadium and ended up spending nearly $100 million and along the way breaking the law.

That is the sort of relief that Canberrans can expect under this government. Have a look at the numbers. Get the numbers out and have a look at them. We tax at average levels across Australia. We are right in the middle. We tax less than some states; we tax a little bit more than others. We are right in the middle. That is the sort of relief that Canberrans have enjoyed over the past seven years, and which they will continue to enjoy for many years to come, if Gary Kent has his way.

Functional and structural review

MR PRATT: My question is to the Treasurer. Treasurer, you have continued to refuse to release the functional review report prepared by Mr Costello in 2006. It is

now becoming clear that much of the analysis contained in that report was very poorly based. As far as we are able to tell, the report's analyses with respect to the ACT's revenue raising capacity, the capacity of government schools, the prospects for the business sector, the prospects for tourism and the impact of reductions on the sport and recreation industry have now been shown to be inaccurate.

Treasurer, if you are so confident of the veracity of the analysis in the report of the functional review, why will you not table the report so that the ACT community can make up their own minds about the conclusions reached by Mr Costello?

MR STANHOPE: Actually, I have answered the question. You know, cabinet confidentiality is an important convention. It is a convention which every government has relied on. The Liberal Party in government relied on it in relation to the Bruce Stadium fiasco. The Liberal Party in government refused to release—

Mrs Dunne: So were you lying when you said you would not hide behind it?

MR STANHOPE: We asked for them, just as you are. It is part and parcel of politics, of course. We asked for the cabinet documents in relation to Bruce Stadium and you refused to release them. We asked for the cabinet documents in relation to the secret deal that was done in relation to Kinlyside. You refused to give us the cabinet documents in relation to the under-the-table deal that was done by the Liberal Party in relation to the wholesale sale of Kinlyside for rural residential. We asked for those, I remember. I think I moved a motion in the Assembly. We asked you to release the cabinet documents in relation to Kinlyside and you refused, and understandably so.

We asked you for the cabinet documents in relation to the Fujitsu deal—an amazing deal! You were not just content to provide them with a lifelong payroll tax holiday. You gave them the two top stories of our health building. They were going to bring 1,000 workers to the ACT. They brought 12 or something in the end. That was an amazing fiasco! We asked for those cabinet documents, too. We asked for the cabinet documents in relation to Fujitsu and you said no.

I have no doubt that the Speaker—he might be able to confirm this at another time—asked for the cabinet documents in relation to the decision to build the futsal slab. I think you refused. I have no doubt that the cabinet documents in relation to all of these amazing decisions that you took in government were refused to us on the basis of cabinet confidentiality.

There are a whole range of reasons why decision making by government, particularly at a cabinet level, does require a level of confidentiality. Otherwise the fearless and detailed advice which governments seek and need to make decisions would, of course, be eroded and destroyed. There are very good reasons for the convention that documents prepared for cabinet to aid and assist it in its deliberations attract a level of confidence. There are very good reasons. I stand by them.

We test those reasons from time to time, as you do. But this was a cabinet-in-confidence document prepared specifically to inform and aid cabinet in relation to a range of decisions. The government will not change its position or view on the status of those documents, just as in government you never did.

MR SPEAKER: Do you have a supplementary question, Mr Pratt?

MR PRATT: Thank you, Mr Speaker. Treasurer, what action have you taken to ensure that the analyses in the functional review that have been questioned are being corrected?

MR STANHOPE: I do not know of a single analysis that has been questioned or that needs questioning.

Kangaroos

MS MacDONALD: My question is to the Chief Minister in his capacity as minister for the environment. Minister, could you update the Assembly on issues of kangaroo management at both the Majura training area and the Belconnen naval station?

MR STANHOPE: I thank Ms MacDonald for her question. I think members of the Assembly would be aware of issues that the ACT government is facing in relation to the management by the Department of Defence of lands in the Majura Valley and at Lawson. These are issues of continuing and growing concern to the ACT government. As members would know, the Department of Defence applied for and was granted by Environment ACT licences to cull excessive numbers of eastern grey kangaroos at the Majura training area and the Belconnen naval transmission station to reduce the number of eastern grey kangaroos on both those sites.

Defence now has a licence to keep 160 kangaroos on the Belconnen site and it is currently estimated that there are of the order of 550 kangaroos on that site. I am sure members would know that the licence was issued in response to a request from the Department of Defence to cull 400 kangaroos on that site. Unfortunately, in the view of the ACT government nothing has been done by the Department of Defence since that date in response to that licence or in response to the significant concerns that the ACT government has about the potential ecological impact of overgrazing at Lawson.

Similarly, in relation to the Majura Valley, a licence was sought to cull kangaroos on that site. There are many thousands of kangaroos at Majura and it is the view of all those experts that the ACT government has consulted that the number of kangaroos at both Lawson and Majura is unsustainable and is having a particularly severe impact on the ecological system overall and on some vulnerable and endangered species.

As I indicated earlier, the ACT government sought advice from a range of specialists. We consulted the Animal Welfare Advisory Committee, we consulted and received advice from the ACT Natural Resource Management Advisory Committee, and the ACT government also has available to it the views and advice of a range of experts relating to issues about lowland grassy woodland in the Australian Capital Territory, the endangered ecosystem of each of the endangered species. There is a growing fear within Environment ACT and amongst some specialists, in particular, those that have formed the Limestone Plains Group—

Dr Foskey: Mr Speaker, there are people who are interested in the answer to Ms MacDonald's question.

MR SPEAKER: Order! I ask members to keep their conversations down.

MR STANHOPE: The Limestone Plains Group is an expert in, and has genuine and unquestionable expertise in, the ACT lowland woodland ecosystem and each of the species that depend on that ecosystem. It is the unanimous view of each of those specialists that this is a crisis in the making and that something simply must be done. The level of inaction and the refusal by the Department of Defence to consult and to engage is simply unacceptable.

I have written to the Minister for Defence and to the Minister for Environment and Water Resources. In fact, I have written twice to the Minister for Environment and Water Resources and my officials are seeking to engage closely with the Department of Defence and with Commonwealth officials. We have had no satisfactory response. Indeed, we have had no response. My letters have not been responded to and my officials have received no response to the ACT government's concerns about the management of these two areas and of the danger that is presented most specifically and most pressingly to the earless dragon and the golden sun moth.

It was expressed to me—admittedly it was not expressed as a scientific opinion but as a personal and growing realisation or concern—that there is the potential for the earless dragon to be rendered extinct in the Majura Valley if action is not taken. That is just an unconscionable neglect by the Department of Defence. In the view of some scientists on which the ACT government relies there is the potential that the lack of action at Majura could lead to the localised extinction of the earless dragon on lands managed by the Department of Defence in Majura Valley.

In the absence of any response by the respective minister's department about the action it might take we have now reached the point where we are taking advice from the ACT government solicitor on the referral of this matter to the Director of Public Prosecutions as the only way of indicating to the commonwealth the seriousness of their lack of response and the seriousness of their neglect of their duties and responsibilities.

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

Supplementary answer to question without notice
Multicultural affairs

MR HARGREAVES: Yesterday Dr Foskey asked a supplementary question on the move of the Office of Multicultural Affairs to the Theo Notaris Multicultural Centre. She asked whether the views of other occupants were sought in regard to the loss of space in particular areas such as the children's room. The answer is yes. Informally, the views of several groups, including the Migrant Resource Centre, were sought, and a positive response to the move was received. A satisfaction survey about the centre was undertaken earlier this year, which revealed 100 per cent satisfaction with the centre, but in the survey it was highlighted that there was limited usage of the children's room as a play area. However, we are looking at options to relocate the facility elsewhere in the centre.

Emergency services—mobile data communications systems

Debate resumed.

MR PRATT (Brindabella) (4.03): The opposition will not be supporting Mr Corbell's amendment. I think that has already been clearly explained. This is really just a self-congratulatory amendment on what amounts to nothing but inaction. The mobile data system FireLink was supposed to be fully operational in bushfire season 2004-05. This was one of the chief justifications given by the commissioner in the presence of Minister Wood, and later in the presence of Minister Hargreaves, in budget and annual report hearings in 2005 and 2006. How could Mr Corbell move an amendment today congratulating the government on taking a responsible, informed decision to sack FireLink when his two predecessors were present at hearings at which their officials repeatedly advised that FireLink was fine, despite the persistent feedback from the field, from the operational users, that FireLink was simply not settling in?

Why is it so congratulatory that it took this government three years to wake up to the fact that FireLink, whilst a competent capability in other theatres, was just not settling down reliably in the ACT emergency services theatre, for whatever reason there might have been? Perhaps it was too sophisticated, as has been claimed by experienced firefighters. Perhaps it was difficult to train crews in it because of that sophistication. We do know that ministers simply were not vigilant enough.

Let us look at what Mr Hargreaves said. On 16 November 2006, Mr Hargreaves said, "FireLink was fully operational and successfully used." He said that two years after becoming the emergency services minister, despite repeated, early indications during his reign that FireLink was not fully operational. The captain of the southern brigade of the rural fire service told Mr Hargreaves, other officials and departmental officials in JACS that FireLink was troublesome and that his brigade was having trouble with the demanding training required for crews on how to use the in-vehicle boxes. I have it on very good authority that senior officials, in meetings with Minister Hargreaves, were not asked to detail the state of FireLink. In fact, they were repeatedly asked by Mr Hargreaves: "Tell me what I need to say to avoid scrutiny of FireLink's problems. That's all I need to know. I just need to know how I can avoid the tough questions in estimates or in annual report hearings on the shortcomings of FireLink and why the program is simply not progressing." That is why Mr Corbell's amendment will not be supported. His predecessors had ample opportunity to scrutinise the facts and take earlier remedial action in relation to the mobile data system, then called FireLink.

