Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

1 APRIL 2008

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Tuesday, 1 April 2008

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The Assembly met at 10.30 am.

(Quorum formed.)

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

Legal Affairs—Standing Committee
Scrutiny report 52

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

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report 52, dated 31 March 2008, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 52 contains the committee's comments on three bills, 24 pieces of subordinate legislation, one government response and two regulatory impact statements. The report was circulated to members when the Assembly was not sitting. I commend the report to the Assembly.

Planning and Environment—Standing Committee
Statement by chair

MR GENTLEMAN (Brindabella): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Planning and Environment relating to a new inquiry.

At a recent meeting of the committee, it resolved to conduct an inquiry into the Namadgi national park draft plan of management, recognising the high level of community interest. The committee will investigate and inquire into issues relating to the Namadgi national park draft plan of management, specifically:

- the administration of the consultation process during the development of the draft plan of management;
- the effectiveness of consultation with key stakeholders;
- the nature and level of participation by the interim Namadgi advisory board in developing the draft plan of management;
- Namadgi national park's value as a biodiversity conservation area and as part of a greater regional conservation corridor, including catchment protection and fire management issues; and
- any other relevant matter.

The draft plan of management aims to establish a framework to protect the significant values of the park while retaining opportunities for nature-based recreation, education and research.

In 2002, a discussion paper on the existing plan of management, prepared in 1986 under the commonwealth legislation, was released for public comment with the intention of developing a new, up-to-date plan of management for Namadgi national park. A revised plan was released for consultation in September 2005, and attracted 175 submissions from organisations and individuals. The draft plan has since been reworked in the light of public comment. The final Namadgi national park draft plan of management was forwarded to the committee by the Minister for Planning in December 2007, as required under section 203 of the Land (Planning and Environment) Act 1991. The committee looks forward to stakeholder submissions to the inquiry.

Public Accounts—Standing Committee
Statement by chair

DR FOSKEY (Molonglo): Pursuant to standing order 246A, I wish to make a statement on behalf of the Standing Committee on Public Accounts relating to inquiries about certain Auditor-General's reports currently before the committee.

The first relates to the review of Auditor-General's performance audit report No 4 of 2007: *Regulation of ACT liquor licences.* On 28 June 2007, Auditor-General's report No 4 of 2007was referred to the Standing Committee on Public Accounts for inquiry. The committee received a briefing from the Auditor-General in relation to the report on 12 September 2007. After consideration, the committee has resolved to inquire further into the report. The terms of reference for the inquiry will be the matters considered in the report, and we are expecting to report to the Legislative Assembly for the ACT on the Auditor-General's report as soon as practicable, and certainly up to and including August.

In relation to the review of Auditor-General's performance audit report No 9 of 2006 entitled *Sale of block 8, section 48, Fyshwick*, on 12 December 2006 the report was referred to the Standing Committee on Public Accounts for inquiry. This report relates to the sale of the EpiCentre site. The committee received a briefing from the Auditor-General in relation to the report on 29 March 2007. The report raises serious issues with regard to the development of retail facilities within the ACT. The report commented:

> … the lack of clarity regarding the interpretation of aspects of the Territory Plan, particularly the permissible uses of industrial areas or land use restrictions, remained after the land sale, ACTPLA should consider the merit of further clarification of the industrial land use policies.

The report also stated:

> … Audit did not find conclusive documents … to indicate a clear policy intention to relax the 3 000 square metres limit per lease for shops other than bulky goods retailing.

The committee has resolved, having regard to its own workload, the late stage of the life of the current Assembly and the significant planning component in the issues raised by the report, not to initiate an inquiry at this time. However, the committee believes that the issues raised by this report remain of significance to the future development of retail space in the ACT and that the committee responsible for planning matters in the next Assembly should consider giving priority to an inquiry into these issues.

Finally, in relation to the review of Auditor-General's performance audit report No 3 of 2007 entitled *Collection of fees and fines*, on 25 June 2007 the report was referred to the Standing Committee on Public Accounts for inquiry. The committee received a briefing from the Auditor-General in relation to the report on 12 September 2007. The committee did consider inquiring into this report but resolved that it did not warrant further inquiry.

Regulatory Services Legislation Amendment Bill 2007
Detail stage

Remainder of bill as a whole.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.39): I move amendment No 1 circulated in my name *[see schedule 1 at page 808]*. I table a supplementary explanatory statement to the amendment.

I foreshadowed this amendment during the in-principle stage of the debate. I outlined that, following further representations from motor traders in particular here in the ACT, it was recognised that, with respect to the current provisions of the act that provide for the seizure of a computer, if it is necessary for the purposes of an investigation to obtain data held on that computer, that was a facilitation provided for in this legislation. It was suggested by the Motor Traders Association that it would be equally reasonable if the data storage device rather than the computer itself could be seized. So the data could be obtained from the computer without the computer itself needing to be seized.

This was in response to concerns raised by motor traders that the seizure of the computer equipment itself could have a detrimental impact on business and that, if it was possible to obtain the data without needing to obtain and seize the computer itself or other equipment, that would be a preferable outcome. The government agrees with those representations, and that is why I have circulated this amendment, which outlines those provisions and provides for data to be obtained without the computer needing to be seized, if it is possible to do that.

Amendment agreed to.

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

Bill, as amended, agreed to.

Crimes Amendment Bill 2008

[Cognate bill:
Crimes (Street Offences) Amendment Bill 2007]

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

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (10.42): Mr Speaker, I believe we are debating this bill cognately with a private member's bill.

MR SPEAKER: Is it the wish of the Assembly to debate this bill cognately with the Crimes (Street Offences) Amendment Bill 2007? That being the case, members should be aware that they can refer to the Crimes (Street Offences) Amendment Bill, but at the conclusion of debate on the Crimes Amendment Bill we will be required to suspend standing orders so that we can bring on the bill that Mr Stefaniak has introduced.

DR FOSKEY (Molonglo) (10.44): Mr Speaker, I seek leave to make a comment.

Leave granted.

DR FOSKEY: I am not going to block us debating this bill, but I make a comment on the protocol of having it dumped upon us right now. It means that Mr Stefaniak's bill is going to get very little attention from me, because I am totally unprepared to discuss it now. But, if that is the way that Mr Stefaniak would like the debate to be, that is okay with me.

Mr Hargreaves: You don't have to accept it, Deb.

DR FOSKEY: I am just indicating that that is my concern. But given my stance on Mr Stefaniak's bill, I suppose that, in the long run, it does not make any difference. That is why I am not going to object.

MR STEFANIAK (Ginninderra) (10.45): In referring to both bills, I say to Dr Foskey that I think she has made her position clear. I was surprised this morning when the notice paper came out because I understood there was going to be a cognate debate. That was the case last time. For whatever reason, that was not shown in the notice paper. I always assumed there would be a cognate debate. I think that is the most sensible way to go—that the matters are dealt with concurrently, Mr Speaker.

MR SPEAKER: All that has to happen, Mr Stefaniak, is for somebody to protest when I ask for leave to be granted, and that is the end of the matter. The Assembly has given leave, and that is the end of the matter as far as the chair is concerned.

MR STEFANIAK: I will kick off the debate on both bills. Firstly, I will address Mr Corbell's bill, which was introduced in February. Mr Corbell's bill amends a number of acts to create some strict liability offences and to empower authorised persons to issue on-the-spot fines. Four particular matters are dealt with here: graffiti;

the new offence of urinating in a public place; failure to follow noise abatement directions; and drinking in certain public places.

In themselves, those amendments are fine. But the bill does not go far enough. There are a number of important areas—two in particular—that should have been made strict liability offences, and therefore subject to on-the-spot fines: fighting in a public place and offensive behaviour. There is another area which I have included in my bill and which I will walk members through again, and which is different from Mr Corbell's bill—that is, reactivating the old offence of offensive language. That is an area that causes police considerable angst. Offensive language is not just swearwords; it is how they are shouted, yelled and spoken that is offensive. Trained police officers are very capable of ascertaining what is offensive and what is not. That would be a new offence, if my bill were to get up. It is not included in Mr Corbell's bill. Also, of course, it would incur an on-the-spot fine.

These offences are no less of a street offence than drinking alcohol in certain public places, and should be treated in the same manner. I think it is a bit of a shame that the government is being reactive in this regard. My bill was introduced on behalf of the opposition on 29 August, and the government has reacted by introducing its own bill, after some very worrying bouts of street violence over the Christmas/New Year holiday period, especially in Civic.

In relation to on-the-spot fines for these types of offences, about halfway through last year I visited every police station in the ACT. I spoke to probably well over 100 police officers at all the stations in the ACT. To a man and a woman, they felt that on-the-spot fines were a very important tool to enable them to nip potentially much more serious antisocial behaviour in the bud.

The effect of an on-the-spot fine is to speed up the process. It means that a defendant who gets an on-the-spot fine is going to stop that particular activity. Invariably, they will go away, wake up in the morning with a sore head, realise how stupid they have been and pay the on-the-spot fine. It saves police officers having to arrest that person, take them to the watch-house, have them charged, perhaps bailed, perhaps not bailed, and then the matter having to go to court, for what are relatively minor street offences. So a huge amount of court time would be saved by having these types of ways of dealing with such problems. That in itself is a very big plus. It enables police to get on with the job in these troubled areas and stop further, potentially more serious offences occurring.

The most common offences on the streets involve people fighting in public places—the cover-all offence of offensive behaviour. It is good to see, I suppose, that the government has gone about 30 per cent of the way. I have absolutely no problem with the offence of urinating in a public place. I will come back to an interesting point on that. Mr Corbell has created that offence. I think it is a sensible offence and it is sensible to have an on-the-spot fine for it, but I think it shows the disingenuousness of the government's argument in relation to one of the other offences which I am pushing for and which is not contained in its bill, where the same principles apply. At present, he states, "That's either offensive behaviour or indecent exposure." I have no problem with that as a new offence; that is sensible.

Amending the existing offence of noise abatement direction is fine, too. Defacing premises is a sensible new offence and I think that is to be applauded. Indeed, with respect to amending the offence of consuming liquor in certain public places by saying that if someone is carrying a can of VB, it is a can of VB, and the police do not have to formally prove that, that is a very sensible improvement to our law. So, as far as it goes, I commend it. Given that the government is going to vote against my bill, we will, naturally, support the passage of this bill, because any improvement is better than nothing.

I am pleased to see that at least the government realises it is not only people who are aged 18 or over who commit these offences. I have said in this place on a number of occasions that, sadly, 17-year-olds often commit offences that are just as serious as those committed by an 18-year-old, and there can be an artificial distinction in that regard. I think that extending the service of these infringement notices to 16 and 17-year-olds is a reasonable step as well. In my bill there is a more blanket approach. But, at the end of the day, at least there is recognition by the government that it should be extended to 16 and 17-year-olds. I also have no problem with which officers will be issuing these infringement notices.

I think the government have missed a golden opportunity here to do the job properly. It is a bit like the Gungahlin Drive extension: they could have done the job properly there. We could have had two lanes going both ways; unfortunately, we have only one. In this case I would say the government are getting it about 30 per cent right. The offences for which the police really wanted on-the-spot fines, apart from these, are the ones that crop up all the time—the biggies such as offensive behaviour and fighting in a public place.

Mr Corbell has flagged that at some stage in the future he will enable police to issue a summons on the spot to enable the matter to be taken to court. I cannot see what the difference is. For example, if police observe two people fighting in a public place, what is the difference between that and observing someone urinating in a public place? Police are going to have to use their discretion in both of those cases. If police see someone urinating and they also see two people fighting in a public place, what is the difference? Why does one have to be subject to a court hearing while the other does not?

Mr Corbell: It may be assault, to start with.

MR STEFANIAK: That is not so, Mr Corbell. There is a series of offences in relation to assaults. Fighting in a public place is a tried and proven charge which police have used, under the old Summary Offences Act and now in the Crimes Act, for minor infringements. It does not carry a huge penalty, for very obvious reasons—it is not in the same category as a vicious assault on a person. The offence involves two people, usually drunk, who are fighting in a public place, and it caters for that specific eventuality. Police exercise their discretion very well in that regard, and in the past people have regularly been charged with that offence. It is an obvious one where an infringement notice could be issued.

It is similarly the case with offensive behaviour. It worries me that the government is showing its anti-police attitude. It does not quite want to trust the police, who are probably some of the best trained people in terms of exercising discretion in our community, when it comes to knowing when to issue an infringement notice. In New South Wales, just over the border, they introduced infringement notices. Initially, I think there was a trial in parts of Sydney. The number of street offences dropped by 50 per cent. They have similar street offences to ours—fighting in a public place, offensive behaviour and indecent exposure. Those types of offences were all made the subject of infringement notices, and it was particularly effective there.

The police I have spoken to tell me that, by enabling them to issue an infringement notice, it will: one, nip potential trouble in the bud before it gets too serious; two, save a hell of a lot of time because it keeps the police out on the street rather than having to arrest the person and go back to the station for what is essentially a minor offence; and, three, help the defendant because the infringement notice is basically the same as an infringement notice for a speeding fine, and it saves the person the trouble of going to court. Many of these people are well and truly tanked up—full of too much grog and bad manners—and they regret their actions in the morning. Invariably, we will see a lot of these notices paid. Of course, as with any infringement notice, people have the opportunity to contest it in court, should they so desire. That is a feature of both Mr Corbell's bill and mine.

I commend my bill to members. It is a fairly simple bill. It makes a number of offences prescribed offences so that infringement notices can be issued. It goes further than Mr Corbell's bill. I think there are already two areas where infringement notices can be issued; that is included in my bill. Mr Corbell's bill contains four offences, while mine contains a number more. Defacing premises would be a prescribed offence. I think that is partly covered by Mr Corbell's bill. There are some additional offences on territory premises, such as trespassing. Misbehaving at public meetings is one that his bill does not contain. Fighting in a public place is a crucial one that is missing from his bill.

I have split section 392 when it comes to disorderly or offensive behaviour. Effectively, that is the offensive behaviour provision. I have made it a bit more specific by creating a new offence, under proposed section 392A, of offensive language, which I have already spoken about today, as well as when I introduced the bill. This is of particular concern to people walking through parts of Civic and other entertainment spots. It is often terrifying for women: people who are using very bad language, invariably in a very aggressive manner. This would be a particularly useful offence for police to have. We had it in the past and it would be a particularly effective tool in their armoury; hence that new offence is catered for.

With respect to the old offence of indecent exposure, I think that what Mr Corbell's bill contains is fine—urinating in a public place. Effectively, that would cover indecent exposure. My bill also covers noise abatement directions and consumption of liquor in certain public places. With respect to the sale or supply of liquor to underage people, an on-the-spot fine would be particularly useful. It would obviously assist in overcoming some of the problems we have seen in recent times. There is also the

offence of buying, possessing and consuming liquor by underage people. Again, that is a particularly useful offence. There is nothing like hitting the old hip-pocket nerve. With respect to the prescribed penalties in my bill—

Mr Corbell: Mr Speaker, I raise a point of order. I am sorry to interrupt Mr Stefaniak but I have a point of clarification. I am not clear how this procedure occurs. Mr Stefaniak has already introduced his bill and has spoken to it. We are now debating his bill cognately with the government bill. He has already spoken on his bill. What is provided under the standing orders in relation to his speaking again? I am not objecting to what Mr Stefaniak is saying; he is making quite legitimate argument points. I just want to clarify what the standing orders provide.

MR SPEAKER: The practice is that, following leave of the Assembly being granted to debate the bills cognately, the Assembly effectively gives leave for Mr Stefaniak to refer to his bill again.

MR STEFANIAK: Thank you, Mr Speaker. That is exactly what I am doing. I mentioned the three areas under the Liquor Act. Again, it hits the old hip-pocket nerve. Offences such as the buying, possessing and consumption of liquor by underage people, the supply of liquor to underage people and the consumption of liquor in certain public places—which I think Mr Corbell's bill does contain—are very sensible, logical matters where an infringement notice can be issued.

We do it for speeding, we do it for going through red lights and for a wide range of traffic offences. It is very sensible to apply it in criminal law in some of these lower category types of offences, which is what we are dealing with here. By doing it effectively, we can cut street offences by 50 per cent, just as they have done in New South Wales, where there are a whole suite of on-the-spot fines. That is what my bill does but the government bill does not.

If we can cut offences by 50 per cent, that will perhaps lead to a number of more serious offences not occurring because they have been nipped in the bud. All the police officers that I spoke to—the experienced ones out there on the street who have dealt with this type of behaviour for many years—have stressed the great benefits of having on-the-spot fines for this suite of offences contained in my bill.

In my bill, "prescribed penalty" means that if the penalty for the offence to which the prescribed penalty relates is more than two penalty units—in other words, more than $200—the infringement notice will be for $200; otherwise it will be for $100. Most of the ones covered by my bill are for $200; there are some that would be for $100.

The regime is not terribly different from the government's, but the government's bill badly misses some of the key offences which should be subject to on-the-spot fines. It goes about 30 per cent of the way; it will help. Police will still have to exercise discretion. I refer, for example, to urinating in a public place. If someone is going to great lengths to hide themselves by doing it in a back alley or behind a tree and you can hardly see them, they might be in a public place but whether a police officer would give an infringement notice for that would be a moot point; they may not.

It is those blatant acts around our shopping centres and our entertainment areas that we need to be clamping down on. It is those acts which shopkeepers and innocent people who are using the area and who are abiding by the law really abhor and which in many instances scare them. And blatant acts such as people fighting in public places and conducting offensive behaviour should also be covered by the government's bill, but they are not. Fifteen or 20 years ago, there was a real problem with people drinking alcohol around bus interchanges, wandering around and causing mayhem. That is why the laws were changed to make it an offence to drink within 50 metres of a bus interchange, a licensed establishment or a shopping centre. That was a compromise; I think in my bill the distance involved was 200 metres.

It is good to see that bill remain in place. It is good to see it has been improved by taking away the need for police to prove that there is alcohol in the container. That was a big issue then. It is probably less of an issue now. It is a shame that the government has missed a golden opportunity to get it right and to cover all the offences that all the police I have spoken to—and surely Mr Corbell speaks to police officers as well; I would hope so—actually wanted included. He needs to listen more to the police officers who are on the beat. He needs to listen more to what people in the community want.

I commend my bill to the Assembly. I think it is a far better bill than Mr Corbell's. I can read the numbers. He has indicated that the government is opposing it. So be it: it will go down. I will be moving two amendments regarding the two most crucial areas which are not contained in the legislation—fighting in a public place and offensive behaviour. When we come to the detail stage of his bill, I will urge members to vote for those amendments. Given that my bill will go down, the opposition at least will be supporting Mr Corbell's bill as it is better than nothing, but with those two crucial amendments.

DR FOSKEY (Molonglo) (11.02): We have two bills before us today. The Greens are willing to support the government's bill, which involves the introduction of on-the-spot fines for street offences that incorporate alcohol, noise and graffiti. However, it is not without some unease that I do this, because the ACT government does not appear to have thoroughly prepared the legislation and thought through the issues before tabling it in the Assembly—witness the amendment that the government has just tabled, which corrects one of the concerns that we and probably the Children and Young People's Commissioner had about this legislation being legislation on the run.

In providing my support, I request that the Attorney-General prioritise work on converting fine defaults to community service hours and that the Minister for Territory and Municipal Services undertake improvements to community notice boards. Although the first is quite a serious issue and the second apparently quite minor, they are both really essential to the practical enforcement of this legislation.

In regard to Mr Stefaniak's bill, I do want to say that we are a very small Assembly. My office is quite close to Mr Stefaniak's; it is not far to walk to. There is always the telephone—please pick it up and give us a ring. It is not a good look for an opposition

when it is so assured of defeat on an issue that it does not even really bother to try, and that is the case here. I was willing to let Mr Stefaniak's legislation be discussed as a cognate debate today without warning, and certainly without consultation, because, at first blush—and we have looked at the legislation, but not in the detail that we would have liked—it is legislation that goes too far.

What we need to remember is if you give the police more powers the issue is enforcement of those powers. As with so many of the issues before us in this Assembly, the issue is not that we lack the legislation; it is that the legislation is not always enforced as it should be. We could have the most draconian legislation around, and sometimes I wonder if that is what Mr Stefaniak is angling for. I believe that would be totally inappropriate in our territory. I believe that we are small enough to work at every level with young people and the people who commit crimes in this place. Sentencing and on-the-spot fines are just two very small tools that can be used.

I will go back to the bill now and to the speech that I had prepared on the government's legislation. You would have thought that, since this legislation will mostly impact on young people aged 16 to around 25, the ACT government would have sought their direct comment from such youth-oriented community bodies as the Commissioner for Children and Young People and the Youth Coalition for the ACT when drafting the bill. However, these organisations were not even aware of the Crimes Amendment Bill until my office notified them during the previous sitting week when the bill was first on the notice paper. Since then, I understand these organisations have provided the Attorney-General with comments and, no doubt, the amendment that we have before us today is an indication of how far those comments have been taken into account.

In considering this bill, my office has been concerned about the lack of information available about the level of fine most likely to be awarded for each offence. The scrutiny of bills report of 3 March raised concerns about the need for a proportionate response when limiting freedom of expression, as per human rights principles. For example, if a police officer or city ranger is to award a fine to a person who affixes posters to or chalks on public property, will it be treated in the same manner as permanent graffiti? About a decade ago, I was one of the organisers of a demonstration on Hiroshima Day where we chalked the outlines of bodies on the pavement and on walls just to remind people what happened when the nuclear bomb hit Hiroshima—people were vaporised, they were turned into shadows. Those chalk outlines would be illegal under this legislation.

Mr Hargreaves: They already are. Do it again and you'll end up locked up. They have always been illegal, Dr Foskey. This one has been around 10 years ago. It is illegal now.

DR FOSKEY: Thank you, Mr Hargreaves, for your very informed commentary. In that case the outlines were rubbed out a little bit later on, but they were there for a while. I wonder how people use the visual element to declare their opposition in temporary media, such as chalk. I must say that it really is quite difficult to see chalk aligned with spray paint, for instance, which, of course, we know is a permanent marker.

To find out more, I wrote to the Attorney-General requesting a copy of the draft regulations that accompanied this bill, as the regulations set out the level of fine to be applied. While the minister was unable or unwilling to provide me with a copy of the regulations, he did state in his response that the quantum of infringement penalty notices is generally set at 20 per cent of the maximum penalty points in the offence provision, meaning $100 or $200 for the offences we are discussing. While I appreciated his response—I am very glad that it came—and I am comfortable with the level of likely penalties, the question remains: will non-permanent graffiti be treated the same as permanent? Furthermore, on what basis can a police officer or a city ranger award a fine that is greater than $100 or $200? I look forward to seeing the regulations, and I will move motion of disallowance if they do not provide proportionate fines for offences.

On the topic of appeals, if a person chooses to dispute a fine under the bill, they can take the matter to the courts. However, in doing so, the offender may face court costs, a possible increase in penalty units, a record against their name and have to prove that they are not guilty of the offence. I expect that many are not willing or able to take this risk, even if they feel they are not guilty, because they have lost access to legal advice and have only limited knowledge of their rights. I would not expect that many of the offenders of this kind are the people who have studied law and know their rights and responsibilities. We are talking about people who are very unlikely to use the avenues that are available to them.

Let us look at the option of converting fines to community service. Last year when we addressed the sentencing bill, I highlighted my concern that fines could not be converted into community service hours, and if a person defaults on a fine they are then subject to imprisonment. Given that the new on-the-spot fines are most likely to affect young people aged between, say, 16 and 25, and their ability to pay a fine is limited, I and the Children and Young People's Commissioner are concerned about the risk of young people being imprisoned for defaulting on a fine.

My office was informed during the briefing that the ability for courts to convert fines into community service hours is being investigated by JACS, and that is a positive development, but we are not there yet. Given that young people will now be subject to a greater level of fines and the commencement of the Alexander Maconochie Centre may see an increase in the court's use of imprisonment, I would appreciate it if the Attorney-General could advise the Assembly as to when he intends to introduce a community service scheme for fine defaulters and whether he is willing to make this work a priority for his department.

Just to address the absolute ban on all graffiti, the scrutiny report suggests that an absolute ban on all graffiti is not reasonably possible and possibly not warranted—that is, while one may have a ban on all graffiti, it is very unlikely it will succeed. In any event, it should be acceptable. We should understand it is acceptable for communication of significant public or private interest to take place. The Attorney-General's office advised my office this morning that the government is providing more sites in Civic for community notices to be legally placed, but this does not adequately address the issue that sometimes notices need to be provided which

relate to a specific site. Under this legislation, if the site in question is in, say, Gungahlin and there is no legal community noticeboard, the person placing the notice would be breaking the law.

It would have been useful to have had more advice from the Attorney-General on this matter via a response to the scrutiny report, but, unfortunately, there has not been a response to date. My office has been informed that the Attorney-General will provide a response when he gives his speech to the bill, and that might be when he closes the debate. What good is that to us? We should have had that information before today's debate so that adequate time could be taken for its consideration. If we were not under a majority government, I doubt we would be having this debate without having first seen the government's response, but such it is that the government can and will use its numbers to push things through without following due process.

When passing this bill, it would be of assistance to the community if the Minister for Territory and Municipal Services or his department not only examined ways to provide more legal community noticeboards in Civic, and, I might say, every other shopping centre in the territory—I have not done a survey, but I do not imagine they all have accessible community noticeboards—but also provided a TAMS webpage outlining where notices can legally be placed, as currently occurs for legal graffiti sites.

I totally support the Attorney-General's commitment to a 12-month review by the ACT Chief Police Officer and the Commonwealth Ombudsman. I hope to see the terms of reference for the review include the impact that this legislation has on young people, the incidence of fine default and the rate of imprisonment for fine default. Evaluation of new initiatives does not occur often enough, and I hope that the next government, given that it will be the seventh assembly, will have learned from experience and have the courage to make any changes required to deliver effective and human-rights-compliant regulations for street offences, because it will be the next Assembly that deals with that 12-month review.

I want to thank Mr Stefaniak for his initial concern in bringing this matter to the attention of the Assembly. However, I believe that his bill goes too far towards enforcing civility in our society. To quote from the 1997 Community Law Reform Committee report on street offences:

> … it is the proper response of citizens to nurture civility. It is appropriate for citizens to express disapproval of actions which appear to breach civility. However, one should be very cautious before arming and requiring the law to enforce civility.

Of course, I will be speaking to Mr Stefaniak's amendment during the detail stage.

Finally, in relation to alcohol-associated street offences, I note that the ACT government will soon be conducting a review into the Liquor Act. Of course, the public accounts committee is conducting a review into the Auditor-General's report on the enforcement of that. I support the Attorney-General's recent announcement that the government will introduce mandatory responsible service of alcohol training

for liquor licensees and bar staff. I await the outcome of both those reviews, because we know that this is a live and concerning topic in our community and part of the federal government's conversation about the excess consumption of alcohol by young people, in particular.

I also hope that the ACT government will take up the greater issue of alcohol advertising and the binge drinking culture which currently exists. The Greens would like to see alcohol advertising limited in the same manner as cigarette advertising. These, of course, are issues for the federal government in the slow but necessary process of reducing alcohol's visibility and prominence from the living room to the streets. But, Mr Speaker, in changing a culture in which young people believe that they are being very cool by wiping themselves out all weekend, by going to their mates on Monday and saying, "I really lost it on the weekend"—I have heard that sort of language—we have got a bigger role to play than just legislating for larger penalties and on-the-spot fines. Much of this behaviour arises as a reaction to that approach. We, therefore, need a fully concerted approach that is across whole of government and considers the reasons why people involve themselves in such behaviour anyway. Nonetheless, I will be supporting the government's bill.

MR MULCAHY (Molonglo) (11.17): Mr Speaker, I will be supporting this bill as well. I do echo Dr Foskey's comments earlier on that it might have been a nice courtesy to know of these changes in terms of the cognate debate. I was happy to debate both bills; I was quite keen to support Mr Stefaniak's bill. My view has not changed. But I will press on anyway under the new arrangements. I have indicated previously, both in this place and publicly, that I do support the on-the-spot fines that this bill will introduce. I also note that the government's bill is similar to that introduced by Mr Stefaniak in August of last year. I welcome the opportunity, then, to speak cognately about Mr Stefaniak's bill today.

I have already indicated in the February sitting period when speaking to a motion by Mr Seselja that I do support the principle of on-the-spot fines. They have been long overdue. Mr Stefaniak deserves some credit on this issue, if for no other reason than he got his bill on the notice paper first. For that reason—it is not for that reason alone—I will be supporting Mr Stefaniak's original bill. I note his anticipation of its failure. I accept the way the numbers are, but I think if you are going to bring in legislation, there is not much point in doing so if you then basically tell the world that you have got no hope of it going anywhere. It does really make you wonder what the point of being here is.

