Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

18 OCTOBER 2007

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Thursday, 18 October 2007

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

Duties Amendment Bill 2007

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

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (10.31): I move:

> That this bill be agreed to in principle.

The Duties Amendment Bill 2007 amends the Duties Act 1999 to address a potential risk to revenue arising out of the government's decision to abolish tax on certain business leases. As a consequence of the review of certain taxes initiated under the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations, the IGA, lease duty, that is, the tax chargeable on a lease instrument, will be abolished in the ACT on 1 July 2009. Duty on long-term leases is retained under chapter 2 of the Duties Act.

A long-term lease is a lease for a term of longer than 30 years, including where this arises as a consequence of a renewal option. Long-term leases provide effective control of the land and are liable at conveyance rates of duty. This reflects the reality of the situation in that a lease over land that extends over that period is a de facto transfer of the land and should be treated as such. In accordance with the IGA, this bill strengthens existing anti-avoidance measures related to lease instruments under chapter 5 of the Duties Act and long-term leases under chapter 2. The bill reinforces the intention of the legislation and safeguards the duty base. It is not intended to source any new revenue.

The bill broadens the definition of long-term lease to clarify certain lease structures as long-term lease arrangements. In this regard, the bill deals specifically with the granting of a lease on surrender of another lease and the variation of a lease to extend its term. The provisions are intended to prevent the manipulation of leases in order to disguise what is effectively a long-term lease for the purpose of avoiding duty at the conveyance rate. Where a lease falls into these new definitions of long-term lease, conveyance duty will be assessed and a credit will be allowed for any duty that has already been paid under the chapter 5 lease provisions.

Transitional provisions have already been inserted into the Duties Act to ensure consistent and equal treatment for all lessors, both before and after the abolition of the lease duty in 2009. The bill introduces two amendments that serve to clarify the intent of those transitional provisions.

An option to renew a lease can only be assessed for duty once the option is executed. The bill amends the Duties Act to make explicit that, where a lease executed before 1 July 2009 contains an option for renewal, that option is dutiable where the main purpose was to defer execution until after the abolition of lease duty. This brings the practice into line with the use of other arrangements that might be employed to avoid duty by delaying the execution of a new lease.

The final amendment clarifies what duty may be refunded if a lease is terminated before the end of its term. The Duties Act provides for a refund of duty if neither the lessee nor any associated person continues to lease the property under a new arrangement. The bill broadens this provision to include a lease of substantially the same property to deter a new lease from being structured slightly differently to the terminated lease just to avoid duty. I commend the Duties Amendment Bill to the Assembly.

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

Gaming Machine Amendment Bill 2007 (No 2)

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

Title read by Clerk.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (10.35): I move:

> That this bill be agreed to in principle.

I present the Gaming Machine Amendment Bill 2007 (No 2). This bill provides for a number of minor and technical amendments to the Gaming Machine Act which will enhance its operation. I will take the opportunity to briefly talk to a number of the more important amendments.

In order to address the government's concern regarding community contributions by gaming machine licensees for the funding of problem gambling issues, this bill proposes an incentive scheme to encourage licensees to increase expenditure to assist with the funding of problem gambling matters. The incentive scheme will provide that, for every $3 contributed by a gaming machine licensee, the licensee can claim $4 towards their annual community contributions.

To be an eligible contribution for this incentive scheme, funding must assist in alleviating problem gambling, such as the provision of counselling services; assist in alleviating the disadvantages that arise from problem gambling, such as by providing family support services or assistance or provide information about problem gambling, such as through research or surveys. The scheme will also recognise the importance of funding appropriate training for staff to provide assistance to people affected by problem gambling.

The maximum number of gaming machines that could be issued under the act was reached in December 2006. Importantly, the bill now addresses some minor issues with the existing legislation associated with the ACT Gambling and Racing Commission's consideration of applications for initial and additional gaming machines. The proposed changes provide a fairer and clearer approach in considering applications for additional gaming machines when the maximum number in the territory has been reached.

The number of gaming machines a licensee will be eligible for will only be assessed when, and if, such machines become available. This overcomes the current problem where there could be significant delays between deciding the number of machines to be allocated and the actual availability of these machines. A licensee's circumstances may have changed in the meantime, which could result in a different number of machines being allocated.

Another important change introduced by this bill relates to the eligibility criteria of key persons associated with gaming machine operators. The bill proposes to reflect that a person is not eligible to apply for a licence or for an approval as a supplier, technician or attendant if, within the last 12 months, the commission has cancelled the individual's licence or approval or an application has been refused on the basis that false or misleading information was provided to the commission. This amendment confirms the commission's role in minimising criminal or unethical activity through appropriate probity regimes. It also protects the integrity of the act's licensing and approval system in relation to eligible persons.

Importantly, the bill allows the commission to take action against a supplier of gaming machines if the person is no longer an eligible person. The bill overcomes a current deficiency in the act by now providing the commission with the statutory authority for taking disciplinary action against a supplier. The proposed amendment will allow the commission to cancel or suspend a supplier's approval or reprimand the supplier. The amendment is consistent with existing disciplinary measures that may be taken against other key industry employees, namely, gaming machine attendants and technicians.

Finally, the government has a well documented policy on minimising the potential harm that may be caused to some people through gambling. This bill clarifies existing provisions to limit the exposure of the general public to gaming machines or gambling activity. Firstly, while existing provisions prohibit a gaming machine licensee from displaying signage that advertises or depicts gaming machines or gambling activity, it has not been clear whether a licensee's name or logo is permitted.

This bill explicitly provides that it is acceptable for a licensee to be able to display their business name or logo without offending against this provision. Secondly, a prohibition will be introduced on gaming machine venues having their gaming machines or any peripheral equipment for gaming machines being visible from outside their licensed premises. Such a prohibition is a responsible approach to limiting public exposure to gambling, such as to persons under the age of 18 years. It is complementary to the current prohibition on gaming machine venues advertising gaming machines on external signage. It is also consistent with the restrictions in place in most other Australian jurisdictions.

This bill provides some small, but important, changes to the Gaming Machine Act in order to enhance and clarify its operation. I commend the bill to the Assembly.

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

Roads and Public Places (Fees) Determination 2007 (No 1)
Motion for disallowance

MR SMYTH (Brindabella) (10.40): I move:

> That Disallowable Instrument DI2007-159, Roads and Public Places (Fees) Determination 2007 (No 1), made pursuant to the Roads and Public Places Act, be disallowed.

We move this motion of disallowance not least because the notice of the latest increases in fees imposed on cafes for placing objects in a public place contravenes the basis on which these fees were to be increased, but also because when the original increases were notified in 2005 they were too large at the outset.

A brief history of the matter is as follows: as from 1 July 2005, the fees applying to objects placed by cafes in a public place were to increase by 100 per cent. The first increase of 35 per cent occurred on 1 July 2005. The second increase of 33 per cent occurred on 1 July 2006. By this latest notice, the third increase of 33 per cent took effect from 1 July 2007. In principle, that all seems quite reasonable if you agree with the original 100 per cent increase, although, as the minister confirmed recently on WIN TV, 35 plus 33, plus 33 actually equals 101 per cent. The problem for the minister is that the effect is cumulative.

The issue raised by this motion—and this is the concern of the affected industry—is that the implementation of the policy to increase these fees has been flawed. These fees have not increased by 100 per cent on the base, but nearer to 140 per cent. The key reason for this motion of disallowance today is to remedy this injustice, to remedy the inequity of a government committing to one course but following another, more onerous course.

The question is: how did this injustice arise? Let us check the basis for the decision. The explanatory statement for this instrument states:

> This—

the third increase—

> increase is part of a program to increase these fees by 100 per cent over three years.

There we have it. The increase is 100 per cent, that is, a doubling of the fees—nothing more and nothing less. The formal government document, in this case Disallowable Instrument 2007-159 is dated 28 June 2007 and is signed by John Hargreaves as minister. On Tuesday, 25 September this year I asked the minister a question on this matter in the Assembly. The answer from the minister was:

> The figure that was actually promised was that the base fee would increase by 100 per cent over three years and there would be other increases such as—I don't know the exact formula, but it was either CPI or AWE, something like that.

There it is. The base figure, that is, the fee that applied during 2004-05 would be increased by 100 per cent. The minister also tried to build in additional increases—I assume on the basis of WPI, not AWE, but that was not an issue at the time—or, indeed, incorporating the CPI, but that is not correct either. So we have a formal government document that says the increase will be 100 per cent, and that was supported by an answer from the minister.

I think it is important to focus on the actual numbers. There are three categories of business or, broadly, retail areas in which these fees apply. The primary area is places like Civic, Manuka and Kingston; the secondary area includes the Woden town centre and the Belconnen town centre, Dickson, the balance of Civic and Yarralumla, and the tertiary area is all the other areas—so places like Fyshwick. Different fees apply in each category. Fees for the primary area are the highest; fees for the tertiary area are the lowest.

Consider as an example the fee for tertiary areas. At the start of the process, that is, in 2004-05, the base fee was $21.40. This is the fee charged per square metre of public area on which cafes place chairs and tables on the pavement outside their premises. On 1 July 2005, this fee went from $21.40 to $28.90. On 1 July 2006, this fee went from $28.90 to $38.40, and on 1 July this year, this fee became $51.05. Now, any primary school child can work out that the sum of these increases is an overall increase of 139 per cent over the base over three years. It is a similar story for the fees in the primary and secondary retail areas.

I do not know anything about the Hargreaves elementary school of mathematics. The minister said on WIN TV that the percentage increases summed 101 per cent; therefore the increase was 101 per cent. Well, that is just wrong, Mr Speaker. It is wrong, minister. You fail to understand that you have not calculated the percentage increases on the original base, as they should have been—as was promised. Rather, you have calculated the second and third per cent increases on the latter, higher amounts. Self-evidently, this results in an outcome that is far more than 100 per cent.

I went to a normal school where in mathematics we were taught and we learnt that to increase something by 100 per cent was to double it. To increase something by 140 per cent does not double it. That means that $21.40 should, in fact, become $42.40 over three years. We think that increase is too large anyway, but 21 becomes 42, not 51. So what do we have here? We have a devious minister who wants to increase taxes by more than promised, a minister who does not understand simple mathematics or a minister who has been snowed by his department? I am not sure which is correct; perhaps all three. I hesitate to describe the minister as a goose, Mr Speaker—one of his favourite descriptors—but I suspect that would be insulting to geese.

What I do know is that proprietors of outdoor cafes are being ripped off by a rapacious government that is intent on grabbing as much revenue as possible from

every possible source irrespective of policy commitments or the capacity to pay. I do not accept the minister's claim that the increase was to be 100 per cent plus an allowance for CPI or WPI, or whatever it is that he meant. There is no mention of these factors in the explanatory statement, and I do not believe there is such an additional factor to be applied.

The minister needs to find a better excuse than he has come up with so far to justify his breaking of a clear commitment to increase these fees by 100 per cent. In the meantime he must withdraw this latest increase and put in place new fees that accurately represent the outcome of the commitment to increase these fees by 100 per cent. I would actually be delighted if he took the fees away because I think they have been increased way too harshly and way too quickly in too short a period of time.

This also raises an associated matter—the impact of these fees on businesses in different parts of Canberra. Within the tertiary category there could be scope for further disaggregation. Businesses operating in those areas, suburbs or similar locations where there is limited business outside normal work hours, particularly weekday work hours, could be subject to a lower level of fees. I am thinking of areas such as Fyshwick and suburbs where there is limited activity out of normal office hours.

To return to the main proposition, the instrument increasing these fees, DI 2007-159, should be disallowed so that the appropriate or promised fees levels can be implemented. I think the appropriate fee levels have already been well and truly crossed. The instrument should be disallowed so that equity can be restored to the businesses that are subject to these fees and so that the community can be protected from a decision of the Stanhope government that simply seeks to rip off revenue from the community over and above that which was committed.

One of the success stories of the Canberra community since the 1970s has been to take the legacy introduced by Gus Petersilka of cafes being able offer al fresco eating and dining. They are now a given part of our urban lifestyle. Unfortunately for the proprietors of cafes, the Stanhope government now sees these businesses as a cash cow for additional revenue. I think it is time to say that enough is enough. I would urge the government to accept my motion, withdraw the notice of the latest increases in these fees, admit that it has broken the commitment on which the increases in these fees has been based, at worst comply with the increase in the fees to 100 per cent over the base fee that applied in 2004-05 or, if they are genuinely serious about making the Canberra environment more agreeable to the locals as well as visitors, not go ahead with this increase at all.

The disallowable instrument is inaccurate. It is excessive. It is unjustified. It is 40 per cent more than the minister promised in the 2005-06 budget.

DR FOSKEY (Molonglo) (10.50): I will be brief. I want to thank Mr Smyth for doing the maths. It is a bit worrying when an MLA's job includes checking the calculations of fee rises and other charges by the government. I thank Mr Smyth very much for bringing this to our notice.

Given that it is now right in front of us, I certainly support the disallowance motion. I expect that the government will admit its mistakes. Mistakes are made. There is nothing wrong with admitting them. It is absolutely essential that it be corrected before cafes start to pay this. It is essential if we do go ahead, as I have no doubt we will, and complete the process of doubling, in effect, the fees that cafes and other organisations pay to have structures outside.

If it does remain at 100 per cent, then we leave it there for a good three to five years. Some of us who have lived in Canberra for long enough remember the repeal of that most ridiculous law, for which I believe Gus went to prison a number of times, whereby we were not allowed to have cafes outside. It prevented Canberra people from being like Melbourne people. It was a ridiculous law.

Anyone can see the cafe culture and pub culture that has arisen as a result. It is as though we were in jail, just waiting to get let out. Even in cold weather, cafe tables in the sun always have a clientele. We really should be encouraging this bringing to life of town centres and, more and more, our suburban centres. If we bring this kind of life to those centres, people will choose to go there for their entertainment. Instead of having coffee at home on their own, they will go down to the local cafe where they can read the paper. This is really good for building our social capital. We should not be taxing anything that increases this city's liveability and increases our social capital. I urge the government to support Mr Smyth's disallowance motion.

MR MULCAHY (Molonglo) (10.53): I am pleased to have the opportunity to speak in support of Mr Smyth's motion today. It is a motion that seeks to provide some relief to Canberra businesses in the face of ever increasing government charges. This motion seeks to disallow Disallowable Instrument D12007-159, Roads and Public Places (Fees) Determination 2007 (No 1) and will, in the unlikely event, I regret to say, that the government sees sense and supports it, provide significant relief to the cafe and restaurant owners of the ACT.

In contrast to most fees payable under the Roads and Public Places Act 1937, which increased by the government's controversial favoured method of indexation, the wage price index, this disallowable instrument provides for substantial increases to the cost of placing objects for outdoor cafes in a public place. Fees for the placement of objects for outdoor cafes in a public place have increased by 33 per cent from 1 July 2007. As Mr Smyth explained, this increase was made as part of a program supposedly to increase fees by 100 per cent over three years. I understand this is the final increase, at least for the time being. Over the last three years fees have theoretically doubled.

There is an underlying issue with this statement. I have been informed by the industry that this year's increase of 33 per cent has been applied to the level of charges charged last year, and therein lies the problem with the mathematics of this exercise. That is, instead of the stated intention of completing an increase of 100 per cent over three years, this year's increase is another third on top of last year's level, which was two-thirds higher than amount three years ago, effectively compounding increases. This means that over the last three years fees have not just increased by 100 per cent. When I say 'just', as Mr Smyth pointed out, I think that this is excessive and highly

unreasonable. This increase has occurred without announcement or publication by the government and, of course, is more than the stated amount.

I know that the government might think that a few more dollars is nothing, but on top of all the other increases we have endured, including property rates, the fire and emergency services levy, the utilities tax and the city heart levy, if a business has the misfortune of being located in Civic, with higher charges for water and the like, any increase becomes significant.

Doubtless the government thinks that increasing charges by 100 per cent or more over the last three years is nothing. Perhaps they think that most cafe and restaurants are highly profitable businesses run by wealthy individuals. The truth, however, is that most businesses in hospitality operate in a very competitive market on tight margins and feel very much the impact of government increases. We see that particularly with licensed premises. We have a massive number of licensed premises here compared with anywhere else in Australia because of the licensing model that was adopted in the 1960s. The fact is that many cafe and restaurants in Canberra are operated by families. They provide employment to many, many younger people, to people attending university or others starting off in their working career. They provide a vital service to this city and create vibrancy and sense of community that should be encouraged.

Most Canberra residents enjoy popping into a local cafe for a coffee or sandwich and as summer approaches the outdoor facilities of many venues are incredibly popular. But we also have to face the reality that outdoor facilities are not particularly appealing at different times of the year here, notwithstanding attempts by some proprietors to put outdoor heating facilities in place. But rather than encouraging the vibrancy that does exist, those opposite simply see this as another opportunity for revenue. Their eyes seem to light up as they realise that there is a profitable activity for business that they are not tapping into as much as they might possibly do. The mind is drawn, as unfortunately it often is with this government, to the comments of the former Treasurer, Mr Quinlan, who infamously said to business on 17 March 2005:

> I will squeeze you until you bleed, not until you die.

I regret to say that this attitude has clearly not changed, as we have seen by the pronouncements of the Chief Minister in his refusal to make tax modifications despite the surplus funds that are available for the territory at this time. It seems that for this government business is an enemy, an ideological enemy, not something to be encouraged and recognised as a driving force behind the Canberra community and economy but merely another source of endless revenue. This should not be the case. Every government increase and every new charge hurts business and forces them to allocate more of their earnings to paying for the ACT government's poor fiscal management of the territory. The government's attitude is reflected in the way that these charges were presented to the industry.

Whilst the Minister for Territory and Municipal Services would have people believe that he consulted with industry about the charges, it was unfortunately the sort of consultation that the Canberra community has become so used to. I am not sure that

this government understands that calling a meeting together and saying, "We are going to do this and it is going to start from such and such date" is clearly not consultation, and this is what I understand happened on this occasion. A meeting was called with industry and the minister presented business with his plan to increase their fees by 100 per cent. He could not even stick to that undertaking. Industry did not agree to the changes, and consultation—and by that I mean meaningful consultation—did not, in fact, occur. Instead, the government exhibited, once again, its heavy-handed approach to business in this territory.

It is worth asking what benefit these extra charges have delivered for the industry that is affected by these particular revenue measures. From the amount of representations that I receive—I know that Mr Hargreaves probably gets sick of the letters I write to him, as he has indicated on occasions—they certainly indicate to me that despite these extra revenues Canberra streets are not cleaner. I have been in far, far bigger cities than Canberra and seen cleaner cities. Our public areas are not better maintained than they were three years ago. The government has not used the extra revenue that they have received from the massive increases in fines and charges to improve the amenity of suburbs or public areas. We continue to see a deterioration in our city. Instead, it has gone into those bottomless government coffers to be squandered on poorly managed services.

I welcome my colleague's motion. It presents the government with an opportunity to demonstrate that their attitude to business has changed even just a little bit since Mr Quinlan so eloquently expressed the Labor Party's policy in relation to business. I have talked to cafe owners about this issue. It is bad enough that they are harangued over the most minor breach of their area. I have talked to cafe owners who have been severely reprimanded because a chair leg has gone outside the designated area. What kind of society are we living in? Have we got that many people available to us to go around and make federal cases with people over such a trivial breach as having a chair leg outside a brass marker in the middle of the footpath?

I know that Mr Hargreaves will say, "We have to watch liability." You can go through life anticipating all manner of gloom and doom ahead, but some measure of sense is required. I do not often agree with Dr Foskey, but I have lived in Melbourne and I think the way in which they have encouraged their cafe sector to function and the diversity you get in Melbourne suburbs is very appealing. We as a city cannot say that we can do everything they do in Melbourne and Sydney. The fact is that we are operating in a much smaller community. As Mr Smyth said, the cafe culture has come quite a way from the time that Gus took on the authorities and set up the alfresco-type approach.

Let us not make life harder than it already is for people in small business. I know a number of cafe owners, and it is not an easy life. They are having massive problems now getting staff. It is extremely challenging. I talked to another one only a week or so ago and he indicated to me that the biggest single challenge that he has at the present time is getting staff in these cafes.

Why are we putting more burdens on these businesses? Why are we demonstrating such zeal in tackling this section of our community that I think adds to our social landscape and adds to the appeal of Canberra as a place to live? It is beyond me. I

know that the central issue here is the disallowance of this instrument rather than getting back into the fundamentals of this whole revenue measure, but at the very least I think that this measure that Mr Smyth has brought forward is appropriate. The government ought to reconsider what it has done and modify its charging regime, if not throw it out, but at the very least stick to the commitment they made and not inflate it to the level that has occurred. Most importantly, it would provide some meaningful relief from the raft of local government charges that local businesses have been subjected to.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (11.02): Obviously the government is not going to agree to this motion. These fees are imposed for the use of public space by private businesses that obtain a benefit of free land in which to expand their operations.

Dr Foskey: You've got it wrong, John.

MR HARGREAVES: No, I have not got it wrong, Dr Foskey, through you, Mr Speaker. I will respond to that interjection this once, Mr Speaker. The people who operate the cafe business in this town pay lease fees, rental, for the premises in which they operate.

Mr Mulcahy: Why don't you admit you made a mistake?

MR HARGREAVES: What Mr Smyth and Mr Mulcahy over here—Mr Mulcahy is the most generous of shadow treasurers of all time. He is going to cut so many taxes in this town—except the fire levy; he is not going to cut that one. He is saying, "No, we will give these folks free use of public land from which they can operate a business." That was what Mr Smyth said and that was what Mr Mulcahy said. He said, "Do away with it altogether." They both said, "Do away with it altogether." Dr Foskey would have us do that as well. That is what she would have us do as well.

All I hear from these guys opposite is "We've got to have a vibrant cafe strip just like Melbourne." I invite Mr Pratt to come down to the electorate he purports to represent, not having lived in it, and see the explosion of the cafe strip along Anketell Street. I invite him to come up to O'Connor and have a look—and to see the cafe strip alive and well in Kingston, Manuka and Dickson. Mr Speaker, this is a joke.

Mr Smyth wants to disallow the fees because of their quantum, or, more specifically, because of the quantum of the increases—and snicking in there is, "You can abolish the whole lot anyway." The actual figure this year, as he has acknowledged himself, was 33 per cent; the previous year it was 32; in 2005 and 2006 it was 36. That is because he has not included the CPI component. In 2005-06, it was about three per cent.

Notwithstanding the size of the increases, the popularity of the scheme is demonstrated by the fact that there were over 200 cafe licences issued for the use of urban open space in the ACT—200 of them. No-one has handed their licence back because of the increase—not one. Mr Mulcahy talks glibly about consultation. The first time I heard of an issue was when Mr Smyth put his disallowance motion on the

table. Have I received anything from the industry on it? No. No, I have not. That is the short answer.

Mr Mulcahy: It is not what I am hearing.

MR HARGREAVES: What part of "no" do you not understand? If Mr Pratt would like me to say it again—he might have had a phone call from somebody to the contrary—I will say it again: "No, I have not received any correspondence from it at all."

Outdoor cafe fees in Canberra are zoned according to the relative levels of commercial activity. The scale of fees reflects these zones to provide equity for cafe operators. The zones are the prime areas like Manuka and Kingston; secondary zones like the city surrounds and north and south Canberra; and tertiary zones, which are all other suburbs—for example, the Yarralumla shops. Guess what you can do there? You can have a meal out on the footpath in Yarralumla. I am sure that Dr Foskey, a former resident of that suburb, has dined in an outdoor area in Yarralumla. No doubt Mr Mulcahy has been to Deakin and dined outside—I would hope. You do know where Deakin is, Mr Mulcahy?

MR SPEAKER: Order, Mr Hargreaves! Direct your comments through the chair.

MR HARGREAVES: I was just checking, Mr Speaker. We need to understand this. I have been accused of the consultation process not being to their satisfaction. I need to put on the record that when we talked about the increase of these fees, we had a chat with the industry—the AHA—

Mr Mulcahy: Oh, a chat.

MR HARGREAVES: Yes, a chat with the AHA and the chamber of commerce and industry. Each of them put a case to government which we found compelling. One of them was to stagger the increase. Why did we increase it by 100 per cent in the first place, Mr Speaker? Because we were so far behind everywhere else in the country that it was just not on that we would allow free public access for the purposes of profit making. That was accepted by the industry, but they did not want it imposed in one hit. We said, "Fine." They suggested that we do it over three years, so we did. We agreed with it. It was a positive outcome of the consultation process.

Furthermore, it was put to the government that there was an inequality in the insurance regime around public liability. Some businesses were required to have $20 million worth of public liability insurance for the outside area, yet, strangely, they had only a $10 million policy inside the building. We concurred with that. Realising that there was a discretion available to us, we said, "Yep, we agree." For example, if you have a cafe that wants to use the outside area right up to the kerb on an intersection, they can have $20 million worth of liability because their risk is much higher. If another cafe is halfway down the road—halfway down the strip—where the chances of a car mounting the kerb and going through that particular area is considerably lessened, it can have $10 million coverage under public liability insurance.

Why did the government move from that? We could have just said, "No, that's the law. The law is the law." But there was a compelling case put to us by the industry. I believe that the consultation process was an effective one. It was a good one; it was an honest one.

Mr Seselja: Like at the libraries.

Mr Pratt: It is not one of your strong points, John.

MR HARGREAVES: You always throw this little pearler in when you have got nowhere else to go. Yes, keep going, sunshine; when you have no argument, you can always drag up some herring.

Mr Pratt: Albert Hall, the ACT shopfront.

MR SPEAKER: Order!

MR HARGREAVES: I wish it was that easy, Mr Speaker. The fact is that the government listened to the industry—the chamber of commerce and industry and the AHA particularly. I spoke to individual cafe owners myself—the Griffith shops are one good example—and explored what effect it had on them. This was a small operator I spoke to; at the end of the day, it put an impost on that company of about $1,200—1,200 bucks. We are seeing Mr Smyth saying, "I've got a different way of calculating this from you. By definition I am right and you are not; I went to Marist Brothers." I did too. If you are going to slag off at my alma mater, you do so at your own.

Mr Mulcahy: You obviously flunked maths.

MR HARGREAVES: Mr Mulcahy wants to abolish this particular one. We will just tack that figure on the end of the spendometer now. Is somebody up there listening? We want to tack it on the spendometer now.

Mr Pratt: I didn't know you were a rock chopper. You learn something every day.

MR HARGREAVES: I have not got a clue what he is talking about; it must be military jargon that I was not privy to when I was in the forces.

MR SPEAKER: Order! Just come to the matter.

MR HARGREAVES: Mr Speaker—

Mr Pratt: After your time, mate.

MR SPEAKER: Order! Conversations across the chamber are not helpful in this debate. Mr Hargreaves, direct your comments through the chair. Members of the opposition, cease interjecting.

MR HARGREAVES: Prior to the increase happening in the first place—I mentioned the AHA and the chamber of commerce and industry. We also talked to Restaurant

and Catering NSW and ACT, the tourism industry council and the liquor, hospitality and miscellaneous workers union to see what effect it might have on people's salaries—because these guys across the road here will say, "It will affect their salary."

For too long, people have been able to use the strips for nothing. That is not going to happen any more. That is the regime; that is where we are going. All I can say is that it has not affected the industry one bit. The industry is exploding across town—almost every suburb, every tiny little shop. The Richardson shops have got some out the front of them, and there are only five shops in the whole place. Mr Speaker, it is not hurting the industry at all. As far as I am concerned, the Assembly can just dispense with this disallowance motion.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (11.12): Minister, I think you are a bit delusional. For the purpose of being definitive in relation to what 100 per cent is, I will give you the Narrabundah high school answer to that: 100 per cent on $21.40 is $42.80. In that respect I would have to agree with Mr Smyth. I also agree with Dr Foskey on this one. Often my colleagues do not agree with her on much, but she makes a lot of sense in what she has said there.

This is part of the ambience of Canberra. This is one of the main improvements we have seen in the local business scene—the local ambience of shopping centres—over the last 20 years. I remember the pioneering Gus Petersilka and the issues he had. Mr Hargreaves's attitude reminds me of the days of the old NCDC, which ran Canberra with an iron rod back in the late 1950s and early 1960s and was resistant to any change.

It annoys me, too, when I see small, struggling businesses getting harassed and prosecuted even for having a chair that is over a line when those small, struggling businesses have great difficulty, when something really serious happens—like a criminal act being committed against them—and the police are unable to come because the police are overstretched. Again it is a case of you guys needing to get your priorities right.

This is a huge increase. If you were charging $21.40 three years ago, I would have thought that it would have been quite reasonable to just up that with the CPI—or even, if you had to, your new great standard of WPI. That at least would have been fair. Mr Smyth's motion is an eminently fair one, because it would lead to the removal of a significant, unreasonable impost on business.

Canberra is not Brisbane; it is not Darwin. It is not even Sydney. It is a bit like Melbourne, although we do have four distinct seasons. Apart from Melbourne, in those other places you can sit outside quite easily for 12 months of the year. That is a bit harder in Canberra, because we have only about six months when it is warm enough to comfortably sit outside and eat a meal. I know that a lot of businesses—for example, the All Bar Nun and a number of other businesses—have put in big heaters to make it more comfortable for people outside, but in terms of maximising your benefit from outside eating, and having tables and chairs outside on the sidewalk, you are able to use the area effectively for only about six months of the year.

There is another reason for not hugely increasing the charges that you have put on these businesses. You do not make much money from this. I would be interested to see what the minister says in relation to just how much money he gets in from this activity. I have heard that it is probably only several hundred thousand dollars. We are not talking big bickies. But if you encourage the ambience of Canberra—if you make it a much more pleasant experience for people to go out and have a drink or coffee, or dine outside, whatever—you will get that money back in other ways, because you will get more people using the areas.

Rather than putting unreasonable taxes on this activity, I would have thought that a simple small tax like the one you had—$21.40, going up with CPI—would not be unreasonable in the circumstances, especially given that the outdoor cafe scene is something that can comfortably be done for probably only about six months of the year in Canberra.

