Debates

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Legislative Assembly for the ACT

SIXTH ASSEMBLY

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Tuesday, 4 March 2008

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

Petition

The following petition was lodged for presentation, by **Mr Mulcahy**, *from 145 residents*:

ACTION bus service—routes

> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory**
>
> This petition of ACTION bus residents of the suburb of Curtin in the Australian Capital Territory draws to the attention of the Assembly that:
>
> *The Government intends to withdraw the well-patronised ACTION Curtin Express commuter bus service (route 37) as part of the proposed new bus routes planned for Network 08 from 28 April 2008.*
>
> Your petitioners therefore request the Assembly (1) should note that this express service has a high level of broad community usage and support (2) should note that the service fulfils a valuable role as an alternative to the car/car parking in Civic (3) should reaffirm its support for the environmental and social value of this service to members of the ACT community by calling for the retention of the service.

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

Health and Disability—Standing Committee
Report 5

MS MacDONALD (Brindabella) (10.31): I present the following report:

> Report 5 of the Standing Committee on Health and Disability entitled *Annual and Financial Reports 2006-2007* together with a copy of the extracts of the relevant minutes of proceedings.

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

Leave granted.

MS MacDONALD: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

MS MacDONALD (Brindabella): I move:

> That the report be noted.

I will not speak for long. This is a short report with five recommendations which are mainly administrative. There were no major issues with the annual reports in themselves.

Last year, the health and disability committee made a point of focusing on a particular area; we tried to do that again this year because I believe that the annual reports take up a rather lengthy amount of time. The 2006-07 annual reports are the last lot of annual reports that I will be looking at as a member of the Assembly. Future Assembly committees might consider if this is the best way to spend their time—going through annual reports in which pretty much the same questions are asked year in and year out.

Mrs Burke: It's called scrutiny.

MS MacDONALD: I hear the suggestion that it is scrutiny. I do not deny that it is a form of scrutinising the activities of government departments and the government of the day, but I do not know that it is the best way to do that. I note that the ACT is the only jurisdiction in this country that has annual report hearings. Scrutiny could be achieved in another form. Members can ask questions in question time, which I believe they did after this lot of annual reports came out. They can ask questions on notice. They can seek briefings. The time would be better spent if each of the committees pursued individual inquiries. That is my view on that. Others will not necessarily agree with it, but I believe that that would be a better way to go.

I commend the report to the Assembly.

MRS BURKE (Molonglo) (10.35): I thank the chair of the committee for her views on the report that was handed down today. There are five recommendations that members may want to look at; they appear at the start of the report. There are a few things I would like to say on this.

It was brought to my attention that we should have spent more time in regard to matters of health. I know that the chair and the deputy chair wished that they could have taken a different focus this year, as madam chair has just mentioned. She also alluded to the issue of whether it was the best way to spend our time. I put this to members: $801 million is a large budget allocation; there are very many good reasons why we should have spent more than just one hour requesting the minister's presence. This is not falling on the minister; it is to say that my view was that it was a big budget item. I was outnumbered on that; obviously the majority won. They wanted to focus on disability services, which had 1¼ hours of attention paid to it. Health had an hour. We then had an hour allocated for something like multicultural affairs. Clearly the emphasis and priority did not seem to come to the fore. We had an hour for

housing, which was important as well. So we are looking at one hour's discussion for $801 million of budgetary funding. It seemed a bit disproportionate.

The chair referred to the best use of time. It has been said that it is after the event and, yes, you can ask questions on notice and do all those things too. But there is a real reason why we have annual reports and why we have hearings.

That brings to my mind another point. When the health minister appeared, we had 17 officials appear before the committee. I would agree with the chair that that was something of an overkill. Was that the best use of their time? Had we had longer with the health minister, we could have agreed to that number of people attending. The minister does need to have all those officials there in case questions are asked, but in an hour there is obviously only so much you can ask.

Let me go to the question of why we would have annual reports assessed each year. As members would note, page 2 of the report says, at 1.7:

> Annual reports are assessed each year by the Institute of Public Administration (ACT Division) against formal criteria which include:
>
> - compliance with formal guidelines and requirements; and
>
> - internationally acknowledged attributes of good quality reporting.
>
> Reports must also demonstrate:
>
> - compliance with government and parliamentary guidelines of mandatory requirements as a minimum standard to be considered for an award.

So I suspect that we do need to continue the process in some way or other. Given that, as the chair said, we are the only jurisdiction, and a unicameral parliament, committees play a very important role in terms of scrutinising annual reports. I agree that we can put many questions on notice, but often that can be a protracted process. It is a way of holding governments to account when the minister and officials are brought before committees in order to get some feedback face to face and hold governments and departments to account.

I thank Grace Concannon, the secretary of our committee, for putting together this report. As I have said before in this place, committee staff are often the unsung heroes. I thank fellow committee members: the chair, Karin MacDonald; and the deputy chair, Mary Porter. I also thank the minister and department officials for coming. But I say, again that, if we are going to do this, we need to make it proportionate to the amount of funding which is allocated in the budget.

MR MULCAHY (Molonglo) (10.39): I would like to make a few comments in support of the perspective that Mrs Burke brought to that discussion. The idea of scrapping annual reports came up a year or so back, I think in the form of a paper from the secretariat. I was opposed to it then, and I am opposed to changing this arrangement now.

I hear what Ms MacDonald says—that there might be a better way to go about it. Obviously, nothing should be locked in stone. But I would be very worried if we ever went down the road of simply scrapping that and relying on questions on notice or the estimates process. The estimates process is somewhat frenetic; the process of asking questions on notice allows one, if one is in government, to prepare a very well considered, drafted response that may not provide an opportunity for a subsequent question in the manner in which you could deal with it in annual report hearings. Often it is the nature of the questioning and the way in which a response comes that immediately leads into another series of questions. It is an important tool for non-government members, in particular, in this place.

Mrs Burke makes the point that with a unicameral legislature, as we have here, issues of accountability should become more significant. We do not have a senate or a legislative council to have further review of legislation or ministerial accountability. I think that the process as it is with estimates and annual reports is tight. Keep in mind that there is only a very limited amount of time made available for each minister to appear. If a minister chooses to be somewhat verbose—which one or two people in this place have a reputation for being—then the number of questions asked is massively reduced.

For that reason, I think that it is in the interests of the democratic process and in the interests of transparency and accountability that we continue to preserve the process of annual report hearings until or unless somebody can come up with a better system for extracting information and ensuring that information on the management of government agencies and departments in this territory is available to members. I do not see a case being made out for something better.

I do not accept that the written processes are better. I did note that there has been a real attempt to try and change the way in which the questions on notice are handled through some of these hearings. I know that some of my former colleagues opposite had some unease on this. With this sort of thing, we have to be very careful that, in the interests of making life easier for people, not doing as much work, we do not get rid of measures of accountability. That should be watched very, very carefully.

I urge you, Mr Speaker, and the Clerk to closely scrutinise anything coming forward from the secretariat that might in any way impinge on the capacity of members to scrutinise the processes of the Assembly. I have noticed several items that have troubled me. This suggestion, which came out of the secretariat originally—about what is the point of having annual report hearings—worried me then and it would worry me if this gathered any momentum. As it is, particularly with a majority government, there is, in effect, less accountability, no matter what the Chief Minister might contend. That is a fact of life. When you have a majority, you know that basically you cannot be defeated. So it becomes extremely important to preserve and protect the other processes and forms of the house. I conclude with those observations.

Ms MacDONALD (Brindabella) (10.43), in reply: I appreciate the comments that Mrs Burke and Mr Mulcahy have made. It is, of course, my own opinion. Outside the chamber I have been known to mutter about the fact that we do annual reports on a

yearly basis. The Clerk has brought to my attention that *House of Representatives Practice* says:

> In addition, annual reports of government departments and authorities and reports of the Auditor-General presented to the House are automatically referred to the committees for any inquiry they may wish to make.

It is certainly the case that there is nothing to stop the House of Representatives from making those inquiries. However, it is my understanding that it is not something that is done as the norm. It is not done with the regular annual monotony that we have in this place. I suppose what I am saying is that, if you are going to continue the annual report hearings process, this place needs to give due consideration to the best way to facilitate it. I think it could be tighter. I have to disagree with you, Mr Mulcahy: I do not think that it is as tight as it could be. You have said that it is a tight process. I think it could well be tightened up. As Mrs Burke alluded to—

Mr Mulcahy: That was a criticism of it: I am saying that it is too confining in terms of time.

MR SPEAKER: Order!

MS MacDONALD: I should not listen to Mr Mulcahy's interjections, should I, Mr Speaker, because that would be disorderly.

MR SPEAKER: You can listen to them, but do not take any notice of them.

MS MacDONALD: All right then. I take the point that Mrs Burke made as well. When a minister appears before the committee, they have to bring along their departmental officials. Often they are sitting there for half a day never getting called on. A great deal of time and money is spent by those officials coming along to a hearing in which they may never actually get called upon. There are agencies within the ACT government that, year in and year out, are asked to come along; they spend half a day there and are asked maybe one question, if they are lucky. We could all name them. We could all put names to those agencies. They could be doing other things rather than appearing before the committees to talk about the annual reports.

I am not saying that you would not ever inquire into annual reports. There have been instances when the annual reports have raised issues of concerns within agencies. It is a very important role of the Assembly to scrutinise those annual reports. But is it the best function? Is it the best use of time? I urge future assemblies to keep that in mind. I commend this report to the Assembly.

Question resolved in the affirmative.

Planning and Environment—Standing Committee
Reporting date

MR GENTLEMAN (Brindabella) (10.47): I seek leave to move a motion to allow the Standing Committee on Planning and Environment to amend the reporting date for its inquiry into water use and management.

Leave granted.

MR GENTLEMAN: I move:

> That the resolution of the Assembly of 7 June 2007, which referred the issue of water use and management to the Standing Committee on Planning and Environment for inquiry and report, be amended by omitting "March 2008" and substituting "August 2008".

MR SPEAKER: Do you wish to speak to the motion?

MR GENTLEMAN: Just quickly, to bring members up to date. The terms of reference of the inquiry into water use and management required that the Standing Committee on Planning and Environment inquire into the best options for the ACT government investment in maintaining a suitable water supply. Since this inquiry was referred on 7 June last year, the committee has reported on a number of inquiries, including inquiries into the ACT as a UNESCO biosphere reserve; the ACTION buses; the sustainable transport plan; and three draft variations to the territory plan. The committee anticipates that a number of draft variations to the territory plan will be referred to it this year, in addition to the Namadgi national park draft plan of management, which was referred to the committee for consideration in late December.

We have just heard how busy committees can be, through the debate on the health and disability committee report on annual and financial reports. In light of the above work from my committee, the planning and environment committee seeks to extend the reporting time frame for this inquiry to the last sitting day in August so that it may complete its examination of the matters and conduct further public hearings, if necessary.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report 51

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

> Scrutiny report 51 of the Standing Committee on Legal Affairs performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 51 contains the committee's comments on five bills, 36 pieces of subordinate legislation, five government responses and one regulatory impact statement. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Payroll Tax Amendment Bill 2007

Debate resumed from 6 December 2007, on motion by **Mr Stanhope**:

> That this bill be agreed to in principle.

MR MULCAHY (Molonglo) (10.50): This bill seeks to harmonise the law on payroll tax across different jurisdictions to reduce the compliance costs for businesses that operate over several Australian jurisdictions. The bill does not seek to harmonise the rates and thresholds of payroll tax, which are still able to vary from state to state or territory to territory. This will allow the different governments of the various states and territories of Australia to adjust the tax rates and thresholds as required by revenue and other considerations. It will also allow tax competition, which goes some way to ensuring that individual jurisdictions do not become too tyrannical in their approach to taxation.

The purpose of this bill is to ensure that businesses operating in different jurisdictions face the same basic rules regarding payroll tax even if the rates and thresholds differ from place to place. I was fortunate to receive—and I appreciated it—a briefing on this bill from the Department of Treasury. They advised me that the change in revenue to the ACT government in this bill is expected to be negligible. Thus, we do not need to contemplate ancillary matters such as loss to revenue or surpluses or cuts to services in dealing with this bill.

The bill adjusts a few aspects of payroll tax in line with the operation in other states. This will ensure that businesses in those states do not have to learn a new set of laws and set up a new system of administration to operate in the ACT. It also ensures that ACT businesses will not have to learn a new set of laws and set up a new system of administration in order to expand their operations to other jurisdictions.

The bill exempts certain payments to employees from the calculation of payroll tax. In particular, certain payments to employees to reimburse them for costs incurred in the course of their work are exempted. These include payments for accommodation and payments for motor vehicle travel up to the amounts calculated under the formula in division 1A.3 of the bill. These exemptions seem to me to make a great deal of sense, as the payments affected are essentially reimbursements of expenses rather than genuine salary payments or diverted income arrangements. Indeed, it would not have been unreasonable to allow general exemption for reimbursed payments of all kinds. However, I am satisfied that the exemptions in this bill will cover those areas of greatest importance.

The bill also addresses the matter of exemption for payments for services performed in another country. This is an issue particularly prevalent in the ACT. The bill amends section 2D of the act to exempt employers from payroll tax on wages paid to employees for services performed in another jurisdiction or to employees who are in another jurisdiction for six months or more. This is a sensible amendment and will ensure that employers are subject to ACT taxation only in circumstances where their employees and the services performed by their employees have a sufficient connection with the ACT.

One of the other main changes in this bill is the introduction of provisions for the grouping of employers for the purposes of payroll tax liability. We discussed these changes at length with officials. The grouping provisions follow the provisions in New South Wales and Victoria. The bill provides that, where several employers are owned or operated in such a way that they form a group of related businesses, payroll tax will be calculated on the basis of the group as a whole. Businesses within the group will be jointly and severally liable to pay payroll tax for the group, and a designated business within the group will claim the payroll tax free threshold. For groups of businesses operating in more than one jurisdiction, employers will lodge payroll tax information in all relevant jurisdictions and will receive the payroll tax free threshold at a pro rata rate in each jurisdiction.

The purpose of these grouping provisions is to ensure that businesses are not able to avoid payroll tax by splitting into separate but related entities. Some of the cases in which businesses may be grouped together include cases of common control and cases where businesses share employees for relevant tasks.

I should say that I have some concerns about the grouping provisions contained in the bill, as they appear to me to give scope for some strange groupings to occur. I have a particular concern about section 3L, which groups all overlapping groups of businesses into a single group. That is, whenever groups have a common member they are automatically grouped into a single group composed of all of the members of both groups. Whilst this section may be sensible in some cases, it has the potential to group unrelated businesses into a single group where these businesses are each in a separate group with a common member. In some cases the groups combined in this way may have no real connection, and the common member of two groups may be a member of each group for reasons that have nothing to do with any relationship between the two groups themselves. This is not a quiz, by the way, Mr Speaker. It may sound like it, but this is a scenario we worked through.

For example, if a set of people are found to control two businesses together under the common control test in section 3J, and one of those people is also found to be in another group of people by virtue of an entirely separate business, then all of the people in each of the two groups would be grouped together by virtue of section 3L. In such a case the two groups may have no real connection even though they are automatically grouped by the legislation. I have discussed this concern with departmental officials. They have assured me that in such cases they would exercise their discretion to ensure that unrelated businesses are not grouped together.

I note from my briefings on this issue that the changes will have a negligible impact upon the overall tax burden. While the exemptions will reduce the tax payable by some businesses by small amounts, the grouping provisions will increase the taxation liability for groups of businesses. Taxation is a subject that is of particular interest to me as I believe that it is an area that has a significant impact on the ACT economy and on the people of Canberra—to use the oft-quoted expression from the governments both here and at the federal level, on "working families".

In my time as shadow Treasurer, I was fortunate to be able to examine the relevant efficiency of different ACT taxes and to receive economic advice on this question. Whilst I am certainly on the record as an advocate of lower taxation, it is clear from

the nature of the payroll tax that it is a relatively efficient tax in comparison to many other ACT taxes. Thus, it is not an area in which I would advocate substantial change to alleviate the tax burden. There are other areas in which this is far more important.

Whilst I recognise that the payroll tax is a relatively efficient tax, I note that the Canberra Business Council has recommended some changes to the payroll tax in order to alleviate the burden on smaller employers and provide incentives to businesses to attract employees from interstate. In particular, it has recommended that the current payroll tax threshold should be raised and that this threshold should be indexed in accordance with wage growth. This would alleviate the burden on smaller employers and ensure that there is no bracket creep in payroll tax over time. To this extent, this reform seems not only fair but reasonable. The Canberra Business Council is also recommending considering payroll tax reductions for companies that attract employees from interstate or overseas.

It is clear from these recommendations and from the continuing interest of the business community in this area of law and taxation that payroll tax is an area of ongoing interest and that there is scope for further reform.

Another area in which there is potential for greater reform is in the harmonisation of workers compensation laws and payroll tax laws. Those businesses that are required to pay payroll tax will, I believe, without exception, all be required to take out workers compensation insurance. There is some overlap in these areas. That gives us some scope to look at reforms along the same lines as are contained in this bill, to harmonise the operation of laws that affect ACT businesses.

Both sets of laws operate on the basis of the same factors, such as employee wages. It is important to ensure that laws in both areas have corresponding definitions and calculation methods. This is also an issue which affects the compliance costs of businesses. I know that there has been some confusion amongst businesses in the ACT regarding their obligations in terms of workers compensation insurance.

I recently made representations to the Attorney-General on behalf of a constituent who was unsure about their legal obligations regarding that particular insurance. They found WorkCover to be most unhelpful on this matter. The issue relates to what is an employee; obviously the same issue potentially arises in other areas of taxation. In that instance, the WorkCover position was to tell him to get his own legal advice, a prospect which is fairly unattractive given the cost.

I cite this incident to show the kind of compliance cost that can occur when legislation is confusing to those who may have to live by it. Harmonisation in this area may give us some greater clarity and efficiency. I certainly hope to see a system in Australia in which both payroll tax laws and workers compensation laws are, to the extent humanly possible, harmonised between jurisdictions and between each other so that businesses are able to clearly understand their obligations regardless of where in the country they are operating.

From my own thinking about it, I understand the conflict and complications that harmonisation might raise, but it is a goal that the government should have in mind if they are trying to reduce the burden of red tape.

I am satisfied that this bill will improve the administration of payroll tax and will harmonise the structure of the tax between different Australian jurisdictions. This should have the effect of reducing compliance costs for businesses that span multiple jurisdictions. In light of the assurances of the Department of Treasury about the use of the grouping provisions in the bill, I will be supporting the bill.

It is important to ensure that employers in the ACT are not burdened with unnecessary compliance costs due to the arbitrary rules imposed by different jurisdictions. Harmonising ACT laws and payroll tax with those of other jurisdictions, particularly our neighbouring jurisdiction, is a sensible measure to reduce compliance costs for businesses operating in the ACT and across the border. Hopefully, this bill will also alleviate some of the disincentives for New South Wales businesses to expand into our jurisdiction.

MR SMYTH (Brindabella) (11.01): The opposition will be supporting this bill to amend the payroll tax regime in the ACT. I thank the government for arranging a briefing on the bill; the officers were quite informative. It is a particularly technical bill in the matters that it contains relating to payroll tax. Before I make specific comments on the bill, I would like to make some general comments.

There are few taxing measures that can impose such a competitive disadvantage on Australian business—that is, on businesses that operate across any state and territory boundary—as payroll tax. It takes only a moment to see the issues that arise for businesses that have operations in one or more state or territory, and particularly for Canberra, with New South Wales just across the border in Queanbeyan. There are serious issues over the lack of compatibility between jurisdictions, meaning that companies need to operate more than one payroll system—which, of course, means that when staff move temporarily between jurisdictions there are implications for managing their payrolls.

These are not minor matters because each jurisdiction may make changes to their payroll tax regime, meaning that the relevant company payroll system has to be changed almost continually. The differences in the payroll tax regimes across Australia create a significant competitive disadvantage for businesses that operate in more than one jurisdiction. Implicit in my comments, therefore, is the objective of minimising or eliminating differences in payroll tax regimes across Australia. This brings me to the bill that is before us today.

The bill grows out of the national reform agenda whereby treasurers have agreed that we need to work towards those objectives of minimising the difficulty with workers crossing borders. I have already noted that this bill is largely technical. The areas that it seeks to address are contained in six broad areas: exemptions for wages paid in the ACT for services performed in another country; motor vehicle allowance exemptions; accommodation allowance exemptions; fringe benefits; the grouping provisions; and the employee share acquisition scheme. There are also some transitional provisions. These are good and sensible amendments and it is good to see that treasurers across the country have been able to come to an agreement at least on this part of the payroll tax system. As I noted, it is largely a technical bill. For instance, a good example is proposed section 10 on pages 33 and 34, which contains the formulas for the calculation of various matters within the payroll tax issue.

The government provided a briefing on this bill. In that briefing I was particularly disappointed to learn that there had not been any consultation with the business community on this bill. I acknowledge that it is largely a technical bill, but this persuades me that it is even more important to consult with the users of the payroll tax system, particularly with practitioners who are familiar, on a day-to-day basis, with the systems they use. So the question is: why did the government decide that it was not necessary to consult with users of the payroll tax system? Was it laziness or just a sign of the arrogance of the Stanhope Labor government? Is the Stanhope government saying, "We know better than you"—that is, the business community that has to use the system—"as to what should be in technical tax policies"?

The Stanhope government has proclaimed its community consultation policy. Unfortunately, consultation seems to take place only when it suits this government. It did not take place with the closure of the Griffith library, because we knew what the answer would be. It did not take place on the closure of shopfronts and now it is not taking place on the changes to the payroll tax system. It is not only disappointing that there has not been any consultation on this bill; it does, in fact, fly in the face of the many claims that the Stanhope government would be open and accountable. These claims are repudiated constantly by the actions of the Stanhope government.

I now wish to comment on the views of the business community on payroll tax, for the information of the Treasurer and the government. It is interesting to note the comments of the Canberra Business Council with respect to payroll tax in its submission on the 2008-09 budget. The council submits that payroll tax is a significant disincentive to business growth in the ACT. That is an interesting comment which comes at a time when the Treasurer is constantly lamenting the lack of an economic base. Perhaps the Treasurer should take the time to read the Canberra Business Council's submission. Beyond that general statement, the council goes on to plead the case for having payroll tax arrangements as they apply in the ACT being competitive with those that apply in other jurisdictions.

It is also interesting to note the views of the ACT Chamber of Commerce and Industry on payroll tax contained in the chamber's submission on the 2008-09 budget. The chamber emphasises the impact of payroll tax on the competitive environment in which businesses are operating in the ACT. The chamber also develops arguments about the nature of the impact of payroll tax on the profitability and investment plans of local businesses. The chamber recommends that the rate at which payroll tax is applied should be reduced from 6.85 per cent to 6.0 per cent over three years. The chamber also recommends that the threshold over which businesses have to pay payroll tax should be indexed so as to avoid bracket creep. It will be interesting, in light of the recent windfalls that the government has received in regard to revenue, to see whether payroll tax, either the threshold or the rate, will be amended in the upcoming budget.

It is interesting to recall that the Chief Minister, when in opposition, said his government would like to be a low-taxing one. We have yet to see evidence of that, with so many taxes creeping in, particularly in this term. You have only to refer back to the first budget of the government in 2002-03, when the government actually dropped the position of the previous government, which was to move the threshold up

to $1.5 million to ensure that bracket creep was addressed and that we would get the settings right to ensure that business in the ACT was competitive.

During the debate on the Road Transport (Third-Party Insurance) Bill 2007, I thought for a moment that the Treasury had actually developed a sense of humour. In their examples, instead of the nameless A, B and C, they referred to Albert, Boris and Chloe. I was disappointed to note that the sense of humour has not appeared to last and we have gone back to having corporation A, corporation B and corporation C. That is just by way of a lighter note.

Payroll tax remains a significant source of revenue for the ACT government. It will be worth well over $200 million in this financial year. The ACT needs to have the most efficient payroll tax regime that is possible. It needs a payroll tax regime that has the highest possible extent of compatibility with the regime in New South Wales in particular, given the cross-border issues in the ACT. This bill takes us a further step down the path of compatibility. I look forward to seeing initiatives that will add more commonality to the payroll tax regimes that operate in both the ACT and New South Wales. I also look forward to announcements that may or may not appear in the budget as to whether the government will address issues such as the rate and, indeed, the bracket creep over the thresholds that has been occurring during their term in government. The opposition will support this bill.

DR FOSKEY (Molonglo) (11.09): I will also be supporting the Payroll Tax Amendment Bill because it seems to me to be entirely sensible. It makes a great deal of sense for payroll tax issues to be harmonised across borders in Australia. I note that this bill will not come into effect until June this year, which should give business plenty of time to plan and adjust.

The major intent of this legislation is to allow companies to lower their compliance costs by cutting down on their paperwork. I also note that rates of tax and tax-free thresholds have been excluded from the harmonisation, which allows the ACT to continue to apply a tax rate of 6.85 per cent, which is considerably higher than in many other states, while also allowing a higher threshold of $1.25 million of payroll whereby no duty is payable. This means that larger businesses are paying higher taxes on larger amounts of payroll, while smaller companies which come under the threshold do not need to pay payroll tax. This accords with the Greens' support for small business.

In terms of the detail of the bill, we support the status quo whereby employee share acquisitions are included as wages. We also support the exemption of wages for employees who work outside Australia for more than six months as, apart from other issues, those employees will make fewer demands on services in the ACT. It would not be surprising to anyone here that the Greens do not support motor vehicle allowances being tax free, except in cases where they really are required for work purposes. Nor do we support large cars being part of fringe benefits. For this reason, we think it is of concern that we are harmonising our exemption on payroll tax with other states to the large car rate. This may be appropriate for some workers in the Northern Territory, but is it sensible or responsible to encourage large cars in the ACT?

We support the harmonisation of these measures for economic purposes, but we would also like to see harmonisation which brings about social and environmental benefits. On the one hand, we have a federal government working towards a national energy trading scheme, but on the other hand we have exemptions and fringe benefits regimes which actually encourage unnecessary car usage. Instead, we would like to see schemes that factor in greenhouse gas emissions and provide incentives for responsible choices to minimise those emissions.

It seems trite and repetitious to say, yet again, that greenhouse gas and climate change issues are not just about and for scientists and environmentalists. These are issues that all policy makers need to grapple with and integrate into their plans and strategies. But just when you might have assumed from government rhetoric and accepted scientific consensus that pretty much everyone had got the message that climate change was a huge and potentially devastating problem, along comes another reminder that things are not changing very fast at all, and that, as usual, business still rules in many areas of government policy.

I acknowledge that this immediate problem has been inherited by the Rudd government from its climate change denying predecessor, but what I would like, and I imagine most Canberrans would expect, is a commitment from the ACT government, as part of its climate change strategy, that it will lobby its counterparts in other states and federally to remove the madness of having large motor vehicles—large gas-guzzling motor vehicles, large greenhouse gas emitting motor vehicles—as part of so many people's salary packages.

It should also lobby hard to remove the FBT car lease schemes, whereby the higher the vehicle's mileage, the higher the allowance rate. We know from anecdotal evidence, as well as common sense, that this measure results in people driving as much as possible in order to qualify for the lower rates. I have even heard that some people put their cars' wheels on rollers in the garage and run it for hours in order to get the cheaper rates or encourage their children to drive to Queensland for the weekend. The fact that these schemes still operate today is testament to the breadth and urgency of the action needed for this society and its governments to snap out of complacency and put words into actions in order to minimise the impact of what is increasingly looking like a looming economic and environmental disaster.

Given that through our payroll tax collections we are benefiting financially from these schemes, we should at least make a concerted effort to rectify the obvious faults in them. In fact, I note that our own ACT planning and environment committee had the same concern. They recommended, in their report on the inquiry into ACTION buses and the sustainable transport plan, as follows:

> … that the ACT Government continue to seek an Australian Government review of the statutory formula for Fringe Benefits Tax concessions to remove the perverse incentive for increased kilometres of car travel, and/or to seek the extension of tax exemptions or other incentives to public transport users.

Those are their words, not mine. I note also today that MLAs, and no doubt members of the public service, got a letter indicating that they can increase their expenditure on

petrol from $150 a day to $250 a day. I am not quite sure how we would ever rack up that amount of petrol usage. Again, it seems to me to be a perverse incentive.

The uniform treatment of wages and fringe benefits for payroll tax purposes is an easy one to support. We also support the grouping provisions introduced in this bill which ensure that businesses cannot abuse the tax-free threshold provisions by splitting parts of their company to form separate but still related entities. New South Wales and Victoria have this provision, and this is one case where the ACT is playing catch-up. It is pleasing to see that the ACT government does not intend to harmonise with New South Wales and Victoria in terms of exemptions for maternity and adoption leave, meaning that wages paid to primary carers for these purposes are not included for payroll taxation purposes in the ACT.