The other reason why we cannot support Mr Corbell's amendment is that it simply does not address the action that must be taken to identify what they are going to do about the mobile data system gap that will exist in the coming bushfire season. The opposition's motion identifies a problem and calls for urgent advice on what action this government will take during the coming bushfire season. We are talking about three bushfire seasons after FireLink was said to be ready to be fully operational—a prime justification for why FireLink was single select tendered. Three seasons later, we have a yawning gap in the communications system. What the opposition and the community want to know is what this government is going to do now to replace FireLink so as to ensure that our services are better equipped for the coming bushfire

season. That is why Mr Corbell's amendment is unacceptable—it simply does not address the urgency of the matter.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services (4:08): Mr Temporary Deputy Speaker, I seek leave to move an amendment to my amendment.

Leave granted.

MR CORBELL: I propose to add a paragraph to the end of my amendment. I move:

> Add:
> "(e) the Minister for Police and Emergency Services will provide an update on the implementation of alternative communications systems for vehicle location prior to the commencement of the 2007-2008 bushfire season.".

I simply want to indicate to members my goodwill, in that members will be informed, and of course the community will be informed, of the status of arrangements for being able to identify the physical location of vehicles in the event of incidents occurring in the 2007-08 bushfire season. I am happy to undertake to the Assembly to do that before the commencement of the next season, on 1 October.

MR PRATT (Brindabella) (4:10): I welcome Mr Corbell's additional amendment in that he is now prepared to come back to this place and give that information. It is urgent information that the opposition and the community need to know—and no doubt the men and women in the field need to know— about what is going to be done. So I welcome Mr Corbell's additional amendment. However, I cannot support the entire amended amendment, because the first four paragraphs go to the heart of the argument that I put forward a couple of minutes ago. So while I do welcome and support paragraph (e), I cannot support the entire amendment because it is still self-congratulatory and avoids the fact that we are not getting to the heart of what went wrong with this project in the last three years.

DR FOSKEY (Molonglo) (4:11): I am very pleased that Mr Corbell has responded to community concerns, and to what is perhaps at the heart of Mr Pratt's motion. It was certainly a response to my concerns that no action was included in his original amendment. Consequently, I think he has perhaps understood today the extent of community concern and insecurity about whether we have a decent communications system—something that is basic to fighting fire. I commend the fact that he was prepared to do that, and I support his amendment.

MR PRATT (Brindabella) (4:12): In closing, I will address a couple of the issues. Firstly, I reiterate that the opposition is happy that Mr Corbell amended his amendment in the way that he did. We look forward very much to getting his advice prior to the bushfire season as to what action they have taken or will take to address the gap regarding the mobile data system component of the communications system.

I will address the first point that Mr Corbell raised earlier. He said that only since the emergency services agency became an agency, having been downsized from being an independent authority and returned to JACS, has it been possible to identify the

problems with FireLink. The opposition would entirely reject that. Surely, any authority, independent or otherwise, which spends government resources is something that should be supervised and scrutinised by government. We reject the notion that the only reason that they have been able to identify the problem is because emergency services ceased to be an independent authority. It is the job of government to ensure that its resources are correctly spent and utilised in the protection of its community.

The second point is that the minister said, "Let's wait for the Auditor-General's report so that we can see a little bit more about what might need to be done in terms of the gap that now exists with the sacking of FireLink." Again, the opposition entirely rejects that proposition. Yes, we are all keen to see the Auditor-General's report, but the Auditor-General is looking at project management issues, financial probity issues, and is not looking at what should replace FireLink. At least we have now heard the minister say that he will come back to this place, so he has partly identified that issue. But let us not depend on the A-G's report before any decisions are made about organising a mobile data system. Let us not rely on the Auditor-General's report. Let us not use that as an excuse for any further inaction.

The third point is that the minister indicated that CAD may well be a long-term solution. He may be right in saying that CAD is a solution. We believe that the CAD system, piggy-backed by the Mobitex capability, could very well be the answer. Surely, this matter should be expedited. It should not be a long-term solution because there was a lot of work done on analysing CAD—

Mr Corbell: I did not say long term.

MR PRATT: You said "longer", and we are talking about a bushfire season that is imminent. Surely work should have been done, and the minister should have been able to give us at least a progress report here today on whether CAD could be adapted and when it could be adapted by, because some time has elapsed since the sacking and the collapse of FireLink.

Again, we have seen the minister blaming the officials for their failure to scope, their failure to advise government regarding the problems of FireLink in the early days. We believe that Mr Wood and then Mr Hargreaves had ample opportunity to test the progress of FireLink. It was a significant project involving a lot of money. It was a project that covered a vital capability, and it has escaped three ministers. I am prepared to accept that Minister Corbell, after about 12 months, was finally getting around to it, but even that is not good enough. The evidence was there, and a new, keen, young minister should have gone to this area quickly and tested for himself the way that FireLink was progressing. That did not occur.

What is now going to happen to the $4.5 million junked project FireLink? We have got $4.5 million worth of junk sitting somewhere, and we need to know what is going to be done with that. Is it now just waste? Does it go to landfill, or is there a recovery exercise? Can some recoveries be undertaken? The opposition also wants to know this: will the government table the internal report, the Radic report, into the performance of FireLink's project management? Similarly, what about the Evans-Peek report? Will that be tabled by the government in order to explain what has occurred?

The opposition has been very suspicious that either FireLink was not appropriate to meet the requirements of the badly needed mobile data system or that FireLink itself was not being properly managed. We have always been critical of the way that FireLink was managed. We were well and truly overrun with anecdotal information and feedback that this project was not going particularly well. That may not be FireLink's fault. As I have said a number of times, FireLink has had very successful capability in other theatres; there is no question about that. FireLink is a good product that works for ATI in a number of other fields. But it should not have been taken on within our emergency services, and that is an issue that the opposition has always been terribly critical of.

What are ACT residents left with? How did we get to this point? Why did FireLink not meet the original project objectives—or did it meet the original project objectives but it was simply mismanaged? These questions may well be answered by the Auditor-General in her inquiry. However, if the Auditor-General's inquiry is not scoped broadly enough to pick up these questions and answer them, that will be a matter for debate in this place.

What will the government do now to replace FireLink? Mr Corbell has said he will come back and answer that. I hope that Mr Corbell will not come back to this place and say that what was said by the commissioner, Mr Manson, during the Solly interview a day or two after the announcement that FireLink was going to be sacked—that emergency services might revert to the tried and tested system of using markers on whiteboards—will necessarily be the answer. We would hope that, after spending $4.5 million on a project which has been three years late in the making, the answer we get will not simply involve markers on a whiteboard when it comes to trying to track 125 RFS and SES vehicles in the field, not to mention those fire brigade assets that may well be fighting fires on the urban edge as well. We hope that this is not going to be the answer.

McLeod stressed that there were very strong indications that communications needed to be overhauled after the 2003 fire disaster. McLeod was very clear in saying that he was pleased to have seen that the ESB had at least commenced a communications program of some sort. McLeod said that resources needed to be provided to accelerate that rebuilding program. The government, to its credit, did that. The government's budgetary strategies in 2003-04 identified $23.66 million to address a family of new communications programs. Unfortunately, they did not cater for recurring funding, operational funding, which is something that plagued the emergency services authority when it tried to implement those programs, but at least there was ample capital funding provided. Unfortunately, $4.5 million of that bag of gold has gone up in smoke. It has been wasted.

Our emergency services do not have a mobile data and vehicle locating system—one of the major planks of the new communications program which this government agreed in its cabinet objectives needed to be put in place by bushfire season 2004-05. What will be done for this bushfire season? *(Time expired.)*

Amendment agreed to.

Motion, as amended, agreed to.

Education

MS MacDONALD (Brindabella) (4.23): I move:

> That this Assembly:
>
> (1) recognises the success of the ACT's senior secondary education system;
>
> (2) acknowledges continuous assessment provides for a high degree of integrity in the assessment process;
>
> (3) notes there is no educational merit in changing the ACT's college system and continuous assessment model; and
>
> (4) places on the record its opposition to the Howard Government's unnecessary intervention in the ACT education system.

There is no doubt that the ACT has the best education system in Australia. ACT students have consistently ranked higher than the national average in educational benchmarks, and the ACT college system has been recognised for its high level of success. Despite the ACT's outstanding educational record, in July this year the federal education minister, Julie Bishop, wrote to my colleague the Minister for Education and Training, Andrew Barr, requesting that the territory introduce external year 12 exams by as early as 2009 or risk losing $30 million of recurrent funding each year.

This is little more than a pre-election stunt and a commonwealth grab for power. For more than 30 years, the continuous assessment system has been used to assess students in the ACT. Unlike the Northern Territory and other states, the ACT and Queensland do not have public examinations or external exams such as the HSC—the Higher School Certificate—but assess students continuously over the two years of their college life. Continuous assessment is seen as a fairer system of assessment than external exams, as it takes into account not just the regular internal exams and other forms of assessment to check knowledge of subjects and intellectual development, but all of a young person's abilities, interests and achievements.

The ACT's Year 12 Certificate is highly regarded around Australia as a qualification for young people seeking work or further education. It has the same status as similar certificates issued elsewhere in the country. Ms Bishop is seeking uniformity for uniformity's sake, at a time when the Howard government will do anything to win the next federal election. The ACT community has shown its strong support for the college sector and continuous assessment, and I do not believe they wish to see this successful approach thrown out at the whim of a federal minister. Julie Bishop has not provided any educational argument for changing the ACT's extremely successful college system. Until we see an educational argument for change, we should continue to support the strong system we have.

We have the best education system in the country. Our college system and model of continuous assessment serve our students well as they move beyond school into further education or the workforce. There are countless benefits in the continuous

assessment model, and there is no merit in changing what is a successful and well-supported system.

Continuous assessment provides for a more extensive coverage of the course content and allows for assessment of a broad range and depth of knowledge and skills over an extended period of time. It allows teachers to use a variety of assessment tools and strategies, including research assignments, extended essays, practical tasks, oral presentations and tests. It also gives teachers the opportunity to match assessment methods to the learning outcomes being assessed and enables them to select the most appropriate assessment tools to cater for the broad range of student pathways and learning experiences, including work-based learning.

Continuous assessment provides for the assessment of a range of thinking skills, especially at the higher order end of analysis, synthesis, and creative and innovative applications of new knowledge. Students in our current system benefit from continuous feedback from assessments and are encouraged to engage in regular and systematic study. This reduces the temptation of last-minute cramming that surrounds high stakes testing. It also reduces the dominance of a final exam on the teaching and learning process or the temptation of teaching to the test.