Unfortunately, this government has a propensity to try to tax anything that stands still for more than 10 minutes. Obviously governments have to tax, but you have to be sensible in how you do it. These increases are very unfair. These are, in many instances, businesses who Mr Mulcahy quite rightly says are in competition with the ones next door. We have more licences per head of population than any other part of Australia. It is a competitive market. These businesses are not making squillions of dollars a year; in many instances, they are struggling. They are in trouble, too, with the skill shortage and the general high employment rates we have, thanks to a very efficient federal economy. They are having difficulty getting staff. But, first and foremost, they are in competition with a lot of other businesses. They are not necessarily making huge amounts of money, and any unfair increases in taxes significantly impact on them.

The minister seems to have a somewhat troglodyte attitude in relation to this issue. This is an important part of Canberra. It has happened thanks to Gus Petersilka, who was quite a visionary and who put in a lot of effort. He was bashed from pillar to post, but finally got due recognition—long deserved—from government that having outdoor eating and outdoor seats was not such a bad idea after all. In the last 20 years, that has blossomed. It has made going to our suburban centres and our major group centres—major centres such as Civic, Belconnen, Tuggeranong and Gunghalin—a much more pleasant experience. It looks good, too. You get a good feel for a shopping centre if you see people sitting outside and enjoying themselves—eating, drinking, having a cup of coffee or whatever. To put unreasonable taxes on that is crazy. As much as anything else, I suspect that it might be false economics as well.

Unfortunately, it looks as though the government is not going to back what is a very sensible motion by Mr Smyth. I am pleased to see the attitude of the Greens on this one. It is unfortunate that again we have a government that clearly cannot get its priorities right and seems intent on hammering, especially, small businesses, which are the very lifeblood not only of Canberra but of Australia. That is all you are doing here. Small businesses have to abide by a plethora of rules, some of them quite unreasonable. We constantly get complaints about just how difficult it is for small businesses to spend so much time complying with some of the needless rules that this government puts out and about the effect that some of the taxes, especially some of the huge increases in taxes, has had on them.

In terms of the some of the business taxes, it is interesting to see that Mr Quinlan's statement of early 2005—it is 2½ years since then—seems to be coming true. The government seems to be doing everything it possibly can to squeeze business until it bleeds. If you do that too much, then, when you have a bit of a downturn in the economy, which is inevitable, you will find that a lot of those businesses will be squeezed so much that they will not only bleed but bleed to death. That will have a significant impact on revenue coming into government.

You are setting yourselves and the territory up for a bit of failure. When that affects jobs, which currently are at a premium because we are in full employment, you will have people becoming unemployed. The people who become unemployed are often young people, because young people often get their start by working in the hospitality industry here.

All in all, these huge increases over the last few years are unfair. They are anti-business. They may not be having a huge impact yet, but rest assured that, sure as anything, they will. Mr Smyth's motion is a timely one. You cannot see past your own blinkered stupidity in terms of accepting it, and that is unfortunate. It is a good motion. It is business friendly. It does not call on you to abolish the tax totally. I do not think that even the businesses themselves would necessarily accept that, because, at the end of the day, there is a certain benefit to the business as well as to the community in utilising an outdoor area.

But the tax has to be reasonable; it has to be fair. It should not go up by 139 per cent. It is not, as you say, 100 per cent. You lot still cannot add up; that is painfully obvious and you have made that point again today. The tax has gone up by 139 per cent, but even if it went up by 100 per cent, to take it to $42.80 over three years, that would still be completely unreasonable, especially for a business in an industry where, unlike Brisbane, Sydney, Darwin and Perth, you can comfortably sit outside for only about six months of the year. It is a real shame, but it is quite typical of this government, which clearly has its priorities wrong in many areas, including this one. It seems to take a delight in having a go at business, especially small business, by having such unreasonable increases in a tax on businesses that provide such a great amenity and a great service to the people of the ACT.

MR SMYTH (Brindabella) (11.21), in reply: I thank members, including Dr Foskey, for their support today. What the government is doing is illogical. Mr Hargreaves's response is just classic John Hargreaves: "I have been caught; I am embarrassed; I will not rely on the facts or make a case; I will just get aggressive." He sounds off at all and sundry and he makes preposterous statements like talking about the popularity of the scheme and saying that everybody joined. People did not have a choice; they had to join. They had to have this licence; otherwise you would have shut them down. In terms of the stupidity that we have heard today from the minister, that has to be the corker: "This scheme is very popular, because everybody joined." They did not have a choice to opt out.

What do we know about Mr Hargreaves and his approach to this? Firstly, there is no substantiation of the need, there is no justification and there is no explanation of how this figure was determined. We know why; it is because Mr Hargreaves simply cannot

add up. He has hidden behind the excuse that it is 100 per cent plus CPI, but the explanatory statement for this says: "This increase"—the third increase—"is part of a program to increase these fees by 100% over three years." It does not mention CPI, WPI or AWE.

We have a minister who has been caught out. This is classic John Hargreaves again: "I am caught, so what will I do? I will just dig myself deeper. I can look like a bigger goose than I really am. The justification is that the scheme is successful because everybody joined. I forgot to mention CPI." But if we go back to the CPI for the last three years, it has been 2.3 per cent, 3.5 per cent and three per cent. According to Mr Hargreaves, if you add up 2.3, 3.5 and three per cent, that equals 39. That is what he is saying: "The increase over and above the 100 per cent was CPI, and that is 39 per cent in the last three years." He is just wrong.

This is the most ludicrous piece of mathematics that anybody has ever seen. I note that the minister for education has joined us, Mr Speaker. Perhaps he could take Mr Hargreaves aside. Perhaps Mr Hargreaves could do some of those year 5 or year 7 literacy and numeracy tests—to see what 2.3, 3.5 and three add up to. Mr Hargreaves, it is not 39 per cent.

This is the minister who is making it up as he goes. When he is really caught out, what does he do? He reverts to form. He just verbals somebody. We have said, "Don't put this increase in." He reads that as "Mr Mulcahy is going to get rid of this tax." That is how this government operates. When they are worried, when they are scared, they just make things up. That is what happening here.

Business is asking that you simply keep your word. There was no consultation. To suggest that you sat down and the chamber of commerce made a suggestion that it be put in over three years—that is not consultation; that is implementation. It was a fait accompli. They were simply told, "You get this 100 per cent." Industry said, "Can we ameliorate the impact of this by phasing it in over three years, because we think it is unfair?" The government agreed to that. But to portray that any business group in this city actually wanted a 100 per cent increase—or, indeed, a 139 per cent increase—in a tax—you are just deluding yourself; you are just fooling yourself.

The motion is about keeping your word. Businesses make their plans; they work out what their commitments are. They like to know in advance what they are paying so that they can factor it into their plans. If you had said that it would be 100 per cent over three years, businesses would have gone away and put that 100 per cent into their business plans. If it comes back at 140 per cent, clearly everything is blown out of the water. And you do this against a background where this increase is unnecessary, given the huge amounts of extra cash that this government is rolling in through its rapacious property taxes, its fire levy, its utilities tax, the increases to the water abstraction charges and all the other rates and charges that have gone up under the Stanhope government. I remember the—

Mr Barr: What is the Liberal Party's position on the fire levy now? You are supporting it.

MR SMYTH: You would remember this, Mr Speaker—

Mr Pratt: Why do you call it a fire levy? Why don't you just call it a blood tax?

MR SPEAKER: Order, members! Order, Mr Pratt!

Mr Barr: The tax you now support.

MR SPEAKER: Order, Mr Barr!

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allotted to Assembly business be extended by 30 minutes.

MR SMYTH: Yet again, this is an example of the poor management of the Stanhope government. We have seen the examples that are now littered through this year's budget. Yesterday the Chief Minister tried to tell us that his beds for acute care, for instance, had costed at $150,000.

MR SPEAKER: Order! Come to the subject matter of the question. That is not relevant to this debate.

MR SMYTH: Of course it is, Mr Speaker. It is about the budget figures. We have now got a 100 per cent increase equalling a 140 per cent increase because of CPI, WPI and AWE. The problem here is that the minister has no credibility. He has had no consultation; he has very poor maths skills. There is no substantiation or justification for the increase. In fact, the increase breaks the promise from the 2005-06 budget that the fees would go up by only 100 per cent.

On that basis, this disallowance motion should be agreed to by all members in this place; and on that basis the government should fess up that it got it wrong. It has simply adopted the Ted Quinlan approach of "squeeze them until they bleed but are not quite dead". It should come back to business and say, "We got this wrong. We apologise." If you want to bring back a disallowable instrument to make it 100 per cent, as you promised, I am sure that people would understand that, but people do not deserve to be lumped with a 100 per cent increase in three years in the first place.

I ask members to vote in favour of this disallowance motion—first, to keep the government honest; second, to keep the government to its commitments; and third, to give business—ultimately, small business—in this territory a fair go. We have a Chief Minister who several times in the last couple of months has lamented the poor tax base that he has. He is putting increased imposts on a very narrow base. This is very foolish. As the Leader of the Opposition, Mr Stefaniak, pointed out, a slight downturn can have a dramatic impact on investment, jobs and, indeed, the revenue that you receive.

On all counts, this motion should get up; on all counts, this motion should be supported by all members in this place; and on all counts, the government should go back and give Mr Hargreaves a lesson in elementary maths as to what 100 per cent actually does. And 100 per cent does not equal a 140 per cent increase if you are simply doubling the base.

Question put.

That **Mr Smyth's** motion be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Planning and Environment—Standing Committee
Report 29

Debate resumed from 28 August 2007, on motion by **Mr Gentleman**:

That the report be noted.

MR SPEAKER: I call Dr Foskey.

DR FOSKEY (Molonglo) (11.34): Mr Speaker, I brought on the debate on this very important report today in order to highlight the link between poverty alleviation and public transport during Anti-Poverty Week.

MR SPEAKER: Order! Dr Foskey, you have already spoken on the matter. I call Mr Gentleman.

Mr Gentleman: Thank you, Mr Speaker—

Members interjecting—

MR SPEAKER: No, you will be closing the debate.

Dr Foskey: Mr Speaker, I seek leave to speak again.

Leave not granted.

MR SPEAKER: I call Mr Pratt.

MR PRATT (Brindabella) (11.35): Thank you, Mr Speaker. While the report into ACTION buses and the sustainable transport plan is a welcome start in addressing the many, many issues facing public transport, the report glides over many issues and there are many glaring omissions. I just want to stress the point that this report is titled *ACTION buses and the sustainable transport plan*. I just want to go back and look at the report itself and note that it was on 7 December 2004 that the ACT Legislative Assembly agreed to establish general purpose standing committees, and it was resolved, for example:

> The following general purpose standing committees be established and each committee to inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community:

It stated further:

> a Standing Committee on Planning and Environment to examine matters related to planning, public works and land management, conservation and heritage, transport services and environment and ecological sustainability.

The terms of reference established for this report should, in my view, have taken in more of the elements relative to the ACT's sustainable transport plan than simply referring to ACTION buses. And of course we see in the first element of the terms of reference that the Standing Committee on Planning and Environment "inquire into and investigate the services provided by ACTION buses" and ACTION buses only.

I think that the committee have missed a great opportunity to look at all of the integrated elements of transport in the city. For example, the terms of reference should have included the taxi industry because I believe the taxi industry is an integrated element of the ACT's transport plan. The committee has gone missing in action and failed to address this very, very important issue by focusing simply on ACTION buses. The ACTION bus mass transport plan, on its own, is of little use to the ACT community if we do not also know how the taxi industry and other elements of transportation are integrated with it. So the government has missed the boat on that.

Indeed, we know that the taxi industry in the ACT is in chaos. While we realise that the terms of reference perhaps should have included it, they have not. There is a need for the industry to be included in any sustainable transport discussion. As I say, the government missed the boat on that and it is very sad that, again, the problems we have with the taxi industry are entirely ignored.

A lot of the feedback we are getting from our constituents is that they are deeply dissatisfied with the taxi services available here in the ACT, so why did this committee not wrap up this particular issue and pull that into its terms of reference? And why did the committee not examine the taxi service as an integrated partner, against the background of the services being currently provided by ACTION buses? They did not because they have a narrow-scope approach, as usual.

Mr Speaker, I want to now talk about ACTION buses, of course. I want to look at the question of violence at interchanges and on our buses. Recommendation 47 states:

> The Committee recommends that the ACT Government progress the upgrading, at the earliest opportunity, of the bus interchanges at Woden and Belconnen.

We know—we have talked about it many times in this place—that security at interchanges is an urgent and a major priority in restoring an adequate bus service, now so badly run down, and there is no doubt that, if this recommendation is taken up with due haste, then, yes, eventually the violence issues will be ameliorated. But the problem is that any plans to upgrade bus interchanges are medium to long-term.

Clearly the committee has not identified time frames which will see urgent works undertaken; therefore, we must assume that the violence problem at bus interchanges is ongoing. It is an immediate problem; it is now an in-your-face problem. Sadly, through the report we see little attention granted to how best the government might be encouraged by that committee to address these urgent issues.

We heard again in the news yesterday of another violent assault during daylight hours at the Woden bus interchange that apparently occurred in the last couple of days. There are so many other assaults that are simply not reported. We hear often from parents about their kids; they are concerned about their kids sitting at these bus interchanges between 4 and 5 o'clock. And the concerns are expressed so frequently.

I therefore am disappointed to see no concrete identification in the report about what the CCTV situation is at the bus interchanges, and the only recommendations about CCTVs are those relative to on-bus cameras, rather than cameras inside the interchanges. I remind this place that the minister made a statement in May 2007 that he would be addressing this particular issue, that he would be embarking on a program, but we do not see, in any identification of what that program is, how long it will take, how many cameras are needed, what they will cost and when they will be inserted. So again it is quite disappointing that the report has not picked up on that.

I just want to move on to transport officers. At least the report has quite honestly picked up the feedback from transport officers, bus drivers, about their concerns. I refer to paragraphs 2.11, 2.17 and 2.18. The general comments in the report noted that several submissions refer to the stress that ACTION bus drivers have experienced. While a lot of this stress can be attributed to the reaction of patrons to inadequate timetabling—I have heard from transport officers that they themselves have had to deal too often with the frustration of passengers, deeply disadvantaged as a consequence of the destruction of the timetables after the 2006 rationalisation, the government's rationalisation, which of course is key for cutting services, to cut budgets—I do not see any mention of this in the report.

I do not see the report making an honest appraisal and saying, "As a consequence of the rationalisation exercises of 2006, the timetables have been thrown into disarray." So it is an empty report. Standing up, crowding on buses: yes, we see that. At 2.17 of the report, there is talk about crowding. But, apart from a vain attempt in recommendation 6, there are no concrete recommendations to address the problem of crowding on buses in peak time.

Mr Speaker, let us now look at the rock throwing issue. Yes, the report says what a shame it is that we have got this problem with rock throwing. But again, apart from identifying that there is a problem with rock throwing at buses, the report does not encourage the government on how they might best tackle this problem; what other strategies might there be available. The committee did not inquire into and find other ways of tackling this issue. The committee has skimmed over a major concern, which is the throwing of rocks at buses. I am very pleased to see the government will be holding an inquiry. But, in addition to that inquiry, this committee should have taken the opportunity to make a recommendation. I refer to paragraph 5.99 in relation to that.

I do not see in this report any substantial observations or comments made about alternative clean energy options, clean energy engine technologies. Why has this report not looked down the track and identified the options available around this world in other mass transport systems which, in the long term at least, they could be encouraging the government to take up? There is no mention of that.

In paragraph 5.63, there is mention of the free bike scheme. Well done—beautiful—but we now know that across our city and the town centres we do not have bike racks. So again this integration, the levels—

Mr Hargreaves: You don't need any; you've got two flat tyres.

MR PRATT: That is true. You have only got one, I gather. But, again, we do not see this integrated approach to identifying transport in this town.

The greatest criticism that I have of this report is that this report again hammers the car driver—the punitive approach. I am very pleased to see that my colleague Mr Seselja, in his dissenting report, focuses on this; that this report focuses too much on the car driver, on parking regimes, instead of the more creative aspects of transport. Mr Speaker, this report is short on providing the substantial issues that need to be addressed.

MR HARGREAVES (Brindabella—Minister for the Territory and Municipal Services, Minister for Housing and Minister for Multicultural Affairs) (11.45): I thank Mr Pratt for his emotional commitment to, of all things, public transport. It is quite obvious, by the volunteered declaration on ABC radio this morning that his bike has two flat tyres, that he regrets having the air taken out of his argument.

I congratulate Mr Pratt on identifying, for the purposes of the next ACT election, in the context of public transport, that he has now promised to put bike racks around every town centre in the ACT. So now I will assume, for the sake of the argument, that, since he criticised us for putting 100 into Civic, he is now going to put 100 around all of the other town centres; and we will have to cost that now and put that on top of the bill. So I applaud this initiative on the part of the opposition to put in these bike racks. There will be, Mr Gentleman—what?—a bike rack at the bottom of every driveway, at least where the policeman can park his bike.

Members interjecting—

Mr Pratt: What about your bike racks at Mac House, mate? Transfer those.

MR SPEAKER: Order! Mr Pratt, please! Order, everybody! Mr Hargreaves, direct your comments through the chair and remain relevant, please. It is very hard.

MR HARGREAVES: I will always remain relevant, unlike those opposite, Mr Speaker, and I thank you for the encouragement.

Coming to the report, I actually welcome the input of the committee because we are trying to redesign the bus services in the ACT in accordance with what the

community reckon they need. I was talking to the network designer just the other day, and he congratulated the government on the actual data that it provided him for his work. That designer congratulated the government, therefore, on the collection of that data.

How did we do it? We went out publicly; we had websites; we talked to the bus drivers; we had onboard surveys. Of course, added to that was the information that was gleaned through the committee. So we thank very much the committee for the work that they did so that we could actually have a much greater grip on the issue when we go to the network designer.

I was curious to know whether or not—I know Mr Seselja sat on the committee and put in a dissenting report—Mr Pratt attended the public hearings. I wonder: did he put in a submission? For example, did the Liberal Party put in a written submission? I do not think so.

Mr Pratt: We attended, Mr Speaker.

Mr Stefaniak: Did you?

MR HARGREAVES: Mr Speaker, the Leader of the Opposition asked me: did I? Ours is in the form of the government response. There is a government submission to every inquiry. So the short answer to the Leader of the Opposition's question is yes. The long answer is that I am surprised he did not know that. He has been a minister in this place before and he would know, one would expect—or should know—how the machinery of government functions. I do not know whether he really does. It may be something so far in the distant past that he is going to need some considerable refreshment.

Mr Pratt talks about this—he slags it off. On the one hand, he says, "Bike racks on buses; great idea." On the other hand, he belts them. I do not know sometimes whether he is coming or going—certainly not on one of our buses. This government is committed to a range of public transport initiatives. I have to tell you—and as I said on radio this morning—the provision we are having for cyclists, in my view, is very, very innovative. It may not be leading the country, but it is not far behind.

My colleague Mr Corbell, as minister in the 2001-04 period, introduced on-road cycle lanes. Is that a sustainable transport plan initiative? Yes, it is. He introduced bike racks on buses. Is that a sustainable transport initiative? Yes, it is. Do we introduce CNG gases into buses? Yes. Here stood Mr Pratt, saying "Where is this business about clean engines?" Where is it? CNG buses. That is where it is. Then, again, we talked about T2 lanes. Is having T2 lanes a sustainable transport initiative? Yes, it is. Did the committee look at the sustainable transport plan in the context of ACTION? Yes, it did.

The issue confronting the Assembly is: what is the government going to do about it? Mr Pratt has no right to criticise the work of the committee and say it did not address this or did not address that or did not address something else if he did not put in a submission asking them to do it. He can stand up here, with all the substance of a bucket of popcorn, and it will not make the slightest bit of difference to policy

making into the future. What have made an enormous amount of difference are the initiatives my colleague here Mr Corbell has introduced since 2001 that I am hoping to build slightly upon a little bit further into the future.

Mr Pratt: Do not hold your breath.

Mr Stefaniak: Is there a busway there?

MR SPEAKER: Order! Mr Stefaniak and Mr Pratt, cease interjecting.

MR HARGREAVES: When do I get my boxful of table tennis balls? I have got to get the boxful of table tennis balls. Open up, here it comes.

MR SPEAKER: Direct your comments through the chair.

MR HARGREAVES: Mr Pratt is criticising the work of an Assembly committee. This Assembly committee has given this government an enormous amount of information to move forward with.

Mr Pratt: They wimped.

MR HARGREAVES: In fact, Mr Pratt now refers to the committee as having wimped. Mr Speaker, I think that, whilst it might not parliamentary, it is certainly discourteous, which is to be expected, I suppose.

But the government is moving forward on these transport initiatives. It is moving forward on transport initiatives across the whole spectrum: pedestrians, motorists, bus travellers, bike travellers, motorcycle travellers. It has to be an aggregated and consolidated approach. And I thank very much the committee for the work that they have put forward. It has informed the government. When we come forward with the response, Mr Speaker, you will see the value that the government has taken from that committee report. You will see how, in fact, a committee and an executive can work well together, despite the protestations of the shadow minister for transport and despite the dissenting report of Mr Seselja.

Mr Pratt: We are not excited by the prospect.

MR SPEAKER: Order, Mr Pratt! I have called you to order before.

MR HARGREAVES: And screaming at me across the chamber is not going to alter the credibility of the committee one bit. We know—the government knows—that this committee report is a particularly valuable one. What is the real reason why they do not like it? Because Mr Seselja put in a dissenting report, probably dictated by somebody across the chamber, I expect.

Mrs Dunne: On a point of order, Mr Speaker.

MR SPEAKER: Withdraw.

Mrs Dunne: That is an imputation against the independence of the member.

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

MR HARGREAVES: I withdraw the word "probably", Mr Speaker.

MR SPEAKER: Just withdraw unequivocally, please.

Mr Pratt: Clean it up, John. Clean it up.

MR SPEAKER: Mr Pratt, sit down. Mr Hargreaves, just withdraw.

MR HARGREAVES: I withdraw that comment unreservedly, Mr Speaker.

MR SPEAKER: Thank you.

MR HARGREAVES: What I was actually going to do—and this is not a qualification—was applaud Mrs Dunne. We have served on the very same committee in the past. I know that she has a very good command of public transport issues and I have respected her opinion in the past, in particular as it related to taxi issues, as she will know. It is a bit of a shame that I do not have the same respect for my colleague across the chamber, because all he can do is interject and scream at me. Okay then; he is not going to do it.

Mr Speaker, I congratulate the committee—at least two-thirds of it—on a job well done.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services, Acting Minister for Health and Acting Minister for Disability, Housing and Community Services) (11.54): I would just like to join my colleague in welcoming the report prepared by the Standing Committee on Planning and Environment into sustainable transport. It was indeed very timely that there was an Assembly investigation into this issue, because this is without a doubt one of the most significant issues facing our city, for two reasons. First of all, as the city grows and develops, the ability for us to rely on individual motorised transport as the most effective way to get around the city in all instances will lessen because of increased levels of congestion, increased levels of growth in certain locales around the city, and that presents challenges in terms of managing growth and responding to changes. The other significant issue, though, is the contribution that motorised transport makes to our greenhouse gas emissions. And in Canberra, as members should be aware by now—

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the resumption of the debate be made an order of the day for the next sitting.

Planning and Environment—Standing Committee
Report 30

MR GENTLEMAN (Brindabella) (11.58): I present the following report:

> Report 30 of the Standing Committee on Planning and Environment entitled *The proposed nomination of the ACT as a UNESCO biosphere reserve*, dated

> 15 October 2007, together with a dissenting report and a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MR GENTLEMAN: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MR GENTLEMAN: I move:

> That the report be noted.

I am pleased to advise the Assembly that, having inquired into the proposed nomination of the ACT as a UNESCO biosphere reserve, the Standing Committee on Planning and Environment recommends that the nomination proceed, with a nomination document being lodged with UNESCO by December 2008. The committee also recommends that the ACT government develop and implement an effective communication and consultation strategy. One aim would be to secure support for the proposed nomination from stakeholders such as the traditional owners in the ACT, the Ngunnawal people, and also young people and the broader community. This is because the committee appreciates that there are still highly variable levels of understanding about biosphere reserves in the ACT community.

Biosphere reserves are areas recognised as such by the international coordinating council of UNESCO's man and the biosphere program. UNESCO, as members would know, is a specialised agency of the United Nations. Its main aim is to promote world peace and security through education, science, culture and communication. The functions of a biosphere reserve are to foster sustainable economic and human development; to support demonstration projects, environmental education and training and scientific research and monitoring; and to contribute to the conservation of genetic resources, species, ecosystems and landscapes.

The committee supports the nomination and listing for various reasons. Biosphere reserves recognise landscape scale land use planning, which helps to sustain ecosystem services and ecosystem resilience under climate change. The committee agrees with stakeholders that the Griffin vision for a sustainable Canberra, and Canberra's modern urban planning, warrants international recognition. The committee sees the process for nominating and implementing the biosphere reserve as a vehicle for encouraging Canberra to become a more sustainable city. This is also one of the key motivations for the proposed nomination that many stakeholders identified. A nomination and listing may stimulate behavioural change and help to grow the educational institutions, agencies and companies working on sustainability issues in the region.

Debate over a proposal to nominate the territory may help to build networks among stakeholders that will help grow a sustainable economy, improve equity and deliver environmental benefits to future generations. Local wine, food and tourism sectors may most readily benefit, but these are a relatively small component of the ACT economy. Through heightened awareness, stakeholder networking and drawing on research expertise, a broader range of local businesses and research institutions, particularly in the more significant public sector, property and business services and retail sectors, could potentially secure sustainable advantages.

The proposed biosphere reserve nomination might promote greater respect for Indigenous heritage values and other positive outcomes for the local Indigenous community. An exciting opportunity exists for the attribution of an appropriate Indigenous name for the proposed ACT biosphere, just as we see in Barkindji, Croajingalong and Uluru-Kata Tjuta biosphere reserves.

The committee has also recommended that the nomination proceed partly because there are high levels of support for the proposed nomination amongst many community organisations and three of the four universities in the territory. The committee received more than 30 separate expressions of support from individuals and organisations for the nomination, including in submissions, at a roundtable the committee hosted last year and in public hearings, as listed in pages 17 and 18 of the report. This is very significant considering that it was not the committee's role to promote community engagement with and awareness about the proposal.

The committee found that biosphere reserves are a relatively low profile and even a neglected component of Australia's suite of policy responses to the sustainability challenge. The committee has made a range of recommendations which suggest that this situation should be redressed. For example, several recommendations deal with the revitalisation and reform of governance mechanisms for biosphere reserves in Australia and for the proposed ACT biosphere reserve.

The committee recommends that the Minister for the Environment, Water and Climate Change write to the Australian government ministers for the environment and water resources and for foreign affairs, requesting that a broad ranging review of UNESCO biosphere reserves in Australia be undertaken. As a contributing process for the national review the committee recommends that the ACT government seek Australian government and private sector financial support for the convening of a national conference on biosphere reserves in Canberra. The main aim of this conference would be to develop a strategic framework for biosphere reserves in Australia. Although 2007 is already well advanced, this national conference could inform Australia's contribution to the third international congress on biosphere reserves which will be held in Spain early next year. A national conference after the congress could also contribute to the early implementation of the proposed Madrid declaration and Madrid action plan.

For the administration of the local biosphere the committee recommends that the Commissioner for the Environment Act be amended and that additional resources be provided to the Office of the ACT Commissioner for Sustainability and the Environment to enable the commissioner to chair the ACT biosphere reserve steering

committee and broader biosphere partners association. The committee suggests that to build on existing partnerships for sustainability the Commissioner for Sustainability and the Environment be asked to develop, in consultation with stakeholders, a cooperation plan for the proposed ACT biosphere reserve, having considered Canadian precedents and with provision for regular review and amendment as the need arises.

In the committee's view, mechanisms to manage activities in the proposed biosphere reserve are already in place. The region, territory and local scale land use laws and policies that apply for the conservation of biodiversity and sustainable development in the ACT are detailed and substantial. ACT planning law and policy already recognises the importance of the ecosystem approach and wildlife corridors for biodiversity conservation and sustainable development.

While the committee recommends that the territory be nominated and that negotiations be entered into with New South Wales about a cross-border biosphere reserve, we also raise the prospect of a larger biosphere over time. The committee recommends that local governments in the capital region, the Capital Region Development Board and the Capital Region Area Consultative Committee be invited to discuss a possible biosphere reserve for the capital region.

In summary, the committee considers the proposed nomination and listing as likely to lead to local, regional, national and international biodiversity conservation benefits and intergenerational benefits and that it would be a tangible response to climate change.

The committee thanks the many stakeholders who participated in this inquiry and contributed to the report. The valuable views and insights that they have shared are noted throughout the report. I would also like to thank the Assembly's Committee Office for their assistance throughout the inquiry and in particular to the committee secretary Hanna Jaireth and the administrative officers Lydia Chung and Mary Goring. I would also like to thank my committee colleagues Ms Mary Porter and Mr Zed Seselja for their input into this report. I commend the report to the Assembly.

Debate (on motion by **Dr Foskey**) adjourned to the next sitting.

Occupational Health and Safety Amendment Bill 2007
Detail stage

Clause 18.

Debate resumed from 27 September 2007.

DR FOSKEY (Molonglo) (12.06): With regard to Mr Mulcahy's opposition to the strict liability clauses, it would seem that he either is not aware or does not care about the problems with section 48 of the OH&S Act and the various sections of the Dangerous Goods Act which engendered these amendments. As currently worded, the legislation renders essentially redundant the absolute liability which applies to the first element in each of these offences. If Mr Mulcahy thinks that absolute liability should not apply to the first element in each of these offences, why does this amendment not

include the repeal of the absolute liability provisions that apply to each of these offences? Leaving it as it is creates ambiguity, and it is poor drafting practice to allow provisions which are redundant to remain on the statute book.

Mr Mulcahy is asking us to approve a law that would allow a person who either causes death, in the case of section 44 of the Dangerous Goods Act, or who exposes other people to a substantial risk of death or serious harm, to escape liability if they are able to convince a court that they had no knowledge that they were required to comply with a safety duty in the first place. That is a remarkable proposition. We are not talking about stubbed toes, bad smells or slippery floors. We are not even talking about a far-fetched possibility of injury. We are talking about a substantial risk of death or serious harm. Each of these factors would have to be proven beyond reasonable doubt by the prosecution.

