Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

26 AUGUST 2008

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Tuesday, 26 August 2008

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

Leader of the Opposition
Statement by Speaker

MR SPEAKER: Members, I wish to make a statement concerning certain comments made by the Leader of the Opposition to the media following my decision to name the Chief Minister and his subsequent suspension by the Assembly.

In a media interview with a local television station, Mr Seselja made comments to the effect that I had named the Chief Minister because it was my final week in the Legislative Assembly before retiring, and that I was happy to "slap the Chief Minister" along the way leading up to the end of my time as the Speaker of this Assembly. The comments suggest that I named the Chief Minister not because I thought he was disregarding the standing orders and my directions to cease interjecting, but because I had some personal agenda.

Members may be aware of the convention that Speakers avoid external comment on rulings made in the chamber. While requested to comment in this case, I respected the convention and refrained from doing so. I note that the Chief Minister also commented on this matter, and I acknowledge his remarks and follow-up apology in the Assembly.

Reflections on the chair should only be by way of a substantive motion, as to do otherwise is to undermine the authority that the house vests in the Speaker of the day and runs a substantial risk of drawing the institution of the Assembly into disrepute. I believe it to be a substantial duty of the Assembly to intervene in cases like this to protect the institution.

I consider that the remarks by Mr Seselja, which I have referred to, warrant the Speaker's intervention because of the accusation of partiality in the discharge of the duties of the Speaker, particularly since they were endorsed by a vote of the house without dissent at the time.

I invite the Leader of the Opposition to apologise to the house for his comments.

MR SESELJA (Molonglo—Leader of the Opposition): I do apologise for my comments outside the chamber. They were not meant as a personal reflection. I unreservedly apologise to you, Mr Speaker, and to the house.

MR SPEAKER: Thank you.

Petition

The following petition was lodged for presentation, by **Mr Mulcahy**, *from 14 residents*:

Gungahlin Drive extension

> **To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory**
>
> This petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly that: **the recently completed Gungahlin Drive Extension has not solved the problems of Gungahlin residents commuting in peak times**.
>
> Your petitioners therefore request the Assembly to: **to begin work as soon as possible to expand the Gungahlin Drive Extension to meet the needs of ACT residents**.

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

Petition—ministerial response

The Clerk: The following response to petitions has been lodged by a minister:

By **Mr Hargreaves**, Minister for Territory and Municipal Services, dated 19 June 2008, in response to petitions lodged by Mr Mulcahy on 25 June and 5 August 2008 concerning road safety issues with the intersections at Tyagarah Street and Hindmarsh Drive and Numeralla Street and Yamba Drive.

The terms of the response will be recorded in *Hansard.*

Roads—O'Malley

The response read as follows:

> **The intersections at Tyagarah Street and Hindmarsh Drive and Numeralla Street and Yamba Drive**
>
> The ACT Government notes the petitions by the petitioners, tabled by Mr Richard Mulcahy MLA on 25 June 2008 and 5 August 2008 and makes the following comments:
>
> I am advised that statistics on motor vehicle crashes are supplied to my Department by the Australian Federal Police and these statistics indicate all reported crashes in the ACT. The ranking of intersections on the basis of crashes is the means used to identify locations with a poor crash history for possible upgrades. The intersection of Hindmarsh Drive with Tyagarah Street is currently ranked at 211th worst intersection in the ACT and the intersection of Yamba

> Drive and Numeralla Street is outside the worst 500 intersections in the ACT on the basis of crashes over the last two years.
>
> In that context, my Department has no immediate plans for upgrades at either of these intersections but will continue to monitor the situation for any changes that might occur.

Privileges—Select Committee
Report

MR MULCAHY (Molonglo) (10.33): Pursuant to the order of the Assembly of 1 July 2008, I present the following report:

> Privileges—Select Committee—Report—*Examination of alleged misuse of position by a Committee Chair and unauthorised dissemination of committee proceedings*, dated 25 August 2008, together with the relevant minutes of proceedings.