Continuous assessment provides feedback to students and assists them to make informed choices on pathways and options. Teachers are able to use their assessments to inform the teaching and learning process, enabling a focus on identified areas of weakness and extension activities for the higher achieving students. Unlike external exams, which have been described as highly stressful, continuous assessment reduces this pressure. If a student has a poor result in one piece of assessment, there is always the opportunity that they can improve their mark in a later test. Furthermore, continuous assessment generally provides a more natural assessment environment, closer to the situations students will experience later, including in university studies.

Continuous assessment in years 11 and 12 has had widespread community support since it was first introduced. The report of the Review of Government Secondary Colleges conducted in 2005 revealed there was a high level of commitment to continuous assessment by parents, teachers and students. During the review, no-one argued for external exams, and the report concluded that the assessment system operating in the ACT was comprehensive and thorough.

In her letter to Mr Barr, Ms Bishop wrote that external assessment was necessary to ensure national consistency. But there is no need for every jurisdiction to sit the same year 12 test to achieve this. The ACT government has recognised the need for a national curriculum and has agreed to national testing for years 3, 5, 7 and 9. But the federal government only provides the ACT with less than 10 per cent of school funding, so why should it feel it has the right to dictate to the ACT what its system of education should be?

Julie Bishop has failed to identify any substantial educational reason or demonstrate how outcomes will be improved as a consequence of introducing external assessment arrangements. In addition, she has failed to provide any evidence that at present universities or employers across Australia are unable to make reasonable assessments about the knowledge level of students in the ACT.

Perhaps most significantly, Ms Bishop has failed to recognise that overhauling a long-established education system and making external testing compulsory by 1 January 2009 is unworkable. Developing and implementing such a significant change to the ACT's assessment arrangements without sufficient time to develop an appropriate system of assessment and address any impact that it might have on students is unreasonable.

As the federal opposition spokesman on education, Stephen Smith, said recently, such a fundamental change to senior schooling in the ACT requires time to educate and inform students, parents and teachers to ensure that the implementation of change does not jeopardise individual students or the system generally. This sentiment was further expressed by the Australian Education Union's Penny Gilmour. Ms Gilmour has shown support for the broad range of subjects offered in the college system and broad range of assessments that allow teachers to assess for learning. She warned that the imposition of an HSC-type test would result in a narrowing of the curriculum and a reduced subject range.

Ms Gilmour told the *Canberra Times* on 2 August this year that, in order for the ACT to comply with the request for external exams to receive $30 million in recurrent funding in 2009, the curriculum would need to be changed next year to accommodate year 11 students going into the exam in 2009. This would mean the ACT had less than six months to scrap its existing, long-established and successful assessment model and replace it with a completely new external examination model. On top of that, we would need to educate students, parents and teachers about the changes and try to assess the impact those changes may have. This is not only impractical and unrealistic but also completely unsupported in the community.

The ACT government's top priority is to ensure high quality education for all students, and our unique college system and assessment model provides this. Our standalone college system is one of the most successful in the country and caters for all students, whether they wish to go to university, enter the workforce or undertake further vocational education and training. The independent college review commissioned by the Stanhope government investigated the strengths of the college system and found that both students and teachers benefited from the non-confrontational environment that characterised student-teacher relationships.

All ACT government colleges operate as registered training organisations for the delivery of vocational education and training programs, and work experience also plays an important role in our secondary system. I have a work experience student from Calwell High School in my office at the moment. John Rivers is in year 10 and he expressed the following views to me on continuous assessment:

> As a high school student that will be entering the ACT College system next year, I believe that continuous assessment in classes encourages learning at a higher level and delivers a more accurate representation of a student's abilities.
>
> I do not believe that a one-off assessment, the like of which has been proposed by the Federal Minister for Education, would deliver a higher standard of education for me or my fellow students.

That comes from somebody who, if these changes were implemented, would be directly affected by the changes. He is a bright student; so he would probably cope, but it would cause disruption. This sums up exactly what the sentiments of the community are. External examinations have little support. The Howard government's intervention in the ACT education system is unnecessary and completely unwarranted. I believe it is important for members in this place to formally record their opposition to this intervention, and I ask them to do so.

Continuous assessment is a useful tool for ongoing course monitoring and evaluation. Students' weaknesses can be identified, worked on and improved during the course of their college life. This system provides long-term, deep learning, unlike external examinations, which rely on memory and regurgitation of facts. In some cases it depends on how you are actually coping on the day.

Given the excellent outcomes achieved in the ACT under the continuous assessment model, the argument should not be whether the ACT should change its very successful system to fall into line with the Howard government's antiquated view of education; rather, it should be whether there may be merit in the ACT's model being implemented elsewhere. Our college system is a great success and we are leading Australia in educational outcomes, training and lifelong learning. It is time to support our system and not succumb to the Howard government's purely political stunt. I commend the motion to the Assembly.

MRS DUNNE (Ginninderra) (4.35): Again the Labor Party is taking every opportunity to beat the federal government, and trying to drive a wedge where there is no necessity to do so. I am pleased that Ms MacDonald at least made some passing reference to the report of the review of secondary school colleges which is called *Government secondary colleges in the Australian Capital Territory: challenges, opportunity and renewal* and which was commissioned by the previous Minister for Education and Training and came out in December 2005. It seems, however, that in doing so Ms MacDonald did not read the report closely, in the same way as her colleague the Minister for Education and Training did not read it closely or refer to it accurately during the school closures debate, as was pointed out on a number of occasions. We have here selective quotation.

Let us put on the record that much of what Ms MacDonald has said no-one would disagree with. The ACT education system is regarded as the best in the country. For the most part our students excel in a range of subjects and we have above-average outcomes in almost all of our endeavours. There are problems with the education system, and these are problems that we should address. Problems identify that although we do very well at the top range there is a long tail of underachievement in some areas of numeracy and literacy which we have not addressed in our education system. There are pockets of disadvantage where those issues will become intergenerational issues and problems, not just for our current children but for their children as well.

The approach taken by Ms MacDonald here is a standard one of drawing broad brush strokes and making vast generalisations. Let us start with the vast generalisation that has been made in this debate in relation to what is being proposed. What is being

proposed is a little uncertain, but it has always been characterised by those opposite as a return to an HSC style examination. No-one has said that what they want in this territory is an HSC style examination, and the jury is out on whether the community would be comfortable with reverting to some form of external assessment. When I say "some form of external assessment" I am not talking about a large proportion.

New South Wales has the higher school certificate, which is now 50 per cent continuous assessment and 50 per cent external examination—a change from what it was when I went to school, when it was 75 per cent external examination, and a few years before that when it was 100 per cent external examination. Most states and territories have a much lower level of moderation and assessment based on an external examination, but two states and territories have none. In Queensland, where the system has been disastrous for over 30 years, the continuous assessment model has been a disaster, and generations of young Queenslanders have suffered under it. In the ACT, as Ms MacDonald says, there is a generally highly regarded acceptance of the situation that we currently have.

But it is not absolutely and utterly the case that there is no dissent from the view that we have a perfect education system, and the report that Ms MacDonald referred to, *Government secondary colleges in the Australian Capital Territory: challenges, opportunities and renewal*, says just this. The thing about this is the ignorance that we see from Ms MacDonald, who says that we have a system and it is absolutely perfect; we have nothing to learn and we must not change it. This system has been in operation for more than 30 years, which is why the previous minister undertook a review of the secondary college system. It was supported by the opposition because problems can arise in any system that has been operating for 30 years and has not been reviewed.

This fairly substantial report, which unfortunately Ms MacDonald does not seem to have read, points out the need for some changes. I will refer to the recommendations because I think there are some very important recommendations. Probably the most important sentiment in this report comes just before the recommendations. It is:

> Some 30 years ago a unique system of educational provision was created in a spirit of very considerable innovation and risk taking.

Amen—everyone agrees with that. It went on:

> They were, as many said over the course of the Review, extraordinarily exciting times. The courage and intellectual edge that characterised the genesis of the model should now characterise its renewal.

I say amen to that. It went on further:

> While the challenges are great, so are the opportunities. Meeting the challenges and seizing the opportunities will be critical if the college model is to fully and effectively meet the 21st Century educational needs of all young people in the Australian Capital Territory.

Then the college review went on to make about 14 recommendations, one of which, No 10, says:

> That approaches to assessment in the senior years curriculum give greater emphasis to comparability—

this is what Ms Bishop is talking about—

> and to reliable, rigorous and innovative moderation processes.

So the college review says that to ensure that the college system continues to be the best in the country we have to continue to have the innovation and the risk-taking that the founders of that system had back in 1972. What we hear from Ms MacDonald is "let us put it under a glass case, let us baton it down and not do anything to it". What will happen with that is that it will go into decay and decline. Anyone who is interested in the educational advantages of their young people should be open to discussion on this. What are interesting are some of the inconvenient things that Ms MacDonald did not talk about because along comes the commonwealth shadow minister for education, Mr Smith. Of course, Mr Smith rained on Mr Barr's parade by not ruling out external examinations.

Mr Barr obviously failed the fireside chat test because he did not say, "Steve, all I want you to do is hang out until after the election and then it will be all right." That is what Mr Barr said on radio 666 when he was interviewed. Basically he said, "I will hold my breath until after the federal election and the white knight Rudd-Smith government will come along and save my bacon. In the meantime I will not enter into any debate, any discussion, about whether I am serving the students of the ACT as well as I can."

Ms MacDonald says in her preposterous motion that there is no educational merit in changing the ACT college system. That is not what the highly prized Atelier review said. The highly prized Atelier review said that we need considerable innovation and risk-taking to fully and effectively meet the 21st century educational needs of young people in the ACT. The report of this review says that it is beyond its competence to discuss the issues of moderation that were raised over and over again in the review process, but it recommends to the government that it undertake a review of the moderation process because of the concerns raised in this report and raised in the consultation over this report. Over and over again in this report much has been said in relation to moderation which is correct. The review rules out a return to an HSC style examination. No-one in this territory, no-one in this place, would encourage the return to an HSC style examination. At page 65 the review states:

> Such issues are beyond the province of the Review but may indicate the desirability of a limited external review into assessment, moderation and scaling processes to ensure continued confidence in assessment processes for all secondary college students.