For some of the other sections dealt with by these amendments the prosecution would have to prove that there was a substantial risk of serious harm, not just a risk of vague harm. Serious harm is defined in the Criminal Code as harm that (a) endangers or is likely to endanger human life or (b) is, or is likely to be, significant and longstanding. This sets the bar very high. If the prosecution could not prove all of these elements, it would be left with a prosecution under section 47 of the OH&S Act, which actually is a strict liability offence. But it only carries a maximum penalty of 100 penalty points. This is a woefully inadequate penalty for a person who created the kinds of deadly situations that would be prosecuted under the provisions that Mr Mulcahy is trying to weaken with his amendments.

So I have to wonder which of his constituents Mr Mulcahy is trying to protect with these amendments. Is it a mere coincidence that these amendments would protect employers who maintain unsafe work sites? These amendments would actually endanger the bulk of employees and other people who may be exposed to serious risk from the deliberate, negligent or reckless actions of people who are under a safety duty. If these offences were wholly strict or absolute liability offences, I would agree with Mr Mulcahy's amendments; it would be inappropriate to have such serious penalties without a qualifying mental element to the offence. But these are not strict liability offences; they already possess a mental element. The prosecution still has to prove that a defendant was reckless or negligent in creating such a serious risk. These amendments simply remove the possibility that a person who caused such a serious danger can argue that they should escape punishment because they were not aware that they had a duty not to create a serious risk. Alternatively, they can convince a court that there is a lack of evidence to prove beyond reasonable doubt that they were so aware.

I agree with the Attorney-General that it should not be a relevant factor whether a person is aware of his or her safety duty. It defies reason and any sense of social responsibility to suggest that a person should be allowed to put other people in such serious danger and escape punishment by arguing that he or she was not aware that they should not have done it.

Mr Mulcahy may be concerned that a person could receive an unduly harsh sentence if these strict liability clauses go through. But it is naive to imagine that a judge would impose an incredibly harsh penalty simply because the maximum available penalty

gives them the ability to do so. In fact I am constantly hearing the Liberals complain that judges do not give harsh enough penalties. If the circumstances of a particular prosecution contain extenuating circumstances and lessen the culpability of an offender, a judge will presumably have their attention drawn to those circumstances and adjust their sentencing accordingly.

Mr Mulcahy: I raise a point of order, Mr Speaker, under standing order 62. I understand the remarks we are hearing today from Dr Foskey are identical to a speech that she has previously delivered here and I would suggest that under standing order 62 the member should be asked to finish.

MR SPEAKER: This could rebound, you know: tedious repetition. Keep in mind standing order 62 which requires members to avoid tedious repetition.

DR FOSKEY: I hate to hear my repetitions called tedious, Mr Speaker.

Mr Mulcahy: Well, there is a standing order dealing with this, Mr Speaker, and Dr Foskey needs to respect it.

MR SPEAKER: Order!

DR FOSKEY: I have never read this speech before, Mr Speaker.

Mr Mulcahy: Seeing she is so keen for other people to understand the law, she ought to understand the standing orders.

Mr Barr: I think you did call me the Attorney-General last time. That was what twigged it for me.

DR FOSKEY: Okay, is that right: I used that word again.

Mr Mulcahy: It is the same speech.

MR SPEAKER: Order! I cannot make a judgement on whether it is the same speech or not, but just keep in mind the standing order, Dr Foskey.

DR FOSKEY: I agree that both carrots and sticks are required to create a safety culture, particularly where private businesses are concerned. Most of these provisions aim to put employers on notice that they must provide a—

MR SPEAKER: Is that the same speech, really?

Mr Mulcahy: It is the same speech.

Mr Barr: It is, yes.

DR FOSKEY: Well, I am so sorry if it is, but it is unintentionally the same—

Mr Mulcahy: Well, you cannot under the standing orders. Mr Speaker, it is acknowledged now by Dr Foskey as the same speech. There is a standing order dealing with this and I would ask that you direct her to finish her remarks.

MR SPEAKER: It is inappropriate to deliver the same speech twice.

DR FOSKEY: There was no intention. I did not deliberately, and I apologise to members for boring them with my tedious repetition.

MR SPEAKER: No, I was not bored, but I had not heard it. I did not remember it in the past, but Mr Mulcahy obviously—

DR FOSKEY: Mr Mulcahy no doubt was listening to every word the first time.

Mr Mulcahy: I was; otherwise I wouldn't have called the standing order.

Mr Barr: The only reason it twigged with me was that last time you called me the Attorney-General—and I am not—and you did it again then, with the same—

DR FOSKEY: I hate it when we adjourn debates.

MR SPEAKER: I think Dr Foskey has acknowledged that it is the same speech, so I will proceed from there.

MRS DUNNE (Ginninderra) (12.13): I suppose to some extent this will be repetitious but not in relation to this. It is stating the Liberal Party's position about absolute and strict liability offences. The idea that there would be such substantial punishments for a strict liability offence is completely—

Mr Barr: You said this last time too.

MRS DUNNE: I have not spoken in this debate but I do speak on this matter on a fairly regular basis. Dr Foskey put forward the idea that for the most part there are nefarious employers out there and if you take away the strict liability offence they will get away scot-free. The thing is that what we actually—

Dr Foskey: I do not think that is what I said at all.

MRS DUNNE: That is the quick summation of Dr Foskey's rather tedious and repetitious speech—that, because it may be difficult to prosecute people or it may be inconvenient to prosecute people, we will not; we will just use strict liability offences.

Let us talk about what these things are. A speeding fine is an absolute liability offence. You have done it, there is evidence you have done it and you have to go and prove to the court that you have not; otherwise you pay the fine. But a speeding fine does not send you to jail and it does not bankrupt you.

There is a range of strict liability offences, and we have debated those in this place on a number of occasions. On occasions the government has seen the merit of the argument we have made in relation to strict liability offences and has qualified its blanket strict liability offences to say, for instance, in, I think, some of the environment legislation—I think the plant or animal diseases legislation—that, if somebody in the course of their business should have known these things, that was a strict liability offence but it was not a strict liability offence for other people.

Strict liability offences can be dealt with in a way that is fair to people. But one of the basic rules that we should have as legislators is that you cannot send people to jail or impose disproportionately large fines for a strict or an absolute liability offence. This is not the way the justice system in Australia and in commonwealth countries works. What Dr Foskey is basically saying is that there is no place for prosecutors to demonstrate and prove their case. It is not because in many ways Dr Foskey is in favour of strict liability offences, because on occasions she has, in fact, supported amendments by me to water down strict liability provisions in other legislation. It seems to be ideological: "This is occupational health and safety and this is about employers versus employees and employers are ipso facto bad people and we should find every opportunity to lock them up." This is what this is about.

The Liberal Party have a very principled position on this: we do not believe that strict liability offences should be in place at such a level that it sends people to jail. We will continue to hold this position and the government, if it were a just policymaker, a right policymaker, would support these amendments. A government that has as part of its modus operandi to put people into jail in circumstances where the reverse onus of proof is engaged is absolutely wrong and it is a serious infringement of people's liberties. This is not just my view. If you read the comments of the scrutiny of bills committee, even out of season, the advisers to the scrutiny of bills committee are constantly drawing this place's attention to this government's propensity to introduce strict liability offences—and this is probably one of the worst that we have seen because here we have jail sentences attached to it.

Clause 18 agreed to.

Clause 19.

MR MULCAHY (Molonglo) (12.19): As we discussed in the Assembly on 27 September 2007, which makes it very clear that my speech today is not a repeat, the government's Occupational Health and Safety Amendment Bill, if passed without amendment, will impose strict liability on important elements of occupational health and safety offences in the ACT.

These changes are draconian amendments which violate basic principles of criminal law and human rights principles and I am therefore surprised that Mr Barr, who comes in here so often and champions human rights, emulating his leader, is so quick to dismiss them through these legislative measures. They allow a defendant to be imprisoned for up to five years for negligent conduct even where there is no guilty mind. The amendment proposed by the opposition will remove the change to strict liability and allow defendants in prosecutions for these offences to enjoy the presumption of innocence to which defendants in other serious crimes are rightly entitled.

I will now address some of the government arguments about alleged confusion. In his speech on this bill on 27 September Mr Barr tried to convince the Assembly that the issue of strict liability was all just a big misunderstanding. He stated in his speech:

> … there remains a level of confusion surrounding strict liability in the territory.

If there is confusion, it is the confusion of the minister—not the opposition. The minister stated in his speech:

> This bill does not introduce a reverse onus of proof regime for safety duty offences in the OHS act.

This statement is patently false. The addition of a strict liability to the second element of the offences clearly reverses the onus of proof for the intention element that previously applied to this element of the offence. Instead of the prosecution having to prove intention for this element of the offence, the onus of proof is now on the defendant to prove a defence to this element.

In commenting on the draconian workplace regime operating in New South Wales, the minister agreed that there is no deterrent effect in reversing the onus of proof, and in support of this contention he stated:

> … Chris Maxwell QC, in a review of the Victorian OHS legislation, noted that there is no demonstrated deterrent effect in shifting the onus of proof to the defendant in OHS prosecutions.

Yet only minutes later the minister attempted to justify the changes precisely on the grounds of deterrence. He stated:

> The justification for the inclusion of strict liability into the second elements of the offences in the bill is, in essence, the need to ensure that people who have control over the generation of risks in a work environment at all times act appropriately to minimise, as far as possible, the risk of harm to people. The government considers that the public interest is best served by ensuring that these risks are minimised through establishing a regulatory regime that encourages duty holders to develop a safety culture or run the risk of being found in breach of the legislation. Fostering of this safety culture would be more difficult to accomplish without the use of the strict liability elements in the offences.

I will now address Dr Foskey's confusion. I note that Dr Foskey's interest in this debate is such that she has now left the chamber. Despite the evidence against the existence of any deterrent effect, Dr Foskey also tried to defend the changes to strict liability on the grounds of deterrence. She said:

> I am concerned that the omission of this clause would actually endanger the bulk of employees and other people who may be exposed to serious risk by the deliberate, negligent or reckless actions of people who have a safety duty.

Dr Foskey is even more confused on this issue of what is a mental element. She stated in her speech on the bill, which we were presented with a rerun of today:

> If these offences were wholly strict or absolute liability offences, then I would agree with Mr Mulcahy's amendments. It would be inappropriate to have such serious offences without a qualifying mental element to the offence. But these are not purely strict liability offences; they already possess a mental element. The prosecution still has to prove that a defendant was reckless or negligent in creating such a serious risk.

I hate to break it to Dr Foskey, but negligence is not a mental element. The existence of negligence as a sufficient criterion for successful prosecution means that these changes will allow a defendant to be convicted without any mental guilt on the basis solely of negligence. Dr Foskey might want to talk to Mr Stefaniak; he is a qualified solicitor and he can give her some advice about these legal issues that she is struggling with. If Dr Foskey is serious about her statement that it would be inappropriate to have such serious penalties without a qualifying mental element to the offence, she should join with the opposition in voting in favour of the proposed amendments to the bill.

I will now address some of the government's arguments relating to the seriousness of offence. Both the government and Dr Foskey seem to agree that removing basic elements of intention in the criminal law is legitimate whenever a criminal act has the potential to harm people. But of course there is harm. Are we honestly to believe that there is less harm caused by other serious criminal offences such as assaults, rapes and murders? If this precedent is allowed to stand in the ACT, there is no reason to suppose that we cannot remove protections to defendants willy-nilly whenever we think that the offence is serious.

By the same logic, the government could remove the onus of proof of intention for murder or rape, both of which are surely also extremely harmful to the victim. This is the exact opposite of the correct approach. It is precisely because these are serious offences, precisely because they carry serious penalties, that we must be most vigilant in ensuring that the defendants are protected by a presumption of innocence and an onus on the prosecution, not the defendant, to prove that the defendant had a guilty mind.

The minister's contradictory statements on this issue are a poor attempt to justify this government's war on employers and a poor excuse for its violations of basic principles of criminal justice. The bill makes a mockery—

Mr Barr: It's a war on everything, led by the Chaser boys.

MR MULCAHY: The minister is dismissive of this. As I left my office a minute ago I had a businessman from Campbell expressing his absolute frustration at his inability to get officials of your department to give him advice on workers compensation. They will not give correct advice or interpretation. The government say they are going to have these punitive approaches to employers, yet they run for cover when people call up and want some sensible advice. This is reckless and irresponsible in the extreme and it is something we will be addressing in our policies going to the next election because it is a completely unreasonable, unfair situation to say on the one hand to people that they had better stick by the law or they can be put in jail, but when people ring up for advice they are told: "Look at the act. We do not give out advice."

As I said, the minister's statements are a poor attempt to justify the government's war on employers and a poor excuse for its violations of basic principles of criminal justice. The bill makes a mockery of the government's supposed human rights credentials. It is a clear demonstration that such concerns go out the window when the government is dealing with employers and other parties.

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 12.27 to 2.30 pm.

Questions without notice

Emergency Services Agency—funding

MR STEFANIAK: My question is to the minister for emergency services. Minister, on 30 August this year you were asked a question without notice on the budget outcome of the Emergency Services Agency. The question was asked after you had said earlier:

> The ESA came in on budget this financial year … It was on budget for the first time in three years.

Minister, we know that the actual outcome for the agency was that it overspent for the third consecutive year, this time by $3 million. We know this because the agency sought funds from the Treasurer's advance. In your reply to the question, however, you said:

> The money was not required.

In fact, the reason that the additional funds were not required was that "the associated costs were able to be managed by the department". Minister, why did you provide incorrect information to the Assembly on 30 August?

MR CORBELL: I did not, Mr Speaker.

Health—oral and maxillofacial surgery

MRS BURKE: My question is to the Acting Minister for Health, Mr Corbell. Minister, have you approached any oral and maxillofacial specialist surgeons with a view to establishing a dedicated unit for access by the general public at the Canberra Hospital? If not, why not?

MR CORBELL: Since I have been acting minister, no, I have not.

MR SPEAKER: Supplementary question, Mrs Burke?

MRS BURKE: Thank you, Mr Speaker. Minister, will you therefore now give a commitment to this Assembly and to the people of Canberra that this unit will be established by 1 December 2007? If not, why not?

MR CORBELL: I thank Mrs Burke for the question. It is a very simplistic ask, but it is like everything that we hear from Mrs Burke: she always seeks to couch these questions in simplistic terms.

I have explained the circumstances that the ACT government is facing in relation to the provision of oral and maxillofacial surgery at the Canberra Hospital. We are reliant upon the consent and the agreement of the surgical specialists involved.

As I advised the Assembly earlier this week, the matters relate to effectively a demarcation dispute between the two surgical specialties on roles and responsibilities for different types of procedures within our health sector. We are working constructively and taking a leadership role in trying to bring those surgical specialties to a consensus and to facilitate that consensus on the appropriate role that each surgical specialty will perform. Until we have reached that agreement, it is not possible to simply impose a solution from above. I have said that previously and I reiterate it again today.

The time frame Mrs Burke seeks is not a time frame that I can give any indication on, simply because we need the agreement of those surgical specialties. What I can assure the Assembly of is that we are seeking to reach that agreement as soon as possible.

Budget

MR MULCAHY: My question is to the Treasurer. Treasurer, in your media statement of 2 October 2007 you spoke of further expenditures "on top of those announced in the budget, particularly in response to work that had not yet been concluded by budget day". During the budget process—and I include the introduction of the appropriation bill, the estimates committee hearings, debate of the bill and your decision to shut down the debate—why did you not reveal that your government was actively considering further spending beyond that which was presented to the Assembly?

MR STANHOPE: The shadow Treasurer goes again to the issue of the debate on the budget being closed down.

Mr Corbell: Eighteen hours.

MR STANHOPE: Yes, there were 18 hours of debate on the budget. The great difficulty in the budget debate—

Opposition members interjecting—

MR STANHOPE: It extended over three days. There was more time allowed for debate on this year's budget than, I think, ever before. It took longer. Of course the difficulty that the opposition faced in relation to the debate on the budget this year was that, because of the continuing simmering leadership tensions, every time the shadow Treasurer—

Opposition members interjecting—

MR STANHOPE: Go back and look at the *Hansards*. Every time the shadow Treasurer, Mr Mulcahy, spoke to an item—and of course it was Mr Mulcahy's bill, Mr Mulcahy's responsibility—

Opposition members interjecting—

MR STANHOPE: Just go through the 18 hours of debate. Mr Mulcahy would speak for his 20 minutes, his backside would barely manage to hit his seat before the most recently deposed leader Mr Smyth was on his feet, on the same subject—

Mr Barr: Another leadership speech, eh?

MR STANHOPE: Yes, another leadership aspirant. Of course you do need to understand the dynamic, which is that it was Mr Mulcahy that knocked off Brendan Smyth in order to allow Mr Stefaniak to take the position, in the expectation that Mr Stefaniak would then support him for the deputy leadership and into the future.

Mr Pratt: I have a point of order, Mr Speaker, under 118, relevance.

MR STANHOPE: These things are relevant in the context that the shadow Treasurer raised the issue of time devoted to the debate. He raised it himself. He invited me, in raising it, to respond to the length of time allowed to debate the budget. And the explanation? There was sufficient time. If the opposition cannot, in 18 hours provided to it, debate or explain cogently its position on the budget, no amount of time would have been sufficient. The issue that the opposition faced in the budget debate was that every time the shadow Treasurer sought to deliver a position on behalf of the Liberal Party or the opposition, his opponents for the leadership, most notably Mr Smyth, jumped to their feet and repeated, or tried indeed to exceed, the position, to thump their chests to show the extent to which they were a far superior candidate for the leadership.

On the question of the possibility of additional expenditures, I think every government considers from time to time throughout the course of a year, budget to budget, the potential that exists or the capacity that exists to meet other community priorities. In relation, for instance, to that government—and that Treasurer to which Mr Mulcahy shows continuing and deep deference, Peter Costello—and the Prime Minister of Australia, is it seriously suggested by Mr Mulcahy in this question that the position pursued by the Prime Minister and by Mr Costello in non-budgeted, non-appropriated announcements—

Mr Mulcahy: The $34 billion in tax cuts.

MR SPEAKER: Order, Mr Mulcahy!

MR STANHOPE: Well, that was an election promise, the $34 billion—

Opposition members interjecting—

MR STANHOPE: Let us go back—

Opposition members interjecting—

MR STANHOPE: I am not talking about in election campaigns. That was an election promise. I am not talking about the $34 billion. Let us go back, say, to the $10 billion for the Murray-Darling. Go back to the announcement by the Prime Minister and the federal Treasurer, outside the budget context but within the budget period. Irrespective of what was contained within the federal budget, the Prime Minister and the federal Treasurer felt no inhibition in saying: "Oh, well, that's the budget. We put that to bed last week and I now announce today that the commonwealth will over the

next 10 years spend $10 billion in dealing with issues in the Murray-Darling basin." That was quite legitimate, caused absolutely no—

Mr Mulcahy interjecting—

MR STANHOPE: Mr Mulcahy makes the point that that was an announcement made actually before the budget—

MR SPEAKER: Order, Chief Minster! Has this got anything to do with the question?

Opposition members interjecting—

MR SPEAKER: And, please, members of the opposition, stop interjecting. I don't want to have a repeat of yesterday.

MR STANHOPE: It has. It is by way of explanation of the position that the ACT government is adopting and I am emulating Mr Mulcahy's two heroes, John Howard and Peter Costello, in at least considering the possibility of seeking to meet emerging community priorities outside the budget process.

Mr Pratt: You are secretly in love with John Howard!

MR SPEAKER: Order, Mr Pratt! Cease interjecting.

MR STANHOPE: If I do decide to do that, I would do it through a second appropriation rather than just off the top of my head.

Mr Pratt: Everything else is done in secrecy.

MR SPEAKER: Order, Mr Pratt! That's twice. Supplementary question, Mr Mulcahy?

MR MULCAHY: Treasurer, on what date following the budget were government departments told to prepare proposals for additional expenditure to be considered by cabinet?

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

Pace egg farm

DR FOSKEY: My question is to the Chief Minister. It concerns his undertaking to implement a suite of measures to phase out battery cage farming in the ACT. Minister, in your press release you undertook to negotiate with Pace Farm, to write to other agriculture ministers and procure only barn or free range eggs. Could you please convey to the Assembly how the negotiations are going, what responses you have had to your letters and when procurement measures will be implemented?

MR STANHOPE: Thank you, Mr Speaker, and I thank Dr Foskey for the question. Dr Foskey, following the announcement I made in relation to the government's position in relation to battery cage egg production, I sought a meeting with Pace Farm.

The meeting has occurred. The meeting was with the general manager of Pace Farm and, indeed, with the Chief Executive of the Australian Egg Corporation. We discussed at length the government's proposal, the rationale for the position that we have taken and the $1 million offer which is on the table to facilitate a change in egg production methodology by Pace Farm within the ACT.

Pace Farm and the Australian Egg Corporation responded in detail to the issues, as they saw them, that impact on the egg industry within Australia. No position, hard and fast, was put around whether or not the offer would be accepted. Issues in relation to the offer were put to the government to which I undertook to give further consideration.

There were some market force issues and market issues brought to my attention in relation to battery egg production as against cage as against free range. An issue that was put to me, Dr Foskey, as an issue of significant difficulty to Pace Farm in relation to the transitional funding offer was the very small barn egg market that exists in Australia. Whilst 75 per cent of all eggs consumed domestically are battery eggs, 21 per cent of the remaining 25 per cent are free range eggs. Only four per cent of the Australian egg market is barn eggs.

The difficulty that Pace Farm faces is a concern that whilst there would be some attraction in converting to free range there is very little market attraction in converting to barn. The siting and the facility of the area of land available to Pace at Parkwood would potentially not permit them to convert to free range. This is a significant issue. We undertook to discuss it further.

There is almost no market in Australia for barn eggs. Pace Farm informed me that they would not take on their own behalf a commercial decision to convert the Parkwood facility to barn because they did not believe there would be a market for the eggs. They could convert the facility to barn, but there would be real difficulty in selling into a market with only four per cent market share. That was one of the issues we discussed. We undertook to discuss it further.

The position was put to me around the different animal welfare aspects of all forms of egg production. Both Pace and the Australian Egg Corporation put to me a range of concerns within the industry about some of the animal welfare issues attaching to barnyard production. In that context, Dr Foskey, I have agreed with Pace and with the egg corporation to undertake a quite intensive investigation or inspection of barn, free range and cage facilities within New South Wales. I am seeking to arrange that. I would be more than pleased, Dr Foskey, if you were interested in joining me on that inspection visit. I extend the invitation also to the Liberal Party.

DR FOSKEY: In the event that these measures prove fruitless in implementing your stated aim of phasing out battery cages, how long will we have to wait until you reconsider legislative action?

MR STANHOPE: Thank you, Dr Foskey. Other steps that I have taken include approaching each of my ministerial colleagues in relation to their ministerial responsibilities in the context of the undertaking I made that the ACT government would no longer utilise in its facilities battery cage produced eggs. We have those

measures in hand. There are certain investigations that officials will have to take in relation to existing contracts, et cetera, et cetera, but we have started the process of ensuring that the ACT government will, in future, not use battery cage eggs.

As I have indicated previously, I have undertaken to seek to have the issue of a uniform Australian position aimed at phasing out egg production put on the agenda of COAG. There will not be a COAG meeting—I do not think that that correspondence has been prepared yet—in the context of a federal election. At this stage, no COAG meeting is scheduled. I will certainly meet that undertaking. I will write to the Prime Minister. I will seek to have the issue considered by heads of government. I will also—and I must say, I will have to take some advice on where the department is up to in relation to this—seek, similarly, to have the issue discussed by primary industry ministers, as I undertook.

There are, Dr Foskey, in relation to many ministerial councils, only one meeting a year. I think it quite likely that the primary industry ministers council will probably only meet once in 2008. At this stage, that meeting has not been scheduled, but I will do everything in my power to ensure that the issue is placed on the agenda—if I can succeed with that—at the next meeting of primary industry ministers. That just gives some indication of time scales and time frames. Those undertakings I made will be met, but the time frame stretches well into next year. I have no intention at this stage of wielding a big stick and suggesting to Pace that I am not prepared to discuss or I am not prepared to consult. I am not going to wield a big stick and thump them into submission. I do not believe that we will achieve a reasonable outcome by my adopting that sort of attitude on any negotiations with Pace or the Australian Egg Corporation. I have entered those conversations in good faith, as have they. The conversations were constructive and cordial, and I intend to continue in that way.

Planning—Casey

MR SESELJA: My question is to the planning minister. Minister, on 3 October, on WIN News, when answering criticisms regarding lack of land release, you said:

> We're looking to tackle housing affordability from a supply side to increase the number of blocks that are available.

In the same interview, as an example of tackling the supply side, you cited the proposed suburb of Casey. Minister, exactly how far has planning for Casey progressed and when can we expect to see Canberrans moving into the new suburb?

MR BARR: My understanding is that planning is very well progressed in terms of the suburb of Casey. In the next 12 to 18 months we are looking to see construction commence on dwellings in that area. There is, of course, a bit of work that needs to precede that, but as part of the government's approach to addressing housing affordability on the supply side we are proceeding with a number of land releases. I do not have the fine detail of that in front of me, but I am more than happy to provide to the shadow minister some further information on the schedule of releases.

The vast majority of this work sits in the portfolio of the Chief Minister, through the Land Development Agency. However, from the planning perspective, I did indicate in

my statement of planning intent earlier this year that I would be tasking the planning authority with providing five years of planning-ready land so that we would have 11,000 lots available at that planning ready stage to be able to pass on to either the LDA or private sector developers to get to market so that we are able, as I have indicated very firmly, to address this issue from the supply side. It is, of course, important that we continue those efforts and that we do have in place five years supply of planning-ready land. That is the intention of the government.

MR SPEAKER: Supplementary question?

MR SESELJA: Thank you, Mr Speaker. Minister, doesn't your citing of Casey, a development that is years away, simply highlight the fact that very little has happened and is happening now to improve the situation that your government has created?

Mr Corbell: That shows you have no idea how land development works.

Mrs Dunne: You have no idea how to do it. That is why you are not doing it anymore.

MR SPEAKER: Order! Mrs Dunne!

MR BARR: In response to the shadow minister's question, the government is getting on with the supply side solution to housing affordability issues. We have introduced the most comprehensive affordable housing action plan of any jurisdiction in Australia. We are working in partnership with both the LDA and private sector land developers to ensure that this year we have more than 3,000 blocks available.

There are a number of new suburbs coming on line in Gungahlin. I have also announced that we have begun the consultation in partnership with the National Capital Authority in relation to the Molonglo Valley development. I have also made an announcement in relation to the commencement of planning studies for the East Lake region, to provide further housing within a 7½ kilometre radius of the city.

It is, of course, important that we do not have in place only plans for the short term. An example is the land release in west Macgregor that the Village Building Co is undertaking work on. I have also recently released a variation to the territory plan for the former Australian Heritage Village site in north Watson to make that available for more affordable housing.

Mrs Dunne: How long has that taken? It has been in the offing for years. We have been waiting for you to do that for years.

MR SPEAKER: Order! Mrs Dunne! I warn you, Mrs Dunne. Cease interjecting.

MR BARR: The problem that the shadow minister has with all of this concerns his attention to detail. In particular, his comments in recent times on matters around Fyshwick and otherwise show an industrial land study through the Majura Valley. He is not across the detail of his portfolio; he does not pay a huge amount of attention.

Mr Seselja: That one hit hard, Andrew. How many blocks are there at the moment, Andrew?

MR SPEAKER: Order! Mr Seselja, cease interjecting.

MR BARR: It is something that you see quite often in shadow ministers in this place. For six weeks, Mrs Dunne was unaware of the release of the college business plan. She made absolutely no attempt to get across any of the detail there. She came into this place ill informed, making a series of comments that were factually incorrect. This is just a continuation of a pattern of behaviour from shadow ministers that reflects very poorly on their ability to be across the detail of their portfolio.

However, this government continues to work in the area of affordable housing. As I say, we have the most advanced, the most sophisticated and the broadest ranging response to housing affordability issues of any jurisdiction in Australia. The opposition do not like hearing it. They do not like hearing it, but it remains a fact that this jurisdiction is further advanced in its response to affordable housing issues than any other jurisdiction in Australia.

Budget

MR GENTLEMAN: Thank you, Mr Speaker. My question is to the Chief Minister in his capacity as Treasurer. Can the Treasurer inform the Assembly of the importance of the objective of surplus budgeting to the notion of a sustainable budget strategy?

MR STANHOPE: Thank you, Mr Speaker. Thank you, Mr Gentleman, for the question. I have no doubt that Mr Gentleman's question is driven very much by the decisions taken by the Liberal Party over the last week to drive the ACT budget into deficit. Of course, we all know how comfortable the Liberal Party is with deficits. In the last 12 years of ACT government—

Mr Smyth: On a point of order under standing order 118 (b): the minister was asked about the importance of surplus budgeting—he was not asked about the Liberal Party—and I would ask you to get him back to the economics lesson.

MR SPEAKER: Come to the subject matter.

MR STANHOPE: Thank you, Mr Speaker. If one is speaking about surpluses, one will, of course, speak also about deficits, but Mr Smyth, perhaps, does not understand the notion. Yes, we know he does. We know he understands very well, as do the Liberal Party, the notion of deficits. In the last l2 years—

Mr Stefaniak: You left us a very big one in 1995, and we left you a surplus in 2001, you goose.

MR SPEAKER: Withdraw that, Mr Stefaniak.

MR STANHOPE: In the last 12 years of government within the ACT, there have been six years of Liberal government.

MR SPEAKER: Order! Name-calling is just not going to be tolerated. Withdraw that.

Mr Stefaniak: I withdraw.

MR STANHOPE: In the last 12 years, there have six years of Liberal government and there have been six years of Labor government. In the six years of Liberal government, four consecutive deficits were delivered, under the Australian accounting standard, of course, which we employed then—four consecutive deficits delivered by the Liberal Party. It delivered a deficit in 1995-96 of $334 million, followed by a deficit of $170 million, followed by a deficit of $157 million, followed by a deficit of $161 million. That is the Liberal Party record.

The Liberal Party is very comfortable with deficits. In their first four years of government, the Liberal Party delivered a combined deficit of $828 million. So one can understand a certain level of comfort that the Liberal Party had with deficits.

Mr Mulcahy: Is this the one that works better for you?