There is another related proposal which may come before the Assembly for commencement before July 2009. I am not sure whether we would support measures that New South Wales and Victoria have taken which limit exemptions for wages paid by non-profit organisations whose objectives are deemed to be wholly charitable, benevolent, philanthropic or patriotic, and where the person is engaged exclusively in that kind of work. All other wages paid by the non-profit organisation would be taxable. The fact is that non-profit organisations are non-profit. Often, these organisations have as part of their objects a clause stating that they should collect funds or do fundraising for the purposes of the organisation. Would that mean that wages for a fundraiser would be liable for payroll tax?

This is not on the agenda for today, but I would like to make it very clear in advance that we should watch this amendment carefully and ensure that we do not make it even harder for non-profit organisations to stay afloat. By the same token, we should be careful that organisations do not abuse their non-profit status merely to pursue the accumulation of assets or to push agendas which are intended to result in profits being collected by another corporate entity. In short, despite the motor vehicle allowance exemption, which we in the ACT do not have control over, we support the bill.

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (11.18), in reply: I thank members for their contributions to the debate on an important piece of reform in relation to taxation, most particularly payroll tax. The Payroll Tax Amendment Bill amends the Payroll Tax Act 1987 to implement national payroll tax reforms as agreed by all states and territory treasurers in March 2007. The bill also includes amendments to the Taxation Administration Act 1999 which are consequential to the Payroll Tax Act amendments.

The national payroll tax harmonisation project makes certain aspects of payroll tax administration more consistent across the jurisdictions. The reforms address eight important areas of the payroll tax system, and these measures need to be in place now in order to provide adequate notice for employers to conform with the new regime. The rates of tax and tax-free thresholds are excluded from consideration to allow jurisdictions to continue to make individual policy decisions, as these impact on the budget and on the number of businesses or groups that are liable for the tax. These issues will continue to be dealt with independently.

The benefits of payroll tax harmonisation are tangible. For those who employ in more than one jurisdiction, it will be easy to comply with the payroll tax legislation where it is the same in all states and territories. For groups, the introduction of a designated group employer to claim the whole amount of the group's tax-free threshold should simplify the returns. The use of a single gross-up factor for fringe benefits also simplifies returns, and linking allowances to the amount set annually by the Australian Taxation Office will keep them current. The ACT already complies with two of the eight common provisions, these being the timing of lodgement and the inclusion of superannuation contributions for non-working directors as wages.

This bill amends existing employee share acquisition scheme provisions to limit payroll tax liability so that each jurisdiction can only include a share in a local company, or the option to acquire such a share, as wages paid in their jurisdiction. Such shares and options are only liable to payroll tax in the ACT if they are shares or options in an ACT company. In any other case, the share or option is taken to be paid outside the ACT. The exception to this general rule is only where the grant of the share or option is made for services performed wholly in the ACT, in which case they are subject to ACT payroll tax.

The other issues covered by the bill are in relation to motor vehicle and accommodation allowances, a range of fringe benefits, work performed outside a jurisdiction and grouping of businesses for payroll tax purposes. The bill adopts exemption rates for motor vehicle allowances and accommodation allowances in the ACT which are linked with those set annually by the Australian Taxation Office for income tax deduction purposes. This provides certainty and keeps the rates up to date. The bill also introduces uniform treatment of fringe benefits that are included as wages. The use of both type 1 and type 2 gross-up factors has been discarded and agreement has been reached to adopt the lower type 2 gross-up factor to calculate the amount deemed to be wages for payroll tax purposes.

A provision that is new to the ACT payroll tax regime is the adoption of an exemption for wages paid in the ACT for employees who work in another country for a continuous period of six months or more. Where an employee is on continuous assignment outside Australia for a period of six months or more, the exemption applies to wages paid for the whole assignment, including the first six months. However, wages paid for services in another country for less than six months will continue to be liable to payroll tax. If an employee returns to Australia for a holiday or to perform work related to the assignment for less than a month, their wages will continue to be exempt if the employee returns to the overseas country to continue the assignment. This will be administered in the same manner across all jurisdictions.

The major changes introduced by the bill are in relation to grouping provisions. The grouping of related or associated businesses is an anti-avoidance measure. Without grouping provisions, an entity could split its operations into several businesses, all of which have wages below the threshold, and consequently none of them incur a payroll tax liability. The ACT already has grouping provisions but they are not consistent with those agreed by all the jurisdictions. The ACT will adopt a model consistent with that of Victoria and New South Wales in relation to the grouping of businesses for

payroll tax purposes. Entities will be grouped where they use common employees, where they are commonly controlled companies or where controlling interests can be traced to give a more than 50 per cent interest. Interests may be held directly and indirectly by the entities, and can be aggregated to form a controlling interest. The formation of these groups will use common tests across the states and territories.

Related corporations under the Corporations Act of the commonwealth will automatically be grouped. There is no discretion to exclude a member from the group for any reason. However, in other cases, the commissioner has a discretion to exclude a member from the group where they operate independently. This currently applies in the ACT only to entities that are grouped because of the use of common employees. The bill widens this discretion to members that have been grouped under any of the grouping provisions. For administrative ease and consistency with New South Wales and Victoria, the bill omits the grouping provisions currently in the ACT Taxation Administration Act and inserts a new group of provisions within the Payroll Tax Act.

The final concept introduced by the bill is the use of a designated group employer to claim the appropriate payroll tax-free threshold for the entire group. No other group member will be able to claim a deduction. They will, instead, pay at the flat rate of payroll tax. The introduction of this concept requires amendment of the current formulas used to calculate payroll tax. So that all formulas in the act are similar in style, the bill introduces an equivalent of all the Victorian formulas used to calculate payroll tax.

When this bill was introduced, I advised the Assembly that, in addition to the eight measures agreed by the national project, New South Wales and Victoria have already implemented further changes that resulted in both states adopting new payroll tax acts on 1 July 2007. These acts are based on the same template with a separate schedule dealing with jurisdiction-specific provisions—that is, provisions where they chose to maintain their differences, including different rates and thresholds.

The ACT already complies with some of the bilateral project measures. There is no payroll tax liability for portable long service leave and redundancy schemes, and termination payments to non-employee directors and deemed employees are already included as wages. The existing exemption for wages paid for maternity or adoption leave in the ACT provides a benefit in relation to a wider range of people than the New South Wales or Victorian provisions.

Participating in the national project provides tax reform in the national interest, with benefits for all employers who operate across jurisdictions. If investigations show that the ACT and ACT employers would benefit from further reform, I anticipate that a future bill will implement appropriate measures from the New South Wales and Victoria bilateral project. If feasible, the ACT may adopt the New South Wales and Victorian payroll tax acts as a model for a new ACT payroll tax act when all harmonisation issues have been fully investigated.

The provisions in this bill are consistent with the New South Wales and Victorian payroll tax acts and are also in accord with changes being made by all other jurisdictions in relation to the eight agreed areas of concern. I commend the Payroll

Tax Amendment Bill to the Assembly, and I thank members for their contributions and support.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Human Rights Amendment Bill 2007

Debate resumed from 6 December 2007, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR SESELJA (Molonglo—Leader of the Opposition) (11.25): The Liberal Party will be supporting particular elements of this bill. On behalf of the opposition I will be moving some amendments to it later. We are doing this in part because we believe it is more appropriate for the comprehensive review of the act to take place prior to amendments being made.

The Human Rights Amendment Bill seeks to introduce a range of elements to clarify interpretive rules, clarify the reasonable limits clause, provide a direct right of action against public authorities and expand the obligation to notify the Attorney-General and the Humans Rights Commissioner of legal proceedings in the Supreme Court in which the HRA is to be argued.

I briefly outline the intent of the substantive sections of the bill. Section 4 outlines the factors that must be considered in deciding whether human rights may be limited, including the nature of the right affected, the importance of the purpose of the limitation, the nature and extent of the limitation, and any less restrictive means reasonably available to achieve the purpose the limitation seeks to achieve.

The amendment is modelled on legislation of Victoria and South Africa and is intended to provide guidance in the application of the existing general limitation provision and to reduce its uncertainty. The effect will be to reflect what is known as a proportionality test, a test that has been applied in the UK, Canada and New Zealand.

An attachment to a letter dated 25 November 2005 from the ACT Human Rights and Discrimination Commissioner to Senator Payne, the then chair of the Senate legal and constitutional legislation committee explained that the test, and I quote:

> … involves two closely related concepts. First to be 'demonstrably justified in a democratic society', there must be a legitimate objective, that is one of sufficient importance to justify overriding human rights. Secondly the measure must be proportional.

The 1986 Canadian case of R v Oakes held that, and, again, I quote:

> … to be proportionate:
>
> the limitation/s must be carefully designed to achieve the relevant objective, not to be arbitrary, unfair or based on irrational considerations;
>
> the limitation or interference should impair as little as possible the right in question; and
>
> even if the objective is of sufficient importance and the first two elements of the proportionality test are satisfied, it is still possible that because of the severity of the deleterious effects of a measure on individuals or groups the measure will not be justified by the purpose it is intended to serve.

In examining this bill the Standing Committee on Legal Affairs noted that the Attorney-General had previously commented in relation to the Corrections (Management) Bill 2006 that, and I quote:

> The danger of taking that path—

that is, codifying proportionality in legislation—

> is that it would change the test to a matter of statutory interpretation rather than application of precedent … Codifying it might exclude important nuances and changes expressed in case law.

That said, Mr Speaker, the amendment provides guidance on the range of factors that must be taken into account when assessing whether a limitation on human right is reasonable and justified. In addition, there is sufficient case law available to provide judicial guidance on interpretative matters.

Section 5 provides that, so far as possible to do so consistently with this purpose, territory laws must be interpreted in a way that is compatible with human rights. This is based on the approach taken in Victoria and the UK. Again, it provides guidance, but at the same time it provides some flexibility for territory laws to be interpreted according to their purpose.

Section 6 requires the Supreme Court, in a proceeding to which the ACT is not a party or when the court is considering making it a ruling of incompatibility with the Human Rights Act, to satisfy itself that the Attorney-General and the Human Rights Commission are notified and allow a reasonable time to pass for the Attorney-General and the commission to decide whether to intervene. It also allows the court to proceed in matters relating to the granting of urgent relief of an interlocutory nature. This is a sensible amendment that ensures all relevant or potential parties have an opportunity to be involved in matters before the Supreme Court.

Mr Speaker, it is section 7 and, as a consequence, sections 8 and 9, which the opposition seeks to omit from the bill. I will be moving amendments later. Clause 7, which will commence on 1 January 2009, provides specifics in relation to the

definition of public authority. In essence, it includes all entities that are a part of or associated with government, whether literally or not. This includes individuals such as ministers, police officers and public employees. It also extends to any entity whether under contract or otherwise whose functions are either wholly or partly of a public nature and exercised on behalf of the territory or a public authority.

"Entity" includes individuals acting under delegations, subject to delegation or otherwise. It excludes the Legislative Assembly and the courts except for their administrative roles. The clause also outlines the matters to be considered in deciding the meaning of "function and public nature" and includes a range of specified services, such as utilities, emergency services, public health services and public education, transport and housing as well as detention places and correctional centres.

The clause provides that a public authority must act and make decisions in a way that is compatible with a human right. A public authority is not required to act consistently if its own act expressly requires it to act in a particular way or the law cannot be interpreted in a way that is consistent with human rights. Individuals can start proceedings in the Supreme Court against a public authority if they claim the authority is acting in contravention of the Human Rights Act or if they allege they would be a victim of the contravention. In such cases, the Supreme Court will grant relief but not damages.

The provision does not prevent individuals from pursuing other legal avenues should they wish to seek damages. The clause also provides that non-public authority entities can seek from the minister a declaration that they are public authorities for the purposes of the Human Rights Act. The minister must issue the declaration and cannot withdraw it until the entity asks for it to be withdrawn.

This amendment clause has a number of problems associated with it. Firstly, in drafting clause 7 of the bill, the ACT is seeking to bring the Human Rights Act into line with Victoria, whose Charter of Human Rights and Responsibilities Act 2006 came into effect on 1 January 2008. It is considered that Victoria leapfrogged the ACT with its legislation. It seems that this is potentially more about keeping up with the Joneses than about examining the impact of these amendments in the ACT. What is good for the goose may not necessarily be good for the gander. To introduce amending legislation without proper consideration for its impact on local circumstances shows a lack of analysis on the part of the government.

Secondly, the definition of "public authority" is so broad as to be capable of extending to private sector individuals and businesses contracted to the government. The definition provides that a contractor who is wholly or only partly engaged in the delivery of services of a public nature on behalf of the territory should be regarded as a public authority for the purpose of the Human Rights Act. This imposes an additional layer of risk on private sector contractors for which I doubt the other will provide recompense.

Thirdly, this amendment may well mean that all government agencies within the definition of public authorities will most likely have to review their legislation for compliance. This could potentially involve a very great number of pieces of

legislation, keeping administrative staff and legal advisers busy at considerable administrative cost for a considerable period. Some agencies will be faced with a review of this kind for the very first time. Notwithstanding the delayed commencement date of 1 January 2009 for this provision, it seems doubtful that this work will be able to be done sufficiently well in that time.

Fourthly, clause 7 could have significant implications for public authorities exposed to challenges in the Supreme Court by disaffected individuals. This in turn could result in increased administrative costs for those authorities. There is a potential that it could open up a Pandora's box. On the basis of the Canadian experience, provision of direct right of action for failures to comply with human rights law will open up all public authorities to expensive litigation for perceived wrongs.

There is a view that the potential costs of bringing a proceeding before the Supreme Court may in itself be a deterrent. Even if that view were only of a loose foundation, which I do not accept, if the case load increases there could be cost implications for the Supreme Court. Again, the question is how this will be paid for.

Fifthly, there is a potential for criminals to take advantage of this legislation, which will make life even more difficult for the police force. Police already have strict accountability processes, and this will further impact on their ability to do their job in the community and could lead to a further diminution of the central police powers to protect our community from wrongdoers. Given they are already understaffed, this could have a significant effect on their capacity to do their jobs and on morale.

Sixthly, I note that the Standing Committee on Legal Affairs, in scrutinising this bill, noted:

> … there are five diversions used on the issue of whether the Supreme Court should or should not be permitted to award damages simply on the basis that there has been a contravention of human right—

as stated in the act—

> in the performance of some action by a public authority.

In responding to the committee's note, the Attorney-General simply used the divergence of view argument as justification for the approach taken not to allow the Supreme Court to award damages.

Finally, Mr Speaker, the amendment provides that an entity not caught by the definition of "public authority" can apply to the minister for a declaration that would be subject to the obligation of public authorities. Given the difficulties and shortcomings I have outlined, it is unlikely, I think, that there will be many such applications made.

The Human Rights Commission intends to engage in an awareness campaign, building on extensive training materials, to assist agencies to understand their obligations under this bill and the act generally. Whilst I heartily commend the

commission for this initiative, I suggest to you, Mr Speaker, that it demonstrates that the government's Human Rights Act is not well understood in some and perhaps many areas of government. We have seen, of course, some of the consequences of that. We have had in the past human rights compatibility statements where clearly the Human Rights Act was breached. We saw that with some of the health tribunal things in the last 18 months or so.

Mr Speaker, it also demonstrates this government's lack of ability to properly consult on matters that have such a profound impact not only on the government's agencies but also on individuals and the private sector. I note that the Human Rights Act is due for a full review on 1 July 2009. The opposition looks forward to that review and will follow it closely with considerable interest. We believe it would have been more appropriate to have waited for that review and its outcome prior to expansion of the Human Rights Act.

We will take an open mind to that review, and, hopefully, that will be done in a reasonable way that looks at the actual impact of the Human Rights Act, whether or not it should be expanded or whether it should be contracted, amended or repealed. All of those things should be on the table, and we should not be pre-empting that review, which is due to take place in 2009. It is primarily for that reason that we will be moving amendments that take out some of the substantive changes which we believe would be better done after the review in 2009.

DR FOSKEY (Molonglo) (11.36): I welcome this bill as a sensible and overdue, rather than precipitative, piece of legislation. Those who would oppose creating a right of action with this bill are, in effect, saying that public officials should not be bound to consider human rights when they make official decisions. That is a remarkable proposition. A generous interpretation would be that they feel that the good sense and decent dispositions of public servants will mean that everyone gets a fair go already, and that adding more red tape in the form of politically correct prescriptions is an unnecessary waste of resources.

Australia is virtually alone amongst so-called developed Western world countries in not having a bill of rights or its equivalent. Surely, recent events have made it obvious that we must be on our guard against politically driven and/or arbitrary decision making by public officials. It was deeply disturbing to see the extent to which state, federal and territory governments were willing to abandon long-held rights and conventions which underpinned the rule of law when they were stampeded by a terrorist fear campaign orchestrated and finely tuned by the previous federal government and self-serving security services.

It should be noted that at that time only the ACT had a Human Rights Act, and it was only the ACT that quibbled at all about some of those provisions that they were being asked to implement. I am not saying that religious and/or ideologically inspired criminal violence is not a real threat. But it should be obvious that our representatives' responses undertaken in the name of responding to such threats have largely been, at best, misguided and, at worst, counterproductive—perhaps both.

To their shame, the opposition in this Assembly criticised the Chief Minister when he made the Australian public aware of the federal government's intentions by

publishing the draft terror laws. Under these laws, the AFP could tell only one parent what had happened to their child. Never let it be forgotten that John Howard, Philip Ruddock and the AFP wanted to make it a criminal offence for any parent who had been informed that their child was being detained without charge for up to 14 days to tell their partner—their child's mother or father—what had happened to their child. I think even Kafka would have had trouble dreaming up this scenario. It is so monstrous that it defies belief, yet it was in the draft legislation presented to the premiers and chief ministers.

I remember Mr Stefaniak standing up and very strongly castigating Mr Stanhope. But what if it was one of Mr Stefaniak's children, or the child of anybody in this house, who had been seen talking to their treating doctor—say, a certain Dr Haneef—and ASIO and the AFP wanted to know what he or she knew about a terrorist attack in England? Do not say that the AFP and the intelligence services do not make mistakes or selectively leak documents and then deny any wrongdoing—we have seen what they do through that Dr Haneef shambolic affair.

It was only because the Chief Minister had the moral backbone to expose this and a number of other nightmare provisions that they were removed from the proposed legislation. It is possible that the rights we are going to enact today will be invoked to ameliorate the treatment experienced by someone detained under the ACT's preventative detention laws, which the Greens and many eminent legal commentators have never accepted are fully human rights compliant.

Our rights and freedom came about because people of goodwill fought for them. Although it has a very long history, that fight has been conducted very globally and very actively and very productively since the Second World War. People have suffered to bring these rights and freedoms into existence.

What Thomas Jefferson said some 200 years ago is still pertinent—the price of freedom is eternal vigilance. Of course, that is interpreted differently by many people. What has changed in the intervening period is that the coercive powers and technologies at the disposal of the state have increased exponentially. However, the callousness of many public officials does not seem to have changed significantly.

The case of Al-Kateb highlights the dangers of leaving human rights in the hands of people for whom administrative expedience and political, religious or personal advantage take precedence over basic human decency or the rights of the individual. In Al-Kateb the commonwealth argued, and the High Court had to accept, that Australian law allows the commonwealth to lock an innocent person away to rot in conditions worse than a jail for the term of his natural life. That is despite that fact that Mr Al-Kateb was stateless because he was born in Kuwait to Palestinian parents.

What the bill before us today does is create more mandatory relevant considerations which decision makers must take into account. It adds to a long list of such considerations which exist both at common law and in legislation such as the AD(JR) Act. I would have preferred that the right to compensation was included in this bill. But even in this watered-down form, this is a welcome step in the right direction.

The Attorney-General says that public education is an essential part of the process of an embedded human rights culture, and he is right. So why does this bill not include an amendment requiring the government to table the reasoning behind human rights compliance statements? Presumably, the ethical and legal reasoning exists somewhere in secret files of the bureaucracy. I just want to read from the discussion paper of the Department of Justice and Community Safety on the Human Rights Act 2004, which talks about the compatibility statement and makes similar points to the ones that have been made by the scrutiny of bills committee over and over again. It states:

> The compatibility statement clearly serves a significant role in the 'dialogue model'. It reflects the internal dialogue among the various component arms of the executive and it is this internal process that has been most dramatically affected by the HRA.
>
> Some commentators—

read the Greens—

> are concerned about the content of the compatibility statement. In most cases a one-page statement—

a one-line statement—

> is issued as evidence of the conversation between the sponsoring agency and the Human Rights Unit in the Department of Justice and Community Safety on Human Rights issues.
>
> This one-page statement—

one-line statement—

> has been criticised for its failure to facilitate a human rights dialogue among the community, the executive and the legislature.

Peter Bayne, the adviser to the scrutiny of bills committee suggests that, and I quote from him:

> … compatibility statements contribute nothing to dialogue, at least where they merely state that the Bill is compatible.

Although he notes:

> … the Explanatory Statement may address the HRA issues, sometimes at a relatively sophisticated level.

He uses the word "may" there. The discussion paper also states:

> The brevity of the statement, or the lack of publicity given to the dialogue within the executive, seems to have prompted some concern as to the growth of a wider human rights dialogue, and, potentially, the development of a broader human rights culture … Effectively, the content of the statement, it is said, reflects the quality of the dialogue.

I hope this is not the case, because the statement, as we are all well aware, is a one-liner that most of us put into our recycle paper pile without comment because we do not even have to read it anymore. Let us hope that the content of the statement does not reflect the quality of the dialogue, because that means that the dialogue is absent altogether.

Maybe the ethical and legal reasoning does exist somewhere in the files of the bureaucracy, but this is a foolish place for it to be. I am yet to hear any convincing argument as to why the government hides its human rights deliberations and reasoning from public scrutiny and edification. It is absurd and it is counterproductive to the creation of a general respect for human rights, a genuine respect that I believe the government wants to create. Until we see that thinking, we cannot believe that the dialogue happens to the extent that we believe this is a dialogue model of human rights. If dialogue is not visible, it is hard to argue that the dialogue even occurs.

I am concerned that, in an under-resourced department, the dialogue does not occur to the extent it does. The dialogue is meant to occur between the human rights part of JACS and the department responsible for producing the legislation. We do not know that that occurs. New Zealand, which also has a human rights act, puts a lot more effort into putting those considerations up in the public sphere, and, therefore, New Zealanders can be assured that it does occur.

We do know that occasionally human rights considerations are included in the explanatory statements. I commend this. It makes me wonder, therefore, about the purpose of the compatibility statement; nonetheless, I note that those discussions only occur when the government believes that the legislation might be controversial on human rights grounds. Let us remember that human rights should be considered in regard to everything that comes through this place.

To be more positive again, I do welcome the expansive definition of a "public authority" and a "public function" in this bill. It is to the government's credit that it chose to go this way. Similarly, the provisions which allow private businesses to opt into human rights compliance duties is admirable, and I hope it counts in a business's favour when competing for government contracts over competitors offering similar conditions. I hope that the government promotes this aspect of the legislation and private business response.

The expansion of section 28 is a sensible initiative. The list of factors is not exhaustive, but by codifying the proportionality principle, this provision gives good guidance to courts, decision makers and the general public as to when a limitation to a right could be justified. Provisions like this are rarely mentioned when detractors use the argument that human rights legislation is absurd and unworkable. The proportionality principle is a mechanism whereby common sense is applied to the interpretation of this legislation.

New section 30 is well overdue, and it could have been rushed through earlier, as soon as it became apparent that it was needed. New section 30 enacts the will of the Assembly when it passed the Human Rights Act. It was always intended that it have

application in the interpretation of ACT legislation. This provision clarifies the dialectic interplay between the purposive and the interpretative rules, and, at the very least, it will mean that lawyers have to argue cases on their merits and avoid costly and wasteful legal argument over the existence of ambiguity and other technical interpretative principles that really serve no good purpose. I am also glad that this provision takes effect on notification and does not wait until next year before it commences.

Is it merely a coincidence that 1 January next year is after the next ACT election? Have the public service not had over three years to prepare for their obligations to act in ways compliant with human rights? It will be easier for a Liberal government, supported by a right-wing cross-bench—which is one possible post-election scenario, but not the best—to wind back legislation that has not taken effect than it would be to repeal an act for legislation that had already commenced. I think the government is being overly cautious in this instance. This is a problem partly of the government's own making as it has put too little effort into entrenching human rights principles and educating the public and the public service in ethical reasoning in the benefits of having the human rights safety net.

It is undoubtedly the case that the ACT Human Rights Act was instrumental in convincing Victoria that it was politically safe to enact its Charter of Human Rights and Responsibilities Act. Hopefully, this momentum will carry over to the federal sphere, and I look forward to seeing a federal human rights act in the term of the Rudd government.

I will be supporting the bill, and I look forward to the tabling of another bill to enact civil and political rights, as these are necessary components in any fully functioning human rights compliant regime. I still have doubts that the Human Rights Act is considered in the development of legislation. Indeed, we have some JACS legislation coming before us today which I will take some issue with regarding the impact that it does have on the human rights of some people who wish to bring cases before the AAT.

MR MULCAHY (Molonglo) (11.51): I will be supporting this bill. I was not in the Legislative Assembly when the original act was passed in 2004 and so was not involved in the decision of my former party to oppose the legislation when it was originally presented. I do not have a philosophical objection to recognising human rights under legislation, although, as I will discuss shortly, I do not believe that its creation or maintenance should be the priority of government in the ACT. Many of the issues that were raised by the opposition in 2004 have not been borne out. There has not been a glut of litigation as a result of the Human Rights Act. Indeed, the world as we know it has certainly not collapsed.

But that said, I do question the need for legislation of this type. The civil and political rights listed in the original legislation are, without exception, fundamental rights that have been long protected by existing law. The relatively small number of cases that have turned on the Human Rights Act could mean a number of things. The minister argued in his presentation speech that the trickle of cases will grow as a result of "the growing awareness of human rights in this jurisdiction and the strength of the

underlying legal principles". I would contend that, at least in part, to borrow the minister's expression, the trickle of cases demonstrates, in fact, the strength of the law as it stood prior to the introduction of a Human Rights Act. Existing heads of law provided protection of inherent human rights.

We are a small jurisdiction and I do not believe that anything is necessarily gained by social engineering or experimentation. It may not appeal to those with higher notions or ambitions, but I am a firm believer that the primary role of this place is to manage the nuts and bolts of Canberra's society. I know that members on both sides of this chamber might disagree and dream of a higher playing field, of loftier debates and deep philosophical problems to consider, but I am here to represent the people of Canberra on the issues that matter to their everyday lives.

I do not believe this debate will fundamentally and substantially change Canberra's society for the better. A more meaningful change would occur if the problems in our health system were fixed, if the appearance of our town stopped deteriorating and if our bus services improved. These things should be the primary consideration of the Legislative Assembly—a sentiment I hear echoed repeatedly when I meet with constituents on a weekly basis.

As I stated earlier, I will be voting to support this bill. Whilst I do not believe that the Human Rights Act justified the focus of the Assembly's time and resources I feel that now that the commission is set up and much of the work has been done this bill does make some sense. As I have already said, I have no philosophical objection to this legislation. Any objection that I have is on the grounds of practical necessity.

The clause of this bill that allows entities that are not public authorities to opt in to this legislation is a case in point. I would be very surprised if this offer is widely taken up. Most entities do not need a piece of legislation to ensure that they behave ethically and with consideration to human rights. Existing heads of law ensure this behaviour and most entities act in this way already.

Let me make it clear that I believe that public authorities in the ACT should act in a manner beyond reproach and that in most cases individuals should have a right of action against them if their rights are encroached upon or disregarded. I have seen instances where the Leader of the Opposition, in his former capacity as shadow planning minister, pursued with vigour the position of some individuals who were almost terrorised by the planning agency in terms of the circumstance of renovations to their homes. Their rights were being violated, I felt, and every possible legal protection should be afforded to people—

Mr Seselja: The Human Rights Act did not do them any good, though.

MR MULCAHY: It did not do them any good. The Human Rights Act did not do them any good. I agree, Mr Seselja. But we certainly need to have some mechanisms whereby people can exercise their right of protection and bring grievances before independent bodies. Given my position, I will be supporting the bill. I think that the mechanics of it are fine and will achieve what the minister envisages, but I will take a short amount of time to consider the different clauses of the bill.

I am satisfied with the list of public authorities outlined in this bill. Most notably, it is appropriate that the Legislative Assembly and the courts are expressly excluded from the definition of a public authority. The Legislative Assembly, the parliament and the courts—the judiciary—must retain some supremacy and the ability to exercise authority. Of course, the Assembly and the courts should execute their duties in accordance with the standards expected of them, but these institutions must also have the authority to undertake decisions beyond the scope of this legislation.

I also appreciate that this bill recognises that there will be times when human rights may be limited. This is recognised in both new section 28 (2) and new section 40B (2), which provides that the duty of a public authority to act in accordance with human rights requirements does not apply if the authority is acting under a law, either territory or commonwealth, that expressly requires the act to be done or decision made in a particular way that is inconsistent with a human right.