I will be supporting the government's bill, as I believe that there is evidence that expanding the list of offences that are covered by on-the-spot fines is appropriate. Antisocial behaviour should not be tolerated in our society. I believe that police may find that other offences not found in this legislation may also be appropriate for on-the-spot fines. I will support the government's bill, but I acknowledge, as I know the opposition has, the shortcomings of this bill before us. I believe we have an opportunity to introduce a far-reaching reform here and that the government seems to have shied away from this by restricting their bill to things like public urination and property damage.

I heard the minister on the radio this morning saying that violence could often lead to assault charges and was, therefore, not appropriate for the issuing of on-the-spot fines. I would contend that, just as often, isolated incidents of violence do not, in fact, lead to assault charges, and, indeed, might not warrant them at all. Therefore, there is a void that could be filled by having the opportunity for police to issue on-the-spot fines. I recall the last time this issue hit the headlines; it was in about February over a scuffle in Manuka that was reported differently between being some kind of an altercation between two people to a near riot. I suspect the former is more accurately the case. That started a whole round of debate and media excitement about violence. If it was, as appeared to be the case, an altercation between two individuals—it would seem that on-the-spot fines would have been a remedy, unless there was serious injury to either party. I do not think anyone has been charged over that particular event. I have not heard any mention of it. The minister may clarify that. But I suspect that many such instances occur where the on-the-spot fine option is sensible and is available and could readily assist in deterring offenders from repeat behaviour of that nature.

Listening to the debate which has occurred in the Assembly already this year, it is clear that most if not all members of this place and the community is of one mind on this issue. Certainly, the experience in other jurisdictions, some of which Mr Stefaniak touched on in his presentation of his bill, is positive. I stress again, as I have always done in the past, I do not believe there is, in fact, a crisis or a wave of violence spreading across the city. We really have ourselves on compared to other places in the world if we think that Canberra is collapsing under a wave of violence and antisocial behaviour. But, one must acknowledge that there is an element out there that causes trouble, and if we can make the task of the police somewhat easier in apprehending those by the use of the on-the-spot fine weapon, I think that is a good thing. Repeat offenders will obviously become more evident on police databases if they have this method of identifying and finding those who are responsible for this sort of conduct.

I do not, of course, believe that Canberra is a particularly violent or dangerous place, but I do accept the point that the public perception of danger is also important. It is worth noting that knee jerk press statements like the one that we saw from Mr Smyth calling for mounted police and dogs to be deployed are not likely to do anything other than fuel this perception. Members of the Legislative Assembly have a responsibility not to fuel incidents for the sake of getting a bit of free media air time. I know that the vast majority of us are aware of this responsibility, but I would use this opportunity to flag with some of my parliamentary colleagues that they need to be guided by their duty at all times and to exercise some restraint rather than simply leaping in on occasion and fuelling the fires.

The people of Canberra have a right to both be safe in public and, just as importantly, to feel safe. The police and licence holders in the ACT do, in the main, a pretty good job. I understand, for example, that alcohol-fuelled incidents are, in fact, trending downwards. It is unfortunate, therefore, when perceptions are distorted and fear is fuelled by reporting of politically motivated comments. There have been violent incidents in Canberra nightspots over several months. Unfortunately, there will continue to be instances in the future. Some communities are more prone than others, and at some times of the year we seem to see a greater number of incidents reported.

It is a fact of life that misuse of alcohol can fuel violence. We need systems in place to minimise the capacity for this to happen. I am confident that, to a large extent, this is already happening.

The legislation and the capacity to issue on-the-spot fines will expand the capacity and act as a significant deterrent against engaging in antisocial behaviour. But, as I have said already, it is a shame that the government has not extended the scope of this bill to include violence and so on. We should never forget that individuals must take responsibility for their actions. A night out drinking or, in some cases, taking drugs, is no justification for poor behaviour. Individuals must be held responsible for their own behaviour, and this new system will give police the power to make people pay when they engage in antisocial behaviour. But, that being said, I was watching television the other night—I may have mentioned this earlier in the Assembly—and heard a senior British police officer lamenting the problems they have across the UK on Friday and Saturday nights and saying it is all well and good to say the police should fix everything, but the fundamental problem is the lack of willingness on the part of people in the community to accept responsibility for their actions. They showed appalling footage taken in various places around the UK on a typical Friday or Saturday night. I am sure those members who have been to London have witnessed that sort of thing. It is not uncommon in the UK, and there still seems to be in our modern times a reluctance on the part of an element to take any responsibility for their own conduct.

On-the-spot fines will place a burden of responsibility on individuals. Drunken and antisocial behaviour in public will not be tolerated and will, with the passage of this bill, result in an immediate fine. This is a good thing. But, again, I believe that other offences, including violence, should be included in this bill. There is, unfortunately, a trend in society to blame society and venues and, it seems, anyone but the individual behaviour which they might engage in when they are out on the drink. "Binge drinking" has again become a popular buzz word, and it would seem it is not the fault of the individual who chooses to drink to excess and behave appallingly, but of society for encouraging it or forcing them into it. I just do not accept the argument that if we ban alcohol advertising or remove sponsorship at sporting events then we will solve all of our problems. All we will do is, in fact, create a massive financial shortfall in sport, which will not correct any of these issues but, in fact, will create a whole new set of problems for those who are involved in organised sporting activities.

I would argue, Mr Speaker, that individuals are the ones to blame for drinking to excess. Similarly, I contend that it would be exceptionally rare for somebody to be involved in a fight or other antisocial behaviour without consciously choosing to be. I have talked to members of my office who are younger than me, and I have talked to other people outside of that environment. The general view I hear from people is that if you want to get into a fight, you can easily do it, but if you want to avoid getting into a fight in a licensed premises, there is absolutely no necessity to get into those circumstances. Some people go looking for trouble and some people, when they drink, take on a new sense of bravado, and it is not unreasonable that this place should pass legislation to enable those involved in law enforcement to identify and address and quickly create fines for those who continue to be involved in this sort of activity.

Whether that choice is made by drinking too much and losing control over their behaviour or whether it is a conscious choice to behave in antisocial behaviour, individuals must take responsibility for their own actions. Without prejudging the circumstances, we have seen an event with one of our Olympic hopefuls in the last couple of days which has led to quite a savage public response. I think it is fair to say that the public are not going to tolerate situations where people, no matter who they are, go out and engage in public brawling. The legislation, as I have said, will force individuals, through their own hip pocket, to think carefully about how they behave when frequenting Canberra's nightspots.

I will take the opportunity, again, to reiterate that I do not believe there is a major problem of violence through alcohol and drug-fuelled incidents in Canberra nightspots, but I do recognise that the perception of violence or danger is very important. Many venues take a proactive role in stamping out antisocial behaviour. I am aware, for example, that many venues spend significant amounts of money on CCTV systems to ensure that they are aware of what is happening on their premises at all times. This is a responsible attitude that should be commended. Similarly, our police do a good job at nightspots in responding to incidents. They, too, deserve commendation. This is a somewhat thankless task that they have. It is certainly not one I would like to do. It is a shame that the response to isolated incidents is so overblown and politicised by a select few.

Nevertheless, that said, this legislation represents a genuine attempt to strengthen the systems in place to ensure that alcohol and drug-fuelled antisocial behaviour is minimised. It could go further, and it is a shame that it does not. As I have said, I supported Mr Stefaniak's original bill, but I will also support these initiatives on the part of the territory government. In my previous role, I strongly campaigned about the issue of violence and took a view that there really should be a zero tolerance towards violence on licensed premises. I have heard many examples over my years working in the hospitality sector of dreadful assaults on people. I have a friend in South Australia who is a hotelier. He has suffered permanent damage from an assault when he apprehended someone breaking into his premises. I have heard of all the stories of people who are door staff who are bad, but you can hear some pretty horrific stories on the other side of the table about patrons who come into premises and are clearly looking to cause trouble.

We as a community need to respond more severely in relation to these matters. I lived in Chicago for a couple of years, and I never saw a street brawl or a bar brawl in the entire time I was there. I asked friends of mine why that was the case, and they said, that it used to be the roughest place you could ever live, but in the 1970s, the police took a very, very tough view, and anyone involved in brawling was arrested and locked up. This bill does not go to the extent of locking them up, unless there is a failure to pay the fine, I would imagine, but I think that society will benefit from a tougher approach in relation to these matters.

I am not a one-eyed law and order campaigner, but I am very sympathetic to people who have to work in hospitality. My children at different times have worked in hospitality. People should not be putting their personal safety on the line when they

are working in these places, and patrons going into enjoy themselves in the evening should not be exposed to violent and antisocial behaviour. This is an opportunity to give the police the capacity to address this without the tedium of going through court proceedings, and so I think it is a first step in the right direction, Mr Speaker.

MR SMYTH (Brindabella) (11.31): I commend the approach taken by Mr Stefaniak to law enforcement, which involves a greater use of infringement notices or, as they are known in the common vernacular, on-the-spot fines. This approach requires that police officers use their judgement. That is very important, first, because police officers are highly trained; second, because they have a very good understanding of the law; and, third, because they see situations as they occur or as they respond to them and are there on the spot. It is quite reasonable that things that do not have to go to court but do need some response from us as a community are tackled in this way. There is considerable merit in police officers being able to issue an on-the-spot fine.

As my colleague Mr Stefaniak noted, there is also a considerable saving in administration and associated activities in which police can be involved if they have to arrest a person and process that person through to appearance in court. Therefore, there is also an impact on the court system. It should free up not only the police but also the court system and its resources. I have no issue whatsoever in police being asked to use their judgement in responding to issues and being able to bring things to a head and issue an on-the-spot fine. In fact, I commend it to the Assembly.

In a way, the government's stance is a vote of no confidence in the training and judgement of our police. The exclusion of issues like fighting in a public place and offensive behaviour effectively nobbles Mr Corbell's bill into becoming a dramatic case of me-tooism. Mr Stefaniak had his bill on the table on 29 August last year. The government brought their bill forward in February this year as a response to a series of incidents in both Civic and Manuka; initially they were not going to respond.

With any illegal activity there are always degrees of seriousness. I do not hear any significant argument from the government against the notion of including fighting in a public place and offensive behaviour. It seems to work reasonably well in New South Wales; I am not aware of any problem there. But if the offence is that serious in the judgement of the police, they can take it to court. So you end up with the middle path. Now, in many cases, nothing happens or a person is taken to court for a moment of silliness that has had a minor effect on the community. They should be fined and processed on the spot.

The key feature of Mr Stefaniak's bill is to extend the range of offences for which on-the-spot fines can be issued. There can be a minor offence or there can be a more major offence. We get back to the whole issue of judgement. And what starts as a minor offence can often escalate to a major offence. Let us allow the police officers who are at the location of the offence exercise their judgement as to whether to issue an on-the-spot fine or take more substantial action. Police officers should be allowed to use their judgement.

We need to look at the consequences of the approach that we are debating today. There are numerous benefits for the community. It gives the police another tool in

their toolbox for dealing with situations. At the moment they are very competent at dealing with situations and defusing situations. They are very good at making a judgement as to whether something should proceed to court or not. But they are in a dilemma with some incidents that should be responded to more strongly than just giving a verbal warning on the spot but that do not warrant activity in court. I believe those incidents are being missed. So there is a benefit to the community.

There is a benefit to the police. If you know that there is the ability to be given an on-the-spot fine if people do not respond appropriately, it gives the police that extra tool in the toolbox of law enforcement to be able to make sure that the community is safe. There is a benefit for the legal system. The legal system does not get cluttered with inappropriate activity when the police believe that something should happen but, at the moment, have only the option to take it to court.

There is a benefit to the individual involved. With an on-the-spot fine, they do not receive a criminal conviction for a moment of stupidity or silliness when they are quite young and still somewhat immature. At the moment, they either get a verbal warning or they get nothing—they are let free—or they actually end up in court. If a conviction occurs, that is on their record for a long time.

We should be making sure that we have choices about the way that we approach these offences. If, as Mr Corbell contends, they are serious and should be dealt with in court, the police will take them to court. They will make that judgement on what they have seen and heard and what they have seen and heard in other systems.

I would like to put on the record that I have a great belief in the judgement of our police officers and in their training to carry out their duty—apparently unlike the government. I believe that Mr Corbell's bill goes about 30 per cent of the way. It is interesting to see the Johnny-come-lately approach and the me-tooism in this case. Mr Stefaniak has talked about this approach for some time and is to be commended for it. I commend Mr Stefaniak's bill to the Assembly and ask members, particularly the government, to reconsider their stance of not including the offences of fighting in a public place and offensive behaviour. It is important to have them included in the on-the-spot fine regime, because, I believe, it will lead to a safer city in the long run.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services (11.37), in reply: The Crimes Amendment Bill 2008 amends a series of acts to allow for the service of infringement notices for minor offences. It is a considered, measured and proportionate response to some of the issues currently facing the Canberra community. I foreshadow that in the detail stage I will be moving a minor consequential amendment to the Children and Young People Act 1999.

The development of strategies to address concerns associated with public order requires a nuanced and considered response that draws from the store of tactics that are most likely to have the desired effect. The government is seeking to deal with this issue in a holistic way. The bill is but one element of this holistic approach. The core of this approach is the provision of funding to ACT Policing for 107 additional police officers since 2004 and the introduction of the community policing strategy.

I indicate that the government will soon introduce into the Assembly changes to the way criminal proceedings are commenced. Court attendance notices will provide police with a straightforward and efficient method for bringing criminal charges to the court. A court attendance notice will be an easy-to-read document that clearly states all relevant information succinctly for the defendant and the court. The court attendance notice will inform the defendant of the consequences of non-attendance, such as the issuing of a warrant for their arrest, a default judgement or a period of imprisonment.

The Standing Committee on Legal Affairs has now tabled scrutiny report 51, which provides some very useful comments on this bill. I thank the committee for its comments and in my comments today I will seek to address some of the issues raised.

The Human Rights Act 2004 and the ACT Criminal Code 2002 have together guided the government in the preparation of this bill. When a government chooses to create an offence or regulate to make that offence liable to an infringement notice, it must consider the human rights implications of the exercise of that power. In this case, the bill engages the right to a fair trial and rights in criminal proceedings. Infringement notices are not a substitute for a trial. They offer a person the opportunity to pay the infringement notice penalty in exchange for no prosecution being commenced. The ACT has also adopted the model criminal code that specifies the way offences must be constructed in legislation.

Changes to the Crimes Act 1900 are at the core of this bill. The bill provides for two new minor offences: "defacing premises—strict liability" and "urinating in a public place". The bill casts the offences in a manner that makes the offences appropriate for an infringement notice. It does this by making the physical elements clear and straightforward and removing the mental element from the offences—that is, making them strict liability offences.

It is readily accepted that the act of using a material to mark public or private property represents criminal behaviour. It is also recognised that it is in the public interest that these acts be prosecuted. The new offence of "defacing premises—strict liability" provides authorities with an important enforcement tool as part of the government's graffiti management strategy for the ACT. This strategy takes a whole-of-community approach to the issue of reducing the incidence of graffiti vandalism. It also recognises the distinction between legal graffiti and illegal graffiti and highlights the need to clearly identify government-approved sites for people who engage in legal graffiti.

The bill also makes changes to the maximum penalty associated with the offence of defacing premises and noise abatement directions to bring them into line with other ACT offences. Concerns with the offence of defacing premises raised in the scrutiny report are grounded in the view that a person's right to freedom of expression should be restricted only in the most justifiable of circumstances. The Canadian Supreme Court case of Ramsden v Peterborough (City) cited by the committee establishes the position that, whilst a relevant by-law in that jurisdiction did warrant the engagement of the freedom of expression, it did so in a manner that went too far by prohibiting all postering on all public property.

It should be carefully noted that the government is not proposing that the offence of defacing premises stands alone as a way to attend to the concern of posting of bills. The government, through the Department of Territory and Municipal Services, is working to provide places for people to lawfully bill-post in Canberra. Recently another three bill-posting silos were commissioned in the Canberra central area, and further bill-posting sites are being considered. Shopping centre operators are encouraged to provide designated spaces for legal bill posting and many shopping centres around Canberra provide this facility.

Although the government is providing places where people can lawfully bill-post, members should remember that, while some bill posting represents political expression, most of it is commercial advertising—and free advertising at that. The aesthetic and financial cost borne by the community and private property owners is a significant one that warrants the type of prohibition included in the offence. Whilst the offence does impose a restriction on the freedom of expression, it does so in a manner that is rationally connected with the objective of addressing the problems associated with the posting of bills.

The bill admits the existing offence notices provision in section 441. Section 441 is an updated formulation for infringement notices that lacks much of the machinery required for modern infringement notice schemes. As members may be aware, the framework for infringement notices currently exists in the Magistrates Court Act 1930. All new infringement notices come under part 3.8 of that scheme.

The bill amends the offence of "consumption of liquor in certain public places" to make it amenable to an infringement notice. The bill will also apply the existing evidence provision creating a legal presumption to the amended offence. The bill provides that in proceedings for an offence against the Liquor Act, a beverage in a container labelled as containing alcohol will be taken to be liquor within the meaning of the offence provision unless the contrary is established by the defendant on the balance of probabilities.

The effect of this provision should not be understated. The application of the legal presumption will mean that police officers and inspectors of licensed premises will be able to issue an infringement notice where the physical elements of the offence have been witnessed without the requirement to undertake a forensic analysis of the beverage. This will lead to the more efficient enforcement of the law as it relates to the consumption of alcohol in public places. Such provisions were not provided for in Mr Stefaniak's legislation.

On a related matter, the government has announced that it will release a discussion paper to explore whether the Liquor Act is adequate in satisfying community expectations on a range of issues, importantly including the responsible sale and consumption of alcohol in the territory. Today I have released a discussion paper seeking public comment on those issues.

By way of amendment to related legislation, the bill makes a consequential amendment to section 77 of the Children and Young People Act 1999 to make an

exception to when a child or a young person is taken to be under restraint within the meaning of that section. A person aged between 16 and 18 years will not be taken to be under restraint where police are questioning them with a view to issuing them with an infringement notice for the offences listed in the section. The operative provision, section 78, affords an important protection for children and young people who are under restraint, ensuring that any admissions or statements made by the child or young person during the course of an investigation are made voluntarily.

The exceptions to situations where a person is under restraint in clause 4 will cease to apply if the police officer is no longer of the view that it is not appropriate to proceed by way of an infringement notice or it becomes apparent that another offence requires investigation. In these situations, the young person would be under restraint and the relevant protections will apply. If, during an investigation, police suspect that a young person may have committed more than one offence and one of those offences can be dealt with by way of an infringement notice and others cannot, the young person in will be considered to be under restraint and the exceptions in proposed new subsection (4) to section 77 (6) will not apply.

The bill amends the Magistrates Court Act by creating a specific regulation making power to apply in respect of when an authorised person can be taken to have reasonable grounds for a belief that an infringement notice offence has been committed. The regulations made under the Magistrates Court Act will clearly list the four offences to be made liable to infringement notices. The regulations will also specifically limit the application of these infringement notices to persons over 16 years of age.

The passage of this legislation, together with regulations under the Magistrates Court Act, will create the necessary machinery to allow for police officers, inspectors of licensed premises and city rangers to issue infringement notices for four separate minor offences. As I have indicated previously, I have written to the ACT Ombudsman asking him to report to the government on the operation of the scheme, following 12 months of operation, on matters relating to the issue of these infringement notices. I ask the Assembly to note that I have specifically asked the ombudsman to report to the government on how these infringement notices are impacting on young people.

I would like to address some of the criticisms made by Mr Stefaniak and other members about the government's decision not to include certain other offences. I draw to the Assembly's attention a couple of matters raised by the Standing Committee on Legal Affairs report on strict and absolute liability offences, which provides some very useful commentary on when strict liability is appropriate. Until recently the committee was chaired by the Leader of the Opposition, Mr Seselja; this report was produced whilst Mr Stefaniak was chair of the committee. The committee says:

> … the process of deciding whether to introduce strict liability for an offence should recognise that this may have adverse effects upon those affected; the legitimate rights of these people should be paramount and take precedence over administrative convenience and perceived cost savings in program administration …

> … strict liability offences should be designed to avoid the likelihood that those affected, particularly by the issue of an infringement notice, will pay the lower penalty simply because it is easy and convenient to do so, rather than spend the money and time to pursue what might be a legitimate defence; any agency which encouraged this tendency would be acting improperly …

It is for these reasons that the government has chosen to adopt the approach we have when it comes to which offences should be strict liability offences. The justification of enforcing the criminal law—used by Mr Stefaniak in his bill—is very broad indeed: too broad to be an appropriate justification. A characteristic of all penalties is enforcement of the criminal law. The justification of a strict and absolute liability must be more specifically expressed if it is to have validity.

I turn to some of the specific deficiencies of Mr Stefaniak's bill. He is asking the Assembly to make definitional changes to the offence of offensive behaviour and create a new offence of offensive language in the Crimes Act. He also proposes the extension of the existing offence notice provisions in a range of other circumstances. Clause 5 of his bill shows us that the devil is in the detail. The clause proposes to change the definition of the existing offence of offensive behaviour and introduce the new offence of offensive language. The bill seeks to add the definition of offensive behaviour with the word "disorderly", defining it to include violent or riotous behaviour.

These changes hark back to the outdated notion that the criminal law's role is the enforcement of civility—a point that Dr Foskey raised earlier—moving us away from the hard-won gains of community policing. These changes take us backward, not forward. They also require individual police officers to use their subjective discretion in deciding what is or is not offensive.

The clause also seeks to add to the definition of "near a public place" so that it includes "near a school". However, the current definition of "public place" in the Crimes Act already includes a place which is ordinarily private if it is at the relevant time being used for a public purpose. This would clearly encompass schools in those circumstances. Mr Stefaniak justifies the proposal for a new offence of offensive language with the view:

> It is simply not acceptable for anyone in our society—innocent people going about their business—to be abused, to be subject to a tirade of often very aggressive, offensive language.

He justifies this proposal with the view that it would provide an important tool for police.

The reality is that the existing offence in the act is cast broadly to capture a range of offensive behaviour. This is because broadly framed provisions with a general application avoid technical difficulties and loopholes which can be exploited. In the territory, the settled law on what it means to behave in an offensive manner was set out in the ACT Supreme Court case of Ball v McIntyre. In that case, Justice Kerr, as he was then, stated:

> … to be offensive, the behaviour must be "calculated to wound the feelings, arouse anger or resentment or disgust or outrage in the mind of a reasonable person".

Justice Kerr noted that different minds may well come to different conclusions as to whether something is offensive in the circumstances. *(Extension of time granted.)*

The offence of offensive behaviour is broad enough to capture a range of circumstances, including where a person uses language to cause the requisite degree of offence. The Supreme Court's view, and the government agrees, is that offensive language is a matter that requires a judicial decision. There are many cases that are in a legal grey area. It is unfair to expect either police or citizens to be able to make an instantaneous judgement as to what is offensive.

The remaining clauses deal with the existing offence notice provision in the Crimes Act. Clause 6, on its face, appears innocuous and harmless. Section 441 (1) of the Crimes Act currently reads:

> If a police officer—
>
> (a) is satisfied as to the identity of a person who has attained the age of 18 years…

Mr Stefaniak's clause 6 would substitute:

> If a police officer—
>
> (a) is satisfied as to the identity of a person …

Under Mr Stefaniak's bill, the proposed change would give police officers the power to issue on-the-spot fines for children and young people down to the age of 10 years, the age of criminal responsibility in the territory. The government believes—and I think the overwhelming majority of the community would agree—that it is completely inappropriate for police to respond to situations involving minors such as those set out in this bill by way of an on-the-spot fine below the age of 16.

Clause 7 of Mr Stefaniak's bill would extend penalty notices to a range of other minor offences, including consumption of alcohol. They are similar to provisions in the government's legislation.

I turn to an issue outlined in Mr Stefaniak's bill—with the offence of misbehaving at a public meeting being open to being dealt with by way of an infringement notice. That offence turns on whether someone at a public meeting is behaving in a manner that disrupts or is likely to disrupt the meeting. The line between when someone is being disruptive as opposed to merely engaging in vigorous debate would rarely be clear cut. I think that Mr Stefaniak and I would both be able to recall meetings where it would be difficult to make those judgements. What one person might think is disruptive, another might think is vigorous advocacy. It would not be appropriate for individual police officers to be able to fine someone based solely on their view of what are often complicated and contested matters.

The government is particularly concerned that the bill recommends that the offences of fighting and indecent exposure should be liable to an on-the-spot fine. Where fighting has occurred, the gravity of the offence will often not be obvious at the scene; where police officers tender a report when fighting has occurred, officers will consider whether a more serious offence has occurred. The fact that there may be a victim to a potential assault adds to my unease and the government's unease at having police handing out fines for this type of behaviour. If the incident is minor in nature, the simple presence of the police will often be enough to restore public order; in those situations, no further police involvement is required aside from cautioning those involved. If a more serious offence has occurred, police will have the ability to charge that person. I believe that is the appropriate balance.

Indecent exposure is clearly not an appropriate offence for a fine, given that it is a serious offence. I draw members' attention to the fact that there is the very real possibility that this type of offence may be part of a pattern that could include far more serious offences of a sexual nature. It is well understood that indecent exposure can be part of a pattern of offending which may indicate or occur concurrently with more serious types of sexual offences. It is not appropriate that it is simply dealt with by way of an on-the-spot fine. This is underscored by the fact that ACT Policing and other jurisdictions class this offence as a sexual offence. The government does not accept that there should be on-the-spot fines for sexual offences.

That is why the government has established a new offence of "urinating in a public place" to deal with that specific concern without facing the possibility that people who may be involved in far more serious sexual offences get away with an on-the-spot fine for indecent exposure.

In conclusion, those are the issues of concern to the government in relation to Mr Stefaniak's bill. It is not a matter of not trusting the police; it is not a matter of not having confidence in the judgement they exercise. Police exercise very significant judgement in a range of matters, and they do so with the highest level of professionalism and integrity. The issue of concern to the government is that the law is workable and there is no provision for the law to be used in manners which are inappropriate.

We believe that the proportionate and considered response the government has outlined in its Crimes Amendment Bill deals with the issues of most concern in our community right now. Consuming alcohol in public places, urinating, and defacing premises in our city centre and our entertainment precincts—those are the issues of most concern. When I have gone out and spoken to shopkeepers, the issue of concern is how their premises are routinely defaced, how they are routinely cleaning up their shop doors after every Friday night and Saturday night—and also that people are consuming alcohol in public places outside the licensed premises and the consequences of that behaviour. This allows us to tackle those very specific issues in a very direct and practical way. I am confident that the police will do so with good effect.

In relation to the broader issue of the use of alcohol in our society, that is clearly a much more complex policy debate. The government does not for a moment suggest

that this legislation addresses those issues. There are a broader range of issues at play when it comes to alcohol consumption and the culture of alcohol consumption in our community. The government has announced a major review of the Liquor Act. I have today released a discussion paper that outlines the broad range of issues that should be up for consideration when it comes to the exercise of the rights that governments grant to sell alcohol in public, either in a licensed premise or in an off-licence. Those are the issues that the government looks forward to engaging with the community on as we progress that very important review.

For now, the government commends its legislation to the Assembly. I trust that I have answered the concerns of the scrutiny of bills committee and highlighted the difficulties with the opposition's proposals on this matter.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 4, by leave, taken together and agreed to.

Proposed new clause 4A.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.00): I move amendment No 1 circulated in my name *[see schedule 2 at page 808]*. I table a supplementary explanatory statement to the amendment.

This amendment deals with the issue of enforcement of fines as they relate to offenders under the age of 18. Currently, there are provisions in the Children and Young People Bill, which is currently before the Assembly, which would remove the ability of the Magistrates Court to impose a period of imprisonment if someone was effectively in default of paying a fine. This amendment ensures that this legislation is consistent with those foreshadowed provisions of the Children and Young People Bill and makes clear that there is discretion available to the court as to whether or not a young person should be committed for the enforcement of payment of a fine.

The current provisions of the act provide that the court must impose a period of imprisonment on a young person if the court is satisfied that there is no other viable option to ensure the payment of the fine. This provides discretion to the court and simply replaces the word "must" with "may". So, instead of the existing clause reading, "The registrar must, by warrant, commit a young person," it reads, "The registrar may, by warrant, commit a young person." This has been moved to address the concerns raised by advocates of the youth sector here in the ACT and to ensure consistency with the provisions of the Children and Young People Bill.

MR STEFANIAK (Ginninderra) (12.03): I do not know whether the attorney has the right reference there. He talked about page 5, but page 5 of the bill is the tail end of some provisions in relation to young people. Maybe he means page 3? I would ask for a bit of clarity there because I am not exactly certain where this fits in; I might be

missing something there. The actual amendment finishes with an "if" and then a dash and that would indicate that further things follow, but that does not seem to be the case on page 5. For starters, that is a technical point, attorney; if you can just address whether page 5 is the right reference and, if so, the amendment appears to stop in mid-sentence, which might be a problem.