MR STANHOPE: The shadow treasurer interjects, "Under what accounting system?" I indicate: under the Australian accounting standard, which we utilised then for the next four years in our term of government. But we converted to GFS.

Mr Mulcahy: After I recommended the change.

MR STANHOPE: We then converted to GFS, as Mr Mulcahy continues to remind us, at his urging. But of course we, in having converted to GFS, take account, as do all the states and the Northern Territory, of some superannuation return, to ensure that we compare our budget—like with like—with the states and territories so that there is a possibility, an opportunity, for national comparisons so that the ACT budget can be appropriately compared with the budgets of the states and territories in relation to its underlying budget position.

This, of course, is the Liberal Party's actions in the last week—a decision last week by the Leader of the Opposition and the shadow minister for health to expend in their first year in government $54 million on 100 acute care beds immediately, followed by an announcement by the shadow Treasurer, not to be outdone in making policy announcements by the current Leader of the Opposition, with a promise to cut $16½ million of revenue. That is a combined $70 million hit to the bottom line.

Mr Mulcahy, as shadow Treasurer and spokesperson for the Liberal Party, of course, has been out there spruiking how important surpluses are. I can go to his quotes in his press releases on this very matter. He justifies the decision to spend an immediate $54 million—I heard him on Ross Solly's show this week—and to remove $16½ million of revenue, a total hit of $70 million, on the basis that we are cashed up; there is a significant surplus; we do not need it.

But then we go to the statements which the Leader of the Opposition and the shadow Treasurer have made over the last three months—as recently as August. For instance, in June, the Leader of the Opposition said:

> This budget is full of half-truths and at best the surplus is just a paper surplus, mostly made up of gains from superannuation investment (not consistent with the GFS accounting system) …

Mr Seselja is quoted here similarly. "The Chief Minister," Mr Seselja says, "spends his $13½ million surplus." Mr Mulcahy repeats that it is a $13½ million surplus.

That is under pure GFS which, in their purity, they have adopted, until, of course, they decided they needed to spend and they needed to actually politically posture and cut revenue. So, all of a sudden, the $13½ million surplus, which they have out there consistently claimed over the last year, is not the real surplus. All of a sudden, the real surplus is the GFS surplus, with some accounting for the long-term superannuation return of 7½ per cent. *(Time expired.)*

MR SPEAKER: Mr Gentleman with a supplementary question?

MR GENTLEMAN: Thank you, Mr Speaker. My supplementary question is: can the Treasurer say what regard the government pays to the growth of recurrent expenditure in maintaining its vigorous capital works program?

MR STANHOPE: Thank you, Mr Gentleman. We do have this rather remarkable position that, all of a sudden—indeed, yesterday—we see abandoned the longstanding promise by the Liberal Party, through Mr Pratt, that they would not tolerate for one minute in government the fire levy. But yesterday, of course, the Liberal Party recanted. They said, "Well, yes, that is a little promise we will just have to break. We now support and endorse the fire levy. We have just discovered we have just spent $70 million and we cannot afford another $20 million on top of it."

Mr Smyth: I raise a point of order under standing order 118 (b). The minister is debating a subject that is not the subject of the question that he was asked. He has to answer the question or he has to sit down.

MR SPEAKER: He is coming to the subject matter of the question now. I can just sense it.

MR STANHOPE: Thank you very much. I am indeed, Mr Speaker. Mr Gentleman asks what regard the government pays to the growth of recurrent expenditure. Of course, the growth of recurrent expenditure is very important. I might say—and I congratulate them—that the Liberal Party, as of yesterday, have suddenly woken up to this. Having made reckless, knee jerk promises to spend in their first year in government $54 million on 100 acute care beds without, of course, giving us any indication of where they will find the 200 nurses that 100 acute care beds require—there is just the little issue of where the 200 nurses are going to come from—they then, in a little stunt to reduce the average rates in an average household by $2.50 a week because there might actually be a vote in it, say, "Let's not worry about how we are going to fund the 100 acute care beds or pay for the 200 nurses that will be required. We will knock this $16.5 million out because it has got a bit of immediate political appeal."

They suddenly decided that they were up to a $70 million hit on a budget which, throughout the entire budget debate, every single member of the opposition claimed, in fact, to be a $13.5 million surplus. It is not a $100 million surplus, in fact. They claim it to be only a $13.5 million surplus because they are pure and they will only

apply pure GFS. They will not account for long-term returns on superannuation. It is hypocrisy and humbug! The next time you hear—

Mr Stefaniak: What about your June turnaround, Jon? What about your extra money after the budget?

MR STANHOPE: Do not read the *Hansards* for the last two years or any of Mr Mulcahy's press releases for the last two years in which he rails against the accounting standard applied by the ACT. The Leader of the Opposition, as recently as a few months ago, said, "These are not real surpluses. These are paper surpluses. They have taken into account superannuation. You cannot actually spend any of this."

Mr Mulcahy: You can't.

Mr Stefaniak: You can't.

MR STANHOPE: So you cannot spend the surplus? You just did. Mr Mulcahy says you cannot spend any of this.

Mr Stefaniak: What about the extra $200 million you didn't spend?

MR SPEAKER: Order! Mr Stefaniak, I—

MR STANHOPE: You cannot spend any of this.

MR SPEAKER: Chief Minister, order! Mr Stefaniak, I warn you. You have ignored my rulings on interjecting too many times.

MR STANHOPE: Mr Speaker, the shadow Treasurer informs us that you cannot spend any of this and they will not—that, in fact, they will take the true surplus position as the pure GFS. Indeed, in 2006-07, it actually did, as adjusted, become $30 million-odd—

Opposition members interjecting—

MR STANHOPE: minus 29. In 2006-07 it was 62. In the view, as I have been saying, of the Liberal Party, the real surplus for 2007-08 is $13.5 million. Mr Mulcahy has just agreed, through his party, to spend $54 million on health. He has agreed, and his explanation, in his introduction speech yesterday and on the media this week, of why we can afford to remove $16.5 million of revenue at this stage is because, as we see from the transcript of the interview with Mr Solly, "We don't need it; we can easily do without it". I have the transcript here. I will table it. He said, "We don't need it. We can do without it. The surplus is far greater than we expected."

But Mr Mulcahy's surplus is actually $13.5 million and he is proposing, just in his revenue cut, to cut $16.5 million from the budget. Just his revenue cut, on Mr Mulcahy's accounting standard, puts us into deficit, let alone the $54 million on health, let alone the $10 million which Mrs Dunne has undertaken to reinstate in teachers' salaries to undo the work that has been done by the government to rationalise and make more efficient our education system, not to take into account the

$5 million which Mr Smyth has promised to reinstate to the tourism budget and not to account, of course, for the ambiguous position of Mrs Dunne on the removal of the water abstraction charge.

I think at the heart of this is the humbug and the double standard of the shadow Treasurer. He is out there railing against the accounting standard, saying that it is not a true surplus but a paper surplus and then saying that we can do without it. The Liberals are intent on driving us straight into deficit. *(Time expired.)*

Canberra Hospital—proposed psychiatric unit

MR SPEAKER: Supplementary question, Mr Smyth.

MR SMYTH: I thought I would just ask the first question.

MR SPEAKER: I am sorry.

MR SMYTH: I know it was a long-winded answer from the Chief Minister; it felt like two or three questions.

MR SPEAKER: It is hard to keep one's mind focused in the cacophony which has been created by the opposition.

MR SMYTH: I sympathise with you having to listen to it, Mr Speaker. My question is to the Acting Minister for Health. Minister, I refer to the announcement today of the request for tenders that has been prepared for a new psychiatric unit at the Canberra Hospital. Minister, on 20 September 2005, you announced, and I quote from your press release:

> … we are planning for 20 acute beds for young people … 30 acute adult beds and a 15 bed high security unit at the TCH by 2008.

That is a total of 65 beds. Minister, why has your government decided today reduce the number of beds in this proposed psychiatric unit from 65 to only 40 beds?

MR CORBELL: I thank Mr Smyth for the question. Mr Speaker, the proposed psychiatric unit is a very significant investment by the Labor government. It is designed to redress the enormous failing that is the existing psychiatric services unit at the Canberra Hospital. That facility is pretty much around a decade old, and it is already out of date. Why is it out of date, Mr Speaker? In fact, it has been out of date for some time because of poor planning and development under the administration of the previous government.

The existing PSU has been condemned by the coroner on a number of occasions for being an inherently unsafe design for both patients and staff. When did this occur, Mr Speaker? It occurred during the time when Mr Smyth and his colleagues sat on this side of the chamber and Mr Moore was the Liberal Minister for Health. That is why we have committed to address these concerns and invest in a major new mental health precinct, including a new psychiatric services unit. We should not be in a position where a building less than 10 years old has to be replaced, but we are because of the poor management and the poor planning from those opposite.

Mr Speaker, the government is proposing at this stage that the new unit for the psychiatric services unit itself will have a capacity for 40 beds but with a footprint to accommodate another 10 to bring it to 50 beds. This decision has been taken in consultation with and on the advice of mental health consumers and advocates. The department of health has been in detailed consultation with a wide range of stakeholders, including the Schizophrenia Fellowship, the mental health consumers association and a range of other organisations who have a strong interest in the operation of this new facility and its design. They have indicated that we need to balance our provision of acute care facilities with the provision of non-acute or subacute care and support, particularly those in the community setting. They are urging the government—and we agree—that there is a real purpose to be served and a good purpose to be served by ensuring that we do not skew the balance of care completely in favour of the acute care end and that, instead, we ensure that there is also appropriate focus put on that part of the community care sector where we need to provide care for mental health consumers in their homes, in their workplaces, in the community.

That is the balance the government is seeking to achieve, and those are the reasons that we have taken this approach. I think the staff involved in this planning process are to be commended. It is very good news for the Canberra community that we are moving ahead with improved planning and improved provision of mental health services and mental health facilities here in the ACT, picking up, of course, the enormous legacy that was left to us by those opposite who left this territory in a position where per capita expenditure on mental health services was the lowest in the country. We are now in a position where it is much more competitive and much more reasonable to meet the needs of people in our community.

MR SMYTH: Minister, what is the expected cost of the new unit, what is the expected date of completion for this building project, and how confident are you of completing this project on time?

MR CORBELL: Mr Speaker, final costing of this facility will be assessed once detailed design has been completed, which is the stage we are now currently at. Once final detailed design is completed, we will be able to know the exact costs.

In relation to the timing, it is anticipated that, subject to capital works funding being made available through the budget process, construction could commence in the second half of next year, with the unit being commissioned in approximately two years following that point.

Emergency services—bushfire season

MR PRATT: My question is to the Minister for Police and Emergency Services. Minister, we recently had the first total fire ban of the 2007-08 bushfire season. On that day a significant proportion of the Rural Fire Service had to return from its headquarters at Fairbairn to the ESA communications centre in Curtin. Fire towers in the ACT were unstaffed for a large part of that day. Minister, why was the Stanhope government so badly prepared for the start of this bushfire season too?

MR CORBELL: I think Mr Pratt just marks in his diary that around 1 October every year he is going to issue a media statement saying that we are not prepared for the bushfire season. It does not matter about the facts: "It does not matter whether or not it is true, but I know it is marked in the diary, 1 October, time for the press release on Stanhope government not prepared for bushfire season." It shows how those opposite like to play politics on this very important issue.

Mr Pratt's claims are not true for these reasons. I answered the question yesterday about the location of staff at the Curtin headquarters in relation to incident management capability during our first total fire ban day. I answered that question in full yesterday. I reiterate: the purpose of those changes was to ensure that we see rural fire service brigades deployed as appropriate. I indicated yesterday, and I reiterate, that the reason for that is that I do not want to see a situation where rural fire service brigades are stood up but are not being deployed to a fire which is closest to their location. That is why we are doing that work.

In relation to the towers: the towers were staffed; they were staffed from approximately midday until late in the afternoon on that high fire danger day, and that was clearly the most important part of the day, the most dangerous part of the day. It is worth noting that the conditions that were envisaged on that total fire ban day did not eventuate, in terms of temperature in particular. But the point should be made that the towers were staffed, and in addition to that the towers did provide us with an effective level of coverage. I should also note that the provisions available to the duty officer do allow the duty officer in the ESA to staff the towers at their discretion and to staff them based on what they believe is need at the time. There is no fixed rule that says that regardless of conditions, regardless of circumstances, if it is a high fire danger day the towers are staffed for this period of time. There are stand-up arrangements but there is still provision open to the duty officer in any event, and it is worth pointing that out to Mr Pratt also.

Emergency services—fire towers

MRS DUNNE: Mr Speaker, my question is to the Minister for Emergency Services. On 4 October, which was the first day of total fire ban on the fourth day of the fire season, the ACT's fire towers did not have staff in them until after midday, and this was only achieved, according to my intelligence, by depriving the Parks brigade standby fire trucks of their regular crews. Two days later, on 6 October, you said that this was normal procedure and that fire towers in the ACT were only manned for four to five hours a day on total fire ban days. Minister, why are ACT fire towers not staffed all daylight hours on days of total fire ban?

MR CORBELL: Mr Speaker, I did not say that it is normal for towers to be staffed only for four or five hours a day during a total fire ban. I made the point, I think, that the staffing of towers on that particular occasion reflected the views of the relevant duty officer and the commissioner as to the appropriate level of coverage required for that day. It is worth highlighting too that there was no short staffing of the Parks brigade capability as a result of the decision to ask TAMS staff to staff those towers during that time. It is normal practice, and it has been for many years, that the contractors who are used for our fire towers are not normally formally engaged in

their contractual arrangements at that time in the season. The reason for that is that it is most unusual for them to be required at that time of the season.

Mr Pratt: But why don't you finalise the contract in winter time?

MR CORBELL: If we are seeing a change in conditions which is prolonged and ongoing—

Mr Pratt: Why don't you finalise the contract in winter time?

MR SPEAKER: Order! I warn you, Mr Pratt.

MR CORBELL: If we are seeing a change in conditions which is prolonged and ongoing, we will, of course, make those changes. But, Mr Speaker, the provisions that were put in place were appropriate. Coverage was provided, and adequate and comprehensive coverage was provided. I am satisfied with those arrangements.

MRS DUNNE: Why, minister, seeing that you just said that fire spotters are not normally required at this time of the year, do you not plan for emergencies from the beginning of the fire season? What do you understand by the "E" in ESA, and do you expect that the fires will wait for the fire spotters to come up in the tower before they break out?

MR CORBELL: Sorry, could you repeat that question? I did not hear it.

MRS DUNNE: Given that you have already said that it is not normally expected that there would be fires at this time of year, why do you not actually upgrade the Emergency Services Agency? What do you understand by the "E" in ESA, and do you expect the fires to wait to break out until the fire spotters get up into the towers?

MR CORBELL: I draw Mrs Dunne's attention to the concept of risk management, Mr Speaker.

Health—risk management project

MS MacDONALD: Mr Speaker, my question, through you, is to Mr Corbell in his capacity as Acting Minister for Health. Minister, could you update the Assembly on the recent national award won by the ACT health risk management project?

MR CORBELL: As it happens, Mr Speaker, I can indeed. Thank you very much, Ms MacDonald.

Mrs Burke: I raise a point of order, Mr Speaker. Could Ms MacDonald repeat the question? I really did not hear it.

MR CORBELL: The question was not for you. I heard it. I can explain the question to you. I am very happy to explain the question to you, Mrs Burke.

MR SPEAKER: The question was in relation to the risk management strategy in health.

Mrs Burke: Thank you.

Mrs Dunne: Mr Speaker, the reason Mrs Burke asks for the question to be repeated is that it sometimes—

MR SPEAKER: So she can arm herself to interject or something?

Mrs Dunne: No.

Mrs Burke: No.

MR CORBELL: What is the point of order?

Mrs Dunne: You could, of course, interject on my point of order if you like, Mr Speaker. The point that I was attempting to make was that sometimes the questions are not necessarily in order and if we do not hear the question properly, we cannot actually judge that; neither can you.

MR SPEAKER: I heard it. Ms MacDonald, read the question again, please. I heard it.

MS MacDONALD: It was: can you update the Assembly on the national award won by the ACT's health risk management project?

MR CORBELL: I thank Ms MacDonald for the question. I was very pleased yesterday to attend at Canberra Hospital to congratulate the team at the Canberra Hospital who have recently won the national Australian Institute of Project Management award for organisational change management project of the year. My congratulations go to them, Mr Speaker. They have won a major national award competing against a number of organisations, including Westpac and the Department of Defence, who have multimillion dollar change management budgets. I know those opposite are not particularly interested, but they should be because risk management and improving the quality and safety of health care are something that ACT Health treats seriously and which the government itself treats seriously.

This project was initiated as part of a process to provide for improved clinical review of incidents in the Canberra Hospital. It involves an online real-time user friendly notification system which allows clinicians, nurses and other medical and health staff to notify immediately adverse incidents and to provide that into a streamlined real-time system that then allows for effective and timely clinical review. This project has now been rolled out across the ACT health system. There are now over 4,000 users using the risk-man technology, and I am very, very pleased to join with my colleagues in endorsing and congratulating the team at the Canberra Hospital for their work.

This builds on previous recognition for the risk-man project. They recently won two awards for this at the ACT project management achievement award ceremony, one for organisation change management and one for ACT community benefit. So they are very much leading the country when it comes to technology to support our health professionals in providing safer and higher quality care and by being able in a more timely way, in a more effective and in a more detailed way to identify when things go

wrong, what happened, why it happened and what we can do to improve into the future. That is the key, Mr Speaker, to better quality and better safety in our health care system.

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

Supplementary answer to question without notice
Health—oral and maxillofacial surgery

MR STANHOPE: Mr Speaker, in question time yesterday I took a question from Mr Stefaniak in relation to the Reid review of oral maxillofacial surgery. I thank Mr Stefaniak for raising the issue of the Reid review. Of course, members would be aware that the Reid review was commissioned after six years of Liberal neglect in relation to the delivery of health care services within the Australian Capital Territory. You may remember, Mr Speaker, that in February 2002 Mr Reid, a former New South Wales Director-General of Health, was appointed to review the organisational arrangements of the government's health services. Mr Reid's report was received by me in May 2002. At the time I stated:

> Mr Reid's report, which I am releasing today, makes sobering reading. Despite the commitment and skills of those who lead and work within the government health sector, Mr Reid has concluded that they are being asked to operate within an unworkable system. They and the people of the ACT have been the losers.

I went on to say:

> Mr Reid found a lack of clear roles, poor and confused accountability and both structural and legislative impediments to the effective linking of health policy and health service delivery … The purchaser/provider theory as it has been applied in the ACT health system has failed.
>
> The Government fully supports the basic principles which Mr Reid has proposed as the foundation for a successful health system—the principles of collegiality and collaboration amongst health managers, more participatory approaches with the community and a shared vision, greater involvement of the clinical workforce in policy and planning, a focus on quality and innovation, and clear lines of accountability and advice to the Minister for Health.

They were all the outcomes of the Reid review. Mr Speaker, as I said, I thank Mr Stefaniak for allowing me to remind the people of Canberra of the system which we inherited from the Liberals and the views of Mr Reid in relation to the Liberal party's system. Mr Speaker, on page 27 of the review Mr Reid states:

> The good examples of cross hospital collaboration which have been implemented, or are in progress, include gastronintestology, haematology, intensive care and emergency medicine, while those not yet addressed include endocrinology, obstetrics, pathology and cardiology and oral maxillofacial surgery.

He goes on to state:

> There are no arrangements in Canberra for oral maxillofacial surgery, often resulting in less than optimal management of trauma cases.

That was the sentence Mr Stefaniak picked out. Mr Reid went on immediately afterwards to say:

> The linkages between such surgery and plastic surgery, which also has difficulties, is particularly important for registrar training.

Mr Speaker, it should be noted that Mr Reid did not make any recommendations in relation to oral maxillofacial surgery in his report. He made those two passing references to it. Quite frankly, in 2002 we were dealing with an absolute dog's breakfast with regard to the government's system for health. We focused our initial energy on fixing up the immediate system problems that we were left by those opposite. At the appropriate time, having overhauled the governance mess that the Liberals left us, we have dealt with a range of other matters.

The reform of the ACT health system since the Reid review has been a great success, to the extent that the Acting Minister for Health was able to announce that this year there is a 93 per cent satisfaction rating by the people of Canberra with the Canberra Hospital—93 per cent of the people of Canberra disagree with the Liberal Party's continual and constant bagging and bringing down of our health professionals in our public hospitals. The reform of the ACT health system has been successful.

There has been a range of improvements since the Reid review. There have been territory-wide medical appointments, credentialing and clinical privileging—something unheard of in the Liberals' time in government; there is the surgical services task force; there is the ICU role delineation review; there is the critical care task force; there are clinical streams for mental health and clinical streams for cancer and aged care and rehabilitation; there is the portfolio executive; and so it goes on. Since coming to office, Mr Speaker, this government has expended in excess of an additional $300 million on public health for the people of the ACT.

We have a system of which all Canberrans can be proud. We have a system which, in the last week, 93 per cent of the people of Canberra indicated their support of, satisfaction with and confidence in. It really is to the discredit of the Liberal Party that they continue to defame the hardworking medical professionals in the way in which Mrs Burke has done in the last two days under privilege in this place, I think, bringing this place and the Liberal Party to a new low. She has come in here during the adjournment debate, two days in a row, to name and to defame, without justification, without an opportunity to respond, the reputations of hardworking health professionals at the Canberra Hospital. I wonder whether Mrs Burke will do it again. Two days in a row she has scurried in—yesterday she scuttled in the minute that her suspension from the Assembly had terminated. She was here at one minute past six, exactly three hours after she had been suspended from the services of the Assembly, to again defame, to again bring down, to again cast aspersions on hardworking professionals at the Canberra Hospital. It is a low point and an abuse of the privileges of this place.

Review of the application to territory investment practices
Paper and statement by minister

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the

Environment, Water and Climate Change, Minister for the Arts) (3.30): Mr Speaker, for the information of members, I present the following paper:

> Review of the application of environmental, social and governance principles to Territory investment practices, dated 29 June 2007, prepared by the Independent, Non-Executive Members of the Finance and Investment Advisory Board.

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

Leave granted.

MR STANHOPE: Mr Speaker, as the members of this Assembly would be aware, in February 2007, I agreed to the independent non-executive members of the Finance and Investment Advisory Board undertaking a review of the extent to which the territory's investment operations should incorporate environmental, social and governance principles, and I am pleased to now table the review report. In commissioning this review I said that, as is proper, the territory's major investment portfolios are managed at arm's length from government. While the government of the day may set broad investment policy, it is investment experts in Treasury who have to implement the policy who make the practical decisions to maximise the territory's relatively modest financial assets. I also indicated that it may be possible to invest in ways that better achieve corporate social responsibility and positive outcomes for our environment, society and economy.

Mr Speaker, the review found that the consideration of environmental, social and governance principles in the investment decision-making process has evolved very slowly over many centuries. The approach to the consideration of environmental, social and governance principles continues to evolve today and remains a challenge to all people and organisations involved in investment management.

Contrary to what some people think, particularly those with a very fundamental view on these matters, there is no straightforward or unproblematic approach to including the consideration of environmental, social and governance principles in the investment decision-making process. Incorporation of environmental, social and governance issues into the investment framework has evolved over time from one of applying values to one of addressing investment risk. This change in emphasis reflects two problematic issues: balancing the fiduciary responsibilities of institutional investors to maximise investment returns within acceptable risk tolerances—acknowledging that many environmental, social and governance issues will ultimately impact on valuations and hence investment returns—and the inherent difficulties in deciding upon the suite of the values to be applied.

Mr Speaker, the report discusses the relative merits of the two approaches—values based and risk based—in some detail. The report found the use of values-based screening for the territory's investments is not consistent with the overriding obligations of the prudent fiscal management of risks. Screening does not necessarily influence or change corporate behaviour. The establishment of values criteria by the ACT government is especially problematic in that many of the activities that may be considered socially undesirable are legally permitted activities, and in some cases they are engaged in by responsible governance.

Whose values should be adopted in establishing screening criteria—mine or, by way of example, Dr Foskey's? Dr Foskey has made recent comments in the Assembly on this issue, and I do acknowledge the significant interest that Dr Foskey has in this issue and, indeed, the role that she has had in the actual development of this particular report, its genesis, and the fact that this work was undertaken. But there is, I think, an example in the context of whose values a government would pursue, by illustrating the different acceptable lines that perhaps Dr Foskey and I would adopt in relation to that. Screening reduces the size of the investable universe, potentially resulting in higher volatility returns relevant to the benchmark return and, particularly in the case of negative screening, a less diversified portfolio.

A risk-based approach is holistic and broader in its reach than screening, recognising that institutional investors are universal long-term holders of broadly diversified portfolios, consistent with the prudent management and diversification of risk. The implementation of the risk-based approach with the engagement process is directly targeted at changing behaviour as a means to achieving improved environmental, social, and governance outcomes. Many of the largest institutional investors in the world struggle with the challenge of balancing these often conflicting issues.

The United Nations recognised the conundrum that investors faced in dealing with environmental, social and corporate governance issues while at the same time meeting their fiduciary obligations. The United Nations, therefore, in consultation with some of the world's largest institutional investors, has established the principles for responsible investment. These principles are voluntary and aspirational; they are not prescriptive, but, instead, provide a menu of possible actions for incorporating environmental, social and corporate governance issues in the mainstream investment decision making. The principles reflect the recognition that environmental, social and corporate governance issues can affect the performance of investment portfolios. They also recognise that investors, in fulfilling their fiduciary or affiliate duty, need to give appropriate consideration to the issues.

This framework, endorsed and encouraged by the United Nations, is a risk-based approach to the incorporation of these issues into the investment framework. The approach is considered to be international best practice. The review report which I table today recommends that the government adopt a risk-based approach to managing the territory's investments.

I wish to inform the Assembly that the government has fully examined the Finance and Investment Advisory Board report and agrees with its recommendations. I also advise that a third-party service provider will be engaged to assist in the implementation of a risk-based approach. The adoption of a risk-based approach for the consideration of these issues by the government is a very significant step forward. It is a measured approach; it is consistent with the approach recommended by the United Nations, and it is considered current best practice. Agreement to and implementation of the Finance and Investment Advisory Board recommendations will place the ACT government, along with the Victorian government, as the most advanced of the states and territories in incorporating environmental, social and governance issues to the general investment management framework.

Mr Speaker, in conclusion, I thank the independent non-executive members of the Finance and Investment Advisory Board—Ms Barbara Yeoh, Mr Ken Searson and Mr Phillip Charley—for contributing their valuable time and expertise to the review and the development of this report. I move:

> That the Assembly takes note of the paper.

Debate (on motion by **Dr Foskey**) adjourned to the next sitting.

Public Cemeteries Authority annual report 2006-07—corrigendum

Paper and statement by minister

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs): Mr Speaker, for the information of members, I present the following paper:

> Annual Reports (Government Agencies) Act, pursuant to section 13—Annual Report 2006-2007—ACT Public Cemeteries Authority—Corrigendum.

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

Leave granted.

MR HARGREAVES: Mr Speaker, I present for the information of members a corrigendum to the annual report of 2006-07 to the Minister for Territory and Municipal Services for Canberra Cemeteries. An incorrect version was included in the Canberra Cemeteries (ACT) Public Cemeteries Authority Annual Report. The attached pages replace those and are identically numbered 97 to 104 inclusive.

Department of Disability, Housing and Community Services annual report 2006-07—corrigendum

Paper and statement by minister

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs): Mr Speaker, for the information of members I present the following paper:

> Annual Reports (Government Agencies) Act, pursuant to section 13—Annual Report 2006-2007—Department of Disability, Housing and Community Services—Corrigendum.

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

Leave granted.

MR HARGREAVES: Mr Speaker, I present for the information of members a corrigendum to the Department of Disability, Housing and Community Services 2006-07 annual report. The DHCS annual report was tabled in the ACT Legislative

Assembly on 25 September 2007. The department has identified several inadvertent errors in the tabling of the report that were caused during typesetting. Additionally, the audited accounts for the Housing Act included some last-minute adjustments agreed with the Audit Office in the final days prior to certification which were not reflected in the accounts included in the annual report. I present the correct financial papers as part of the corrigendum for the information of members.

Health and Disability—Standing Committee
Report 4—government response

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (3.39): Mr Speaker, for the information of members, I present the following paper:

> Health and Disability—Standing Committee—Report 4—*Appropriate Housing for People Living with a Mental Illness*—Government response.

I move:

> That the Assembly takes note of the paper.

It gives me great pleasure to today table the ACT government's response to the Standing Committee on Health and Disability report No 4, *Appropriate housing for people living with a mental illness.* I would like to commend the standing committee for its consideration of this complex and challenging issue and to acknowledge the broad range of stakeholders who provided input into the inquiry process and recognise their commitment to improving mental health and housing services and subsequently the lives of people who live with mental illness. In particular, I would like to acknowledge the contributions of the mental health consumers and their carers who participated in the inquiry and thank them for allowing their experiences to inform the committee's consideration.

Mr Speaker, the ACT government welcomes the standing committee's report and its recommendations, as it provides an opportunity to recognise the strengths and achievements of current mental health and housing services. It also provides an opportunity to confirm the ACT government's commitment to the delivery of effective, efficient and responsive health and support services and the vital role these services play in the fabric of our community.

The standing committee report makes 15 recommendations. The government agrees to six of the recommendations, three are agreed to in principle, and six recommendations have been noted, as there are a range of program and policy initiatives underway which meet the terms of these recommendations. No recommendations are disagreed with by the government.

The report identifies that access to and maintenance of suitable accommodation and mental health support services are interrelated for people with mental illness. The stability of one can directly determine a person's ability to access and manage the other. Appropriate support to assist people to manage their mental illness plays a critical role in maintaining housing stability, which in turn provides greater personal

stability and contributes to people's capacity to self-manage their mental illness. Accommodation, therefore, is considered by the standing committee to be one of a suite of individualised support services which should work together to assist people with mental illness and their carers to maintain their individual wellbeing and live, contribute and participate fully within their community.