I move:

> That the report be noted

As members would be aware, the committee was established on 1 July by the Assembly to consider whether Mr Stefaniak acted without the authority of the committee when he made the request to Mr Corbell for certain documents, as outlined in his letter of 16 June 2008; how Mr Corbell became aware of the fact that the committee had not authorised the letter; and whether this constituted a breach of privilege by Mr Stefaniak.

The committee inquiry received written submissions from the Minister for Police and Emergency Services, Ms MacDonald, Mr Stefaniak and the secretary of the committee office. We also received evidence from the Minister for Police and Emergency Services and Mr Stefaniak at hearings held on 13 and 14 August.

Based on these submissions and evidence, the committee made five findings and four recommendations. I will detail each of these briefly, for the interest of members, as they demonstrate the committee's thought process and how we arrived at our final position.

The committee has found that Mr Stefaniak acted without the authority of the Standing Committee on Legal Affairs when he made his request to the minister for certain documents. In reaching this finding, the committee determined that it had become the practice of the legal affairs committee for the chair to instruct the committee to draft letters to individuals seeking information. The committee secretary then usually, but not always, copied that piece of correspondence to other committee members for their approval.

The committee secretary admitted in her evidence that she had omitted to provide copies of the document in question to all committee members. Mr Stefaniak notes that, whilst he could not recall not seeing the circulation, he had not thought much of its

absence, given, in his view, its routine nature. The committee also received evidence that Mr Stefaniak had on a previous occasion made an effort to check that a different letter had been sent around to other members prior to finalisation.

These actions in themselves do not constitute a breach of privilege. Indeed, the committee has found that Mr Stefaniak did not in fact breach privilege. The committee was mindful of standing order 278, which stipulates that the Assembly's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Assembly and its committees. We determined that Mr Stefaniak's actions had not seriously affected the work of the committee.

Standing order 277 (g) also had to be considered to determine whether Mr Stefaniak's actions were an attempt to wilfully publish a false or misleading report of the proceedings of a committee. Standing order 278 (c) required that the committee took into account whether Mr Stefaniak knowingly committed a contemptuous act. After consideration of these different standing orders, the committee found that Mr Stefaniak did not commit a contempt when writing a letter to the Minister for Police and Emergency Services without the legal affairs committee agreeing to the letter.

Although the privileges committee has found that Mr Stefaniak did not commit a contempt, it was found that, in the opinion of the select committee, the legal affairs committee is not being administered in the way that it should be. Specifically, it was found that the practices for requesting documents were not as rigorous as they should be.

In light of this finding, the committee has included in its report four recommendations. These are: (1) that, as far as practicable, where a committee of the Assembly is requesting a person, paper or record, that request should be made at a properly constituted meeting of the committee and, when conveying the request, the chair should indicate in any communication that the committee is exercising its power under standing order 239; (2) that regular training in relation to committee practice and procedures be provided for the secretary of the Standing Committee on Legal Affairs and all other committee secretaries to ensure that these staff are able to assist in providing expert advice and assistance in the administration of parliamentary committees; (3) that the guide for committee secretaries be updated to include the issues identified in this report about the practice of committee requests for persons and papers; and (4) that steps be taken to remind the chair and members of the Standing Committee on Legal Affairs of the appropriate practices and processes to be observed in relation to actions taken on behalf of the committee.

I am conscious of the demands on the Assembly's time, so I will not go into much more detail on the privileges committee's inquiry, but it is necessary to note the findings in relation to the question of how Mr Corbell became aware of the fact that the committee had not authorised Mr Stefaniak's letter as chair of the legal affairs committee requesting various documents.

This report concludes that Ms MacDonald revealed private deliberations from the Standing Committee on Legal Affairs to Mr Corbell in breach of standing order

241 (b). However, it also concluded that Ms MacDonald had no intention to improperly interfere with the free performance of the legal affairs committee. Furthermore, the committee has found that Ms MacDonald had a reasonable excuse for the commission of the act within the meaning of standing order 278 (c) (ii). Therefore, the committee found that Ms MacDonald's actions did not meet the criteria for contempt.

Similarly, the committee found that the minister revealed private deliberations of the committee to the Speaker in breach of standing order 241 (b), but that the breach was of a technical nature, was not intended to impede the work of the committee and, indeed, was required in order to ensure that the committee operated within its powers. Again, this does not constitute a contempt.