The other thing I do have a concern with in the attorney's bill, which is obviously going to get up and through which 17 and 16-year-olds will be given on-the-spot fines, is: what happens if they refuse to pay and they do not pay? Has there been any problem in the past with the word "must"? The attorney himself said that, if there is no other alternative at the end of the day, if that is all that is available, the young person might have to do one or two days to pay out the amount of money owed. That would be in a nice secure facility and I do not think that anyone is suggesting that that would cause any great problems for any young person were they to serve one or two days out and have to do it at Quamby, which I assume would be the facility. It does concern me that, by putting in "may", some young people may be able to get off scot-free and that there may be some significant problems with that.

I also note the word "registrar". Perhaps we need to look at whether, if you do need to make that final decision, it should be given to the magistrate. I would have thought magistrates are more than capable of doing that, and have done from time immemorial on issues such as that. I hear what the attorney says, but I do have some fears in relation to young people simply flouting their noses at the law, getting off scot-free, for some quite obnoxious type of behaviour which warrants these on-the-spot fines being issued to them. Surely, that is not the message we want to send to young people. Young people need direction; they need to be told that certain activities will not be tolerated; that they are meant to be useful members of society; that they cannot do exactly what they want with absolutely no consequences. I fear that this may well send the wrong message there. If a discretion is needed this is one area where the magistrate, the Childrens Court magistrate invariably in these matters, would be able to exercise that—obviously has the skills to do so and does it on a daily basis.

So I make those points, although I doubt if the attorney is going to accept my argument in relation to my concerns about "may" rather than "must", but I would like him to certainly address whether in fact he is putting this in the right place. That does not seem to be clear from my initial reading of where he has got it, page 5, and the substantive bill.

DR FOSKEY (Molonglo) (12.07): The Greens support this amendment. We think it is a recognition of the status of the young person in terms of the way that they are treated and it is a response to concerns stated by the commissioner for children and young people. But, while I accept this amendment, it does make me wonder about the process of developing this legislation—whether it was an over-response to the situation at the time, which was attracting quite a bit of media. We know that the media has cycles and moves on; the issues may still be out there but the media is no longer capitalising upon them. But it is concerning when the government's response comes perhaps more from the perspective put by Mr Stefaniak and less from its human rights stance, which of course we know this government has adopted and which is meant to be integral to everything we do in this place.

So I commend the amendment, but I am concerned about those amendments that are yet waiting to be made to ensure that all the concerns of the commissioner and other young people, advocacy groups, are taken into account. That is where, I guess, the 12-month review will be very useful.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.09): If Dr Foskey believes it is an over-reaction, she just does not have to vote for the bill. If she feels so strongly about her assertion that she made—that all this legislation is an over-reaction—she does not have to vote for the bill. But I note that she is going to vote for the bill, so presumably she believes it is a reasonable response.

This amendment makes it clear that there is discretion for the purposes of the registrar, and therefore the court, making a decision as to whether or not a term of imprisonment, or commitment as it is described in the act, is appropriate. At the moment that discretion does not exist. If it is clear to the court that the person cannot pay the fine in any other way, they must be committed; they must serve a term of, effectively, imprisonment. But there may be a whole range of circumstances where that is just not appropriate when you are dealing with a minor. There may be circumstances where the person, for reasons quite beyond their control, is not able to pay such a fine, and in those circumstances I believe it is appropriate for the court to have discretion.

I would add, of course, that I believe these circumstances will be extremely rare and that in practice there is a sufficient level of discretion already granted to the court in, for example, making sure that people can repay in instalments at a very low level. So in practice I do not believe that this is a significant problem at all; but I do want to stress that I believe it is important to underscore that, in any event, in the very rare circumstances where this may become an issue, there is still discretion available, and that is the purpose of the amendment.

Proposed new clause 4A agreed to.

Clauses 5 to 17, by leave, taken together and agreed to.

Proposed new clause 18 and proposed new schedule 1 taken together.

MR STEFANIAK (Ginninderra) (12.11): I seek leave to move my amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR STEFANIAK: I move amendments 1 and 2 circulated in my name together *[see schedule 3 at page 808]*.

As flagged in the in-principle debate, these two amendments go to the guts of what Mr Corbell's bill is all about, or at least should be all about. I did listen, with interest, and am well aware—as are the police—of the case he cited in relation to what is

offensive behaviour. In fact, police out on the street are trained in terms of what case law affects their actions, so that certainly would be implanted, I think, in the mind of every general duty officer who goes out there and has cause to, at this stage, arrest people for offensive behaviour. So I reject what Mr Corbell says in relation to that. He does it in a convoluted way and he cannot really have it both ways.

Similarly, with fighting in a public place: from what he was saying, it is something where the police turn up and, if it is a minor thing, they will caution people. I note that Mr Corbell is not seeking to remove section 391, fighting in a public place. But he is harping on that, if it is an assault, it is a lot more serious and people should be charged with that and, if it is not serious, police will probably caution people and that will be the end of it. He is not seeking to remove section 391—and it is there for a purpose. It is for those more minor cases—street offences, offences where people are causing other law-abiding citizens a lot of angst but where the offences are not necessarily of the same category as those where someone may deliberately beat the hell out of someone else and should be charged with grievous bodily harm, assault occasioning bodily harm, wounding with intent or some other much more serious offence covered in the Crimes Act.

The offence of fighting in a public place over the years has proven a very effective tool to stop a situation getting worse. It invariably covers people who are drunk, not doing a huge amount of harm to each other but just being an absolute darn nuisance, and where there is potential indeed for further, more serious incidents to occur. Mr Mulcahy gave an interesting analogy about the fight at Manuka. No-one was charged there, but, if there had been two people just having a blue outside a night establishment, that may well have been a most appropriate matter for them to either be charged or, probably better still, as we are suggesting, have an infringement notice to defuse the situation, to ensure that it does not get any worse but an appropriate level of punishment is inflicted.

Frequently, we will see people fighting in a public place, which is quite different from people actually assaulting each other, and police are well aware of that. This has been an offence that has been on the statute books for decades. It was in the old summary offences ordinance when I first started prosecuting here in 1979; it came from the New South Wales summary police act, police offences act, which goes back, I think, to about 1898. It has been around that long. It is a tried and proven minor offence. I have known people—I must confess friends of mine—who have been charged with this and paid their $4 fine or whatever it was. They were full of grog and bad manners when they were 19, and it had a salient effect on them. It also perhaps stopped situations from accelerating and getting much more serious.

It is a very important tool for police to have as an offence. I think even Mr Corbell accepts the huge problems in terms of the time it takes for police being taken off the beat with some of these offences when they could be dealt with in a much more expeditious way, such as infringement notices. He obviously must accept that; otherwise we would not be debating this bill today. So why on earth has he not put in the two main offences that the police would like to see? This is one of them; the other one, of course, is offensive behaviour?

My bill, which apparently now is going to be decided afterwards—I think that is putting the cart before the horse, but not to worry—would separate offensive behaviour into offensive language and offensive behaviour. But that is not going to happen; we are to have just offensive behaviour. We have a Supreme Court case on that. The case law is quite clear. The ability of police to exercise a discretion too, I would hope, is quite clear.

Mr Corbell did seem to be at pains to assure us that this in no way is a reflection on the police. Well, unfortunately, Mr Corbell, of course it is. If it is all right for police to actually pin someone with an infringement notice for urinating in a public place but not do so for fighting in a public place or offensive behaviour, I think you have real problems in drawing a distinction. Again, offensive behaviour is defined by the Supreme Court; it is a term that has been well used through the courts. Again, it is broad and again it gets back to the discretion of police officers who on a daily basis face these problems and do it very, very well—a job, I am sure, none of us would want to have.

Again I stress that I spoke to probably over a hundred police officers in terms of what would be a good way, what we can do to assist, what would be good legislative changes, and when they mentioned on-the-spot fines they all mentioned the offence of offensive behaviour. In fact, that was probably about the first offence that they mentioned as needing on-the-spot fines, because it is probably the most common offence—I think a lot more common perhaps than things like urinating in a public place or perhaps even people drinking in public places, although obviously you will get a splurge of that at maybe some major events. So that is good law.

The four offences Mr Corbell has here are fine; they are worthy of on-the-spot fines. But he is missing out basically two of the main ones and really the most important one is the cover-all offence of offensive behaviour. I cannot think of any other group in our community, in our society, more capable of exercising the discretion and exercising it on the spot—they do it, day in, day out—than our well-trained and, might I say, well-regarded police force.

You have your protection in there, Mr Corbell, with the Ombudsman looking at all this. I assume this is going to be exactly like the move-on powers, when we had a similar 12-month thing there as a compromise so that they were not being abused. After about 2,600 incidents of people being moved on and not one instance of abuse, it was given a clean bill of health. I am sure you are going to get that from the Ombudsman. I am sure that provision is fairly superfluous, but you have got it there and, okay, you see that as some sort of a protection. But, if that serves as protection, why not, if you are worried about police exercising a discretion—and I assure you I do not think you have any need to be—include these two offences, which the police themselves want? The police are the ones who have to deal with this. The police on the beat are basically the experts. You are not going to do anything in terms of infringing anyone's civil liberties by doing this, because, at the end of the day, if an offender does not like it, they can go to court and have a hearing, just like if you go through a red light, or you speed, and you do not agree with it, you can go to court and have a hearing.

We are talking about infringement notices. We are talking about things that are not going to be on people's records, because they are pleading guilty and are paying the fine without the need to go to court; we are talking relatively minor offences. But these minor offences are prevalent ones. They really concern law-abiding citizens. They concern the people running the bars. They concern the mums and dads coming into Civic and Manuka. They also concern a lot of the young people who do not want to commit offences. As Mr Mulcahy said, it is easy getting into a fight if you want to, but also it is not all that difficult to avoid it if you want to. The vast majority of young people want to go out and have a good time and not be annoyed by noxious drunks. So what you are doing there is making it easier for the police to do their job, keeping police on the street. They cannot be kept on the street if they are going to charge someone with offensive behaviour or fighting in a public place; they are going to have to go off and go to court.

Even under the proposal you are flagging, they are still going to have to go to court and take up a lot of court time, when in the vast majority of cases I think you will find that offenders will pay these fines, because in the vast majority of cases I think you will find that a lot of the offenders will realise, in the sober light of day, the next morning, that they have done the wrong thing. I hark back to the much more thorough regime in New South Wales, where the police have told me, when I was going around talking to them last year, they saw a 50 per cent drop. I confirmed that with some New South Wales police who had been involved in the area; they said, yes, there had been a 50 per cent drop in terms of street offences—street offences that included fighting in a public place and offensive behaviour, because they are, I suppose, two of your classic street offences and have been since time immemorial.

I commend these amendments to the Assembly and, even though the government will not say it, I think it is a reluctance by some of them to trust the police's ability to exercise a discretion—a discretion they exercise and have exercised for decades in this place—in an exemplary fashion. You have the checks and balances in the rest of your bill in terms of the Ombudsman, even if you do not think that. History shows the ability of our police to exercise their discretion sensibly.

Obviously you are not going to vote for these amendments. That is a tragedy. Your bill will consequently be 30 per cent instead of close on 100 per cent.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.22): Mr Stefaniak can get himself revved up and thump the law and order tub, which is what he loves to do and what he normally does, particularly around this stage of the political cycle.

There is no argument about whether or not these matters are an offence. There is agreement that that type of behaviour is an offence. The issue is: how should the offence be dealt with? In the government's mind, it is not appropriate for it to be subject to a strict liability process. That is the issue. It is not that it should not be dealt with. It is not that the police should not prosecute those matters. It is not that we turn a blind eye to that behaviour. We do not. But the issue should be dealt with through a different mechanism to that proposed by Mr Stefaniak. That is the issue of contention here.

Of course the police exercise discretion—police exercise discretion in a very broad range of circumstances—but is it appropriate for police to exercise discretion where they have to make a judgement about the mental element, not just the physical activity that the offence involves? That is the issue at play and Mr Stefaniak needs to argue why it is appropriate for the police to make a judgement about the mental element in these circumstances, without referring the matter to a court, which is what a strict liability offence does. That is where the government and the opposition disagree.

Those matters should be dealt with by a judicial officer and the government, as I foreshadowed in my earlier speech, is proposing mechanisms to ensure that those arguments can get to court in a timely way. The way we propose to get those matters to court in a timely way is through a court attendance notice, so removing the requirement for police to attend the court on an extra occasion to lay information and to get the summons to have someone appear before the court. Instead, the government is proposing that that be a streamlined process with a court attendance notice, no need to lay any information and the person is required to attend court immediately at a set time. That is how we propose that those types of offences be dealt with.

I have outlined previously what the government's view is in relation to the application of strict liability offences, so I will not go into that again in relation to these types of matters. I simply indicate that, contrary to Mr Stefaniak's posturing on it, it is not that we are going to turn a blind eye to these offences or that we do not accept that these matters are offences. Of course they are, and they should be dealt with. It is a matter of how they are dealt with and whether or not Mr Stefaniak is having proper regard to the mental element, not just the physical one. In the government's view, he is not.

DR FOSKEY (Molonglo) (12.26): I understand that Mr Stefaniak's amendment comes out of a genuine concern and what we have here is a shared concern right through this house but different approaches to the problem. I am not so sure that Mr Stefaniak's remedy is as simple as he indicates, for the kinds of reasons that were put forward by the Attorney-General. On the other hand, I am also not sure that police officers themselves, especially many of the young people that we have out there on the beat, would feel confident in being required to apply their discretion in matters which are not exactly straightforward in nature.

I think we all know from our observation that these kinds of incidents are often quite chaotic and very difficult to assign a fault judgement to, and we are requiring police to do that in the moment. Usually they have not seen the beginning of an event; they come along and they see the result of the event and not the cause. So we could see people who are the victims of an attack being made just as liable as the attacker, because the victims might fight back to protect themselves but all that is not visible to the police officer. This is just one example of the concerns that I would have about such an application of this principle.

There is no doubt that the police officer, well trained or not, may make mistakes and may make judgements that they would prefer not to make about what Mr Corbell referred to as the mental aspect. We ask a lot of our police officers and I think that we assist them best when the law is clear and straightforward; they know the avenues and

they do not have ultimate responsibility for the decision that is made in relation to the people involved based on a very spot observation. It is too easily open later on, for instance, for the victim to have to go to court to declare that they were the victim and not the perpetrator. I would prefer that these matters be left to the court to interpret. It is difficult enough there, but I think it is less difficult and fairer than if Mr Stefaniak's amendment was adopted.

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

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Schools—Lyons primary

MR SESELJA: My question is to the minister for education. Minister, when was the decision taken to renovate Lyons primary school from the middle of this year, with all of the resultant disruption this will cause?

MR BARR: I thank Mr Seselja for the question. I am very pleased to be able to advise the Assembly that there is a major renewal project occurring in public education across the ACT. As part of that major education renewal and a $350 million investment in public education—an investment that the Liberal opposition has described as throwing good money after bad—we will be establishing four new early childhood schools in the ACT.

One of those schools that will have a changed focus is Lyons primary school. As part of the consultation process with the school community, senior representatives from the Department of Education and Training will be attending a meeting of the Lyons school board on Thursday evening to discuss matters around the transition of the Italian bilingual immersion program from Lyons to Yarralumla primary. In fact, the process of change and moving the program from Lyons to Yarralumla does, of course, involve consultation with school communities. That is the process that the government, through the department of education, is undertaking.

Some rumours have been going around the Lyons primary school community. The principal of the school wrote to parents and carers on 28 March. I am happy to quote from that letter:

> Dear Parents and Carers
>
> It has been brought to my attention that there are some rumours circulating regarding an imminent move of the Italian program to other venues and that there may be several moves.
>
> I would like to reassure you that this is not the case. As I have said in the past I will let you know as soon as possible the details around our eventual move to Yarralumla.
>
> Moving any program is complex and meetings are being held around the timeline and process for this to happen.

> Next week—

this is the letter from last week—

> the Department of Education and Training representatives will attend our school Board meeting to share and consult with us regarding the transition options available.
>
> Please do not hesitate to call me with your concerns and rest assured that I will be doing my very best to make our transition a smooth and successful one.
>
> Hazel McFadden,
> Principal

Let me make it very clear that significant work will occur on the Lyons site, as will occur on the other sites that will become early childhood schools. The vast majority of that work will occur over the Christmas holiday period when there are no students in the school. However, there is a requirement for some preparatory work to be undertaken prior to the intensive work that will occur over the Christmas holiday period. Our desire is to communicate with those school communities that are affected.

It is worth noting at this point that, as a result of the government's $350 million investment, there have been renewal projects occurring in every public school in the ACT—much needed renewal work occurring across our entire public education system. We seek to have the vast majority of that work—like the work at Lyons—occur during school holiday periods. But from time to time it is unavoidable.

No decision has been taken around the commencement of work at Lyons. That is what the meeting on Thursday night is to talk to the local community about—to consult. Heaven forbid that we are consulting! Following that consultation we will work with the Lyons school community to minimise any disruption that will occur during school time.

I can give an absolute guarantee that the programs at Lyons will continue. I have advice from the project management team that there will be the capacity for the school programs to continue on the second level of the two-storey building whilst work is undertaken on the first floor. The bulk of the work necessary to have this school ready for its new life as an early childhood school—part of a network of five dedicated early childhood schools to commence the 2009 school year—will be undertaken during school holidays when there are no students at the school.

That is a very sensible, commonsense approach to ensure that the impact of the renovation work required is minimised on the school community. We are continuing—that is how this issue became public—to consult with the school community. That meeting will occur on Thursday night.

MR SESELJA: Minister, will you rule out similar disruptions at other schools which are converting to P-2 or, indeed, any government schools in the ACT?

MR BARR: If the Leader of the Opposition had bothered to listen to the previous answer, he might well have noted my response. Yes, of course, common sense indicates that you would do the vast majority of the work that could be conducted during school holiday periods—anything that you could possibly do—you would do then. That has been the policy of the government and of the department of education across what is the single largest investment in public education infrastructure renewal in the history of self-government.

We know the attitude of the Liberal Party to this investment. We know that they believe that any money spent on public education is throwing good money after bad. Mrs Dunne, as the former spokesperson, has said that time after time. The fact is that this opposition, seven months out from an election, has not produced a single education policy. All they can do is try to snipe from the sidelines as the government continues through the largest investment program in public education.

I am glad that we have this problem to sort through and that we have so much work that we need to undertake in the public education system that we have to work very, very hard to time all this work to occur during school holiday periods. We have been able to manage more than 225 projects over the first year across 72 different schools, the single largest investment in public education in the history of self-government in the ACT.

Those opposite have had nothing positive to say at all about the revolution that is occurring in public sector education infrastructure. It is only as a result of the commitment of this government to renew our public education infrastructure that we are seeing 17 years of backlog addressed and putting in place some fantastic new facilities in our public education system.

And what have those opposite got to say? Nothing but sniping from the sidelines! They have had nothing positive to say on education. The new Leader of the Opposition, with much fanfare, decided that he would give himself the education portfolio. What has he had to say since he has taken that on? A little bit of muddled confusion in his first interview about what was important for the public and the private systems!

He then got caught out and duckshoved to his right the selection of schools. He made this very big thing about how important the public education system was and then, when questioned on that, the Leader of the Opposition said, "Oh, I don't have any involvement in this."

MR SPEAKER: Order! Stop the clock. Resume your seat, please. I have called members of the opposition to order several times and I am going to start issuing some warnings. Start the clock. Mr Barr.

MR BARR: Thank you, Mr Speaker. He has had nothing to say on education.

Mr Pratt: I wish you didn't.

MR SPEAKER: Mr Pratt, I warn you.

MR BARR: His only contribution has been, once, to borrow policy that the government put in place 12 months ago to try to capitalise for some short-term political gain on an incident that occurred at a school in Tuggeranong.

Now he has decided that refurbishment work to ensure that we have world-class early childhood education is a bad thing. There we go. That is the position of the Liberal Party. Opposition to any new initiative in public education is throwing good money after bad. That is what we see time and time again from the Liberal opposition—nothing constructive to add to the education debate.

We, on this side of the house, look forward to continuing our $350 million investment in education renewal.

Mr Smyth: On a point of order: the minister cannot debate the question.

MR SPEAKER: Resume your seat. The minister is directing himself to the subject matter of the question. Continue.

Mr Smyth: The question is: will he rule out similar disruption at other schools? He has refused to answer that question.

MR SPEAKER: He has touched on that issue. I heard him.

MR BARR: Thank you very much, Mr Speaker. As I indicated, the government is undertaking the largest ever investment in public education. What this means for schools that have been neglected over 17 years of self-government, most particularly during the Carnell years when public sector infrastructure was run down so badly in our education system—the record of the Liberal Party in government in investing in public education is shocking; the record stands for itself—is that this government is investing in building new schools where there is a clear demand for new education infrastructure and in renewing our ageing infrastructure to update that infrastructure to be more environmentally sustainable, in line with the latest in information and communication technology, and providing much improved classrooms and dedicated specialist teaching areas, to improve the position across the board.

In 2006-07, more than 220 projects were successfully managed across 72 schools. The record of the department of education in effectively managing this massive renewal of public infrastructure is second to none. They have done an outstanding job to deliver so many projects. It is part of a massive outlay in public education.

Griffith oval No 1

MR MULCAHY: My question is to the minister for planning, sport and recreation. Minister, you will be aware of significant community disquiet about the application of your department to encircle Griffith oval No 1, a public oval, with a colourbond fence. Two petitions, totalling almost 100 signatures, from residents opposing the application were presented in the last sitting period.

Minister, what is the status of this application? Have you instructed your department either to withdraw or review its application?

MR BARR: I thank Mr Mulcahy for the question. Yes, I am aware that there have been some community concerns expressed about the nature of the fence that is proposed for Griffith oval No 1. Members would be aware that the background to this is that our world-class rugby union team, the Brumbies, use that facility for training purposes, together with a number of other rugby union clubs.

The proposal that has been put forward is for a 1.2 metre high steel fence. The proposal from the Brumbies was to have that fence in their team colours, but I am aware that that has attracted some comment from the Griffith community in relation to the aesthetics of the fence and perhaps to the broader issue of whether there should be a fence encircling this particular field.

I think it is important to note that the proposed fence is a picket style fence, but I understand that there are varying views in the community around whether that should be wooden in nature and coloured, like similar fences, and an example I would use is the training facility that the Raiders have out at Bruce that has a white picket fence around it.

The desire is to ensure that the quality of the training surface is able to be maintained, and I would acknowledge the fact that the Brumbies make a significant financial contribution to the maintenance of that training facility. It is something in the order of $100,000 to $150,000 a year. I think it is important to note that the Brumbies are paying their way in terms of the maintenance of that oval as they are the primary user of the facility, most particularly during the super rugby season.

I am aware, as I say, that there are concerns about the nature of the fence proposed and that the Planning and Land Authority, with its independent statutory authority basis for assessing development applications, is currently assessing that project. If and when the planning authority make recommendations back to sport and recreation services, who are sponsoring the development application, to make amendments to the fence, the government will respond at that time.

MR SPEAKER: Is there a supplementary question?

MR MULCAHY: Thank you, Mr Speaker. Minister, will your department, as the applicant, give regard to the views of local residents and consider amending the application?

MR BARR: Yes, certainly the government is going to consider all of the views that are put forward. There is a statutory process in place around a development application. I am aware that there is a preference for the fence to be white, and there is some concern about it being described as colourbond. I stress that the fence will be a picket fence, but there are certain advantages in it being steel rather than timber. So that is why the proposal was put forward for a steel fence.

It is important to acknowledge the contribution that the ACT Brumbies make to our local sporting community and to Canberra's economic activity more generally. Given the fact that the facilities that the Brumbies have are below par when compared with those of other Super rugby teams, it is important that we are able to work with them to improve the facilities. Millions of dollars worth of first-class rugby players are training at that facility and it is appropriate that we are able to maintain the facility at the highest possible quality.

Having a fence around it will certainly aid in removing, for example, a fairly constant feature, I am told, at Brumbies training—that is, officials from the club having to sweep the field beforehand to remove dog faeces, golf balls and a range of other things that tend to accumulate on the site given its fairly free accessibility at this point.

I stress again that our desire is to find a workable solution whereby we can enclose the oval with a 1.2 metre high picket fence to discourage dog walking and other antisocial activities that leave behind little presents for the players.

Members interjecting—

MR SPEAKER: Order!

MR BARR: I am sure that all members of the Assembly would agree—once the Liberals have stopped laughing. This transcript will be available to the Brumbies, so some of our allegedly big supporters of rugby union over there might stop guffawing for a moment. Given the nature of the team and the contribution they make, it is reasonable to expect that our premier rugby union team can train at a facility that does not regularly have dog droppings and a range of other things left on it as a result of unhindered public access.

Schools—Lyons primary

MR PRATT: My question is to the Minister for Education and Training and it relates to the disruptions at Lyons primary school and to the preparatory works through the school year that you alluded to in your first answer here today. It is reported in the *Canberra Times* today that Lyons primary students might be accommodated in the school hall during the renovations. Minister, what is the government's position in relation to this possibility, and who suggested that such a course be considered?

MR BARR: I thank Mr Pratt for his question. From time to time across the ACT education system, classes are conducted in school halls. That will come as no surprise to anyone who has had any observation of the ACT public education system. But the thought of relocating an entire school to have an entire semester of all of their activities in the school hall is clearly not something that the government, nor the school, nor the department of education, would ever countenance. So I can state categorically that that will not occur. Let me make that clear, so you can rewrite all your questions now, guys: that will not occur.

As for the origins of such a suggestion, I am not sure where that may have eventuated, but I make it very clear that at no point has the government directed the education

department or the school to conduct an entire semester's worth of classes out of the school hall. That said—and just to make sure that it is crystal clear for everyone, because we know how heated these issues can become—from time to time schools use their halls to conduct educational activities. Sometimes during the winter months that can also involve physical education activities. It can also involve school bands and a range of other things. So halls are used as part of educational activities, and they will continue to be used as part of educational activities, in our schools.

But, and let me repeat this, because I know those opposite often take a little bit of time for these things to sink in: Lyons primary school will not as an entire school be operating out of a school hall for a semester. The advice I have from the project design team who are working on the renovations at Lyons is that students can be accommodated in their classrooms on the second floor of the school throughout the renovations. And I repeat for those opposite, who take a very long time to grasp even minute and easy details, that the vast majority of work involved in the renovations at this school, and all other schools that are undertaking a process of renewal of their infrastructure, occurs when staff and students are not at the school, during school holiday periods.

MR SPEAKER: Supplementary question, Mr Pratt?

MR PRATT: Why did your government tell the *Canberra Times* that moving the classes into the school hall was a possibility?

MR BARR: We did not. We indicated very clearly that there were two important priorities here. One—the first and foremost—was to ensure that any disruption to education at Lyons primary school during the remainder of this year was minimised. Secondly, we had a very strong desire to ensure that in relation to the early childhood school—with its renewed focus on new services from birth to eight years, so bringing in a range of new services, which does require renovation, which we signalled in 2006—that work will predominantly occur during school holiday periods. The government is consulting with the school community through the Department of Education and Training, meeting with the school board on Thursday night to discuss the nature of the renovations and to discuss the range of options that are available to minimise the impact on students at Lyons.

Let me make one point very clear. The government will, through its education renewal program, invest $350 million in renewing our public education infrastructure. We will ensure that every public school in the ACT is upgraded. We will also ensure that we are building new schools in areas of high demand. We will be renewing education infrastructure in Tuggeranong and in west Belconnen—education infrastructure renewal opposed by the Liberal Party. We will be building a new college in Gungahlin. We have just opened a new P-6 school at Harrison, a school that opened with 300 enrolments on its very first day, which is an outstanding result for that school and an outstanding result for public education.

We are also continuing our investment in early childhood education. I am happy to say that this investment in early childhood education, as demonstrated through the infrastructure renewal at Lyons primary school, will see renewed interest in early childhood education.

Mrs Dunne: How many prospective enrolments at Lyons do you have?

MR SPEAKER: Order, Mrs Dunne!

MR BARR: I am glad that Mrs Dunne interjected across the chamber.

MR SPEAKER: Take no notice of them, Mr Barr.

MR BARR: There are more enrolments in the preschool program at Lyons this year, in the lead-up to the establishment of the early childhood school, than we have seen at that school for quite some time. That is an important sign. We see that across all of our early childhood schools and we see the outstanding success of the O'Connor cooperative school as a fantastic working model of how this dedicated early childhood focus is a massive asset for our public education system.

The ACT government's policy of extending government-funded preschool hours from 10 to 12 has returned a massive dividend and nearly an 11 per cent increase in enrolments in the public preschool system, which is fantastic to see. We look forward to working with the Rudd federal Labor government to implement a 15-hour-a-week program and even possibly to access further commonwealth funding around some target initiatives to even further enhance early childhood education in the ACT.