The importance of integrated and collaborative service responses is recognised by the standing committee. The need for close working relationships between accommodation providers, with particular emphasis on Housing ACT, and mental health early intervention and support services provided by ACT Health and non-government providers, forms the basis of a number of the report's recommendations. It should be noted, Mr Speaker, that while housing and accommodation providers can play a key role in forming a network of early identification and other support mechanisms for people experiencing mental illness, the primary need is for clinical service provision, and that remains the responsibility of Mental Health ACT. These recommendations are consistent with the Canberra plan; "Breaking the cycle", the ACT homelessness strategy; and the Mental Health ACT strategy and action plan. The ACT government's response provides evidence of achievements in realising their key objectives.

The government is particularly concerned about easing housing stress for medium and low-income households so that all members of our community, irrespective of their income or personal circumstances, can access affordable appropriate housing. It is for this reason that the government introduced its affordable housing action plan on 12 April 2007 and signalled that the provision of affordable housing will be a priority for the government over the coming years.

The affordable housing action plan is designed to help Canberrans at all points on the accommodation spectrum, from homebuyers and private renters to those in public and community housing. Key initiatives in the plan include increasing the supply of affordable land to the market; regular englobo land sales; over-the-counter sales of affordable housing blocks; streamlining land release and planning approval systems; providing new house and land packages priced between $200,000 and $300,000; a major expansion of community housing that will deliver an additional 480 affordable dwellings over five years; making more effective and targeted use of public housing; an initiative through institutional investors to increase the supply of private rental dwellings by 200 to 400 homes in the first instance; and ensuring the supply of sufficient land to meet the increasing demand for aged accommodation, land rent and shared equity schemes, including for public and community housing tenants and targeted stamp duty concessions.

Mr Speaker, the ACT government response I am tabling today contains detailed information on the implementation of public housing reform, which has delivered a more effective, timely housing response to those most in need in the community, including people with mental illness. Housing ACT has also implemented additional measures to ensure that it remains the post-crisis response for people who require housing assistance and that appropriate community-based support services are available to assist tenants to achieve and maintain sustainable housing outcomes.

Further strategies have been implemented by Housing ACT to assist in identifying any support requirements which may assist tenants to maintain successful tenancies. This includes a pre-allocation case conferencing mechanism which identifies the needs of the applicant and any agencies who are providing support, and assists in making appropriate allocations. Mental health agencies are regularly involved in case conferences. As housing minister, I can confirm Housing ACT's commitment to continue working with Mental Health ACT and other relevant support services to ensure people have the supports to enable them to live and contribute positively within the community. While acknowledging the work of the committee and its recommendations for improving mental health support to people living with mental illness, the government disagrees with the report's statement that Mental Health ACT services rate poorly against other jurisdictions in Australia.

The national mental health report 2005 outlines the following statistics in relation to the ACT: it is the third highest jurisdiction in per capita spending on mental health, which is above the national average and represents the second highest positive percentage change in mental health investment over 10 years; it is highest in achieving jurisdiction in clinical staff employed in ambulatory care and well above the national average; it has the highest number of beds in staffed community residential facilities per 100,000 population and more than twice the national average; it has the second highest percentage of mental health services completing external reviews against the national standards for mental health services, a figure 30 per cent higher than the national average; it has the highest per capita spending on community mental health services—25 per cent higher than national average; it has the second highest investment in non-government organisations—0.1 per cent behind Victoria, and almost twice the national average; it has the second highest number of supported public housing places per capita; and it has the highest number of consumer consultants employed per 1000 FTE clinical staff.

The statistics above indicate that the ACT has a comparatively well resourced, community-based mental health system in comparison with other Australian jurisdictions. The ACT government has prioritised community-based care in line with the nationally agreed priority outlined in the national mental health strategy. This is reflected in the significantly higher number of community-supported accommodation beds in the ACT compared to other jurisdictions and the national average. During 2006-07, the ACT government, along with all other jurisdictions, signed the Council of Australian Governments national action plan on mental health for 2006-11, called the national action plan.

The national action plan brings commonwealth and state and territory governments together to better coordinate service provision for people with mental illness. The national action plan also commits the ACT and commonwealth governments to increasing the resources in the Mental Health ACT sector during the next five years. Coordinated care to ensure clinical support and community supports, such as housing employment and education, are brought together to sustain recovery for mental health consumers is an important focus of the national action plan. ACT Health is working with other agencies to develop a model and process for coordinated care in the ACT.

The ACT government's implementation of the national action plan initiatives has brought forward implementation of some of the actions under the Mental Health ACT

strategy and action plan 2003-08. Subsequently, in its 2006-07 and 2007-08 budgets, the ACT government has committed an additional $33.4 million to mental health for the period to 2011. Spending on mental health in the ACT has progressively increased under the current government, from $27.4 million in 2001-02, to $55.2 million in 2007-08, an increase of 109 per cent. This additional funding has enhanced the ACT's service responses.

Following an open tender process, Centacare was awarded the contract for a 24-hour step-up, step-down supported accommodation service for five young people in July 2007. Funding was provided in the 2007-08 budget for a similar service for adults. An open tender process is being finalised for the provision of an adult step-up, step-down service, which will also provide five places, with services expected to be operational in 2007-08. Additional ACT government funding will also enhance promotion, prevention and early intervention programs and will focus on workforce recruitment, training and retention strategies, including mental health community sector development, through the Mental Health Community Coalition, and expanded perinatal and infant mental health services.

The ACT government has also publicly stated its aim to work towards increasing the mental health budget to 12 per cent of the overall health budget by 2012, in line with the expenditure in leading OECD countries on mental health. The ACT government has also provided funding for additional public housing capital. The 2006-07 budget committed $10 million per annum over three years, and an additional $4.3 million was provided in the 2007-08 ACT budget for capital purchase.

The affordable housing action plan 2007 also involves a multi-million dollar investment in the not-for-profit community housing sector by enhancing its capacity to deliver innovative, affordable housing solutions. Specifically, the government has targeted Canberra's main provider of community housing—Community Housing Canberra or CHC—to undergo a major expansion, delivering an additional 500 affordable dwellings over five years and more than 1,100 over the next decade. Community Housing Canberra will keep around 250 of these extra properties for rent over five years, increasing to 470 over the decade.

Expansion of the sector through CHC will also be assisted through the injection of a $40 million equity through title transfers to Community Housing Canberra; the provision of a revolving $50 million loan facility and a $3.2 million capital subsidy over three years to CHC; and the transfer of 135 properties to CHC from the Department of Disability, Housing and Community Services. The ACT continues to prioritise supported accommodation options and is working with all stakeholders to progress this and other priorities of mental health reform through the development of the Mental Health ACT services plan.

In conclusion, Mr Speaker, I table the ACT government's response to the Standing Committee on Health and Disability, report No 4, *Appropriate housing for people living with mental illness*, and I commend the government's commitment to increasing affordable housing through the affordable housing action plan and the broad-reaching reform of both housing and mental health services in improving responses to people with mental illness.

Debate (on motion by **Dr Foskey**) adjourned to the next sitting.

Territory plan—garden city provisions
Ministerial statement

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (3.52): I seek leave to make a ministerial statement concerning the evaluation of the garden city provisions of the territory plan.

Leave granted.

MR BARR: The garden city provisions were introduced into the territory plan in 2003. Prior to this, dual occupancy and multi-unit developments were permissible across the entire residential area of Canberra. There was mounting concern that this type of development would undermine the garden city integrity of Canberra's suburbs. The community also sought some level of certainty as to the nature, scale and form of development that would occur in the suburbs. In response to these issues, the garden city provisions now focus residential redevelopment and a moderate level of residential intensification into residential core areas. These areas are in strategic locations, usually within a radius of 200 to 300 metres, of local or group centres. These provisions are contributing to a more sustainable settlement pattern and offer people greater choice in housing. They also provide people with access to community and commercial services and the opportunity to "age in place" within their suburb.

As a result of the garden city provisions, some 85 per cent of Canberra's residential areas are now protected from the type of development that is permissible in residential core areas. These are known as suburban areas, and they seek to retain Canberra's valued residential scale, amenity and character, consistent with community expectations. The overall intent of the provisions is to preserve the garden city character that Canberra is noted for whilst also responding to contemporary planning issues, including demographic and lifestyle changes in our community. This will ensure that there is some diversity in the dwellings that are provided to the market.

The evaluation of the garden city provisions demonstrates the government's commitment to ensure that these garden city values are not eroded. A series of detailed investigations has been undertaken as part of the evaluation process. At the outset, there was preliminary and targeted consultation with key stakeholders to identify key issues. These stakeholders included community groups and industry organisations as well as key internal government agencies.

An independent market analysis looking at property values, market sales and sustainability was prepared by a specialist consultant. An assessment of development applications, objections and AAT decisions was undertaken, along with a design review of development applications. The ACT Planning and Land Authority also undertook a review of similar provisions in other key jurisdictions in New South Wales. This culminated in a discussion paper, which was open for public comment in April and May of this year. The discussion paper identified the key issues and proposed a range of options to address these issues. There were 17 submissions made, and they have been considered in the evaluation process.

Now that the evaluation process is complete, I can report that the garden city provisions have achieved their original intent. They are protecting the residential

amenity and character of Canberra's suburbs. They have focused residential redevelopment and modest intensification into the residential core areas. Dual occupancy approvals in residential core areas are double that in suburban areas. Multi-unit developments in residential core areas are now more than four times the number of multi-unit developments in suburban areas. Development activity for dual occupancy and multi-unit developments has not abated as a result of the garden city provisions. Rather, it has increased from pre-garden city rates of redevelopment. This is all working towards the establishment of a more sustainable settlement pattern by increasing housing numbers and choice in strategic locations within suburbs.

The evaluation process did, however, identify some areas where we can improve the performance of the garden city provisions. On some streets and blocks, the high number of units is causing concerns with traffic and parking; privacy and overlooking, and solar access and orientation. To address these issues, the number of units in any one development may need to be limited, and this is most relevant to blocks with narrow frontages. There are also some concerns about the scale and form of development that is intended for residential core areas. The objectives of the territory plan need to provide more certainty about the development intended for these areas. There are also some minor inconsistencies in the technical provisions that also need to be rectified.

The evaluation process has confirmed that the garden city provisions are achieving their overall intent. However, a few refinements to the provisions can substantially improve the outcomes on the ground, most particularly in residential core areas. Through the evaluation process, we have consulted extensively on the garden city provisions and, as a result, I will be directing the Planning and Land Authority to commence work on refinements to these provisions. These, when completed, will be incorporated into the final version of the new territory plan that will be presented in the Assembly next year.

The government is committed to protecting the garden city character of Canberra. As part of this commitment, a publication outlining garden city values and principles is due for release on the Planning and Land Authority website in November this year. The purpose of the publication is to inform developers, the building industry and home renovators of the garden city values relevant to the street, block and the dwelling. It will also identify how redevelopment in residential core areas of Canberra's older suburbs can be designed to be complementary to the residential character and amenity of these suburbs.

In conclusion, I have demonstrated the government's commitment to evaluate the performance of the garden city provisions and to refine those provisions to improve their performance. I have also demonstrated the government's commitment to provide clear design advice and information to protect the garden city values of Canberra's suburbs.

I move:

> That the Assembly takes note of the paper.

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

Education—funding negotiations
Discussion of matter of public importance

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Dunne): Mr Speaker has received letters from Mrs Burke, Mrs Dunne, Dr Foskey, Mr Gentleman, Ms MacDonald, Mr Mulcahy, Ms Porter, Mr Seselja and Mr Stefaniak proposing that matters of public importance be submitted to the Assembly. In accordance with standing order 79, Mr Speaker determined the matter of public importance proposed by Mr Gentleman be submitted to the Assembly, namely:

> The importance of a collaborative approach to education and the rejection of the Federal Government's negative approach to education funding negotiations.

MR GENTLEMAN (Brindabella) (4.00): In the ACT we have the best education system in the country. Our college system is envied by many, our curriculum is growing into a world-class education platform, our teachers and school leaders are the most talented in the country, and our model of continuous assessment serves our students well as they move beyond school into further education or the workforce.

Unfortunately, members, our system is under attack. The federal government have spent the last 12 months threatening to impose their version of education reform by bullying states and territories. During early 2007, state and territory education ministers invited the commonwealth minister to engage with states and territories to meaningfully negotiate the terms of the 2009-12 quadrennial funding agreement. Quadrennial funding agreements are the mechanism within the education funding model which allows the commonwealth the opportunity to work with states and territories to optimise student outcomes and to maximise efficiency in the sector.

The stability of this model is built on a cooperative federalism and an expectation that all participants have the students of our education sector as their number one priority. Unfortunately, we have seen through the press and in this place in recent times that this is not the case. Minister Bishop has abandoned the model of cooperative federalism and shared focus on students, preferring to play politics.

With the timing of the federal election in play, Minister Bishop has sought to implement an education model dreamed up in the Liberal Party room without any real consultation. She has sought to implement this model using the big stick of quadrennial funding. This approach stands in stark contrast to the approach taken by the states and territories who have identified the continuous improvement of student outcomes as the real goal of the funding agreement and have rejected Minister Bishop's bullying tactics.

The state and territory ministers, including our own Minister Barr, have sought to embed an element of jurisdictional flexibility in the agreement so as to protect those things which work for individual jurisdictions. In stark contrast to the rhetoric we hear from those opposite, Minister Barr has stood up to the federal government to protect our college system, to protect our acclaimed method of continuous assessment and to support our quality teachers and school leaders. There is a contrast between the approach of the commonwealth and the approach of the state and territory education ministers to this quadrennial funding agreement.

What we are seeing in education since the Howard government came to power in 1996 is the attempted removal of student support networks from universities, hundred-thousand dollar university degrees, and threats of funding cuts to TAFE if they do not implement the federal government's IR agenda. That is right; if you do not offer AWAs at TAFE you now miss out on your education funding. It is clear this is more about installing the Liberal government's social engineering program than any effort on the education front.

The commonwealth are also intent on using the threat of funding cuts to implement their version of the Liberal education utopia—a utopia which includes student assessed performance pay, isolated principals, a universally declared national curriculum which educates young Australians about the things that the government wants them to know, an external high-intensity assessment process which does little more than put extreme amounts of pressure on our young students, and a funding precedent which allows the commonwealth to unilaterally change the direction of education whenever they feel like it.

The states and territories have rejected this approach and they should be commended for that. Instead, they are pursuing a cooperative model of federalism which is based on jurisdictional flexibility so that student outcomes can be optimised. They are seeking to reduce the administrative burden by supporting cooperatively negotiated initiatives at both the jurisdictional and national levels. They are supporting the need for national consistency where net benefits can be demonstrated and they are seeking to protect state and territory control over matters for which they have primary responsibility.

The contrast in these positions highlights how out of touch and arrogant the federal government has become. The latest incarnation of this arrogance in the education policy area is the Prime Minister's and Minister Bishop's desire for all schools to compulsorily teach their version of Australia's history, and I will talk about that a bit further later. Again, that is attached to the threat of withholding funding if states and territories do not comply.

The ACT has a strong history curriculum. The guide to history teaching recently released by the federal government has been developed due to the Prime Minister's desire for one style of teaching history. The ACT government is convinced of the high importance of learning Australian history for all students. Students do need to understand and learn from the past and know about significant events in Australia's history. Our students in schools today are the future of Australia. Learning from the achievements and mistakes of the past can inspire them and assist them to make good decisions for Australia's future.

It is not just students in years 9 and 10 who will study Australian history in ACT schools. It is mandated that all ACT students will study Australian history throughout their schooling until year 10. Students will begin their study in early childhood and it will culminate in later adolescence. Students will undertake the learning of history in the context of historical inquiry.

So students in the ACT will have not only a depth of knowledge of Australian history built up over 12 years but also the skills to allow them to develop further knowledge

as they progress through the later years of schooling and beyond. This will be a sound basis for students to undertake courses in colleges, which will focus on particular aspects of history. I am concerned that this is the way the national curriculum will develop—a national government imposing its will without input from the educational bodies which will have to deliver it.

The issues for the ACT are the lack of consultation, the extent of prescription in the topics and methods of teaching history, the mandated hours requirement and the implications for the 2009 quadrennial funding agreement. These are all things which could have been discussed in a forum of collaborative negotiation. Mr Howard and Minister Bishop need to stop playing politics with the future of our students.

Similarly, the federal government's attack on our extremely successful continuous assessment model is entirely motivated by politics. There is no educational merit in changing the ACT's extremely successful continuous assessment model. The continuous assessment model provides for a high degree of integrity in the assessment process. It provides for more extensive coverage of the syllabus and allows for assessment of a broad range and depth of knowledge, understanding and skills over an extended period of time.

This model enables the use of a variety of assessment tools and strategies, including research assignments, extended essays, practical tasks, oral presentations, tests and examinations. It allows teachers to match assessment methods to the learning outcomes being assessed. It enables teachers to select the most appropriate assessment tools to cater for the broad range of student pathways and learning experiences, including work-based learning.

Further, continuous assessment encourages regular, systematic study and discourages last-minute cramming. It reduces the dominance of a final exam on the teaching and the learning processes. While on exams, I should discuss a bit more the national testing. The proposed introduction of the national testing system in 2008 is one of the more significant educational developments in recent years. The Howard government has often sought to politicise the important issue by criticising the states' and territories' efforts, and we saw that with Julie Bishop's address to the National Press Club in February of this year. Nonetheless, the introduction of a national testing system raises a number of substantive policy issues. Unfortunately, the Howard government is more interested in reactive politicking than in developing policy on such critical issues.

Some of these issues remain unsolved. For example, who will fund the transitional cost of the move to the national system? Who will fund the ongoing costs? Who will own the data produced by the students? And what measures will be put in place to protect the privacy of schools and students? If national testing goes ahead, it should align to the curriculum, report on the performance of students at both state and national level, provide diagnostic information for teachers and parents, report on the range of student achievements at a point in time, and quantify and describe achievement and learning growth over time.

It is important to note that the national test should not be held up as the only educational issue, nor indeed the only assessment that matters. It is not a panacea and

will not, on its own, lift educational standards. We do not want to give national testing the weight of responsibility it cannot or should not carry.

Our focus, as I have mentioned before, is on continuous assessment. Continuous assessment reduces the stress that many students feel when preparing for and sitting end-of-course, content-based external examinations. It generally provides a more natural assessment environment, closer to the situations students will experience later, including university studies. 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 in line with the rest of the country; it should be whether there may be merit in the ACT's model being implemented elsewhere.

Mr Speaker, they are just some examples of effective education models which make the ACT system one of the best in the world. The federal government has shown time and time again that it rejects the need for jurisdictional flexibility and will seek to impose its style of education on the states and territories by using funding threats. Let us look at their style of education in regard to history. I will refer to the minister's recent speech.

The importance of history is widely acknowledged and, through the development of the new curriculum framework that will be rolled out across the schools from next year, history has a prominent position. The curriculum of the ACT has two essential learning achievements which explicitly address the teaching of history. The curriculum framework allows teachers and school communities to recognise their local needs and provide units of work appropriate to their school.

The alternative approach of the Prime Minister, which was announced to us last week, has not involved any consultation with current teachers since April this year. It proposes 10 periods and 70 milestone events and biographies to be covered, ranging from the 18th century botanist Sir Joseph Banks—one of my favourites, by the way—to former Prime Minister Bob Hawke, another of my favourites. This constitutes such a content-heavy history teaching load that a student might well be in his or her old age by the time all that the Prime Minister wants is covered. For this reason, we must trust the teachers in our schools. Teachers know their subject matter. They work in teams. They are professional, they know their students and they understand the complexity of all demands and expectations of the curriculum.

The ACT government has a draft curriculum framework in place that addresses all the learning requirements of all students in all the compulsory years of schooling. We recognise that the teaching of history must be delivered in such a way that it considers the nature of the school's demographic, the particular school's historical place and the teacher's own knowledge and expertise.

Mr Speaker, here in Canberra we are very privileged to have ready access to institutions of national, cultural and historic significance such as the War Memorial, the National Museum, and Old Parliament House. Schools students frequent these as part of their learning of Australian history. Remember that these ACT and national cultural and scientific institutions also provide educators who run educational programs from those institutions.

There has been cooperation on planning and writing of units of work with the institutions, in particular with Historic Places ACT, the National Gallery of Australia and the National Library. These partnerships continue to be ongoing, and currently across the ACT there are no fewer than 26 such institutional partnerships. It is partnerships and collaboration that bring success.

I am heartened that the federal Labor Party has taken a more collaborative approach and has committed to cooperating with the states and territories on education reform. This will be something new to the education debate, and I look forward to the constructive negotiation between a federal Labor government and the states and territories. When governments work together, I am sure we can make an already great education system even better.

MRS DUNNE (Ginninderra) (4.14): This matter of public importance is brought on because we are in an election period and everyone in the Labor Party across the country is working to script. And this is what we have here. What Mr Gentleman said was in fact not nearly as extreme as I expected, which I suppose is probably just an indication of Mr Gentleman's incapacity to stick to his terms of reference, which we have seen more than once this week. He could not actually deliver the sort of thrashing diatribe that I think his colleagues expected on what a terrible person Minister Bishop is, what an outrageous interventionist the Prime Minister is and how dare he tell the people what they should think about history and history teaching.

We have got this thing here that we want to be more collaborative. Yes, the Labor states have been very collaborative, because every time a federal minister does something in relation to education they take their script and they trot it out. It was quite interesting last week or the week before, when the Prime Minister announced and put out the history paper, they all came out—Queensland, New South Wales, South Australia—and they all used exactly the same words: "We are not going to be bullied by the commonwealth; we already do this." It was interesting to wait and see what this minister would say. Of course he said the same thing: "We have a wonderful history program in the ACT."

Mr Speaker, as a parent of five children, three of whom have completed schooling in the ACT in a variety of schools, and as a former history teacher, I can tell you that there is not substantial history teaching in the ACT. There are great history teachers and there are great individual programs.

It is interesting that here, when Mr Gentleman quoted the minister being concerned about a content-heavy emphasis, there is no content in the history curriculum in the ACT. There is no guarantee that your child who starts school in kindergarten in the ACT and goes all the way through to year 12 will get even a smattering of an idea about the progression of history, say from pre-history in Australia, through white settlement, through the 20th century and into the 21st century. It does not happen. There is no progressive "let us build on this and build on that".

As I have said before, there are occasions when I have had children in three or four different levels in school and they are all doing the same things. I do not know how many times we sat down and simultaneously put together projects about the gold

rushes. Yes, they learnt something about the gold rushes but not in any context. Really what they tended to learn was how to make things that look like old letters and bits and pieces like that—lots of good arty craft stuff, but there was very little content.

There were times, as a former history teacher, when I advised my children not to bother to do the history courses. It gave me great pain, as someone who was committed to good history teaching, when I actually had to say to my children, "It is not worth doing; it is not a good enough course for you to waste your time on." That is across sectors, in the government sector, in the non-government sector. I have seen some fantastic history courses, and especially history courses that engage boys, but I used to keep saying to them, "Where is the continuity; where does one history course lead to the other?" And there was no continuity and of course there was no prospect of seeing Australian history in the context of European or even Asian history.

I was quite stunned by this on a number of occasions when children of mine were at university and they asked me very basic questions about Australian history or about world history. On one occasion, one of my children came to me and said, "What happened in 1066?" This is someone with an honours degree now—this is no slouch—and a very good honours degree as well. But in the context of what they do, in the ACT they do not get a basic grounding in the history of Australia and how that fits into the history of the world.

Mr Gentleman can rail all he likes, but he cannot actually take that away. The problem with the Prime Minister's statement is that I do not think that it goes far enough. My great problem with the Prime Minister's statement is it is about teaching in years 9 and 10, and we should be starting back in kindergarten and building that program all the way through, which we are not doing, which we are not seeing, and all the posturing from the Labor Party will not change that.

All the really well-qualified history teachers that we have in the ACT—and there are some stunning history teachers—have really insubstantial things to work with. When they get to the colleges they can actually teach history, probably for the first time, but in the first 11 years there is no effective history teaching. It is all cast around with a whole lot of other things in the SOSE program. And that is a great failing in this territory. No amount of posturing by the Labor Party will change that.

But this is really about collaboration, and I think it is very important that we talk about collaboration in education. Mr Gentleman postures about how he would like to collaborate with the commonwealth. Of course they would not. He wants to collaborate with his Labor colleagues across the states to beat the commonwealth over the head.

But let us bring collaboration closer to home and let us talk about this matter of public importance: collaboration in education and how it relates to the ACT. I really wonder how the average parent of a child in an average government school would think that this government has collaborated with them, when they saw the promises broken, when they saw the lies taken to the last election by this government, when this government perpetrated a fraud upon the people of the ACT at the last election, saying, "We will not close any schools," but then went around and closed 23 schools or are in the process of closing 23 schools.

If we are talking about collaboration, let us look at the discussions that the community is having about what to do with the excess school sites. Dr Foskey yesterday raised the issue of the not even very smart sleight of hand about the decision to demolish Mt Neighbour primary school. When you actually look at the reports, there is no basis for that decision and there has been no collaboration, no discussion, nothing with the people in the community, and they are feeling wounded by it. They have been bullied by this government.

What sort of collaboration have we had with the teachers union over a year of unprecedented industrial disputes? The minister here yesterday said quite erroneously, quite falsely, that he cut staff in the college system because of the results of the private arbitration. Let us put it on the record once and for all: the private arbitration set the number of hours that teachers had face-to-face teaching. It did not set the staffing levels. The staffing levels were a budget decision which was foreshadowed in the 2006-07 budget, long before the arbitrator came on board. Those 21 places were doomed to go when Andrew Barr became the minister for education.

That is the sort of collaboration or the lack of collaboration that I am concerned about. There is no collaboration between this minister, this government, and its teachers in the fundamental process of providing good learning and teaching environments. Mr Corbell wants to talk about it until the cows come home, but he wants to talk about it in terms of bricks and mortar.

Mr Barr: She just called me Mr Corbell.

MRS DUNNE: I am sorry; I did. Mr Barr wants to talk about it. I do apologise. At least he is listening. What we have actually seen here over and over again is that every time the commonwealth does something to attempt to make the education system better, this mob complain about it. They complained about investing in our schools. They thought it was outrageous that the commonwealth should invest money straight into the schools. Do you know what they are doing, Mr Speaker?

Mr Seselja: It is outrageous that they have to.

MRS DUNNE: It is outrageous they have to but they are always fixing toilets. Mr Barr said in this place in an interjection yesterday that perhaps I thought it was best putting good money after bad, that his capital injection was fixing toilets at schools. It is an absolute disgrace that you have to have extraordinary capital expenditure to fix toilets in schools, when the schools education budget has tens of millions of dollars of maintenance money in it every year. We should not get to the stage where we pat ourselves on the back because we fix the toilets in schools. That is everyday, ordinary maintenance that we should not have to do. And it is an absolute disgrace that commonwealth money is going into government schools to fix toilets because these people cannot do the maintenance. This is what we are talking about.

Members interjecting—

MR SPEAKER: Order! There is a bit of a competition going on for airspace here. Your colleagues need to be quiet, Mrs Dunne.

MRS DUNNE: It was very interesting to hear Mr Gentleman put forward the usual "commonwealth government bad, state Labor governments good" approach in relation to the final assessments at the end of year 12. What we have actually got here is, again, the misleading of the community by the Labor Party in saying, "If Minister Bishop has her way we will be forced to do away with continuous assessment in the ACT." That is rubbish. That is to mislead the community. That is not the case at all.

We have this ridiculous proposal where we have Mr Gentleman saying, "Our poor children will be stressed by doing final year exams." Mr Gentleman needs to get real and start talking to some college students about how stressful continuous assessment is and how the stress of the workload, and sometimes the uneven workload, really wears them down. What we should be doing is collaborating, talking to the students, talking to the parent bodies, talking to the teachers and talking to business and coming up with something that addresses those issues. All that we have seen from this minister is a decision to close 23 schools, added to the decision of the previous minister to close another school.

We can always talk about bricks and mortar, but there is more to a teaching environment than bricks and mortar. They are important, but bricks and mortar do not make the school. What makes the school is the teaching environment. And where is the collaboration with the teachers to address some considerable behavioural problems that we see in schools in the ACT? I spend as much time as I can talking to teachers. I do not get everyday access to government schools in the way that Mr Barr and Mr Gentleman do, but every time I talk to teachers they talk to me—and Mr Gentleman will remember this—about the problems that they have in addressing bad behaviour in the schools, bad behaviour from a very small number of children who have a whole lot of deep-seated problems, who are a disruption not just to their own education but to the education of all the children around them, and are a threat to the safety of themselves, their own friends and colleagues and the teachers.

There are many teachers who want to leave the system because they do not have the means or the mechanism to deal with this. And all Mr Barr can do is say, "Unprecedented $300 million investment." What we need is some investment in those children because, if we do not make an investment in those children, they will not succeed in the education system, they will end up in jail or worse, and that will be a great cost to us as a community.

We hear nothing about the collaboration that is needed between us here and the parent bodies and the teachers about addressing those things. We hear nothing except the cutting of staff from high schools and colleges when the high schools and colleges are crying out, saying that we need more staff. We need specialised staff. We need people who can help us address these problems, not put them away in a corner but to actually turn them around so that they will become productive, collaborative members of the school community, learn something and go on to make something for themselves rather than just acquire a prison number.

While ever this government spends its time posturing, saying, "We cannot deal with the commonwealth; the commonwealth is mean to us," it is an excuse and a distraction from the main game. The main game is our kids, and the main game is our

kids irrespective of whether they go to a government school or a non-government school. The children of the ACT are being let down by the fact that this minister had an opportunity yesterday to admit that he had made a mistake in cutting at least 21 teachers out of the government college system, and he failed to take that opportunity. While ever we fail to recognise our mistakes and do something about them, our children will suffer. All the posturing about collaboration from Mr Gentleman will amount to nothing.

DR FOSKEY (Molonglo) (4.29): It is interesting that I agree with so much of what Mrs Dunne says in relation to ACT education, but I am bound to disagree with her about federal collaboration. The federal government's control of education funding does not give it control of education as a whole. Unfortunately, the historical fact that only the federal government is allowed to collect taxes puts the state and commonwealth in the position of being adversaries. The Greens maintain that they should be partners in the provision of education. If the Labor Party wins the federal election, it will be very interesting to see whether the longstanding conflict between the commonwealth and states is a party political matter or more a level of government conflict. I hope that I get the chance to observe this and to see if the conversations in this place change.