This inquiry was required. Although no serious offence or breach of privilege was found, this report and its recommendations, if they are adopted, will serve to improve the practices of the Standing Committee on Legal. Affairs and, it is hoped, will serve as a reminder to the rest of the Assembly's committees of the importance of proper process being adhered to. The standard of these practices caused the events that led to this select committee being formed.

It is hoped that this report serves as a wake-up call for all involved. It is a unanimous report that has support from Labor and Liberal party members on the committee, and the Canberra Party representing the crossbench. I thank the other members of the committee—Mr Gentleman, the deputy chair, and Mrs Dunne. I also thank the Clerk of the Legislative Assembly, Mr Tom Duncan, and the Assistant Clerk, Ms Janice Rafferty, for their assistance.

MRS DUNNE (Ginninderra) (10.39): Privileges matters are important matters. As someone who has been the subject of a privileges inquiry, I know how stressful they are. On this occasion, I think that this matter has been brought to a satisfactory ending.

I draw members' attention to what I think is the crux of the thing that underpins the decisions made—a reference on page 4 of the report in paragraph 2.6 to the 11th edition of Odgers. It hangs on the words "culpable intention". What we have seen in this matter is that some things went wrong. Mr Mulcahy has dealt with those in enough detail, and they are further detailed in the report. But the underpinning of all this is that, when one considers whether is a matter of privilege and whether there has been a contempt, it is about the intent of the person to do particular things. It is my view that the summation of this in paragraph 2.6, as it is borne out in Odgers, is probably the most succinct way of doing it.

It was clearly the case that in relation to the people involved in this—the people who were named and asked to be inquired into—Mr Stefaniak and Ms MacDonald—and also the practices of the committee generally which sprang from that, there were things that were done incorrectly and perhaps not according to Hoyle, but the clear outcome is that, although there were sins of omission and sins of commission, they were of a small nature and there was not a culpable intention to undermine the workings of the committee. I think that all of the people who have been involved in this—members of the committee and the secretariat—who have had comments made about them were attempting to work in the best interests of the committee.

I feel that I must also refer to paragraph 7.15. It is recorded in the minutes and therefore I need to record it here. Whilst this is a unanimous report, I did dissent—it is recorded in the minutes—from the last sentence in that paragraph. I did not dissent sufficiently that I wanted to make dissenting comments, but I should draw to members' attention my view that, if Ms MacDonald had been concerned about the operation of the committee, there were recourses other than going to Mr Corbell.

If Ms MacDonald had a concern about the proper operation of the committee, it could have been raised with the Clerk, the committee secretary, the committee chairman or the Speaker. It is not my view, therefore, that Ms MacDonald had a reasonable excuse in taking this matter to Mr Corbell. However, I do concur with the view that taking this matter to Mr Corbell did not seriously impede the work of the committee—nor did Ms MacDonald intend to impede it.

As Mr Mulcahy has said, this is a bit of a wake-up call for all of us who work on committees, to make sure that we act with propriety and, most of all, just take that little bit of extra care. Some of the recommendations that have been made by the committee will result in some slightly different practices in the committee office, I hope. They may be slightly more cumbersome, but they will mean that in the future people will be protected from being subjected to an inquiry like this one. It is a salutary lesson for us all. From time to time, we need to take stock of our practices.

While I concur with all the other members of the committee that there is no contempt—there was no desire to derail things—it is a timely wake-up call for us, to ensure that we ensure that our practices are always according to Hoyle and done in an entirely transparent way.

DR FOSKEY (Molonglo) (10.44): As someone who put in a submission, I would like to make some comments. Unfortunately, there has not been time to take in all of the report; consequently, I will not refer to it. I think it is a bad idea to pick out one thing and not refer to the context. I want to make a comment about my own submission to the inquiry. I did say in the house at the time, and certainly in my letter, that I did not believe that the issue was serious enough to require a privileges committee to look into it. I felt that the committee did deal with it, and the report that has come out has found what I believed it would find.