ACT Policing—roster system

MR GENTLEMAN: My question is to the Minister for Police and Emergency Services. Minister, can you please advise the Assembly of recent changes to the ACT Policing roster system and how they will benefit the community?

MR CORBELL: Thank you, Mr Speaker. I thank Mr Gentleman for the question. Indeed, it is a timely question given the additional level of resourcing the government has put into police services here in the ACT—so much so that we now have 107 extra police available here in the ACT since 2004 because of this government's serious commitment to improve resourcing for our police service.

It is because of this commitment that we have been able to put in place, in cooperation with ACT Policing, a new policing roster for police services in the ACT. It provides for more flexible start and finish times and, importantly, provides for a third roster, which ensures that an extra 44 police officers and 16 extra patrol cars—or an extra four for each of the four police stations across the ACT—are available to respond at those most critical times of the week, particularly on Friday and Saturday nights. This additional team allows the use of overlapping shifts in times of peak demand and puts those four extra patrol cars on the road at each of the four major police stations in Belconnen, Tuggeranong, City and Woden.

This initiative has been made possible through a very cooperative approach between ACT Policing, the AFP and the AFPA. The police union has been centrally involved in developing this program, and I would like to thank them in particular for their very hard work in putting together what I believe is an exemplary new roster arrangement.

Indeed, it is worth highlighting that this new roster arrangement replaces the former inflexible five-team roster which was based on a pattern of 10 and 12-hour shifts and which has been in place since 2004.

This change provides for a six-team, 10-hour shift pattern, including six teams of team leader-sergeant and 10 constables per team. This is the very significant increase we have been able to put in place. It is a good result for the community. People want to see their police available—

Mr Pratt: This is what you have been saying for seven years.

MR CORBELL: at times when—

Mrs Dunne: If you say it often enough, even Simon Corbell gets to learn it.

MR CORBELL: there are a lot of people about in the city centre, in Kingston and in Manuka. I know they do not like it, Mr Speaker, but their record when it comes to police numbers is absolutely appalling. They have never, never delivered the increase that this government has delivered since we have been in government—an extra 107 police on the beat.

I simply challenge those opposite to go through and look at the record of the Carnell government and those great law and order tub thumpers like Mr Smyth and Mr Stefaniak and Mr Humphries when they were the responsible ministers. How many police did they put on the beat? How many extra patrol cars did they put into service for the Canberra community? They simply cannot match our record. That is because we have treated seriously the need to improve police resourcing for the Canberra community.

The new investment in policy means more police available at those peak times. The good thing about this system, of course, is that it is not at the expense of other areas of the policing effort. In fact, it is simply about aligning the resources in a more effective way, as well as taking advantage of that very large increase in police numbers that has been put into place by this government and which is now reaching its conclusion.

In fact, there are still 10 extra police positions to be funded in next year's budget. That has already been highlighted in previous budgets, and that will come on stream in terms of recruitment next financial year. Then we will have completed that full additional complement for ACT Policing. But we are already seeing the results on the ground, with 16 extra patrol cars and an extra 44 officers when they are needed, particularly at those peak times. That is what is making the difference in terms of improved police presence and that will continue to assist our community to feel confident in the coverage and capacity of ACT Policing.

MR SPEAKER: Is there a supplementary question?

MR GENTLEMAN: Thank you, Mr Speaker. Minister, how is it possible for ACT Policing to implement these changes?

MR CORBELL: Again, I thank Mr Gentleman for the question. Indeed, as I have highlighted, the key factor is the additional recruitment. The additional recruitment sees those 107 extra police on the beat. That, of course, is a direct result of the government's facilitation of that through the budget process. As I have also mentioned, the other element is the very detailed work that was done by the new roster team, involving the Australian Federal Police Association and AFP management. That has been a very pleasing process. This new roster arrangement is very much best practice now for all policing services around the country. Many other policing services are now turning to and looking at this new roster arrangement because they can see the benefits that it delivers.

In particular, it is worth highlighting that it is those category 2 and category 3 incidents which will get the most benefit from these arrangements. The category 1 response has always been the most urgent type of response and has always been dealt with in a very timely manner, but category 2 and category 3 type incidents, where police need to respond within 20 minutes or within three hours, have been pushed on occasion because of lack of police numbers. That has now been addressed because of the additional policing resources and because of the new roster arrangements. Combined, they make a huge difference to police response times.

I look forward to providing the Assembly with detail on the police response against their performance targets in the policing agreement, so that members can see whether or not this is making a real and practical difference on the ground in terms of improving response times for all categories of incidents. So whether people have rung up and asked for the police to attend and it is the sort of matter where they need to be there within three hours or within one hour, this will enable the police to meet those time frames in a much more consistent and regular way, and that is good for the community. If the police show up when they say they are going to show up, that helps to improve confidence in community policing.

Mr Pratt: That's stating the bleeding obvious.

MR CORBELL: Mr Pratt says it is stating the bleeding obvious; indeed. But where was their commitment to provide any additional new police to ACT Policing? When they were in government, what did they do? Did they provide an additional 107 police? Did they put an extra 16 patrol cars on the road? Did they provide an extra 44 officers at those peak times? Did they do those things? The answer is no, they did not. They were prepared to run the policing service down. They were prepared to talk up law and order but not to fund it in a real, meaningful and practical way, and that is something that this government has been pleased to do and will continue to do.

Environment—Department of Defence land

DR FOSKEY: My question is to the Chief Minister and refers to the management of the Lawson land, both the component presently occupied by the Department of Defence and that part of unleased land under the control of the ACT government. The Department of Defence divests itself of the Belconnen Naval Transmission Station site in Lawson in August 2009. Can the Chief Minister advise the Assembly what

portion of the defence land will be retained for nature conservation purposes? What is planned for the unleased ACT land which adjoins it?

MR STANHOPE: I thank Dr Foskey for the question. It gives me an opportunity to again reiterate the government's long and repeated position in relation to the high quality grasslands that constitute the area of land at Lawson but which are a matter of some current controversy within our community.

The ACT government has repeatedly and publicly iterated its view that those lands at Lawson—essentially those lands currently enclosed within the Lawson naval station fence—should be retained as nature reserve in perpetuity. That is our stated, declared, oft-repeated public position: that there is an area of high quality grassland—an intact eco-system at Lawson—that should be protected in perpetuity as nature reserve. That has always been our position. It is our publicly stated and repeated position, and it remains our position.

It has to be understood that the area of land within the fence is of such high quality, is an intact ecosystem, because it is within a fence and is enclosed. It is one of the great ironies that the land that we are currently concerned about at Lawson—the Lawson grasslands—is of the quality it is for the very reason that that part of Lawson has operated as a naval station for almost 80 years. It became the prime communication station for the Royal Australian Navy in the 1930s and has been fenced ever since that time. As a result it has not been grazed heavily by sheep and cattle; it has not been ploughed; it has not been sown with exotic grasses.

It is unlike those other portions of Lawson—those portions of Lawson within ACT government ownership. They are outside the fence. They were in times past part of agricultural rural leases. That part of the land in the ownership of the ACT government is currently agisted to a local cattle producer. It continues to be grazed. The grasses are exotic essentially and mainly Phalaris. There is no intact native grass ecosystem; it is exotic-grassed rural lease. It is the ACT government's intention that that part of Lawson, in the next year or two, be subject to release for residential development.

There is a further piece of defence land. That is essentially that part of Lawson that constituted the residences for those navy personnel who staffed the naval station. The houses have been removed. They were removed about 20 years ago. The footings are still there. The roads remain intact. It was once a settlement. It was a fully operational naval base with residences. Those residences were removed only in the last 20 years or so. The roads remain. The trees remain.

It has been the commonwealth's expressed intention that that part of those defence-owned lands be developed by Defence Housing as housing for defence personnel. In the last round of serious negotiations between the ACT government and the commonwealth in relation to the possibility of the joint development of ACT government non-high ecosystem-quality lands and defence lands of the same category an opportunity for co-development was discussed.

In terms of the specific boundaries of an area that would constitute a nature reserve as announced by the ACT government, they are as broadly included within the fence.

But at the end of the day, when declarations of a nature reserve for Lawson are to be made, then further investigations would be made and advice taken on the precise boundaries of that nature reserve and the way in which it would be managed.

In a broad sense it is all those lands inside the fence, but not necessarily exclusively within the fence. Further advice, inquiries and environmental investigation would need to be undertaken before making those final decisions. But, in a broadbrush sense, I imagine we would adopt that approach.

MR SPEAKER: Supplementary question, Dr Foskey?

DR FOSKEY: Yes, thank you. Could the Chief Minister please indicate a time line for this development of the ACT government managed lands, how the endangered grassland will be protected along with the three or four endangered species on the site, and how long the kangaroo population is allowed to remain?

MR STANHOPE: The ACT government has notionally included those parts of Lawson which it owns on the land release program for 2009-10. That is a notional land release time line for Lawson. That would be affected by decisions that the commonwealth or the Department of Defence make in relation to their land. It has always been the ACT government's intention in relation to Lawson that a coherent program for the development of those parts of Lawson that would be developed, that are susceptible to development—in other words, those lands that would not be required for inclusion within a nature reserve—would best proceed if there were cooperation between the two governments.

In that regard, the ACT government has made overtures to the commonwealth in relation to both its intentions in relation to its land: does it continue to harbour the view that its land outside the fence, that land which it has acknowledged would not be included within a nature reserve, might be developed by the commonwealth for its own purposes, or would the commonwealth be inclined to sell those parts of Lawson that it does not require to the ACT government? The ACT government over recent years has made requests of the government of the commonwealth to clarify its position about its future ownership intentions. At this stage the commonwealth has not responded finally to those overtures or those requests.

I believe it would be best if the development of lands at Lawson were only managed by the ACT government, and that is a position that the ACT government has put to the commonwealth but to which the commonwealth has not yet responded, so I cannot answer completely and finally. That is why I say a notional release date of 2009-10, because it does involve and require a final position to be stated by the commonwealth.

In relation to the management, it would be our intention that Lawson be declared a nature reserve, but once again this is commonwealth land and in terms of its management the management responsibility currently falls on the commonwealth. It is for the commonwealth to make decisions about Lawson and it is simply not possible for us to answer. Will it be a nature reserve in 2009? That is up to the commonwealth. How will it be managed after 2009? That is up to the commonwealth. If it were a nature reserve, I would expect that it would be managed in the way that we manage all

of our reserves, and that is with a mind to the protection and sustainability of the ecosystem and all of those species of fauna and flora that rely on those particular ecosystems for their survival.

Schools—Lyons primary

MRS DUNNE: My question is to the minister for education and relates to Lyons primary school. Minister, I refer to the answer you gave to Mr Seselja when you refused to rule out the possibility of further disruptive changes to other schools in the course of this year. Will you outline for the Assembly which schools are on the list for possible early renovation or possible closure?

MR BARR: I thank Mrs Dunne for the question and the opportunity to once again state that the government is undertaking a significant renewal program within our school system.

Mr Stanhope: What's that worth?

MR BARR: $350 million, Chief Minister. We hear time and time again from the opposition how this is throwing good money after bad. But let me put the opposition's troubled minds at rest. Through 2006-07 the department of education—in that financial year—managed 223 upgrade programs across more than 70 schools and managed to achieve that major piece of infrastructure renewal with minimum disruption to schools. I missed the opposition's interest throughout that 12-month period.

Mr Stanhope: Throwing good money after bad!

MR BARR: Throwing good money after bad! I missed the opposition's interest. Mind you, I have not seen them in any way at all pay any heed to the major improvements across all of those schools to important infrastructure, be that upgrading 50 and 60-year-old toilet facilities or boilers and heating and cooling or be it replacing carpets, painting, providing new specialist teaching areas—new science labs, new art rooms: the whole range of infrastructure renewal. Those projects were very successfully managed by—and I repeat this again for the benefit of those opposite, who really are struggling with this concept—doing the work during school holiday periods.

Throughout the rest of this program we will continue to do the vast majority of work during school holiday periods. Can I guarantee that no work will occur at a school during term time? Absolutely not. From time to time, things occur at schools that require there to be work on site. From time to time that happens. From time to time, under our school-based management system, schools program their own work during school term time. That can occur outside school hours—and often does, bearing in mind that it is possible also, given that a number of our schools operate under capacity, to simply undertake work in areas of the school that are not currently being utilised. That, through some fairly commonsense management, can be achieved.

I welcome the interest of the opposition in the $350 million infrastructure renewal project. I particularly welcome the interest of Mrs Dunne, who, for her entire time as

opposition spokesman, denigrated this investment—said that it was throwing good money after bad. We know the position of the Liberal Party. We saw, in his classic first interview, the Leader of Opposition setting himself forward as the education spokesperson—a stumbling, bumbling effort where he decided that his priority was public education—

Mrs Dunne: Mr Speaker, I have a point of order on relevance. I asked a question about whether he would rule out more disruptions and renovations. Digressing onto what Mr Seselja may have said several months ago is not relevant to the question.

MR SPEAKER: Stay with the subject matter of the question, Minister.

MR BARR: Thank you, Mr Speaker. Perhaps it was what Mr Seselja did not say that was the most interesting aspect of that interview. When it comes to the question of infrastructure renewal investment in our public education system, the position of the Liberal Party and the position of Mrs Dunne and Mr Seselja are a disgrace. They oppose. Let me make this very clear: by their line of questioning today, they have given further evidence of their position in relation to infrastructure renewal in public education. They hate it. They cannot stand the thought of the public education system being improved. And this is given that the Leader of the Opposition, in his very first interview, sought to highlight the issue of public versus private education.

Mrs Dunne: Mr Speaker, you have already ruled on this.

MR SPEAKER: Thank you, Mrs Dunne. Just stay with the subject matter of the question, please, minister.

MR BARR: Which is in relation to infrastructure renewal in public schools.

Mrs Burke: No, it is not.

Mrs Dunne: It is about disruption and renovation.

MR SPEAKER: It was about disruption.

Mr Seselja: Have a go at it.

MR SPEAKER: Order! It was about disruption with the renovation program for government schools.

MR BARR: As I indicated earlier in my answer, the department successfully managed more than 220 upgrade programs in the first 12 months of this four-year, $350 million investment. They will continue to work with school communities to ensure that this program is managed effectively. *(Time expired.)*

MRS DUNNE: Minister, will you rule out that the old schools like Lyons that are going to be converted to P-2 schools—that is, Narrabundah primary school, Southern Cross primary school and Isabella Plains primary school—will not experience the disruptions that have been mooted for Lyons primary school? And can you deny that

the principal of the Southern Cross primary school has already been told that her school will close before the end of this year?

MR BARR: I can absolutely confirm that the Department of Education and Training will be managing all of the renewal projects in this financial year in exactly the same manner as they managed them from the commencement of this program. That means conducting the vast majority of any refurbishment works during school holiday periods and outside school hours. What that means is that we are able to program the works to ensure that there is not disruption to education activities at these schools.

Let me make that clear again: we will minimise the impact on schools. I cannot, in this place, say that no student will be taught in a different classroom later in the year than they are currently. What I can assure the Assembly is that we will conduct any significant work that involves significant disruption, as in having to close an entire wing of a school, for example, during school holiday periods.

It is important to note that these schools, particularly the ones that Mrs Dunne has outlined, are currently operating at less than half capacity. There are many, many, many vacant classrooms. That will enable an effective project management of the refurbishments to ensure that students' education is not disrupted.

Let me make it very clear that none of the early childhood schools will be closed. None of the early childhood schools will be closed, during the transition period, outside school terms. Whilst school activity is on, the regular, scheduled school terms, schools will operate as normal. Outside that, during school holiday periods, and most particularly at the end of this school year, over the Christmas holidays leading up to the new school year in 2009, those schools will undoubtedly be closed for major renovations. Undoubtedly! Massive work will occur during that Christmas period.

My expectation also would be that work would be able to be undertaken during the school holidays in the middle of the year and during the spring school holidays but that other work may also be possible outside school hours—after 3 o'clock in the afternoon and very early in the morning. But that is a matter for individual project management and for the department of education to work with each school to prioritise the work and to ensure the impact on education at that individual school site is minimised. I will not be micromanaging when workmen go in and do the work. I will leave that to the experts, the project management people who will undertake that work.

Let me be clear that, as a policy from the government, our priority is to ensure that education is not disrupted at these schools, we will do the bulk of work during school holidays and we will minimise any impact on classes at these schools during school time. But it will be necessary, as has been the case across the entire history of renovation of any school or any building, from time to time for activities and refurbishment work to occur in part of a school ground during school time.

I have just come from Campbell primary school that has recently had some work done to refurbish their outdoor play area. For part of the time at the beginning of this school year, part of the play areas was undergoing that refurbishment. There was some

construction activity at the school during term time. That was appropriately managed. Other play areas remained available. That work is now complete and we have renewed infrastructure.

Mrs Dunne: Answer the question about Southern Cross. You have got 45 seconds.

MR BARR: In relation to Southern Cross, that school will operate for the rest of this school year and will become an early childhood school in 2009. I have no advice one way or the other. That is the first time I have heard that allegation.

Mrs Dunne: Why don't you find out?

MR BARR: I will check that allegation. Mrs Dunne has made an incorrect statement to the Assembly. I expect her to come back here and rule it out. I do not know whether such a statement was made. What I will say in this place now, to shut the monkeys opposite up, is that that school will operate as normal throughout the rest of this school year and that the significant work that is required will occur during the school holiday period.

MR SPEAKER: Mr Barr, you should refer to members of the opposition by their titles.

MR BARR: Sorry, Mr Speaker. I withdraw the insult to monkeys.

Mr Pratt interjecting—

MR SPEAKER: Mr Pratt, you are on a warning, remember.

Schools—Lyons primary

MR STEFANIAK: My question is to the Minister for Education and Training. One of the options following the early closure of classrooms at Lyons primary school is to transfer the 85 students currently at Lyons to other schools. Minister, what other schools would those students be transferred to and what classrooms would be available at any new schools for those Lyons students?

MR BARR: The premise of Mr Stefaniak's question is wrong. Those students will be continuing their education at Lyons primary school.

MR SPEAKER: Is there a supplementary question?

MR STEFANIAK: Thank you, Mr Speaker. Minister, what plans have you made for the considerable disruption to the other schools resulting from the closure of any classrooms at Lyons?

MR BARR: There will be no disruption. The premise of Mr Stefaniak's question is wrong.

Schools—Lyons primary

MRS BURKE: Thank you, Mr Speaker.

Mr Hargreaves: Give us a Lyons question.

MR SPEAKER: Order, Mr Hargreaves!

MRS BURKE: My question is to the education minister and it relates to Lyons primary school. Minister, this morning on MIX 106.3 a parent of students at Lyons primary expressed her outrage at the possibility of the student body being moved halfway through the year and six months earlier than you had indicated. The parent, Jo, is a single mum, unable to drive. Minister, what do you have to say to her in light of your decision to yet again leave the community behind in your quest to close schools?

MR BARR: I can reassure that parent that there will be no early move from Lyons primary school. The classes will continue as normal for the rest of the school year. Work that is programmed for the school will be undertaken—as I have said about seven times in question time today, but I will repeat it one more time as Mrs Burke is a special case—during school holidays and outside school hours. Classes can continue at Lyons on the second floor as they currently do at the moment.

If all of this attention is not enough, just to assure Mrs Burke, if she would like to pass on the details of that constituent—I will even contact the radio station—if I need to speak personally to that constituent to reassure her, I am happy to speak personally to that constituent to assure her that the programs will continue at Lyons for the rest of the year.

Mr Stanhope: And that the alarm that the Liberal Party has caused was quite unnecessary.

MR SPEAKER: Order, Chief Minister! A supplementary question from Mrs Burke?

MRS BURKE: Thank you, Mr Speaker. Minister, what effort have you made to understand the impacts on parents such as Jo and what help will you provide after disrupting the family?

MR BARR: I thank Mrs Burke for the opportunity to respond on that question.

Members interjecting—

MR SPEAKER: Order, Mr Barr! Members of the government and opposition benches should discontinue the conversation. Mr Barr has a question to answer.

MR BARR: Thank you, Mr Speaker. I think it would be fair to say that during what was a difficult year in 2006 no-one in this place attended more meetings or met with more parents to discuss the impact that the government school renewal program

would have than I did. Mrs Burke, I have spent hours and hours and hours, as you would expect me to, meeting with individual schools. This is during 2006, Mrs Burke, in case you were off on another planet at that time.

Mrs Burke: Did you go to Lyons?

MR BARR: Yes, I went to Lyons. I met with the school board chair and a number of parents. I spent a number of hours at the school. In fact, I think that in my time as education minister I have visited more schools than anyone in the Liberal Party in their entire time in this Assembly. I would go so far as to wager that in two years I have spent more time visiting schools and meeting with school communities than those opposite. I do note that during all the hurly-burly of 2006 a couple opposite even had the good grace to acknowledge that throughout that entire process I would continually front up, time after time, to meet with school communities and explain the government's rationale behind our school renewal program, stay to the end of the public meetings, still be there at 10.30 or 11 o'clock at night, hours after meetings had finished, answering individual parents' questions.

There were more than 1,700 pieces of correspondence and hundreds and hundreds of meetings.

Mr Pratt: Da, da, da, da.

MR BARR: I have continued through 2007 and this year a program of regular school visits. Well, Mr Pratt, your colleague asked the question. You may not be interested in the answer, but that probably shows your regard for your colleague and why the question. I take it very seriously, Mrs Burke; I do. I will continue to be available to meet with school communities as part of the government's commitment to ensuring the highest possible quality in our public education system and to ensure that this period of transition and record investment in public education is managed properly. I will continue to do that.

It is interesting to note the interest of those opposite. The interest of those opposite is only ever to tear down the good work that is occurring in our public education system. They have never got anything positive to say. They are yet, through their new leader, to offer up one education policy. The only thing that Mr Seselja has done in his time as education spokesperson is to try and copy a policy of the government that we introduced more than a year ago.

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

Mr Seselja: You finally involved the police to the table.

MR BARR: Police were involved right from the very beginning, Mr Seselja, and you should well know that. In relation to Lyons, I want to make it very clear that the government will be consulting with the Lyons community, and we called a meeting for this Thursday night to talk through the detail. The calling of that meeting is what prompted this media interest and the sudden interest of those opposite and the opposition leader and the Liberal Party in public education. They had gone quiet for a

number of months on public education because they have got nothing to say—nothing positive to contribute to what is the majority provider of education in the ACT. The Liberal Party have nothing to contribute. The best that they can do is to reheat a 12-month old Labor Party policy and try and claim it as their own. Pathetic!

Taxation—relativities

MS MacDONALD: My question is to Mr Stanhope in his capacity as Treasurer. Treasurer, what does the Commonwealth Grants Commission's latest *2008 update report—relative fiscal capacities of the states 2008*, have to say about the ACT government's taxation effort?

MR STANHOPE: I thank Ms MacDonald for the question. It is important that we focus on the Commonwealth Grants Commission's 2008 update because it does put the lie to many misrepresentations of the true state of the ACT government's taxation effort doing the rounds at the moment. It is quite common to hear misrepresentations of taxation effort and taxation levels within the territory.

As members would be aware, the Commonwealth Grants Commission provides an annual assessment of the relative fiscal capacities of the states. This includes an assessment of the revenue-raising effort of all of the states and of the two territories. The commission in effect determines a state or territory's capacity to raise tax relative to other jurisdictions, taking into account its specific circumstances. It then determines how the state or territory has actually performed against that capacity in taxation revenue raising—the so-called revenue-raising effort.

The commission's latest update, the 2008 update, was released only a few weeks ago and it shows—in fact proves—that the ACT is not a high taxing jurisdiction. The commission's 2008 update shows that the ACT's taxation effort in 2006-07 was l05 per cent—lower than South Australia and broadly in line with New South Wales, Victoria and Western Australia. In fact, the taxation effort in the ACT is essentially identical to the taxation or revenue-raising effort of New South Wales, Victoria and Western Australia.

Moreover, the ACT's taxation effort relative to other states and territories actually declined between 2005-06 and 2006-07 by 0.7 per cent; in other words, we reduced our taxation effort between 2005-06 and 2006-07 by 0.7 per cent. Most particularly, in comparison to New South Wales in that same period, New South Wales's taxation effort increased by 0.7 per cent. This is a very important point—a point that not only are you unlikely to see made in the local media but that I have never seen made—that the ACT's relative taxation effort actually decreased, while across the border in New South Wales the taxation effort increased in the same period.

We would all like to pay less tax—everybody would. But the independent, rigorous and quality assured assessment from the Commonwealth Grants Commission puts to rest the claims and the misrepresentations that are continually made—by vested interests, it has to be said—in the ACT about our taxation effort. Land tax is a very good, pertinent and relevant example. It is particularly in relation to land tax that one sees the most continuous misrepresentations of the true state of the ACT

government's land tax effort. It has been a matter of some comment—and indeed media comment, letters to the editor et cetera—over the last week.

The latest assessment by the Commonwealth Grants Commission shows that the ACT's land tax revenue-raising effort was at 100.88 per cent, in fact almost perfectly in line with—less than one per cent above—the national average, and well below the land tax levels of South Australia, Tasmania, Victoria and New South Wales. At 100.88—that is at less than one per cent above the national average—we come in, in relation to land tax rates, at a lower level in terms of effort than the big states of Victoria and New South Wales, and of South Australia and Tasmania.

Indeed, the land tax rates in the ACT were lowered in 2005-06 and have remained unchanged since 2005-06. When the government came to office—and this is relevant—in 2001-02, the Commonwealth Grants Commission assessed the ACT's land tax effort at 129.45 per cent, 30 per cent above the national average. When the Liberals were in power, the land tax effort in the ACT was assessed by the Commonwealth Grants Commission at 30 per cent above the national average. The land tax revenue effort of the Liberals in government was 129.45 per cent; under this government today, three weeks ago, it was assessed by the grants commission at 100.88 per cent, less than one per cent above the national average and lower than in Victoria, New South Wales, Tasmania and South Australia.

In summary, or to answer the question: what does the commission's most recent update, three weeks old, show about the ACT's taxation effort—*(Time expired.)*

MR SPEAKER: Is there a supplementary question?

MS MacDONALD: Thank you, Mr Speaker. Can the Treasurer advise the Assembly what the commission's findings show about the level of service provision by the government?

MR STANHOPE: I thank the member for the question. Just as the Commonwealth Grants Commission provides an annual update in relation to revenue effort, it provides a similar update in relation to expenditure. The commission's latest update shows, in relation to the provision of services in the ACT, that in 2006-07 the ACT's level of service provision was around 122 per cent of its assessed need. So what the Commonwealth Grants Commission has shown in its latest update is that we tax at roughly the national average but we expend at 22 per cent above the national average. In other words, we provide the services at an assessed level of 122 per cent. In fact, the ACT continues, as it always has, to record the highest level of service provision of any jurisdiction in Australia. Of course, the community expects, and has a right to expect, that the government will continue to deliver high-quality services, and the government continues to so deliver.

One might ask: with taxation effort at within the norm of other jurisdictions, and service provision well above the norm, how does the equation get balanced? The answer lies in the efficiency of service provision within the ACT. You have to remember that embedded within our budget forward estimates, as a result of the decisions we took in 2005-06, are efficiency savings in the order of $100 million a

year. The structural reform undertaken by this government two years ago has resulted in a marked improvement in the efficiency of government service delivery. The commission's assessment highlights this. It reveals that in 2004-05, service provision was at 135 per cent, and it has reduced since then to 122 per cent.

The level of services provided in the ACT remains high, and the government has continued to invest in key priority areas such as health, education, disability, children, youth and family services and community safety. Indeed, as the minister for education has repeated almost ad nauseam today, we are in the process of investing $350 million in the public education system—an unheralded and historic level of investment in public education in the ACT. We have increased health expenditure by over 80 per cent. We have provided for more hospital beds. In fact, we have replaced every single one of the 114 beds that the Liberal Party closed in government. We have replaced every single one, plus more. The 2007-08 budget contained the second-largest capital investment program in the territory's history, providing an additional $289 million in capital works.

I am pleased to inform the Assembly that the ACT, on the latest reports from the Commonwealth Grants Commission, taxes at an average rate in Australia and continues to provide services at a premium level—the highest of any jurisdiction, whilst taxing at the national average. That is a significant achievement by any jurisdiction—to tax at an average level but to be able to provide, because of the efficiencies in service delivery, services at a premium level and well above what is provided by any other place in Australia.

Schools—Lyons primary

MR SMYTH: My question is to the Chief Minister. Chief Minister, before the 2004 election, your government made a clear promise not to close any schools. Further, your government said that school closures would not occur during Ms Gallagher's time in politics. After breaking this promise, your government has now been caught red handed disrupting Lyons primary school early. Chief Minister, why cannot your government be open, honest and accountable with the community regarding school closures?

MR STANHOPE: It has been.

MR SMYTH: Chief Minister, how can the Canberra community trust anything your government says?