The federal government is taking another tack. It wants ideological control of the content and delivery of education in government schools, although it seems quite happy to let independent schools go their own way. The ACT government, though, has a chequered history of collaborating with teachers and non-government parties on education matters. The curriculum renewal project shows an admirable commitment to involving teachers, departments and the community in curriculum decisions. However, as noted by the Australian Education Union ACT branch in their budget submission, there have been funding cuts to the Department of Education and Training curriculum area.

Consultation on the closure of schools and the use of school sites has been debated in this Assembly repeatedly and is an example of the ACT government making decisions seemingly with little thought to comprehensive collaboration with the broader community. However, we are not here to debate how the ACT government has accomplished or failed to collaborate on matters of education, although we can hardly help commenting on them. We are here to discuss the importance of collaboration, particularly with regard to the federal government's lack of negotiation on funding matters.

In recent media releases, both the national Greens and the Australian Educational Union made reference to Australia's poor placing in the OECD rankings for expenditure on public education. I suggest that the federal government has some role in this, especially as it keeps talking about the budget surplus and the booming economy. Instead of addressing this problem by giving more money to public schools, it is attempting to use the opportunity to use funding to take more control of the public school system.

We have seen multiple attempts by the Liberal government to dictate changes to the public school system. These include tying funds, ensuring that every school has a flagpole—with the Australian flag on it, of course—making repeated calls for a

national curriculum and, most recently, requiring that Australian history be taught to year 9 and 10 students nationally. This last attempt has drawn criticism from state and territory governments, from the teachers and the education unions and from the public.

Ensuring that school children have a sound understanding of Australian history is a good thing. However, the curriculum of the history courses should be the result of collaboration between teachers, students, governments and other members of the education community. It should not be solely based on what Mr Howard and his mates want kids to know. It is a little bit like the citizenship test in that it prescribes what it believes Australians should know.

My own understanding is that history should be taught in a critical sense. We are all aware that people are best off if they look at the primary documents, if they go back to the diaries and the letters of the day. These are the things that bring history alive to people because then they can identify with the people of those times and see that we are not talking about different people and different times; they were people just like us, but grappling with rather different problems. I will elaborate on that point in a minute.

At present, ACT schools have some liberty to determine their own curriculum within a human society and environment grouping. If an Australian history course were imposed on an already crowded curriculum, something else would have to go. Who decides which course loses out? We all have an opinion on which courses are more important than others. For instance, I heard young Aaron, Young Australian of the Year, say recently that he thought that teaching environmental science should be compulsory. I am sure that people who love music would say that music should be compulsory, and so on. We will always be having debates about the curriculum.

I would insist, for instance, that some parts of the curriculum should be developed within the school. Focusing on areas to promote your own agenda, as the Prime Minister has done in this case, does not take into account the particular needs of students in particular schools. Also, in my experience as a teacher and a parent and someone who knows a lot of young people, students in year 9 and 10 are at a very self-involved stage of their life. These are among the most difficult years to teach—any teacher will tell you so—and forcing a traditional program of Australian history down their throats is not likely to have any useful effect. In fact, I would say it probably will not stick at all. I suggest that we should move the in-depth Australian history course to years 11 and 12 as an elective and give years 9 and 10 a course that resonates more closely with students' lives.

If I were still teaching and in a position to determine what I taught, I would work with the students along the lines of a research project, for instance, into their own genealogy, their own history, to go back so that they can look at people and then look at where their ancestors, their grandparents, their aunts and their uncles came from. With that, they can learn not just history, but a bit of geography as well, a bit of sociology and more about themselves. Then they are going to be interested because it is about them. We cannot change that about young people at that age. Indeed, it is important that we do not try to because it is part of who they are and their becoming the people that they will be. It is called actualisation and achieving your potential, and these are the aims of a good education system.

That said, however, any course is only as good as the teacher. Allowing teachers to be a part of the curriculum process and ensuring that they have lots of access to good in-services is vital in ensuring their interest and their motivation to pass the information on. Making them teach courses that they have little ability to influence will merely alienate them, and the best teachers are passionate about their topics. Teachers were, quite clearly—or most of them—not consulted. In an article in the *Canberra Times* Jessica Wright quotes Mr Ewbank of the History Teachers Association of Australia. He said that there was some initial consultation with his organisation, but that they were not involved in the final stages. In the same article, Clive Haggar from the ACT branch of the AEU states that the plan undermines the ACT government, the education department and the school boards.

The ACT government, through Mr Barr, have advised they believe they will have to accept the proposed changes as he "would not risk $40 million of funding", and that is understandable. But the Howard government should not put the states and territories in a situation where funding is dependent on changes to curriculum. As many have noted, this is essentially blackmail. It is an underhand way of imposing a rigid conservative agenda in the case of who dictates it—and we know that is the way Mr Howard is going—on the minds of our young people and, again, shows no effort to collaborate with the states.

Mr Seselja: It is okay if Whitlam does it. If lefties do it, it is all right.

MR DEPUTY SPEAKER: Order, Mr Seselja!

DR FOSKEY: I know that ideology is like putting blinkers on. I hear it every time the Liberals open their mouths about anything I say. They present a particular image of what I say, but they never address what I actually say. In terms of collaboration, ask the parents and students at Mt Neighbour school what they think about the ACT government's record on education. *(Time expired.)*

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.40): I thank Mr Gentleman for raising this matter. I make the observation that in my time as minister for education I have been struck by the complete and utter failure of the commonwealth government to work collaboratively with the states and territories. It is interesting that the modern day Liberal Party, which was founded on a belief in pluralism and rights of states and territories, has moved a long way from that position.

In his interjection Mr Seselja made reference to the Whitlam government. I think that those who are students of Australian political history would observe that the political party that railed against the modest, by Howard terms, centralisation agenda of the Whitlam government would have to enjoy the irony of the modern day Liberal Party, and particularly a representative in the state or territory parliament, wanting to chastise. As we know, the Liberal Party of 2007 is a very different creature from that which Malcolm Fraser led in the seventies and early eighties. In fact, it is remarkable these days to see the level of agreement between former prime ministers Fraser and Whitlam. But I digress.

The issue that is fundamental to the matter of public importance that Mr Gentleman has raised is the issue of collaboration and what can be achieved when governments work together. Earlier this year education ministers from around the country gathered in Darwin with the commonwealth minister, Minister Bishop. We state and territory ministers went to this meeting on the understanding that we would be tackling a range of important education issues and that we would be focusing on improving educational outcomes in this country.

Of course, Minister Bishop had her own agenda to run. She was perhaps more interested in getting a cheap headline in the *Australian* newspaper. Her standard operating procedure was to publish the commonwealth papers and views on particular issues in the *Australian* the week before the meeting. But when it actually came to providing any papers and policy papers or having any decent discussion on the issues at the ministerial council, Minister Bishop was nowhere to be found. It was a wasted opportunity. Ministers could have come together and worked on proposals that would have helped students and their families right around Australia. Unfortunately, the Howard government's destructive approach meant that this could not happen.

It has been left to the states and territories to put forward a positive agenda for education. Earlier this year, the Council for the Australian Federation made up of premiers and chief ministers of the states and territories released the report *The future of schooling in Australia*. This report proposes a national framework for schooling based on the principle that quality and performance of teachers, schools and jurisdictions are central to the prospects of every student and to national prosperity. This is yet another example of the states and territories putting forward a positive agenda while the commonwealth is missing in action.

The Stanhope government is likewise committed to putting forward a positive agenda for education in the ACT. I would like to take this opportunity to highlight two recent policy papers that I have released. The first deals with early childhood education. The Stanhope government is committed to giving our children the best start in life and we are putting in place the policy framework to make this happen. As part of its commitment to early childhood education, in 2005 the Stanhope government increased the number of preschool education hours to 12 per week for all four-year-old children in the territory. In 2003, the government also reduced class sizes in the early years of schooling. Classes from kindergarten to year 3 generally now have a maximum of 21 students.

To further our commitment to early childhood education the government will be establishing four new early childhood schools: Southern Cross, to serve the Belconnen region; Lyons, to serve the Woden and Weston Creek region; Isabella Plains, to serve the Tuggeranong region; and Narrabundah, to serve the central Canberra region. These regional centres will provide access to integrated services for children from birth to eight years.

We envisage that these services will include, in addition to the preschool program to year 2, childcare and family support services and other services to sustain children's health and wellbeing. From 2008, all ACT government preschools will be forming a closer working relationship with a primary school to support continuity of learning. All ACT government schools catering for primary aged students will offer two years of non-compulsory education.

Secondly, in relation to sport in schools, I am a very strong believer in the importance of high quality physical education programs in our schools and the link that this has with increased performance in other areas of education. I do not think it is a coincidence that we lead the nation in educational outcomes and in participation in physical activity. As concerns about childhood obesity rise and new evidence emerges that one-quarter of our year 6 students are overweight or obese, I believe that now is the time to revitalise school sport and physical education in schools.

I am committed to providing a range of quality opportunities to encourage and support ACT schoolchildren to be physically active. As well as maintaining the range of current initiatives, the Stanhope government will be renewing its commitment to sport in our schools. As the only minister in Australia to have responsibility for both sport and education portfolios, I am very keen to see the ACT take the lead in what I hope will be a national focus on the importance of sport in education. The health benefits will be obvious, but high quality physical education is also about teaching students skills which can lead to improvements in other areas of education and life.

I believe that forging a comprehensive agenda on improving Australia's education is possible if federal Labor wins the election. I am already very encouraged by federal Labor's policies and Stephen Smith's commitment to actually consult with the states and territories on the ways ahead. A Rudd Labor government will give all Australian four-year-olds the right to early childhood education. Kevin Rudd has committed to investing $450 million to ensure that all four-year-olds will receive 15 hours of preschool or early childhood learning per week for a minimum of 40 weeks per year delivered by a qualified teacher. Labor's commitment to making this investment is there in black and white and in both the public and private sectors. We can see here an example of where federal Labor and the Stanhope government are working together and are both committed to giving our children the very best start in life. What have Mrs Dunne and her federal colleagues, her local colleagues, in fact, had to say about early childhood education? They have said nothing.

A Rudd Labor government is also committed to investing $44 million in ACT schools to establish trades training centres in all of Canberra's 41 high schools. There are nearly 20,000 students in the ACT in years 9, 10, 11 and 12 in government, Catholic and independent secondary schools, all of whom will benefit from federal Labor's trades training centres schools plan. As we are aware, not every ACT student wants to go on to university and many do want to pursue an apprenticeship or pursue a specialist trade. Federal Labor's plan responds to these needs by providing a real career path for students while they are still in school.

Federal Labor will also provide $1.2 million to help ACT high school students studying for a trade get practical on-the-job training by providing grants of up to $10,000 per school to secure one day a week of on-the-job training for 20 weeks a year. Again, what do Mrs Dunne, her local or federal colleagues have to offer the ACT on trades in schools? They offer nothing.

I conclude by saying that the Stanhope government has put in place a comprehensive agenda for education in the ACT. It stands in stark contrast to the policy vacuum that we see on the other side of the chamber.

Mrs Dunne: Wait for it, Andrew. Wait for it.

MR BARR: Well, we do. We have looked forward eagerly to what the local Liberal Party has to offer on education. At this point all we hear from the opposition is criticism of the government's investment in public education. "Throwing good money after bad" is how Mrs Dunne has described the government's investment in public education.

In the remaining 40 seconds available to me I would like to end on a bipartisan note by, in fact, agreeing with part of what Mrs Dunne had to say, particularly in relation to her criticism of aspects of the Prime Minister's history plan. I acknowledge that, yes, seeking to put that in place over the top of and pay no heed to what is occurring in the earlier years of schooling, from preschool right the way through to year 8—*(Time expired.)*

MR SESELJA (Molonglo) (4.50): I really do not know quite where to start in response. I was thinking perhaps of starting in response to Mr Barr's lesson on federalism and the Whitlam government. I actually consider myself a federalist. I know that not everyone in the Liberal Party is a federalist, but there is still a strong federalist tradition. Mr Barr mentioned Mr Whitlam, and I am sure that Mr Whitlam would back Mr Barr's regressive plans for capital gains tax on the family home. That would be straight out of the Whitlam playbook, wouldn't it?

Members interjecting–

MR SESELJA: The socialist utopia. What else can we tax? What would the capital gains tax be on the family home under the socialist utopia that would come in under Mr Barr?

Members interjecting–

MR SESELJA: Well, we do know about Mr Barr's taxation policies, do we not, Mr Deputy Speaker?

MR DEPUTY SPEAKER: Order, Mr Barr! You have had your ration of response interjection.

MR SESELJA: He is clearly on the record as wanting to tax the family home. They are not content with screwing first home buyers.

Mr Barr: I raise a point of order, Mr Deputy Speaker. The matter of public importance relates to education. I do not see how my views on capital gains tax relate in any way to education.

Mrs Dunne: On the point of order, Mr Deputy Speaker: I think that Mr Seselja is setting some context in which to launch into his views on education.

MR SESELJA: Indeed.

MR DEPUTY SPEAKER: Mr Seselja, if you are responding to a position that Mr Barr may have expressed, of course it would be relevant.

MR SESELJA: Indeed.

MR DEPUTY SPEAKER: Just be careful.

MR SESELJA: Indeed I am, Mr Deputy Speaker, and I can see why Mr Barr is sensitive on his taxation position. I will finish on this before I move on to other matters. Not content with screwing first home buyers from pillar to post, Mr Barr now wants to tax the family home when they sell at a profit. We look forward to future taxation arrangements should this mob stay in government for much longer.

MR DEPUTY SPEAKER: I think you might need to be a bit more relevant than that, Mr Seselja.

MR SESELJA: I will. I will come back to some of the education issues. Mr Gentleman spent a lot of time attacking the federal government's position on education, but we heard nothing or very little, in fact, about Kevin Rudd's plans for education. We know why. Kevin Rudd talks about an education revolution. Where did he get that from? In the words of Kevin Rudd: "When it comes to the issue of education policy, we take it from the *West Wing*." They take their policies from US TV shows. It was a slogan coined in the *West Wing* that Mark Latham adopted, and now Kevin Rudd has taken it up. It is the education revolution. Mao Zedong's revolution, in fact, was the context. I believe that Mr Barr likes some lines from the *West Wing.*

Members interjecting—

MR DEPUTY SPEAKER: Order! Members on both sides, we are descending into chaos.

MR SESELJA: Indeed. It does need to be said, whether it is in respect of education or any other policy, that the federal opposition leader is a cardboard cut-out. He is a policy-free zone. He is a walking slogan. And this is the man that they would like to emulate! I would like to speak a little about the importance of a collaborative approach to education.

Mr Barr: You are four minutes into your speech and you have not talked about education.

MR SESELJA: I have. I have talked about an education revolution. Clearly, Mr Barr was not listening. He missed the part about the education revolution. The education revolution is the centrepiece of the federal Labor Party's education policy. It is the Mao Zedong-*West Wing* take-off style. Mr Barr clearly has not been listening to Mr Rudd.

Members interjecting—

MR DEPUTY SPEAKER: Mr Seselja, I am struggling to draw a connection between Mao Zedong, the *West Wing* and education. I remind you that your remarks should be relevant.

MR SESELJA: You will have to watch the episode, Mr Deputy Speaker. I believe it was in season 2.

When we talk about the collaborative approach to education, it would be remiss of us not to mention the lies of the Labor Party at the last ACT election. That is not a collaborative approach to education. It is not a collaborative approach, prior to an election, to say, "We will not be closing schools; it is the other mob," and then, 18 months after the election, announce a radical plan to slash and burn in relation to schools in the ACT education system.

The blatant lies that they took to the last election are a disgrace and do not reflect the importance of a collaborative approach when it comes to education. That is not a collaborative approach. A collaborative approach would have been to be honest with the people of the ACT, to be fair dinkum going into the election and actually outline their plans, rather than misleading the community about their future plans in relation to education.

Mr Gentleman failed to speak about some of the important parts of the federal Labor Party policy in this area. Of course, in recent times we have seen Mr Latham's hit list. It was one of the centrepieces of their policy. I will get to the history in a moment. They disown them quickly in the Labor Party now, don't they? How long was Mr Latham the opposition leader?

Members interjecting—

MR DEPUTY SPEAKER: Order! Mr Seselja, resume your seat. Members on both sides, this is getting so loud that I cannot concentrate to maintain order. Mr Seselja, you have the floor.

MR SESELJA: The Latham hit list is reflective of what the Labor Party really believes about non-government education. It reflects the true values of the Labor Party. It is the class warfare that was reflected by Mr Latham. He was roundly defeated, of course, but he reflects a big part of Labor Party thinking in this area. They hate non-government schools. That is why they have the hit list. They hate non-government education, and we saw it reflected at the ACT Labor Party conference where I believe they were short by one vote—

Mrs Dunne: Two votes.

MR SESELJA: two votes to get blatantly anti non-government education funding. How many Labor Party MLAs in this place voted essentially just against funding of non-government schools? There were four. Mr Gentleman voted in favour of the anti non-government school motion. There were Mr Corbell and Ms Gallagher. Who was the fourth? Mr Berry—

Mrs Dunne: And Mr Stanhope was AWOL.

MR SESELJA: Mr Stanhope abstained, so we do not actually know what Mr Stanhope's true position is on non-government schooling and the funding by government of non-government schooling. We have seen Mr Latham's hit list.

Mr Gentleman also failed to mention some of the important measures that the federal government has taken in recent times in the area of education. I understand that the federal Labor Party is now adopting some of these as policy. We have seen the numeracy and literacy testing in years 3, 5, 7 and 9. It is standardised testing, a sensible forward-looking measure that allows us to objectively judge where our students are placed at various points during their education. It was a positive measure enforced by the federal coalition government, opposed by the AEU and—

Mr Barr: In spite of the commonwealth.

MR DEPUTY SPEAKER: Order, Mr Barr!

MR SESELJA: Thank you, Mr Deputy Speaker. Mr Gentleman simply fails to highlight some of these. We have heard a lot about history in recent times. It is quite legitimate for the Prime Minister to put this issue on the agenda, as he did.

Mr Barr: Should he be setting the curriculum?

MR SESELJA: He is not setting a curriculum.

Mr Barr: Yes, he is.

MR SESELJA: This is the rubbish that the Labor Party and the Greens go into.

Mrs Dunne: So you cannot tell the difference between a paper and a curriculum document?

MR DEPUTY SPEAKER: Order, Mrs Dunne! Stop aggravating Mr Barr. Order, Mr Barr!

MR SESELJA: It is reasonable to say that history is not social engineering. We do not teach social engineering in history. It is reasonable to say that there are some basics in the teaching of history that should be across all curriculums. Key dates, key moments in history should be taught.

Mr Barr: Do you think Cyclone Tracy deserves mention, then, in Australian history?

MR DEPUTY SPEAKER: Mr Barr, this is the last time I will call you to order.

MR SESELJA: Thank you, Mr Deputy Speaker.

MR DEPUTY SPEAKER: Do not thank me, Mr Seselja.

MR SESELJA: That is not ideological. That is sensible. In my own educational experience I have been taught history. In primary school Australian history is not bad. In high school it is not very good at all. In college, through a great history teacher, I was inspired about history and took it on, and that is the power of history. I went on to study it at university.

We do want to see a situation where all Australian children learn about the key aspects of our history so that we can take pride in our history, the good and the bad. It is not about social engineering. It is not about history as some sort of exercise in political indoctrination. That is clearly not what is being argued by the Prime Minister. The matter of public importance was poorly argued by Mr Gentleman. He has failed to mention any of these issues.

MR DEPUTY SPEAKER: The time for discussion has expired.

Occupational Health and Safety Amendment Bill 2007
Detail stage

Clause 19.

Debate resumed.

MR MULCAHY (Molonglo) (5.00): Mr Deputy Speaker, I will be opposing this clause for the reasons I have already outlined in relation to earlier debate.

Question put:

> That clause 19 be agreed to.

The Assembly voted–

Ayes 8		Noes 5	
Mr Barr	Mr Gentleman	Mr Mulcahy	Mr Stefaniak
Mr Berry	Mr Hargreaves	Mr Pratt	
Mr Corbell	Ms MacDonald	Mr Seselja	
Dr Foskey	Mr Stanhope	Mr Smyth	

Question so resolved in the affirmative.

Clause 19 agreed to.

Clauses 20 and 21, by leave, taken together and agreed to.

Schedule 1, part 1.1.

MR MULCAHY (Molonglo) (5.04): I will be opposing this part as well.

MR BARR (Molonglo–Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.05): I just thought I would take this opportunity as we get to the end of debates on this bill

to rise in response to some of the issues that have been raised this morning and to again reiterate the government's position in relation to the issues of contention in this legislation.

Mr Mulcahy raised a series of concerns when this debate began last month, at which I had the opportunity to respond specifically to most of them. I will also pay tribute to Dr Foskey, who, very helpfully, and, in fact, most correctly, explained the effect of amendments during the debate. She did so so effectively that, in fact, I understand she did so twice. However, she was correct on both occasions, and that is important to acknowledge. I do want to put on the record my appreciation of Dr Foskey and her office in accepting the briefings from the department on the bill and for taking the time to consider and understand the effects of these amendments. But I would like to stress again that the offence provisions in this bill are not draconian and that a person will not be subject to imprisonment for an honest mistake. The offences remain fault element offences.

Under the offences, it is still necessary to prove that the defendant was either reckless or criminally negligent about whether his or her conduct would expose or cause serious harm to anyone. In the case of recklessness, the prosecution would be required to prove that the defendant knew of, or was aware of, a substantial risk that their act or omission would expose or cause serious harm to anyone. In the case of negligence, a court must be satisfied that the person's act or omission merits criminal punishment. The defendant's conduct must involve such a great falling sort of the standard of care that a reasonable person would exercise in the circumstances, and there must be such a high risk, that the person would be exposed to a serious harm because of the defendant's act or omissions.

So, again, to reiterate to everybody today, this bill does not introduce a reverse onus-of-proof regime for safety duty offences in the OH&S act. The government does not support, nor will it progress, any reforms in line with the New South Wales reverse onus-of-proof provisions in its OH&S legislation. Under the offences in the bill, the prosecution is still required to prove each and every element of the offence beyond a reasonable doubt. This includes that the duty holder failed to take all reasonably practical steps to comply with a safety duty.

Under the amendments that Mr Mulcahy has proposed, a duty holder who demonstrates some degree of diligence, yet commits an offence, could be liable for a term of imprisonment, whereas a duty holder who is criminally negligent and demonstrates no level at all of awareness as to their duty or shows no degree of diligence or responsibility whatsoever would only be subject to a monetary penalty. This is sending the wrong message. In an occupational health and safety context, all duty holders are expected to be aware of their obligations under the legislation for the sake of their employees or other persons who may be affected by the undertakings of the duty holders.

I would like to take the opportunity to clarify some of the concerns that Mrs Dunne raised and, again, stress that the offences as a whole are not strict liability offences. Strict liability applies to only one element of the offences. The government, in fact, agrees with Mrs Dunne that strict liability must only be used in appropriate circumstances where people ought to know their obligations under a particular act.

Mrs Dunne used the example of people in the business of selling plants in the context of the Pest Plants and Animals Act defences. However, I am firm in saying that duty holders under the OH&S and dangerous substances acts squarely fall in the category of persons who ought to know their obligations.

The government agrees that, as a general rule, strict liability should not attach to offences with an imprisonment term. I am advised that in some more serious circumstances, an imprisonment term of six months is appropriate for a strict liability offence. However, I cannot emphasise enough that the offences in question today are not strict liability offences. Strict liability applies to only one element of the offences, and the offences as a whole remain fault element offences. During this morning's debate, Mr Mulcahy spoke about the offences reversing the onus of proof. Again, I will state that this is not correct.

On the record, I agree with the views of Mr Mulcahy and Chris Maxwell QC that there is no demonstrated benefit in reversing the onus of proof in OH&S-related defences. Under the offences, the prosecution is still required to prove each element of the offence beyond reasonable doubt. But I do have to disagree with Mr Mulcahy's remark about negligence. Whilst Mr Mulcahy may be technically correct in saying negligence is not a mental element, I am advised that negligence is most certainly a fault element for an offence, and "negligence" is defined in division 2.3 of the Criminal Code, which is entitled "Fault elements". It is a fault element that employs an objective test and is necessary to cover those persons whose conduct involves such a great falling short of the standard of care that a reasonable person would exercise in the circumstances that the court is satisfied that the person's conduct merits criminal punishment.

Mr Deputy Speaker, the application of strict and absolute liability offences in the territory is, as I think I observed in the debate last month, currently the subject of a standing committee inquiry. I understand that the committee's report is expected in the near future, and I very much hope that this inquiry assists members of the Assembly in their understanding of strict and absolute liability, as it is clearly an area that requires some further examination by some members of this place. I indicate, of course, that the government will be opposing all of Mr Mulcahy's amendments and that we will continue in our support for the bill in its original form.

Schedule 1, part 1.1, agreed to.

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

MR MULCAHY (Molonglo) (5.11): I am not going to go into a long dissertation again—I think the views of the opposition have been made well known. I have researched this extensively, and I stand by the advice which I conveyed in my earlier remarks to the Assembly. I am troubled by the direction in which this legislation is going, and it will be something that will be addressed by a future Liberal government. I have no doubt about that. I am also, of course, disappointed with the Greens. I thought it was a sad reflection on them to come in here and present a repeat speech in this place that showed no consideration of subsequent comments that have been made. I would hope that we never see that level of performance again in relation to a piece of legislation. Certainly, in the case of my office, we are a bit too diligent to let things

like that slide through and not be noticed, and I thought that it was a pretty ordinary effort to trot out a speech delivered only a month ago. I am very pleased that members of the government also confirm that they had realised what was going on.

Our position will be to oppose this bill because of the concerns we have that I have outlined. I do not intend to repeat all those arguments, but I think it is regrettable. Certainly, the government's position does not sit very comfortably with their so-called human rights position when it comes to these sorts of legislative remedies.

Question put:

> That the remainder of the bill as a whole be agreed to.

The Assembly voted—

Ayes 7		Noes 4
Mr Barr	Mr Gentleman	Mr Mulcahy
Mr Berry	Mr Hargreaves	Mr Pratt
Mr Corbell	Ms MacDonald	Mr Seselja
Dr Foskey		Mr Stefaniak

Question so resolved in the affirmative.

Remainder of bill, as a whole, agreed to.

Bill agreed to.

Canberra Institute of Technology Amendment Bill 2007

Debate resumed from 27 September 2007, on motion by **Mr Barr**:

> That this bill be agreed to in principle.

MR SMYTH (Brindabella) (5.19): Mr Deputy Speaker, the opposition will be supporting this bill. This bill will change industry representation on the CIT Advisory Council. This council advises the minister on a range of matters related to the activities of the CIT. A critical issue for training institutions such as the CIT, particularly at present with the emerging skills shortages in many areas, is to be able to train people in skills that are required by industry. Institutions such as the CIT must be both relevant and responsive to industry needs. To this end, it is not only sensible but essential that the best possible council be appointed to provide advice to the minister.

This bill will change the makeup of the council, but not the size of the council. It will change from having only one person explicitly representing industry to having seven people representing different industries or sectors. This is a sound move, and we support it wholeheartedly. I would note that in supporting the strengthening of the CIT Advisory Council this also will equip the council to provide both the minister and senior management of the CIT with more appropriate advice on a range of training issues that affect industry. This increased flexibility in appointing people to the

council will be a valuable benefit to the CIT. I think this is good news for the territory and for industry, and for all other users of people who develop their skills at the CIT.

I would also note that the bill makes some changes to the process of reviewing certain decisions that can be made by the director. The provisions of new part 9 set out the types of decisions that can be subject of review and the processes that are involved in facilitating any review. The particular matters that are subject to review are decisions concerning a refusal to admit a person to a course of study or to an examination and a refusal to confer an award. The changes made to the matter of reviewable decisions appear to be sensible, and we will support the bill.

DR FOSKEY (Molonglo) (5.21): Please tell me if I am repeating myself. I am hesitant in my support of the CIT amendment bill, as I do not believe the impact of the proposed changes has been adequately qualified or explained by the ACT government. It appears that the objective of the bill is to strengthen industry representation on the CIT Advisory Council, to encourage CIT educational content that is more relevant to the market, and to encourage pathways for students between education and employment. The ACT government is proposing that seven of the 12 council members, rather than one, represent key industry sectors in the ACT. The three representatives from staff, students and vocational education and training remain unchanged. The council will, however, be losing four members who have expertise relevant to the management and operation of the institute.

Looking at recent composition of the council, there appear to be five members who may lose their positions as, from what my office knows of them, they will not meet the new criteria. These members include Dr Sarah Ryan, chair of the committee and a coordinator of the Murray-Darling Basin Commission; Ms Catherine Clynes, a community representative; Roslyn Brown an indigenous aged care researcher; Ms Rebecca Cross, the public sector representative from DET; and Mr Paul Dugdale, the ACT's Chief Health Officer.

In changing the composition of the council, we must consider what impact this will have on the council's ability to undertake its function, as set out in clause 29 of the CIT act. Three of the council's functions relate to CIT's educational content and services, community relationships and its financial position. I am sure that the six industry reps will have much to contribute in these areas. But I am concerned about the function which requires that the council advise the Minister for Education and Training on the welfare of students at the institute. How can the addition of six industry reps provide better advice on student welfare or community development? Yes, they can talk about students' future employment and training, but I doubt that they are capable of advising on the most appropriate academic setting, student services and extracurricular activity in which student welfare is catered for. Surely this is where community and academic experts have greater value, and I am disappointed that many members of the council who can best contribute to this area will be lost.

It seems that seven out of the 12 council members have industry as a priority, and only five of the 12 have the academic setting at heart. If it comes down to a vote, the seven industry representatives will win over the remaining five. But, of course, we hope the council will never get to the position where such a vote would occur. I would

appreciate if, in his reply to my speech, the Minister for Education and Training could explain why the ACT government believes seven industry representatives is an appropriate figure? Why not six, in order to ensure a better balance between industry, community and the institution?

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.24), in reply: I thank the opposition for their support of this legislation. I think it is worth reflecting on why it is that we do need more industry representation on the CIT council. It is an important advisory council, and it is important that we are in a position to better match the supply of skilled labour and demands with the needs of industry. So I think it is important that we have that expanded capability on the advisory council.