I do think issues are raised—and I do not know whether the report goes into them—about the responsibility and role of the chair of an Assembly committee. I do not have intimate knowledge of every committee. I am aware of the two of which I am a member, and one of which I am the chair. Chairs choose to act in different ways in relation to their committees.

For instance, in the committee that I chair, there is a tendency to clear everything past all the members, but that may not be the case in every committee. What it points to is that we do need a little more work to be done regarding the role of chairs of committees. That is definitely raised in this case. I have not seen Mr Stefaniak's submission but I believe he felt that he was acting within what he saw as the role of the chair. But the fact that a privileges committee was set up indicates that other people do not hold that view of the role of the chair.

I suggest that, in the next Assembly, there be a little more clarity around the role of the chair—perhaps the role of the chair in relation to the committee office. That would assist chairs in future, because mistakes can be made inadvertently but they can be mistakes which have severe repercussions. Fortunately, in this case there were not, but there is that potential.

As I said in my letter, it is a grey area. One assumes that in the role of the chair there is some ability to act independently of other committee members, especially when speedy action is required. If I were required to take speedy action as a chair and it was not possible to get the agreement of every member—sometimes they are out of the country or otherwise uncontactable—I would like to think I could take that speedy action.

Let us reflect on what this might mean for committees, because our committee system is strong and I would hate to see it weakened in any way. Therefore, we need clarity around the role of the chair.

MS MacDONALD (Brindabella) (10.48): I thank the committee for what appears to be a considered report. Like Dr Foskey, I have not had a chance to read the whole report; I just browsed through it, upon receiving it here this morning. As one of the people who is talked about in the findings and commented on in the report, the committee did write to me with those findings and recommendations. My main purpose in speaking this morning is to talk about one of the recommendations—that is, recommendation No 2, which reads:

> The committee recommends to the Speaker that regular training in relation to committee practice and procedures be provided for the Secretary of the Standing Committee on Legal Affairs and all other committee secretaries to ensure that these staff are able to assist in providing expert advice and assistance in the administration of parliamentary committees.

I think this is a very important recommendation. I acknowledge the work of the current secretary of the legal affairs committee, Ms Robina Jaffray. I want to highlight in this place what a hard-working member of staff Ms Jaffray is. She is also a very impartial member of staff who works with members from all sides of the Assembly. I think that is to her great credit. She is also a very professional person who has a great deal of experience, having worked not just here, as the manager of the committee office for coming up to four years, but also in the committee office in the Senate. So she does have a great deal of experience.

This report shows the stresses placed on the Assembly's committee office. All of us who are or have been on committees are aware of the stresses that are placed on the committee secretariat. I want to put on the record my appreciation of all the work that the committee staff put into the job they do. They go above and beyond the call of duty on a regular basis. If you compare the staffing of the committee secretariat with that of other legislatures around the country, you will find that our committee secretariat work incredibly hard. For each committee of the ACT Assembly, there is one secretary. Committees in other places around the country would have a secretary as well as somebody to do research. They would also probably have an administrative person.

Obviously, the ACT Assembly is a small organisation and we probably do not need that level of staffing, but I would suggest that how we staff our committee office in the future does need to be looked at, in order to assist in alleviating the pressures that are placed on our committee secretariat and, through them, the committees. The committees cannot do their work without the support of the secretaries. I just wanted to place those thoughts on the record. Once again, I thank the privileges committee for this report. It does, as I said, appear to be a considered report. I look forward to reading it in detail.

MR GENTLEMAN (Brindabella) (10.52): I want to make a couple of comments on this report and go back to some of the deliberations that happened within the committee. The test in law of what is contempt is pointed out very clearly in standing order 278, which reads:

> The Assembly will take into account the following criteria when determining whether matters possibly involving contempt should be referred to a Select Committee on Privilege and whether a contempt has been committed, and requires the committee to take these criteria into account …

The first criterion is:

> (a) the principle that the Assembly's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Assembly and its committees and for Members against improper acts tending substantially to obstruct them in the performance of their functions …

There was a bit of deliberation around whether the actions of Mr Stefaniak actually formed contempt. The committee found—and it was my view—that, whilst it did not obstruct the committee's process—it may have obstructed Mr Corbell's process—it did not substantially obstruct this process. But it was my view that Mr Stefaniak went very close to contempt in that he did obstruct Mr Corbell's performance of his function.