That is not a formal recommendation but it is there in black and white for this minister and the previous minister to read. They have done nothing about that. By the minister's own admission they have done nothing about it except to put together a couple of papers so that they can debunk some of the criticisms of assessment made by a member of the public who has made it inconvenient for them because he will not go away. Part of the reason why he will not go away is that he has a very strong

conviction that the current system of moderation and assessment in the ACT duds our students.

Mr Barr is not prepared to say to the people of the ACT, to the parents of students in years 11 and 12, that there is doubt. There is doubt. It is possible that some of your UAI scores are up to five points lower than they could be if we did the maths a slightly different way. How many children in the ACT in the past few years have missed out on courses because the UAI assessment has dropped them up to five points?

It was interesting the other day when I looked at the figures that were put together by this man and discovered that if the assessment had been done differently, in some of the years the UAI score for some of my children would have been up to five points higher than they were awarded. How many children in the ACT have been in that situation? We know that some have been so vocal that their UAI scores have been changed in the past few years. Under the threat of legal action the Board of Senior Secondary Studies has changed them.

We should be having a debate today about the future of our senior secondary system. How do we carry it forward so that we can ensure, in the words of this review, that we have the best 21st century system that meets the needs of all of our children? But no, what we have today is another petty partisan debate. Ms MacDonald is not interested in the educational outcomes of the people in the ACT. If she were she would be taking up the words on page 15 of the review:

> Meeting the challenges and seizing the opportunities will be critical if the college model is to fully and effectively meet the needs of children in the 21st Century.

This report is replete with both praise and pointers to things that are wrong and which need to be fixed. But Mr Barr is content to allow Ms MacDonald to rest on our laurels, to continue to say we have a great system and we do not need to do anything about it; let us just put it under resin, put it under amber, and keep it like that and we will be able to say that education in 2005 looked like this—was it not pretty? But it will not be doing our children any good in 2010.

I have circulated an amendment that I would like to move. This amendment sets out what this debate should be about. It should be about ensuring that this government carefully looks at the review and follows its advice and recommendations—not just the formal recommendations, but the other advice that is littered through it—so that we have a better system in the future; that we do not just have an HSC system or an either/or system, and that we will have a system that meets the needs of our children.

In many ways, and this report says it, the college system meets the needs of those children who want to go on to university and much of what is done in the system is directed towards that. The proposal that Ms Bishop has put forward only relates to those children who want to go on to university; it does not affect the 60 per cent or so in year 12 who are doing non-T courses.

Mr Barr: No, I think you will find it is a requirement for a year 12 certificate, Mrs Dunne.

MRS DUNNE: That is not true, Mr Barr.

MR SPEAKER: Do you want to move that amendment?

MRS DUNNE: I will move that amendment again to remove any doubt. I thought I had moved it before.

MR SPEAKER: You said you would like to.

MRS DUNNE: Okay. I will not be so equivocal any more. I move:

> Omit all words after "Assembly", substitute:
>
> "(1) notes the report of the Review of Government Secondary Colleges entitled *Government Secondary Colleges in the Australian Capital Territory: Challenge, Opportunity and Renewal* of December 2005 by Atelier Learning Solutions Pty Ltd; and
>
> (2) calls on the Government to fully implement all the recommendations of the Review to ensure that the ACT college system can fully and effectively meet the 21st century educational needs of all young people in the ACT.".

I move this amendment so that we can have a proper debate to ensure that the assessment system and every other aspect of our college system is the best for our students now and for the next 30 years.

DR FOSKEY (Molonglo) (4.50): I am in a bit of a quandary here because I think I could support both the motion and the amendment. I do not think that the amendment necessarily replaces the motion but it is something that needs to be done. It is hard to see it as an amendment to the motion; however, that is what we have. Speaking to both the amendment and the motion, of course the ACT education system is not perfect—although we have heard a couple of times today that it is—but mandating external exams is the solution to a problem that does not exist. It is hard to judge how seriously I should engage with the argument over the introduction of standardised external testing, as it is not about delivering outcomes to students; it is about our federal government choosing to pursue an ideological agenda and wanting to pick political fights with the states.

The United States is the ideological home of the federal government's education plan. That is ironic given the poor performance of US schools compared with others around the world, including Australian schools which still do very well in comparison. The devices put in place in the US to address their problems and which this government appears to be keen to adopt are compounding the problem. The US-based Education Week website carried this report a few weeks ago on legislative requirements that link funding to externally determined proficiency outcomes.

> A new study of Chicago students suggests that the federal No Child Left Behind Act may indeed be leaving behind students at the far ends of the academic ability spectrum—the least able students and those who are gifted.

> The study by University of Chicago economists Derek A. Neal and Diane Whitmore Schanzenbach lends some empirical support to the common perception that schools are focusing on students in the middle—the so-called "bubble kids"—in order to boost scores on the state exams used to determine whether schools are meeting their proficiency targets.

Part of the problem is the proficiency targets that go along with the sorts of pronouncements that our federal education minister comes up with. If those are tied to funding, schools are forced to go through hoops and to make things look different from what they are sometimes just to achieve essential funding. The promise by the federal government, only partly resisted by state governments around Australia, is to link commonwealth funding to educational outcomes assessed by the standardised testing of a narrowed curriculum.

The consequences of this move are likely to be increasing disadvantage and poorer school outcomes and experiences for a significant minority of students and the erosion of the democratic underpinning of our society. It is worth remembering that our affluent and egalitarian society was shaped, at least in part, by the emergence of a free, secular, public education system in the second half of the 19th century. Nations that were similarly blessed with resources and opportunities but did not take that path to universal public education, such as Argentina, for example, have been dogged by inequity and corruption ever since.

The most interesting trend in education in Australia is its growing tail. That is, while most students do very well—we are still in the top two or three nations in the world in student outcomes in literacy, numeracy and social science—a growing number of students are marginalised in our community and do not succeed at school. This contradicts other societies with high-achieving education systems such as Finland and South Korea. While the highly disciplined institutional approach in South Korea is culturally based and unlikely to assist us in Australia, we could learn something from Finland.

In Finland teachers are greatly valued, five-year trained and well paid. The curriculum framework which guides their work is broad, and they have substantial room in which to respond flexibly to perceived student need, particularly at primary and lower secondary level. Non-government schools are uncommon, but where they exist, they are government funded and cannot charge tuition fees. I am not advocating the Finnish system; I am simply pointing out that one would think that we have more to learn there than we do by looking at the US, with all the problems that come from a two-tier education system which entrenches social disadvantages and is not backed up by public social services.

The secondary college system is one of the strengths of the government schools in the ACT. I suppose it is the strength, although certainly secondary education, years 7 to 10 levels, needs a lot more attention. But the secondary college system—though I believe it has been eroded this year by changes through the EBA, which I hear has had a very bad effect on morale—when the report that Mrs Dunne was referring to was written offered an opportunity for students and to teachers across a wide range of subject areas, and still provides a form of assessment that measures ongoing output and capacity of students. Its successful outcomes and attractiveness to young people

in the ACT has led to its process of continuous assessment being taken up by a number of private schools in the ACT. So it is clear that because a lot of young people do vote with their feet and leave the private system to enter the public system at college level, it has been one of the things that private schools can see that they need to retain if they wish to retain students.

For some of us, of course, a winner-take-all exam at the end of year 12 is easier. Some people are good at cramming information and respond well to that sort of pressure. They will have an easier time and get better opportunities at the end. External exams favour students who can remember dates and names, at least for the few hours required of the exam, but they disadvantage those with a more discursive approach. But in the context of developing life skills, and, for that matter, university skills, the ongoing work habits of continuous assessment will be a great advantage. We know that students who have come from a continuous assessment system are likely—and certainly from our college system at the same time—to be able to make the transition to universities more smoothly and often do better than people from a more rigid, often externally examined, system.

But there is scope inside our colleges for more structure and support. That is why I agree with Mrs Dunne, that we should be fully implementing all the recommendations of the review. What has happened to teachers at colleges may well have eroded our advantage, and that should be monitored very carefully, because teachers are the strength of a school. We also need to take seriously the concerns about our UAI system of calculation. Just because one person says it does not work—backed up, of course, by lots and lots of evidence—it is really wrong of the government to dismiss the critic and the critic's criticisms at the same time.

It is important that we make a stand for retaining the kind of education that delivers the outcomes that we want. We know that our college system does that. However, it should not be set in resin. It should be allowed to develop. We should be constantly reviewing. If we are going to go to the trouble of reviewing a system, we should take notice of the recommendations of that review. So if we put the amendment and the motion together, we might have a way forward. It is not enough just to congratulate ourselves on having a good system. It is true, we may have to fight for the right to retain continuous assessment—especially if the federal government gets returned after the next election, when I think things will come down harder—but, at the same time, we should not just be happily boasting about where we are.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.00): I indicate that the government will not be supporting Mrs Dunne's amendment. However, I encourage her to withdraw the amendment and move it as a substantive motion in next week's private members' business. I agree it is an issue worth debating and worth the Assembly's time. So I hope she will do that. If she will not, we will defeat the amendment today. I hope she brings it forward for debate next week.

First, I put my clear position on this issue. The ACT government supports the system of continuous assessment in our senior secondary colleges. I thank Ms MacDonald for bringing forward this motion. It is timely that we have this debate, and it is important that people put their positions clearly for the people of the ACT so everyone knows

where the political parties stand on this issue. The continued success of our education system is a fundamental issue.

I support continuous assessment because it provides a high degree of integrity in the assessment process. It allows for the assessment of a broad range of knowledge, understanding and skills over an extended period of time. In contrast, and as previous speakers have alluded to, external exams are a one-off, point-in-time assessment that focus on mastery of content and encourage recall and regurgitation of fact. Most importantly—and you see this in the system where it operates—it encourages teachers who teach to the test. They do not teach a broad set of educational skills; they teach the students how to pass the test. That is just an unacceptable intrusion from the federal government into the business of the ACT.