I need to stress, in response to Dr Foskey's assertions that this is not a body that would have formal votes or would in any way determine the final policy direction of the CIT, that it is an advisory body to me as the minister. I do not think any minister would set up such a body to be instantly divisive and to seek to pit interests of industry, say, against that of a student body or a teaching body. There still remains representation from staff and students on the advisory council. I am not sure whose grand conspiracy theory Dr Foskey is advancing with those comments and observations. They are, perhaps, unfortunate and miss the point of what the government is seeking to achieve through having a more diverse industry representation on this advisory council.

I would hope that there was never a vote and that, if there were conflicting views, the range of views would be presented to government. It is entirely appropriate, where there is a divergence of views in advisory groups, for that divergence to be presented to government. It occurs in many advisory councils. A unanimous position or consensus is not always achieved. Where it is not, then it is appropriate for an advisory committee to advise government that there is not a consensus view. I am afraid I do not see the dangers that Dr Foskey seems to in this amendment.

I believe that it will provide the right level of industry representation on the advisory committee and will provide an opportunity, as I say, to get input from a range of sectors and to ensure that the work of the CIT is particularly targeted at meeting particular skill shortages and particular needs in the local economy. I fundamentally fail to see the grand conspiracy that Dr Foskey is putting forward. Again, I thank the opposition for their support and look forward to the passage of the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Surveyors Bill 2007

Debate resumed from 31 May 2007 on motion by **Mr Barr**:

> That this bill be agreed to in principle.

MR SESELJA (Molonglo) (5.28): The opposition will be supporting the Surveyors Bill as presented and amended by the government. Firstly, I would just like to put on record the fact that my office had a briefing on the bill and the amendments from Mr Barr's office, and we are grateful for that briefing and answers to the questions that we need answered. The bill, as stated by the government, regulates a critical profession within the ACT. Firstly, it ensures the independent status of the position of the Commissioner for Surveys and does not allow the commissioner to participate in the formation and analysis of policy direction within ACTPLA. That is a concern.

As noted, the Surveyors Bill regulates the practice of surveying land in the ACT. It is a long-regulated profession—all governments in Australia recognise the importance of accurate surveying of land. It is fundamental to the future of all jurisdictions. As noted previously, the independent status of the position of the Commissioner for Surveys does not allow the commissioner to participate in the formation and analysis of policy direction within ACTPLA.

The bill addresses this issue with the replacement of the commissioner with a full-time public servant, being the Chief Surveyor. The Chief Surveyor will be tasked with not only having responsibility for statutory arrangements, but also the management of the surveying and spatial information programs on the authority. Allowing the new position of Chief Surveyor the scope to be a stakeholder would seem a positive step towards more open and balanced communication.

The introduction of compulsory professional development is an element that the opposition is broadly supportive of. The intention of the move to maintain parity with other jurisdictions is an important effort. The minister himself has acknowledged that certain elements of the bill may require amendment after the review of ACT tribunals being completed by the Department of Justice and Community Safety. The opposition will, of course, be interested in the outcome of the review and subsequent changes to the bill.

DR FOSKEY (Molonglo) (5.30): Before I start, I just want to take the opportunity to say that there was a bill listed under government business that did not come up today. I just want to ask the government for a better process to inform—

MR SPEAKER: This is not the place to do it.

DR FOSKEY: I note that it is a failing that has happened before, and it needs to be corrected. The Surveyors Bill 2007 introduces legislation to replace the Surveyors Act 2001. It implements a number of changes to the administration of surveying and spatial data in the ACT, as well as changes to the regulation of the surveying profession. My office received a briefing from ACTPLA officers on this bill, and I thank them for giving up their time and explaining the issues so clearly, including the arcane intricacies of cadastral datum standards.

Apparently, there was a move to cover some more issues with these amendments, which would have updated some survey practices to accord with latest practice and what is currently being taught at universities. But after meeting resistance from established practitioners, it was decided to omit or modify those proposals. I understand that nothing of significance turns on these omissions and that nothing will be lost by waiting for generational change to create pressure from the industry itself for these changes in the future. I have the opportunity to congratulate another branch of the public service on its demonstrated commitment to meaningful consultation at the formative stage and before decisions have been finalised or substantially decided upon. It makes a refreshing change, and it has clearly had a good outcome in the case of this legislation.

The establishment of a new survey practice advisory committee seems to be a sensible move to obtain the benefits from having access to a wide range of expertise and industry experience. As long as avenues are left open for welcoming and listening to alternative views not represented on the panel, this seems to be a commendable model, and I urge the government to investigate its inception in other areas. I understand that the provisions in this bill requiring continual professional development would bring the law into line with most other Australian jurisdictions. In any case, it is a sensible provision. Combined with other provisions, and the amendments to clause 8 of the bill, this bill provides for the mutual recognition of appropriate surveying qualifications. This is a sensible approach to the skills shortage in the ACT.

As far as the disciplinary provisions are concerned, I understand that the surveying profession in the ACT has an exemplary record so far as the maintenance of professional standards is concerned, and I congratulate them on this record. I will be supporting this bill, and I support the amendments, including the inclusion of the words "reasonable grounds" to qualify any administrative discretion in this bill, and in every law where there is the possibility of ambiguity.

The alternative is to rely on the Wednesbury unreasonableness test under the ADJR act. But this sets the bar so high that it would only invalidate a decision if it was so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. The discretion under clause 56 (1) to exempt a surveyor from a practice direction requirement is serious enough to err on the side of caution and include an explicit reasonableness provision. The amendments to this bill are self-explanatory, sensible and desirable, and I will be supporting them.

MR STEFANIAK (Ginninderra—Leader of the Opposition) (5.34): As I briefly mentioned to Mr Barr in the stairwell the other day, a friend of mine who is a surveyor asked me to pass on a few issues which I think are relevant, more so in relation to the advisory committee which the minister will set up, and I passed them on for the benefit of the minister. I am not too sure whether it makes a huge difference in the ACT because it relates to two bodies, and most surveyors are in both. So in practical terms it may not be a problem. My friend is a surveyor of long standing who works with the government at present and has been involved in that area for about 20 or more years.

It is important because registered and licensed surveyors are the only ones allowed to effect land boundary definition and land identification surveys, and that is something, obviously, that affects everyone in our community. It is also important because of legislative requirements such as the Real Property Act and requirements for rigorous examination procedures conducted by boards of surveyors; for example, in New South Wales the Board of Surveyors and Spatial Information, BOSSI.

The Institution of Surveyors Australia, Canberra Division, has been the long-recognised professional body, since 1960 in the ACT, representing surveyors. I understand and I have been told that the minimum requirement for membership is a bachelor's degree from a recognised university. Before university tuition became the norm, surveyors trained under an articles system. Although this system has finished, there are still many practising surveyors who qualified under this system.

Boards of surveyors around Australia typically were or are made up of five to seven members, with the surveyor-general being the ex officio chairman. The relevant minister usually appointed two members. Legislation provided for the recognised professional entity to appoint two of its members, and that was done by a vote by surveyors of the recognised institution in that jurisdiction. I am told that, from a list of three candidates, eligible surveyors would cast a ballot for the candidates of their choice.

In 2003 the various state divisions of the instituion and four other bodies that represented allied professionals undertook an Australia-wide postal ballot. Those other associations were, firstly, the Institution of Engineering and Mining Surveyors of Australia—IEMSA—the Mapping Science Institute of Australia, the Remote Sensing and Photogrametric Association of Australia and the Australian Urban and Regional Information Systems Association.

The new association formed is called the Spatial Sciences Institute, the SSI, and it was set up ostensibly as an umbrella organisation to promote the ideals of spatial sciences, or so I am advised. No tertiary qualifications are required to be a member of the SSI. I am told the only vote taken in 2002 was to form the SSI, not to dissolve the founding organisations, those four organisations I mentioned.

The New South Wales Institution of Surveyors voted strongly against the formation. The Institution of Surveyors, Victoria, initially voted yes but since has recinded this decision. I am further told that IEMSA, the Institution of Engineering and Mining Surveyors of Australia, and the Mapping Science Institute of Australia have refused to be part of the SSI, both at state and national levels. I am told the main reason for the no votes are issues with the struture of the SSI and governance issues and, for the land surveying profession in particular, the non-professional nature of the SSI.

There are some highly qualified and very professional members in the SSI that came from the founding bodies, but I am told they are not necessarily professional in the sense that there are no prescribed standards as there are for, for example, solicitors, barristers, surgeons, doctors, electricians et cetera. I am told the SSI was set up ostensibly as an umbrella organisation to promote the ideals of spatial sciences. I am further told, at a trivial level, that surveying is a spatial science and in fact the field

work and mathematical calculations involved are usually a great deal simpler than those undertaken by some of the practitioners mentioned above.

However, the point of registration and licensing of surveyors to be deemed competent to carry out land surveys is to provide surety of land title, just as solicitors are required to undertake the legal aspects of dealing in land titles. The minimisation of conflicts and enablement of general commerce that come from secure property rights is the paramount concern. I am also told that a registered surveyor's assessment of where a boundary is on the ground is based on professional judgement born of proper survey practice and legal precedent and legal requirements as to qualifications and demonstrated competence as tested by an examining panel of boards of surveyors.

The divers institutions of surveyors professional status derives from this and not some self-appointed gold star of "certified professional". These are the words of my friend the surveyor. When choosing candidates for membership of the advisory committee, I am advised they should be sought from the Institution of Surveyors Australia, Canberra Division. At any rate, most ACT-registered surveyors in fact have dual membership with the SSI. I am told the situation came about by members of the founding bodies being offered free membership of the SSI when the vote was taken to form the SSI, and this was achieved by merely ticking a check box on the voting form. So, digressing from what I have been told, it may not be an issue if everyone is in both organisations or if most are.

I am told it is on this basis that the SSI may claim to have greater representation of spatial professionals than the Institution of Surveyors Australia. Finally, I am told the federal council of the Institution of Surveyors Australia entered into a service agreement with the SSI, and funding for this comes from the capitation levied on members of the state bodies that formerly went to the Institution of Surveyors Australia.

So there you go, Mr Barr. If you take that on board, it may not be a practical problem. There might be some demarcation dispute there, but it was a great concern to a person I have known for many years who has been in the profession. So if you take that on board I am sure the local surveyors would be very grateful.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.41), in reply: I thank Mr Stefaniak, Mr Seselja and Dr Foskey for their comments. Certainly, as I indicated to Mr Stefaniak when we discussed this matter in the stairwell last week, I was very happy to get the detail of the issue. He has certainly now provided the detail—in fact, a considerable amount of detail—and I am very happy to take that issue up with the Planning and Land Authority as appropriate. I thank the opposition and the Greens for their support.

I will of course be moving some amendments shortly. I thank members for their indication in advance of their support for those amendments.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.42): I seek leave to move amendments Nos 1 to 3 circulated in my name together.

Leave granted.

MR BARR: I move amendments Nos 1 to 3 circulated in my name together *[see schedule 1 at page 3189]*. I formally table the following paper:

> Supplementary explanatory statement to the government amendments.

The Standing Committee on Legal Affairs, in its scrutiny of bills report 43, raised several matters in relation to the bill. Consideration of these matters has resulted in the government amendments that we have before us today. The first amendment clarifies the powers of the chief surveyor to register or refuse to register a person to practise surveying in the ACT. The second amendment is a note to draw attention to the relevant section of the commonwealth Mutual Recognition Act. The third amendment is to ensure the chief surveyor has reasonable grounds to issue an exemption to the survey practice directions. These amendments do not alter the intention of the bill. However, they do add clarity and strength in the relevant provisions.

I would like to acknowledge the work of the scrutiny of bills committee in this regard and indicate that the passing of this bill will necessitate minor consequential amendments to the Districts Act 2002, the Electoral Act 1992, the Land Titles Act 1925 and the Legislation Act 2001. Again, I thank members for their support of these amendments.

Amendments agreed to.

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

Bill, as amended, agreed to.

Adjournment

Motion by **Mr Corbell** proposed:

> That the Assembly do now adjourn.

Greens—staff
Anti-Poverty Week

DR FOSKEY (Molonglo) (5.44): I want to start by thanking my staff for their amazing effort during this and last sitting week. People may or may not be aware that I have two new staff, a lot of part timers, and it does seem that some members, in

particular Mr Mulcahy, are not aware that my office has to deal with absolutely every portfolio. If we make mistakes, I do not go up there and roar at people. That is not my style. I reckon we do the best we can. I have learned not to shrink when Mr Mulcahy casts his glinted eye upon me.

Today being the last sitting day in Anti-Poverty Week, I want to just read a little bit out of the speech that I was not given leave to make this morning when we discussed the planning and environment report on ACTION buses, because I want to stress the link between public transport and alleviating poverty. I will not be able to read too much of this speech, but I do refer people to the report that I mentioned on Tuesday, *Living on the edge*, which was put together by Uniting Care Kippax and Belconnen Community Services, because it is a fine-grained social analysis which I believe should underpin all service delivery, including bus services, and going so far as the location of medical centres.

I said the other day that there are 400 families without cars in that region. People will probably be aware that it is not a region that even has a high school at the moment. It certainly does not have any colleges, and a couple of the primary schools are being closed. It has a very high proportion of Indigenous people compared to the rest of Canberra, low levels of education, quite high levels of public housing, a high proportion of single-parent families, lots of people doing unpaid childcare and a lot of unpaid assistance to people with disabilities. These factors are combined with geographic isolation, inadequate transport and poor community health and educational services. So it is an area with localised disadvantage.

With 400 people without cars, what we need to know is that it is the largest number of vehicle-less households, and, at nine per cent, it is above the national average. The average is seven per cent in the ACT, and that is matched only by areas near town centres where perhaps people choose not to have cars because they need them less. The median household income is two-thirds of the ACT figure.

I will just give you an idea of how ACTION buses do not work for them. If you needed to take a bus to get to an 11.00 am medical appointment, public transport from west Belconnen is such that to get to Calvary will take you approximately 1¼ hours in each direction; to Canberra Hospital will take you a minimum of 1½ hours in each direction; and to get to specialist services at John James takes two hours in each direction. Of course, with the off-peak bus timetables in the area, it just is too hard. One bus per hour on a weekend means that people are going to do their best to try any other form of transport available. There are no buses at all in the evening on a weekend.

One of the suggestions that I had, after going to the chefs challenge on Monday where three top chefs made food on a very low budget—very delicious food, by the way—was: what about those 400 people without a car? How do they get the ingredients? The chefs had gone to the markets and had all kinds of beautiful fresh food. We are always telling people to eat more vegetables, to be healthy. This is primary health care.

I am suggesting that the government should set up a free bus service on the weekend that picks people up from the suburbs of west Belconnen, with a chef perhaps the first time—someone to guide them around the market and to show them what is good

value, what lasts, which is good fish, which is sustainable fish. So the people will actually have this opportunity, rather than just going to the nearest supermarket which they can get to where the food is not cheap, where it often is not fresh, where it will be prepared and which will make their food bills higher. We have to think of an integrated way, but public transport is at the basis of overcoming disadvantage in west Belconnen.

Pink Ribbon Day
Health—oral and maxillofacial surgery

MRS BURKE (Molonglo) (5.49): Firstly, I would just like to remind people to support the activities of Pink Ribbon Day when and where they can. I think that is most important. Some great advancements are being made in the area of breast cancer and it is a very worthwhile cause to support.

As Mr Stanhope rightly anticipated, I am here again in this place tonight to put on the public record some very serious matters relating to oral and maxillofacial surgery. Unlike Mr Stanhope and other health ministers, current and past, I will not give up on this matter until I see the issues I have raised fully addressed. I understand on very good authority—very good authority—that at least one surgeon approached ACT Health after being left totally frustrated, after 18 months, with the dire situation of the less than optimal outcomes for oral and maxillofacial surgery on numerous people.

The surgeons, I understand, spoke to Mark Cormack, CEO of ACT Health who, I am told, was under extreme pressure in regard to this matter, telling the surgeons there was a threat that another surgeon would walk off the job if oral and maxillofacial surgeons were approved to conduct surgery at the Canberra Hospital. He admitted at the time that his head was on the chopping block in regard to this matter.

Hiding behind public servants has been developed to the point of an art form by this government, very sadly, which never accepts responsibility. Public servants have to do the bidding of their political masters. The buck stops with the health minister and with the Stanhope government. How many more lives are going to be sadly affected by having botched surgery done or having misdiagnoses that made recovery a lot more complex?

To focus your minds on the needless suffering of patients who had no idea they were not receiving treatment from oral surgeons, I will give you some details of another couple of cases. A man who was involved in an accident during a bicycle race was brought to casualty at the Canberra Hospital with a broken and very painful jaw. He said the treatment he received at casualty—this was in 2001—was of the highest standard. He was then referred to the plastics clinic where his jaw, so swollen by this time that he looked like the elephant man, was examined clumsily by a doctor who then looked at the X-ray and informed him the jaw would heal by itself. With the pain continuing severe, the man made an appointment to see an oral surgeon privately. His jaw had to be reset because otherwise it would not have set correctly and the bite would have been incorrect and could have caused future complications. After this operation the pain in the jaw disappeared almost entirely, according to the patient. The patient says that what happened to him at the Canberra Hospital, the misdiagnosis, should not be allowed to happen to others.

Another case is of a young woman who was operated on for tongue cancer and then had a transplant of flesh fitted to her tongue. The transplant failed. Surgery then followed at the Canberra Hospital where a plastic surgeon, I understand, fitted the transplant. The tongue flap began to smell and went a funny colour as it died in her mouth. She was told by a plastic surgeon at Canberra Hospital that it would take time to take. When she sought another opinion she was told the new flap had been dead for some time.

It is not good enough for Mr Corbell to say what he is dealing with is a "demarcation dispute". What a union-centric way of looking at these tragic cases. It is not about a demarcation dispute. It is about the Canberra Hospital not having an oral surgeon to deal with these very specialised cases. I want to know why oral surgeons in Canberra have not been accredited to operate at the Canberra Hospital. In view of the number of complaints of botched jobs and misdiagnoses, this has clearly not been in the interests of patient care.

When a hospital puts a "demarcation dispute", whatever that is supposed to be, before patient care, it is in a sorry state. But it is the ACT Labor government at which we should point the finger because they have conceded that they have known of these problems with patient treatment in this area for years. If I do not receive a response in the Assembly or a private briefing on this matter, I here now say that I will be forced to start naming some of the principals in this matter in this chamber.

Department of Territory and Municipal Services—surveillance of staff Emergency services—bushfire season

MR PRATT (Brindabella) (5.53): I rise to talk about two issues going to the heart of government competence and the question of openness. Firstly, I want to return to the issue of the secret surveillance of the TAMS staff depot. You will recall, Mr Speaker, that Mr Stanhope vehemently denied the strong allegations that I have received from a most reliable source that he himself authorised, or at least gave his blessing to, the secret surveillance of TAMS staff. Not only has the Chief Minister strongly denied that, which of course is his absolute right; he has also stated that by vigorously pursuing him—that is, by the opposition asking him to confirm or deny the allegation—I, Mr Pratt, have defamed him. He said that yesterday in this place—that my calls for a clarification about the matter amounted to a defamation.

This is extremely odd. If there is nothing wrong with the actions of the government to order secret surveillance, why is Mr Stanhope so touchy about being challenged? Remember that his officials and his minister in this place have supported the action of the surveillance. Does he not support the action by crying defamation? If he thinks the surveillance was unsavoury and unacceptable, as I do, what actions has he taken against the minister and the department? I challenge the Chief Minister to answer those couple of questions.

The next point I want to get on to is the matter of bushfire readiness. The Stanhope government really stands condemned through its admission in the Assembly here today that on the first day of total fire ban it had not been ready for bushfire season 2007-08. In question time today the minister for emergency services admitted that the

fire watchtowers had been unstaffed for three hours at least on 4 October, a day declared as a total fire ban. Outrageously, the minister has stated that it was quite normal, and he clearly accepted in his response to the questions that the fire towers were unstaffed before midday. In the most disgraceful act of ministerial irresponsibility he then also distanced himself from the issue by stating that this inability to staff the towers was kind of okay because the commissioner for emergency services and the duty officer said so.

Best practice requires that on the night a declaration is made the following day—

Mr Corbell: Well, what about operational independence, Steve? Don't you believe in operational independence?

MR SPEAKER: Order, Mr Corbell!

MR PRATT: is going to be a day of total fire ban, all arrangements are planned, including preparing crews to staff the watchtowers—

Mr Corbell: Do you not believe in operational independence, Steve?

MR SPEAKER: Order, Mr Corbell!

MR PRATT: at the start of the following day. The Volunteer Brigades Association and other veteran firefighters are adamant that this is the standard—that on the night before a total fire ban you have your preparations made and your people in place, and that includes people manning fire towers, that includes the incident management and control group and that includes making sure that the communications centre is properly manned by everybody.

The government, as was the case with the bushfire season 2002-03, failed to be ready. They failed to organise contracts through the winter for the management of fire watchtowers. Incredibly, the minister said today it was acceptable that such contracts and other critical preparations were still not ready before the bushfire season commenced. The Stanhope government have not learned the bitter lessons from the McLeod and Doogan inquiries into the 2003 fire disaster, when they were criticised for their lack of readiness.

Nothing has changed. The Stanhope government continue to play Russian roulette with the people of Canberra. The government stand condemned for that. We discussed this issue this week—that last year on the fourth day of the 2006-07 bushfire season 25 per cent of frontline vehicles were unserviceable. In the previous year, preventative planning had not been commenced on time and there were fuel fire loads too excessive along the urban edge, which then of course contributed to the nasty little fire at Yarralumla. Has this government ever learned the lessons coming out of 2003? I think not. They need to lift their game.

Railway Historical Society

MR GENTLEMAN (Brindabella) (5.58): Just last week I had the privilege of visiting the ACT division of the Railway Historical Society at their museum in

Kingston and there I was greeted by working volunteers who escorted me around the various exhibits and explained the operations of the society. I was then welcomed aboard one of their regular vintage trains that operates out of the Canberra railway station. The society regularly operates these heritage excursion trains in the local region and also interstate.

The society had its beginnings in 1966 when about 15 local enthusiasts met to consider the formation of a branch of the society in the Australian Capital Territory, and today some 100 or so members are actively involved as volunteers in the day-to-day operations of the society. The Railway Historical Society offers an important insight into the past for all Australians. The railways helped change the world, they allowed great distances to be covered at speeds previously unknown, they were for many years the only form of long-distance travel and they also allowed for the growth of inland settlements such as the ACT, connecting us with the rest of Australia.

A significant piece of Canberra's history can be found at the railway museum and that is locomotive No 1210 which is 129 years old and is the oldest operating standard-gauge steam locomotive in Australia. This is the society's flagship engine and is central to railway history in Canberra. On 25 May 1914 locomotive 1210 hauled the first revenue-earning train into Canberra. This was the coal train that served the main Canberran electricity generation station. In 1962 the engine was handed over to the National Capital Development Commission for preservation and the engine spent the next 22 years on a plinth—you may remember, Mr Speaker—outside Canberra railway station at Kingston. Approval was given in 1983 for its transfer to the Canberra Railway Museum. The locomotive returned to service in 1988 after the society received funding for its restoration from a federal bicentennial grant.

Today the society is trustee of the Canberra Railway Museum Trust and as such is dedicated to the study, preservation and operation of significant items of Australian railway history. As a non-profit organisation the society does this by running heritage rail trips, local and long-distance rail tours, operating the Canberra Railway Museum, the Michelago tourist railway and a CountryLink ticketing agency at the Queanbeyan railway station. The society's *Banquet Express* theatre trains, which stage shows around Australia, use the operational carriages and showcase the high standards of hospitality and catering skills provided by the members. The society also operates the *Railroad Restaurant* dinner trains and dinner-dance trains and picnic trains.

To support rail operations the society needs to store many rare spare parts around the museum site. Many of the larger spare parts are stored out in the open and are unsightly to the casual eye. Unfortunately, sheds which would be ideal for storage are very expensive for a non-profit volunteer organisation. For some time now the old railway goods shed in the railway yards has been vacant. This facility would be very suitable for the society to store bulky parts up off the ground and away from visitors to the museum area. I have written to the Minister for Territory and Municipal Services, Mr Hargreaves, requesting that he considers granting access to the site by the society for storage purposes.

The society is enthusiastic about overcoming any problems that the building poses and the society is willing to discuss those problems and hopefully reach an agreement

on a lease, even if remedial work needs to be undertaken. The society would be keen to explore the costs involved to have this work done. There is an ACTPLA-initiated railway master plan study underway and the consultants have had discussions with the society. A plan will be proposed to see the retention of the railway goods shed and hopefully integrating the new combined Canberra railway station and railway museum at the goods shed location. This would be a significant boost for the society as it is one of only two accredited rail operators into Canberra.

The Australian Railway Historical Society has over the last 40 years contributed greatly not only to the preservation of important vintage pieces of our history but also to the Canberra community. I recognise, and encourage others to realise, the importance of this organisation and the benefit it brings to the community.

Question resolved in the affirmative.

The Assembly adjourned at 6.04 pm until Tuesday, 13 November 2007, at 10.30 am.

Schedule of amendments

Schedule 1

Surveyors Bill 2007

Amendments moved by the Minister for Planning

1
Clause 8 (1) and (2)
Page 6, line 2—

omit clause 8 (1) and (2), substitute

(1) On application by a person for registration as a surveyor, the chief surveyor must—

(a) if the person is eligible for registration—register the person; or

(b) if the person is not eligible for registration—refuse to register the person.

2
Clause 10, proposed new note
Page 7, line 15—

insert

Note If a person's registration is suspended or cancelled in another State, the person's registration in the ACT may be affected in the same way (see *Mutual Recognition Act 1992* (Cwlth), s 33).

3
Clause 56 (1)
Page 33, line 14—

omit clause 56 (1), substitute

(1) The chief surveyor may, in writing, exempt a surveyor from a stated requirement of a practice direction if satisfied on reasonable grounds that it is not practicable for the surveyor to comply with the direction.

Answers to questions

Stirling—block 1 section 22 (Question No 1625)

Mr Seselja asked the Attorney-General, upon notice, on 21 August 2007:

(1) Was failure of a builder to comply with a rectification order concerning Block 13 Section 22 Stirling referred to the Director of Public Prosecutions in August 2005 and the case did not proceed because the statute of limitations expired; if so, what were the circumstances surrounding this case that led to the expiry of the statute of limitations;

(2) Could anything have been done to enable the case to be heard within the prescribed timeframe;

(3) What delays occurred because material was not supplied in a timely manner by Government departments, agencies or authorities;

(4) What information was sought or required by the Director of Public Prosecutions and not supplied within the required time frame;

(5) What action could have been taken, and by whom, to ensure that the matter was dealt with within the required time frame.

Mr Corbell: The answer to the member's question is as follows:

(1) The failure of a builder to comply with a rectification order in respect of Block 13 Section 22 Stirling was referred to the Director of Public Prosecutions on or about 12 August 2005.

The case was similar to an earlier case in which a claim had been made in the ACT Administrative Appeals Tribunal ("ACTAAT") that a rectification order could not be made in similar circumstances.

The Office was requested to defer commencing the prosecution until the ACT AAT proceedings had been finalised. That occurred on 24 October 2005 when the Tribunal upheld the builder's appeal.

The ACT Construction Operations Registrar then appealed that decision to the ACT Supreme Court. The appeal was heard by Chief Justice Higgins who, on 13 September 2006 dismissed the appeal. His Honour also held that the fact that a certificate of compliance under section 15 of the *Building Act 1972* had been issued, estopped the Registrar from issuing a rectification order. A similar certificate had been issued in the case of the Stirling property. Thus, when the decision became available no further action was contemplated.

While the limitation period under section 192 of the *Legislation Act 2001* had expired by the time the proceedings had been completed, the decision of the Supreme Court meant that the rectification order would have been held invalid in any event.

(2) It would have been possible for a summons on information to have been issued prior to expiry of the limitation period and not to have been served until the proceedings

had ended However, this would have created some logistical problems as a summons is required to be returnable at court on a nominated day. Given the Supreme Court decision, the summons would then have been discontinued in any event.

(3) None.

(4) None.

(5) No action could reasonably have been taken to ensure the matter was commenced prior to expiry of the limitation period, other than as noted above, in answer to question 2 and with the consequences there noted.

Courts—electronic case management system (Question No 1628)

Mr Stefaniak asked the Attorney-General, upon notice, on 21 August 2007:

(1) When will the introduction of the new electronic case management system in the Director of Public Prosecutions (a) be completed and (b) start;

(2) Which agencies will have access to the data and what mechanisms will be put in place to protect people's privacy;

(3) What additional statistics will be publicly available at the conclusion of the program.

Mr Corbell: The answer to the member's question is as follows:

(1) It is anticipated that the case management system will be completed and start operating in the Office of the Director of Public Prosecutions from 1 July 2008.

(2) No other agencies will have access to the data on the case management system without consent of the Director of Public Prosecutions.

(3) The additional statistics that will be available through the case management system are currently in the course of being determined.

Hospitals—doctors (Question No 1655)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) How many doctors are employed in both ACT public hospitals;

(2) What is the ratio of doctors to population in the ACT's public hospitals and how does this compare to other States and Territories;

(3) What is the current number of doctor positions required but not filled at (a) The Canberra Hospital and (b) Calvary Hospital.

Mr Corbell: The answer to the member's question is as follows:

(1) The Canberra Hospital employs a total of 376.44 junior and senior doctors.

Calvary Health Care ACT draws from a pool of 111 doctors on a part time or full time basis (this excludes Visiting Medical Officers or doctors seconded from the Canberra Hospital).

(2) Due to the high proportion of NSW residents accessing the public health system in the ACT (that is 25% of the hospital workload); providing the ratio of doctors to population in the ACT would not be meaningful.

(3) The Canberra Hospital has approximately 25 unfilled positions (roughly 6.5%). However many of these positions are filled by casuals, locums, overtime by doctors or VMOs.

Calvary Health Care ACT - currently has 6 unfilled doctor positions that are filled by locums and 0.5 of a position that is unfilled.

Hospitals—nurses (Question No 1657)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) How many nurses resigned from (a) Calvary Hospital and (b) The Canberra Hospital in (i) 2005-06, (ii) 2004-05 and (iii) 2003-04;

(2) How many nursing staff were employed and retained over the periods stated in part (1) at (a) Calvary Hospital and (b) The Canberra Hospital;

(3) How many of those stated in part (2) were (a) enrolled and (b) registered nurses;

(4) How many of these nurses were employed under the Graduates Program;

(5) What is the number of nursing positions required but not filled at (a) The Canberra Hospital and (b) Calvary Hospital.