There will be times when other laws supersede the rights that this bill and the original act enshrine. This is appropriate, and public authorities must have the ability to adhere to such legislation without worrying what the potential repercussions of their decisions will be. I am comfortable that this legislation considers this and recognises that there may be times when other requirements dictate that a public authority is not able to act consistently with human rights. It is appropriate that this consideration notes that this exemption can include commonwealth laws.

I had some lengthy discussion with my advisers in relation to the matter of remedies. I have been persuaded to the view that damages are not appropriate. I would contend that it is more appropriate, for example, that a breach of the act could lead to the setting aside of the administrative decision or a public notification of a breach. We must be very cautious about turning the ACT into a choice venue for litigation. I believe that not making the remedy of damages available for this sort of breach avoids this issue.

To give an example, after I left my last place of employment in 2003 there was a fairly sustained campaign to drive people out of that office using a range of methods. One of them, an Argentinean lawyer, was subjected to an enormous amount of racial vilification and intimidation. He went to a former Chief Minister, Rosemary Follett, who was with the Human Rights Commission. I was impressed by the level of support they were able to extend to this person who was a resident here, acting lawfully, and whose rights were being substantially violated.

I raised the issue with my advisers. It is the fact that there are no damages available through this mechanism. That individual in fact received a $15,000 payout because those perpetrating the racial vilification decided that it was more prudent to pay up and hope that the individual would go quietly. But I did raise the issue of what happens in those circumstances. Where do those people go for protection? Certainly my advisers indicated that there are commonwealth remedies in terms of racial discrimination. There were other examples discussed.

I am persuaded that there are heads of law that will cater for people who have legitimate causes to pursue damages. It may be through trade practices, it may be

through fair trading or it may be through heads of legislation such as the ones that I have cited. I do not believe that damages are appropriate. I know that that was a concern in past debates, that people may simply use this as a vehicle to run vexatious litigation. I do not think that is likely to be achieved given the way in which the act and the subsequent changes have been constructed.

I have already said that I broadly support this legislation. I believe that the Assembly has more pressing tasks and matters that are significantly more important to the people of Canberra. However, I also believe that public authorities should act in accordance with fundamental human rights. This legislation will serve to spell out this requirement and ensure that the duty of public authorities is adhered to.

I had not seen any advance notification of Mr Seselja's amendments; I am studying them as we speak. He made some reference to them in his remarks before, but I will be interested to hear him expand on the justification for them. There are people in the Assembly today who have taken a strident and active involvement in advocating human rights in the ACT, and their initial opinion advised to me is that they do not support these changes.

It seems to me that the amendments essentially gut the legislation. I think that if you are totally opposed to human rights legislation, it would be best to stand up and say that you are totally opposed to it and live with that. I think that to emasculate the legislation without taking that position seems to be a bit futile. But I am keeping an open mind and I will be interested to hear the arguments put forward to support those amendments.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.00), in reply: I would like to thank those members who have indicated their support for this bill, and I refer to Mr Mulcahy and Dr Foskey. I should place on the record my disappointment at the continuing refusal of the Liberal Party to accept what is increasingly conventional law in a large number of jurisdictions internationally and growing here in Australia.

I would share the sentiments expressed by Mr Mulcahy, who said that if you do not like the Human Rights Act, then just say so and oppose it accordingly, but do not try to strip the guts out of this amending bill and try and fluff your way around the issue. I think it shows a distinct lack of leadership and, clearly, a tension within those opposite between those who support the human rights culture and those who do not. It is also interesting that a former Liberal member is prepared to endorse and support improvements in human rights law whereas previously, as a member of his political party, he did not.

That said, I think it is worth also responding to the comments from Dr Foskey in relation to the dialogue model and her concerns about compatibility statements. There are a couple of things to say on that. The first is that some legislation that comes before this place does not have any significant human rights considerations whatsoever, and I draw your attention, for example, to the changes to the payroll tax regime that we have just debated. That piece of legislation is an example of where human rights considerations are minimal. That is the case for many pieces of

legislation that come into this place. Therefore, it is fair to say that there is no need for any significant human rights dialogue on such pieces of legislation.

But where matters are more contentious and are more controversial the government has sought to ensure that there is information put before this place on the issues that the government has considered in balancing human rights versus broader community interests that are also at play. A good example of that is the change to the Mental Health (Treatment and Care) Act around the use of electroconvulsive therapy. In that debate there was significant concern expressed within the government and within government agencies about the circumstances in which emergency treatment in ECT should be applied. It was the application of the Human Rights Act that led to a constraining of the powers originally sought by our medical professionals around the application of ECT treatment. The government provided a detailed narrative on those issues and how they were reconciled.

That applies equally to the changes to our anti-terrorism laws, particularly those laws relating to preventative detention. The government provided detailed legal advices on the issues surrounding the application of those proposed laws and the compatibility with human rights principles and how the laws were being changed to reflect and have respect for, and to be in accordance with, human rights principles and established human rights law. So it is wrong to say that there is not evidence and argument and information put to this place that outlines the dialogue that occurs within government. It is simplistic to suggest that that needs to be the case for every piece of legislation because not every piece of legislation raises and brings to the fore those issues.

That said, this bill is an important step forward in clarifying the interpretive rules so that a human rights consistent interpretation must prevail as far as it is possible to do so consistently with the purpose of underlying legislation. The bill clarifies the reasonable limits clause by setting out an inclusive list of factors to be considered in determining whether a limit on a right is reasonable. It provides for a direct right of action flowing from a duty on public authorities to comply with human rights principles.

This, I believe, is the most substantive and important change. It is why the government cannot and will not support the amendment foreshadowed by Mr Seselja. It is time, after four years of operation, for decisions of public authorities to be tested in court if somebody believes that their rights have been breached. It is four years since the Human Rights Act was passed by this place and it is time for those issues now to be open to be contested in courts, if that is believed to be necessary.

Our agencies have come a very significant way in understanding that a human rights culture must be pervasive through our organisations and that they must have regard to these principles in their decision making. I have every confidence that on the whole our agencies have that understanding. But where they do not and where they fail there will be an opportunity for those issues to be contested and reviewed by the courts. That is a positive thing because it continues to build and strengthen the human rights agenda and the human rights culture of our jurisdiction.

I would say to Mr Mulcahy that these are not issues at the margins. These are not issues at the periphery of ACT politics. They are important to the health and

wellbeing of our community. They are as important as issues around good provision of municipal infrastructure, good public transport and good health services. They are just as important. In this place we have responsibility as much for these matters as we do for those municipal services and other services that Mr Mulcahy refers to. That is why the government is very proud of this legislation today. It strengthens the principles that underpin the very first bill of rights legislation in Australia and refines its operation.

I would like to turn now to the issues raised by the scrutiny of bills committee in its comments on the bill. The committee suggested that the codification of the proportionality test in section 28 could exclude important nuances and changes in case law from informing the reasonable limits test. The government does not believe that the committee's concern will be borne out. The purpose of this amendment to section 28 is to provide guidance to the courts, tribunals and decision makers on the operation of the proportionality test.

The proportionality test is a well established concept in international human rights law. The list of inclusive factors to be considered in determining whether limits on rights are reasonable is drawn directly from international human rights jurisprudence and the case law of comparable human rights jurisdictions. They have been included to reduce uncertainty over how to apply the reasonable limits tests. Instead of locking out the consideration of precedence the amendments to section 28 will do the opposite. It will ensure that the principles evolved from human rights jurisprudence are imported into the reasonable limits test when decision makers are accessing compatibility. It will ensure that the interpretation of human rights here in the territory will keep pace and be as consistent with internationally accepted standards as is possible.

The committee correctly points out in its comments that the Human Rights Act does not currently spell out in so many words that public authorities have to respect human rights. The inclusion of a positive duty will make it clear that all public authorities must ensure that everything they do is compatible with human rights unless a statutory provision makes that impossible. The ACT community is entitled to expect that public authorities will respect their rights. The purpose of these provisions is to make the right of action under the Human Rights Act clearer and easier to use, and that is consistent with building a human rights culture here in the ACT.

The government considers that the community is also entitled to expect that private sector entities will move towards respecting their human rights. As part of the incremental entrenching of a human rights culture here in Canberra the bill includes a voluntary opt in arrangement that other members have referred to.

I think it is worth reflecting on this clause a little bit further. Increasingly in our community we expect our private entities to adopt a triple bottom line approach—social, economic and environmental. I would imagine that part of any serious commitment by an entity to a social sustainability test, if you want to put it that way, is having regard to the human rights of their clients or customers or others that they engage with in the course of their business. I will welcome very warmly any private sector entity that chooses to opt in and adopt a human rights approach to its own business and have regard to human rights principles in all its dealings. I think we will see entities do just that, and I would strongly encourage them to do so.

As members have pointed out, the legislation does not create any new remedies. It does not give the Supreme Court powers it does not already have. The court can only grant a remedy which is already within its power. For example, it may quash an unlawful decision or order a public authority to take or not to take proposed action. It cannot, however, awards damages for a breach of human rights. The government does agree with the committee's comments on this point. There is a lack of consensus on whether damages should be awarded for a breach of human rights. The government believes it would not be appropriate, however, given this divergence of views, for the court to be permitted to award damages for a breach of duty to comply with human rights.

The commencement date of 1 January 2009 is designed to ensure that all public authorities are fully prepared and will have the opportunity to review their existing policies and procedures so that they comply with human rights standards. It is not a revolution when it comes to human rights but it is an evolution. The step we have taken today and that we will take shortly in passing this legislation is an important one. It provides for that next evolutionary step in developing a human rights culture here in the ACT. It will bring the ACT into line with comparable human rights jurisdictions such as the United Kingdom, New Zealand and Canada and, most notably in the Australian context, to Victoria, which is the second jurisdiction to adopt a human rights framework.

Other jurisdictions are watching closely what we and Victoria do. Indeed, my colleague attorneys in Tasmania and Western Australian in particular are having very close regard to the steps that we are taking. I am very proud to say that the provisions in this act, particularly the provision permitting private sector entities to opt in, are being watched with much interest. These amendments and this bill reflect the government's continued commitment to human rights and the ongoing process of building a human rights culture here in the ACT. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clause 1 agreed to.

Clause 2.

MR SESELJA (Molonglo—Leader of the Opposition) (12.14): I move amendment No 1 circulated in my name *[see schedule 1 at page 471]*. This amendment is consequential to later amendments to clause 7.

DR FOSKEY (Molonglo) (12.14): This first amendment is the only amendment that I can agree to. That is because it requires, I believe, the act to commence the day after its notification day. In my speech during the in-principle debate I did say that it was a pity that the date of commencement was put off to 1 January. I indicated that a new Assembly, given its configuration, could, unless something was actually embedded,

have more chance of rejecting the legislation. Consequently, I will support this amendment.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.15): The government will not be supporting this amendment. Indeed, I find Dr Foskey's position somewhat curious because this amendment is predicated on there being no duty on public authorities to abide by human rights principles. Effectively, the Liberal Party is suggesting that the legislation should commence immediately, certainly after its notification. The whole point of the delay in commencement date is to provide public authorities with the opportunity to review their practices and procedures and make sure they are ready to abide by their obligations under the act. The government does not support this amendment.

Amendment negatived.

Clause 2 agreed to.

Clause 3 to 6, by leave, taken together and agreed to.

Clause 7.

MR SESELJA (Molonglo—Leader of the Opposition) (12.17): I will be opposing this clause. It is worth now, for Mr Mulcahy's benefit in particular, reiterating some of what I had to say in my speech as to the reason for our opposition to this clause. The first thing to say is that we do support human rights. Simply because we do not agree with the government on the mechanism for best achieving human rights does not change that fact, and will not change that fact. We support human rights. We support the right of all Canberrans to live in a safe community. We support the right of all Canberrans to their basic civil liberties.

We have had differences in the past over the mechanism to achieve that. Mr Mulcahy raised the issue of whether or not in fact a Human Rights Act is actually necessary to protect those fundamental human rights. The discussion about the trickle versus a flood of litigation does lead us to suggest that perhaps there were not significant problems before. Alternatively, it says to us that the Human Rights Act is relatively useless. The fundamental point that we are making in opposing this clause is that you should actually try and get the current legislation to work properly before you go and undertake a significant expansion. I think that is a reasonable principle. The Human Rights Act, as it is now, should be properly reviewed next year prior to significant expansion of its operation. That is fundamentally why we are opposing the clause.

We have seen some of the issues with the Human Rights Act, as it is now. Mr Mulcahy referred to the individuals in Reid who have had significant problems with the bureaucracy and have been hounded. The Human Rights Act has been absolutely no good to them in their dealings with government agencies.

We have seen the outrageous legislation that the government brought in some time ago in relation to the health tribunal which would allow the president or a member of

that tribunal to detain someone without a warrant or without charge. That legislation was accompanied by a human rights compatibility statement. We know that human rights compatibility statements are not worth the paper that they are written on. It is incumbent upon the government actually to get this legislation right. Clearly its public servants do not understand it as it is. The act will be significantly expanding its reach without actually working at the moment.

We believe that it would be prudent to wait for a review next year to figure out whether or not it is working in practice—clearly there are instances where it is not—before we as a community then make a decision as to whether to expand the Human Rights Act or whether to limit it in some way; whether to amend it or to repeal it. These options should be looked at. The government has gone ahead and significantly expanded the legislation—it will be if this legislation passes—without actually getting it right.

We have seen Minister Gallagher talk about human rights in Quamby and in the new youth detention facility. She has said words to the effect of "you cannot have all your human rights at once". It will be virtually impossible to comply with some of those sections of the Human Rights Act in the new youth detention facility, and presumably also in the Alexander Maconochie Centre, because some of them are simply difficult from a management perspective. It is not that prison officers want to deny people their human rights. In fact, by strictly following the letter of the Human Rights Act there will be adverse outcomes for individuals as a result of separation which should not be happening.

There are significant issues still to be resolved. The Human Rights Act still has question marks on its current application. We have seen problems with the believability of the human rights compatibility statements. In those circumstances we believe that it is reasonable actually to pause, have a comprehensive review next year, make sure that it is working currently and then look at what expansion, if any, should occur to the legislation. We believe that is a sensible course and that that all members should support it. We oppose the clause.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.22): It is a very disappointing position from those opposite, Mr Speaker. Previously those opposite have sought to argue that the introduction of the Human Rights Act would lead to a flood of litigation and would lead to a tearing down of the fundamental principles on which the common law operates and case law operates. It just has not happened.

I note this subtle change from the new Liberal Party. Is it the old Liberal Party or is it the new Liberal Party? The new leader seeks to assert that they are in favour of human rights—indeed, that they are even in favour of the existing Human Rights Act, but they do not think there should be any further changes to the act at this time. That is, of course, in marked contrast to their previous position. That was that they just opposed the legislation outright.

Really, what we hear from those opposite is an attempt retrospectively, I guess, to try and adjust their position on human rights here in the ACT. But we have not heard

from the opposition why they believe that public authorities should not have regard to human rights. Why do they believe that public authorities, government agencies, should not be held accountable in the courts for decisions that adversely impact on human rights? If they are so interested as a political organisation in protecting people's rights, why would they move an amendment to deny people the opportunity to take action in the courts when their rights are being breached?

That is the real question. Why would they deny Canberra citizens the opportunity to take action against public authorities that breach their rights? Mr Seselja said that he believes that the Human Rights Act is ineffectual and unnecessary. Yet an amendment that perhaps, if you used his logic, would actually assist in making it more effectual and more meaningful to Canberra citizens is an amendment that he and his party oppose. They do not agree with developing a human rights culture here in the ACT. They simply do not agree to it. They should just remain consistent and continue to make that argument rather than try and flip-flop in the way that we are seeing them do with this amendment and with their approach to this bill.

This amendment strips away the right of action against public authorities. It strips it out. It hollows out the centre of the bill. It is not acceptable to government. The government will not support the amendment.

MR MULCAHY (Molonglo) (12.25): I listened intently to both Mr Seselja and to the minister. I was looking to hear a persuasive argument why you would exclude public authorities from this legislation, and I am afraid I did not hear it. I understand the purpose of having a review. There was an argument that maybe we should hold the line and mark time until that review is conducted, but there is not anything being proposed along those lines ahead of that intended review.

The minister makes the point: why should public authorities be excluded from this process? If you are going to have this process why should they be out on their own? The couple that we keep talking about in Reid may well have been better protected had the planning authority in fact come under this piece of legislation. There are other instances that will now be captured by this amendment.

If you are going to have legislation of this type there is no compelling argument that I can see why you would leave out territory authorities, instrumentalities, ministers, police officers and the like in order to be inclusive. I question whether it will, at the end of the day, make much difference to the lives of ordinary Canberrans, despite what the minister says. I hear people say that these things are not high on their radar, and I do give a lot of regard to that, but I do not like to see bad legislation passed in this place. I think this legislation seeks to give more force to the intent of the law. For that reason on this occasion I am going to oppose the clause.

MR SESELJA (Molonglo—Leader of the Opposition) (12.27): In closing debate on this clause I note that the minister has refused to respond at all to the significant problems with the administration of the current law. He has not told us how he is going to make sure or how he has made sure that it actually is being enforced and actually is working and that when we get human rights compatibility statements we can actually believe them. Clearly there have been instances where that is not the case.

He failed to address that completely. He did not want to respond to that. Rather, he just launched into broad rhetoric about human rights.

The government's position is that if you do not support their legislation you are anti human rights. Our position is that we can have reasonable differences with the government and, in fact, hold them to account in respect of whatever legislation is passed. The minister says, "You were wrong. There has not been a flood of litigation. What we are going to do now is see if we can increase the amount of litigation as a result." It remains to be seen whether or not these amendments will lead to a significant increase in litigation. Certainly, the administration of the prison is a potential area for litigation even of a nuisance value and even if there are no damages. That remains to be seen.

It is interesting, too, in relation to the human rights compatible prison that the right to worship is no longer being catered for with the removal of the chapel or prayer room or whatever other names might have been mentioned. I believe it was referred to as the quiet area. For all of the rhetoric, the right to worship was apparently one of the first to go when the cost-cutting came in. That is just an interesting little sidelight.

Certainly, the minister has not responded to these points. The fact is that this legislation potentially expands the reach significantly, and we acknowledge that. We believe that would have been more appropriate to do after the review next year. We believe also that it would be better if we could actually have some faith in the administration of the current law before we actually expand it to all public authorities.

Debate interrupted in accordance with standing order 745 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Hospitals—funding

MR SESELJA: My question is to the Minister for Health. The federal government has rejected a proposal from the state and territory governments that no strings be attached to a $2 billion bailout package of state and territory hospital systems. Instead the commonwealth is insisting on reforms to boost the efficiency of our hospitals. The Productivity Commission has ranked the ACT hospital system as the worst in the nation on elective surgery and as having very long waiting times for access to the emergency department. Minister, what reforms will the ACT have to make to our hospital system before we receive additional funding?

MS GALLAGHER: I thank the Leader of the Opposition for the question—and such an intelligent question on health too, which is unusual. The negotiations that we have been having with the commonwealth are about the next five-year Australian health care agreement. Those discussions have been occurring since, I think, 7 December, not long after the Rudd government was elected. The issue that the states and territories have been discussing with the commonwealth is a broadening out of that agreement so that it not only focuses on hospital care but also looks at the journey into

hospital and trying to keep people out of hospital, and deals with people after they have left hospital; that is, care in the community.

One of the issues that the states and territories have been battling over the last 10 years is a massive reduction of $1.2 billion from the public hospital system. The previous Howard government removed $1.2 billion from public health. The gap was filled by the states and territories, which had to increase their funding to try to compensate for the enormous gap left by the Howard government removing money from the public health system and putting it into the private health and private insurance system. This has left the public hospital system struggling to deal with the demand that has been placed upon them.

In those negotiations I have been saying that the ACT government is not at all scared of signing up for performance targets. The ACT is not frightened about public reporting. In fact, compare us to any jurisdiction in the country and you will see that we provide more information than most about how our public health system is performing. At the same time, we need from the commonwealth a commitment to replace, at a minimum, the money that has been removed from the public health system.

The commonwealth cannot argue for increased outputs in the public hospital system unless there is increased funding. There was an acknowledgement of that in the election campaign. There was a commitment from the Rudd government to put that money back into the hospital system. But I, as the ACT health minister, cannot say that we will do all of these things more unless our funding base is what it should be; unless I have a funding base that could deliver those things.

Those discussions are ongoing. I have to say—I have said it publicly—we are not scared of signing up for performance targets and we are not scared of public reporting. Both of those things sit very comfortably with me. But we cannot agree to performance targets without some money being on the table. At the moment, those negotiations have not been completed. I will hardly stand here and disclose those negotiations before they are complete. I can say that we will be negotiating on performance targets and public reporting mechanisms. I understand the commonwealth's position that they want some agreements from states about that before they put their money on the table. The story is that negotiations continue and we are looking to have an agreement in place by the end of June.

MR SPEAKER: Supplementary question, Leader of the Opposition?

MR SESELJA: Thank you, Mr Speaker. Minister, given the significant increases in revenue available to the ACT government in the past few years, why does it take federal government prodding for you to undertake the necessary reforms to our health system?

Mr Stanhope: How many beds did the Liberals close?

Mr Smyth: How many beds did you close?

MS GALLAGHER: This government has a proud record on health. It is not a record—

Mr Stanhope: 114 beds closed under Brendan Smyth. Shame!

MR SPEAKER: Order!

MS GALLAGHER: those opposite like to listen to but we have a very proud record on health.

Mr Smyth: 200 beds—shame on you.

MS GALLAGHER: We have delivered a significant increase—

Mr Stanhope: That's a lie and you know it.

MR SPEAKER: Order!

MS GALLAGHER: to the health budget over our—

Mr Smyth: I raise a point of order, Mr Speaker. The minister is accusing members here of lying. He should withdraw.

Mr Stanhope: On the point of order, Mr Speaker: Mr Smyth claimed that the Labor Party closed 200 beds.

MR SPEAKER: Order! Chief Minister—

Mr Stanhope: Mr Smyth has to withdraw that absolute lie. The Labor Party did not close 200 beds.

Mr Smyth interjecting—

MR SPEAKER: Order! Interjections across the floor are disorderly, and name calling does not assist either. I am not quite sure what was said in the interjection but if there was some name calling it ought to be withdrawn.

Mr Seselja: There was just then; he repeated it.

Mr Smyth: You have to withdraw, Chief Minister.

Mr Stanhope: Mr Speaker, I said it was a lie that the Labor Party closed 200 hospital beds; we did not. That is what I said. I said, "That's a lie." I said, "The claim that we closed 200 beds is a lie," and that is the truth.

MR SPEAKER: Order! I do not allow that sort of language in this place. Just withdraw it.

Mr Stanhope: I do withdraw it, Mr Speaker. I did not say Mr Smyth was a liar; I said the claim was a lie.

MR SPEAKER: Just withdraw.

Mr Stanhope: I withdraw.

MS GALLAGHER: I will go to the question that was asked of me. This government has a proud record on health—an extremely proud record on health. We have increased the health budget by 61 per cent since coming to government. We have injected beds. We have built facilities; not only for inpatient activity but we have increased facilities in the community setting. We have supported the development of workforce initiatives to make sure that we have a workforce ready to provide the health needs of the future. Every indicator in our health system is heading the right way. Our access block is coming down. Our beds are going up. Our bed occupancy is going down. Our staff rates are going up. We have more specialists than ever before who are choosing to, want to, come and work in the ACT because of the opportunities that are provided.

Our elective surgery waits need to continue, but we are delivering around 2,000 extra procedures a year than were being provided just four years ago—

Mr Smyth: The population is growing.

MS GALLAGHER: That is 2,000 extra operations a year. Our long waits are dropping.

Mr Smyth interjecting—

MS GALLAGHER: Our access to emergency surgery is the best in the country. The Productivity Commission's report did not say we had the worst elective surgery rates in the country. In fact, some of our rates are the best in the country, particularly around our emergency levels.

Mr Smyth: Not in categories 3, 4 and 5.

MS GALLAGHER: Our ambulance off-stretcher time is increasing. Our emergency department timeliness is improving. I know the Leader of the Opposition is not interested in this. He asks the question and he turns his back on the answer—because the news in health is good.

Opposition members interjecting—

MS GALLAGHER: We have a plan for the future, as opposed to those opposite who have not come up with one idea—

Mr Smyth interjecting—

MR SPEAKER: Order!

MS GALLAGHER: not one idea for the future, not one single idea around health for the future.

Opposition members interjecting—

MS GALLAGHER: This government is doing all the work around that. We have a plan for the future and it builds on the work that we have done over the last six years, the last six years of hard work—

Mr Smyth: Three health ministers.

Mrs Burke: $800 million funding.

MS GALLAGHER: in regaining our health system to a level where it should have been funded, where it was not funded by those opposite—

Mr Smyth interjecting—

MS GALLAGHER: a workforce that is adequately paid, a workforce that chooses to come and work here, delivering the best public health system in the country.

Mr Smyth: You said in the world last week.

MS GALLAGHER: We should be talking up our public health system, not talking it down like you opposite do, because we have the best system in the country—and you know it!

Mr Smyth: Now answer the question.

MS GALLAGHER: If you were going to get sick anywhere in the world, you would want to get sick in the ACT because of the way the public hospital systems would look after you.

Mr Smyth: If it's the best, then answer the question.

MR SPEAKER: Mr Smyth, cease interjecting!

Canberra international airport

DR FOSKEY: My question is to the Chief Minister and is in regard to control over airport activities. The Assembly is well aware that the Canberra airport was once required to conform to planning requirements of the National Capital Authority but now, like all our major airports, is answerable only to the department of transport. Criticism of the massive impact of unlimited airport development here in Canberra has been echoed by state governments and local governments all around the country. What action has the Chief Minister taken to raise this issue of uncontrolled airport development with his federal colleagues and is he recommending that the Canberra airport be brought into the ACT planning regime?

MR STANHOPE: I thank Dr Foskey for the question. As I have indicated on many occasions—as have my colleagues the respective ministers for planning, Mr Corbell, and Mr Barr—we support the Canberra airport for its utility for Canberra and the region and for the enormous economic importance which the Canberra international airport represents for Canberra and the region. Nevertheless, ever since the privatisation of airports around Australia, we have expressed a level of serious, genuine and deep concern that the Canberra international airport is not subject to ACT government planning regulation regimes or oversight. And, since amendments pursued were pushed through by the previous Liberal federal government, the NCA has not been able to assert any control or authority over planning at the Canberra international airport.

So we have a quite unique circumstance. There is one piece of land, and one piece of land only, in the entire ACT that is not subject to planning oversight by either an ACT or a federal government planning organisation. The Canberra international airport is subject only to the federal department of transport in its actions or its development. That is quite a serious circumstance or situation for any jurisdiction to be in—to have a significant area of land in operation that is not susceptible to any planning oversight by any government planning agency.

We have represented that position consistently for years. In the context of representations that I have made, my colleagues, I know, in relation to meetings of planning ministers and transport ministers, have raised these concerns regularly, particularly under the previous government, over years—as I did. At the last treasurers conference, chaired by the previous federal Treasurer, Peter Costello, along with all of my treasurer colleagues, I raised the issue and asked the then Treasurer, Mr Peter Costello, whether he would pursue it. He gave a short, sharp, on-the-spot answer: no. The then government had no interest in addressing issues of airport operations anywhere in Australia, let alone here in the ACT.

Premiers raised the issue with the previous Prime Minister in relation to it being an issue that needed to be pursued at a national level and one in relation to which premiers, through COAG, would like the Prime Minister to take a lead role. Of course, the issue was dismissed out of hand.

At a treasurers conference which was held in Brisbane in January this year, I raised the issue with the current Treasurer, Mr Wayne Swan. The first of the representations that I have made was directly to Treasurer Wayne Swan in concert with fellow treasurers from states and territories. A request was made by me at that meeting to seek a response by the current government, which has been in office for only three months—in fact 101 days—as to whether the current government was prepared to pursue state and territory concerns. This is not unique to the ACT; it is a concern shared by every state and territory government in Australia—that the airports within their jurisdictions are completely beyond the scope or ken of state and territory planning organisations. In the case of the ACT, the national capital, not even the NCA has any role anymore.

Wayne Swan agreed that the issue of operation, management and oversight of airports was an issue that the current federal government was prepared to give consideration to.

I have no reason to believe that he will not put in place a process which will allow a consideration of the issues and implications for state and territory jurisdictions of the current planning or administrative regime, or legal regime, that applies to airports throughout Australia.

MR SPEAKER: Supplementary question, Dr Foskey?

DR FOSKEY: Could the Chief Minister please detail dialogue that he has had with the current minister for transport and the minister for territories about these issues?

MR STANHOPE: I would be more than happy to review correspondence that I have entered into with the commonwealth—with the new government—in the last 100 days in relation to issues of concern to the ACT government which we would like to see pursued or addressed. I must say that I would wish to check my correspondence before providing detail, but I can reiterate that I have raised the issue on behalf of the ACT and all other jurisdictions. It was I who raised it at the last treasurers conference with the current Treasurer, Wayne Swan, and I received a positive response to that dialogue.