I would like to make a comment on what Dr Foskey said when she said that the role of the chair and the role of committees should be pointed out quite clearly. Each of our committees did have training from the Clerk's office at the start of this Assembly, and each committee member was afforded that training. I certainly was; I was instructed on how, as a chair, to take instruction from the committee when writing papers or documents. I think it was very clear—and it is stated in the report—that Mr Stefaniak did act without the authority of the committee, but that he felt that, in doing so, he had the committee's best interests in mind.

It is also important to note, as the committee has, that he instructed Ms Jaffray to write that letter to Mr Corbell. So whilst we have made a recommendation on training for committee staff, the secretariat, it was the instruction from Mr Stefaniak that initiated this inquiry.

Question resolved in the affirmative.

Health and Disability—Standing Committee
Report

MS MacDONALD (Brindabella) (10.55): Pursuant to the order of the Assembly of 1 July 2008 I present the following report:

> Health and Disability—Standing Committee—Report 9—*Closure of the Wanniassa Medical Centre*, dated 25 August 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

As the Assembly is aware, on 7 August the Assembly decided to inquire into the closure of the Wanniassa medical centre in the Tuggeranong Valley. The committee received eight submissions, which are listed at the back of the report, and we held a hearing on Thursday, 14 August. A number of witnesses appeared at that hearing.

Given the short amount of time that the committee has had to look into this issue, this report has, I believe, covered off a number of areas, including the relationship between the government and general practitioners, who are, of course, private organisations over which the government has no control. Paragraph 1.6 of the report states:

> The closure of the centre has highlighted a number of issues that are discussed in this report. These are: the shortage of practicing GPs in the ACT; the role of the corporations in health service delivery; and the immediate impact on the patients and GPs in the Tuggeranong Valley.

Given the short time frame, it is not an extensive report, but I think we have done our best to look into the issues that were brought before us. I believe that it is a reasonably considered report. I would like to thank all of those people who put in submissions to the committee on this issue. I thank my colleagues Ms Porter and Mrs Burke for their assistance. I would also like to thank the Minister for Health, Ms Gallagher, for appearing before the committee and providing us with extensive amounts of information.

It is unfortunate in that, if the committee had had more time to inquire into this matter, we probably would have been able to present a much more extensive report to the Assembly, which I believe would have given a lot of value to the community of the ACT. But, as it is, the report is not a bad one. Finally, I thank Ms Grace Concannon for the amount of effort that she has put into this report at short notice. I believe she has done a very good job.

MRS BURKE (Molonglo) (10.59): I am very pleased to have had majority support in this place for my motion—and I thank all members for that—on the closure of the Wanniassa medical centre. As the chair rightly said, this has had an impact on the broader community.

We need to take a look at what is happening with the corporatisation of medical services, as it is happening across Australia. I believe it is getting a real gee up in New South Wales. I will talk about that a little later. Like Ms MacDonald, I want to thank everyone who contributed and for all the submissions we received. I thank the minister and others who appeared before the committee. I thank the committee members, and special thanks go to Grace Concannon, who I know struggled through the latter days not feeling too well. So I thank Grace for that, and I thank the other committee members.

The report outlines six identified areas which the government, in the next Assembly, can look at. The first recommendation relates to provisions in crown leases in order to protect community interests. The current situation is that the lease on the Wanniassa premises will be held until 2012. The conditions of that lease would prohibit a practice from being established by anybody other than Primary Health Care. I have had more recent correspondence from them which I have not had a chance to read, unfortunately. That was one of the main recommendations.

There are five other recommendations. The second refers to working with the ACT Division of General Practice to collect data regarding GP workforce issues. It is a bit sad in that we seem somehow to have dropped the ball in terms of what is a very robust network. With respect to the costs of running and establishing a business, as well as issues at a federal level, in terms of the Medicare rebate, all of those things impact on GPs, and corporatisation and takeovers have been seen as some sort of rescue package. Whilst there are some benefits attached to that, we have often seen unintended consequences.