Mr Corbell: The answer to the member's question is as follows:

(1) (a)

Calvary

(i)	2005-2006	90
(ii)	2004-2005	125
(iii)	2003-2004	92

(1) (b)

The Canberra Hospital

(i)	2005-2006	91
(ii)	2004-2005	111
(iii)	2003-2004	119

(2) (a)

Calvary

(i)	2005 – 2006	140 recruited	105 retained
(ii)	2004 – 2005	152 recruited	96 retained
(iii)	2003 – 2004	129 recruited	101 retained

(2) (b)

The Canberra Hospital

(i)	2005-2006	135 recruited	122 retained
(ii)	2004-2005	107 recruited	75 retained
(iii)	2003-2004	71 recruited	60 retained

(3) (a)

Calvary (of those reported in part (2) that were Enrolled Nurses and Registered Nurses:

(i)	2005 - 2006	RN	121 recruited	90 retained
		EN	19 recruited	15 retained
(ii)	2004 – 2005	RN	133recruited	80 retained
		EN	19 recruited	16 retained
(iii)	2003 – 2004	RN	114 recruited	87 retained
		EN	15 recruited	14 retained

* Calvary figures apply to Public Hospital only

(3) (b)

The Canberra Hospital.

(i)	2005- 2006	RN	117 recruited,	106 retained
		EN	18 recruited,	16 retained
(ii)	2004 – 2005	RN	96 recruited,	66 retained
		EN	11 recruited,	9 retained
(iii)	2003 – 2004	RN	68 recruited,	57 retained
		EN	3 recruited,	3 retained

(4)

In relation to Calvary Public Hospital, number of graduate nurses employed in each year:

(i)	2005-2006	19
(ii)	2004-2005	21
(iii)	2003-2004	10

In relation to The Canberra Hospital, new graduates employed:

(i)	2005 – 2006	55
(ii)	2004 – 2005	67
(iii)	2003 – 2004	42

(5)

(a) The number of budgeted nursing positions at The Canberra Hospital in August 2007 is 956.9 full time equivalents (FTE).
The number of vacancies in August 2007 is 56.6 FTE (5.9%).

(b) The number of budgeted nursing positions at Calvary Public Hospital in August 2007 is 435.7 full time equivalents (FTE).
The number of vacancies in August 2007 is 45.0 FTE (10.3%).

Hospitals—iatrogenic injuries (Question No 1658)

Mrs Burke asked the Minister for Health, upon notice, on 23 August 2007 *(redirected to the Acting Minister for Health)*:

(1) How many incidences of iatrogenic injury have occurred at both ACT public hospitals during the (a) 2002-03, (b) 2003-04, (c) 2004-05, (d) 2005-06 and 2006-07;

(2) How many of the cases outlined in part (1) escalated to litigation and what was the cost to the ACT Government.

Mr Corbell: The answer to the member's question is as follows:

(1) "Iatrogenic injury", as defined by the Australian Council for Safety and Quality in Health Care, is any injury "arising from or associated with health care rather than an underlying disease or injury".

In its first annual report on safety and quality in the Australian health care system the Australian Council for Safety and Quality in Heath Care reported that Australia has a serious adverse events rate of about 2% associated with hospital admissions. Of these events 1.7% were associated with serious iatrogenic disability and 0.3% associated with an iatrongenic death (Runciman et al 2000)

Due to the difficulty in ascertaining if an injury is iatrogenic in combination with the lack of nationally agreed defined methodology for such data, ACT Health is unable to provide this information.

(2) Unable to provide information due to no data available as outlined in part (1).

Universities admissions index (Question No 1662) (Revised answer)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 23 August 2007:

(1) In relation to the process used by the ACT Board of Senior Secondary Studies (BSSS) to calculate ACT Universities Admission Indexes (UAIs) as set out in the current 2007 edition of the BSSS *Policy and Procedures Manual* (the Manual), why does the Manual not contain any details of the changes to the UAI calculation process that were made in late 2006, as reported in *The Canberra Times* on 20 December 2006 and 28 April 2007;

(1) Are there any plans to amend the Manual to explain the changes referred to in part (1); if not, why not;

(2) Has a NSW Scaling Committee Table (Table) played a role in the UAI determination process, as described in sections 5.4.1 (page 51) and 5.4.3.3 (page 52) of the Manual;

(3) Why does the Manual not include a copy of the Table;

(4) Is the Table available for inspection anywhere on the BSSS or Department of Education and Training (DET) websites;

(5) Did the Table used in 2006 differ from that used in 2005; if so, (a) what were the differences and (b) how did they affect UAIs;

(6) Can the Tables used to determine UAIs in 2006, 2005 and other past years be placed on the BSSS and/or DET websites so that affected students, parents and other members of the public may inspect them;

(7) Given that "the UAI is a ranking of a student relative to the full age cohort ie relative to the set of students who would be in the group if all students stayed on and completed Year 12", the Manual, section 5.4.3.3 (page 52), why are notional aggregates (a) only calculated for ACT senior secondary system students (references to ACT senior secondary system students exclude students from Canberra Grammar School) who complete Year 12 and at least one T subject, as stated in section 5.4.1 on page 51, (b) not calculated for ACT senior secondary system students who do not complete a T subject but do complete Year 12, given that such students are part of the full age cohort that UAIs are supposed to rank and (c) not calculated for ACT senior secondary system students who do not complete Year 12 but do complete at least one T subject, given that such students are clearly part of the full age cohort that UAIs are supposed to rank;

(8) How does the ACT UAI calculation process take into account those students who complete Year 10, and are hence part of the full age cohort which UAIs are supposed to rank, as reflected in the NSW UAI determination process, but who do not complete Year 12 and at least one T subject;

(9) Is it a reasonable expectation that the accuracy and fairness of ACT UAIs would improve if notional aggregates were calculated for students who left school after completing Year 10 but did not complete Year 12 two years after they completed Year 10, including those who do not begin Year 11 at all, and those who leave part way through Years 11 or 12;

(10) For each of the past five years, how many students (a) in the ACT senior secondary system were assigned notional aggregates as part of the UAI determination process, (b) in the ACT senior secondary system completed Year 12 but did not complete any T subjects and did not have a notional aggregate calculated for them, (c) were enrolled in Year 12 for at least part of the year, completed at least one T subject during their time within the ACT senior secondary system, but did not complete Year 12 and did not have a notional aggregate calculated for them and (d) who received UAIs were repeating students who had been enrolled in Year 12 in a previous year;

(11) For each of the five years 2001 to 2005, how many students enrolled in February in Year 11 in the ACT senior secondary system, did not complete (a) Year 11 within the ACT senior secondary system that year and (b) Year 12 within the ACT senior secondary system the following year;

(12) For each of the years 2000 to 2004, how many ACT Year 10 certificates were awarded across all ACT secondary schools and colleges, other than Canberra Grammar School;

(13) Of the Year 10 certificate recipients referred to in part (13), how many (a) went on to be enrolled in Year 11 in a school or college within the ACT senior secondary system in February of the following year, (b) went on to gain an ACT Year 12 certificate two years after they received their ACT Year 10 certificate, (c) went on to gain an ACT UAI two years after they received their ACT Year 10 certificate and (d) had a notional aggregate calculated for them two years after they completed their Year 10 certificate.

Mr Barr: The answer to the member's question is as follows:

(1) The changes that were made in late 2006 should have appeared in the ACT Board of Senior Secondary Studies (BSSS) Policy and Procedures Manual 2007 (the manual). This was an omission. The changes will be added as an addendum to the version on the BSSS website. The change to policy was that the year 12 candidature will be defined as 'the group of students who complete at least one T course'.

(1) The 2008 edition of the manual will contain the new policy.

(2) Yes.

(3) The purpose of the manual is to outline BSSS policies and general procedures. Apart from the fact that the table is not the intellectual property of the BSSS, operational procedures are not part of the manual.

(4) No.

(5) Yes; (a) a new table relevant to the cohort of students is produced by the NSW Scaling Committee at the end of each year; (b) the 2006 UAIs were slightly higher than those in 2005, for each TER.

(6) As the table is not the property of the BSSS or the Department of Education and Training, I am unable to comment.

(7) (a) As a result of the changes made in 2006 based on the recommendations of Dr Daryl Daley, the group of students for whom notional aggregates scores are calculated includes students who did not complete year 12 but completed at least one T course.
(b) Course scores are calculated for T courses only. Therefore there is no data available for students who do not complete a T course, with which to calculate a notional aggregate score.
(c) Notional aggregate scores are now calculated for this group of students.

(8) Refer 7 (b) above.

(9) No. The BSSS has recently sought a range of external independent advice on its procedures and also regularly reviews its procedures as new data becomes available. The BSSS has no evidence to suggest that the calculation of notional aggregates for students who leave the ACT senior secondary system at the end of year 10, and those who leave during years 11 or 12 without completing a T course, would improve the accuracy and fairness of the system as there is no reliable data on which to make such calculations.

(10) (a) 2006 – 1268, 2005 – 999, 2004 – 1040, 2003 – 964, 2002 - 866
(b) 2006 – 563, 2005 – 523, 2004 – 457, 2003 – 460, 2002 – 510
(c) 2006 – 0, 2005 – 172, 2004 – 221, 2003 – 260, 2002 - 247
(d) 2006 – 3 students, 2005 – 11 students, 2004 – 20 students, 2003 – 10 students,
2002 – 19 students.

(11) Non-government schools provide only aggregated student data to the Department of Education and Training for the school census and not individual student attendance records. Therefore, it is not possible to determine whether individual non-government students did not complete year 11 or year 12. The data in tables 1 and 2 is for government college enrolments only.

(a) Table 1: Number of year 11 students enrolled in ACT government colleges who did not complete year 11 at an ACT government college that year.

Enrolment year	Number that did not complete
2001	302
2002	287
2003	312
2004	310
2005	301

(b) Table 2: Number of year 11 students enrolled in ACT government colleges who did not complete year 12 at an ACT government college in the following year.

Year 11 enrolment year	Year 12 enrolment year	Number not completing year 12
2001	2002	760
2002	2003	700
2003	2004	758
2004	2005	641
2005	2006	631

(12) The 2000 and 2001 data in Table 3 is for government schools only. Information on the number of year 10 certificates awarded in non-government schools is not currently available for these years. The information for 2002 to 2004 includes data from government and non-government schools, excluding Canberra Grammar School.

Table 3: Year 10 certificates awarded in ACT secondary schools 2000 - 2004

Year	Government schools	Non-government schools*	Total
2000	2650		
2001	2695		
2002	2510	1860	4370
2003	2453	1962	4415
2004	2472	2018	4490

* *Excluding Canberra Grammar School*

(13) The information provided by non-government schools about students awarded year 10 certificates is insufficient to accurately track students from year 10 to year 11 in

February of the year following the award of the year 10 certificate. The data in tables 4 to 7 is for students who were awarded a year 10 certificate at a government school and then enrolled in year 11 in February of the following year at a government school, or completed year 12 in a government college two years later.

(a) Table 4: Number of ACT government school students who received a year 10 certificate and were enrolled at an ACT government college in February of the following year.

Year 10 certificate year	Year 11 February census year	Number of enrolments
2000	2001	2216
2001	2002	2366
2002	2003	2239
2003	2004	2184
2004	2005	2214

(b) Table 5: Number of ACT government school Year 10 Certificate recipients who received an ACT Year 12 certificate at an ACT government college two years later.

Year 10 certificate year	Year 12 certificate year	Number of students
2000	2002	1707
2001	2003	1775
2002	2004	1706
2003	2005	1694
2004	2006	1730

(c) Table 6: Number of ACT government school Year 10 Certificate recipients who gained an ACT UAI at an ACT government college two years later.

Year 10 certificate year	Year 12 certificate year	Number of students
2000	2002	1055
2001	2003	1068
2002	2004	975
2003	2005	949
2004	2006	936

(d) Table 7: Number of ACT government school Year 10 Certificate recipients who had a notional aggregate calculated at an ACT government college two years later.

Year 10 certificate year	Year 12 certificate year	Number of students
2000	2002	389
2001	2003	479
2002	2004	398
2003	2005	473
2004	2006	541

ACT Corrective Services
(Question No 1666)

Mr Seselja asked the Attorney-General, upon notice, on 23 August 2007:

(1) What is the detailed organisational structure of ACT Corrective Services, including its operational and non operational units;

(2) What is the functional description of each area identified in the organisational structure in part (1);

(3) How many full time equivalent (FTE) staff are employed in the ACT Corrective Services;

(4) How many FTE staff are expected to be employed at the Alexander Maconochie Centre (a) when it opens (b) 12 months after it opens and (c) 24 months after it opens;

(5) What is the designation and classification of all staff employed in Corrective Services, including staff expected to be employed at the Alexander Maconochie Centre (a) by functional area as outlined in part (1) and (b) identified as (i) permanent full time, (ii) permanent part time, (iii) temporary full time and (iv) temporary part time;

(6) What is the staffing plan for those positions identified in part (1) that are expected to be vacant when the new centre opens.

Mr Corbell: The answer to the member's question is as follows:

(1) ACT Corrective Services consists of the following units:

(a) Custodial Operations, which comprises the Belconnen Remand Centre (BRC); the Symonston Temporary Remand Centre (STRC); the Periodic Detention Centre (PDC); and the Court Transport Unit (CTU);

(b) Community Corrections, which comprises Probation, Parole and Compliance; Intensive Intervention Program; Offender Interventions Programs; Community Service Orders;

(c) Business, Policy and Coordination, which comprises Policy; Indigenous Liaison; Governance; Training and Development; Finance and Statistics; Operational Support; Sentence Administration Section; and

(d) The Alexander Maconochie Centre (AMC) Project Office.

(2) The names of the operational and non-operational units as listed above provide their functional description. More information on the work and function of the units can be found on the ACT Corrective Services website.

(3) Currently 192.06 full-time equivalent (FTE) staff are employed in ACT Corrective Services.

(4) The number of FTE staff expected to be employed at the AMC when it (a) opens, is 168.57. This number is expected to remain the same after (b) 12 months, and (c) 24 months after opening, assuming the increase in prisoner numbers does not exceed current projections.

(5) The designation and classification of all staff employed in Corrective Services, including staff expected to be employed at the AMC, is as follows:

(a) FTE by functional area:

Custodial Operations (includes AMC, PDC and CTU) – 181.56 FTE

1 x SES 1.2 (Superintendent Custodial Operations)
4 x Custodial Officers (CO)4
5 x Custodial Officers (CO)3
24 x Custodial Officers (CO)2
127.16 x Custodial Officers (CO)1
2 x SOG B
2 x SOG C
1 x ITO2
1.8 x ASO6
2 x GSO10
3 x ASO5
2 x ASO4
6.6 x ASO3

Community Corrections (includes Offender Intervention Management in the AMC and the community) – 55.8 FTE

1 x SOG A
2 x SOG B
1 x SPO B
6 x SOG C
1 x SPO C
36.8 x ASO6/PO2
1 x ASO5
2 x ASO4
3 x ASO3
2 x ASO2

Business, Policy & Coordination - 30 FTE

1 x SES 2.5
1 x SES 1.3
1 x SOG A
2 x SOG B
1 x SITO B
6 x SOG C
11 x ASO6
1 x ASO5
5 x ASO4
1 x ASO3

(b) It is not possible to specify at this point in time how many staff will be employed as either permanent staff or on a temporary contract, once the AMC opens. However, for the current staff establishment, the breakdown is as follows:

permanent full time – 157
permanent part time – 7

temporary full time - 33
temporary part time - 3

(6) It is expected that no positions will be vacant when the new centre opens.

Schools—bank accounts (Question No 1679)

Mrs Dunne asked the Minister for Education and Training, upon notice, on 30 August 2007:

(1) Have the bank accounts of (a) Flynn, (b) Hall, (c) Melrose, (d) Mount Neighbour, (e) Rivett, (f) Tharwa and (g) Weston Creek primary schools that closed at the end of 2006 been closed; if so, when were they closed;

(2) What was the bank balance before the closure of the account for each of those schools listed in part (1);

(3) If the bank accounts for those schools listed in part (1) are still open, what is the current balance of each;

(4) What was the balance for each of the bank accounts for those schools listed in part (1) as at 1 June 2006.

Mr Barr: The answer to the member's question is as follows:

(1) The bank accounts for Flynn, Hall, Melrose, Mount Neighbour, Rivett, Tharwa and Weston Creek Primary Schools were closed on 11 July 2007.

(2) The bank balances for each of the schools prior to closure were:

Flynn	$76 932.07
Hall	$88 212.82
Melrose	$20 138.22
Mt Neighbour	$94 096.41
Rivett	$77 365.39
Tharwa	$69 318.87
Weston Creek	$73 653.42

(3) None of the bank accounts listed remain open.

(4) The balance of each of these accounts at 31 May 2006 (balances at 1 June 2006 are not available) were:

Flynn	$154 860.46
Hall	$116 049.06
Melrose	$32 172.83
Mt Neighbour	$137 885.24
Rivett	$111 066.22
Tharwa	$83 298.36
Weston Creek	$88 520.73

Schools—closures (Question No 1688)

Dr Foskey asked the Chief Minister, upon notice, on 25 September 2007 *(redirected to the Treasurer)*:

What are the whole of government costs and savings related to school closures by agency/department.

Mr Stanhope: The answer to the member's question is as follows:

The costs and savings of school closures have been reflected in the Department of Education and Training's 2006-07 and 2007-08 Budget chapters. The estimated net savings are $2.216 million in 2006-07, $4.699 million in 2007-08, $7.041 million in 2008-09 and $7.365 million in 2009-10. In addition, the Government provided $3.5 million for transitional assistance over three years to support students and families affected by school closures.

Since 22 December 2006, the Department of Territory and Municipal Services has incurred an average of $32,000 per month for expenses related to management of the closed school sites. This has included expenditure on the maintenance of buildings and grounds, fire protection, security measures and vandalism.

Schools—closures (Question No 1689)

Dr Foskey asked the Chief Minister, upon notice, on 25 September 2007 *(redirected to the Treasurer)*:

What is the average (a) land rate increase and (b) land value increase or decrease in areas which have lost their schools.

Mr Stanhope: The answer to the member's question is as follows:

(a) The average residential land rate increases for the suburbs affected by the school closures thus far are as follows:

SCHOOL	SUBURB	2006-07 AVERAGE RATES CHARGES	2007-08 AVERAGE RATES CHARGES	MONEY DIFFERENCE	PERCENTAGE DIFFERENCE BETWEEN 2006-07 AND 2007-08
Flynn Primary School	Flynn	$1,047.77	$1,109.02	$61.25	5.85%
Hall Primary School	Hall	$1,948.68	$1,999.80	$51.12	2.62%
McKellar Preschool	McKellar	$1,106.77	$1,162.89	$56.12	5.07%
Melrose Primary School	Chifley	$1,375.56	$1,407.04	$31.48	2.29%

SCHOOL	SUBURB	2006-07 AVERAGE RATES CHARGES	2007-08 AVERAGE RATES CHARGES	MONEY DIFFERENCE	PERCENTAGE DIFFERENCE BETWEEN 2006-07 AND 2007-08
Mount Neighbour Primary School					
Kambah					
$1,071.96					
$1,133.85					
$61.89					
5.77%					
Rivett Preschool and Rivett Primary School					
Rivett					
$1,114.04					
$1,159.84					
$45.80					
4.11%					
Tharwa Primary School	Tharwa	$1,011.77	$1,092.75	$80.98	8.00%
The Causeway Preschool	Kingston	$1,824.71	$1,873.80	$49.09	2.69%
Weston Creek Primary School	Weston	$1,249.21	$1,294.27	$45.06	3.61%

(b) Movement in actual in residential land values for the suburbs affected by the school closures thus far are as follows:

SCHOOL	SUBURB	AVERAGE 2006 UV	AVERAGE 2007 UV	MONEY DIFFERENCE	PERCENTAGE DIFFERENCE BETWEEN 2006 UV AND 2007 UV
Flynn Primary School	Flynn	$170,500	$191,500	$21,000	12.32%
Hall Primary School	Hall	$420,400	$447,300	$26,900	6.40%
McKellar Preschool	McKellar	$181,800	$209,800	$28,000	15.40%
Melrose Primary School	Chifley	$255,300	$271,300	$16,000	6.27%
Mount Neighbour Primary School	Kambah	$178,500	$191,600	$13,100	7.34%
Rivett Preschool and Rivett Primary School	Rivett	$187,000	$196,800	$9,800	5.24%
Tharwa Primary School	Tharwa	$162,900	$187,700	$24,800	15.22%
The Causeway Preschool	Kingston	$380,300	$419,900	$39,600	10.41%
Weston Creek Primary School	Weston	$224,800	$236,000	$11,200	4.98%

Revenue commissioners—meetings (Question No 1691)

Mr Mulcahy asked the Treasurer, upon notice, on 25 September 2007:

(1) In relation to meetings between the ACT Revenue Commissioner and the Revenue Commissioners (or analogous positions) of other Australian jurisdictions since September 2005, (a) on what dates did each of these meetings occur and (b) what jurisdictions were present at each of these meetings;

(2) Can the Minister supply the minutes of each of these meetings.

Mr Stanhope: The answer to the member's question is as follows:

(1) (a) Commissioners of State and Territory revenue have a regular schedule of meetings each year. The schedule at Attachment A sets out the dates of the face to face meetings for the period set out in the member's question. Regular teleconferences are also scheduled, and usually take place every four to six weeks.

(b) All State and Territory Commissioners for Revenue were present or represented at each of these face-to-face meetings except for the meeting of 23 November 2006, which the Commissioner for ACT Revenue did not attend.

(2) No. The minutes of those meetings are confidential to the parties involved.

Attachment A

Commissioners' Conferences

Dates
21-22 March 2005
26-29 March 2006
30 March 2007

Commissioners' Quarterly Meetings

Dates
3-4 November 2005
26 July 2006
2-3 November 2006
25 July 2007
14 September 2007

Commissioners' Teleconferences

Dates
5 September 2005
10 October 05
5 December 2005
6 February 2006
7 March 2006
2 May 2006
6 June 2006
8 August 2006
4 September 2006
3 October 2006
4 December 2006
5 Feb 2007
6 March 2007
1 May 2007
5 June 2007
2 October 2007

Workplace agreements (Question No 1694)

Mr Mulcahy asked the Chief Minister, upon notice, on 25 September 2007:

(1) On what date was the new workplace collective agreement for 2007-2010 for the Chief Minister's Department lodged with the Workplace Authority;

(2) On what date will employees receive the increased rate of pay and any back pay that is due;

(3) How long will it take or has it taken for the Shared Services Centre to process the new agreement to ensure that employees receive the benefits of new pay arrangements;

(4) How long did it take the Chief Minister's Department to process the last agreement.

Mr Stanhope: The answer to the member's question is as follows:

(1) 11 September 2007

(2) Employees will receive the new rates of pay and allowances on the pay day of 18 October 2007. Back adjustments (from 5 April 2007) are expected to be paid on 1 November 2007.

(3) Processing of the new agreement, including changes to pay rates, allowances and other conditions of service, will be completed by the pay cut off date of 12 October 2007.

(4) The last certified agreement for the Chief Minister's Department was certified on 3 November 2004. Pay increases and back adjustments flowing from this agreement were paid to staff on 16 December 2004.

Tharwa bridge
(Question No 1698)

Mr Pratt asked the Minister for Territory and Municipal Services, upon notice, on 26 September 2007:

(1) What was the purpose of positioning a Department of Territory and Municipal Services employee at the Tharwa side of the Tharwa Bridge on Sunday, 16 September 2007;

(2) For what amount of time was the employee positioned on the Tharwa Bridge;

(3) What was the total cost of the exercise;

(4) Will such an exercise be a regular occurrence; if so, (a) for how long and (b) what is the budgeted cost of this exercise.

Mr Hargreaves: The answer to the member's question is as follows:

(1) To ensure public safety during the Tharwa Fair

(2) The employee was positioned on Tharwa Bridge for the duration of the Tharwa Fair.

(3) $411.04

(4) No.

Planning—Waramanga
(Question No 1706)

Dr Foskey asked the Minister for Planning, upon notice, on 27 September 2007:

(1) Is it a fact that on 20 December 2002, 30 June 2003 and 6 October 2004 an order was made under section 256 of the Land *(Planning and Environment) Act 1991* (the Land Act) to the lessees to complete a building on block 45 section 37 Waramanga, and that the orders were made enforceable pursuant to a planning approval granted on 29 July 1998 under section 230 or 245 of the Land Act;

(2) Is it a fact that the order directed the lessees to comply with the terms of the approval in plans No. 26446 D, E and F (or in any amended plans that may be approved in writing by the Territory) to construct extensions to the existing residence and related works on block 45 section 37 Waramanga, all the works to be completed by 5 November 2004 or within such further time as may, prior to that date, be agreed in writing by the Territory;

(3) Did someone on behalf of the Territory, before making the order, ensure that the planning approval granted on 29 July 1998 pursuant to section 230 or 245 of the Land Act for plans 26446 D, E and F which had already been approved on 28 May 1978 under the Buildings (Design and Siting) Ordinance 1964 for the ongoing building work, was lawfully re-approved under the Land Act;

(4) What section of the Land Act provided for such a re-approval;

(5) Did someone on behalf of Planning and Land Management (PALM)/ACT Planning and Land Authority (ACTPLA) on 22, 23 or 29 July 1998 provide the applicants with an itemised account of actual fees paid (not just an estimate of costs) in relation to the application and re-approval of plans 26446 D, E and F under the Land Act and/or the *Building Act 1972* (the Building Act);

(6) Did someone on behalf of PALM/ACTPLA provide the applicants with Application Acknowledgement forms as completed by PALM/ACTPLA pursuant to the Building Act for plans 26446 D, E and F and plan 983370/A on 22 July 1998;

(7) Did someone on behalf of PALM/ACTPLA on 22 July 1998 or at any other time provide the applicants with proof of any fees paid for the re-approval of plans 26446 D, E and F plus amendments under the Land Act;

(8) Did someone on behalf of PALM/ACTPLA provide the applicants with proof of fees paid for the re-approval of plan 983370/A as specified in the Application Acknowledgement Form under the Building Act;

(9) Will the Minister supply a certified true copy of plan 983370/A re-approved pursuant to section 230 or 245 of the Land Act granted on 29 July 1998;

(10) Will the Minister provide the respective forms each entitled *Approval of Residential Construction* for plans endorsed respectively 26446 D, E and F and 983370/A, as approved pursuant to the Building Act on 29 July 1998;

(11) Did someone on behalf of PALM/ACTPLA on or before 20 December 2002, or at any other time, validate the re-approval of plans 26446 D, E and F granted pursuant to section 230 or 245 of the Land Act included in the T-document AT 03/05 and the decision AT32 (30 June 2003) of the Administrative Appeals Tribunal proceedings and the Appeal Book SCA 46/2004 and judgment ACTSC84 (17 August 2004) of the Supreme Court Appeal proceedings and the endorsement of planning approvals of plans 26446 D, E and F and plan 983370/A as documented on the Conveyancing Inquiry Form available to the public;

(12) Was the failure of ACTPLA officers to reply to a written request from the lessees before 5 March 2005 for an extension of time to complete the building work by that date as set out in the order until the reply of 27 July 2005 a consequence of the possible invalid planning approval granted by PALM on 29 July 1998 and was incapable of ongoing enforcement of the order under section 256 of the Land Act;

(13) Were the subsequent actions on the part of PALM/ACTPLA justified in light of the failure of ACTPLA to advise the lessees and the courts as to the validity of the re-approval of plans 26446 D, E and F and plans 983370/A under section 230 or 245 of the Land Act in making a section 256 order against the lessees;

(14) Is the ACT Government Solicitor, acting on behalf of ACTPLA, currently seeking to recover from the lessees legal costs in part referable to the Supreme Court hearing on this matter;

(15) Is pursuing the lessees for the legal costs incurred in the making of the order justified in light of the failure of ACTPLA to advise the lessees and the courts as to the validity/invalidity of the planning re-approval granted on 29 July 1998 under section 230 or 245 of the Land Act and the failure to timely grant an extension of time without a validly approved plan under the Land Act to enforce an invalid section 256 order.

Mr Barr: The answer to the member's question is as follows:

The response to parts (1) – (8), (10) – (13) and (15) of the question is to refer the member to the decision of Crispin J, *The Gerondals V Minister for Planning* –SCA 46 of 2003, a copy of which is provided at Attachment A.

(9) Will the Minister supply a certified true copy of plan 983370/A re-approved pursuant to section 230 or 245 of the Land Act granted on 29 July 1998;

Response

No. The Minister does not certify true copies of documents and therefore a certified true copy is not available.

(14) Is the ACT Government Solicitor, acting on behalf of ACTPLA, currently seeking to recover from the lessee's legal costs in part referable to the Supreme Court hearing on this matter;

Response

See response to Question on Notice No. 1677, part (12).

(A copy of the attachment is available at the Chamber Support Office).

Knowledge Fund
(Question No 1710)

Mr Smyth asked the Minister for Business and Economic Development, upon notice, on 27 September 2007:

What funds were (a) allocated to the Knowledge Fund in each year from its inception to the year in which the Fund was discontinued and (b) allocated from the Knowledge Fund in each year following its inception and (c) rolled over from the Knowledge Fund in each year since its inception.

Mr Stanhope: The answer to the member's question is as follows:

(1) The Knowledge Fund commenced in 2002 and ceased in 2006.

(a)	2001-02	$1,500,000 + $2,351,000 (rollover R&D scheme funding)
	2002-03	$1,500,000 + $2,925,000 (R&D funding)
	2003-04	$3,000,000
	2004-05	$3,000,000 + $2,060,000 (additional initiative funding)
	2005-06	$3,000,000 + $2,061,000 (additional initiative funding)
(b)	2002-03	$6,496,942
	2003-04	$2,518,756
	2004-05	$4,532,200
	2005-06	$4,410,399
(c)	2002-03	$1,734,000
	2003-04	$2,361,000
	2004-05	$2,888,800
	2005-06	$2,518,622