Housing—allocation

MS MacDONALD: Mr Speaker, my question, through you, is to Mr Hargreaves in his capacity as Minister for Housing. Minister, what changes have been made to allocate housing to those in the greatest need?

MR HARGREAVES: I thank Ms MacDonald for her question. As Minister for Housing, I have been committed to improving housing services and implementing reforms aimed at providing more targeted and responsive public assistance to those Canberrans most in need. This government has sought to ensure that the finite resource of public housing is allocated appropriately and quickly. Given the current demand on social housing, the traditional ways of assessing housing need and providing services must be continually evaluated and improved to assist those in greatest need.

To this end, the government commenced a new public rental housing assistance program, PRHAP, from 1 October 2006. This revised program included a reduction in the qualifying income criteria, a tightening of the ACT residency requirements and a complete overhaul of the priority allocation system, moving to a needs-based allocation system which recognises and prioritises complex and multiple needs.

These changes in service delivery have streamlined our approach and improved our responsiveness to the needs of our clients. They have also integrated public housing into the wider human services system. Reforms to the public housing allocation system have resulted in significantly reduced waiting times for those in greatest need. The public housing waiting list now accurately reflects the number of people who need public housing. As at 3 March 2008, there were 1,340 applicants on the housing waiting list. This figure compares with the 2,418 in June 2006, prior to the implementation of these reforms.

One of the key changes to the allocation system has been the shift to a system based on identification of priority needs. Accordingly, the previous housing allocation list has been abolished in favour of an allocation system based on comparative assessment. The waiting list is now grouped into three areas: priority housing, high-needs housing and standard housing.

Priority housing status may be granted to an applicant who has a range of complex needs. Up to 150 applicants can be assigned to this category at any one time. Since the inception of this system, the number of people on this list has not exceeded 50 applicants. As at 3 March 2008, there were 22 people on the priority housing list. Complex needs include homelessness; mental health or medical issues; disability, including frail aged; women and children escaping domestic violence; Indigenous persons facing complex issues; and children at risk, including their parents and carers.

Applicants are also expected to demonstrate an inability to find affordable housing on the private market. For this purpose, rent on the private market will be deemed unaffordable where it exceeds 50 per cent of the household income. Applicants in this category are allocated assistance on a needs basis rather than a chronological basis, and to date 87.5 per cent of applicants have been housed within three months.

The determination of applicants for the priority housing category is undertaken by a multidisciplinary panel. This panel draws together experts from across ACT government and the community sector to assist in determining the comparative need of applicants and making appropriate property allocation.

Applicants who are assessed as eligible for priority housing are now being housed, as at 3 March 2008, within 80 days. The average waiting time for priority housing under the previous system was in excess of nine months. An average of less than three months is a great outcome compared with the waiting time of nine to 12 months. Once priority housing status has been determined, Housing ACT commences work with the applicant to identify property requirements and to put arrangements in place to support the client into a sustainable tenancy.

High-needs housing status may be granted to applicants who can demonstrate private rental barriers such as extreme unaffordability and ongoing discrimination; special needs that cannot be catered for through the private housing market; and/or severely overcrowded living conditions placing children at risk. As at 3 March, there were 710 applicants on this register. On average, the applicants waited 343 days to be housed. Standard housing status is assigned to applicants on incomes within the ACT public housing eligibility criteria.

A key success of this new model has been the reduced waiting time for people assessed as being most in need. However, there have also been benefits to the complete housing system. Because the priority housing category is tightly managed, there is now greater movement in the high-needs and even standard housing categories as well. This would not have been possible under the previous system.

MR SPEAKER: Is there a supplementary question?

MS MacDONALD: Thank you, Mr Speaker. Minister, do the current media stories reflect the real story behind the government's housing policy?

MR HARGREAVES: I thank Ms MacDonald for the opportunity to give a further explanation. As I have just outlined in answer to the question, the process for allocation of priority needs housing in the ACT is a very good one. The policies were developed not as a brainchild of the government or Housing ACT but as a combination of a consultation process with the community, six ministerial forums, a housing summit and the work that the department did as a result of those consultation processes. We also spoke to the Joint Champions Group. We talked to Shelter, we talked to the Tenants Union and we talked to all of the peak bodies and lobby groups.

We are seeing here a policy that has been developed in consultation with the community and is responsive to that community. But that does not stop some people wanting to pull a particular story out of the ether, in typical tabloid fashion, and make an absolute example of their misery—people who want to politically exploit their misery. That is nothing short of despicable.

The way this happens, of course, is not a reflection of existing policies. What happens is that something is put out into the ether which is blatantly wrong. For example, Mrs Burke put out a media release a couple of days ago which said that the higher needs waiting list time was 111 days. That was in fact the position on 7 January, so the position is two months late. Had she bothered to get out of her laziness, she could have rung us and asked whether the figure was still right. If it was, we would have said, "Certainly." If it was not, we would have said, "No, Mrs Burke; we will stop you making a fool of yourself." But all the resources of government cannot stop her making a fool of herself. We cannot do it. We 'fess up to failure.

It turns out that over Christmas, when, since time immemorial, people's families go into stress, distress and quite often dysfunction and disruption, we get a spike. And that is how we get the figures that Mrs Burke trots out as being the average all the time, which is absolutely incorrect.

Mr Pratt: Oh, so your website misleads the public, does it, John?

MR HARGREAVES: In fact, because this is an aberration in numbers, we actually allocate out specific housing on a temporary basis to get over the spike.

Mr Pratt: Oh! So your website misled the public.

MR HARGREAVES: Do we see a recognition of that out there? No. All we hear is Mr Pratt prattling on in the background because he is in love with his own voice. If I had a voice like that, Mr Speaker, I wouldn't be in love with it.

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

MR HARGREAVES: Thanks very much, Mr Speaker. Speaking of people making fools of themselves, I would like to suggest that we do not have a policy of eviction.

We do not have a policy like the Liberals had of tossing people out onto the streets, because we know there is a revolving door here. If we kick them out of public housing, they come in through the homelessness one. The Liberal government, prior to the Stanhope government taking office, had the record for the most number of evictions since self-government. They could not care less about the children of those families that they throw out onto the street with their suitcases. Do we do that? No, Mr Speaker, we do not. We try to work with these families and make sure that the underlying issue that they have is addressed.

Of course, at the end of the day, sometimes management-initiated transfer has to happen, and it does. Sometimes it works and sometimes it doesn't. But at the end of the day, those opposite would have us evict them. We do not have the power to do that. That rests with the Residential Tenancies Tribunal, quite rightly, because we do not have the draconian, hardline approach that these guys have. Think about what has been said in this place, Mr Speaker.

MR SPEAKER: Mr Hargreaves, come back to the subject matter of the supplementary question, please.

MR HARGREAVES: The question was about our housing policy, and what it does not include, Mr Speaker—

MR SPEAKER: It was about newspaper reports.

MR HARGREAVES: is doing character checks before people get on there. It is not about empowering public servants to undertake police-like activities and arrive unannounced, knock on the door, and say, "We're here to see whether you've got a cannabis thing." We don't do that. We actually work with people because we want sustainable tenancies. We want people to enjoy life and not to go through life being absolutely terrified by Mrs Burke.

Canberra Hospital—patient care

MRS BURKE: Mr Speaker, my question, through you, is to the Minister for Health. Minister, on 7 August 2007 serious concerns were raised by the family of a chemotherapy patient who claimed to have received substandard treatment at the Canberra Hospital. On that same date you said that you had "ordered a full clinical review and the patient should be involved in that".

Minister, as of today neither the patient nor any family member interviewed by the ABC have received a single telephone call or letter from you or your officials regarding your promise of a full clinical review. Minister, what have you or your department done to progress this review promised to the family by you on ABC television?

MS GALLAGHER: Thank you, Mr Speaker. From my recollection, a full clinical review was undertaken into this matter. I think it arose out of a number of allegations that Mrs Burke was making, supported by the family—if I am recalling the correct family—around supplies. My understanding is that a full clinical review was undertaken.

It is difficult—and I will take some more advice around the issues relating to feedback to the family; again, I cannot recall the exact advice I got—but there was a review undertaken into the situation that Mrs Burke alludes to. I will check as to why the family have not been contacted, if they have not. My recollection was that clinical staff were dealing with the family, but I will take that on notice and get back to you because my understanding is that the review was undertaken and I certainly received advice on it.

MR SPEAKER: A supplementary question from Mrs Burke.

MRS BURKE: Thank you, Mr Speaker. Minister, you also said at the time that there were no resource issues. Minister, what do you say to the family now sitting in the gallery with regard to the seven-month delay and why have you, your department or your office not contacted them, as promised?

MS GALLAGHER: The comment I made around resources was that it was not an issue around money or support for that family at the time. It was not around resources. There were, from my recollection, issues around the ordering of a particular drug required for treatment. But, again, I will get the brief that I got and I am happy to speak to the family directly—

Mrs Burke: But you did not personally? You said you were going to.

MS GALLAGHER: I have to say, Mrs Burke, that the family have not contacted me directly either. I am more than happy to speak with them and I will apologise to them if the proper process has not been undertaken. But my job, which was to ask for a full clinical review of that case, was undertaken and advice was provided to me about that. It was not around resources.

The argument you were trying to run at the time was that there was not enough money, enough staff or enough capacity to provide the services that we provide.

Mrs Burke: Supplies of resources. No suppliers.

MS GALLAGHER: That is right. The Auditor-General had a look at that and a lot of people have had a look at that and you have not been able to come up with any evidence—and nor has anyone else—that that is the issue.

Mrs Burke: Do what the health services commissioner says.

MS GALLAGHER: We will wait and see what the health services commissioner says. I do speak with her as well. There is not an issue. We have the best resourced health system in the country. All of the reports show that. It is not about resources. Occasionally there are issues around ordering of equipment or a particular drug which, as I remember in this case, was the issue that led to the situation that we spoke about last year.

I will undertake to get back to the family. I will find the brief. I will see the advice that was taken. It was not about resources. It has never been around resources.

Sometimes it is around processes and sometimes it is around communication. We can always improve both of those areas. If this family has been let down and has not been attended to with the proper process that they deserve, then I apologise and I undertake to have a look at what led to that.

A full clinical review was undertaken at the time. It was not about resources or lack of resources at all. It has never been. In the ACT, while the health system is funded the way it currently is, it never will be.

Budget—midyear review

MR MULCAHY: My question is to the Treasurer. Treasurer, the 2007-08 budget midyear review reveals that the territory's budget position has improved to a GFS net operating balance of $116.1 million, excluding expected long-term gains on superannuation investments. Contributing to this improvement is taxation revenue, including rates and other government charges that you introduced or increased in the 2006-07 budget. In light of the sizeable surplus now expected, what advice has the government received in relation to the scope available for tax relief?

MR STANHOPE: I thank Mr Mulcahy for the question. Before responding to the specific question, let me make the point that the major drivers of the improvement in the net operating balance revealed in the midyear review were increased GST revenue due to the Australian government's larger than expected GST revenue pool, an increase in the ACT population, and forecast conveyance duty. Income tax, revenue payments and dividend returns from the LDA have been revised upwards.

There have been continuing strong conveyancing returns as a result of the ongoing strength of the ACT residential and commercial property markets. And there has been a significant upward revision of interest revenue as a result of higher investment balances driven by strong territory revenues and, indeed, as a result, quirkily, of the increasing interest rate rises—the legacy of Howard and Costello and their parting gift to the people of Australia: rampaging inflation. They were the range of reasons for the increase in the anticipated surplus in this financial year.

In the question there was a request for specific advice that the government has received about our capacity to reduce revenue. In the context of initial discussions and briefings with the Under Treasurer and Treasury officials in relation to this year's budget, I have discussed a full range of issues going to our capacity for additional expenditure—both recurrent and capital—issues around revenue, and the way in which our taxes and charges and revenue regime is tracking.

In the context of putting together this year's budget—as I have indicated on numerous occasions over the last few years and most recently in the last few weeks, at the time of the tabling of the midyear review—the government will give consideration—as it has for every budget it has put together over the last six years—to the appropriateness of the full range of our revenue measures. And we will do it again. I have had discussions with and received a briefing from Treasury on issues around expenditure, risks and revenue.

I do not believe your questions goes to this, but if the question is "has Treasury now advised that you should cut revenue because you've got your expenditure and revenue equations out of tilt?" the answer is no. In fact, Treasury continues to advise me that our expenditure effort is well above the national average and our revenue effort is well below. In Treasury's mind, where you are expending at above the national average and taxing at below or at the national average, you have a disconnect that has to be seriously addressed.

The continuing advice that I receive from Treasury—I received that latest advice as recently as this week—is that our "expenditure effort"—the terminology used by Treasury—is significantly above the national average; our revenue effort is not. In other words, we still spend well above the national average but we do not tax at above the national average. The ACT is not a high taxing regime.

MR SPEAKER: A supplementary question, Mr Mulcahy?

MR MULCAHY: Treasurer, notwithstanding that pronouncement, I ask you specifically: have you requested your department to provide modelling for the repeal or reduction of any ACT government charges?

MR STANHOPE: I have asked the Treasury, in the context of developing this year's budget, to provide me with the full range of advice on expenditure and revenue.

Health—radiopharmaceuticals

MRS DUNNE: My question is to the Minister for Health. Minister, I have been advised that the closure of the Lucas Heights reactor, which was first made public on 27 July 2007 to health professionals nationally, has the potential to cause delays for Canberra patients seeking treatment for things such as MRIs and chemotherapy. Minister, what arrangements did you put in place regarding the supply of radiopharmaceuticals to Canberra's public hospital patients as a result of the Lucas Heights reactor being shut down?

MS GALLAGHER: I must say that I rely on the skills and expertise of those people running our radiation oncology services to ascertain what supplies they need in order to meet the demand for which they are providing services. This is what we employ doctors to do; this is what we ask our health professionals to do—to make sure they have the supplies and the staff available in order to provide the services they need to provide. That is why health professionals do things like planning and demographic work to see what lies ahead and what they need to order for. With respect to the work we have done around MRI, we have actually bought an extra MRI, and we have it in place, so that we can deliver 50 per cent more—

Mrs Dunne: On a point of order, Mr Speaker: my question was not about MRIs; it was about the availability of radiopharmacology and what the minister and the department have done to ensure supplies.

MR SPEAKER: But you did mention an MRI.

Mrs Dunne: Mentioning MRIs does not mean that the question is about MRIs. It was about radiopharmacology.

MS GALLAGHER: Mr Speaker, the question related to waiting times for things such as MRIs—

Mrs Dunne: No, it didn't.

MS GALLAGHER: and I am saying that, because we have bought an extra MRI, there are no waiting times for MRIs.

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

MR SPEAKER: Order! There was a question asked about—what was the term you used?

Mrs Dunne: Radiopharmacology, as a result of the closing down of the Lucas Heights reactor.

MR SPEAKER: In your lead-up to the question, you mentioned an MRI. It is fair for the minister to comment on it.

Mrs Dunne: Especially if she can't answer the question she was asked.

MS GALLAGHER: The answer is that the government funds a health budget and we have staff in the hospital, expertise in the hospital, to provide advice around what services and supplies are needed. That is the government's job, and that is the job the government has done. In actual fact, with respect to the number of patients who are being seen in radiation oncology this year, there has been an increase of over 14 per cent, which means we have to increase our supplies and staff in order to meet that demand—

Mrs Burke: Are you sure that we can, because of Lucas Heights?

MR SPEAKER: Order, Mrs Burke!

MS GALLAGHER: and that is exactly what is going on. We have increased funding for cancer services every single year, Mrs Burke. Have a look in the budget papers. The government's job—

Mrs Dunne: On a point of order, Mr Speaker: the question was from me, and at the very least the minister should be addressing you rather than members. If she wants to address somebody, it might be the person who actually asked the question.

MR SPEAKER: Order!

Mrs Burke: She can't answer the question anyway.

MR SPEAKER: Order! Mercifully, Mrs Dunne, you weren't interjecting, but Mrs Burke was. It helps the passage of question time if people do not interject, as you would all appreciate.

MS GALLAGHER: It also gives me the opportunity to talk about the $28 million linear accelerator that we have built at the Canberra Hospital in order to meet the demand for radiation therapy, which has arrived from the United States—a $3 million state-of-the-art machine that is currently in place, in the bunker that cost $18 million to build. That is what the government does about making sure we can meet the demand for radiation oncology needs into the future. This single machine, with the capacity to put in place another machine, will increase our capacity to provide radiation oncology services in July by an additional 30 per cent. That is what the government has been doing to make sure we meet demand, Mrs Dunne.

MR SPEAKER: Is there a supplementary question, Mrs Dunne?

MRS DUNNE: Thank you, Mr Speaker. I will go back to the original question: what has the minister done to ensure the continuation of supply of radiopharmacology following the closing down of the Lucas Heights reactor, and can the minister tell us whether any cancer sufferers have been left waiting for treatment as a result of the closing down of the Lucas Heights facility?

MS GALLAGHER: I will take that question on notice. From my understanding and advice as of today, no, but I will take it on notice. What the government has been doing in every single budget is increasing our funding to the Capital Region Cancer Service because of the increase—

Mrs Burke: Not pharmacology.

MS GALLAGHER: Well, that is what it is, Mrs Burke.

MR SPEAKER: Order! Direct your comments through the chair. Take no notice, please.

MS GALLAGHER: The Capital Region Cancer Service provides a whole range of cancer treatments to cancer patients, and every year we have increased funding. The most significant increase has been reflected in our capacity to provide radiation oncology through our LinAcc machines. We have an additional one in place and we will have another one by 2012. That is what this government has been doing. We have been looking into the future, looking at our demand and building that into our plans for the future, because that is the only way we are going to be able to meet demand for cancer services into the future.

Balloon Aloft

MR SMYTH: My question is to the Minister for Tourism, Sport and Recreation. Minister, at just after midday on 19 February this year, you announced that Balloon Aloft had been named as the operator of a then unnamed but now called balloon

spectacular over Canberra in April. You gave $70,000 to Balloon Aloft as "representing the best value for taxpayers' money available". Minister, how much funding and in-kind support, including ACT government staff resources, will be provided to Balloon Aloft to operate this event?

MR BARR: I thank Mr Smyth for the question. I can advise the Assembly that Balloon Aloft's fee for service for this event will be $10,000, and that will be taken from the overall budget of $70,000 for the event. This arrangement was entered into through a single-select process that was approved on the basis of the tight time frame involved, the limited number of local suppliers and the relatively small costs involved.

I might add that this is in contrast to the $90,000 event management fee from an overall budget request of $493,000 claimed by the previous operator in their applications for funding for a nine-day event which was later reduced to a four or five-day event.

Mr Stanhope: Give us those numbers again.

MR BARR: They are: $10,000 from an overall budget of $70,000 available to run a nine-day event.

It is also worth noting that the government has, through Australian Capital Tourism and through the Chief Minister's special events unit, provided significant in-kind support to the balloon event since its inception, but most particularly in the last five or six years when it was run by CBF. That involved hours of voluntary time for the event from staff within Australian Capital Tourism and from within the Chief Minister's Department. That involved a whole range of things, from setting up the village every morning, to marshalling traffic, to providing a range of other in-kind support, including marketing and promotion through Australian Capital Tourism's website and other publications, including email newsletters and the quarterly *What's on in Canberra* publications. We have a track record of providing considerable in-kind assistance to this event over a number of years, and we will continue to do so through this year's event.

But it is interesting to contrast what is provided and what was proposed to be provided by the previous operators as opposed to the group that we are now supporting to provide this event. It is a $10,000 fee for service as opposed to a $90,000 event management fee for a nine-day event.

That is the other key point. When the government's offer to the previous organisers was rejected, particularly when they have contacted you over a number of months refusing to confirm an event even eight weeks out, announcing on their website that the event could not be confirmed and would not be able to until mid February, it was sensible for the government to have undertaken some risk management strategies to ensure that we did have a balloon event this year.

I am very pleased to be able to advise the Assembly that we will have an outstanding balloon event, delivered in a value-for-money way for taxpayers, that extends over two weekends, nine days, and incorporates a mass balloon ascension and community

breakfast on the day of the Olympic Torch Relay. It is in the middle of our school holidays. It will be well supported by the local community and by local ballooning enthusiasts and the local ballooning fraternity.

No matter how much bleating comes from the insignificant shadow minister, who has nothing positive to say, ever on any issue, particularly in relation to the promotion of tourism in the ACT and the promotion of this outstanding community event, I will make a prediction now: this shadow minister is more interested in his own personal advancement and will drag down the reputations of anyone who is involved in this event for the sake of his own personal advancement—

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

MR BARR: We have seen that.

MR SPEAKER: Come back to the question.

MR BARR: There are countless people in this chamber who can attest to the sordid behaviour that you see from the shadow minister.

Mr Smyth: On a point of order, Mr Speaker: there are imputations in what the minister has just said, and he must withdraw them.

MR SPEAKER: I just asked the minister to come back to the subject matter of the question.

MR BARR: Thank you, Mr Speaker. We all heard the allegations that the shadow minister made in annual report hearings last week and we know the lengths to which he is prepared to go to smear the reputation of individuals under parliamentary privilege. What he does not like is when people point out his appalling behaviour, and there are other people—

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

MR BARR: Thank you, Mr Speaker. The government will continue to support a balloon event in the ACT, one that is value for money. This government will always ensure that the interests of ACT taxpayers are put ahead of personal interests such as those demonstrated by Mr Smyth through this whole episode.

MR SPEAKER: A supplementary question, Mr Smyth.

MR SMYTH: Thank you, Mr Speaker. Given that the minister's story has just changed again—

MR SPEAKER: Come to the question.

MR SMYTH: what is the $60,000 being spent on, and by whom, given that the Balloon Aloft fee is now only $10,000?

MR BARR: Thank you, Mr Speaker. The $60,000 will be spent on the event and a range of activities associated with the event. I am simply pointing out that the event management fee, the money, will spent by Australian Capital Tourism and the Chief Minister's events unit in partnership with Balloon Aloft, who are taking a management fee of $10,000, which contrasts with the previous operator's suggested management fee of $90,000.

I pose the very simple question to the Assembly: in providing a nine-day ballooning event that is value for money for taxpayers you have two options on the table—one that has been rejected by the previous operators and someone else who has come forward, a local group that the shadow minister does not appear to want to support. So he is prepared to throw his political weight behind a group of people from Sydney and Melbourne to run the Canberra event as opposed to supporting locals and he has the hide to use parliamentary privilege to attack a public servant within the Chief Minister's Department for an alleged conflict of interest—a disgraceful display!

You have been peddling it to the media, Mr Smyth, and you continue to do so. It is typical of the sort of behaviour that we come to expect from you, and there are other people in this chamber, Mr Mulcahy, who are the test, along with Mr Stefaniak and Mrs Burke and pretty much everyone in the Liberal Party who has been on the receiving end of your personal integrity and your personal behaviour, Mr Smyth.

Mr Smyth: I raise a point of order. The minister has made a number of imputations that he should withdraw. But the minister must answer the question. If he cannot answer it, he should just sit down.

MR SPEAKER: Come to the subject matter of the question, minister, or wind up.

MR BARR: Thank you, Mr Speaker. As I indicated—

MR SPEAKER: There is another point of order. Resume your seat, please.

Mrs Dunne: Mr Smyth raised the matter that there were a large number of personal imputations in the minister's intemperate outburst and that they should be withdrawn. I would ask you to have him withdraw those—

MR SPEAKER: Would you like to tell me what they were, Mr Smyth?

Mr Smyth: He accused me of smearing people and using this issue for my personal advancement. That is an imputation.

MR SPEAKER: Could you rise when you raise it?

Mr Smyth: He said that I have been smearing individuals and he said that I have done it just to assist my personal advancement. That is not true. He should withdraw it. It is an imputation upon my asking the question.

Mr Stanhope: Mr Stefaniak, speak to this point of order. Come on, Bill.

Mr Mulcahy: Mr Speaker, I will speak to the point of order. I do not recall hearing anything that Mr Barr said that is not completely true. I do not think it is out of order.

Members interjecting—

MR SPEAKER: Order! This is going to descend into mayhem. Minister, stick with the subject matter of the question strictly, please, or resume your seat.

MR BARR: Thank you, Mr Speaker. Again, as I indicate, the government will, in partnership with Balloons Aloft, deliver a high quality balloon event for the people of Canberra. It will do so in a cost effective manner. We will do so without the need to resort to personal attacks on public servants. We will not use parliamentary privilege and annual report hearings to smear public servants' reputations. We will not background journalists in order to keep this story alive. There is no conflict of interest, as Mr Smyth seems intent on prosecuting in the media or in annual report hearings. It is typical of the behaviour of Mr Smyth, and everyone else in this chamber knows it.

MR SPEAKER: Order! Resume your seat.

Mental health

MS PORTER: My question is to the Minister for Health. Minister, could you update the Assembly on the progress of the new mental health facilities in the ACT?

MS GALLAGHER: I thank Ms Porter for the question. As many will know, we have prioritised mental health as a key area for investment and reform. Spending on mental health has increased under the Stanhope government—an increase of around 109 per cent—taking us from being one of the lowest per capita spenders to being one of the highest. Over the next four years, under the 2007-08 budget, the government will provide an extra $12.6 million for mental health services; the current budget includes $3 million annually for expansion and $3.3 million for new capital works.

Part of that investment includes funding for step-up, step-down facilities for both young people and adults. Last month I was delighted to open the new Centacare youth step-up, step-down mental health service known as the Steps program. The 2006 Senate inquiry into mental health unanimously recommended that state and territory governments establish step-up, step-down facilities. The ACT is the first jurisdiction to introduce a facility of this type for young people.

The step-up, step-down model provides an early alternative to acute admission and ensures that young people with mental illness have access to early intervention and more options for support. It provides a bridge as an alternative to acute admission, whether that is dealing with people early, before they require acute admission, or on the way out of an acute facility on their way back to the community.

This new service, funded by the ACT government, will ensure that up to five mental health consumers at a time aged between 14 and 18 will have improved mental health outcomes and opportunities to increase their knowledge, skills and confidence to

manage future crises. The service has been directly funded by the ACT government, by around $730,000 a year, as well as receiving additional clinical support from Mental Health ACT worth over $100,000. Centacare will operate the facility on a 24-hour, seven days a week basis and Mental Health ACT is providing a 40-hour per week clinical presence in the facility.

We have been committed to new and innovative models of care, and this is the latest example of the ACT leading the nation in mental health reform. In the meantime, we continue to develop the adult step-up, step-down facility for the community. Last year, we opened the older persons in-patient unit at Calvary Hospital. Already, planning is well underway for the new 40-bed adult mental health acute in-patient unit at the Canberra Hospital, with forward design of $2.29 million. And there is the design of a new 15-bed secure mental health in-patient unit on the Canberra Hospital site, also funded for forward design work.

So there is a great deal of work underway in terms of preparing our city for the mental health needs of the future. It includes a range of options—community-based settings; step-up, step-down facilities; and, importantly, constructing and completing the new adult mental health acute in-patient unit and the mental health precinct at the Canberra Hospital.

Alexander Maconochie Centre—perimeter fence

MR STEFANIAK: My question is to the Attorney-General. Attorney, you have constructed a custom-designed perimeter fence at the Alexander Maconochie Centre so as, I understand, to avoid using razor wire. This custom-designed fence I have been told is costing the ACT taxpayers some $15 million.

Mrs Dunne: $15 million—a $15 million fence?

MR STEFANIAK: That is what I was told. Attorney, did you obtain designs and costings for more conventional prison perimeter fences and, if so, what did those designs involve and what were the costs?

MR CORBELL: I thank Mr Stefaniak for the question. I do not have the details of the various costings involved for the design of that fence or indeed any alternative fences and I will need to take that question on notice, as I am sure Mr Stefaniak would understand. I can, however, advise Mr Stefaniak and the Assembly that the product used for the fencing at the Alexander Maconochie Centre is not a one-off design. It is a proprietary product of a particular firm, is used in a range of settings and is not designed specifically for the Alexander Maconochie Centre; it is a product available on the market and it was the product chosen by the designers of the facility, for the very reason that it provides the requisite level of security for the prison without the downsides associated with the more traditional use of razor wire.

There is a range of issues associated with razor wire. The first of course is that razor wire presents a particular image of the facility which is not conducive to a rehabilitative environment, and that is a significant consideration. There are also some practical considerations. For example, it is well known amongst other correctional

managers that the use of razor wire is problematic in terms of its ability to be kept clean; razor wire easily attracts and retains things such as plastic bags and other pieces of rubbish and it is extremely difficult to clean. It presents security problems of its own when you have to get up there on a regular basis to maintain and clean the facility.