There is a recommendation relating to transport issues which have arisen as a result of that corporatisation and the unintended pressures that have been placed on the community. For example, from Wanniassa, patients who do not drive can get a bus only once every hour. If we change a service over here and then something else changes, that puts undue pressure on people. I have had several emails—and presumably other members have as well—from people who say that it is a three-hour trip to the doctor, whereas once they could just get a friend to drive them there or they could manage to walk that far. They are the unintended consequences.

We also need to make sure that people like Primary Health Care abide by lease arrangements regarding parking. I do not believe we have yet seen the full effect of the number of patients currently registered with the Wanniassa medical centre and now appearing at Phillip. I am sure a future government will be very happy to monitor that situation, as there have to be a certain number of parking spaces per GP.

We know that Phillip is becoming busier. We had representations from a business there raising those concerns. There are varying responses to this: "Well, it's not busy," "Yes, it is busy." I have been to the site, as have others, and we have checked for ourselves. As I said, the proof and the full impact will be when patients fully transfer over to the Phillip medical centre.

We looked at accessing medical records. We need to ramp up our discussions with the Australian government with a view to exploring better ways in which patients can be

assisted in retrieving information about their rights in relation to accessing those medical records. We also looked at the impact of Australian government legislation on the provision of GP services, particularly in the ACT. We do note that the minister tried, albeit in vain, to get the ACT recognised as a special case.

Ms Gallagher: It's not true.

MRS BURKE: I will not respond to your interjection. Nicola Roxon said that at this stage she was not able to do anything to assist the ACT. I am not attacking the health minister; I am just referring to what I have read. If that is wrong then the health minister can correct that; that is fine.

I would like to raise some other things that emanate from this matter. The closure of the Wanniassa medical centre has been a failure for this government. It showed that the government is not talking to stakeholders. The minister, by her own admission in her evidence, when asked by the committee, "When was the last discussion with Primary Health Care?" said, "12 months ago." My concern is that these are major stakeholders—one of the major providers of health services in the ACT and New South Wales. Whilst we cannot intervene in a business decision, I certainly think that we can have a better relationship than we have at the moment—let us put it that way.

The inquiry highlighted the government's lack of proactivity in securing GPs for the territory. Lifting your hands up and saying that you can't do anything is no defence and no excuse. The Liberals have a firm plan of action about what we will do. We have seen the government respond to that by offering blocks of land and talking about walk-in centres with no GPs.

In fact, I have some information that, again without any consultation with the community, the government has now identified a block of land in Wanniassa. The minister might agree with that or deny that, but I understand that has been quite clearly identified. I have got the address here: Billson Place, near Wanniassa Hills primary. People are very concerned that the government's knee-jerk reaction to this is to say, "Don't consult; we'll just say we're doing something," when it can be seen to be an illusion. Again, it goes back to the whole matter of consultation: is that the best place for a medical centre to be located, if that is what the government is intending?

The inquiry also highlighted the difficulty of getting overseas GPs to work in the ACT. We are not talking about the necessary tight controls but just the slackness in failing even to convene a committee to assess an application in a timely way. I have had several representations made to me about this. Again, the defence will be: "Well, it's a lot to do with the federal government." My issues have been at a local level where things have been sat on for weeks on end. Nobody—and I make this very clear—is saying that we should fast track, ignore or just accept any qualification. I have never said that in this place. In fact, I feel I have been misrepresented on a couple of occasions by people in this place who suggest that I would say, "We'll just rush people through and not look at their qualifications."

This was a big issue quite some time ago, when a GP in the Ginninderra district tried to get somebody to come here. If we can help to alleviate or ameliorate some of those

issues, we can make this a far more attractive place for GPs to come to. It is pointless having a Live In Canberra campaign and it is pointless to say, "Come and work here, come and live here," if we are going to make it as difficult as possible. We really need to make that process much better.