To provide a bit of background as to how this has come about, at the ministerial council meeting in July of 2006, the council agreed that Victoria would chair a working party of its senior education officials, the state and territory education departments and the commonwealth, to examine the feasibility of a common scale for reporting all senior secondary subject results and to examine a quality assurance mechanism that would ensure consistency of results in senior secondary certificates across Australia. So all states and territories signed up to that.

At the MCEETYA meeting in April this year, we were presented with a progress report and a series of recommendations that the ministerial council adopted. That was to note the progress of the senior officials' feasibility study, to support the approach of the working party on senior secondary reporting in conducting a feasibility study into development of a common five-point scale through an initial trial in four subject areas—English, mathematics, chemistry and French—and that possible approaches to drama would also be examined, and then to note that the working party would provide a final report out of session to MCEETYA. That is the background to this.

Then on budget night we got from Minister Bishop a one-liner in her media release where she said that she would require all states and territories to introduce external examinations if they wanted any commonwealth funding in the next round of the funding agreement. I wrote to Minister Bishop seeking clarification of her comments. Her response was:

> I am aware that currently the ACT operates a system of school-based assessment in the senior years of schooling … The Australian Government, through the new schools funding agreement, will require all jurisdictions to include some form of rigorous end-of-course public examinations …

Initial conversations between my department and the federal department indicate that the federal minister has not quite communicated to her departmental officials what form this will take. We are told that the absolute minimum will be at least 30 per cent of a student's final mark towards a year 12 certificate—not just university entrance but towards a year 12 certificate. That is the background out of MCEETYA, which is where this comes from. It is all year 12 certificates.

The federal minister wanted to scrap all state and territory year 12 certificates and have one Australian certificate of education. Of course, she failed miserably to get any

agreement on that, so she is now seeking to tie future funding. So she is going to deny every student in a public college in the ACT funding from 2009 unless we adopt the 1950s assessment methods. It is interesting to look at the different views that have been expressed, the different variations, depending, of course, on the nature of debate. According to *Hansard* of 23 August last year, Mrs Dunne said that our college system is:

> … a world-class education system with a fine, independent free-standing secondary college system that has, and has had for many decades, the best retention rates …

Then she went on to say:

> The community wanted to see a better education system than the one that had hitherto been provided by the New South Wales education system.

So back in August of last year, Mrs Dunne said we have a world-class college system and we do not want to go back. We have moved away from the New South Wales system and we do not want to go back to it. Now she has changed her mind. Julie has yanked her chain, told her what she had to say in response, and she has now completely changed her position. Let us make this clear. Last year, the shadow education minister was prepared to support the college system, to say that it was once radical but has since amply demonstrated its benefits, and the benefits of the thought and consideration that produced it. That was moving away from external exams, moving away from the New South Wales HSC system.

What is Mrs Dunne suggesting now? We need to go back to that—that that is where we should be going. In setting up our education system for the 21st century, the way to do that is to go back to 1950, back to the New South Wales HSC system, because that is what we will get. That will be deemed to be the simplest model for the ACT. I can tell you now what the commonwealth is going to say: "You are an island within New South Wales. You may as well, for economies of scale, use the New South Wales system."

Mrs Dunne: And you should resist it.

MR BARR: I am pleased to hear you say that, Mrs Dunne, because we will be. I would like to have you as my number one ally in this, because you probably have more influence with Julie Bishop than I do, but I do not think I am going to get it from you. Certainly it is something that I am going to argue passionately from now until we have to make a decision finally whether to sign up to it or not.

I hope I am not negotiating an agreement with Julie Bishop. I look forward to negotiating with Steven Smith, and I note all of his comments. I am 100 per cent confident that there are no educational grounds for making this change. Mr Smith indicated in his extensive comments on this issue that the only way that federal Labor would in any way seek to change the ACT system was if there was demonstrated educational benefit. They would certainly not tie our compliance to funding, and they would not seek an arbitrary introduction in 2009. They were clear and categorical statements. I am utterly confident that there are no educational grounds for moving away from continuous assessment.

I acknowledge—and this is why I want to debate next week the issue that Mrs Dunne has raised—that there is a need to look at the moderation process within our college system, and we are doing that. It is part of the reforms of the BSSS introduction of a new chair and a renewed focus for that organisation. There is a need to update the technology that we use for the generation of scores within colleges. It dismays me that we have at our fingertips access to a variety of technology that will assist college teachers in their day-to-day marking tasks, and just the simple raw data entry of hundreds of students' scores into the system and to get the scaling right and to get the technology right to assist teachers in this process, because it takes days.

My mother and my brother have been involved in college assessment for probably 20 years between the two of them. I know what assessment period is like—certainly the data entry period within the colleges, within each individual subject area and in each individual faculty. We could do better there. That is a clear task that I set the BSSS. We have provided funding for IT upgrades in that area. I would like to see year 11 and 12 students being able to access their scores on line, and I would like to see a removal of the unnecessary duplication of data entry that is occurring at the moment in generating year 11 and 12 scores.

Mrs Dunne has alluded to other issues about how our UAIs are calculated. It is one of those things—when did you stop beating your wife, effectively—the imputation that Mr Drummond is putting forward. I have to continually disprove each one of his new claims, unless there is a perception that there is a huge shadow over everything that has transpired with the BSSS. That is unfair, but it is something we should be debating, and I am happy to do so. (*Time expired.*)

MRS DUNNE (Ginninderra): Mr Deputy Speaker, I seek leave to explain words in accordance with standing order 46.

MR DEPUTY SPEAKER: You may proceed, Mrs Dunne.

MRS DUNNE: Thank you, Mr Deputy Speaker, and I thank members. In his remarks just now, Mr Barr has misrepresented my words and my views by saying that the position I take today in relation to the senior secondary colleges is different from the position I have taken in the past. What I have done today is extol the virtues of looking closely at the Atelier review of senior secondary colleges, which is what I did last year when he quoted from the review.

It is only now that this government has come to the situation where it is really taking this report seriously, and only because it has been brought to their attention by this discussion here today and in the wider arena about what we do to ensure that we stay ahead of the game in relation to senior secondary education. This is on the table as our guidepost forward. It is what I urged the government to do last year, and that is what I am urging the government to do now.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): Under the same standing order, Mr Deputy Speaker, Mrs Dunne has just misrepresented my position and the actions of the government in relation to the college review. I seek that she—

MR DEPUTY SPEAKER: Do you seek to make a personal explanation under standing order 46, Mr Barr?

MR BARR: I do.

MR DEPUTY SPEAKER: You have it, Mr Barr.

MR BARR: Thank you, Mr Deputy Speaker. The government has been actively implementing the recommendations of that review for some time. For Mrs Dunne to make the allegation that we have done nothing is incorrect and misrepresents the government's position and my position. However, I believe we need a substantive debate on this issue, and I encourage Mrs Dunne to move a motion next week.

MR DEPUTY SPEAKER: Before we have a game of tennis here, I remind you both that explanations only are required, not further debates, unless you seek leave to carry on with debates.

MS MacDONALD (Brindabella) (5.13): I thank members for their contributions. Mrs Dunne has a tactic. Any time we raise an issue she says, "Well, you know, the Labor government." Her comment about my motion and speech was, "Here again we see the Labor government attacking the federal government for the sake of attacking the federal government." Well, that is not what this motion is about.

Mrs Dunne: It is.

MS MacDONALD: No, Mrs Dunne. That is not what this motion is about. This motion is in response to the suggestion that we should change the continuous assessment system. The federal minister has not approached this process in a spirit of cooperation. Instead she has approached it with a big stick.

Mr Barr: The biggest bully in education!

MS MacDONALD: Yes. It is the stick called: "If you don't play the game the way I want to, then you're not going to get any money."

Mrs Dunne: It is the only way we have ever got any progress on a national curriculum.

MS MacDONALD: Mrs Dunne, you had your opportunity to speak.

MR DEPUTY SPEAKER: Order! I ask speakers on both sides of the chamber to address their comments through the chair.

MS MacDONALD: And Ms MacDonald has the floor.

MR DEPUTY SPEAKER: Ms MacDonald, I will make the determinations, thank you. Ms MacDonald, you have the floor.

MS MacDONALD: Thank you, Mr Deputy Speaker. In my speech I talked about the excellent system that we have here in the ACT, and the minister pointed out that

Mrs Dunne has actually described our system as a world-class system. In saying that we have an excellent system, I am not saying that we should not continually review and assess the system that we have, and the minister has made that point as well. There is no suggestion by this side of the Assembly that we should not be continually assessing for the sake of our students how well our system operates.

Mrs Dunne: We can use every assessment tool, except one.

MS MacDONALD: Mrs Dunne, please do not interrupt. Members on this side of the house are interested—and I believe Mrs Dunne is as well—in the welfare of students and the best educational outcomes for students. I do not doubt that Mrs Dunne has those interests at heart, but time and time again in this sort of situation Mrs Dunne revs herself up for the sake of the debate. That is what I think she was doing today. I was not suggesting that there be no review done.

Mrs Dunne has moved an amendment which has absolutely nothing to do with the subject matter of the motion that I moved here today.

Mrs Dunne: Seek a ruling to see whether it is out of order.

MS MacDONALD: I am sorry?

Mrs Dunne: If you think it is out of order, seek a ruling.

MR DEPUTY SPEAKER: Order, Mrs Dunne! Ms MacDonald, do not respond to her interjections.

Mr Barr: Are you sure you want him ruling on it?

MR DEPUTY SPEAKER: You, too, Mr Barr. Can we get through this, members on both sides of the chamber?

MS MacDONALD: Mr Deputy Speaker, I could have moved that the amendment was out of order, but I think that Mrs Dunne should actually take up the minister's suggestion. If she wants a broader debate there is nothing to stop her, as a member of this place, from raising these issues, particularly as she is the shadow spokesperson for education. The minister has said that he would welcome a broader debate and I would be quite happy to make a contribution to that debate as well. As you know, Mr Deputy Speaker, I have a longstanding interest in educational issues. Although I am no longer the chair of the education committee, I do actually have a little bit of knowledge about the area. This side of the house would be quite happy to have a broader debate.