I would have thought it was in everyone's interests to design a fence which was aesthetically effective, which was easy to maintain and which provided a very high level of security. If anyone doubts the level of security, I invite Mr Pratt and Mr Stefaniak to go out there and try to scale the fence and we will see exactly how efficient that is there.

MR STEFANIAK: I have a supplementary question, Mr Speaker. Minister, I take it that you are actually going to provide me with answers on, firstly: did you look at various designs for a fence and, if so, will you provide details of those plus costings? If you did not look at those designs, why not?

MR CORBELL: Mr Speaker, I think Mr Stefaniak just asked me that question and I have indicated that I will provide that advice to the Assembly. But I need to reiterate the point: the fence is, I think, around six to seven metres high, it involves a cowling with sharpened edges at one end, and that is an anti-climb cowl so that you cannot physically get over the top of the fence without risking impaling yourself on the steel arms at the end of that cowl. There is then a second fence as well, along with a range of electronic security devices, so anyone who is trying to perpetuate some claim that this facility is lax on security simply has not looked at the facts and the details of the fencing and perimeter security that is being put in place. In relation to the options explored, I am happy to provide that information to members.

Alcohol—responsible service

MR GENTLEMAN: My question is to the Attorney-General as well. Can the minister outline to the Assembly what further steps the government has taken to address antisocial behaviour in Canberra's entertainment precincts, in particular issues relating to the responsible service of alcohol?

MR CORBELL: I thank Mr Gentleman for the question. I am very pleased to outline to members the steps the government is continuing to take to improve issues around the responsible service of alcohol in our community.

I note that the Liberal Party has indicated that they do not support the responsible service of alcohol in pubs and clubs across the ACT. Indeed, they have said that they are yet to be convinced that there should be mandatory training for all bar staff in the responsible service of alcohol. That is the decision put by their shadow minister and is one of great disappointment to the government because we believe there should be training, particularly where the industry itself is saying this is an appropriate measure to take and we need to get on and do that in response to the growing community concerns around this issue.

That is why I was very pleased to advise late last week that the government, as part of its review of the Liquor Act, will be requiring and introducing mandatory training in

the responsible service of alcohol. This is not a big impost on business; it is not a big impost on staff. But it does involve training staff in the tactics and strategies they need to be aware of when it comes to serving alcohol and, in fact, refusing service of alcohol to those people who are already intoxicated. This is just one step that the government is taking to address these issues.

Members would be aware that the government has recently introduced into this place legislation to provide on-the-spot fines for antisocial behaviour in nightspots around the city. That legislation is before the Assembly currently.

The government has already increased and improved police resources to provide for a better policing presence in a range of locations around the city. This government has funded the staffing of 107 more police to provide for a better police presence right across the city.

I am also pleased to advise members today that the Liquor Licensing Board, at its last meeting, took a decision to fine two popular nightspots a total of $10,000 for a series of breaches of the Liquor Act. These include failing to pay previous fines ordered by the board and not keeping fire exits clear. These were some of the issues that were involved in those particular breaches.

These $10,000 fines make it clear to licensees that the government and the Liquor Licensing Board take very seriously our responsibilities to ensure compliance with the Liquor Licensing Act. Those fines should send a clear message to those two bars, the Echo Bar in Civic and Ojo Cafe and Bar in Tuggeranong, that breaches of the Liquor Act carry very heavy penalties and we expect people to abide by their obligations when they become liquor licensees.

These are just part of the range of measures the government is putting in place. I will shortly be releasing a discussion paper which outlines the various options for a complete review of the Liquor Act, and I will be welcoming the feedback from the industry itself, from people with an interest in this area and, of course, from the broader community on what should be the responsible reforms needed in the ACT's liquor legislation.

But it is very important to stress that the government has put in place very quickly a prompt range of measures. My colleague Mr Hargreaves put in place the Nightlink taxi service. In fact, that was foreshadowed in the third quarter of last year as an important reform in providing a better taxi service in and out of the city late at night.

The government has increased police resources. We now have our proposals for on-the-spot fines in the nightclub districts and, indeed, right across the city. The government has said that the mandatory responsible service of alcohol is going to be part of our review of the Liquor Act and an important reform. We are reforming the act more generally.

This is a government that is getting on with and dealing with and tackling these issues. We have a comprehensive range of measures in place. We are very pleased with the community response to these measures and will be looking forward to

continued community engagement as we move forward with the review of the Liquor Act.

Alexander Maconochie Centre—televisions

MR PRATT: My question is to the Attorney-General. Minister, the new Alexander Maconochie prison cells will have flat-screen LCD televisions. Minister, why will ACT taxpayers be paying for flat-screen LCD TVs for people who have broken the law and been sentenced to detention?

MR CORBELL: Mr Speaker, the presence of televisions in prisons is not a new phenomenon and anyone who suggests otherwise simply does not know what they are talking about. LCD technology is now a very cheap technology to use. This is not a luxury technology anymore. It is not a great big plasma screen, you know, two metres by one metre or whatever other image those opposite would like to portray. It is a small monitor which is able to be installed within the wall of the cell itself. That means—

Mr Seselja: We do not even have them here in the Assembly.

MR CORBELL: You asked the question. You are getting the answer. That means the television cannot be broken, removed or otherwise damaged. It is installed into the wall of the cell. It is able to be switched on and off from a central control point by prison staff and it can be used, and will be used predominantly, for the communication of messages to prison inmates. That is the use of that flat-screen display.

It will also have the capacity to broadcast television programs. Shock, horror! We are going to let prisoners watch television. I do not know whether this is part of an attempt by the Liberal Party to suggest that this is a luxury provision, but I can assure you, Mr Speaker, that even in the maximum security wing of Goulburn jail inmates have access to television and they watch television.

LCD technology is not a luxury technology. What would Mr Pratt do? Would it be only black and white? How absurd is this debate going to get? These people are incarcerated in a facility where they have no choice as to their clothing, limited choice as to their food and an absolute prohibition on their movement. That is why they are in jail. I find it, quite frankly, disgusting and pathetic that those opposite would seek to refuse to fellow human beings the basic access to information which you can gain through a television. How absurd to suggest that everyone in the prison should be denied access to a television. That is essentially the proposition that those opposite are putting forward.

LCD technology is not extravagant. It is not a luxury item. It is a basic form of technology and the one best suited to the prison environment because it allows it to be installed into the cell. Those opposite really should reflect on the pathetic and dismal approach that they take on this fundamental issue of humanely treating people who are in a correctional facility.

Are you saying that Belconnen Remand Centre is the standard to which we should aspire? Are you saying that? I invite you, Mr Pratt: have you ever been out to Belconnen Remand Centre? Have you seen it? Have you looked at it? Have you seen the conditions prisoners have to put up with in that facility?

Mrs Burke: I raise a point of order, Mr Speaker.

MR CORBELL: I challenge you, Mr Pratt, to go out and see Belconnen Remand Centre and then make your judgements on this matter.

MR SPEAKER: Order, Mr Corbell! Resume your seat.

Mrs Burke: I ask the member to direct his comments through you, sir.

MR SPEAKER: I think the minister has concluded his answer. A supplementary question from Mr Pratt?

MR PRATT: Minister, how will watching TV on flat-screen LCD TVs help prisoners "reflect on their behaviour" and "improve themselves"?

MR CORBELL: From what Mr Pratt is saying, it sounds like he thinks that Belconnen Remand Centre and the yards there are satisfactory for the management of prisoners.

Mrs Dunne: Point of order, Mr Speaker. There was no mention—

MR CORBELL: That is simply—

MR SPEAKER: Order! Mr Corbell.

Mrs Dunne: There was no mention of the Belconnen Remand Centre in Mr Pratt's question. Could the minister please answer the question in relation to LCD TVs installed in the Alexander Maconochie Centre.

MR SPEAKER: The minister is required to address the subject matter, but he also said that Mr Pratt's question sounded like something. It depends what he is hearing, but stick to the subject matter of the question, please.

MR CORBELL: Thank you, Mr Speaker. Of course, we should remember that Mr Seselja as Leader of the Opposition said that we have to have particular regard to those who are most vulnerable in our society and most reliant on government services, such as prisoners. Providing televisions to prisoners is not some dramatic and revolutionary step forward for the ACT. The provision of television sets for prisoners is common practice in jails around the country and around the world. The use of liquid crystal display televisions is not a luxury; it is not an extravagant technology. It is a low-cost technology and it is a sensible technology to use in the prison setting.

But the real hypocrisy of this has to come from Mr Seselja. On the one hand, he feigns and raises heartfelt concern for those most reliant on government services in our

community—including prisoners; in fact, he mentioned them explicitly in his first speech as leader. But when it comes to actually providing them—

MR SPEAKER: Order! Come back to the subject matter of Mr Pratt's question.

MR CORBELL: Indeed, Mr Speaker, and when it comes to the issue of providing things such as televisions, heaven forbid! That is just a step too far for Mr Seselja and his colleagues. What is their policy? Black-and-white? Crystal sets? Where is it going to stop?

Mrs Burke: Point of order, Mr Speaker.

MR CORBELL: Will they have to photocopy their newspapers? For heaven's sake!

MR SPEAKER: Order! Minister, resume your seat.

Mrs Burke: Under 118 (b), the member cannot debate the matter.

MR SPEAKER: He was not debating the subject matter, Mrs Burke.

Mrs Burke: Can he come to the subject matter of how watching TV on flat-screen LCD TVs will help prisoners reflect on their behaviour and improve themselves.

MR SPEAKER: That is right. And Mr Corbell is speaking to the subject matter and asking some rhetorical questions.

MR CORBELL: Indeed. Mr Speaker, I thank you for your guidance. The use of televisions is an accepted practice in prisons. It is fundamental in two ways.

Mr Pratt: The great escape.

Mr Barr: In normalising the prison rate.

Mrs Burke: You're in this too.

Mr Pratt: Worldwide wrestling; that will go down well.

MR CORBELL: I know they are not particularly interested in this, Mr Speaker, so I will conclude my answer.

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

Supplementary answer to question without notice
Hospitals—patient care

MS GALLAGHER: I have a follow-on matter from the question from Mrs Burke today. A case similar to the one referred to today in question time was the subject of a clinical review. I am not allowed, given the privileged nature of those reviews, to go into the clinical details of the case other than to advise that the clinical review

identified a delay in securing the requisite chemotherapy supplies due to a stock ordering mistake by staff. As a result, a revised system of communication and ordering has been put in place. I am further advised there have been no further instances of this type of delay and this was a result of an ordering mistake, not of any funding or supply shortfall issues.

I am also advised that, notwithstanding the inconvenience to the patient, there was no adverse clinical outcome because of the delay. I can also advise that I have no record of any correspondence from this family, and I have no record of any correspondence from Mrs Burke, to which to respond. But I will arrange today for a full debrief for the family. I apologise, again, if I undertook to get back to the family, but I never had any details of how to get back to them. But if I undertook to get back to that family and I did not, I will arrange today for a full briefing for that family.

Papers

Mr Speaker presented the following papers:

Study trips—Reports by—

Mr Pratt MLA—Menzies Research Centre delegates—Sydney, 1-3 June 2007.

Mr Seselja MLA—Meeting of all State and Territory Liberal Leaders—Melbourne, 21 January 2008.

Mr Smyth MLA—Thailand, Malaysia and Singapore, 27 October to 7 November 2007.

Mr Stefaniak MLA—Meeting of State and Territory Shadow Ministers for the Environment, Water and Climate Change—Melbourne, 21-22 January 2008.

Executive contracts
Papers 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): For the information of members, I present the following papers:

Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—

Long-term contracts:

Anthony John Polinelli.

Daniel James Stewart, dated 25 January 2008.

Gary Byles, dated 29 January 2008.

Helen Child, dated 6 February 2008.

James Henry, dated 30 January 2008.

Neale Desmond Guthrie, dated 29 January 2008.

Nina Helen Churchward, dated 29 January 2008.

Phillip Tardif, dated 30 January 2008.

Russell Watkinson, dated 29 January 2008.

Simonne Shepherd, dated 30 January 2008.

Tom Elliott, dated 29 January 2008.

Tracy Hicks, dated 30 January 2008.

Short-term contracts:

Andrew Paul Townsley, dated 24 January 2008.

Conrad Barr, dated 5 February 2008.

Floyd Kennedy, dated 16 December 2007.

Gregory John Kent, dated 5 February 2008.

Kaye Maree O'Hara, dated 7 January 2008.

Leanne Cover, dated 7 January 2008.

Luke McAlary, dated 30 January 2008.

Malcolm Prentice, dated 8 February 2008.

Peter Kowald, dated 7 January 2008.

Philippa De Veau, dated 25 January 2008.

Ross McKay, dated 31 January 2008.

Sandra Kennedy, dated 9 January 2008.

Shane Breynard, dated 18 January 2008.

Thomas Kevin Bell, dated 22 January 2008.

Contract variations:

Barry Folpp, dated 14 and 21 December 2007.

David Matthews, dated 7 January 2008.

Greg Kent, dated 9 January 2008.

Howard Douglas Wren, dated 4 February 2008.

Neil Brian Bulless, dated 19 December 2007.

Philip Mitchell, dated 14 December 2007.

Shane Breynard, dated 21 January 2008.

Stephen Miners, dated 8 November 2007.

Steve Ryan, dated 29 January 2008.

Stuart William Friend, dated 4 January 2008.

Thomas Kevin Bell, dated 4 February 2008.

Tony Gill, dated 9, 21 and 29 January 2008.

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

Leave granted.

MR STANHOPE: These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all chief executive and executive contracts and contract variations. Contracts were previously tabled on 12 February. Today I present 12 long-term contracts, 14 short-term contracts and 12 contract variations. The details are circulated to members.

Trans-Tasman Mutual Recognition Act—regulations
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): For the information of members, I present the following paper:

> Trans-Tasman Mutual Recognition Act, pursuant to section 7—Trans-Tasman Mutual Recognition (Commonwealth Regulations) Endorsement 2008 (No 1)—Notifiable Instrument NI2008-54, dated 11 February 2008.

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

Leave granted.

MR STANHOPE: As the designated person under section 6A of the ACT's Trans-Tasman Mutual Recognition Act, I have endorsed the proposed regulation from the commonwealth regarding the special exemptions that apply to the commonwealth's trans-Tasman mutual recognition arrangement 1997. The trans-Tasman mutual recognition arrangement is an agreement between the commonwealth, state and territory governments of Australia and the government of New Zealand. The TTMRA allows goods to be traded freely and enhances the freedom of individuals to work in both countries.

When the trans-Tasman mutual recognition arrangement was signed in 1997, exemptions were made in industry areas where it was thought that mutual recognition had the potential to generate net benefits but where there were issues outstanding that needed resolution before mutual recognition could apply. While some progress has been made in resolving these issues, a number remain unresolved. The comprehensive work plan sponsored by the cross-jurisdictional review forum is underway to resolve the outstanding matters.

There are five remaining areas to which specialist exemptions from mutual recognition still apply. These areas are: hazardous substances, industrial chemicals and dangerous goods; therapeutic goods; road vehicles; gas appliances; and radio communications standards.

The Prime Minister has written to me supporting the rolling over of the current special exemptions for a further 12 months until April 2009. The additional time will allow

relevant cooperation programs to continue to address the remaining differences. States and territories have endorsed the changes by gazetting the regulations in the respective gazettes or, in the case of the ACT, by notifying instruments in the ACT Legislation Register.

Planning—Crace
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): I ask leave of the Assembly to make a statement concerning the development of Crace.

Leave granted.

MR STANHOPE: In November 2007, I announced that the ACT government had selected a consortium of Canberra Investment Corporation, Defence Housing Australia and PBS Property Group, to be known as Crace Developments, to participate with the LDA to develop the new Crace estate as a joint venture. The joint venture documents were executed between LDA and Crace Developments on 16 January 2008. Under section 99 of the Financial Management Act, as the responsible minister, I am required to present a statement to the Assembly which sets out the details of the agreement.

Crace is located in south-west Gungahlin, is bounded by the Barton Highway, Gundaroo Drive, Nudurr Drive and the Canberra Nature Park, is close to the Gungahlin town centre, Belconnen and Dickson, and is just nine kilometres from Civic. The estate is set to become a high-quality residential estate of approximately 1,200 blocks, with a strong focus on sustainability and urban design.

Similar to the development of the new suburb of Forde, Crace provides the opportunity for the private sector to enter into a joint venture with the LDA to establish a quality residential development which will showcase the latest in sustainability and offer a range of allotments and housing options to address affordability. The affordable housing proposal by Crace Developments will provide at least 15 per cent of the blocks to be released for affordable housing, which is in line with the affordable housing action plan.

Crace will be delivered in stages over an estimated six years, consistent with identified market demand. It is expected that the first release will occur later this year. It is expected that the development will provide sizable economic activity, estimated at $350 million.

Crace Developments was selected as the successful tenderer following a national call for expressions of interest. By proceeding to joint venture with Crace Developments, the joint venture will deliver to the Canberra community a high-quality residential development with superior urban design and amenity; efficient subdivision design which will reduce infrastructure costs, improve and enhance affordability; a range of allotments and housing types to meet the needs of most household types; demonstrate

the practical implementation of ecologically sustainable design, with a particular focus on water sensitive urban design; and achieve a commercially acceptable return on investment.

Crace Developments has significant experience in the Canberra residential market, with Canberra Investment Corporation a major developer both in the ACT and nationally. Combined with Defence Housing Australia and PBS Building, the consortium provides a formidable combination. The deemed land value paid for the land was $88.16 million. The ACT government received a 50 per cent share in the estimated $60 million in profits from the development.

Paper

Mr Stanhope presented the following paper:

> Freedom of Information Act, pursuant to subsection 63 (3)—Notice of decision relating to school closures, dated 14 January 2008.

Public Accounts—Standing Committee
Report 12—government response

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (3.51): For the information of members, I present the following paper:

> Public Accounts—Standing Committee—Report 12—Appropriation Bill 2007-2008 (No 2)—Government response, dated March 2008.

I move:

> That the Assembly takes note of the paper.

Question resolved in the affirmative.

Papers

Mr Corbell presented the following papers:

> Respite support service—Consideration of a complaint—Final report by the Health Services Commissioner, under the Human Rights Commission Act 2005.
>
> Administration of Justice—ACT Criminal Justice—Statistical Profile—December quarter 2007.

Paper

Mr Barr presented the following paper:

> Freedom of Information Act, pursuant to subsection 63 (3)—Statement of reasons of decision relating to school closures, dated 4 February 2008.

MRS DUNNE (Ginninderra): Mr Speaker, I seek leave to make a statement in relation to the paper.

Leave not granted.

Suspension of standing orders

MRS DUNNE (Ginninderra) (3.53): I move:

> That so much of the standing orders be suspended as would prevent Mrs Dunne from making a statement concerning the statement of reasons of the decision relating to school closures presented by Mr Barr (Minister for Education and Training) under the Freedom of Information Act.

This afternoon we have had two matters in relation to the Freedom of Information Act brought in by the Treasurer and Chief Minister and by the minister for education. To my recollection, it is the first time in the history of the ACT that members of the ACT Legislative Assembly have had to be reported to in relation to conclusive certificates. This freedom of information matter saw an unprecedented use of conclusive certificates.

We have seen the decision of the Administrative Appeals Tribunal on a number of matters that showed that, in the view of the tribunal, a three-member tribunal, it was not in the best interests of the public that these matters be subject to conclusive certificates. It is inappropriate that, on this occasion when there is such an important matter of freedom of access to information in this place, we cannot even spend 2½ minutes or three minutes having a debate in relation to this.

The ministers have sort of slid it in under the radar to some extent. In fact, Minister Barr's statement has not yet been circulated. Minister Barr did, however, have the courtesy to write to me in anticipation of this. However, the Chief Minister has not—

Mr Barr: I wrote to you a month ago.

MRS DUNNE: No, you wrote an undated letter which was received in my office on 29 February. The Chief Minister has not, in fact, written to me in relation to this matter and I presume he has not written to Mrs Barden in relation to this matter. The documents over which he has revoked conclusive certificates have not been provided to the parties, so far as I can tell. They have certainly not been provided to me and, as far as I can tell, not to Mrs Barden. This is why it would be a matter of course and courtesy to allow a member of this place to make a brief statement on a matter which is of monumental significance.

It is the first time that a minister has been brought to book by the AAT and has had to come into this place and give reasons why they have issued certificates or continued to issue certificates in defiance of the Administrative Appeals Tribunal, and we do not even have the opportunity to make a statement in relation to this. This is why the

standing orders should be suspended. It should be unnecessary to have to move to suspend standing orders because, if the courtesies of this place were forthcoming, we would not have to waste our time in a 15-minute debate; it would be all over, done and dusted.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (3.56): Tuesday being a day for executive business, it is important that we get on with the business of the Assembly. Mrs Dunne wants to make a statement. She has ample opportunity during the entire day that is provided for private members business tomorrow to make such a statement. I invite her to do so tomorrow. But the government will not be supporting a suspension of standing orders.

DR FOSKEY (Molonglo) (3.56): I am rising to support the motion to suspend standing orders. Given that we have at the federal level now a move to revamp freedom of information legislation and to abolish conclusive certificates, and given that most state governments have either removed the power of attorneys-general to issue conclusive certificates or have promised to do so, it would seem to me that the very least we can do, given that the minister's decision to use his increased discretion to issue conclusive certificates, which is, of course, the drawing of a curtain over an area that the community is desperate to know what goes on, is to subject this issue to the exposure of debate and allow some oxygen in on the matter.

I am afraid that at the moment it really is not a very good look for our government, and I would be very, very interested to see how it maintains its stance in light of the federal moves to open up government. Decisions were made; we have not ever been allowed to get near the truth. I do commend Mrs Dunne for making that very huge effort, for which I must say she has been subjected to nothing but humiliation and criticism, on behalf of school communities and others in this community. I really think it is very condescending of the minister to say that an issue this important should be relegated to private members business day.

MRS BURKE (Molonglo) (3.58): Once again we see here the government just clamping down. They harp on that this is their day. This is a day for all Canberrans to know that this government chooses to shut the doors on freedom of information, something that is so important to the community, something that would have taken Mrs Dunne all of five minutes, possibly, to make her case. We have to go through this ridiculous process every time we want to hear some openness and accountability. Of course, sadly for the government, they will do this to their detriment, and they will continue to do it to their detriment.

I fully support Mrs Dunne's motion this afternoon. I support her courage, and I also support the comments from Dr Foskey that these are issues of community interest and, as such, the information should be made available.

Mr Barr: Let us have a substantive motion.

MRS BURKE: The education minister continues to talk over the top of people. Clearly he is very embarrassed by this. We have only just, about five minutes ago,

received what he said Mrs Dunne had received and he is embarrassed again to find that Mrs Dunne has only received that information very late in the piece. Whether that is the minister's fault or not, I do not know, and I am sure he is a bit embarrassed about that too. We want to have openness and accountability. Dr Foskey has alluded to the freedom of information issues at a federal level. We as legislators and we as politicians do the community no favours by playing these petty political games that this government, the Stanhope government, persists in continuing with. I ask members to support this, and I ask the government to think again and have the humility to say, "All right, Mrs Dunne, make your case this afternoon," and not have to wait until tomorrow.

MR MULCAHY (Molonglo) (4.00): I do believe that it is reasonable that this statement be debated and the opportunity given to the member. Matters of transparency and accountability are very important to our community. I was familiar with the very early days of the development of the freedom of information campaign by Professor John McMillan, who is now the commonwealth and territory ombudsman. I would like to hear the arguments on this particular matter.

I know Mrs Dunne has put in many, many hours on this issue of seeking information. I know the minister has been critical but—dare I suggest that the minister might be going down the road of saying he does not want to throw good money after bad—I think there is an opportunity for him to hear out the member, hear the points of view that have been raised—

Mr Barr: Let everyone consider my statement of reasons and we will debate it tomorrow.

MR MULCAHY: I think there is an opportunity now, and I am hoping we do not have a protracted debate. To be brief, I think it is reasonable that we do hear the statement, and I would support the suspension of standing orders so that an opportunity can be afforded to the member.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (4.01): The government has no objection with opposition members choosing to comment on these matters. The issue is about when that should occur. As Mr Barr has indicated, the issue is that the government has two of the three sitting days allocated for executive business. Once you take away the time allocated for MPIs during that time and once you take away the day of Wednesday for current members business, there is actually only a very small period of time available for executive business in this place, compared to other parliaments.

The government believes that it is entirely reasonable for members to comment on these matters, but they can do so by way of substantive motion. The opportunity for a substantive motion is during private members business tomorrow.

The government has nothing to hide in relation to this matter; the government has abided by the provisions of the act and has had regard to the decisions of the AAT and all the other matters that are outlined in Mr Barr's and Mr Stanhope's statements. Any attempts to suggest the government is seeking to defer or not engage in this debate are

simply unreasonable; it is simply a matter of managing the business in this place and recognising that.

I do not think anyone is seriously suggesting that Mrs Dunne is only going to speak for two minutes. I do not think Mrs Dunne has ever spoken for just two minutes in this place, unless she is instructed to do so. Of course when you grant leave, you grant leave for an open-ended period. I am sure that Mrs Dunne would have taken full advantage of that. Mrs Dunne, I think, would blush if she were to suggest she was only going to speak for a short time.

The government's position on this is simply that, if members wish to debate this matter, that is fine; we have no difficulty with that whatsoever; we will entertain that debate but not at this time. Private members business is an opportunity for non-executive members to raise issues of interest and concern to them, and that is when they should do so. That is the reason the government is not prepared to extend leave in this instance.

The process and the practice of granting leave has been one that has been greatly abused in the past in this Assembly, and certainly members who had been here during minority assemblies and minority government periods would have seen the absolute abuse of those provisions. We might as well not have had standing orders during that time, because closure of debate meant nothing. Members could add comments after the closure of debate. There was not much point in having time limits during that time; you could basically speak for as long as you liked, as many times as you liked, and you could speak again in debates.

Really, the difficulty with that, from the government's perspective, has always been that it did not impose any discipline on members to focus their comments and crystallise issues in their minds so that when they contributed to debates it was meaningful debate, it was considered debate, and equally—

Mrs Dunne: On a point of order, Mr Speaker: this is about why standing orders should be suspended on this occasion and not a dissertation on standing orders.

MR CORBELL: Mr Speaker, I am just outlining the government's position on when we do and do not grant leave, and that is a relevant consideration in this debate.

MR SPEAKER: It is not about leave; it is about suspending the standing orders.

MR CORBELL: Of course Mrs Dunne is moving the suspension of standing orders because the government did not grant leave, and I think it is important to put on the record the government's thinking around the granting of leave. Generally speaking, the government will not grant leave in those circumstances. We have made that clear and we have had a consistent practice on that since the beginning of this term of the Assembly in 2004. We have sought to ask and encourage members to use the forms of the Assembly when it comes to raising matters for discussion and debate.

When it comes to matters of interest and concern to non-executive members, there is a whole day out of a three-day sitting week, or 33 per cent of the time of this

Assembly, allocated to non-executive business, and that is the time when these matters should be raised; that is the time when these issues should be addressed. We would welcome a debate on these matters during that time, but we will not grant or support suspension of standing orders to do it today.

MRS DUNNE (Ginninderra) (4.06), in reply: This is a matter of considerable importance and it is about the operation of the executive. The executive members have come in here today and made statements in relation to the Freedom of Information Act, completely unprecedented statements, never made in this Assembly in the 16 or 17-year history of the Freedom of Information Act. For the information of members, I seek leave to table the three documents released by the minister for education that were subject to conclusive certificates.

Leave granted.

MRS DUNNE: I present the following papers:

> Freedom of information request—School closures—Copies of:
>
> Email from Wendy Jones, Ministerial and Communication, ACT Department of Education and Training concerning comments due Draft Cabinet Submissions, dated 26 May 2006.
>
> Diary entry.
>
> Page with "Conclusion".

These documents relate to document 128, which the minister released. It is a copy of an email from one departmental official to another saying, "Chaps, do not forget to get your coordination comments in about two or three cabinet submissions." There are two other documents that were released by the department following the AAT decision, one of them, which is folio 1471, reads, in handwriting, "Meeting"—

MR SPEAKER: The time for this debate has concluded.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Papers

Mr Corbell presented the following papers:

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—

Auditor-General Act—Auditor-General Acting Appointment 2007—Disallowable Instrument DI2007-323 (without explanatory statement) (LR, 20 December 2007).

Board of Senior Secondary Studies Act—Board of Senior Secondary Studies Appointment 2007 (No 10)—Disallowable Instrument DI2007-310 (LR, 20 December 2007).

Crimes (Sentence Administration) Act—Crimes (Sentence Administration) Amendment Regulation 2008 (No 1)—Subordinate Law SL2008-1 (LR, 23 January 2008).

Health Act—

Health (Fees) Determination 2007 (No 3)—Disallowable Instrument DI2007-321 (LR, 20 December 2007).

Health (Interest Charge) Determination 2007 (No 1)—Disallowable Instrument DI2007-322 (LR, 20 December 2007).