As I said, we are not talking about lightening the necessary tight controls; we are talking about the slackness in failing to convene a committee to assess an application in a timely way. It should not take months to convene a committee at a local level. If it is, we need to look at why that is happening. We need to make sure that we can keep this process moving in a timely and expeditious way. It has nothing to do with being careful about assessing an application for an overseas doctor. We need to be careful that we assess those qualifications at the highest level.

One doctor told the inquiry, "If you want us to see patients, make it easier for us." She was talking about the need to cut down local administrative red tape. The closure of the Wanniassa medical centre was a lesson in how the corporatisation of medicine can be against the interests of patients. It meant that upwards of 60,000 patients were left without a local doctor in that immediate vicinity. This is a problem, as I said, for elderly people who do not have their own means of transport. The hourly bus service is already proving to be quite detrimental for some.

The committee in its report talks about transport issues and making sure that we work with regional community services in relation to how we can better assist at a local level with transport for those people who need to see a doctor, so that they get the help they need when they need it. It has been a little disappointing, not just from my perspective but from that of many in the community, that the response by the minister was, "Well, all we can do is nothing, because it's a federal government problem." In my book, waiting to be bailed out by the federal government is not being proactive, and the knee-jerk reaction of talking about blocks of land and walk-in clinics where there will be no GPs is not a solution.

The inquiry raised the issue of the Wanniassa premises remaining empty because Primary Health Care will retain the lease. We believe that is clearly anticompetitive but we are making further investigations along those lines. It would be a good way of getting new doctors as the patient clientele is ready and waiting. The inquiry has shown that the government needs to do something about stopping this practice. It is clearly not a model which is for the good of the community. So it is absolutely essential that we work with all people providing medical services in a much closer way than we have probably done in the past.

With respect to corporatisation, if we just sit back and let it happen, it will. If we have a will to work with all stakeholders, to do what we can and to really push the federal government hard on this matter, hopefully we will see more GPs coming to live in Canberra.

We also talked about bulk-billing. The bulk-billing rate in the ACT has been significantly lower than throughout the rest of the country. The report states that one reason for this is the high costs associated with running a general practice. Also, there is the fact that it is more costly than anywhere else in Australia to live. We have

higher house prices, higher rental prices and higher taxes, so people are hit every which-way.

I note that the ACT Division of General Practice reported having no formal relationship with Primary Health Care despite, as is stated in the report, many of the doctors employed by Primary Health Care also being members of the ACT Division of General Practice. I am pleased to inform the Assembly that the ACT Division of General Practice advised the committee, as our report says, that they would be seeking to initiate a relationship to "see whether or not there is anything we can offer or we can understand better from them". That is a great start. I think it is a pity that that had not been done. We often talk in this place about health tsunamis. I think this is something we could have seen coming if we had been watching what was happening in other jurisdictions, particularly in New South Wales, where takeover after takeover has been happening.

Mr Speaker, I will leave it there. I know that we have a busy day before us. This has been a very important inquiry. It has been a very important matter that needed to be brought before this Assembly. I note in the media release that even Ms MacDonald is supporting the Liberals' policy. She says—and I think this is a very truthful statement from the chair:

> The Committee found that it is not just about building new medical centres but it is about having the GPs to staff those centres.

The media release continues:

> Ms MacDonald said easing the shortage of GPs practising in the ACT is the key to ensuring all ACT residents have access to timely and appropriate medical services.

I think Ms MacDonald is quite right. I think it is a shame that the government of which she has been a part has been quite relaxed and slack about it. Whilst watching Rome burn around us, we could have done more. I am sure there are other initiatives that could have been brought in. Of course, the Liberals have made their plan quite clear about what we will do to address GP shortages. I will be delighted to take up this matter in the next Assembly, God willing, if I am re-elected. If I am not, I am sure my colleagues will take this up because it is something that we will need to look at in the future. I thank members for their support. I thank the chair and my fellow committee member, Ms Porter. We commend the report to the Assembly.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (11.14): Thank you for the opportunity to speak today. We have just heard quite outrageous statements from Mrs Burke in her speech, trying to blame what is essentially a commercial decision by a private operator on the ACT government. When Mrs Burke approached me about instigating this committee, I was very agreeable to it. I wanted the committee to genuinely look at the issue of attracting and retaining general practitioners and probably a bit less at the issue of the Wanniassa clinic, because, as far as I could see, there was not a great deal we could do about that. I have been honest about that from the beginning. Those who pretended there was something we could do have been dishonest in their statements around that.