Mrs Dunne's amendment fails because it actually does not address the subject matter that I raised, and that is the issue of continuous assessment. It is not about the review of secondary colleges in the Australian Capital Territory entitled challenge, opportunity and renewal dated December 2005, which I do not think the minister addressed fully because he was addressing other issues.

It is my understanding that all of the recommendations of that review are being addressed. Mrs Dunne is quite welcome to raise these issues in this place. I suggest that Mrs Dunne consider bringing that matter on for debate next week. We have got another sitting next week, so she should feel free.

Dr Foskey said that we have an excellent system with our senior secondary colleges. She made the point that a number of students come across from the private system specifically to go into government secondary colleges. That is well known around the territory. We have students who move across in years 11 and 12 because there is so much admiration for the system. I think this is borne out by my comments in my speech and the points made by the minister and by Dr Foskey.

If the commonwealth seriously has the interests of the students at heart, then it should have a proper discussion about education. Do not turn it into an election stunt.

Opposition members interjecting—

MS MacDONALD: It should not be turned into an election stunt. It is a commonwealth grab for power—

MR DEPUTY SPEAKER: Order!

MS MacDONALD: imposing the 1950s view of education on the ACT.

Opposition members interjecting—

MR DEPUTY SPEAKER: Opposition benches, order!

MS MacDONALD: In the interests of the students, have a proper conversation about it. For the reasons that I have outlined, I do not support the amendment. I commend my original motion.

Question put:

> That **Mrs Dunne's** amendment be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Motion agreed to.

Guardianship and Management of Property Amendment Bill 2005

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

> That this bill be agreed to in principle.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (5.27): The government will be supporting Mr Stefaniak's Guardianship and Management of Property Amendment Bill. The purpose of the bill is to fill a gap that exists in the law for managing a missing person's property, namely, to make the immediately needed decisions in relation to such property. Nevertheless, in the government's opinion, the bill has some ambiguities and we will be moving amendments to address them.

The bill will enable a range of persons, such as family members or a relative, to make a decision in relation to the financial matters or property of a person missing for a minimum period of 90 days. Where a property owner's whereabouts are unknown or it is not known whether the person is alive or dead, there is already a process available under section 24 of the Public Trustee Act 1985 for the Supreme Court to appoint the Public Trustee to manage the property. For this purpose the property would need to be treated as unclaimed property. I understand that the Public Trustee has not been required to act under section 34 in the recent past.

The government agrees that the bill could be useful in enabling people to make immediately needed decisions in relation to the financial matters and property of a missing family member or relative. Such decisions could be about mortgage repayments on a family home of the missing person or negotiating with a bank in respect of arrangements in relation to the person's liability. There may be problems of this nature which become significant enough to warrant improving the existing law.

The bill proposes that the Guardianship and Management of Property Tribunal be able to appoint a manager, which is simpler and less expensive than the Supreme Court process under the Public trustee Act. The government supports the bill but proposes amendments to address particular issues. I am able at this stage to table a supplementary explanatory memorandum for the amendments, which I hope people have seen.

I will quickly run through the amendments now. Proposed new section 8AA (5) (c) of the bill proposes that a business partner or employee of a missing person would be also able to apply for management. It would be unlikely that such persons would be interested in pursuing the interests of the missing person. Indeed, they may have interests of their own to protect. The bill does not specify any special circumstances which would justify their applying for management.

If they want to make a decision in relation to the missing partner's or employer's finance or property, they could still apply under proposed new section 8AA (5) (g). This provision enables anyone who has interest in the missing person's property to be

an eligible applicant. For these reasons the government considers that the provision enabling a business partner or an employee of a missing person to be an eligible applicant should be omitted.

The government will move an amendment that will enable a carer to be an eligible applicant. Where a person has had a carer as the only close contact, it would be expected that the carer would have an interest in the property affairs of the person once the person is missing and would be more likely than others to seek the management of the person's property.

Government amendments propose to omit a provision in the bill that seeks to repeal sections 34 (1) (b) and 34 (1) (c) of the Public Trustee Act. Such repeal would leave a gap in the law whereby long-term management of a missing person's property by the Public Trustee under the supervision of the Supreme Court would not be available.

It is evident that management under the bill is most suited to making immediately needed or short-term decisions and the government does not think it is appropriate to stretch its scope any further than that. The government feels that the precedence of the process under section 34 of the Public Trustee should remain intact. Therefore, the government also proposes amendments to the bill to require the tribunal not to entertain an application where the Public Trustee has already applied to the Supreme Court to be a manager or has been appointed as such a manager. This approach would also avoid replication of the management process. Another related amendment proposed to the bill is to insert a provision to require that the management granted by the tribunal should cease when the Supreme Court appoints the Public Trustee as manager of the relevant property.

The government proposes amendments to the bill to require the tribunal to explicitly state the type of decisions a manager may make and the property to which such decisions relate. A further amendment is proposed to limit the duration of a management order to two years, with the tribunal having power to extend the order. These amendments would keep the operation of the decision making by managers under close supervision by the tribunal. These changes will assist a family member or relative of a missing person to act without being confused by different interpretations or inferences about the scope of the order.

The bill provides for the tribunal to remove a manager where the missing person is found to be alive or dead or is presumed to be dead. There is a concern about any civil or criminal liability of a manager acting in good faith until the manager is removed. A family member or relative seeking the tribunal's help to enable him or her to make a decision may be deterred by the prospect of such liability.

The government therefore proposes an amendment to the bill to provide that a manager would not incur liability if the manager acted honestly and believed on reasonable grounds that the conduct was the exercise of a function under the appointment. The government proposes a similar amendment to protect a third party dealing with a manager in relation to the missing person's property where the third party had the honest belief that the dealing was for the exercise of a function under the appointment.

The government will continue to monitor this area of law reform closely and will give consideration to any further developments or possible legal improvements to address the need for decision making in relation to a missing person's property and to protect the interests of such persons.

DR FOSKEY (Molonglo) (5.33): I would like to congratulate Mr Stefaniak for introducing this legislation. Although it will apply to only a small number of cases, it will make life easier for those already suffering due to the disappearance of a loved one.

However, while the Greens support the good intentions behind this bill—and I have things to say about the government's amendments during the detail stage—there are a few small issues which we believe should be addressed before we can proceed. For example, while it seems fair and reasonable that the domestic partner of a missing person, their relatives, the Attorney-General and the Public Trustee should be able to apply to manage the person's affairs, I do not believe it is a good idea to give business partners or employees the same rights, for several reasons.

First, while I do not want to sound like I have been watching too much *Law and Order*, given that I do not watch any *Law and Order*, this could create a situation where the business partner or employee causes a person's disappearance specifically for the purpose of gaining control of the business or affairs. Obviously, this is not something that is likely to happen, but the fact remains that there are numerous examples of business disputes and old-fashioned greed leading to extreme acts, and I do not think we should enshrine in legislation something which could encourage it.

While the relationship between business partners and workers can often be personal as well as professional, this relationship is still generally different from that between partners or within families. I believe that, in the absence of family or loved ones to manage the affairs of a missing person, the Public Trustee is perfectly capable of performing this role sensitively and appropriately, and so it is not necessary to include business partners or employees in the list of eligible people.

Also the issue of whether or not a person is considered to have made contact possibly requires clarification. Proposed new section 8AA (2) (c) states that the tribunal may be satisfied that a person is missing, and therefore that a manager needs appointing, when they have not made contact with any friend, relative or occupant of their last known address for more than 90 days. But what about in those cases that are frequent amongst young people where the missing person has made contact with police or other agencies to confirm that they are still alive but has asked that this information not be conveyed to their families or their friends? Is this person to be still presumed missing or do they move into another category? What then happens to their property in these cases? Perhaps there needs to be a third addition to paragraph (2) (c) to include police, social workers and other agencies who are frequently also involved in cases of this kind?

On the whole the amendments do address what is currently an unfortunate gap in the legislation surrounding guardianship and management of property and will

significantly ease the way for people experiencing difficulties and unhappiness due to the disappearance of a loved one. However, as I have indicated I do have some reservations about aspects of this bill and I do not believe that those reservations are solved by the government's amendments. While I support this bill in principle, I think it probably requires a little more work because of the issues that I have raised. I do not believe that the government amendments address those issues.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.37), in reply: I thank members for their contributions. If there is anything further that needs to be done, I think we can do that down the track. The police responsible for missing persons, in particular Sergeant Fiona Crombie, who was very helpful when my colleague Mr Smyth and I discussed the legislation with her during missing persons week in 2005 were pretty happy with what we put on the table.

I can understand the government amendments. There is a bit of a slant in them towards the Public Trustee, but I appreciate the briefing I had in December in relation to that. I think that what we have on the table will help immensely. It is not a huge number, but in any one year there are 30,000 missing persons in Australia. Ninety per cent of them turn up; some do not. But people have lost houses because parents, loved ones, husbands or wives have not been able to access details of their loved one's financial affairs. This legislation will overcome that. I commend the bill to members. I thank people for their assistance. I think this will make the lot of a number of people in Canberra a hell of a lot easier.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (5.39): I seek leave to move amendments Nos 1 to 7 circulated in the Attorney-General's name.

Leave granted.

MS GALLAGHER: On behalf of the Attorney-General, I move amendments Nos 1 to 7 *[see schedule 1 at page 1899]*. I have tabled a supplementary explanatory statement to the amendments. I have spoken to all of these amendments in the in-principle stage and do not intend to speak any further on them.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.39): Whilst I was initially a little concerned about some of the matters in relation to the public trustee, I will be happy to see these amendments passed. I am very pleased that a couple of them relate to protecting people who will effectively be administering the estate. I think that is very important where it involves family or relatives administering the estate. It gives them protection, which is a very welcome addition.

DR FOSKEY (Molonglo) (5.40): Can I check whether we are going through these amendments one by one?

MR SPEAKER: No.