Health Professionals Act and Health Professionals Regulation—Health Professionals (Podiatrists Board) Appointment 2007 (No 1)—Disallowable Instrument DI2007-309 (LR, 20 December 2007).

Public Place Names Act—Public Places Names (Macgregor) Determination 2007 (No 2)—Disallowable Instrument DI2007-316 (LR, 20 December 2007).

Radiation Protection Act—

Radiation Protection (Council Member) Appointment 2007 (No 1)—Disallowable Instrument DI2007-317 (LR, 20 December 2007).

Radiation Protection (Council Member) Appointment 2007 (No 2)—Disallowable Instrument DI2007-318 (LR, 20 December 2007).

Radiation Protection (Council Member) Appointment 2007 (No 3)—Disallowable Instrument DI2007-319 (LR, 20 December 2007).

Road Transport (General) Act—

Road Transport (General) (Application of Road Transport Legislation) Declaration 2007 (No 7)—Disallowable Instrument DI2007-314 (LR, 20 December 2007).

Road Transport (General) (Application of Road Transport Legislation) Declaration 2007 (No 8)—Disallowable Instrument DI2007-315 (LR, 20 December 2007).

Road Transport (General) (Vehicle Registration and Related Fees) Determination 2007 (No 2)—Disallowable Instrument DI2007-320 (LR, 20 December 2007).

Taxation Administration Act—

Taxation Administration (Ambulance Levy) Determination 2007 (No 1)—

Disallowable Instrument DI2007-312 (LR, 20 December 2007).

Taxation Administration (Amounts Payable—Home Buyer Concession Scheme) Determination 2007 (No 2)—Disallowable Instrument DI2007-313 (LR, 21 December 2007).

Training and Tertiary Education Act—Training and Tertiary Education (Accreditation and Registration Council) Appointment 2007 (No 2)—Disallowable Instrument DI2007-311 (LR, 20 December 2007).

Petition—Out of order

Petition which does not conform with the standing orders—ACTION bus route 769—Mr Smyth (302 signatures).

Planning
Discussion of matter of public importance

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

The importance of planning for the future of Canberra.

MR GENTLEMAN (Brindabella) (4.12): It is a great pleasure to have the opportunity to discuss this matter of public importance here today. It is very easy to underestimate the value of effective planning or to dismiss it totally. The Stanhope government, however, is proud of its record in forward planning—in looking ahead, planning and acting to protect and improve the future for coming generations and the lives of Canberrans today.

The Canberra plan, with its vision that Canberra will be recognised throughout the world, not only as a beautiful city uniquely designed in harmony with the environment, the seat of Australia's government and the home of its pre-eminent national institutions but also as a place that represents the best in Australian creativity, community living and sustainable development, has driven the major social, spatial and economic decisions and actions since its launch by the Chief Minister in 2004.

The Canberra plan, which in turn was underpinned by detailed social, spatial and economic plans, contained strategies to invest in our people, build a stronger community, ensure we are a city for all ages, build Canberra's knowledge future, establish partnerships for growth, establish a dynamic heart, live within the environment and ensure a sustainable future for all Canberrans. Like all plans, the Canberra plan is a dynamic one and must, and will, respond to the changing environment, locally, nationally and globally.

The government is currently in the process of engaging with key stakeholders to refresh and update the Canberra plan to maintain its currency and to reflect the important actions we have taken since 2004 to address critical issues such as housing affordability, water security, climate change and the skills shortage. As we talk today, we learn that, once again, interest rates have increased, placing greater pressure on those trying to achieve the great Australian dream of owning a home. The Reserve Bank has lifted its rates by 0.25 per cent to 7.25 per cent, increasing the official cash rate to the highest in almost 12 years, while Australian banks are expecting to add another 0.15 per cent to absorb higher loan funding costs.

The ACT government acted decisively last year to address this problem, significantly accelerating residential land releases through its revised land release strategy and developing Australia's leading housing affordability strategy and action plan. The government is very proud of the fact that it can sit on the Council of Australian Governments working group on affordable housing and say that it has a visionary plan and it has begun to roll out the initiatives, including the en globo release at west Macgregor and the agreement with the Community Housing Canberra group.

All plans live and die in their implementation, and it is for that reason that the Chief Minister created an additional deputy chief executive position within his department with responsibility for overseeing the delivery of the affordable housing action plan and the accelerated land release program.

Mr Seselja: I thought it was because Simon stuffed everything up; isn't that the reason?

MADAM TEMPORARY DEPUTY SPEAKER (Mrs Dunne): Order, Mr Seselja!

MR GENTLEMAN: It is for that reason that the new Strategic Projects Facilitation Group has been created within the Chief Minister's Department.

Mr Seselja: Wasn't it because Simon stuffed things up?

Mr Smyth: It was apparently so—no en globo, now en globo.

MADAM TEMPORARY DEPUTY SPEAKER: Order, Mr Smyth!

MR GENTLEMAN: The group is charged with driving investment in major projects in the ACT, case managing the implementation of strategic investment opportunities and instigating new projects to address identified needs such as aged care accommodation. Madam Temporary Deputy Speaker, I know Mr Smyth is not interested in hearing about the plans that the ACT government has in progress but we are going to roll them out anyway.

Through the reforms of the 2006-07 budget the government has also demonstrated its commitment to planning and acting to protect the economic future for all Canberrans—

Mr Smyth: Tell us what you really mean. Tell us about your plan.

MADAM TEMPORARY DEPUTY SPEAKER: Mr Smyth!

MR GENTLEMAN: even Mr Smyth. Recognising the hard reality of a small revenue base and higher than national average costs for service delivery, the government embarked upon a major reform program to secure the future. While this process involved many hard decisions, it has, without doubt, rebuilt the economic foundations of the ACT budget through which we must fund vital services for all Canberrans.

Supporting the responsiveness of the ACT economy are the activities of the ACT Skills Commission, established in November 2006. Skills shortages are an issue facing all jurisdictions. However, the ACT Skills Commission last year released its draft report detailing initiatives and practical solutions for the ACT's short and long-term skills issues. These initiatives, coupled with the skilled and business migration and the live in Canberra programs, will support the ACT's future employment base.

Other areas where this government has planned for the future include climate change and water security. In July 2007 the ACT government launched Weathering the change—the ACT climate change strategy for 2007-2025. The strategy sets an emissions target reduction of 60 per cent, from 2000 levels, by 2050. This target is consistent with that adopted by most international and Australian jurisdictions, but we also aim for a milestone of reducing emissions back to 2000 levels by 2025.

Madam Temporary Deputy Speaker, you are probably aware of the Garnaut interim report. I was able to attend Professor Ross Garnaut's lecture at ANU just last year and Professor Garnaut said that Australia should promote strong global action on climate change and be prepared to match the commitments of other developed nations. He said that, contrary to the conventional wisdom which has dominated Australian debate over the past decade, comprehensive global efforts to reduce emissions will play to Australia's strengths. It is in Australia's interests, Professor Garnaut said, for the world to adopt a strong and effective position on climate change mitigation.

The interim report provides early insights from the Garnaut climate change review's work to date as a basis for community discussion and before the recommendations are finalised for the final reports later this year. The report states that Australia's interest in strong global action stems from its "exceptional sensitivity to climate change" and its "exceptional opportunity to do well in a world of effective global mitigation". "We have many resources and skills that will allow us to convert strong global action into an economic opportunity," said Professor Garnaut. He continued:

> We have a first-rate skills base in areas related to innovation, management and financial services. We have rich renewable energy resources. We are among the world's largest exporters of uranium and natural gas which can benefit from the low-emissions' efforts of other nations. And our agricultural sector emits less than other developed countries.
>
> By contrast, Australia would be the big loser—possibly the biggest loser among developed nations—from unmitigated climate change.

I mentioned earlier the targets that the ACT government has set. We also aim for a milestone of reducing emissions back to 2000 levels by 2025. Both of these targets will be reviewed and amended as necessary in light of future scientific advice and any new policy position to be adopted by the commonwealth arising from their actions to ratify the Kyoto protocol.

The ACT strategy focuses on reducing greenhouse gas emissions, adapting to inevitable climate change, raising awareness in the community and facilitating joint action within the community and within the region. The strategy has four objectives: to be smarter in how we use resources; to design and plan our city to be more sustainable; to build our capacity to adapt to and manage the changes to climate that we are now beginning to face and possible future changes; and to improve our understanding of climate change, its causes and effects and how we need to respond. The strategy is supported by action plan 2007-2011. As the climate change issue will be with us for the foreseeable future, a strong emphasis of this action plan is increasing awareness both in the wider community and through educating children through schools and community activities and events. I am sure that my colleague Minister Barr will highlight some of those initiatives later on.

The action plan sets out 43 initiatives that the government will implement from now until 2011. These initiatives touch on all aspects of our ACT economy, society and environment and include improving the energy efficiency of government and commercial buildings; showcasing and promoting renewable energy technologies; increasing community and business awareness; supporting our specialist research facilities; and ensuring easy market access to green power.

Recent rainfall over the summer months has mitigated the need to move to stage 4 restrictions. However, water security for the ACT continues to require ongoing planning and review. The ACT government has undertaken extensive work with respect to water planning and management. The government's policy was outlined in the think water, act water strategic framework announced back in April 2004. This strategy was far more than a response to the drought; it was a planning and action plan for the ACT's water supply and demand management.

Since 2004, and in the context of the severe drought, the ACT government and Actew continued the exploration of water security options, in addition to those measures already delivered, to ensure the ACT region has sufficient water to continue to grow and maintain Canberra as a sustainable city. This required extensive technical investigation and analysis. In July 2007 the ACT government received Actew's final reports and recommendations on water security for the ACT region. These recommendations were based on extensive work conducted in assessing future water options.

On 23 October 2007 the Chief Minister announced a diverse range of water security measures that will be implemented. These include: enlarging the Cotter dam from four gigalitres to 78 gigalitres; the installation of infrastructure to increase the volume of water transferred from the Murrumbidgee River to the Googong Dam; pursuing the possibility of purchasing water from Tantangara Dam; and design of a demonstration

water purification plant with the water produced by the plant to be used for purposes other than drinking. This is a diversified approach to the issue of water security for the ACT rather than looking for a single source of supply.

Sustainable transport is another area in which the government has implemented a rigorous planning process. Planning for transport is a great challenge because it impacts in a complex way on so many aspects of our community, economy and environment. As Canberra continues to grow, the role of a sustainable transport network becomes crucial in maintaining and improving accessibility and the potential for an increased role for public transport in particular.

You will notice here that the theory is on planning, Madam Temporary Deputy Speaker. The sustainable transport plan, released in April 2004, sets out the ACT government's commitment to a more sustainable transport system for Canberra. The sustainable transport plan shows how we can make transport more sustainable with a stronger role for public transport, walking and cycling. Replacing some of our car travel with walking, cycling and public transport trips will have major benefits for the environment and Canberra's livability. I urge my colleagues that live in Brindabella to use our ACTION bus network; it is very successful.

Mr Smyth: Yes, I got the 768 and the 769 two weeks ago. Have you got on the buses that you are cutting out?

MR GENTLEMAN: Fantastic. I did.

MADAM TEMPORARY DEPUTY SPEAKER: Order, Mr Smyth. Mr Smyth, you are being disorderly.

MR GENTLEMAN: I caught the early Xpresso, Mr Smyth, and then I caught the 315 home in the afternoon. However, the sustainable transport plan acknowledges that cars will remain the primary mode of transport for most Canberrans. In addition, it provides for corridors for public transport and cycling to increase accessibility to alternative transport modes.

A major thrust of the sustainable transport plan is the progressive improvement of the public transport system so that it becomes more attractive and a viable alternative for many people and for many trips. As private vehicle use increases, the improved public transport system will accommodate more of the demand, with a lowering of greenhouse gas emissions, lower air pollution, a reduction in the number of accidents and lower health costs, compared with the continuation of the current modal balance. Anyone driving this morning via Adelaide Avenue would have seen the advantage of catching public transport over private cars.

Mr Seselja: The bus was stuck behind the accident as well.

MR GENTLEMAN: Yes, the accident held most commuters up for quite a long time. In December 2007 the government announced a package of measures for public transport improvements worth almost $75 million—the most comprehensive commitment to transport in the territory's history—spanning bus services, infrastructure, accessibility and safety.

Clearly this government understands the importance of planning for the future of Canberra through its comprehensive planning regime, and the effective implementation, monitoring and review of these plans bode well for the future of Canberra.

MR SESELJA (Molonglo—Leader of the Opposition) (4.27): I do not really quite know where to start in response to that, but I might start by responding to what Mr Gentleman had to say about the advantages of public transport demonstrated this morning on Adelaide Avenue. I was also stuck in traffic on Adelaide Avenue and I am not sure that the buses would have done anything for you, given that the accident had blocked off Adelaide Avenue. Progression was extremely slow and, I am sure, as slow for bus commuters as it was for car commuters.

As to the importance of planning for the future of Canberra, who could argue with that, I suppose? Mr Gentleman is, of course, the man with the plan. He is the man with the plan to become the Speaker and it is worth talking about the government's record on some of its planning in a number of areas. I am sure my colleagues will be able to expand on some of the areas that we cover.

Mr Gentleman talked about the sustainable transport plan and I will come back to that in a little bit. It is interesting to read the sustainable transport plan and to try and measure some of the success. Mr Gentleman spoke about improving the public transport system, yet we have seen in the past couple of years, under this government, the public transport system, our bus system, go backwards. It has gone backwards at a rapid rate. It has been referred to as the worst public transport system in the country and there is no doubt that the community is seriously disaffected with the way that the public transport system has been managed. So, in terms of a plan for public transport, you have failed.

When it comes to the busway, which is part of the sustainable transport plan, of course, the sustainable transport plan actually talks about short and medium-term priorities being busways all over town. So, if we were to look on that score, the sustainable transport plan is a complete farce, because we are not seeing short and medium-term busways, partly because they were deemed to be a waste of money, but we have seen the government, through the former minister, Simon Corbell, in particular, go out and spend millions of dollars on the busway that was never going to happen.

When it comes to the sustainable transport plan, when it comes to planning for our future transport needs, there is an example. It brings me to, of course, the great, wonderful future planning that has gone on with the GDE. Of course, the GDE was planned long ago, as we are always reminded by the Chief Minister, but few Canberrans, I am sure, would have thought that, after spending as much money as the government did, over $100 million, and after such a long delay in getting the GDE, we would have a one-lane road each way.

There are few things in recent weeks that I have had more comments from the public about, particularly my Gungahlin constituents. They are just a little bit surprised that,

after all of this wonderful planning, after all of this money has been spent, all they have got to show for it is a one-lane road extension, which will be fine for many hours of the day I am sure. But, come peak hour, as time goes by, as Gungahlin grows, I predict that the one-lane Gungahlin Drive extension will be a very slow road indeed, and I think the people of Gungahlin, in particular, are right to be concerned at the quality of the ACT government's planning and the execution of their planning when it comes to the GDE.

It is worth looking at some of the other plans that this government have had. They had a plan to close 23 schools but did not tell us about it. In fact, they told us prior to the election that they did not have a plan to close any schools; they ruled it out. They had a plan to restrict land release to a monopoly government service provider. Mr Gentleman touched on what is happening with the affordable housing strategy, but what are the results of this government's efforts over the last seven years in government to make housing affordable for young Canberrans? We see prices at the bottom end continue to rise so that, unfortunately, the situation now—and these interest rate rises, of course, will not help—is that for many young families the dream of home ownership is simply slipping way.

We have a government that does have the ability to plan to manage these issues. It should be able to plan to manage these issues and its plan in the last few years, prior to the last 18 months or so, was to squeeze land supply. It helped create the very problem that it is now apparently seeking to address. It deliberately squeezed supply. We had the famous comment from Ted Quinlan of "squeeze until they bleed, not until they die". It was around that time that the government significantly dropped the amount of land that it released in that year. And we have seen, since that time, prices for land spiral out of control so that young families are finding it increasingly difficult to get into the housing market—and now many of those who have gotten in are suffering the double whammy with interest rates on the way up.

But, of course, families have had to pay much more than they should have; they have bankrolled this government's budget by paying much more than they should have for land—because this government simply have not responded. We have talked for a long time about having land ready to come on line, and yet whenever we hear from this government about what they plan to do to respond to the housing affordability crisis there is always an 18-month lag or a two-year lag. We await with bated breath the release in Molonglo; we really do. All Canberrans would hope that the government finally get going on that and get the planning done. It has been long planned for. I hope—I really, honestly, do hope—that we will see them meet their time frame on that, which is around the middle of this year, I believe. Maybe the minister when he gets up to respond can give us a bit of an update as to whether or not that is still on track.

There has been a complete debacle in planning in this town over the past few years, particularly evidenced by the failures in housing affordability and in managing land release and by stifling competition. We have seen a deliberate stifling of competition—we have only seen some relaxing of that stifling in recent times—and that has led to genuine heartache. This lack of planning, this lack of foresight and this deliberate decision, unfortunately, to stifle the amount of land, is causing serious pain in the community.

The Chief Minister can get up and say that Canberra is affordable but he should go to the suburbs, he should go to where young families are struggling with their rents of $350, $400 and $450 a week, trying to save for a home, trying to save for a block of land. They are not looking for an extravagant home; I do not subscribe to the idea that young families who are struggling now are looking for something extravagant. They are struggling with high rents and now, when they want to buy a home, a simple home, a three-bedroom home in the suburbs on a basic block of land, many of them are being squeezed out of the ability to buy even that. So it is not about lavish expectations.

This government, which controls land supply in the territory, which develops land in the territory and which has been, until recently, the monopoly developer of that land, needs to take responsibility. It is time that this government actually said, "Yes, we got it wrong. Stifling competition was a bad idea, squeezing land release was a bad idea, and those bad ideas and that poor planning have led to young Canberrans, thousands of young Canberrans, either being forced out of the market, forced out of Canberra or forced into mortgage stress as interest rates now rise and they have taken on significant mortgages just to squeeze their way into the market." That is what this government should be saying and that is the government's legacy when it comes to planning and when it comes to catering to our young people and their aspiration, their legitimate aspiration, to buy a home.

The planning minister when the LDA was created said that one of the key outcomes of this agency would be to provide affordable housing for the community. On any measure, this has been an absolutely dismal failure. It was a bad idea from the start. It is still a bad idea and this government, despite some changes, still persists with this bad idea and still continues to impose this burden. And make no mistake: it is the young families of Canberra who are buying into this market who are propping up this government's budget; it is the young families who are having to pay ridiculous amounts for their block of land, who are having to pay large amounts of stamp duty and other charges when they purchase their home and when they move to a larger home as their families grow. Significant amounts of the government's revenue are coming from them and it is on the back of this that the government is now able to produce significant surpluses.

We saw the government's lack of plan when it came to the issue of the dam. We heard Mr Gentleman talking about how it has now planned for a dam. We talked about housing affordability and the significant failings at a systemic level by this government in relation to housing affordability. But, if there is another area where the government have really let the people of the ACT down with their future planning, it has been with the dam. The government's approach until recently has been to hope for the best. The plan in relation to water management has been to pray for rain. And we have seen that that is not the way. It has been raining a bit, but we know that, even with dam levels now up to 50 per cent, if we were to have another dry spell we could very easily, even under restrictions, be down to 30 per cent before too long. So there is no doubt that, as the city grows, as the region grows, we do need to have a plan to secure our water supply. Why has it taken this government so long to see that basic fact?

We are now several years into this drought, this severe drought. As we are faced with the issues associated with climate change, surely we should be catering for worse conditions rather than better conditions. Instead of just hoping for the best and praying for rain, we should assume that things will be drier and that we will have less water flowing into our catchments and so we are going to have to store more in the good times; we are going to have to store more in the big rain events and flood events so that we have enough to last us through lean times.

We have seen a significant drought here and it is only in the last several months that this government has finally determined that it would be good to plan for the future and to secure our water supply. This is not a new issue; this is an issue that has been with us for a number of years. In fact, it was the Chief Minister who sat in this place and ridiculed the opposition's plan for a dam. The opposition went to the election with a plan for a dam.

Mr Barr: Yes, in a place where it does not rain; in the worst catchment area.

MR SESELJA: We hear the interjections from Mr Barr. The government are embarrassed. The Chief Minister, in fact, said we would not need a dam for at least 20 years, if ever; we would not need another dam for 20 years, if ever. What a ridiculous statement! How embarrassed he must have been that only 12 months or so later he has had to announce that we do need a dam and we are going to start building it and building it really soon. Wouldn't it have been great if there had been some foresight from this government and some forward planning and they had said, "Well, let us look at the worst-case scenario. Let's look beyond our worst-case scenario and say that the city will grow. We don't know exactly by how much, but we know it will grow. We have got our forecasts, we have got our low, medium and high range forecasts. The region is growing and will continue to grow. Things are getting drier and they may well continue to get drier, perhaps for the next 50 years; who knows? We know that we are potentially facing a 50-year dry spell compared to the previous 50 years, which have been comparatively higher by historical standards. Why wouldn't we, in that circumstance, plan for the future?"

This government has failed to plan and, as a result, if we do see another dry spell in the next couple of years, Canberrans will face more hardship, will face more severe restrictions, and it would be particularly damaging to our economy and to a lot of businesses if we were to move to stage 4 at some stage. We are certainly not out of the woods yet. We hope that there will be more rain in the interim, until this dam is built. We hope that our dam levels will go up and perhaps that some of these restrictions can be eased so that people can use water, but the lack of forward planning has simply made that much more difficult for the people of Canberra.

Planning is important but also delivery on those plans is important. This government came to office with a number of plans: the Canberra plan, the spatial plan, the sustainable transport plan. It did not have a plan for a dam. We have seen in its execution, particularly in housing affordability and water, that it has not been up to it. It is all well and good to write a few things on a piece of paper. But planning is about much more than that. It is about foresight, it is about doing the thorough research that

is needed and it is about seeing into the future and making judgements about what the future needs of Canberrans will be.

This government have failed particularly on these key areas of housing affordability and water and they need to answer those questions. They need to stand before the people of Canberra and say, "Yes, we got it wrong; we should have planned ahead. We got it wrong on housing affordability. We are still getting it wrong, but we are now starting to realise that we have got it wrong." But these issues and these failures of planning are not just abstract, not just an abstract exercise; they are failures that affect the day-to-day lives of Canberrans, particularly those who now see the dream of owning a home out of reach.

DR FOSKEY (Molonglo) (4.42): This is a topic that is very dear to my heart, and one that is essential when we talk about Canberra. One hundred years ago, the city of Canberra was not here. There were a bunch of sheep farms. The old adage is that Canberra represents good sheep country ruined. Everything that Canberra is has been the result of planning. It has been very interesting, because I have made it a particular study of mine, to look at how planning has proceeded over those 100 years. Canberra was considered globally to be at the forefront of innovation in planning for many, many decades. It is in that light that I want to talk about this topic today.

Of course, when Canberra was more or less a department of the commonwealth government, there was a great deal more money available. There were also a lot more interesting programs. Let us consider some of them. There have been surges in Canberra's planning history. We know that it was Menzies who really got things moving in the fifties and sixties in terms of putting money into Canberra. There has always been a national reluctance to spend money in Canberra. We have seen that recently, with the announcement by Rudd of cuts to institutions like the National Library, the National Gallery and so on. He gets away with it, even though these are national institutions doing national work, because people say, "Ah, that's Canberra, spoilt Canberra." Of course, when there is nothing there except for a sheep farm, it is going to cost a lot to put a city there. So let us acknowledge that. We had the best planners, the best people and the best knowledge applied to the planning of Canberra. So we have had successions of fashion in planning in Canberra.

However, I am certainly not one who says we should resile from self-government. It was always a frustration that under the NCDC and the NCA communities were given almost no input into the planning process. I am sure that one of the reasons that those who supported self-government did so—we know there were detractors—was because they thought they would have more opportunity to have a say in the planning of their suburbs. For a while, we saw that that was indeed so. In writing my masters thesis, I saw that the processes of planning for Gungahlin were extremely intensive, extremely deep and more or less thrown out when it came to building the place. So consultation is only of use when it is applied.

We now have almost no consultation in planning. We have recently passed legislation in this place, and we will pass legislation and regulations on Thursday, that will reduce the possibility for communities to have a say in planning to an even greater extent. I think that is a great pity, because in this city we still have a lot of those

planners from the NCDC and the NCA. They are still there on the sidelines and they have still got useful contributions to make. We also have people who live in their community and who want to live more in their community, without having to jump in their car and drive to the other side of the city to do those things that they live in Canberra to do.

While in other parts of the world we hear that best practice now involves design of communities at the neighbourhood level, rather than at the citywide or, at best, town level that I believe this government is undertaking, we find that we are still lagging behind. I know that very few of the people who work for ACTPLA are, in fact, trained and qualified planners, because they are in very short supply in the world, and to get them you need to be at the cutting edge of doing best practice. I have a sense that some of those people might feel quite frustrated at the moment. I see that in evidence on the ground, going around to other cities, seeing what is happening there and comparing it to what seems to be happening here. I have a sense of it from talking to people who work in sustainability industries and just from knowing how hard it is to make the changes that will make our cities, our towns, and even our new suburbs that are still on the drawing board, the places that people will want to live in in 2050. I have heard it said that we are building the slums of the future. That is so absurd when we are probably one of the wealthiest cities in the world.

Let us look at the importance of planning. At the very least, we need to have planning and transport integrated from the very beginning. It needs to take place before the lines are drawn on the ground. We need to look at how people will move around that suburb and that community, at the street level and into the city. Is that happening? I do not believe it is happening, even though it is part of the sustainable transport plan. It may happen sometimes, but I am not sure that it happens all the time.

Planning and community development: the way people live in a society, in a city, is very much influenced by planning. If, for instance, you have to cross the town to go to a meeting, the planning has not considered community needs. If, for instance, you have to jump in a car to take your children to school or to the nearest childcare centre, I do not believe that that planning was done with social outcomes in mind. Indeed, I ask: where are the social planners in ACTPLA? How many of them are there? I keep asking these questions, and I do not really get satisfactory answers. It is not enough to go and get a consultant to help with the social design at one moment. You need to have the social planning and the environmental planning integrated from the very beginning. I know that a very similar thing occurs with environmental issues—they get the environmental experts from outside.

In terms of important planning issues, I refer to planning and health. It is now understood that obesity issues are very much related to the way people live. Can they walk or do they have to drive? We know that it is those in the lower socioeconomic class—people with less money, fewer choices about where they live and what they buy to eat—who have the most problems with obesity. Planning used to be seen as a way of overcoming social inequity. It used to be about, in Canberra in particular, making sure that we had a social mix, that we did not isolate people from each other, that we reduced social problems by making sure we had a sprinkle of people throughout the capital. We can still have those principles; we must have those principles. We have to be designing cities with 2050 in mind.

Finally, I refer to the airport issue, which was raised a moment ago. We have actually lost control of our planning, with the airport no longer even being subject to the National Capital Authority's oversight. It is only through occasional good nature that the airport owners do conform with the national capital plan. They do not have to do so. We have seen the way it has sucked development out to the east of Canberra and it has created a whole transport and traffic nightmare. It has provided office buildings which were never in the minds of our planners. It is outside our control. The ACT government does have to lobby very hard to bring the airport back into our ambit and to work with the airport owners for the best outcomes for Canberra people. That is what the airport should do. I will not even go into the issue of a curfew.

We do have real challenges ahead of us. It is not just a matter of "business as usual" anymore. It is not a matter of saying, "Okay, maybe not this development but maybe the next one." It is not good enough if Crace is just like Forde. Forde is not good enough. Houses are not able to be oriented for solar maximisation. Indeed, there are some hard decisions to be made, but planning is the essence of Canberra, and that is why it is essential that we look at our resources. Every time we close a school, we must think about how that affects the social and the environmental amenity, as well as the greenhouse impacts and the way it forces people to move around our city. These things are really important and they will be what our city is judged by in 2050.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.52): I thank Mr Gentleman for raising this matter and previous speakers for their contributions. It is fair to say that, in planning for our city's future, we have a responsibility to ensure that future Canberrans have access to the best possible array of government services. Most particularly, in the area of education, we have a responsibility to ensure that future students in the ACT can access world-class education choices and opportunities, no matter what background or socioeconomic status they have. Since coming to office in 2001, the Stanhope government has increased our investment in education by over 30 per cent and has undertaken a series of important reforms to prioritise the quality of our education system.

Mrs Dunne: And closed schools.

MR BARR: In response to the comments by Dr Foskey and the interjection by the former shadow minister for education, I refer particularly to modes of transport to attend schools. One of the interesting features of our education system prior to the reforms in 2006 in a number of areas was the proportion of students within the local catchment area of a school who would bypass that school in order to go to another one because of concerns about the quality of that school. In some areas, up to 80 per cent of students in the school's catchment area bypassed that school. They consciously hopped in their cars and drove to another school because of concerns about the quality of education that was offered in that school. That figure was 60 per cent in some high school catchment areas and up to 80 per cent in some primary school catchment areas. So the difficulty that needed to be responded to there related to the quality of education. As a result of the reforms that the government undertook in 2006, we have been able to invest in the quality of our education system in order to serve students into the future.