MR STANHOPE: The community does trust us and continues to trust us. I think it has been said that one of the reasons the level of trust and support for this government is as high as it is is the debacle the opposition, the Liberal Party, have proven to be in opposition. Just look.

None of us knows who the shadow minister for education is. The Scarlet Pimpernel: they seek him here, they seek him there, they seek him everywhere—that damned elusive Seselja, the invisible man! You never see him. It just occurred to me now. It is a reflection of what people are saying wherever I go. "Who is this bloke? We never

see him. What does he look like? Is he truly the Scarlet Pimpernel? Does he ever do anything? Does he actually ever turn up for work?"

Mrs Burke: On a point of order: under 188 (b), relevance, please. You can do better than that, surely.

MR SPEAKER: Continue with the subject matter.

MR STANHOPE: To actually conclude the answer to the question, serious as it was, I and the government will happily contest the level to which this community trusts and supports us as against the level of trust and support that it will provide to the other side. We will see, and we are looking forward to it.

Opposition members interjecting—

MR STANHOPE: Has your approval rating gone above two per cent yet?

Mr Smyth: Has yours?

MR STANHOPE: I know what mine is, mate. I will take mine against yours any day.

Mr Smyth: We will see.

MR STANHOPE: You have got to be joking.

Opposition members interjecting—

MR STANHOPE: I will. I will take you on, too, Steve—the lot of you.

MR SPEAKER: Chief Minister, I warn you.

Education—healthy lifestyle

MS PORTER: My question is to the minister for sport and education. Would the minister advise the steps being taken by the ACT government to promote an active healthy lifestyle to young Canberrans.

MR BARR: I thank Ms Porter for her question and her longstanding interest in education and sport matters. Today I was very pleased to have the great privilege of launching the Children's Physical Activity Foundation, in which the ACT government is investing $250,000. The foundation will encourage physical activity in young Canberrans by providing grants to schools and assisting teachers to guide children towards healthier lifestyles. Both schools and sport and recreation groups will be able to apply for funding to assist in the purchase of equipment to operate new school-based programs.

I was also very pleased today to be able to announce that the John James Memorial Foundation is the principal sponsor for the Children's Physical Activity Foundation and that an Olympian, Adam Pine, will be its chair and spokesman. I would

particularly like to congratulate the John James Memorial Foundation for their involvement in this program. I thank them very much for their sponsorship and I thank Adam Pine for his commitment to the new foundation. I am sure that all members will join me in congratulating Adam on his selection over the weekend in the Australian team for the Beijing Olympics.

To complement the work of the foundation, I have instigated a minister's physical activity challenge to be held in term 2 this year. The challenge will involve encouraging students to participate in 60 minutes of physical activity each day over a 10-week period. By participating, children will help their school towards reward packages of additional sporting equipment and additional financial support by the foundation.

Our commitment to the Children's Physical Activity Foundation is just the latest of the many steps that the government is taking to encourage young Canberrans into healthier and more active lives. In August last year, I released a discussion paper entitled *Get a move on: the importance of school-based initiatives to increase children's physical activity*. That paper outlined some specific initiatives aimed at promoting PE in primary schools, including the need to strengthen professional development in our primary school teachers.

As a result of this discussion paper and the important financial management that this government has shown, in November last year I was able to announce a $1.2 million fund to provide support for three specialist PE teachers to coordinate physical education in our primary schools across the north, south and central areas of the city. These teachers are helping to develop capacity in their primary school colleagues to deliver even higher quality PE programs for our students.

From this year, all primary schools will have access to specialist PE teachers who are providing professional development and support for primary teachers. This is to ensure that our primary school teachers have the ability to deliver quality PE programs that raise physical activity and skill levels as well as engage students. With our high schools already having specialist PE teachers, these primary school PE specialists will work to forge ongoing links between the high school and primary school sectors.

A range of other steps is being undertaken to encourage healthy lifestyles in our schools. I am very pleased to announce an expansion of the Australian school-based apprenticeship program that will allow students to undertake VET certificates in sport and recreation. This will enable those students to undertake their course work in support of our primary schools. We are also complementing our focus on physical education in schools with dietary and nutritional campaigns. I am sure that all members would be aware of the old saying "healthy mind, healthy body". The commitment we on this side of the chamber have is to quality PE. It is not just about sport; it is about quality physical activity opportunities; it can be in a range of areas.

It is important that we have this focus, and a renewed focus, in our school system. We are very confident that it will lead to improvements in a range of other areas of education. There is no doubt that international research shows a very strong link

between high-quality physical education and improvements in other areas of education such as literacy and numeracy.

Because of the many positive impacts that physical activity has on students—not only as young people but also as adults—this government is determined to ensure that quality physical education programs are offered across all ACT public schools. The launch of the Children's Physical Activity Foundation today, with the support of the John James Memorial Foundation, the support of a range of major sport and recreation organisations and the support of an Olympian in Adam Pine will see this initiative flourish. I look forward to myself participating in the minister's physical activity challenge through terms 2 and term 3 and I would encourage all members, and all members of the community, to get 60 minutes of physical activity in every day. Your health will improve. Sixty minutes a day: do it.

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

Supplementary answer to question without notice
ACT Policing—roster system

MR CORBELL: During question time today I indicated that the government has provided funding for an additional 107 new police. I am advised that the correct figure is actually 109. This means that since 2001 the Stanhope Labor government has provided funding for an additional 122 extra police.

Answers to questions on notice
Question No 1844

MRS BURKE: Under standing order 118A, request for explanation concerning answers to questions, I have one for the Minister for Health, No 1844, which expired on 14 March.

MS GALLAGHER: I will chase where that is. I understand there is another brief on my desk for signing.

Question No 1874

MRS BURKE: I have another one for the Minister for Health, No 1874, which expired on 15 March.

MS GALLAGHER: I have question on notice 1874 which I have signed off during question time today.

Mrs Burke: Sorry. The minister said 1844 is on its way, too?

MS GALLAGHER: I do not know. I will check where it is.

Question No 1878

MRS BURKE: Thank you for that. I have one for the Minister for Housing, No 1878, which I believe expired on 15 March.

MR HARGREAVES: I firstly apologise to Mrs Burke for the lateness but advise her that I signed that one just before coming down to the house this morning.

Question No 1851

MR SMYTH: Under the same standing order, 118A, I have question on notice to the Treasurer No 1851, which was due on 14 March. I was wondering when an answer might be received.

MR STANHOPE: I apologise to the member. I was not aware that I had an out-of-date question. I will have to take advice on the reasons that that has not been provided, but I again apologise.

Question No 1854

MR PRATT: Also under standing order 118A, I have an answer still outstanding from Mr Corbell in relation to question on notice No 1854.

MR CORBELL: I was not aware that that question was outstanding. I apologise to the member and will provide an answer as soon as possible.

Papers

Mr Speaker presented the following papers:

Standing order 191—Amendments to the:

Human Rights Amendment Bill 2007, dated 13 and 14 March 2008.
Payroll Tax Amendment Bill 2007, dated 13 and 14 March 2008.
Planning and Development Legislation Amendment Bill 2008, dated 13 and 14 March 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:

Andrew Kefford, dated 26 February 2008.
Ian Cox, dated 4 March 2008.
Megan Smithies, dated 12 December 2007.
Sarah Byrne, dated 4 March 2008.

Short-term contracts:

David Foot, dated 4 and 15 February 2008.
Gregory Jude Newton, dated 27 February 2008.
Matthew John Kelly, dated 28 February 2008.

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

Leave granted.

MR STANHOPE: I present another set of executive contracts. 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 4 March. Today I present four long-term contracts and three short-term contracts. The details of the contracts are circulated to members.

Paper

Ms Gallagher presented the following paper:

Gene Technology (GM Crop Moratorium) Act—Gene Technology Advisory Council Appointment 2007 (No 1)—Disallowable Instrument DI2007-297—Explanatory statement.

Public Accounts––Standing Committee
Report 11––government response

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (3.51): For the information of members, I present the following paper:

Public Accounts—Standing Committee—Report 11—*Review of Auditor-General's Report No 8 of 2004: Waiting Lists for Elective Surgery and Medical Treatment*—Government response.

I move:

That the Assembly takes note of the paper.

Debate (on motion by **Mrs Burke**) adjourned to the next sitting.

Concessions program—review
Papers

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (3.51): In accordance with the resolution of the Assembly of 2 May, as amended on 6 December 2007, I present the following papers:

Concessions Program—
Review—conducted by the Department of Disability, Housing and Community Services, dated March 2008.
Government response, dated March 2008.

I move:

That the Assembly takes note of the papers.

It is my pleasure to table, for the information of members, the report of the review of ACT government concessions and the government's response to this report. As members are aware, the ACT government provides concessions through six agencies to support target groups with such costs as their energy, water, public transport, drivers licence and spectacles. These concessions are largely targeted at people on low incomes, disadvantaged households and seniors. Concessions range from rebates on water and energy to discounted tickets on ACTION buses.

We provide these concessions because we are committed to maintaining and developing a society in which everyone has the equality of opportunity to participate in daily activities. The government undertook this review because of our concerns that concessions had developed over time in an ad hoc way and certainly welcomed Dr Foskey's motion in May of last year to initiate this review of government concessions in the territory.

The ad hoc development led to confusion as to what concessions are available and who administers them. Quite simply, some people are missing out because they were unaware of their full entitlements across a range of concessions. As a result, some concessions are clearly not meeting the government's objective of promoting access, equity and participation in the community. The government commissioned a number of projects scoping various aspects of concessions, including the social impact assessment of climate change in the ACT.

Following debate in May 2007 in this Assembly, the government announced it would undertake this full review of ACT government concessions. It is this review that I table today along with the government response. Today I also take the opportunity to announce major reforms to existing concessions that will considerably assist recipients. These reforms also include extending eligibility to new population groups.

As I said, this government is committed to supporting and encouraging people to participate in all aspects of life in the territory. While the ACT performed favourably in the 2008 *Report of government services*, which indicated that we have better health, better incomes and better lifestyles in general, there are many people who do not enjoy these benefits.

Data from NATSEM in October 2007 showed that low-income households in the ACT are more likely to be older and headed by women. They are invariably not in the labour force, live in public housing and are reliant on government benefits. These households can comprise single parents, single people or families with four or more children.

This government has been responding to these factors directly through a range of initiatives to address disadvantage, including community service obligations, pricing and debt policies and a comprehensive system of concession. These concessions are a key to assisting individuals and households with low incomes. The government expanded this type of support with senior concession fares on all ACTION bus services to make it as easy as possible for seniors to participate fully in the life of the community.

We have also committed to spending $8 million over four years to improve energy efficiency of public housing, to provide considerable savings to the annual household cost to tenants. In February this year, the government provided further support for women through the women's return to work grants which fund skills development or other employment-related expenses to assist women to increase their potential as employees.

Specifically, the terms of reference for the review of ACT government concessions were to examine and report on the administrative arrangements for ACT government concessions which support individuals and households in the ACT. Importantly, the review aimed to provide clear information on the current state of play of concessions. I would like to thank those community organisations and concession providers who shared their experience and knowledge by making a submission to the review.

The review found a high degree of consistency across states and territories in relation to the types of concessions provided. It found the ACT is keeping pace with the concessions provided by the jurisdictions across each of the main areas of support, such as essential services, health and wellbeing, housing and land and transport.

Where there are variations in concessions, it is largely due to specific geographic, meteorological or environmental differences. For example, there is an allowance paid by the Western Australian government to support children boarding away from home to attend primary and secondary schools. The report of the review also shows that ACT government concessions, for the most part, comply with the principles of equity access and participation that underpin major government policies, in particular the Canberra social plan.

The review found that the ACT government concessions are used to provide assistance to a range of individuals, including older people, people with specific health needs, people on low incomes and people with a disability, as well as agencies such as community groups, schools, hospitals and religious organisations. In the 2007-08 financial year, this represented approximately $30 million for the 11 concessions within the ACT concessions program managed by the Department of Disability, Housing and Community Services.

The government provides, through the department, the bulk of its assistance to those who are disadvantaged or on low incomes. The figure does not include the support provided by Housing ACT in rental rebates, which in 2006-07 was in excess of $77 million.

The review did not focus on universal concessions such as public health or education. Instead the focus was towards a secondary tier of concession that provides assistance and support that is targeted to specific populations groups, although this support is subject to eligibility criteria. In relation to eligibility, one finding of the review is that the majority of territory concessions rely on Australian government concession cards in order to establish eligibility. By default, this has resulted in Australian government criteria being used to determine who is able to access ACT government concessions.

Now that we have a more comprehensive picture of the current administrative arrangements, our next step was to consider the policy issues around those concessions. With this in mind, further work will be undertaken, particularly on conditions of assistance. This policy work will respond to many of the concerns raised in written submissions from the community.

To this end, an interdepartmental committee will be established to coordinate a number of initiatives based on this report's findings. It will include representatives from each agency with responsibility for concessions. In addition, the human rights unit from the Department of Justice and Community Safety will be consulted to ensure outcomes of compatibility with the territory's human rights framework. Members will find the terms of reference for the interdepartmental committee in the body of the report.

The delivery of concessions is a complex exercise that involves different categories of assistance, target groups, eligibility criteria and government agencies. It is essential, in terms of the long-term sustainability and success of concessions, that the IDC consider developing a policy framework, developing a communications strategy and developing strategies for data collection and analysis. The review has found that several concessions have developed on an ad hoc basis and many have been transferred between agencies over time. Consequently, there are opportunities for greater policy linkages.

A stronger policy framework will seek to focus on the target group that the concessions are designed to support. It will strengthen concessions as a package of assistance, rather than as separate forms of assistance. This policy framework will focus on supporting low-income households and individuals, the disadvantaged and seniors. It will seek to provide equity in access across who is eligible and supported by government concessions program.

To ensure every eligible cardholder receives their rightful concessions, good communication is essential. A comprehensive communications strategy will develop actions to achieve this. This strategy will be cognisant of the fact that members of the community acquire information in different ways, and information delivered through a range of appropriate communication vehicles would take into account language, cultural barriers, IT barriers and physical access barriers.

In relation to data collection, there are currently limitations in regard to information collated and held in relation to concession recipients. Data collection needs to be expanded so that you have a clearer picture of citizens receiving concessions. In

developing this work, the government will ensure that there is a cyclical review of each concession. The IDC will determine the frequency and objectives of these reviews.

In conclusion, the government is committed to concessions being a central mechanism to support the principles of equity access and participation for the community. The government will continue to ensure that concessions are designed to address the needs of individuals, households and organisations, in particular those with low incomes or those who experience disadvantage. I commend the report and the response to the review of concessions to the Assembly and I would be pleased to update the Assembly once the IDC work is finished later this year.

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

Territory plan—variation No 285
Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (3.58): For the information of members, I present the following papers:

> Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 285 to the Territory Plan—Block 17 Section 102 Symonston—Changes to NUZ1 Broadacre Zone Development Table, dated 25 March 2008, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.
>
> Planning and Environment—Standing Committee—Report 32—*Variation to the Territory Plan No 285—Block 17 Section 102 Symonston Extension of Broadacre 10E Area Specific Policy*—Government response.

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

Leave granted.

MR BARR: Draft variation No 285 to the territory plan proposes to add block 17 section 102 Symonston to the broadacre zone development table figure 7 Symonston area B, to permit mobile-home park use on the site. This is in order to facilitate the land swap agreement between the ACT government and Dytin Pty Ltd, the lessee of block 8 section 97 Symonston, which is the site of the Narrabundah Long Stay Caravan Park. The agreement will enable the caravan park to continue on block 8 section 97, provided land with equivalent development potential is made available to the lessee in the land swap.

Draft variation No 285 was released for public comment in July of 2007 and attracted 10 public submissions. Seven raised objections, and three, including two form letters with a total of 32 signatures, expressed support for the proposal. The main issues relate to the environmental and heritage status of the block, the presence of the grassland earless dragon, suitability of uses in a broadacre zone, the transparency of the planning process and concern for the residents of the caravan park if the variation and land swap did not proceed.

A report on consultation was prepared by the ACT Planning and Land Authority, responding to the issues raised in the submissions. The Standing Committee on Planning and Environment has considered the consultation report and the recommended final variation. In its report released in February 2008, the committee made six recommendations in relation to the draft variation, among which was a recommendation that the variation proceed. The government has considered the issues raised, and the government response that provides a detailed response to the committee's recommendation has been prepared.

I will provide the Assembly with a brief outline of the government's response to the committee report. The committee's first recommendation is that the proposed variation to the territory plan proceed.

The committee's second recommendation is that the ACT Planning and Land Authority include in the lease and development conditions a requirement that the developer is to ensure thorough trappings and searches are conducted of arthropod burrows on the site prior to any site development, with the aim of salvaging grassland earless dragon individuals. The government agrees, and the Land Development Agency, which is responsible for the leasing arrangements over the land, have made appropriate arrangements to ensure that a survey be undertaken of grassland earless dragons on the block prior to site development.

The government concurs with the committee's third recommendation that a grassland earless dragon specialist be consulted to assist in the above process. The Land Development Agency engaged David Hogg, an environmental consultant, to undertake a survey of the grassland earless dragon in consultation with Alison Rowell, a specialist biological consultant. That work was undertaken during March of this year.

The committee's fourth recommendation is that the ACT Planning and Land Authority and the Department of Territory and Municipal Services adopt the recommendations of the Conservator of Flora and Fauna, particularly in relation to the preservation and maintenance of remaining grassland earless dragon grassland habitat. This recommendation is supported for grassland areas identified as being future reserves. They have been withdrawn from leasing and fenced and have been identified as public land nature reserves on the new territory plan map to ensure the protection of the grassland habitat.

The committee's fifth recommendation is that the proposed grassland nature reserves are managed in a way to maintain the natural temperate grassland habitat for the grassland earless dragon populations, including appropriate pasture management and weed control. The government is committed to managing the proposed grassland nature reserves to ensure the maintenance of natural habitat for the grassland earless dragon populations, including appropriate land management agreements, pasture management, conservation leases and weed control.

The committee's sixth recommendation is that, in relation to ongoing management of remaining grasslands in the area, the government take into consideration the findings of the Commissioner for Sustainability and the Environment's investigation into the

ACT's lowland native grasslands when it is completed. Once investigation into the ACT's lowland native grasslands is completed, these findings will be taken into consideration by the ACT government in relation to the ongoing management of remaining grasslands in the area.

I have tabled the approved variation and the government's response to the planning and environment committee's report and would like to take this opportunity to thank the committee for considering the draft variation.

I move:

That the Assembly takes note of the Government response.

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

Papers

Mr Corbell presented the following papers:

Annual report

Annual Reports (Government Agencies) Act, pursuant to section 13—Canberra Institute of Technology—Annual Report 2007, dated 26 March 2008.

Petitions—Out of order

Petitions which do not conform with the standing orders—

Belconnen—Translocation of kangaroos—Removal of ban—Mr Stanhope (2793 signatures).

Recycled water—
Mr Stanhope (5 signatures).
Dr Foskey (5 signatures).

Subordinate legislation (including explanatory statements unless otherwise stated)

Legislation Act, pursuant to section 64—
Animal Diseases Act—Animal Diseases (Exotic Disease Quarantine Area) Declaration 2008 (No 1)—Disallowable Instrument DI2008-33 (LR, 28 February 2008).
Dangerous Substances (Explosives) Regulation—Dangerous Substances (Explosives) Importing Explosives Declaration 2008 (No 1)—Disallowable Instrument DI2008-27 (LR, 26 February 2008).
Emergencies Act—Emergencies (Bushfire Council Members) Appointment 2008—
Disallowable Instrument DI2008-25 (LR, 21 February 2008).
Long Service Leave (Building and Construction Industry) Act and Financial Management Act—
Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No 1)—Disallowable Instrument DI2008-21 (LR, 15 February 2008).

Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No 2)—Disallowable Instrument DI2008-22 (LR, 15 February 2008).

Long Service Leave (Building and Construction Industry) Governing Board Appointment 2008 (No 3)—Disallowable Instrument DI2008-23 (LR, 15 February 2008).

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Nature Conservation Act—Nature Conservation (Species and Ecological Communities) Declaration 2008 (No 1)—Disallowable Instrument DI2008-26 (LR, 25 February 2008).

Occupational Health and Safety Act—

Occupational Health and Safety (National Code of Practice for the Prevention of Musculoskeletal Disorders from the Performing of Manual Tasks at Work) Code of Practice 2008—Disallowable Instrument DI2008-32 (LR, 28 February 2008).

Occupational Health and Safety (National Standard for Construction Work) Code of Practice 2008—Disallowable Instrument DI2008-30 (LR, 28 February 2008).

Occupational Health and Safety (National Standard for Manual Tasks) Code of Practice 2008—Disallowable Instrument DI2008-31 (LR, 28 February 2008).

Public Health Act—Public Health (Chief Health Officer) Appointment 2008—Disallowable Instrument DI2008-16 (LR, 14 February 2008).

Public Place Names Act—Public Place Names (Macgregor) Determination 2008 (No 1)—Disallowable Instrument DI2008-14 (LR, 14 February 2008).

Road Transport (Public Passenger Services) Regulation—Road Transport (Public Passenger Services) (Authorised Fixed Fare Hiring) Approval 2008 (No 1)—Disallowable Instrument DI2008-29 (LR, 28 February 2008).

Territory Records Act—Territory Records (Advisory Council) Appointment 2008 (No 1)—Disallowable Instrument DI2008-20 (LR, 14 February 2008).

University of Canberra Act—University of Canberra (Liquor) Statute 2008—Disallowable Instrument DI2008-28 (LR, 28 February 2008).

Public education—management
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 Pratt, 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 Smyth be submitted to the Assembly, namely:

> The management of public education in the ACT.

MR SMYTH (Brindabella) (4:10): The management of public education in the ACT is a very important subject for all members of our community. It does not matter whether you have school-age children, whether you are in a school or not, or whether you are an employer or an older Canberran; I think we all wish to know that, for the money that we spend and for the time that our students spend in their schools, they are getting the education and the opportunities they deserve.

It was interesting in March to see a press release from the minister headed "Research confirms ACT students are among the best". And that is what we would expect. When these surveys have been done before, the ACT has always performed very, very well. When you look through the minister's press release, you see that there is only one statistic. I was quite shocked. If we are doing as well as the minister claims we are, I expected this press release to be full of statistics lauding the achievements of ACT students. The only statistic that the minister deemed worthy of praise and to be put in his press release was—and I quote:

> Around 70% of ACT students performed at a level higher than the OECD … average in each of the three literacies. The average for Australia overall for each is around 62%.

It is not uncommon in these sorts of reports to see that the ACT is doing much better than the rest of Australia. It is because we actually do care about and invest more in education, and have done traditionally for some time. But for the minister to put that press release out would either indicate that the minister had not read the report or that he did not understand it. Perhaps the minister should buy himself a dictionary and look up the two words "significant" and "decline", particularly when one follows the other. In *The performance of students in the Australian Capital Territory on PISA—report to the ACT Department of Education and Training*, dated February 2008, put together by the Australian Council for Educational Research, the first key finding is as follows:

> There has been a significant decline in the reading literacy performance of students in the ACT from PISA 2000 to PISA 2006.

Let me repeat that:

> There has been a significant decline in the reading literacy performance of students in the ACT ...

The next dot point states:

> There was no statistically significant difference in mathematical literacy …

That dot point goes on to state:

> There was a significant decline in the mathematical literacy performance of students in both the ACT and Australia at the 90th and 95th percentile.

So there was a significant decline in reading literacy and a significant decline in mathematical literacy at the higher level. Science, it would appear, is going along as per normal. So I give credit to the minister for that. We have actually been able to hold that average. But the next dot point in the report states:

> Proficiency levels in reading and literacy have barely changed over the three cycles of PISA ...

Let us remember that, for five of those six years, Jon Stanhope and his Labor government and three failed ministers have been in charge—Mr Corbell, Ms Gallagher and now the current education minister. Let me read another dot point:

> There were no significant differences found between the percentage of ACT students above or below the OECD average for reading literacy, contrasting to a significant increase of 4 per cent of Australian students performing below the OECD average.

Again, we hold the position. Congratulations, minister. But the words "significant decline" really do worry me. When we talk about the minister and the way that he trots out a $300 million spending program, as if to say, "Wow, aren't we wonderful," the only answer seems to be, "We've spent lots of money, therefore we must be doing this better." I do not think the community believes that.

The minister says, "I've sat through more meetings; I'll make a bet." I hope he goes and sees Mr Stefaniak after the MPI so that they can compare notes, because, from memory, Mr Stefaniak is the only minister to get a tick from all parties, including the education union, when we dropped the class sizes in the 2000 budget. I remember the headline: "The most significant education result in the history of self-government". There have been no headlines since.

The problem relates to the confidence that people have in the public system. Confidence in the public education system comes from the management of that system. We have only to look at the debacle outlined in the *Canberra Times* this morning, in the minister's answers in question time and, indeed, in his press release. Let us look at the time line for this. I quote from this morning's newspaper:

> A spokesman for ACT Education Minister Andrew Barr said no decision had been made on which option would be taken and departmental representatives would meet the school board members on Thursday.

So on Sunday night, as the *Canberra Times* went to bed, no decision had been made. But suddenly there is a press release issued this morning headed "Communities to be consulted on school transitions". Now, suddenly, the ACT government has "no plans to relocate students of Lyons primary school". You have only to ask: what happened between last night when the *Canberra Times* closed off and early this morning when the minister made this decision?

How does this come to light? It comes to light because the community feels gypped by the consultation process that this government constantly goes through. They felt gypped in 2006. The minister says, "I sat and listened to a lot of people." But it did not change a great deal, because decisions had already been made and numbers had already been factored in to budgets. That is not consultation.

We see it all the time with this government. What about Minister Gallagher's smoking legislation? "I've made a decision; it will be implemented soon and there's been no consultation." What about Griffith library? "No consultation because we knew what you would say; we didn't care, we'll close it anyway." Of course, there was the

classic from Mr Hargreaves: "We made a mistake in 2006 on the buses because we didn't talk to the drivers or the passengers. Yes, we got it wrong." So here we have minister after minister after minister who failed to consult appropriately and who failed to undertake real consultation. The same *Canberra Times* article this morning stated:

> School board chair Michelle Wright said she had been told over the phone by a departmental spokeswoman that they wanted the children moved out of their classrooms before the end of the year in order to complete renovations.
>
> The response—

from the department—

> came after Ms Wright wrote to the department seeking clarifications on "rumours flying around" that the school would close in July, rather than in December.
>
> "I was told options included either moving us to Yarralumla early … conducting all the classes in the school hall for the rest of the year …

All the classes, minister, not just the physical fitness classes but all the classes in the school hall for the rest of the year. The article continues:

> … or moving the children around other parts of the building."

Yes, we are going to have consultation, and it will occur on Thursday. But the minister has already made the decision now, so what is the value of this consultation? I do love the last line of this press release. The press release is headed "Communities to be consulted on school transition". The last sentence reads:

> "The ACT Government will also work with the communities—

perhaps it is "work over" the communities—

> of Narrabundah, Isabella Plains and Southern Cross schools on their transition to P-2 schools," Mr Barr said.

Well, Mr Barr has been caught out. Mr Barr has been caught out well and truly on the consultation sham that the ACT government runs. I can direct you, Mr Barr, to that part of the ACT government website which outlines your consultation protocol which your government constantly breaks. You might as well simply take it off the website because you do not follow it and you do not believe it.

The other interesting thing about public education is that the government reforms of 2006 have magically produced an enormous crop of little babies to attend preschool. It is fantastic: I did not realise that government policy was responsible for procreation! I did not realise that a government budget could actually deliver more kids. The minister claims that an increase in the number of students in early childhood education in the ACT could be attributed to families responding "to the government's early childhood education policies and programs". I would have thought it would be

more likely to be because people had babies. They might have been responding to the fabulous programs of the previous federal Liberal government to assist young families. I think Trevor Cobbold, the spokesperson for Save Our Schools, got it right when he said, "It's more likely to be a result of the increasing birth and rising fertility rates in Canberra."

I note that the minister is shaking his head. I hope the minister will get up and explain how Jon Stanhope's budget of 2006 has spawned this enormous increase in the number of little kiddies that are available for government preschools. I look forward to that because it is interesting, when you look at the school-age enrolment projections based on birth rate and preschool enrolments and birth numbers, to see that they correlate by a couple of years. So, yes, babies were born; enrolment numbers go up. It is not really hard to understand—and it predates 2006, I can assure you. If you follow the charts, all of the charts in that series on births, school enrolments, preschool enrolments et cetera, you will see that the charts correlate. And they are all out by a couple of years because, yes, you get born first; a couple of years later you get to go to preschool; a couple of years later you go to primary school—and there it is. My son was born in 2006; it is now 2008. He is aged two.

Mr Barr: He'll be in preschool in 2010.