DR FOSKEY: Okay, but I will respond to them one by one. With respect to clause 4, proposed new section 8AA (1A) on page 2, this amendment adds more detail about the conditions under which families and partners can apply to manage a missing person's property. While subparagraph (a) seems reasonable, in that we should not disrupt the legal process while the Supreme Court is in the process of making a determination, subparagraph (b) will effectively give the public trustee precedence over the families and loved ones of a missing person—something which surely undermines the purpose of the opposition's amendments to the original act.

What about cases where a family may have already been out of touch with a person for some time and only find out that they are missing after the public trustee has been appointed as manager of their property? Admittedly, this will only be in a minority of cases, but surely there should still be some provision for families to apply for management of property even after the public trustee has been appointed.

With respect to clause 4, proposed new section 8AA (4) and (5) on page 3, this amendment seems unfair, given the content of previous amendments. Why should the appointment of the public trustee prevent families from applying to manage a person's property, when the appointment of the family as manager does not preclude the public trustee from applying for this? I understand the need for the public trustee to have some power in reserve for those rare cases where the family may be abusing their managerial power, but the provisions of section 34 of the Public Trustee Act 1985, under which the government is proposing to give them this power, are much too vague to protect families once they are appointed as manager and give them little recourse to challenge the public trustee's application.

With respect to clause 4, proposed new sections 8AB and 8AC on page 4, which removes business partners and employees from the list of people who can apply to be managers of property, this answers one of the concerns that I mentioned about Mr Stefaniak's amendments, so I would support that amendment. Proposed new clause 4A on page 4 protects managers and third parties from liability incurred in the process of carrying out their management of property as long as their actions are conducted honestly and in good faith. That is a reasonable amendment, and I support it.

With respect to proposed new clause 4B on page 4, which seeks to insert a new section 30A, this amendment seems to give guardianship precedence to the public trustee over and above the families of missing persons. If it is to be the case that at any time a person can have their appointment as manager terminated under the very loose provisions of the Public Trustee Act, I fail to see why we are bothering with these amendments at all. It seems that although the government are not prepared to oppose Mr Stefaniak's amendments outright, they do want to water them down to the point of near ineffectuality.

Finally, in relation to clauses 11 and 12 on page 5, the amendments will narrow the conditions under which the public trustee can apply for appointment as manager of property, in keeping with Mr Stefaniak's aim of giving more power to the families of missing people to take action to manage their affairs. While it seems reasonable that the public trustee should be able to apply for appointment as manager in cases where the owner of a property is unknown, I believe it is only fair that in cases where the owner is known but is either missing or presumed dead the first preference should be that that person's family or loved ones take over the management of their affairs.

As I understand it, the amendments will not completely prevent the public trustee from taking over a person's property, as there is still room for them to do this under the general management of their affairs. All that these amendments will do is tip the balance slightly in favour of families and private individuals, as it will not automatically be assumed that the public trustee will take over a person's property when they are missing or presumed dead. I do not understand why the government would block this, but I will not support their attempt to do so.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.45): I appreciate the points Dr Foskey raised. I also had concerns when I spoke with the government officials. Whilst I like the couple of additions in relation to people not incurring liability, I too have concerns about the public trustee jumping in when quite clearly it would be more appropriate for someone's husband, wife, brother, sister, daughter or son to be involved.

The reality in the Assembly is that the government has the numbers, and I think it is important to have legislation in place. I would hope that the public trustee would not jump in unreasonably. Certainly, that intention was not outlined to me by the government officials when I quizzed them in relation to that matter.

What I had proposed, along with a couple of additions, would have been the absolute optimum. I refer especially to the additions in relation to liability of manager and third party dealings, which I think are very good. So I hear what Dr Foskey says. I also have some concerns about that matter. I have been reassured that the public trustee is hardly going to jump in and take over from members of the family unless there are good reasons to do so, but that is clearly something that we need to monitor. I appreciate her concern in that regard and I share some concern in relation to it. I hope it does not eventuate and become a real problem. We need to monitor that. We need to ensure that families are the ones who are administering the estates, unless there is a good reason for them not to do so. This bill enables them to do so. When the missing person, hopefully, turns up, it should be a fairly simple process for them to administer their estate again.

I thank members for their support and also for their comments. I think the comments made by you, Dr Foskey, were quite constructive. As I said, I had some similar concerns, although I have been somewhat reassured. Time will tell, and we can always amend it down the track if there are some substantive problems. This at least represents a great step forward.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (5.47): I have come quite late in the day to this piece of legislation—about 15 minutes ago. From my discussions with Minister Corbell, I understand that government support for it related to creating capacity for family members and/or others to be involved in cases where decisions around a person's property needed to be made. It was not about watering down the role of the public trustee. Our amendments try to maintain a balance but create capacity for family to be involved. That represents the extent of the government's support for this bill. As Mr Stefaniak said, if it does not work as it is intended to, it can always be amended down the track.

Amendments agreed to.

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

Bill, as amended, agreed to.

Adjournment

Motion by (**Ms Gallagher**) proposed:

> That the Assembly do now adjourn.

Health—depression

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.48): This evening I rise to make a few comments about the illness we know as depression, some further points in relation to a fairly scary drug, and the struggle that one of our former colleagues has endured as a result.

According to the beyondblue website, depression is not simply normal sadness, being moody or just in a low mood, but a serious illness. It yields both physical and psychological symptoms. It is common. Up to one in four females and one in six males will experience depression in their lifetime. Members will recall that Mr Corbell suffered from depression a couple of years ago. Mr Corbell, with great courage, used his own situation to raise public awareness of depression as a very real and debilitating illness. Depression is often not recognised or treated, and it is the leading cause of suicide.

The beyondblue website goes on to say that most people assume that depression is simply caused by recent personal difficulties. However, it is often caused by a mix of recent events and other personal factors. There can even be a genetic factor in contracting depression. Of considerable concern is that there is a lack of understanding in relation to the medication that is sometimes prescribed for people suffering from depression.

One symptom of depression is sleeplessness, which is often treated by a drug called Zolpidem. Some 1.2 million scripts for this drug were dispensed in Australia in 2006. The second most common brand of Zolpidem is Stilnox. But Zolpidem carries with it

a high risk of adverse side effects, which the Adverse Drug Reactions Advisory Committee—an expert committee of the Therapeutic Drugs Administration—describes as "bizarre sleep related behaviour". This behaviour involves sleep-walking events which can lead to death, and it has done so in a number of cases. Even cases of attempted murder have been recorded.

A former member of this place and colleague of ours, Mrs Helen Cross, suffered from, and still suffers from, depression. She suffered from depression, it seems, while she was a member of this place. She has also suffered from the bizarre, life-threatening side effects of Zolpidem. I recently saw her; I saw the caseload of drugs, as big as a guitar case, which she was taking. Thankfully, she is now off this drug and has taken on the cause of raising public awareness of its effects through her involvement with the Adverse Medical Events Line, an interactive service through which consumers can seek information or report adverse events associated with medicines.

I have to say that I, my then party colleagues and probably everyone else in this Assembly were oblivious to her illness. I suppose it is true to say that during her time in the Assembly she was subjected to some pretty ordinary behaviour from various people in the Assembly. Helen was ultimately expelled from the Liberal party room in September 2002. Whilst I was reluctant to go along with that, I did so in the end. I believe I was wrong to do that, and I am happy to place on the record my apologies to her for getting that wrong.

She actually achieved quite a bit in her time here. She introduced a number of bills, the highlight of which was the landmark bill in relation to asbestos. That legislation greatly enhanced the safety of many Canberra citizens. I am delighted to see her continue to contribute in many other areas locally, nationally and even internationally since she has left here. She has certainly worked through many barriers to achieve what she has. I am pleased to see her now working through the barriers of her illness with the same vigour.

Despite any past differences, Helen and I remain friends. I have spoken with her on a number of occasions and I look forward to a continuing association. I am pleased to see she is actively involved in the Adverse Medical Events Line. It is quite scary to think that some drugs do have adverse side effects. Indeed, we all need to ensure that people being treated for this unfortunately quite common illness—depression—are receiving proper medication. I certainly wish her the very best for her continuing recovery—as I am sure all members will—from her illness and a return to the full and active life she once enjoyed. I certainly wish her very good luck in raising awareness of the effects of medication through the Adverse Medical Events Line. I commend that organisation for its work.

Health—reform plan

MRS BURKE (Molonglo) (5.53): On Friday, 10 August, I released a media statement titled "Not Another Health Plan". In the fourth paragraph of that media release I said:

> In six years of the Stanhope Government, we have had three Health Ministers and now we are on to our sixth or is it seventh health reform plan and the Stanhope Government is still unable to actually improve the health system.

I am glad to see the Minister for Health in the chamber this evening because during question time yesterday Ms MacDonald put a question to the health minister which in part raised the issues that I had raised regarding health plans. In her answer Ms Gallagher said:

> But ensuring our commitment to quality and service does not end there. It is important that we plan for the future, which is why I recently launched access health, a plan that will help guide us in our planning for the future. Access health is the second ACT government health plan.

I remember the health minister being very vehement across the chamber, to which I objected, "You have that wrong." Ms Gallagher said, "No, Mrs Burke, you get everything wrong." You then warned me, Mr Speaker. Ms Gallagher said:

> You did get on the radio and say this is the sixth or seventh plan, but nobody takes it to the next level. Can you name them all, Mrs Burke? There are none. There are two plans, the health action plan, which was done when the Chief Minister was Minister for Health, and now there is the access health plan.

What rubbish is that! A cursory examination of what has occurred over the past two years shows that, in addition to the child obesity plan, which is something I would talk about in a different way, and bearing in mind, as I said, that over six years we have had three health ministers, there have been many plans.

In November 2005, there was the ACT suicide prevention strategy; in March 2006, the ACT Health access improvement program; in May 2006, the ACT Council for Nurses and Midwives strategic directions; in May 2007, the ACT Health workforce plan; in July 2006, the Aboriginal and Torres Strait Islander health and family wellbeing plan; in September 2006, the ACT action plan for mental health promotion, prevention and early intervention; in October 2006, an Aboriginal and Torres Strait Islander palliative care plan; in April 2007, the ACT Health cultural respect implementation plan; in June 2007, details of plans to reduce tobacco consumption; in August 2007, the ACT palliative care strategy; and in August 2007, the access health plan. There have even been plans for senior health managers to speak with doctors about improving the management of surgical activities.