We know that the demographics of our city are changing. The most recent figures from the ABS show a significant decline in the school-age population. In the decade between 1996 and 2006, the number of primary school age children in the ACT decreased by eight per cent. The population of high school or college age students decreased by five per cent in that 10-year period. Yet in other areas of the city, such as Gungahlin, we are experiencing significant growth. So whilst there are significant declines in the student population in north Tuggeranong, in parts of Woden and Weston Creek and parts of Belconnen, there is a massive increase in demand for education facilities in Gungahlin. That is why the government is investing in new public schools in Gungahlin, such as the new school at Harrison which opened this year, and the new Gungahlin college for 2010.

The government consulted with the community throughout 2006 and did take some difficult decisions to ensure that our education system serves the entire community well into the future, and so that all Canberrans have access to quality education. These difficult decisions have allowed us to invest in our education system. More than $350 million has been invested in improving our schools and building new schools where there is a clear demand for new schools. Every public school in the ACT is being upgraded. A significant amount of work has already occurred. In 2006-07, there were 226 projects across 73 schools—improvements to classrooms, improvements to science labs, art rooms, a range of administration area upgrades, teacher staffroom upgrades, and new facilities for schools.

I have mentioned the new school at Harrison. I refer also to the new school in west Belconnen, the new school in Gungahlin and the new P-10 in Tuggeranong for 2011. These investments—planning for the future, meeting demographic changes in our city—are important measures to ensure the quality of education into the future. These reforms have also led to a focus on and investment in early childhood education—again, planning for the future. There is a very clear commitment from the government that all children deserve the best possible start in life. There is increasing recognition around the world that development in education in the early years is essential to learning and development in later life. More and more, this research is highlighting the importance of early childhood education. Research on the value of early childhood education programs, particularly for children who are disadvantaged, is undisputed and is well substantiated. Quality education in the early years is an essential part of the planning for our city.

This year, all preschools have been amalgamated with a primary school in order to streamline pathways for students. Our new curriculum framework has a strong focus on teaching and learning in the early years. The government is investing in four new early childhood schools which will cater for students from preschool to year 2. They will be located in Narrabundah, Lyons and Isabella Plains. In the north of the city, there will be Southern Cross, as well as the O'Connor cooperative school in the inner north. The government is investing significantly in these new schools, which will commence in 2009, and will focus on early childhood education, early intervention and providing a solid foundation for learning into the future.

Another key area of investment in the future is investment in information and communication technology. The government has invested $20 million in this field to

ensure that the ACT will lead the nation in the use of IT in teaching and learning. Renewal of our school information technology infrastructure is vital to ensure that students can enjoy all of the opportunities that state-of-the-art access to the internet and other areas of ICT technology can provide in enhancing the quality of education. We are committed to providing the latest technology in schools, to create closer links between parents, children and teachers in the ACT and throughout the world and to prepare our students and our city for the future.

We are very pleased to be able to do this in partnership with the new federal government. It is essential, in an increasingly globalised world, that our students have access to the types of information and communication technology that are being used more and more in everyday life. It is also important that students are ready and able to engage with people from all cultures and all countries. That is why, as part of planning for the future in education, the government is committed to ensuring that all public schools in the ACT offer a language other than English by 2010—again, consolidating resources and improving quality in our education system. The government will fund high-quality interactive language training for primary school teachers and language teachers to ensure there are quality programs for students. This investment will help to increase professional skills for all language and primary school teachers in order to increase the ability of schools to offer language programs. Investing in these language programs will help to prepare students for their role in a globalised economy.

It is particularly the case in teaching languages used by our closest regional neighbours, so I highlight Indonesian, Japanese, Mandarin and Korean as important languages. Besides equipping our students with the skills they will need to work in various geographic locations across the globe, the study of languages has a more immediate benefit in helping children to understand and appreciate the variety of cultures and traditions that make up our vibrant, multicultural city.

In looking to the future of our city, it is important that we have a healthy and active community. Currently, Canberra leads the nation in participation in sport and recreation, and this bodes well for an active and healthy community. But we have seen, in recent times, a reduction in physical education in Australian schools as curriculums become more crowded and as issues such as literacy and numeracy have taken priority. I believe we have seen a diminution of physical education in schools and, as the only sport and education minister in the country, I am embarking on a massive promotion of physical education within ACT schools.

Last year, the government announced $1.2 million to fund three specialist PE teachers to work with primary schools, to provide additional professional support to primary school teachers to build our capacity to deliver quality physical education programs. We are also working towards the expansion of the Australian school-based apprenticeship program to include opportunities for senior students to undertake VET certificates in sport and recreation and to provide extra support for primary school teachers. This year, all primary school students in the ACT will be invited to participate in the minister's physical activity challenge. The aim of this initiative is to encourage children to be physically active for at least 60 minutes a day. All schools will be invited to participate and individual classes will take up the challenge. We are

establishing a children's physical activity foundation to provide support for schools, with sporting equipment, community ambassadors and funding grants. These initiatives will ensure that the community continues to reap the benefits of high-quality education and access to school sport and physical education.

Along with a healthy and active community, Canberrans in the future need to be assured they will have access to one of the more basic rights—that is, housing. Canberra, along with the rest of the country, is experiencing challenges in the area of housing affordability. The government has put in place a range of policies, through the affordable housing action plan that was released in April last year, to address these issues. We continue to plan for the future of our city, in contrast to those opposite, who seem only to have plans for their personal advancement in the Liberal Party.

MR SMYTH (Brindabella) (5.02): When I saw this matter of public importance on the notice paper this morning, I immediately reached for my copy of last week's *City News* because I thought I would find the answer there. And there we have it: on page 8 there is an article headed "Meet the man with the plan". So I looked for the plan. "The man with the plan": I thought this might almost be a matter of Mick morphing into the Martin Luther King of the south. Martin Luther King said, "I have a dream." With Mick, it is a matter of saying, "I've got a plan."

When I looked for the plan, I saw that it was all about him. It was not about his constituents; it was not even about his party. It was about Mick and his personal ambition. It was about Mick, Mick, Mick. I think Mick has seen the light on the hill, he has been dazzled by it and it has affected him. Hence today we see this hastily cobbled together MPI. I say it was hastily cobbled together because when I read it and I saw the words "the importance of planning for the future of Canberra", I was sure we were not planning for the past of Canberra. It is this sort of bad language that is cobbled together that worries me.

I do know that the Labor Party have a plan for the future of Canberra, and that is because they know what is going to happen with Mr Hargreaves and the Chief Minister. Their plan is to run six candidates in two electorates for their succession plan, because neither Mr Hargreaves nor the Chief Minister are going to serve a full term, despite their protestations. Obviously, the ALP also have a plan for Mr Gentleman. Perhaps you should be a little bit worried about that, Mr would-be minister and Mr would-be Speaker, because you may well not get to run for the second term of your ministerial ambition and for the third term of your ambition to be Speaker.

It is quite interesting that in the article he described himself as "Mick, the socialist estate agent". Even back in socialist Russia, they had five-year plans—heroic workers' plans to change things. But no, under the Stanhope government, everything is now a 12-year plan—Mick, the 12-year plan man. It is a shame that the minister has left because we should talk about the government's plan for the balloon fiesta, which is rapidly becoming the balloon fiasco. The minister said, just two weeks ago today, that they were going to get the best value for taxpayers' money by changing horses, by shifting it from the community-based Canberra Balloon Fiesta Incorporated—a community-based organisation with a board—to a private firm. They were going to give them $70,000 to run the event.

The curious thing is that it was going to be bigger and better; it was going to be held over nine days. It was going to coincide with the torch relay. Everything was going to be wonderful. Yet here we are, two weeks after that announcement, and the minister's plan is in absolute tatters. Balloon Aloft are now not getting $70,000; they are getting $10,000. Instead of running the event, it is now being run out of the offices of the Chief Minister's Department and Territory and Municipal Services. How that is value for taxpayers' money, and how that plan goes so swiftly to pieces in just two weeks, is beyond me. Obviously, they did not plan. It would be great if the minister would come back and table the business plan that they based this decision on, as well as the legal advice. They have promised to provide some of this to a committee, but they should table it here and tell us about the processes they went through, because their plan is in tatters. It is like what has happened with so many plans, Mr Deputy Speaker, as you would know—the plan to build a concrete memorial bridge to John Hargreaves and the plan to set up FireLink that went so bad.

You have to consider the comments of the then Leader of the Opposition, in his code of good governance speech in March 2001, when he said—and this was Mr Stanhope speaking:

> Labor will ensure that there is, within the ACT Government service, a renewed capacity for policy and planning, so that the days of top-of-the-head or back-of-the-envelope decision-making are gone.

I think the top-of-the-head and back-of-the-envelope decision making are well and truly alive in the Stanhope government as they stumble from disaster to disaster. Just look at the evidence. Recall the Canberra plan, with its three key components—the spatial plan, the social plan and the economic white paper. Let us look at the white paper. It cost at least $2 million to produce a discussion paper and the final document. After two years, it was released in December 2003. A key commitment in this paper was to make the ACT "the most small-business-friendly jurisdiction in Australia". After five years or so, we are still waiting, and so is the business community.

While businesses in the ACT are hit with a raft of higher and newer taxes that impede them in being able to operate more efficiently and more profitably, at the same time we see the government abandoning its economic white paper. There were nine priority industries set out in chapter 5 that are no longer priorities. No longer is it a priority to have information and communication technologies, space sciences, biotechnology, public administration, environmental industries, creative industries, sport science and administration, education, and defence.

Mr Deputy Speaker, you will be surprised to know—or maybe you won't—that many of the actions identified in the paper have been long since ignored. We know that the Chief Minister has relegated actions to being "second order actions"—second-class actions. That is Chief Minister-speak for "they will not happen". Let us look at some of the tax proposals that they brought forward, particularly the proposals to do with changing the basis for determining rates for residential property. Now, there was a plan, and if I remember rightly, the then Treasurer said he drew it up on the back of an envelope. He had a discussion with a neighbour and he thought it was a good idea. Let us look at the introduction of taxing measures that were being abolished in other

jurisdictions. Because we were right on the ball in the ACT, the Stanhope Labor government brought in taxes that everyone else was getting rid of.

The Chief Minister and minister for economic development continually laments the narrow economic base of the ACT. His answer to this lack is quite clear: do nothing. Indeed, his answer is to take actions that make it more difficult for industry to develop, with a more punitive tax regime and, as we saw in 2006, the savage cutting of resources that are directed towards encouraging a stronger and more diversified business base. We slashed the business support staff and we slashed funding for business assistance programs. This government clearly has no plan for business and economic development.

Of course, we could mention the way the Stanhope government planned to have budget deficits at a time of strong economic activity, to the dismay of all. We saw their failure to plan for water security. We know that the Chief Minister was in denial. He said we did not need an additional water supply. He said we did not need it for 20 years, if ever. What have we seen? Another back-flip; we are expanding the Cotter dam. We saw the failure about issues relating to housing affordability. We also saw a failure to devise a plan for building and upgrading key roads around Canberra. We now have bottlenecks and other traffic flow problems which could have been avoided or ameliorated. What has been the response from the Stanhope government? Let us simply consider the response from the minister responsible, Mr Hargreaves, to the bottleneck on the Monaro Highway where it passes over Canberra Avenue. It is well known to Tuggeranong residents. The minister's spokeswoman said: "The government had no immediate plans to amend that section of the highway as the minister had not received any complaints." So if you complain, they will have a plan, but if you do not complain then nobody wants to know.

Not only does the Stanhope government not plan effectively, but it is a complaints-driven government, which is confirmation that it does not have plans of that nature. The failure to develop effective plans for the ACT public bus network recalls the famous Hargreaves proposal of 2006 that had to be substantially revised some months later, after a public outcry—reaction, not leadership. We are now seeing a repeat of this earlier fiasco, with the Hargreaves proposal for more changes to ACTION's bus routes and services. I bring two bus routes to the attention of the chamber—the 768 and the 769, which flow the length of the eastern side of the Tuggeranong valley and are well used by patrons who travel to Russell and Civic. They are mooted for removal.

Let us look at health. I note that the health minister is present. There has been a complete failure to manage the health portfolio without recourse to innumerable plans. At the last count, in addition to the three health ministers, there have been something like 38 plans and programs announced. We have had another one announced this week with great hoo-ha—38 plans and programs in seven years. These are all simply knee-jerk reactions to issues where they cannot cope. It is a case of being seen to be doing something in an attempt to dupe the public. Where is the proper planning? Where is the preventive health plan? Where is the community-based plan?

We also had the January 2003 bushfire disaster, where there were no plans to warn the public. It was evident that the lessons from the December 2001 bushfires had not been

learnt, had not been planned for, and we were not able to cope when it occurred. Consider the recent equine flu epidemic: it was quite evident that, while in a technical sense the ACT responded very effectively to the problem, the Stanhope government did not have a clue about how to respond to some very local issues. It had no idea how to plan to respond to the matter and it offered such limited assistance that many businesses were left either with no assistance or with very poor assistance when it finally arrived.

What about the aborted FireLink project? How many millions did that cost? Tharwa bridge: how many millions did that cost? The Civic to Belconnen busway: how many millions did that cost? It just goes on and on.

MR DEPUTY SPEAKER: The discussion is concluded.

Human Rights Amendment Bill 2007
Detail stage

Clause 7.

Debate resumed.

Question put:

> That clause 7 be agreed to.

The Assembly voted—

Ayes 11		Noes 6
Mr Barr	Mr Hargreaves	Mrs Burke
Mr Berry	Ms MacDonald	Mrs Dunne
Mr Corbell	Mr Mulcahy	Mr Pratt
Dr Foskey	Ms Porter	Mr Seselja
Ms Gallagher	Mr Stanhope	Mr Smyth
Mr Gentleman		Mr Stefaniak

Question so resolved in the affirmative.

Clause 7 agreed to.

Clause 8.

MR SESELJA (Molonglo—Leader of the Opposition) (5.19): I will be opposing this clause. This is consequential to the proposal in clause 7.

Clause 8 agreed to.

Clause 9.

MR SESELJA (Molonglo—Leader of the Opposition) (5.19): I will be opposing this clause for the same reasons as my opposition to clause 8.

Clause 9 agreed to.

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

Bill, as amended, agreed to.

Regulatory Services Legislation Amendment Bill 2007

Debate resumed from 12 February 2008, on motion by **Mr Barr**:

> That this bill be agreed to in principle.

DR FOSKEY (Molonglo) (5.20): As I have mentioned in previous debates, I worry that the Office of Regulatory Services is being stretched too thin, given the range of services it is required to provide. This bill, as noted by Mr Corbell, does suggest ways to address the office's heavy workload by increasing efficiency across many of its regulatory agencies. Increasing efficiency, which often means more work on fewer dollars, seems to be the overriding aim of this legislation, with the benefits to business and the public a secondary concern.

The process of achieving greater efficiency was no doubt necessitated by the 2006 functional review. I hope that this bill closes that process until there has been a review of the impact of these changes on services to consumers and business. I believe that, as well as making small changes such as these to improve the efficiency of the office, providing adequate staff and resources would also assist.

That said, we are here to debate the specific amendments in the bill, and while I can see no reason to impose these amendments, there are a couple of minor issues I would like to raise. First is the issue of the police check, as raised by the scrutiny report. Police checks are standard practice in much of civil society these days, and they do serve as a guard against abuses in a variety of positions in the public service and the private sector. Obtaining a police check in order to apply for one of the licences described in this bill is already a requirement, and, as Mr Stanhope notes in his response to the scrutiny committee's concerns, the intent of these changes is to lessen the workload of the Office of Regulatory Services by having people apply and pay directly to the Australian Federal Police themselves rather than going through the office.

The intent of the amendment is not being questioned; the question regards the inclusion of charges in the police check, as shown in clause 17 and elsewhere. Mr Stanhope noted in his response:

> I do not anticipate that the criminal record check will differ from the check that is currently undertaken …

The amendments allow the applicant to deal directly with the AFP to correct any errors rather than working through the office. These statements, coupled with clause 17 (b), which requires the particulars of each offence to be included in the certificate, could serve as a mechanism for the details of charges to be included in the

check whatever the outcome. Therefore, I believe these amendments are unlikely to cause a great deal of pain in implementation.

Clause 19 amends the Births, Deaths and Marriages Registration Act. That makes sense, and I am pleased to see that the amendment relieves the individual of the obligation to ask that the original registering authority be informed, and, indeed, ensures that it is. I hope that it will reduce the incidences of identity fraud enabled by birth certificates retaining the original name.

The ACT, being a small jurisdiction, presumably has only small numbers of identity fraud convictions. However, as this amendment indicates, these types of fraud often occur across jurisdictions. Identity fraud is a growing problem both nationally and internationally, aided by new technologies. Though the incidences of fraud committed by "individuals who have changed their name through the use of a deed poll" seem small—approximately five per cent of identity fraud court decisions in 1998-99, according to a 2003 report by PricewaterhouseCoopers and the Australian Institute of Criminology—it is likely that these figures are climbing, and actions to subvert this increase are to be commended.

The changes to the requirement to keep a register of licensees under the Sale of Motor Vehicles Act are reasonable if, as noted in Mr Corbell's presentation speech, the new register will be consistent with other registers kept by the office and updated regularly. In clause 35, though, there is no mention of how regularly this register must be updated. Though I trust that the employees of the office are diligent in maintaining these records, requiring the details to be notified by a certain date would help to ensure that details are up to date and correct and that they give employees a time frame in which to plan.

My other concern with this register is that it need only be available to the public at "reasonable times". While we could assume that that will occur within business hours, who will determine what constitutes "reasonable times"? The licensee information, as currently shown on the legislation register website, is available online 24/7. Will the office be providing the same level of access, perhaps with their own website? I grant that business hours may normally be when the public would hope to access information, but considering that the details have previously been available online, I would hope that they remain so. I seek the minister's assurance in his closing speech that that is, indeed, the case.

I note that, amongst the amendments to the Agents Act, the Commissioner for Fair Trading will have wider powers to discipline agents being investigated for a breach, thus shielding the public from further loss. While this could cause difficulty for the agents, Mr Corbell has stated that the ability for the licensee to present their case to the independent Consumer and Trader Tribunal before disciplinary action is taken, will remain.

I also note, as did the scrutiny report, that there are broader powers for inspectors to enter and inspect dealer premises under the Sale of Motor Vehicles Act. The scrutiny committee felt that this was a reasonable change, and so do I, given the consequences of purchasing and driving a car—which are not all they are claimed to be—as long as, as with most things in government, these powers are not misused.

I am pleased to see the correction of the omissions regarding telephone trading and the contracts which arise from such trade. Door-to-door trading is reducing due to the difficulties of finding anyone home these days, and telemarketing is becoming more common—and generally unpopular—in our community, so it is important to protect consumers from dodgy deals.

While I think it may be difficult to police a cooling-off period from the day the contract was received by the customer, it is hard to see how this could be better achieved. This system is certainly better than what is available under the current legislation.

The amendment to adjust business name registration to allow registration for five years instead of three also seems sensible for businesses while reducing the workload of the office. The amendments are, for the most part, non-controversial. Because of its importance, I would like to see more resources for the Office of Regulatory Services as well as these efficiencies, and, while I note that some of these changes may cause inconvenience to consumers, I will nonetheless be supporting the bill.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.28), in reply: I thank the Assembly for their support of this legislation. These reforms, as members have highlighted, do deal with issues around improving the delivery of services by the new Office of Regulatory Services, and they are designed to streamline administration in a range of matters.

In particular, it is worth highlighting the changes in relation to police checks, and I think it is outlined in my explanatory statement. The Office of Regulatory Services deals with about 3,000 police checks every year on behalf of clients. That has often involved double handling, because clients make an application for a licence of some sort from the Office of Regulatory Services and they are obliged to have a police check to support that licence application.

Previously, the office has done that police check on their behalf, and it often involves a phone call to the office to find out where the police check is at, a phone call to police to find out where their process is at, and then a reverse chain of events. It has become quite a time-consuming and tedious process when it would be far better for the applicant to deal with the police directly. If police require further information or particulars we do not really need to have the middle person in the way through the Office of Regulatory Services. That reform on its own is worth its weight in gold in terms of improving the business operations of the Office of Regulatory Services.

As members have highlighted, there is a range of other mechanisms that are being improved and put in place through this bill, and they are all focused on providing for an improved level of operation for the Office of Regulatory Services. I should outline that the government will be presenting a small amendment during the detail stage, and this flows from discussions with the Motor Trades Association.

The Motor Trades Association have raised with me concerns expressed that the new powers for inspectors in the Sale of Motor Vehicles Act 1977 would permit an

inspector to seize a computer or server when the information can simply be downloaded or a copy taken. Obviously, to seize a computer or server could effectively stop a business from trading. Instead of requiring the whole piece of equipment to be obtained and seized, the government is proposing through an amendment that if the data is able to be obtained by simply being downloaded without the computer or server being seized, then that is an adequate compliance action and there is no need to seize the actual computer equipment. As foreshadowed, the government will be moving that amendment in the detail stage.

I thank members for their support of this bill, and I look forward to the streamlined opportunities that will arise from its passage for our new single and central Office of Regulatory Services.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 24, by leave, taken together and agreed to.

Clause 25.

MR STEFANIAK (Ginninderra) (5.32): Mr Temporary Deputy Speaker, I have not had much of a chance to talk to the Attorney-General about this clause, but there are some problems. Probably the simplest thing might be to adjourn the debate or perhaps delete this clause and other clauses. Let me just address the clause and, in doing so, address part 5 as a whole.

The people from Telstra saw the Attorney-General yesterday at 1 o'clock, and then they came to see me at 2 o'clock. I have received at some stage today their suggestions for a series of amendments. The fundamental problem in relation to this clause and this part is that they say that, whilst it is okay as far as it goes, there are some problems which do not apply in Victoria or New South Wales or, indeed, federally, because there are exemptions. They say that there are exemptions in the two states in which this type of legislation applies—exemptions to avoid unwarranted consequences. As a result of those exemptions, there are no problems, no issues.

At present with this particular proposed part, unlike Victoria and New South Wales, in the ACT you cannot provide the service during the cooling-off period. We do not have the same exemptions as Victoria and New South Wales, nor do we have the cooling-off provisions they do. In terms of the 10-day cooling-off period, I am advised that that is not actually provided for federally either. The big problem with it is that, for example, in terms of a mobile phone, if Telstra, as the ones handling the problem, cannot renew a contract in that period, you might end up with no mobile phone for 10 days and then you will lose your number, and there are all sorts of problems there.

Telstra state they need exemptions for the cooling-off period and, similarly, also for classified ads. For example, if they had an exemption to provide a service to put an ad

in the *Trading Post*, say, that would be fine. But, at present, they cannot ring up asking you whether you want the ad to go in the *Trading Post* again or the *Canberra Times* or the *Chronicle* or the *City News* or wherever you might need to run ads for more than just week. I understand that that normally happens for ads within a couple of days only. Things like the *Trading Post*, for example, are published weekly, as are some of these other papers. Telstra—or other groups—will not be able to ring you up to ask whether you want your ad in next week. They would at the very least have to do it every two weeks, and that is a major change.

Telstra say that is going to have a big effect on bodies such as TransACT, and Canberra residents will be the ones who are disadvantaged simply because nothing can happen for 10 days. Apparently in New South Wales and Victoria there are exemptions which actually allow that to happen. I do note that the Attorney-General sent a letter back to Telstra saying that the provision does not stop people ringing up and saying they would like the ad in again or they would like their old phone contract to continue. The trouble is that people often do not do that, and that is putting the onus on the consumer. Another problem, sadly, these days is that you probably go through telephone call centres and talk to Rajah Singh in Mumbai and it probably takes you 30 minutes. I did put that to the Telstra people, and they agreed that that also could be a problem. I do not think it is a substitute to expect the consumer to actually have to ring up. The consumer may not remember anyway.

Whilst Telstra actually had no problem with what is written in part 5 as far as it goes, they had problems with the effect of how it would operate. They indicated probably a third of all people they would deal with might well have problems. Certainly, that would be logical if you extended it to people who put these ads in on a weekly basis and they might need them to run for another week. The body with whom they place the ads simply will not be able to ring them up and say, "Do you want it in next week?" because there is a 10-day cooling-off period.

Telstra provided various papers to Mr Corbell and me. Basically they are seeking—I will refer to a briefing note they gave to both Mr Corbell and me dated Monday, 3 March—certain exemptions in relation to changes to the Door-to-Door Trading Act proposed by this particular bill. They say that New South Wales and Victoria are the only two states to regulate telemarketing versus door-to-door sales. Both those states have exemptions in place in their fair trading acts and regulations for provision of continuing services during the cooling-off period, contracts for classified advertising, and recontracting and major changes to service. They are asking that these exemptions be extended to the proposed changes to the Door-to-Door Trading Act 1991 currently before the ACT Parliament. They say Telstra is also seeking changes to some aspects of the wording of the bill to ensure inbound calls from call centres in the ACT to customers outside the ACT are not included, which is a jurisdictional issue. They spoke to me at length about that.

I note the time. I would seek for the benefit of members to simply table the five-page document they sent to me, which is basically a briefing note the Attorney-General and I have received. I will just table that for the information of members, and I seek leave to do that.

Leave granted.

MR STEFANIAK: I table the following paper:

> Regulatory Services Legislation Amendment Bill 2007—Briefing note prepared by Keren Davies, Legal Counsel, Telstra, dated Monday, 3 March 2008.

I note in the running sheet that it has got that I will be opposing this clause and this part. That is one way we could do it, Mr Temporary Deputy Speaker, if people were agreeable. That would take this clause out and then it would have to come back in with the exemptions. I just wonder whether it might not be better, in the first instance at least, to simply adjourn debate on this bill to see if these matters can be fixed up. I probably doubt if they could be by Thursday, even though I have been given a series of amendments, which I think are somewhat complex. Unless there is particular urgency for this particular bill to go through, I would think it is something that could come back at the end of March and the next sittings with any necessary amendments.

I am really concerned that a lot of consumers are going to be put out here, that people might lose their mobile numbers and that there are these unintended consequences which apparently do not apply interstate because of those exemptions that I mentioned. At least if those exemptions were dealt with, I would hope that we could come back in a few weeks time with the major points covered. If there is anything further which could be looked at in a more leisurely fashion, that would be fine.

This is something that is going to affect a lot of people in our community as it is, and I am just concerned that they are unwarranted consequences. The people who saw me are the same as those who saw the Attorney-General. They have no issue with what is here. It is simply the fact that, as it stands without exemptions, there will be big problems, which really will impact on consumers. Surely that is not something we want.

In legislation like this we want to protect consumers. We want to make it as easy as possible for them. We want to put necessary imposts on businesses. This is especially aimed at fly-by-nighters to get them to do the right thing, which is what it does, but there are also these unintended consequences, which I point out briefly to the Assembly now. Even if debate were adjourned for only for a couple of weeks, I think we should be able to sort it out. If the Attorney-General could do it even earlier, fantastic. The best thing in the circumstances is to adjourn the debate and, accordingly, I move that the debate be adjourned.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.40): The government will not be supporting the adjournment of debate. I will outline the reasons for that now. The Telstra corporation contacted me by correspondence within the last month, and I had a very prompt exchange of correspondence with them. As Mr Stefaniak has indicated, they have since met with me. They met with me yesterday, and I understand they also met with Mr Stefaniak. The issues raised by Telstra relate to cooling-off periods for certain products or contracts entered into that may be obtained through telemarketing activity of one sort.

MR TEMPORARY DEPUTY SPEAKER (Mr Gentleman): Mr Corbell, I have just been advised that we cannot debate the actual question. The question needs to be put on whether the debate be adjourned.

MR CORBELL: Thank you, Mr Temporary Deputy Speaker.

MR TEMPORARY DEPUTY SPEAKER: Order! I have received some further advice in regard to the adjournment of debate. Mr Stefaniak is not permitted to move that debate be adjourned on this matter; another member of the Assembly needs to do that.

MRS DUNNE (Ginninderra) (5.44): I move:

> That the debate be adjourned.

Question put:

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

The Assembly voted—

Ayes 6	Noes 11	
Mrs Burke	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Berry	Ms MacDonald
Mr Pratt	Mr Corbell	Mr Mulcahy
Mr Seselja	Dr Foskey	Ms Porter
Mr Smyth	Ms Gallagher	Mr Stanhope
Mr Stefaniak	Mr Gentleman	

Question resolved in the negative.

MR TEMPORARY DEPUTY SPEAKER: The question now is that clause 25 be agreed to.

MR CORBELL (Molonglo-Attorney-General, Minister for Police and Emergency Services (5.46): Can I just clarify the situation in relation to Telstra's representations to the government. Telstra have raised concerns about the application of the Door-to-Door Trading Act and, in particular, the provisions around the cooling-off periods and whether or not they should apply in certain circumstances where people request changes to existing telephone contracts or whether they do so in the course of a telemarketing call.