MR SMYTH: The minister is very good. I can assure you—and the Leader of the Opposition can speak for himself—that my wife and I did not have a baby because of your 2006 budget. I can only speak for myself; the Leader of the Opposition can speak for himself. With respect to the former minister for education, she may well have looked at the budget consultation and been inspired to go out and have a baby. But, in the real world, that is not how it works, Mr Barr.

This is the problem with the glib answers of Mr Barr, the minister for education. He is slick; he is out there. His staff work the media really hard. He has got a spin going all the time. There is an angle. Yes, they are chatting to themselves and they are laughing. We do not notice that they are out there putting a spin on it. But the problem for the people of the ACT is that it is not about spin or being glib; it is about listening to the community and it is about managing the resource and the students in that resource that is public education in the ACT.

We can look at vocational education. If we look at the September 2007 quarter statistics from the National Centre for Vocational Education Research, what do we find for the September quarter from 2006 to 2007? Commencements over the 12 months went from 5,100 to 4,200. We have got a decline, according to that statistic, of more than 1,000 students in vocational education. Is there a problem with skills in this place? Yes, there is. Again, the government cuts are impacting on vocational education in the ACT, and that is the problem. We have got a government—

Mrs Dunne: What did they do? They cut CIT in 2006.

MR SMYTH: Yes, they did cut the CIT in 2006. If you look at every initiative that this government has taken, you will see that it has had a dreadful impact on education in the ACT. You have only to look at the issue of school bullying. Mrs Dunne and

Mr Pratt, as former education spokespeople for the Liberal Party, have said there is a problem with bullying and security in our schools. That has been ignored by the minister.

This is the minister who said there was nothing wrong with Campbell high school, Chisholm high school or Calwell high school: "These things don't happen." But they do, and when you sit down and talk to the community and ask them to tell you their story, and you get people from the union and the principals association, and families and victims, turning up, they tell you that the department and the policies of the government are not helping them.

You hear about the young woman who has been assaulted at school and whose family has suffered a home invasion by the same group of individuals, and they say they received no assistance from this government and its education department, and there was no justice in terms of bringing the offenders to book. So you have to question what this minister is doing. On the day that the Leader of the Opposition held his forum in Calwell, the minister trotted out a forum that morning. When we held our forum on safety in Civic, the Chief Minister had his forum that morning. So we have this recurring theme from the government as they catch up.

It is too important to put it to spin. The problem with this government and their management of public education is that they rely on a couple of trite lines, well delivered by the minister. I can see the hours of practice there, getting the words right, getting the inflection right, building up to it, steely-eyed, with a firm jaw: "Yes, we've spent more money than anybody else." Well, you have a bigger budget than anybody has ever had, but I do not believe that the education budget in the ACT has ever decreased, Mr Speaker. Perhaps you could tell me from your time in office back in the early nineties whether it decreased. It goes up every year.

So when the government claim, "We've got a bigger budget," I would say, "Yes, you do, but what is the effect of your bigger budget?" The effect of the bigger budget is simply to go back to the performance of students in the Australian Capital Territory on PISA. And what is the first key finding? "There has been a significant decline in the reading literacy performance of students in the ACT from PISA 2000 to PISA 2006." There are declines in maths. At the heart of it, what do parents want? What do employers need? What does the society require? What do students need when they leave school? They need to be able to read and write; they need to be able to add up.

We have a government that is full of spin. Yes, it is cashed up and full of dollars and full of invective which they like to throw across the chamber. But when we get the results from PISA, we see the words "significant decline" in the very first line of the report. I looked for the words "significant decline" in the minister's press release, but he must have forgotten to put them in, just as he forgot to do his homework.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.25): I think we have just had demonstrated why the deputy leader was never going to be the education spokesperson. The glaring errors and misunderstandings that—

Mr Pratt: Resort to a personal attack!

MR SPEAKER: Order!

MR BARR: They are fast and easy when it comes to dishing it out, Mr Speaker, but they can't even sit in silence to give the opportunity for the other side of the case to be presented. So the challenge for Mr Pratt is to sit there and shut up for 15 minutes. It will be hard. Let me respond to a number of the allegations—

Mr Pratt: I don't remember a personal attack on you, Andrew.

MR BARR: Settle down, Pratty. Take a Bex and lie down.

Mr Pratt: There was no personal attack on you, mate.

MR BARR: You'll be right.

MR SPEAKER: Order!

Mr Pratt: Resort to the personal attack.

MR SPEAKER: Order, Mr Pratt! This is not a discussion across the chamber; it is the discussion of a matter of public importance.

MR BARR: It is, indeed, Mr Speaker, and a matter of significant public importance. But let me go to a couple of the clear factual errors in Mr Smyth's comments—most particularly his denigration, again, of the public education system.

It is important to note, for Mr Smyth's benefit, that PISA tests students across all sectors. So if the suggestion is that the public education system and the government are responsible for the decline in performance not only in the ACT but across Australia, it is interesting to note that the same has been the case with the performance of all OECD countries. That might lead you to ask a question about national education policy and perhaps about international education policy. It might lead you, Mr Speaker, to want to look at a little bit more detail regarding the nature of PISA's examination and also, very importantly, at the question of sample size, standard deviations and standard error.

I will happily accept responsibility for the decline in performance of the ACT if those opposite will accept responsibility under a federal Liberal government for the decline in performance of the entire nation across the same assessment period. What does that tell you, Mr Speaker, about the level of commonwealth investment—

Mr Smyth: You're in charge everywhere.

MR BARR: Not throughout the entire period that PISA was examining. I know it has been a while since the Liberal Party won an election in this country; nonetheless, it is worth noting that Australia's overall performance declined. That suggests there has been a failure to invest in education at a national level.

A number of the groups and individuals that Mr Smyth quoted in his speech have said that, yes, they believe the federal government underinvested in public education to the tune of about $3 billion—that is the funding gap that is there. The challenge for the incoming Rudd Labor government is to increase the commonwealth government's investment in education.

But Mr Smyth is right: it is not just about how much money you spend; it is about where you spend it, how you target it and the sorts of programs and areas in which you seek to invest additional resources. This government has sought to provide additional resources in those early years of schooling, from kindergarten to year 3. We have sought to provide additional resources for Indigenous students. There is one significant concern that did come out of that PISA data in terms of a significant underperformance of Indigenous students. The PISA data shows that some Indigenous students are between 12 and 18 months behind their non-Indigenous counterparts in terms of their reading.

Mr Smyth: So you cut all the Indigenous schools.

MR BARR: Mr Speaker, the government invested an additional $3.3 million into—

Mrs Dunne: In bricks and mortar; none of it in the people.

MR BARR: No, into recurrent programs for Indigenous education in the second appropriation. You should know better, Mrs Dunne, if you had paid any attention. You were the shadow minister at the time. In fact, I remember you welcoming it in the committee, indicating that it was an important investment.

Importantly, we need to ensure that we raise the quality of our education system. That means having a sensible look at our resource level and where we are targeting resources. Mr Smyth is absolutely right: you need to ensure that you spend your money effectively within the education sector. And, yes, in budget after budget, of course there will be an increase. But the question is: has there been a real increase in expenditure on education? Clearly, there has been under this government; there has been more than a 30 per cent increase in education investment. That is running well ahead of inflation over the period during which this government has been in power. So there has been a real increase in education funding.

Have we sought to tackle the major systemic issues that face the ACT public education system? Yes. Those opposite seemingly would prefer to see governments invest in heating and cooling empty buildings. That is seemingly their priority. This government is focusing its investment on improving the quality of education, be it in initiatives to support pastoral care in our high schools, be it in initiatives to support and improve physical education, with the establishment today of the Children's Physical Activity Foundation, in partnership with John James and a range of sporting and other organisations in the ACT, be it in investment in languages, in the arts—in a range of areas. There has been more money and a more targeted investment in languages programs than those opposite were ever able to deliver in their time in government.

Let us make this clear: would I love to be able to plough millions and millions of dollars into every area? Yes, of course I would, but we have to undertake our investment in education in a strategic manner. It means having the guts to take difficult decisions to reprioritise expenditure. That is what we did in 2006. We backed it with $350 million of new investment, new money—money that those opposite continue to denigrate and continue to describe as throwing good money after bad. It is about doing a little bit of forward thinking about where our education system is going to be over the next five, 10 or 15 years. It is about investing in new school infrastructure in growth areas, in Gungahlin, but it is also about investing in infrastructure renewal in areas like west Belconnen and Tuggeranong. It is about investing across the board to raise the quality of our education system. That means investing in a variety of different programs and in ensuring that our students are able, across the board, to achieve their potential.

It was interesting that the PISA data showed that, across all socioeconomic groupings, students in the ACT performed better than their socioeconomic equivalents in every other Australian jurisdiction. So our performance is above that of every other jurisdiction. That is something to be pleased about. Have I ever said that that means there is nothing else to do in education? No. I said there were a variety of other areas in which we need to improve our performance. Of course we do. There will always be constant attention and constant striving to improve the quality of teaching and learning in our school system.

But the key thing here is to have ideas and to invest—to invest in early childhood education, to invest in new programs to promote arts, languages, physical education and a range of important activities, to invest in quality teaching. We know, absolutely, that the biggest single impact on learning outcomes is quality teaching. That is why ACT teachers are equal to or the best paid in Australia, and that is why we continue to work in partnership with the commonwealth government around a range of new initiatives in early childhood education, trades training centres for our high schools to improve our vocational education and training performance, investment in information and communications technology. We need to ensure that our students have access to the latest ICT. That is why the government, two years ago, invested $20 million in providing a state-of-the-art broadband network for all of our public schools.

That is why the government has provided additional support for the non-government system to invest in their ICT, to invest in a range of other pastoral care programs in the non-government sector and also to invest in additional support for students with a disability. We know from the most recent census that the government system accommodates and provides education for the vast majority of students with a disability in the ACT. But we do recognise that non-government schools are increasingly providing education to students with a disability. The government has increased the levels of assistance that we provide to students with a disability, regardless of which education sector they are in. That is an important investment in ensuring that no-one is left behind.

If there is an area of concern within the PISA data, it is the performance across the ACT education system as a whole of our high achievers. It is clear from that data that

there is a statistically significant change in performance at the very top of the socioeconomic index and also at the very top of our performance index in reading. There is no doubt about that. The government will work with the public system, the Catholic system and the independent system on improving, and particularly extending, the range of gifted and talented programs that are available for those high-achieving students.

It is particularly pleasing that the government has been able to extend the range of subjects in partnership with the ANU that are available through the ANU secondary college. The government has also been able to establish a relationship with the University of Canberra for a similar early entry scheme for the University of Canberra to provide our senior secondary students with access to university-level education through years 11 and 12. That opportunity for gifted and talented students to extend their education, to get credit on their university degrees through their study at the ANU secondary college and the UC college, is an important initiative for senior secondary. But we need to look at other ways to extend these programs through our high schools and our primary school sectors. There are a number of outstanding programs already operating within the public education system, and I know there are a number of non-government schools that also seek to provide extension learning opportunities for high-achieving students.

Our goal across the entire system must be to continually aim to lift overall performance. This year, for the first time we will have the introduction of national testing across all jurisdictions. That will occur in May this year. The ACT government has taken a leading role. Last year, I issued a policy paper around national testing and the ways that we can utilise the data that we get from national testing to improve performance. But that data is available not for league tables, not to rank schools against each other, but as information for teachers to assist individual students.

If there is a clear point of ideological difference, or one of many clear points of ideological difference, between the Labor Party and the Liberal Party, it is around the use of that data. We believe that data should be used to assist teachers to improve the outcomes for students. The Liberal Party, when Minister Bishop was in power only last year, was hell-bent on using that to name and shame schools. That is a clear ideological difference between those on the Labor side and those opposite.

In the time remaining to me, I must respond to Mr Smyth's most interesting assertions around preschool education. It seems to have escaped Mr Smyth that preschool education is not compulsory and that, in fact, the increase in the number of students attending preschools is as a result of the government increasing the number of free preschool hours from 10 to 12. The cohort—

Mr Smyth: How do you know? Prove it.

MR BARR: How do I know? Because in kindergarten this year, Mr Smyth, the cohort across all schools in the ACT is in the order of about 4,100 to 4,200 students. That is when compulsory education kicks in. So we know, when we look back at births in the territory, that it ranges between 3,900 and about 4,200 or 4,300 each year. That is the cohort, and 3,772 are engaged in preschool this year. So it is heading towards 80 to 90 per cent of the cohort.

Two or three years ago, that number was in decline. There were the same number of births but fewer students were engaging in early childhood education. There were 40 extra births in 2004 over 2003, going back four years to get to the preschool age; there are more than 360 extra students in preschool. So births do not account for this increase. There must be other factors. It is worth noting that, in spite of the fact that our population has increased significantly since the 1970s, the birth rate in the ACT is about 1.6 per cent or 1.7 per cent. There were more births in 1977 than there were in 2008, yet our city is at least 50 per cent if not 60 per cent larger. *(Time expired.)*

MR SESELJA (Ginninderra—Leader of the Opposition) (4.40): Mr Speaker, I thank the Deputy Leader of the Opposition for bringing this matter to the attention of the Assembly, because the management of public education in the ACT is an important matter. It is fair to say and it is absolutely true that there is only one side of politics that is actually committed to both public education and non-government education in the ACT, and we will come to that in a moment.

If we do go back to the genesis of many of the changes that have occurred in public education in the last few years it is, of course, the functional review. The *Towards 2020* policy was a hurried and panicked response to the findings of the functional review, when the government was told it had to go out and close lots of schools real quick. Despite the fact that the minister has often said that this is the only way forward—which is, of course, a slight on the former Labor ministers who have preceded him in the portfolio—he is unable to provide us with the data and the evidence to actually demonstrate that this was necessary.

When Mrs Dunne has very doggedly tried to drill down to try and get the case for each of the school closures, the case to close Cook school, the case to close Flynn school, the case to close all of the other 23 schools, the minister and the department have been unable to provide that evidence, and they have been unable to provide that data. They talk in broad terms: they talk in broad terms about empty desks; they talk in broad terms about savings. In fact, we know that many of those savings are very small indeed in comparison to the disruption that has been caused as a result of this policy.

I do go back to the functional review, because if the minister is so sure of the veracity of what they are basing this program on then surely he and the government would not mind actually putting it out there for public view so that we can have a more informed debate about the rationale for ripping the heart out of the public education system in the ACT that has occurred under this government.

We go back prior to the 2004 election, when this government, when the Labor Party in government at the time, said that there would be no school closures in the next term of government. This Labor Party, this government, misled the people of the ACT. The minister has the hide to get up and proclaim how committed the Labor Party is to public education, yet this party and this government went to the last election promising not to close any schools and then turned around and closed 23 schools. There has never been a bigger betrayal of the community in the ACT on such a fundamental policy issue than this government's betrayal in relation to its school closure plans and in relation to its school closure program.

Mr Speaker, the latest debacle that we are seeing in relation to the handling of Lyons school, and, no doubt, in the coming days as we see more evidence emerging about plans for other schools, is really the final slap to the community. You have got a government going to an election promising not to close any schools, and then turning around 18 months later with a plan to close 39 schools, which was eventually whittled down to 23 schools. Having deceived the people of the ACT on its school closure program, you would think that it would actually show some decency after that.

In implementing its school closure program—the school closure program which it assured us was not going to happen prior to the election—you would think that, having broken that promise and having argued long and hard about the necessity of going down this path, that we would actually see some compassion from this government in the way it treated these communities. You would think it would actually say, "Well, yes, we feel that it was necessary to break our promise on school closures, but we will actually treat you decently now while we do it." But they cannot even bring themselves to be open and honest with the community about their plans.

We saw the minister's response in question time today on this issue—it was shrill and defensive, and it was because he and his department and his office have been caught out on their outrageous plans to either shift the kids early with maybe only two months notice to Yarralumla or to move them en masse into the hall to complete the 2008 school year. I happen to believe that Ms Wright, who is quoted in the *Canberra Times,* has no reason to mislead the community. I happen to believe that she is telling the community and the *Canberra Times* what she was actually told. What she was actually told was that options included moving the students to Yarralumla early, conducting all the classes in the school hall for the rest of the year or moving the children around other parts of the building. They were the options on the table as indicated to her by the department of education.

There is no doubt that this is what she was told. In fact, the spokesman for the ACT education minister, Andrew Barr, said that no decision had been made but did not dispute that these were the options on the table. The options on the table were to move to Yarralumla early, conducting all of the classes in the school hall for the rest of the year or moving the children around other parts of the building. These were the options on the table, and the minister's office did not dispute it. All we get this morning is the minister's media release saying that the ACT government has no plans to relocate students of Lyons primary school to Yarralumla primary school before the end of the 2008 school year.

What we have in response to a negative *Canberra Times* story, in response to being caught out on their plans to impose more hardship on the community of the Lyons primary school is that they take one of the options off the table. They have taken off the table one of the options that they were considering—that is, forcing students at two months notice to go to Yarralumla early. We can be thankful that we have a responsive government that makes policy so quickly in response to negative media coverage! When they get a bad story, how quickly they put some of these options away. We do not know whether or not the other options remain on the table.

The minister danced around the issue today as to the detail of how the kids would be treated in terms of possibly being relocated to the school hall for their classes. We have all of the issues that will surround the disruption of being on a building site prior to the Christmas holidays. The minister has not outlined how the disruption to the community will be minimised as a result of that, but we do know that this government was happy to have on the table these options, which can be seen in no other way than a heartless decision to cause disruption to the people of Lyons and the Lyons school community after having misled them at the last election.

We had the case of Jo, a single mother, who called into radio station MIX 106 today. She was misled by this government at the last election about their plans to close schools. Having been misled, she faced the prospect of having to move her child early to Yarralumla. She does not have a car and does not have the ability to drive them to Yarralumla. Now we know that that option has been taken off the table, but she still faces the prospect of her children being moved to the school hall to complete their classes. That has not been ruled out, and we know from the—

Mr Barr*:* I said that explicitly in question time.

MR SESELJA: Well, yesterday it was on the table, and in the media release there was nothing ruling it out. So now we have seen a move from yesterday in the *Canberra Times*, this morning's press release and then this afternoon's question time. This is how policy is being made in the minister's office. He needs to clarify his statements, even those made in question time. How significant will their time be in the school hall? Was this proposal seriously on the table or was the department of education making misleading statements to members of the school community? The minister needs to clarify this. The government has acted in a heartless manner on this issue. *(Time expired.)*

DR FOSKEY (Molonglo) (4.50): Public education needs to be managed for a range of factors. Of course, there are the educational and, indeed, social outcomes for all students, whatever school or school system they go to. Another is for the changing number and mix of students who attend government schools, and yet another is the changing demands and expectations that we have of teachers and the strategies that have to be put in place if we are to attract teachers, maintain their professional development and keep them.

A strong, effective, inclusive public education system underpins our democracy, and our progress through the 19th and early 20th century in the development of Australia as a world-leading progressive, affluent democracy was the product of public education. Almost everyone in this room is here because they had a good education, some of us a public education. While it is easy to imagine the challenges of the 21st century are entirely different, the role of the public education system that addresses these challenges remains essential.

I want to quote something from Brian Caldwell who, in his turn, is paraphrasing the Prime Minister of Singapore, Lee Hsien Loong, who was said to have asked this question:

> What will education be like 40 years from now? I can't tell you. Nobody can. But I can tell you that it must be totally different because if it is the same as it is today, we're dead. Current approaches will be irrelevant, marginalised, the world will be different. You may want it to be the same, but it can't be the same.

That means that we are not able to envisage what our schools should be like, but we need to know that we have a system that is responsive and a system that has the research capacity to be on top of the latest, so that we can take up the challenge of a globalised world and a world where information that is outside the school can be more powerful than that which is available within it. These are, indeed, very large challenges.

The introduction to the Victorian Auditor-General's recent report into improving Victorian schools states:

> How well young people perform at school has a major impact on their self-esteem and future life changes. Education is also a major contributor to future economic prosperity and to social cohesion.

Indeed, Prime Minister Gordon Brown has said:

> I make no apology for saying that education is the best economic policy.

It is a bit of a concern when we have to justify the economic worth of education to get the resources there, but, indeed, we have to also acknowledge its role in building our future economic prosperity.

In this context, the achievement gap across all ACT schools, which is, I am afraid—and it is better to acknowledge these things than to deny them—almost the worst in Australia, and not getting any better, is enormously important. Students from the lower socioeconomic levels are not doing better than their peers in the rest of Australia, whatever this education minister might claim, and we have not got enough in place to help them catch up.

Why is the ACT government not developing a strategy to address that gap in consultation with the different school systems, with parents and community, with academic research institutions and with the federal government? Then, when it comes time to look specifically at the public education system, we need the disaggregated data to tell us who is leaving the ACT government schools and who is staying. We need qualitative research to tell us why they are going and what they imagine they get when they go. We do not have that information, and it was not available in the report that provided all this challenging information, because it did not disaggregate information from the two different systems.

It seems that the ACT government, while keen to talk up its investment in bricks and mortar, is not collecting information that would help it target resources where they are needed. You cannot manage a school system if you do not identify the changes that are going on, the emerging needs and the innovative ways to meet them and the mix of people out of whom it is made.

I want to emphasise that the chief driving force of an education revolution is the quality of the teachers and those who support them. You can even have the best physical environments, but if you have not got excellent quality teachers who are enthusiastic, who love their jobs and who feel well supported, you will not have decent outcomes. It is that simple. As the recent and highly acclaimed McKinsey and Company report on how the world's best performing school systems come out on top says:

> The quality of an education system (or school) cannot exceed the quality of its teachers.

But there are some very interesting things going on in Australia, as in other countries. Again, thanks to the ACT Legislative Assembly library—which does keep a very current and useful collection of books and where even just walking in and having a look at new books usually brings some gem—I have the report where Brian Caldwell talks here about efforts made in Victoria with exactly the sorts of kids that systems often give up on. Let us have a look at this one: John Fleming was principal of Bellfield primary school, which serves the Melbourne suburb of West Heidelberg, a community characterised by high levels of aggression, gambling, alcohol and drug abuse.

Enrolment is about 220 and remains steady. Some 80 per cent of the families receive the education maintenance allowance, 60 per cent come from single parent families and slightly more than 20 per cent from non-English speaking backgrounds, many are refugees from Somalia and there are about 20 Indigenous students. It is one of the most disadvantaged schools in Victoria, but the transformation set in place by that principal, who was supported, of course, by the system, shows that he was able to bring up, for instance, the percentage of those reading with 100 per cent accuracy at level one to 97.4 per cent, as compared to similar schools in the same year, 2004, with 58.5 per cent. How did he do it?

What Fleming believed he needed to do was to overturn the view that a student's capacity to learn was determined by their home circumstances. Children's backgrounds have no impact on their ability to learn at school. Now, I know this is controversial, and Caldwell says it is, but it has been an important statement that gives those children the opportunity to succeed. It tells them that they have just as great an ability to learn as any kid anywhere. That is what they have set about achieving, and people who visit Bellfield now see that the entire staff believe that to be the case.

I am absolutely sure there are fantastic things going on here in the ACT schools, and I think it would be great to see the studies that showed that work. We need to see them, and I think the parents need to see them. We do not need more glossy pamphlets talking up public education. We need the evidence which shows that public education works, not just for kids at the lower end of the socioeconomic scale, but also for kids at the top end of the socioeconomic scale. Without representatives from all the socioeconomic groups, we have not got a successful system.

I am concerned that some of our most marginalised kids are being pushed out of schools. I heard last week of an eight year old who was suspended from his school.

That is a real concern. It may be an indication that we had a very difficult child on our hands, but I would be surprised if that child did not have many, many needs and a requirement for support. People who work with these most marginalised children tell me that they are desperately seeking in-school suspensions or some other system that does not send those children back to their dysfunctional homes, to their foster families, who desperately need that respite, and thus out in the streets. Many of them are suspended from school and they hang about anyway.

These kids are at the cutting edge of where we need to work, and this is really a challenge, I can acknowledge that. Are the days gone when such children could sit outside the principal's office because there were one or two? I do not know, but I want to see the work that indicates the best way of dealing with kids. I acknowledge that we have got a code of conduct to deal with violent incidents, and that there are steps that must be followed, but that is not good enough. *(Time expired.)*

MS PORTER (Ginninderra) (5.00): I thank Mr Smyth for raising this important issue. There can be no doubt, as others have said before me, that the management of public education is one of the most important areas for any government. As the minister has explained, for a public education system to operate effectively, it needs to be properly resourced. That is why, since coming to office in 2001, the Stanhope government has increased funding for public schools to $390.7 million in 2007-08 compared to funding of just $296.1 million in 2001-02. That represents an increase of over 30 per cent in funding in public education.

These investments are hitting the mark. Not only do our teachers now receive amongst the highest salaries in the country, but our students continue to achieve the best results. The 2008 Productivity Commission report on government services, which provides a comprehensive assessment in comparison of the performance of governments in Australia that we have been discussing, confirms the success of the ACT public education systems in the areas of participation, retention, completion, literacy and numeracy. The minister has addressed the concerns regarding some of these results.

Among other things, the report shows that the ACT government is well above the national average when it comes to expenditure per public school student with our expenditure of $13,165 per student compared with the national average of $11,243. It is a pity that the previous federal Liberal government did not have the same commitment.

This investment has translated into excellent results for our students, who continue to achieve some of the best results across the country and compare favourably with some of the highest performing countries in the world. I note that Mr Seselja, the shadow minister for this particular area, has absented himself from the chamber yet again. Additionally, the ACT government has provided $90 million over four years to upgrade school infrastructure, as Mr Barr mentioned earlier. Almost $80 million of this funding has already been allocated, providing for such improvements as new gymnasiums at Belconnen and Stromlo high schools, a new performing arts centre at Lyneham high school and a range of other school improvements that Mr Barr outlined before.

Mr Speaker, education is not just about having high quality learning environments, and that has been rightly pointed out by other people here this afternoon. It is also what happens in a school and in the classrooms, and this government has a proven track record in these areas as well. Last year the minister announced further investment in public education specifically targeting areas such as student welfare, Indigenous outcomes, the teaching of languages and the quality of public education teaching.

Funding of $14.6 million over the next four years has been provided for a range of pastoral care and student welfare initiatives. This will provide for a dedicated pastoral care coordinator in every high school from 2008. These pastoral care teachers will coordinate whole school pastoral care programs that will take a personalised approach to the support of student wellbeing. The funding will also provide for additional support for non-teacher professionals, such as social workers and community nurses. The focus of these professionals will be on assisting families of high school students with complex needs to support their children in engaging with their learning.

Mr Speaker, as the minister has outlined there is a concern, too, with regard to Indigenous students. They will benefit from an additional $3.3 million over four years aimed at extending the intensive literacy and numeracy support for students in years kindergarten to year 4, with individual support and learning plans. As a person who has extensive experience in working and living with Indigenous communities, I know how critical this is.

Support will be provided for Indigenous students in years 6 and 9 who are performing well above the benchmark, and these students will be mentored through critical transitional points to help them stay in school to pursue further studies and achieve their goals. This is something that I experienced a lot when I was in the Northern Territory—that is, many students in fact did achieve quite well, but then their schooling was interrupted. Additional teacher consultants will also be provided to give individual support including the development of strategies to involve parents and caregivers in personalised learning plans.

I recently spoke in this place about our investment in language education, and funding of $300,000 has been committed over the next three years so that language programs can be offered to all students from year 3 to year 8 by 2010. Unfortunately every time that we mention this, Mrs Dunne continues to jeer across the chamber. The $300,000 is in addition to language programs already on offer in the early years and in years 9 and 10. Primary schools will offer language for a minimum of 60 minutes per week in years 3 and 6, and high school will offer languages from 150 minutes per week in years 7 and 8.

Mrs Dunne: $300,000 for three language teachers.

Mr Barr: It's all about more money, is it?

MR DEPUTY SPEAKER: Order, Mrs Dunne. Order, Mr Barr. No conversations across the chamber. Carry on, Ms Porter.

MS PORTER: Thank you, Mr Deputy Speaker.

Mrs Dunne: I suspect I know a little bit more about language teaching than you do, Andrew.

Mr Barr: Why?

MR DEPUTY SPEAKER: Mr Barr.

Mrs Dunne: Just a little bit.

MS PORTER: Shall I continue, Mr Deputy Speaker?

MR DEPUTY SPEAKER: Mr Barr and Mrs Dunne, cease conversations across the chamber. This is my last warning to you both.

Members interjecting—

MR DEPUTY SPEAKER: Mr Barr, I am warning you. You did not have to respond in that fashion, and I warn you.

MS PORTER: This investment recognises the importance of language skills in today's global community and will help students to become internationally engaged and sensitive to cultural diversity with the ability to communicate, interact and negotiate within and across languages and cultures.