I have nothing personal against the health minister, but I wish she would get her facts right and read my media releases when they are put out. As I said—and I will repeat it—in six years of the Stanhope government we have had three health ministers and now we are onto our sixth, or is it seventh, health reform plan, and the Stanhope government is still unable to improve the health system. I rest my case.

Australian Capital Territory—public holidays

MR MULCAHY (Molonglo) (5.56): I would like to use my speech in the adjournment debate this evening to comment on the government's proposal to replace Union Picnic Day with a public holiday on Melbourne Cup Day.

Members interjecting—

MR MULCAHY: I feel like I am talking to myself, Mr Speaker, but I will persist. I would like the Assembly to note the Liberal Party's strong opposition, and that of many in the Canberra community, to this ill-considered plan. It is a move that will be a severe blow to local businesses and workers. I am concerned that the hospitality industry would be hardest hit by this decision to add another public holiday to Canberra's calendar. Restaurants, cinemas and other venues will suffer because they will have to pay public holiday rates to their staff, and these increased costs will inevitably be passed on to the customers.

I have spoken to small business owners who have expressed their frustration to me and have said that Melbourne Cup Day is simply not profitable enough to justify doubling or tripling their wage bill. Additional costs will not be able to be met, and what should be a profitable day will not be. Even all of those businesses which have hosted Melbourne Cup functions and enjoyed profitable days will now struggle to make ends meet on that day as people either go to the races or leave Canberra. It is interesting that even the racing fraternity have raised the consequences for them, saying they need another 1,500 or 1,600 people—

MR SPEAKER: Mr Mulcahy, it seems that you are anticipating debate on a bill.

MR MULCAHY: Have we got this bill?

MR SPEAKER: The Holidays (Canberra Day) Amendment Bill—

MR MULCAHY: No, that is to do with Canberra Day, Mr Speaker. This is about the minister's announcement at the Labor Party conference to have one on Melbourne Cup Day. The legislation has not been introduced.

MR SPEAKER: Yes, you are right. I am sorry for interrupting.

MR MULCAHY: That is all right. I repeat: even all of those business which have hosted Melbourne Cup functions and enjoyed profitable days will now struggle to make ends meet as people either go to the races or leave Canberra. On the Monday, I suspect that a lot of people will pack up and go down to Melbourne, to the coast or to Sydney. This will affect casual workers, as they would miss out on shifts on a day when businesses would otherwise be open.

However, the most absurd fact that would emerge from this decision would be that, if it went ahead, Canberra would be the only place in Australia, apart from metropolitan Melbourne, to have a public holiday on Melbourne Cup Day. The ACT government must wonder why other Australian jurisdictions have not thought about including it as a public holiday on their own calendars. This is because other states and territories understand the day's value to small business and the economy. They also understand that, whilst most Australians certainly have an interest in the cup, it is essentially an event unique to Melbourne, and should therefore remain a holiday solely for Melburnians.

I also wonder whether the ACT government has considered the fact that many people will also take the Monday before Melbourne Cup Day off work in order to have an

extended four-day break. This will also impact on Canberra's productivity, services and local business over this period. There is a real possibility that Canberra will turn into a ghost town as people take advantage of the government's decision to appease union members to have a four-day weekend. It is no coincidence, surely, that this decision was announced at the ALP convention.

Whilst the ACT government might argue that this idea is popular with many Canberrans, I am concerned that this decision is, in reality, yet another example of the ACT Labor Party pandering to powerful union bosses after they lost their coveted Union Picnic Day, an event of little relevance to most Canberrans given that fewer than 20 per cent of them are members of a union.

On a more social note—and this is where it has not been thought through—I am not a punter. I have got no moral issue with it; it just does not do much for me. It will see the end of the office sweep because people will not be getting together at the workplace. A lot of people will not go out to the racetrack and it will kill a whole level of camaraderie that has existed in this city on that special day. So whilst I can see the case for having a public holiday in Melbourne, because tens of thousands of people descend on the racetrack to participate in all those events in their hometown, it is not what people in Sydney, Brisbane, Hobart, Perth and the like find necessary. In fact, it is a great day for the restaurant and hospitality sector and for the hotels that put on lunches.

We are going to see in this case what happened to New Year's Eve: we will cruel it in terms of venues that want to stay open, because it will cost too much. People will shut down. It will be money lost to the economy. It will kill a high level of camaraderie. It is an ill-considered idea. If the minister is going to bring it in, he ought to think about changing it to Labour Day and not ruining Melbourne Cup Day, which will in fact be the consequence.

Health—Parkinson's disease

MR GENTLEMAN (Brindabella) (6.01): I want to raise the matter of an event that I attended just the other week, on 16 August. Ms Nerissa Mapes, one of Australia's youngest Parkinson's disease sufferers, presented to Tony Abbott, the Minister for Health and Ageing, at Parliament House the first in-depth study of the economic and social burdens of Parkinson's disease. The report is titled *Living with Parkinson's disease: challenges and positive steps for the future* and was written by Access Economics for Parkinson's Australia.

The report finds that 55,000 Australians are affected by Parkinson's disease. It is the second most common neurological condition, second only to dementia. A new case of the disease is diagnosed every 56 minutes. My dad suffered from Parkinson's quite severely before he passed away. Unfortunately, towards the end he could not even remember his family, so it had quite an effect on the family.

Parkinson's Australia Chief Executive Officer, Norman Marshall, said that one of the starkest findings from the Access Economics report is the financial cost to the Australian economy, which is estimated to be $527.8 million. In addition, there is the cost of the reduced quality of life due to disability experienced from the disease, the

dollar cost of which is estimated to be $6.3 billion. The report highlights why chronic illness management is so important, not only to save money but also to improve early detection and to provide medical and care services that enable patients to continue to work for as long as possible.

Ms Mapes, who is 31 years old, was diagnosed with Parkinson's disease three years ago and represents a growing demographic affected by the disease. Parkinson's can strike anyone at any time. While the disease is commonly associated with older men, it is now becoming prevalent in younger generations. Parkinson's Australia believes that a national approach is required to tackle the burden of Parkinson's disease. The cornerstone of the approach is a commitment to better health for people with Parkinson's disease through early intervention, clinical research and improved care and cure.

The report also puts forward five recommendations which will result in greater public awareness of Parkinson's disease, reduce disadvantage, improve community participation by PWP—people with Parkinson's—and their families, and encourage cost-effective solutions to improve quality of life for people with Parkinson's disease, as well as delaying institutionalisation and slowing growth in the total cost of caring for people with Parkinson's.

Mr Marshall called on governments throughout Australia to consider the report's recommendations. He looks forward to working with decision makers and other allied health professionals to improve the lives of people living with Parkinson's disease. I will present the report to our health minister, Katy Gallagher, and hope that she takes it on board.

Question resolved in the affirmative.

The Assembly adjourned at 6.05 pm.

Schedules of amendments

Schedule 1

Guardianship and Management of Property Amendment Bill 2005

Amendments moved by the Attorney-General

1
Clause 4
Proposed new section 8AA (1A)
Page 2, line 22—

insert

(1A) However, the tribunal must not consider an application under subsection (1) in relation to a person if—

(a) the public trustee has made an application to the Supreme Court to be appointed the manager of the person's property under the *Public Trustee Act 1985*, section 34 (Application for appointment as manager of property) and the application has not been finally dealt with; or

(b) the Supreme Court has appointed the public trustee manager of the person's property under that Act, section 34 (2).

2
Clause 4
Proposed new section 8AA (4) and (5)
Page 3, line 23—

omit proposed new section 8AA (4) and (5), substitute

(4) An application under subsection (1), or an appointment under subsection (3), does not prevent the public trustee making an application under the *Public Trustee Act 1985*, section 34 in relation to the property to which the application or appointment relates.

(5) The Legislation Act, part 19.3 (Appointments) does not apply to an appointment under subsection (3).

3
Clause 4
Proposed new sections 8AB and 8AC
Page 4, line 5—

insert

8AB Missing people's property—who may apply for appointment of manager?

An application for the appointment of a manager for a person under section 8AA may be made by any of the following:

(a) a domestic partner of the person;

(b) a relative of the person;

(c) a carer of the person;

(d) the Attorney-General;

(e) the public trustee;

(f) the public advocate;

(g) anyone else who has an interest in the property of the person.

8AC Missing people's property—powers and term of manager

(1) The powers that may be given to the manager under section 8AA (3) (Manager for missing person's property) are the powers the missing person would have if the person were able to exercise them.

(2) However, an order under section 8AA (3) must state the kind of decisions the manager may make and the property in relation to which the power may be exercised.

(3) An order under section 8AA (3) must also state the term of the appointment.

(4) An appointment under section 8AA (3) must not be for more than 2 years, but the tribunal may, on application by the manager or a person mentioned in section 8AB, extend the term for up to 2 years.

4
Proposed new clause 4A
Page 4, line 5—

insert

4A New section 27A

in division 2.3, insert

27A Missing people's property—liability of manager and third party dealings

(1) A manager does not incur any liability, either to a missing person or anyone else, because of conduct done honestly during the manager's appointment under section 8AA (3) (Manager for missing person's property) in relation to a missing person's property if the conduct was for the exercise of a function under the appointment or of a function that the manager believed, on reasonable grounds, was a function under the appointment.

(2) A person (the ***third party***) who deals with a manager in relation to property that is under the manager's control because of the manager's appointment under section 8AA (3), does not incur any liability because of the dealing if it was done in the honest belief that the dealing was for the exercise of a function under the appointment.

(3) In this section:

conduct—see the Criminal Code, section 13.

5
Proposed new clause 4B
Page 4, line 5—

insert

4B New section 30A

insert

30A Missing people's property—ending of order

An order appointing a manager to manage a missing person's property under section 8AA (Manager for missing person's

property) ends if the Supreme Court appoints the public trustee manager of the property under the *Public Trustee Act 1985*, section 34.

6

Clause 11

Page 5, line 16—

[oppose the clause]

7

Clause 12

Page 5, line 18—

[oppose the clause]