The government's view needs to be made clear on this. First of all, changes to the Door-to-Door Trading Act clarify existing provisions in the act. We are not making any new provisions in relation to the Door-to-Door Trading Act per se, but we are clarifying their application. Secondly, the Door-to-Door Trading Act does apply, I am advised, in relation to telemarketing activities. It was of concern to me that Telstra appeared to be unaware that our act did apply in those circumstances and that they viewed these provisions in the bill as new legislative or regulatory impositions. That is not the case. These are existing provisions clarified in this bill in terms of their application. The Door-to-Door Trading Act, I am advised, does apply in relation to telemarketing activities. Having had that meeting with Telstra yesterday, I am more

confident that they have regard to their obligations in the ACT when it comes to telemarketing activities.

Thirdly, Telstra nevertheless have raised a range of circumstances where there may be the need for reconsideration of cooling-off periods and whether or not they should apply in particular circumstances around the telemarketing activities of Telstra and those of other entities. My view on this and the government's view is that any change to the cooling-off period for telemarketing activities covered by the Door-to-Door Trading Act should be the subject of broader discussion with the community, in particular with consumer groups. It would be imprudent for the Assembly to legislate on these matters without discussing the ramifications and analysing the ramifications more broadly.

It may well be the case that the issues raised by Telstra are quite legitimate and the changes that they propose are relatively straightforward. But I am hesitant to remove consumer protections, as suggested by Telstra, without some discussion and engagement with consumer groups and other stakeholders. My position to Telstra has been that the government will not make amendments to this bill, the Regulatory Services Legislation Amendment Bill, at this time, but we are very open to considering the issues in more detail. I have asked officers of my department to meet further with representatives of Telstra so that these matters can be further clarified and discussed in more detail. The government will then consider whether there is a need for a separate amending bill to deal with these issues.

It is clear that telemarketing activities are very complex in nature, and it can be the case that, in an attempt to solicit somebody's custom through telemarketing, an existing consumer may choose to request a change to an existing service or contract. At the moment, that is captured by the gamut of the Door-to-Door Trading Act. Whether or not it should be in the future I think warrants further discussion. That is our position. We will progress it on that point. The government is engaged in this discussion and is keen to address any legitimate concerns that Telstra have raised. I believe there are a number of legitimate concerns, but the timing around the passage of this bill, first of all, makes it impracticable to do so. I would not want to delay the overall implementation of these important reforms for the operations of the Office of Regulatory Services. Secondly, I would not want to enter into changes around cooling-off periods, which are designed to protect consumers, without further discussion with consumer groups.

Clause 25 agreed to.

Clause 26.

MR STEFANIAK (Ginninderra) (5.51): I hear what the Attorney-General says. I do have some concerns. I note from the notice paper that we oppose the clause. Let me assure members that I am hardly going to call a division on that. I just worry, again, about what the people from Telstra told us. I will reiterate it. What is provided here is fine. We do not want to see fly-by-nighters being unscrupulous and causing problems for consumers. But, by the same token, we surely do not want unintended consequences to cause a lot of problems for consumers either.

On one occasion or another, most of us here have probably been rung up by someone saying, "Do you want the ad to go in again next week?" I was once rung up by TransACT, who were asking whether I wanted whatever scheme it was—where you have four things in one—to continue after a two-year period expired. I said, "Yes, thank you, we are pretty happy with that." I did not regard that as a great impost on me. I would not have had a clue off the top of my head—I do not check every single document that comes into the house on a regular basis and go back and recheck them—that the two years was up.

From what limited experience I have had in this as a consumer, it seems that, from time to time, you will be legitimately rung up asking if you want to extend. That is often very close to the end of the extension date. It concerns me when I hear that, because of this particular provision, people might lose their mobile phone number and might be put to all sorts of additional inconvenience and expense because of an unintended consequence of this bill. It is not rocket science. What has been proposed by Telstra on the face of it looks fairly sensible. It seems that the attorney and I are not necessarily at odds in relation to that.

I also think that some of the unintended consequences of this bill—the main unintended consequences that would be likely to affect a lot of consumers—could be cleared up fairly quickly. Hence I make my unusual suggestion of adjourning it. Another way might be to take this part out and come back with a substantive bill. Again, if there is any urgency in dealing with the bulk of this part 5, that could be done, I would think, within a few weeks. If there are only a couple of areas where there is a real problem for the consumer, that would be the case. If there are other areas which are a bit more esoteric or not really likely and where it is conceded that the matter is not likely to affect too many people, maybe you might spend a bit more time there.

I am concerned that what we might be doing here—for the very noblest of aims; no-one disputes that that is what part 5 is all about—will lead to a series of unintended consequences that are going to affect consumers adversely. At the end of the day, big groups like Telstra can probably rearrange how they do things, but that is probably going to have some effect on consumers. In the meantime—this bill will obviously become law; it will take effect within a few days—there will probably be tens, or maybe hundreds or thousands, of Canberra consumers who will be adversely affected here.

I do not think it is appropriate. It simply does not work in practice. It is okay if the consumer rings up and says, "Look, I want that extended; I note that I would like that ad in again" or "I note my two-year contract is about to expire and I would like it extended on the same terms." That probably does not happen all that much. It might perhaps in the ad situation—perhaps. But in terms of longer term contracts which people are quite comfortable with and are happy with, it is a courtesy call. We get them all the time. We get them in some things where other people are probably trying to sell us something. "Do you want some more of X, Y and Z?" You say yes or no.

But in something like this—something as important as telecommunications and something as important as someone's mobile phone—there are some significant

problems. How we address them is not rocket science. The most sensible thing would be to do it properly and to get it right first time. Hence, there is our opposition to 26—only in that there is a need for some further work in this part: further work which needs to be done quickly, for the sake of all concerned. That would be a far better way of doing it than having to come back and correct problems which are now foreseen.

It is a shame that, although Telstra has obviously been in contact with the minister for a little while, the first we heard of it was yesterday. It is a bit of a shame. They probably left it a bit late to see him, too.

Mr Corbell: A couple of weeks.

MR STEFANIAK: A couple of weeks, yes. And again they saw him at 1 o'clock yesterday, which is the day before the debate, and they saw me at 2 o'clock. They see the minister one day before the debate is due and they see me on the same day. There is not much time. I have not had a chance to go through what they are suggesting in detail. They have now provided a series of suggested amendments. It is a shame that they did not see us a month or so ago—or more—to give a bit more lead-in time. Then we probably would not be having this part of the debate today.

But it is important to get the legislation right. Accordingly, if the minister does not want to adjourn the matter, it would be best to take this out and fix it up as quickly as possible so that everyone, especially consumers, get the legitimate protection they need. Let us do it properly.

MR MULCAHY (Molonglo) (5.56): I will speak briefly. I join the underlying sentiment in what Mr Stefaniak said about the performance of Telstra in putting their case forward. Having just spoken to Dr Foskey, let me say that neither of us has had any approach from Telstra or their government relations people. That is pretty poor—if, as appears to be the case, they raised this with the shadow minister 24 hours before the bill was to come before the house.

I do not know of any company in Australia that has more hired guns in public affairs than Telstra. I have taken up issues on their behalf—but not just for them—which they have been concerned about, such as the utilities tax. I am unpersuaded. I am struggling to understand the concern Mr Stefaniak has, although he has talked about people losing numbers and so on. I would want to see the concerns thoroughly tested. If lobby groups are not willing to get their act together and put their case to all interests in this place, they must live with the consequence of government legislation.

So I am going to support the government's move. If they had concerns, they should have raised them earlier with the minister, and with the shadow minister and the crossbench. I have not yet heard a compelling, persuasive argument that would convince me that the legislation is deficient. If they have got a concern, they might come along. We can all look at amendments, but the jury is out as far as I am concerned. It has not been advanced terribly well.

DR FOSKEY (Molonglo) (5.58): I say ditto to what Mr Mulcahy just said. I will call these the Telstra amendments until I have some understanding that we are seeing our

members here in the Assembly putting the amendments because they truly believe them and they have done the work—and convince us, not just reiterate Telstra's concerns. Until then, I am not able to consider these. I also note that there are 17 people in this Assembly; there are two parties and two crossbenchers. It is really important that corporations and other lobbies get used to the fact that they might have to speak to more than two parties after the next election.

Clause 26 agreed to.

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

At approximately 6.00 pm, in accordance with standing order 34, the debate was interrupted and the resumption of the debate made an order of the day for the next sitting. The motion for the adjournment of the Assembly was put.

Adjournment

Schools—closures

MRS DUNNE (Ginninderra) (6.00): This afternoon, in an attempt to suspend standing orders, I was in the middle of giving an exposition on the documents that have now been released by the department of education and the Minister for Education and Training as a result of decisions made by the Administrative Appeals Tribunal. I tabled those documents this afternoon.

The first of those documents is folio 02798, which the minister released in an undated letter to me which I received in my office on Friday, though I notice from his tabled statements of reasons that he released it on 4 February. This document is an email from the ministerial and communication section of the department of education reminding people that there was a deadline for coordination comments for the education amendment bill and the submission on *Towards 2020*. There was also a follow-up email from the cabinet liaison officer in the Department of Justice and Community Safety to say that their department had no comments to make on this. This was a document over which there was a conclusive certificate—the highest level of secrecy that you can obtain under the Freedom of Information Act. This is an email that basically says, "Chaps, remember to put in your coordination comments on this cabinet submission."

Two other documents were released to me by the department of education as a result of the decision made by the Administrative Appeals Tribunal. I tabled those earlier today. One is folio 01471. It is a handwritten note that reads, and the words are underlined:

> Meetings Thursday night
> Yarralumla, Melrose, Isabella Plains

Under "Melrose" there is an arrow from the words "4 proposals to put up". I think that is what it says. Then it says:

> Phone calls at 12.30 pm Thurs …
> DET feedback emails …

Then there are ditto marks, so I presume that means 12.30 on Thursday. Then it says:

> Ministerial letters

And down the side it has the numbers "60", "140" and "10".

Again one asks why this document was subject to a conclusive certificate. Why was the highest form of protection available under the Freedom of Information Act, never before used in the ACT, used for these two documents?

The third one, which is folio 02575, is a blank piece of paper with a box on it that has the word "Conclusion". The only conclusion I can come to is that a conclusive certificate was issued on this because the word "Conclusion" was on it and they thought that there must be some relationship between them.

I call on the Minister for Education and Training to give an explanation to this Assembly by close of business tomorrow as to why these three documents ever received a conclusive certificate. The conclusive certificate on these documents is absolutely and completely fraudulent. The issuing of a conclusive certificate over these documents says that there are matters in this document which are so secret, so sensitive, that it is not in the public interest to release them. Mr Speaker, I ask you why an email that says "Chaps, get in your coordination comments" or a page with a box and the word "Conclusion" in it in any way meets the test of being in the public interest, of being deprived of permission for release under the Freedom of Information Act.

I put it to the minister that he should come in here and explain why his department issued a conclusive certificate over these documents. It might also be useful for the Chief Minister to explain why his department issued a conclusive certificate over document 02798, because that document was also subject to a conclusive certificate by the Chief Minister's Department.

Ms Val Plumwood

DR FOSKEY (Molonglo) (6.04): I rise in the week of International Women's Day to remember a friend of mine who died last week, someone whose death I learned about from the front page of the *Canberra Times* yesterday. Her contribution is very important and should be mentioned in this place.

Val Plumwood is someone that I had known for a couple of decades. We met through our mutual passion and concern for native forests. Val was a philosopher, a musician, an eco-feminist—a self-defined and a passionate environmentalist who put herself on the line.

Val lived near Braidwood and was a local identity. She lived on her own, in a stone house that she built in the bush on a property that she called "Plumwood". Before she took the name Plumwood—because it is a particular tree on the property—she was known as Val Routley. She and her then husband, Richard Routley, wrote a book that

absolutely changed the way we understand the forests in Australia. That does not mean that it got the recognition it deserved; in fact, I think you would find it very hard to find a copy now. It was produced in 1973. It was called *The Fight for the Forests*. It was very well researched—a response to what was then the destruction of native forests in the south-east of Australia for pine plantations.

We now know that many of those pine plantations have not been harvested. There are all kinds of problems that I will not go into now, but the move was based on false projections by ABARE, which said that there would be a worldwide shortage of softwoods in a couple of decades. At the time Val was doing that, I was embarking on the fight against the destruction of East Gippsland and south-eastern New South Wales forests for woodchips—again, a very low value and misplaced policy direction, I believe.

The later work of Val cemented our collaboration. For instance, there was her work on the Concatenated Order of Hoo Hoo—I am sure Hansard will want a copy of that—which is the organisation where our taxpayer employed foresters mingle with their industry counterparts and set up jobs for themselves once they leave the department. Her analysis of institutional connections was very profound; it has not been followed up by anyone else, perhaps with the exception of Ian Penna.

When I was working for the ACF editing the report *The ecological future of Australia's forests*, I asked Val—she was the best placed person—to contribute a chapter on the intrinsic value of forests, the idea that forests have a right to exist for their own sake and not just for our own amenity. Later, she wrote a seminal text, *Feminism and the mastery of nature*.

Val was a well-known local identity but her academic work placed her on the international stage. She always said that she was better known in the United States than she was in Australia. She had just secured for herself an ARC grant, and she was embarking on the academic career that she always wanted to have in Canberra. Val worked with environmentalists in Canberra and the Braidwood region to save Monga forest from woodchipping. Like many women, she struggled to take her rightful place in academia.

Val is most well known for fighting off a crocodile and surviving. She may have met her death from the bite of one of the many snakes that found sanctuary at Plumwood, but I take comfort in reading something that I found on the internet from an interview she had with the *Age* when she talked about that encounter with the crocodile. She said:

> It was really a life-changing event for me. Those final experiences have an incredible intensity—that's why they have such a life-changing power …
>
> During the attack, it seemed as if I'd entered a parallel universe where I didn't count for anything, I was just a piece of meat. So I've had to develop a different idea of eating and being food, where we must honour our food and the more-than-food that all of us are, including other life forms.
>
> It also changed my view of death. I used to be a conventional atheist, thinking that you live your life and the story ends completely with death, that there's

> nothing at all after that, no immaterial world you go on to without your body. Now, I still think there's no other world, but I don't think the story ends with your death. The story passes on to the other life forms that you nurture with your death, nurturing those who have nurtured you, in a chain of mutual life-giving.

Val's quest was to make us realise that we are part of nature and we must respect it.

Schools—closures
Qantas Australian tourism awards

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.09): I was coming down to talk on another matter but, given Mrs Dunne issued a challenge, it would be remiss of me not to respond. The answer in fact, I am advised, is quite simple and straightforward. My advice is that the AAT, in making its decisions, said that parts of documents could in fact be released and should be released. The documents that Mrs Dunne received were parts of other documents in which the AAT in fact upheld the decision of the department.

It is worth noting that I delegated my powers to the chief executive so as to avoid any question of political decision-making in terms of FOI documents, that the department undertook a thorough process and that Mrs Dunne has received more than 16,000 folios of information. The AAT upheld, I think, 99 per cent of the decisions that were made by the department; they did request a reconsideration of a very small number of folios. That reconsideration was undertaken. I have reported to the Assembly. Mrs Dunne has been provided with portions of particular documents that the AAT deemed not to have coverage by a conclusive certificate. Those documents have been forwarded to Mrs Dunne.

But the real reason I am here in the adjournment debate is to congratulate all the award winners at the 2007 Qantas Australian tourism awards. The awards were held here in Canberra last Friday night at the National Convention Centre. It was a magnificent event, attended by tourism industry leaders: my federal colleague the Minister for Tourism, Martin Ferguson; a number—I think nearly all but one—of the state and territory tourism ministers; as well as 900 other guests. The awards are open to all tourism businesses and suppliers in the tourism industry and provide the opportunity for public recognition of tourism businesses who achieve excellence.

Whilst congratulating all of the award winners, I particularly like to congratulate the winners from Canberra and the region. Questacon, the National Science and Technology Centre, took out the tourist attraction category for the second time in three years. A very personal favourite of mine as tourism and education and training minister, the Canberra Institute of Technology's Faculty of Tourism and Hotel Management took out the tourism education and training category for the second straight year. It is worth noting that, if they win again next year, they will enter the Hall of Fame. Grazing at Gundaroo won the tourism restaurants catering and services category.

I would also like to congratulate the many ACT finalists who, along with the award winners, have shown again the quality of tourism operators in the ACT and the capital region.

It was a great honour for Canberra to be able to host this year's event and to welcome Australia's best tourism operators to Australia's best tourism destination. Hosting the 2007 tourism awards did provide the local tourism industry with a great opportunity to showcase the national capital to a national tourism and travel audience.

I commend all of the entrants who have worked so hard this year in entering the award. The awards process is very challenging, but it does provide many benefits to those who participate.

A particular thank you to all of the staff members at Australian Capital Tourism who have worked very hard over a 12-month period to ensure that Canberra put on a magnificent event that exceeded expectations and, I think, has set a benchmark for future years. In particular, I would like to express appreciation for the admirable work done by the general manager of Australian Capital Tourism, Simonne Shepherd; Jonathan Kobus, product and industry development manager; Susie Dunn, programs coordinator in the horticulture area; and Lauren Griffiths, public relations and media executive in Australian Capital Tourism. They did an outstanding job.

I am sure that all those who attended had a fantastic time. The $30 million upgrade to the Convention Centre was shown off in a most magnificent way. It was a fantastic event—much, much, much better, I have to say, than the show Sydney put on last year—and we did Canberra proud. It was a great event for tourism in Canberra, and we will continue to build on this in furthering our tourism industry.

Qantas Australian tourism awards
ACTION bus service—timetable

MR SMYTH (Brindabella) (6.13): Yes, the minister and I finally have something that we agree on: it was a fabulous night. I think one of the great aspects of the upgrade of the Convention Centre is in fact the full screens that occupy the windows of the northern wall of the exhibition hall. To see so many of the national capital's major attractions up there in all their glory was incredibly impressive. I understand those screens were actually made by a local firm; so well done to that firm as well. I think they proved themselves to be a winner. Indeed, having started my public service career in Questacon as their shop manager, I am very pleased to see Questacon pick up an award. Well done to CIT and Grazing. I have used both their services.

Yesterday Mr Pratt and I were presented with a petition that was tabled today by Mr Corbell, signed by over 300 users of the 769 and 768 bus services, asking him that their bus service not be cancelled as a result of Mr Hargreaves's ironically named "building a better bus service" plan. The majority of these signatories live in Chisholm and Gilmore, with others being from Richardson, Calwell, Theodore and Isabella Plains.

The 769 bus only makes six trips a day. It runs three services from Theodore to the city in the morning, and three services from the city out to Theodore in the evening. It starts at City West, going on to the city interchange, then through to the Russell Offices, then down the Monaro Highway to Chisholm, Gilmore and through to the terminus at Theodore, making various stops along the way.

Yet with just three buses worth of people each day, we have 300 signatures of people wanting to save their bus service. My understanding is that the majority, if not all of the signatures, were actually collected on the bus. I think you have a tremendous effort from the community to send a message, a very clear message, to this government, this minister and indeed their local member, Mr Hargreaves, that they would like to save this bus service.

The 300 people use this service on a reasonably regular basis, yet their service will be cancelled if Mr Hargreaves's plans are allowed to go ahead. Mr Hargreaves is here as a member for Brindabella and I think he should listen to these 300 signatories from his electorate. These 300 people are so unhappy with these changes that they have got organised, they have signed a petition, they talk about it on the way in in the mornings, in the hope that it will do something to stop the change. Building a better bus service is John Hargreaves's latest effort to reshuffle the deckchairs on the *Titanic* that he has created out of ACTION buses and their timetable.

I have travelled on both these buses, and I have travelled on both of them recently to see whether the claims that the majority of passengers got off at Russell were true. It is just not true. The majority of passengers continue along to the city and to City West. It is a shame that Mr Hargreaves intends to do away with two of what appear to be the most efficient and effective services, the 768 and the 769.

The 768 also starts in Theodore, but it comes into the city via Duggan Drive, then on the western side of Calwell, through Isabella Plains and Chisholm and then into the city.

These two services provide efficient and inexpensive transport for many residents of my electorate to get to and from work each day and are particularly efficient in terms of time. Many of them are now facing, in some cases, up to a doubling of the time it will take them to get from their homes to their place of employment. I think that would be a shame when all of the talk these days is about getting people out of their cars and giving them incentives. We have all the combinations of what the government wants.

These buses are basically full each time. Each time I have seen them they have been full. I understand they are full most trips that they make. They go through some park and ride where people from as far away as Bredbo, for instance, park at the Chisholm shops and catch the bus in. For instance, the lady whom I heard speak on 2CN said she used to have to drive to Woden; now she does not; she stops at Chisholm; she gets a bus in. That is good for everyone.

I think the petition is an indication that, from just a small catchment, there are severe and grave concerns about what is being proposed. I think the Xpresso service that Mr Gentleman boasted he was able to take into work could well be either the 768 or the 769.

Mr Gentleman: The 769.

MR SMYTH: The 769, Mr Gentleman confirms. It is not going to come to the Assembly anymore if Mr Hargreaves gets his way. I hope Mr Gentleman is having a word in Mr Hargreaves's ear.

Mr Gentleman: I have sent him a letter.

MR SMYTH: You have? Mr Gentleman has joined the bus, so to speak, and has joined Mr Pratt and me in standing up for the users of the 768 and the 769 services. I congratulate you and I welcome that, Mr Gentleman. I hope Ms MacDonald does, too, in the short time that is left to her with us, because the 768 and the 769 are great services. But even greater is the spirit on the buses. These people actually want to do the right thing. They do not want to take their cars in; they want to help and they are being thwarted in those efforts by the government.

Lions Youth Haven

MR GENTLEMAN (Brindabella) (6.19): Last week I had the pleasure of representing the ACT government at an event that helped highlight the tremendous community spirit that thrives in the Tuggeranong region. The Lions Youth Haven recently received a community water grant from the federal government in the amount of $50,000. That was presented at their premises in Kambah by our federal member for Canberra, Annette Ellis.

This particular grant for the Lions Youth Haven will provide for a water tank that will save an estimated 850,000 litres per year and be used as irrigation for their community gardens. I think Mr Corbell will be pleased with that as well. Community gardens are just one part of an extensive and diverse program of community support.

The Lions Youth Haven has been operating for around 20 years and has been providing an exceptional and steady growth for welfare service to the ACT community for that time. Located on some 500 acres of land, the Lions Youth Haven has several houses, the aforementioned community gardens and cattle and horse-riding facilities. It has a school that many here will be familiar with, of course, the Galilee school that provides education for disadvantaged young people. It has a variety of support facilities to help those that need it most.

Unfortunately, disaster struck when, during the devastating bushfires of 2003, the Lion Youth Haven lost the majority of their facilities to provide those services. In fact, it was due to the assistance of the ACT government in rebuilding the Galilee school and other partner organisations investing time and money to help the Lions Youth Haven deal with such a disaster that they are now growing again from strength to strength. Partner organisations like Greening Australia and the Pegasus Riding School for the Disabled, combined with support from the ACT government and the federal government, allow essential community support groups to remain viable. But there is more that can be done, and that is why I am here today—to advocate.

As I mentioned, the Pegasus Riding School for the Disabled are looking to work with the Lions Youth Haven to utilise their facilities to provide a benefit for those

120 people, who are currently on a waiting list, to be able to enjoy the simple pleasure of riding a horse. Recently the Lions Youth Haven provided a three-year lease for one of their houses to St Vincent de Paul. This will provide facilities for young families in their time of need, while also providing the resources to keep the Lions Youth Haven operating.

Partnerships are what the Lions Youth Haven are searching for so that they can continue to provide those services in the community. And they have found them with the ACT government, the federal government, Greening Australia, Pegasus Riding School and St Vincent de Paul but, in order to keep growing as an organisation, they require more partnerships. The Lions Youth Haven is a community organisation that we should not allow to remain at a constant level but we should encourage them to grow and to be able to assist more people.

Water is one of our most precious resources and one that we must manage effectively. Lions Youth Haven have received a much-needed investment from a partnership with the federal government so that they can continue their growth and continue to provide support to those that need it most.

These organisations, and others like it, provide support. To keep providing these services, these organisations themselves require support. So I ask all members here today to do what they can to highlight the tremendous work that the Lions Youth Haven do to benefit our society.

Schools—non-government

MR MULCAHY (Molonglo) (6.22): I would like to use my time in today's adjournment debate to discuss the important role independent and non-government schools play in the ACT community. I was fortunate recently to meet with the Independent Schools Association and to be able to reaffirm my commitment to that organisation and to the non-government education sector in the ACT. This support and commitment does not come at the expense of or in preference to the public education system. I firmly believe that all Canberra parents have a right to send their children to the school of their choice, government or not, and would expect a quality standard of service and education be provided.

It is clear, based on complaints that I receive from time to time from constituents, that there are some problems with the government sector in Canberra. I acknowledge, however, that, as a whole, Canberra is blessed with a quality education system relative to other places. Addressing the issues that do exist must be a priority of the ACT government.

Parents should not be forced to put their children into the non-government sector because they are not satisfied with the standard of government schools and, in particular, issues of discipline. They should, however, be free to choose to do so. I, like many of my constituents, have had children in both systems. I have two of my children here today who are presently in non-government schools, Catholic schools.

Parents who send their children to non-government schools make a choice to invest in their children's education. And although not everyone is in a position to make this

choice, many do and many make considerable sacrifices for their children to enjoy the benefits that independent and non-government schools can offer. I understand, from my meeting with the Independent Schools Association, that they represent approximately 12,000 students in independent schools in the ACT and that there are approximately 13,000 additional students in the Catholic system.

We are not talking about a privileged few but a rather significant section of the Canberra community. It is worth noting that the choice of the Canberra parents to send their children to non-government schools does save the territory government money. A figure that was mentioned in my meeting with the Independent Schools Association was that, for every student in a non-government school, the ACT government saves $10,000. I have not tested that figure—and I would be interested if the minister has a different view—but it seems believable. Independent and Catholic schools should be supported by government.

I understand that one item on the Independent Schools Association wish list is government funding for students with a disability to be equitable, regardless of what type of school the student attends. I support this position unequivocally and would hope that the ACT government and opposition approach this issue sensibly and are prepared to make what, in terms of cost, is a relatively minor concession but one that will have a profound impact on the lives of a number of students with a disability and their families.

I think there traditionally has been a perceived divide between the government sector and independent or Catholic schools. Certainly the Labor side of politics has, on occasions, spanned this divide. The position is, however, outdated. As I stated earlier, it is not a privileged few sending their children to non-government schools; it is now a significant section of society in our community. These schools deserve genuine support from government.

The Independent Schools Association has called on politicians to make clear their policy in this area well ahead of October's election. I take this opportunity today to express my clear and unequivocal support of independent and Catholic schools and thank them for their contribution to the ACT community.

National Multicultural Festival—Sri Lankan dance group

MS PORTER (Ginninderra) (6.26): I take the opportunity in the brief time that is available to me to talk about an event I attended on 14 February as part of the National Multicultural Festival. I was fortunate to be able to attend a most entertaining and enlightening performance of the Sri Lankan traditional dance group, held in the theatre of the Belconnen Community Centre. As I said, it was most entertaining, and the audience of adults and children responded to the wonderful dancers, who were in colourful costumes and masks, performing very evocative and demonstrative traditional dances—some amusing, some serious. The traditional drums added to the atmosphere that was created. However, it is the statement that was read out on behalf of the company that I would like to read out this evening. It reads:

> This company of dancers and musicians from Sri Lanka has made a statement at tonight's presentation.

> As artists, we cross borders with ease to reach out to peoples everywhere and say to them: This is who we are. We are different and we are also alike. We are all one. The arts can transcend political, language and religious boundaries that might normally inhibit friendly exchange of ideas. The arts bring people together, making possible dialogue between nations.
>
> Only good can flow from such dialogue. Fear of difference breeds prejudice, distrust and even extremely destructive aggression among people. By sharing our arts, we can get rid of this fear.

The statement read out on behalf of the company could not say it better. This is why we value our multicultural city and this is why we celebrate it.

I would again like to place on record my thanks to all those involved in the festival and especially to the High Commissioner of the Socialist Republic of Sri Lanka who, I believe, enabled us to have the experience of seeing and hearing this wonderful dance company.

Question resolved in the affirmative.

The Assembly adjourned at 6.29 pm.

Schedule of amendments

Schedule 1

Human Rights Amendment Bill 2007

Amendments moved by Mr Seselja

1
Clause 2
Page 2, line 3—

omit clause 2, substitute

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

2
Clause 7
Page 4, line 10—

[oppose the clause]

3
Clause 8
Page 8, line 15—

[oppose the clause]

4
Clause 9
Page 8, line 18—

[oppose the clause]