We all know how important encouraging physical activity is in relation to our young people's life's chances, and the minister emphasised the importance of this earlier today. As the minister said, three specialist care teachers have been provided to develop capacity in primary school teachers to deliver quality physical education for students over the next three years. This will, importantly, ensure that primary school teachers have the ability to deliver quality physical education programs that raise the level of physical activity and also the skill levels as well as making it engaging for students.

The new curriculum framework released by the minister late last year is an historic development in ACT education. The framework represents the culmination of four years of important work which situates the ACT as a leader of education in the nation. It gives the ACT community a guarantee that no matter which school they attend our students will be provided with contemporary, relevant and challenging learning for the 21st century.

Public education remains as one of the Stanhope government's highest priorities. We are completely reinvigorating the system. The school upgrades being undertaken and the construction of the new schools that the minister has mentioned will ensure that our students have access to high class education facilities. Teachers are being valued for their role and students are being given access to the best practice teaching programs and the state of art information technology resources. There can be no doubt that the public education system in the ACT is in good hands.

MRS DUNNE (Ginninderra) (5.09): Mr Smyth's matter of public importance is of exceeding importance, and what we have seen today is the complete back flip and backing down of the Minister for Education and Training when he has been caught out. The community has come to the opposition distraught about the decisions made by the department or mooted by the department of education in relation to Lyons primary school. Only when these matters have been made public has this minister backed down. It was as late as yesterday afternoon when his office was telling journalists that one of the options was to put all the kids at Lyons primary school into the assembly hall. It was as late as yesterday afternoon that one of his staff—his DLO—was telling parents that that is where the children would go. *(Time expired.)*

MR SPEAKER: The time for this discussion has expired.

Crimes Amendment Bill 2008

[Cognate bill:
Crimes (Street Offences) Amendment Bill 2007]

Proposed new clause 18 and proposed new schedule 1.

Debate resumed.

MR STEFANIAK (Ginninderra) (5.10): I am taking the opportunity to speak again. I was interested to hear the comments made by the Attorney-General and Dr Foskey, who is not with us, but I will address some of the comments that she made similar to the attorney's. Dr Foskey falls into the common trap, I think, of people who either do not understand or do not want to understand the need for legislation like this and who have, perhaps, a certain view about police and a very rose-coloured view of offenders and what actually happens on the streets.

She spoke of police coming along and maybe not being too sure what has happened, because it has already started, and worrying about victims actually being involved in fighting in a public place. She also made comments about our asking too much of our police officers to actually have to make a decision on the spot and it would be much easier for them if they did not have to do it. I find that patronising in the extreme. Might I also say that police officers have to make decisions on a daily basis whenever they come into contact with anyone who may or may not have committed an offence.

Indeed, if they were to duckshove their responsibilities, how could they possibly arrest anyone, if you follow her logic. I think it is a somewhat warped and convoluted logic which totally misses the point. She does not appreciate what it is actually like out there when you come across situations and you have to act.

Far from police officers not wanting to actually have the power to administer and issue an on-the-spot fine for fight in a public place or for offensive behaviour, they want that. Those were the main offences, along with indecent exposure or urinating in public. I think that is a better offence; that is a good one, minister. But offensive behaviour and fight in a public place were specifically mentioned by every single police officer I spoke to at Tuggeranong, at Woden, at Belconnen, at Civic, and even

at Gungahlin where there are only about eight police officers at the station which is not manned all the time.

Those were the specific offences. It did not matter whether they were of officer rank or the lowliest constable who was just starting out on their career, those are the offences which they wanted to have on-the-spot fines for. I think it is patronising in the extreme to suggest that the police would do anything other than their duty properly. They are in an ideal situation, perhaps far better than a court, in terms of coming across someone in the street doing some simple street offence act such as fight in a public place.

It is not rocket science. It is painfully obvious to anyone who comes across, say, an incident like that whether, in fact, it is a scuffle which initially you can talk to the people about and, if that does not work, give them an infringement notice or whether some further action such as an arrest is warranted. This does not stop the police arresting, even for these minor street offences. Obviously blind Freddy would tell you that, if a more serious assault had taken place, the police then would arrest in relation to that. They do it all the time. They have done it for decades. It is an absolute furphy to suggest otherwise, as, indeed, Dr Foskey and Mr Corbell are actually suggesting in relation to that. I would submit it is the police who are the best to judge these issues.

Similarly, with offensive behaviour, yes, it is a wide coverall; and, yes, we do not have "unseemly words" or "offensive language", the offence that I tried to put back in. We have the coverall of "offensive language", quite correctly summed up by the minister. But it is painfully obvious, again. I think any of us who wander around late at night or, indeed, at other times would know—and a reasonable man or woman would know—what is offensive and what is not. Quite clearly, it is quite offensive to have people screaming, yelling and harassing other people.

I have probably been a bit concerned. I have spoken to many people who, despite the minister's assurances that we do not have as big a problem here as elsewhere, do not feel that way, rightly or wrongly. They feel intimidated. They feel it has changed late at night in Civic. Even someone like Michael Moore, who wrote an article in the *City News*, seemed to express great concerns in relation to Civic and nearby in Reid. A lot of people I have spoken to have felt that it is quite different to what it was 10 or 15 years ago. Rightly or wrongly, there is that perception.

How do you change that? You change that by encompassing a scheme that provides, as far as it can, a maximum coverage. An on-the-spot scheme is a good one. I have already indicated there has been a 50 per cent reduction in street offences when trialled in parts of Sydney and trialled with the offences of offensive language and fight in a public place.

It has been very effective. It is an essential tool in the police armoury in terms of countering antisocial activity on the street. It is something I think the police would not ask for and would not ask for so passionately were it not seen to be so effective in doing the job that it is there to do.

I think it is crucially important—and this government, I know, has an aversion to doing this—to give the police all the reasonable legislative tools they need to do their

job properly. That is what this would do. It bolsters an initial attempt—not a marvellous one, but at least an attempt—by the minister to have an on-the-spot fine regime. These two amendments alone take his 30 per cent of the way probably up to about 80 or 90 per cent. These are the areas where the police, on a daily basis, feel the need to have an infringement notice provision.

I again hark back to what I said earlier to the minister. It is an infringement notice. What it means is that they are not going to have a record. If someone is being an absolute goose—they have drunk too much, they have got themselves into a fight or they are being absolutely obnoxious—and they get an infringement notice for this, more likely than not they will wake up in the morning with a hangover and pay the infringement notice. But if they dispute it, just like if you dispute a traffic offence of any sort where you get an infringement notice, you can go to court, have your day in court and dispute it. That does not stop this happening.

I think the minister is quite wrong. He talks about a mental aspect. Where is the mental aspect in two people having a fight? It is fairly simple. You swing a punch; someone else swings a punch. They are probably absolutely blotto. You end up on the ground. They are fairly uselessly knocking each other around. That is very different from someone doing an actual assault under that part of the Crimes Act.

In fact, you probably need less mental aspect to that than urinating. At least if you are a male and you urinate, you have got to unzip your fly or do something with your trousers, pull out that part of your equipment and off you go. That is too much detail, but I think you get the gist of what I am saying in terms of a mental aspect. I think there is probably less in fight in a public place than there is in urinating.

Similarly, the law is quite clear—and there are numerous cases of what constitutes offensive behaviour—and is well known to the police. They are probably the best people to judge on the spot, like they have to judge on the spot so much before they take action, and issue an infringement notice. This Assembly should give them the trust that they need, that they deserve and that they have in other places—police forces with probably not quite as good a reputation as ours in administering these things quite successfully—to administer simple laws such as this.

Whilst it is pleasing that the minister at least has gone some of the way, he has ignored his rank and file officers. He has ignored them. I can see why he has ignored them. There is a great conflict there. It is the classic problem, I think, certain people in the Labor Party, especially those members of the left, have in terms of any law and order issue. There is this great conflict of what to do and this overemphasis, and an unreasonable one, in terms of trying to find problems that do not actually exist when you could actually have very sensible legislation here.

This is sensible legislation. This would give the police something that all of the ones I spoke to want to see. These amendments would significantly improve this legislation. They would make it twice as effective. They would enable some real deterrents to be out there. They would assist, too, in terms of things like the minister's announcement of a liquor review. That is great, but the police could use these on-the-spot fines, say, inside a liquor establishment. It does not have to be outside. It is very effective, a few

on-the-spot fines there for people being horribly offensive. People may be fighting in there.

It is a very useful tool that can be effectively utilised basically anywhere where people are congregated, usually in nightspots where alcohol is fuelling very bad behaviour. It saves everyone the trouble. It saves the hours it takes for a policeman to go off and charge them. It saves the hours they might have to spend in court, and it saves the defendant all of that, too. The defendant, invariably, in most instances, will be more than happy just to pay it, probably feeling that they have made a goose of themselves and at least it does not appear on their record.

It is a win-win situation for everyone in the community, and I think you completely miss the point by not accepting these two very sensible amendments which really enhance your legislation. I can understand why you do not—on ideological grounds—but you are letting down the men and women of the Australian Federal Police. You are letting down victims on the street who are going to have to suffer, the vast majority of ordinary, law-abiding citizens who enjoy themselves. You are even letting down the very defendants you are trying to actually help by supposedly not accepting these amendments.

Question put:

> That amendments Nos 1 and 2 be agreed to.

The Assembly voted—

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

Question so resolved in the negative.

Proposed new clause 18 negatived.

Proposed new schedule 1 negatived.

Title agreed to.

Bill, as amended, agreed to.

Standing Orders—Suspension

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

> That so much of the standing orders be suspended as would prevent order of the day No 23, Private Members' business relating to the Crimes (Street Offences) Amendment Bill 2007, being called on forthwith.

Crimes (Street Offences) Amendment Bill 2007

Debate resumed from 29 August 2007, on motion by **Mr Stefaniak**:

That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the negative.

Justice and Community Safety Legislation Amendment Bill 2007 (No 2)

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

That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (5.26): We will be supporting this bill, with the exception of two clauses which I will move to omit. I will speak more about those in the detail stage but I will mention them here.

Basically, a large part of this bill reflects minor and technical amendments to a number of laws administered by the Department of Justice and Community Safety. It amends 15 acts and seven pieces of subordinate legislation or regulations. The amendments include measures to do things like clarifying language or repealing redundancies, updating monetary accounts, effecting corrections, inserting notes, ensuring consistency, making transitional arrangements substantive and creating administrative efficiencies.

Some of the more substantive measures are in acts like the Civil Law (Sale of Residential Property) Act where an amendment provides that a defence for the seller of the property is available if the seller's lawyers fail to make available to the prospective buyer all the required documents and, under the same act, a seller will only be able to recover from a buyer the ordinary costs of obtaining a building and compliance inspection report and a pest inspection report, not any additional costs associated with obtaining those reports. In the Civil Law (Wrongs) Act, the amendments enable the intent of mutual recognition by a consequential amendment to the regulations.

In the Fair Trading (Consumer Affairs) Act, the amendments enable the AG to make a consumer safety order in relation to goods that have the potential to be dangerous if they are misused. Whilst that amendment could potentially cover just about any goods in existence, it would be impossible to be less general in its nature. It brings us more into line anyway with Victoria and New South Wales.

There are amendments to the Public Trustee Act to allow the Public Trustee to appoint more than one deputy public trustee. That is sensible. It acknowledges innovative business approaches being taken and developed by the Public Trustee, as well as her ultimate goal to become financially self-sufficient and not rely upon government budgetary funding.

That brings me to two elements of this bill with which we have a difficulty, and I will be moving amendments at the detail stage. They deal with two clauses of the bill where we have a problem. The first is in schedule 1, parts I and II, the amendments relating to the AAT Act, specifically the clause that omits section 62 from the act. It is interesting the government today introduced a similar amendment. Obviously, that one is going to get up. I do not know why; they could have perhaps indicated they would be supporting my amendment because it does exactly the same thing.

Mrs Dunne: We can't have that.

MR STEFANIAK: But we cannot have that. So we have got two amendments saying the same thing. At least, I suppose we can be thankful that this error is to be rectified by omitting section 62. The intent here was to remove the ability of individuals to apply to the Attorney-General for financial or legal assistance in AAT matters. That was on the basis that the Legal Aid Office is the principal body responsible for the provision of legal assistance and is provided with a grant of government funds annually for that purpose.

The problem, however, is that the Legal Aid Office does not in fact provide assistance in some matters. Only recently I met a constituent—I am not too sure whether the attorney did, too—who had brought a public housing matter to the AAT and had applied to the Legal Aid Office for assistance. The Legal Aid Office told the constituent that they do not provide legal assistance in housing matters and, indeed, the office's guidelines do not include housing matters in the list of classes of matters in which legal assistance may be granted.

Indeed, the guidelines of the Legal Aid Office do not talk about provision of any assistance in relation to any administrative decisions of government that are referred to the AAT, and the office will only consider providing assistance in cases of appeal in relation to decisions of the AAT itself. So a person potentially could be at a considerable disadvantage were they to proceed with a matter before the AAT against the financial and legal might of the government.

Such is the case of the constituent I referred to earlier. He has a public housing case before the AAT. It is an amazingly complex case—I had a look at it—in which even the Department of Housing has allocated a budget of $5,000 outside the AAT proceedings to try to unravel the complexities of the case. In the AAT hearing, ACT Housing is represented, I am told, by a barrister and a solicitor but the constituent can no longer afford legal advice. He is forced to represent himself. In the complexity of that matter, that is very, very difficult indeed.

Where are the human rights there, and where is the government's supposed sense of justice? I am pleased to see the government at least seems to have appreciated that

fact. In fact, because of the timeframe—and there was a time frame, I recall, in that case—I assisted the constituent in delivering to the AG's office a letter with documents so that at least he was in the timeframe before his ability to get legal assistance was killed off by this bill actually becoming law.

But it is pleasing to see the government at least now recognises that; hence this particular amendment. I think it is crucially important, especially if we are talking human rights, that all people are equal, rather than some being more equal than others. It is very important, I think—maybe it does not come up much—for section 62 to be retained because quite clearly there are circumstances when people justifiably need that legal assistance. There is no way they can do it themselves. This case is a case in point, and it may well be something the attorney may want to raise, because he is probably aware of it by now.

The other amendment relates to the Juries Act. I will say a little bit more about that when we actually come to it. But, fundamentally, I refer members to scrutiny of bills report No 50 of 4 February 2008, especially pages 14 through to 16—and I do not propose reading out all of it—which effectively says that an amendment of this importance, and indeed complexity, is really deserving of its own bill. There are other issues in relation to rights which the scrutiny report refers to and various rights are referred to there.

But fundamentally, we have here an amendment which would really change the way juries would operate. There are a lot of ramifications to ensure that a person who would seek the opportunity to do jury service and who may be blind, deaf or dumb would need relevant assistance. The scrutiny report actually refers to—and I will perhaps do that in a bit more detail later—the types of assistance that have been necessary in other jurisdictions that have looked at it. The scrutiny report concludes by saying why is not this in a substantive bill.

The latest report was interesting. We do not say that. There was another piece of legislation where we thought maybe that should be a substantive bill, but it was only on one issue and there was not the same complexity. But in something like this, I would say that this is a pretty complex matter. You are changing decades of practice. There are some considerable things that would need to be done to ensure the case so that a person suffering those disabilities would be able to properly contribute as a juror and would need relevant assistance.

There are various ways of doing that. There are problems with the ways you might do some things, which is raised in the scrutiny report. Therefore I think it is important to put that to one side, delete it, and come back—and by all means come back fairly quickly if you need to—with a substantive bill that properly addresses all the issues there.

With those two provisos, which we will be moving to delete, I indicate the opposition will be supporting the bill.

MR MULCAHY (Molonglo) (5.35): I will be supporting this bill. I recognise the need for these quite detailed omnibus pieces of legislation as tools to tidy up and

improve existing legislation. I have studied both this bill and the supporting materials and am of the view that the changes are essentially of a largely technical nature and involve correcting what are now redundant clauses or errors from previous versions of the act.

Some of the changes do go beyond corrections, but these two are changes that are welcome. For example, I support the changes to the Civil Law (Wrongs) Act 2002 that enable mutual recognition between jurisdictions of schemes approved in other jurisdictions. This is a commonsense change that must be made to keep the ACT uniform with the rest of Australia.

I have also studied the consideration given to the bill by the scrutiny of bills and subordinate legislation committee which Mr Stefaniak has focused on in his remarks and have noted the two items that they have brought to the Assembly's attention. These two items are more than simply corrections or adjustments to language and it is worth giving consideration to them.

The first of these two items, the creation of a strict liability offence under the Civil Law (Sale of Residential Property) Act 2003, is relatively non-controversial. The offence concerned appears to be, as the committee pointed out, regulatory and the maximum penalty attached to a breach of the proposed section is no more than 10 penalty points. In general, as I have said previously in this place, strict liability offences should only be created in very specific circumstances. We must be very careful about reducing the burden on the prosecution in matters that can result in serious punishments. However, given the regulatory nature of this offence and the amount of the maximum penalty, in this situation I do not object to the creation of a strict liability offence.

The second issue raised by the scrutiny of bills committee relates to the removal of the exclusion of blind and deaf persons from juries and requires more consideration. It does pose an interesting question, particularly given the ACT's Human Rights Act. The Human Rights Act provides for the right to equal treatment under the law but also provides for the right to a fair trial. The bill gives precedence to the former right, without seeking to address the human rights aspect of the issue in its explanatory statement. Nor, it should be noted, did the minister discuss this consideration in his presentation speech. This, I believe, is probably an oversight and it should not have fallen to the scrutiny of bills committee to pick up on it.

It would seem to me that this is an issue best decided by commonsense. I do not believe that a person should necessarily be prohibited from serving on a jury because they are blind or deaf but recognise, as I am sure all members would, that there will be times and cases when a person's disability will preclude them from participating in that particular case.

The Law Reform Commission of New South Wales recognised these reservations about the ability of deaf people to perform jury duties and listed accuracy of sign interpretation, the ability to evaluate evidence, the comprehension of instructions, the requisite secrecy of the jury room, jury deliberation, and the effects on length and cost of the trial. I believe that these points are all telling. Both the effect of a juror's

disability on their ability to process what is happening and obviously the effects on the length and cost of the trial are important factors that should be considered.

The primary consideration in a trial is not, with respect, the rights of the juror. Their rights are important, but the most important consideration should and must be the right to a fair and timely trial of the accused. If this can happen with a juror who happens to be blind or deaf, then there should be nothing in the legislation which expressly prohibits the inclusion of that person on a jury. If it cannot, however, and the nature of the circumstances, either of the case or of the prospective juror, means that the right to a fair trial might be compromised, then commonsense must prevail.

I understand that section 16 of the Juries Act provides:

> If a judge is satisfied that a person summoned or appointed to attend to serve as a juror … is suffering such mental or physical disability as to be incapacitated for the proper discharge of the duties of a juror, the judge may discharge that person from further attendance on the Supreme Court under that summons or appointment.

However, I would echo the comment of the scrutiny of bills committee that the government should have sought to provide clearer explanation of this area of the law. It can save considerable time and energy if such matters are made clear from the outset.

Aside from these two issues, I believe that the bill is uncontroversial and will serve to tidy up various matters of law. Therefore, as I indicated earlier, I will be supporting the Justice and Community Safety Legislation Amendment Bill.

DR FOSKEY (Molonglo) (5.39): I welcome the provisions of this bill entitling people with various disabilities to be eligible for jury duty. I do share the concerns identified in the scrutiny of bills committee report about the expense of providing signing services, but on balance I think the cost is not so great and would not occur so frequently that it should dissuade us from removing one more area of discrimination against people based on their physical characteristics.

As the committee report mentions, the US and New Zealand have both removed these discriminatory provisions and they have not reported any significant problems. In regard to the additional cost, I do not think it will be very large. The use of a jury is increasingly rare these days and the number of profoundly deaf or blind people who will be called up for jury duty and not excluded in the empanelling process will surely be minimal.

I acknowledge the concerns expressed that this bill may compromise the right to a fair trial, but it is a sad truth that a potential juror's capacity to comprehend the evidence and substance of the case is not usually the highest quality that a defence barrister looks for in a juror. If defence counsel think that a person's disability is likely to prejudice their client's case, they will exclude that person from the duty, just as any other juror can be excluded.

I am hoping that this bill will enable a wider class of people to take their chances in the jury selection process, which is, after all, supposed to result in a trial by a jury of

one's peers, and by peers we mean other citizens. These provisions are going to result in a broader cross-section of society being eligible for jury duty, which will make the juries more representative of the community at large—surely a good thing if we accept that the jury system represents community standards and values and is a desirable safeguard against arbitrary government. There are no provisions absolving people with a disability from being charged with an offence and, if they are charged, it would seem a bit unfair that they could not be tried before a jury which at least held the possibility of including people with similar disabilities who would stand a better chance of being able to understand their life experiences.

I note the committee's concerns about the admission of non-jurors to the jury room in order to assist a blind or deaf juror. I assume that this problem has been resolved in other jurisdictions and I assume that JACS has decided that it will not present a major obstacle. I do hope that the court's budget is increased to cover the costs associated with the amendment. Alternatively, or additionally if it does not already do so, perhaps the government could have someone on hand to provide signing services for the whole of government and to help with general policy consultation with citizens with disabilities. However, I am not sure that I can agree with the Attorney-General when he says that these amendments are of a merely minor and technical nature. This, for instance, is one provision that will be of considerable importance to people affected by it.

In strict technical terms, the amendment to the Civil Law (Sale of Residential Property) Act 2003 creates a strict liability offence. It removes one strict liability offence from the statute book and then it creates another. But, in reality, the amendment does do what the Attorney-General says it does in his response to the scrutiny of bills report: it adds a sensible defence to the offence, and the minister is to be congratulated for injecting some more commonsense into the act.

On their face, strict liability offences derogate from a number of human rights. In this case, the committee identified the right to be presumed innocent and the right to liberty and security. Whether such a derogation is justifiable and desirable is a matter for reasoned ethical and legal reasoning. That reasoning should always take place and it should always be a matter for the public record, not locked away in a secret departmental filing cabinet, as is usually the case given the present arrangements for the issue of human rights compatibility statements.

In the case of section 10 of the Civil Law (Sale of Residential Property) Act, I think the derogation is justifiable, particularly after this amendment takes effect. While I am mindful of the ongoing review of strict liability offences in the territory, it is by its very nature a very ongoing review and it should not prevent or discourage the Attorney-General from instructing his staff to stay alert to the possibility of enacting similar amendments to other existing strict liability offences where it is possible to provide a defence that limits the class of actions which attract the legal liability.

In many cases, the mental element of an offence is removed for reasons of administrative expedience because of the difficulty in obtaining probative evidence, particularly evidence concerning the state of mind of the accused. In these cases, the primary intention is not to capture everyone who commits the offence. Having been

cast so wide, the net captures Nemo-like small fry and real estate sharks alike. Amendments such as this one help to limit the class of innocent people who, through no fault or illegal intent of their own, end up as by-catch in the net of legal liability.

Another amendment that may in time prove to be more substantive than merely minor and technical are the provisions which give the Attorney-General the power to make a product safety order in relation to a potentially dangerous product. Presumably, this would cover the case of Bindeez beads and similar products, but I half seriously wonder if it would also cover alcohol and tobacco products, which cause so much trouble and distress when used improperly. I wonder if, in more enlightened times, this power will be used to minimise the dangers inherent in relaxing the supply of these currently legal and highly addictive drugs and of governments becoming so dependent on taxing their consumption.

Another amendment, or rather innovation, which pushes the boundary of what is of merely a machinery or technical nature are the provisions that amend the Public Trustee Act to enable the Public Trustee to make payments or hand over personal items from a small estate without requiring letters of administration or the grant of probate. These are not insignificant concessions, and for some grief-stricken people the process is time-consuming, costly and stressful at a time when such legal technicalities seem to be utterly insignificant compared to the feelings of loss that they are experiencing.

One wonders why, if these are merely minor or technical amendments, they were not enacted sooner. The fact is that they are not merely technical amendments; they represent a change of policy, albeit a desirable change in policy. I understand the problems with fraud that can arise when disbursements are made from an estate before probate is settled, and I am glad that the government has seen fit to deal with such problems on the rare occasions that they may occur and to stop penalising the overwhelming majority of honest beneficiaries who will now be spared the stress and/or expense of obtaining probate and who will be able to benefit from the full value of the deceased estate. Odds are that these are people whose circumstances are such that they will need the benefit of a small estate more than those who inherit from large estates.

I cannot let this occasion pass without commenting on the seemingly innocuous amendments to the Administrative Appeals Tribunal Act repealing section 26 (8) and section 62. These are certainly not minor technical and uncontroversial amendments and it is either mischievous or naive for the department to characterise them as such. Section 26, paragraph 8 is worth highlighting. This bill severs the link between the commonwealth Attorney-General's power to issue conclusive certificates and the operation of the tribunal in the ACT. The argument is that this is a redundant provision as the ACT government now has that power for itself. This is a power which the Greens, the Liberal opposition and most independent commentators consider the current government has proven itself unable to resist abusing.

In opposition, the federal Labor Party expressed its determination to remove the provision for the Attorney-General to issue certificates and to put it in the hands of the courts or some other arm's length body. I expect it will pursue that course of action.

In that context then, the link with the commonwealth could have provided a trigger for the ACT to similarly repeal the provision. Other Labor state governments have repealed or are in the process of repealing these certificate provisions. It will be a sad day if the ACT becomes the only jurisdiction in the country to retain these undemocratic provisions.

The proposed removal of section 62 is also of concern. I understand that the government has now agreed not to proceed with this amendment and I commend it for that. The revised explanatory statement claimed that the section is now redundant, but I think that we have established that that is not true. There are numerous matters which the Legal Aid Commission will not or effectively cannot fund, and housing is one of them. There is a housing matter before the tribunal at the moment that contains a number of highly relevant social and legal principles but, due to a lack of funding, these arguments may not even be heard. The existing legislation gives the minister power to grant funding with conditions, so it provides an ideal opportunity for the government to test its own laws and legal interpretations. It would not have been good enough for the Attorney-General to wash his hands of responsibility for deciding whether or not to fund an action by removing his power to do so.

Sometimes it is in the public or even the government's interests to have things determined and clarified by a legal authority. Courts cannot give advisory opinions in our legal system, so sometimes test cases need to be run to determine where the law stands. For many people, funding a complex legal case is way beyond their means. In other cases, the legal point which needs clarifying is not central to an applicant's case so it falls to the attorney to fund the presentation of that aspect of a case. The fact that section 62 has not been used effectively reflects poorly on the government and it is not a reason to repeal it. There have been numerous housing, planning and access to information cases where the public interest would have been served by allowing the applicant to access proper legal advice.

I would like to make a correction on this matter. It has been suggested to my office that applications to the Attorney-General for legal assistance under this provision of the AAT Act have not been made in the past and that it is for that reason that the application presently before the Attorney-General has not been able to be considered in a timely manner. Rather than looking at the application made on 3 March, JACS apparently has spent the last four weeks developing criteria which the applicant could address. His hearing in the AAT is tomorrow, and for the record I have since been advised that applications have been made to the Attorney-General in the past. They were assessed on the merit of their cases and in fact were not successful by that measure. It is not hard for me to understand why my constituents can think so poorly of ACT government agencies.

In their totality, with the notable exception of the amendments to the AAT Act, these amendments will result in a significant improvement to the quality of life of many people affected by them. To the people that they affect, many of these amendments will not seem to be merely minor or technical. I commend the government for these initiatives and I recommend that they congratulate themselves a bit more, on this occasion at least. I will be supporting the bill.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.52), in reply: I thank members for their support and I will not seek at this point of the debate to revisit all of the issues that the bill seeks to address, except to say that the reforms in relation to removing the blanket prohibition on people who are blind, deaf or dumb being eligible to serve as a juror is a positive step and one that I believe is appropriate. We should not discriminate against people simply on the basis of their physical status or disability but instead judge a person's ability to be a juror on their merits.

In relation to the issues raised by the scrutiny of bills committee, particularly around the Civil Law (Sale of Residential Property) Act 2003, first of all I thank the committee for their comments and confirm that the amendment made by the JACS bill is not inserting a new offence but is only inserting a defence to an offence which already exists. The human rights issues relating to the offence were comprehensively addressed when the offence was introduced.

In relation to the committee's comments regarding the amendment to the Juries Act, I would like to clarify that the human rights issues involved and the practical implications of the amendments were given careful consideration. I have already stated before that the amendments will promote the right to equal treatment under the law and will not compromise the right to a fair trial, due to the protections which already exist in the Juries Act.

Finally, in relation to section 64, which deals with the ability to appeal or seek a grant of legal aid from the Attorney-General, there is no sinister motive around this provision. It was simply felt at the time that, given that the provision has not been exercised in any specific way for some time, it was appropriate to remove the provision and simply allow the existing legal aid mechanisms to operate. Given the concerns raised by members in this place, I am quite happy to retain the provision, but I think it is appropriate that that particular criterion I established to allow me to make consistent assessments about whether or not people are entitled to a grant of legal aid is there, and I am seeking to resolve that matter as soon as possible.

I have advised the individual to whom Dr Foskey refers—Mr Polglaz, I understand, is his name—that these matters will not be able to be resolved prior to his hearing tomorrow, and that is a matter of some regret to me. However, I have advised Mr Polglaz that he should simply seek an adjournment of the matter until these matters are resolved, and I would be very surprised if the AAT did not grant such an adjournment. That said, I thank members for their support for the legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

MR STEFANIAK (Ginninderra) (5.57): I move amendment No 1 circulated in my name *[see schedule 4 at page 811]*. I have already spoken to this amendment. I thank Dr Foskey and the attorney and I commend the amendment to the Assembly.

DR FOSKEY (Molonglo) (5.58): I would like to say that I support Mr Stefaniak's amendment. I covered some of the ground in the in-principle debate. The provision of the Administrative Appeals Tribunal Act which is to be deleted allows people to apply to the Attorney-General for legal assistance. The rationale is that, as the ACT Legal Aid Office is the principal body responsible for the provision of legal assistance, section 62 is redundant. But, while legal aid might support applications to the AAT in a range of circumstances, it does not support applications for review of decisions in housing matters. There seems to be general agreement that these are usually the province of the Welfare Rights and Legal Centre, but of course that centre also operates within very tight constraints and in those circumstances is unlikely to pursue matters which have the broad public interest in being determined by the courts at the expense of the urgent welfare issues before them.

Sometimes it is in the public interest to have things determined and clarified by a legal authority, so it makes no sense to change the law so that the Attorney-General cannot fund such cases which, while rare, are extremely important to clarify the law in the ACT. Because legal aid and welfare rights are unlikely to take complex housing issues to the AAT, we should still be able to apply to the Attorney-General in these cases. So I find the removal of section 62 of the AAT Act discriminatory. The fact that this section has rarely been used and legal assistance never granted does not mean it is not needed.

We should not be sacrificing human rights for administrative convenience. Human rights are not abstract things; they boil down to concrete decisions and outcomes. I hope the ACT government will reconsider this matter carefully with the aim to ensure its internal practices and its management of the territory's legislation conform to the ambition of the Human Rights Act.

At 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

Mr Don Bell
Professor Peter Cullen

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) (6.00): Mr Speaker, I rise today to express condolences at the recent passing of two very significant members of our community, Mr Don Bell and Professor Peter Cullen.

I would like to extend my sympathies and thoughts today to the family of Don Bell, who died late last month. In particular, my thoughts, and I am sure the thoughts of each of us, are with Don's wife, Ruth.

Don Bell was a Ngunnawal elder who grew up on the Hollywood Mission on the outskirts of Yass. His challenging early experiences helped shaped his lifelong passion for the advancement of Aboriginal issues. Mr Bell was determined that his family and others be accorded their rightful and respected place in our society. He became a strong advocate for the recognition of Aboriginal culture and language, in particular the culture and language of the Ngunnawal people. He worked hard to see that he and his family received the recognition they deserved as descendants of the traditional owners of the land that is now the Australian Capital Territory.

Don Bell and his family chose not to give up their right to pursue a native title claim over land in the ACT at the time when a number of other Ngunnawal family groups entered into a joint management arrangement for Namadgi national park. The Bell claim continues in the courts to this day.

My frequent meetings with both Don and Ruth Bell over the years left me with little doubt of the family's passion for eliminating discrimination against Indigenous people. But what also came through in those meetings was Don Bell's immense pride in the long history of his own people. Don Bell was a straight talker and his words carried the force of his sense of the deep injustices suffered by his family and other Indigenous Australians.

He also built connections with the non-Indigenous community and was deeply involved in many community-based activities and projects over the decades, including Landcare projects. His knowledge of the local region was considerable. He was the first to raise concerns about the possible loss of Aboriginal cultural sites in the wake of the 2003 bushfires.

However, it was his passion for securing lives of dignity and meaning for Indigenous people for which he will be most remembered. Don Bell transcribed the stories of the Aboriginal dreamtime that he had heard as a boy, sitting around a campfire, listening to the boomerang man. His books of stories include *Mununja the Butterfly: a Ngunawal Aboriginal Story*, *Dyirri the Frog* and *The Swan*. He was fond of retelling these stories to groups of Canberra schoolchildren.

Mr Bell was also involved in the delivery of training programs to new police recruits, helping them understand and appreciate local Aboriginal culture and heritage. I am sure I speak for all members of the Assembly, along with many in the wider Canberra community, when I offer Ruth and the extended Bell family my deepest sympathy and condolences at this time of sorrow. We have lost an enthusiastic and outspoken Indigenous leader.

I also take this opportunity to extend my condolences on the death of Professor Peter Cullen. It was with great sadness that I learned of the death of Peter Cullen, and it is fitting that the Assembly reflect on his contribution to water management in Australia and the ACT.

Professor Cullen was renowned nationally and internationally for his work as a freshwater ecologist. He was a founding member of the Wentworth Group of

Concerned Scientists responsible for developing the *Blueprint for a living continent*. We Canberrans were fortunate to have his expertise and his thoughtfulness at our disposal, no matter how heavy the national demands his professional eminence placed upon him.

Professor Cullen was the chair of the inaugural environment advisory committee that later became the ACT's first natural resource management committee. This set the benchmark for other environmental committees that have helped shape ACT policies. He was instrumental in the establishment of the Cooperative Research Centre for Freshwater Ecology, now the most prestigious concentration of water research capacity in this part of the world. It was largely through Peter's efforts that the headquarters of the CRC are located in Canberra. Not only has this proximity given the ACT government access to enormous expertise and productive working relationships with CRC researchers, it has built the territory's reputation as a centre of higher education and research.

Professor Cullen's contribution to environmental management in the ACT spanned many years. We recall his studies into Lake Burley Griffin sediment and nutrient run-off, which helped us design Canberra's other lakes and ponds. We recall his service on the Murray-Darling Basin Commission Community Advisory Committee. We remember that he initiated the Cotter River project in 2000, which evolved into the adaptive management framework that has helped the ACT secure its urban water supply while protecting its aquatic ecosystems. His knowledge of ACT waterways and his support for ACT water management initiatives was instrumental in the Canberra urban waterways project receiving National Water Commission support.

His wisdom helped shape significant ACT policies, such as think water, act water, and the lower Cotter catchment planning in the wake of the 2003 bushfires. More recently, he provided informal but invaluable advice regarding water security.

Professor Cullen was appointed an Officer of the Order of Australia in 2004 for service to freshwater ecology, and the Naumann-Thienemann Medal of the International Society of Limnology 2004 "for his exemplary scientific leadership".

The government conveys its sincere condolences to Peter's wife, Vicky, and his daughters Belinda and Michelle. He will be sadly missed.

Mr Don Bell
Housing—public

MRS BURKE (Molonglo) (6.05): I thank the Chief Minister for those comments, particularly in relation to Mr Don Bell. On a very wet, rainy day last week, I attended the funeral in Yass of one of Canberra's most notable Aboriginal and Indigenous leaders, Mr Don Bell. I acknowledge at this point the presence of other MLAs: yourself, Mr Speaker, Ms Porter and Mr Gentleman. It was quite ironic that it was a wet day given Don's concerns regarding water conservation and the environment generally.

Don Bell was a senior Ngunnawal elder and was born in Hollywood Mission in Yass on 5 October 1935. He was the son of James "Eppy" Carroll and Christine Carroll and

he had 10 brothers and sisters. Don was a kind and gentle man who, along with his wife of 50 years, Ruth, raised seven children. He had 27 grandchildren and seven great-grandchildren. Don lived and worked locally for most of his life and was well known for his boxing ability. He was also a great advocate for those people who were disadvantaged by both social and government inadequacies.

Don grew up having a close association with his traditional land, learning Ngunnawal lore. I go to pains here to say that he was very distressed and disappointed that the whole concept of the "double n" in Ngunnawal came about. He also learnt Ngunnawal tradition and bushcraft from his parents and elders, including his grandmother, Lucy Hamilton.

Don was passionate about the protection, preservation and promotion of Ngunnawal cultural heritage and, as such, Don was also a tireless campaigner for his people, the Ngunnawal people. Don was therefore very careful about what he said about his culture and who he said it to.

All of our lives are so much richer for having known Don. For such a small man physically, he made such a big impact on everyone and everything he was involved in and with. He was admired and respected by so many people from so many different walks of life when it came to cultural heritage and life in general. I was blessed to have known Don Bell. I certainly continue to be blessed to know his wife, Ruth. I pass on my condolences to Ruth and her family for their great loss with the passing of Don Bell, senior Ngunnawal elder. He will be greatly missed by all. I do wish Ruth and the family all the best at this very difficult time. Our thoughts and prayers are with you all. Vale, Don Bell.

Mr Speaker, at this point I seek permission to table some information that members might be happy to receive. I was rather astounded to hear the housing minister say, on 13 March 2008, "I have not had one complaint from a public housing tenant, not one." I have here a range of complaints directed to the minister from private housing tenants and also many from public housing tenants. The minister was contacted on behalf of tenants from various suburbs on 5 September 2007. I seek leave to table them.

Leave granted.

MRS BURKE: I table the following papers:

> ACT Housing tenants—Complaints to Minister—Various papers (12).

The minister was written to directly on 4 June 2007—Gowrie Court, Narrabundah. "The minister will take on complaints personally"—19 November 2007. The minister was contacted directly on behalf of tenants on 13 November 2007. The minister's DLO wrote back directly to housing tenants in May 2006. Mr Gentleman wrote directly to the minister on behalf of clients from Theodore on 14 August 2007. The minister was written to directly on 24 January 2008 by tenants from Holder. The minister was written to directly in July 2007 by two separate people in Skardon Street, Kaleen. The minister acknowledged that a public housing tenant contacted him directly—25 September 2007, Chirnside Place, Kambah. The minister was written to

directly on 27 August 2007—Chirnside Place, Kambah. Totterdell Street, Belconnen was brought to the minister's attention on behalf of tenants on 15 February 2007; cars were burnt out two weeks later. Finally, I have tabled many formal complaints, all from public housing tenants in Totterdell Street, Belconnen.

Canberra citizen of the year award

MR MULCAHY (Molonglo) (6.09): I would like to use my time in today's adjournment debate to talk about the Canberra citizen of the year ceremony. Firstly, I extend my congratulations to all those who received an award on that day. The Chief Minister's gold awards are a significant recognition of the work and lives of many who have helped to form the Canberra community over the last 50 years. I also offer my sincere congratulations to this year's citizen of the year, John Mackay. I have expressed my support by way of a letter congratulating him on that achievement and that honour. In all of my dealings with John, I have been impressed with his professionalism and his dedication to his role as Chief Executive of ActewAGL. I am sure that he will continue to contribute to the community in his new role as Chairman of Actew. I congratulate him on both his recognition as Canberran of the year and his new role as chair of Actew.

It is unfortunate that I was unable to offer my congratulations to the award winners in person. As an article in the *City News* pointed out, I, along with all of the other non-government members of this place, was not invited to the awards ceremony. I would hope that this is something of an embarrassment to the government. I can remember receiving an invitation in previous years, and taking up the invitation and attending the ceremony. It is an important day and ceremony for many Canberra residents and provides recognition of many in the community.

I would have expected that, for similar ACT government functions, it would be a matter of courtesy for all members of this place to be invited. From my experience, this is how I believe it has always happened. There may have been an issue in 2004, but this is how it has normally happened in the last several years. I would be extremely disturbed if this were to change just because we are in an election year.

I do not believe that not inviting non-government members to events is the normal practice. I have certainly had the pleasure of attending many events hosted by the ACT government over the last few years. I would urge the Chief Minister to instruct his events and protocol unit to ensure that this does not happen again. If it is the decision of some within the department, or of Mr Lasek or whoever is organising these events, they should be strongly advised that this is not an appropriate way to approach these sorts of events.

I am hoping that this was a one-off. Certainly, judging from revelations in the media about the event, it would seem that this was one government event that did not go off without a hitch. Using a photo of the Hon Joe Hockey with a caption reading, "Canberra Citizen of the Year Award and The Canberra Gold Chief Minister's Award" on a website does not suggest that the Chief Minister's Department was in any way on top of the management of this event. I do accept that mistakes happen, and I see no need to dwell on this unduly.

On a more serious note, I repeat my view to the government that this should not become a common practice. ACT government events should not be used to promote the Australian Labor Party or any individual candidate. I make a point of attending as many events as possible, as do other members of this place, and would appreciate invitations to public events designed to recognise important contributions to the Canberra community.

If you want to have an event to support your election campaign, pay for it out of your party funds or your individual funds, but do not use ACT taxpayers' funds to support these events. I think this has been received very poorly. I think it is unfortunate that those who are attending these events as award recipients are denied the opportunity to meet with all of their parliamentary representatives. It appeared on the website, apparently, as an invitation-only event. From what I read, none of the members of the opposition received an invite, nor did Dr Foskey and nor did I; yet there was a full roll-out for the government. It ought to be a matter of embarrassment. I hope that there is some response on this particular point and I hope we can have an assurance that this is the last time this sort of event will occur under these terms.

Mr Don Bell

MS PORTER (Ginninderra) (6.14): I also rise to acknowledge the sad passing of senior Ngunnawal elder Mr Don Bell. I attended Mr Bell's funeral last week, along with other members, as Mrs Burke has already mentioned—Mr Gentleman, yourself, Mr Speaker, Mrs Burke, and Annette Ellis, as the member for Canberra—a large number of members of the Indigenous community and a lot of people from Yass and the ACT.

The number of people who attended the church service and afterwards travelled to the graveside service is a testament to Mr Bell's strong role in the community. Several of his family members reminded us of his strong interest in and his constant devotion to preserving his culture and his language, enabling his large family and his community in general to maintain their cultural heritage. We are all the richer for his devotion to this lifelong task that I experienced on several occasions.

As I have mentioned before, I have been very fortunate to have lived and worked in remote Indigenous communities in the Top End of the Northern Territory for many years. This experience showed me how vitally important the preservation of living culture is to all of us. It also showed me that, without such care and attention, this heritage can be very quickly lost. If it is lost, we are all the poorer.

I am very grateful for Mr Bell's very strong contribution to our community at all levels. As I witnessed last week, the community of Yass also recognised his and his family's wonderful and significant contribution, as did the community of the ACT. I pay my respects to Mr Bell's family—to his wife, Ruth, and to all of his children, his grandchildren and his great-grandchildren.

Mr Don Bell
Ukraine

MR STEFANIAK (Ginninderra) (6.15): I, too, would like to honour Don Bell. I agree with all the comments made by members. I have known Don and Ruth Bell ever

since I have been in the Assembly. He was a wonderful representative of our Indigenous community—a native of the area and a man who strove tirelessly for justice. I also had the honour of assisting him with the publication of a book in the Ngunnawal language. It was a magnificent children's book with fantastic illustrations and it went out to all schools in the ACT. Don and Ruth Bell were the driving forces behind that. I will remember Don Bell for many, many things, but that is something which is a lasting tribute to him, amongst others. It is a very fitting one because of his love for his own people and his desire for the legends of the Ngunnawal people to be continued, and continued in a written form. The book is written in Ngunnawal with English translations, and I will always remember that. I will remember his warmth, his friendship and his straightforwardness. It was a particularly sad day when I heard of his passing, and I send my deepest sympathy to his widow, Ruth. Don and Ruth became very good friends of mine over the course of my time in the Assembly. I think it is right that we honour him today.

I also want to speak briefly about an excellent rally—the national remembrance day rally for the Ukrainian community, held on 8 March, to commemorate Holodomor. This was the manmade Stalinist famine in the Ukraine. 1932 to 1933 was a very dark period for the people of the Ukraine. In an act of genocide perpetrated by the then Soviet Communist regime, some seven million people died from starvation in a region that should have provided bountifully. In fact, it was the bread basket of Europe. It is a period that is remembered by Ukrainians as the Holodomor.

The Ukraine was considered to be the Soviet Union's bread basket—an agricultural area extending back to ancient times. But in 1932-33 it was a land of famine, death, military suppression and government control. There was a deliberate attempt to kill the Kulaks especially, but in the end between seven and 10 million people were killed.

The famine mostly affected the rural population. It was not the first time that famine had struck, and it would not be the last. There had been drought induced famines earlier, in 1921 and 1922, and it would occur again in 1947. But the 1932-33 famine was a manmade famine. It was made by Joseph Stalin particularly to crush the Ukrainian independent spirit and to crush the Kulaks. Within a few months, the Ukrainian countryside, one of the most fertile agricultural regions in the world, was the scene of a general famine. Twenty to 25 per cent of the population of the Ukraine perished under a Stalinist regime—a regime that was hell-bent on crushing the Ukraine's aspirations as an independent state.

On 8 March, the local Ukrainian community, and many who came in from Sydney and Melbourne, paused to remember those who suffered and died at the hands of the Stalinist regime. The Ukraine now has about 48 million people. It is one of the few countries in the world where the population has not risen much in the last 50 or so years. That is because of the famine and also because of the way the country suffered in World War II. But the famine was particularly horrendous. Children were deliberately left to die. Villages were sealed off. The NKVD went in and took all the crops and then sealed off the villages so that no-one could possibly help the villagers until they perished.

It was a day on which we remembered the children whose innocence was corrupted. The women, the children, the elderly and the young suffered monumentally. We

remembered a people whose very culture, ancestry and tradition were downtrodden, ridiculed and almost lost. But because of the human dignity that is in us all, and particularly the strength and courage of the surviving Ukrainian people, the Ukraine did not perish. It is an independent state today.

Events like this should make us pause and feel so lucky that we live in a country like Australia—a country that, for generations, has enjoyed political freedom and a country that has never suffered the effect of civil war or the effect of a lunatic like Stalin who imposed his murderous will on the people.

The Victorian parliament has passed a motion condemning the Holodomor and honouring the survivors. The commonwealth Senate has done the same. I think it would be appropriate for this Assembly to consider, at an appropriate time, a similar motion honouring the victims of the Holodomor and especially the survivors. We should do all we can to pledge never to allow events like this to happen again—certainly not in our lifetime. It was a horrendous event. It is something we should never, ever forget.

Mr Don Bell
Canberra citizen of the year award
Professor Peter Cullen

DR FOSKEY (Molonglo) (6.20): I wish to endorse the comments made by Mr Stanhope, Mrs Burke, Ms Porter and Mr Stefaniak about the passing of Don Bell and also to express my sincere condolences to his wife, Ruth, and to his family. I especially acknowledge that, as a community, we have suffered a loss. Don might have been very proud and happy to have contributed to a much more positive atmosphere in terms of Indigenous rights and politics nationally and, I believe, locally.

I also want to endorse Mr Mulcahy's concerns about the apparent exclusivity of some events that are run by the government. It reminded me of the time a couple of years ago when I mentioned in an adjournment debate an event that I had heard about because of my links with the community. I attended it because I thought it would be of interest to me. Similarly, I found that it was attended only by government people and my attendance was not expected or necessarily welcomed. Comments were made publicly about the lack of attendance by the Liberal opposition. Of course, as it turned out, they had not been invited. I think that adds extra insult to what I believe is an injury.

Finally, I would like to express my deep regret that, as a community and as people living in the Murray-Darling Basin, we have lost Professor Peter Cullen. I want to acknowledge his enormous contribution to the environment, natural resource policy, freshwater ecology and the management of our water resources, particularly within the basin.

Professor Peter Cullen played a significant role in the development of sustainable water policy in Australia and his analysis will be sorely missed. He was particularly skilled at bridging the gap between science and the policy and practice of water management. He had a flair for using language that made complex issues accessible

and got the point across. He was always helpful to me when I asked for his advice and opinion and he was extremely generous. I do not believe he had any partisan nature in terms of who he advised on water policy. There are some "Cullen-isms" which I think should be put on the record. On the importance of water accounting, he said:

> Flying blind hasn't worked and we must know how much water we have, where it is and how it is being used. We need to know the health of our waterways.

On managing water scarcity, he said:

> Believing we could meet the water needs of these communities by fixing a few leaking taps and having shorter showers was always a fantasy.

On the Murray-Darling, he said:

> We don't have all the answers—nobody does—but before we start laying bricks and mortar, we have got to get the foundations right, otherwise the cathedral will tumble with the smallest of tremors.

And on climate change, he said:

> We're doing a wonderful experiment in global warming at the moment, but by the time it gets through peer review there might not be many humans left on the planet.

We need to realise that that is the kind of language that gets across to people. Let us hope that there are other scientists and other leaders who also learn that ability to put complex matters into very human language because that is how we communicate with people and get results.

Mr Peter Sinfield

MR GENTLEMAN (Brindabella) (6.25): Today I would like to speak in memory of Peter Sinfield, whose funeral I attended last Saturday at Norwood Park Crematorium. He was a man who was greatly admired in many community organisations of which he was an active member.

Peter was born on 28 February 1950 and spent his formative years in Melbourne, before joining the Navy at an early age and moving to Western Australia. Peter served on many ships and served Australia in the Vietnam conflict as well. Peter was posted to Canberra near the end of his naval career and found a town he loved, could settle down in and raise a family in. After their family grew up, Peter and Sylvia returned to their passion of motorcycling in 2003 and became valuable members of the motorcycling community in the ACT, with strong ties to the Ulysses Club and the MRA. I thank Robyn and Peter Major from the MRA for their assistance and hospitality on Saturday afternoon after Peter's funeral.

Among many of Peter's activities, he was also an active member of the genealogy society and the military history society. He made a great contribution to the HMAS *Canberra* memorial. Together, Peter and Sylvia were always there when you

needed them—running stalls, manning the barbecue and selling badges. Peter, the realist and "Mr Organised", was the foundation on which a successful venture could be made. He added calm to chaos in even the most trying times.

Peter was organised to the end. He had his whole funeral planned and stored on a thumb-drive—the eulogy, the music, the works. Peter was the epitome of the saying "Only the good die young", and he will be sadly missed by his family, the motorcycling community, the Naval Association and anyone whose life he touched during his 58 years.

Schools—Lyons primary

MRS DUNNE (Ginninderra) (6.27): I would like to put on the record what has actually been happening at Lyons primary school over the last little while. There have been rumours circulating for some time that something was afoot. It had been put to me and to other parents some time ago that maybe the children would be required to move out of their classrooms into the assembly hall, but that was discounted because it was just too stupid to contemplate putting 85 children in one place. As my husband said when I raised it with him, "Well, that was what it was like when I started school in Central Queensland 45 years ago." That is what schooling was like then, and it is not what you expect in Australia's national capital in 2008.

But the rumours persisted and other rumours started to surface, such as the school being closed down so that renovations could be undertaken and that the children would be moved out lock, stock and barrel to Yarralumla. This is not the only school where rumours abound and, as yet, the minister has not come into this place and discounted the fact that it was said to me that the principal of Southern Cross primary school has also been told that her school will be closed early so that renovations can be made for the opening of the P-2 school there.

We have had the argument about the merits or otherwise of a P-2 school system, but we also have a commitment from the ACT government that the schools in Lyons, Narrabundah and Isabella Plains, and at Southern Cross in Scullin, would continue in their present form, on their present sites, until the end of this year. The children, the parents and the teachers in those schools should not be disadvantaged. The children should not have their education disrupted in the way that has been proposed by officials in the department of education and that was being advised to the parents of Lyons primary school as late as yesterday afternoon. The minister has to come in here, come clean and tell the community what is going to happen in those schools.

Schools—Lyons primary

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (6.29): I thank Mrs Dunne for leaving me a very short amount of time. I would like to share with the assembly a letter that my department has received. It reads:

> "Dear Joanne and Craig—

they are officials in the Department of Education and Training—

> I am writing in response to the article that appeared in the Canberra Times today. I do not think that the school community has been shabbily treated as quoted by Mr Seselja. I also did not say that it would be tremendously disruptive if we were to move to Yarralumla Primary earlier. I have been happy with the process of the relocation working party, although a little slow at times, and look forward to continuing to work with you to achieve the best possible outcome for our school.
>
> Michelle Wright
> 1 April 2008.

MR SPEAKER: Order! The time allotted for the debate has expired.

Question resolved in the affirmative.

The Assembly adjourned at 6.30 pm.

Schedules of amendments

Schedule 1

Regulatory Services Legislation Amendment Bill 2007

Amendment moved by the Attorney-General

1
Clause 54
Proposed new section 70E (3A)
Page 23, line 20—

insert

(3A) Subsections (1) and (3) do not apply to the seizure of a computer, or data storage device, for use in carrying on a licensed dealer's business if—

(a) the only reason for the seizure is to access data held in or accessible from the computer or device; and

(b) the data is accessible—

(i) with the occupier's consent; or

(ii) under section 70D (General powers on entry to premises).

Schedule 2

Crimes Amendment Bill 2008

Amendment circulated by the Attorney-General

1
Proposed new clause 4A
Page 5, line 3—

insert

4A Enforcement of payment of fines etc
Section 102 (4)

omit everything before paragraph (a), substitute

(4) The registrar may, by warrant, commit a young person to an institution or State institution in a stated State or Territory if—

Schedule 3

Crimes Amendment Bill 2008

Amendments moved by Mr Stefaniak

1
Proposed new clause 18
Page 12, line 9—

insert

18 New section 322

insert

322 Magistrates Court (Crimes Infringement Notice) Regulation 2008

(1) The provisions set out in the *Crimes Amendment Act 2008*, schedule 1 are taken, on the commencement of this section, to be a regulation made under this Act, section 119 (Regulations about infringement notice offences).

(2) To remove any doubt and without limiting subsection (1), the provisions set out in the *Crimes Amendment Act 2008*, schedule 1 may be amended or repealed as if they had been made as a regulation by the Executive under this Act, section 119.

(3) To remove any doubt, the regulation mentioned in subsection (1) is taken—

(a) to have been notified under the Legislation Act on the day the *Crimes Amendment Act 2008* is notified; and

(b) to have commenced on the commencement day; and

(c) not to be required to be presented to the Legislative Assembly under the Legislation Act, section 64 (1).

(4) Subsections (1), (2) and (3) are laws to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

(5) This section expires on the day it commences.

2
Proposed new schedule 1
Page 12, line 9—

insert

Schedule 1 New Magistrates Court (Crimes Infringement Notice) Regulation

(see s 18)

Australian Capital Territory

Magistrates Court (Crimes Infringement Notice) Regulation 2008

Subordinate Law SL2008-

made under the

Magistrates Court Act 1930

1 Name of regulation

This regulation is the Magistrates Court (Crimes Infringement Notice) Regulation 2008.

2 Purpose of regulation

The purpose of this regulation is to provide for infringement notices under the *Magistrates Court Act 1930*, part 3.8 for certain offences against the *Crimes Act 1900*.

Note The *Magistrates Court Act 1930*, pt 3.8 provides a system of infringement notices for offences against various Acts. The infringement notice system is intended to provide an alternative to prosecution.

3 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4 Administering authority

The administering authority for an infringement notice offence against the *Crimes Act 1900* is the chief executive for the *Crimes Act 1900*.

5 Infringement notice offences

The *Magistrates Court Act 1930*, part 3.8 applies to an offence against a provision of the *Crimes Act 1900* mentioned in schedule 1, column 2.

6 Infringement notice penalties

(1) The penalty payable by an individual for an offence against the *Crimes Act 1900*, under an infringement notice for the offence, is the amount mentioned in schedule 1, column 4 for the offence.

(2) The cost of serving a reminder notice for an infringement notice offence against the *Crimes Act 1900* is $34.

7 Contents of infringement notices—identifying authorised person

An infringement notice served on a person by an authorised person for an infringement notice offence against the *Crimes Act 1900* must identify the authorised person by—

(a) the authorised person's full name, or surname and initials; or

(b) any unique number given, for this regulation, to the authorised person by the administering authority.

8 Contents of reminder notices—identifying authorised person

A reminder notice served on a person by an authorised person for an infringement notice offence against the *Crimes Act 1900* must identify the authorised person by—

(a) the authorised person's full name, or surname and initials; or

(b) any unique number given, for this regulation, to the authorised person by the administering authority.

9 Authorised people for infringement notice offences

A police officer may serve—

(a) an infringement notice for an infringement notice offence against the *Crimes Act 1900*; and

(b) a reminder notice for an infringement notice offence against the *Crimes Act 1900*.

Note For how documents may be served, see the Legislation Act, pt 19.5.

Schedule 1 Crimes Act 1900 infringement notice offences and penalties

(see s 5 and s 6)

column 1 item	column 2 offence provision, and if relevant, case	column 3 offence penalty ($)	column 4 infringement penalty ($)
1	391	1 000	200
2	392	1 000	200

Schedule 4

Justice and Community Safety Legislation Amendment Bill 2007 (No 2)

Amendments moved by Mr Stefaniak

1
Schedule 1
Amendment 1.21
Page 10, line 11—

omit

2
Schedule 1, part 1.10
Page 26, line 16—

omit