I think we just need to put this into perspective. This has been a political stunt from the word go. After my agreement to establishing this committee, with this supposedly wonderful bipartisan support and spirit of cooperation, Mrs Burke and, I think, several others, came into the Assembly and managed to attack me personally and also the government in their responses to the motion before them. I think that was disappointing from the word go.

I took the opportunity to appear before the committee and outline in great detail for the committee all of the areas that the ACT government has been working on in relation to supporting our GP sector in the ACT. I have not had the opportunity to read the report from whoa to go, but I will be disappointed if that is not reflected in the report, because there are a whole range of things that the ACT government has done. Mrs Burke says we have sat on our hands while Rome burned. If these issues are outlined in the report, that is a credit to the committee.

I would say that, again, from looking at it very quickly, a unanimous report which does not go to any of the issues that the Liberals have announced in their policy would seem to condemn the Liberal policy—as we all know, that is the creation of bulk-billing centres that cannot bulk-bill. I think the fact that the Liberal member did not put in a dissenting report and attach all the ideas that the Liberals are trumpeting goes to the fact that there are so many holes in that policy that they are embarrassed. On their first opportunity to put it before the Assembly, they have failed to do so. Was Mrs Burke just asleep at the wheel while this report was being put together?

The issue of general practitioners and how we best support our existing workforce and work with all stakeholders—that does include corporate entities—is one which every government that is formed in this place will need to tackle. It needs realistic solutions; it needs achievable solutions; it needs solutions where there is consultation with the existing industry. Of course, the Liberals' policy, as announced, fails on all of those fronts. There has been no consultation with the existing industry, and, in fact, from all the approaches I have had about it, they are certainly not supportive of the plans outlined by the Liberals last week.

Mrs Burke accuses me of doing absolutely nothing and failing to consult, not making available land and not talking to anyone. I was up-front, again, from the word go about this. The ACT government does and can do things in relation to supporting approaches, where we have had them, around Wanniassa, and I have been approached now by, I think, four different groups of general practitioners seeking land in Wanniassa. So my response has been to look for land in Wanniassa, look for land that allows a medical practice to be established, and I have found some land. Yes, it does sit within Billson Place, but that is the extent to which those discussions have gone. There is enormous interest, and the thing that governments need to do—I know that although some of those opposite may understand this, Mrs Burke does not—is work with those approaches when you get them and put them forward through the channels that they need to go through. As a government, we need to look at the ways we can respond. One of the ways we can respond is by looking at what land is available for the establishment of another medical practice in Wanniassa. That is exactly what we have done.

In relation to Mrs Burke's outrageous attack on the representation of the medical board, she referred about three times to the slackness of the medical board to act in a timely way. I would hope that she would retract those comments. The medical board is an extremely eminent group of health professionals in the ACT who work very hard, in addition to their already quite considerable workloads, to make sure that issues affecting medical practitioners are dealt with in a fair, balanced and timely way. For Mrs Burke to continue to call them slack, to say that they failed to convene a meeting or a committee and that they sat on their hands for weeks on end, which is what she just said in here, calls into question the reputation of all of those medical professionals on the Medical Board of the ACT. I look forward to Mrs Burke apologising to those professionals and taking back those comments which she has made around them.

It was also interesting to see that Mrs Burke, for the first time, has admitted that she probably will not be re-elected, because she said that if she is not re-elected she will leave it to someone else to finish this very important work. Again, that is quite a surprising comment from someone who potentially wants to run the public health system here.

We have been accused of being knee-jerk in our response to this issue, and I totally reject that. The government have been responsible in every aspect of how we have dealt with the closure of the Wanniassa medical centre, including being honest around the impact that we can have in intervening in these decisions. Our response has been to look to accept the decision of Primary Health Care, even though we do not agree with it, but also accept that Primary Health Care are now providing a very much needed service to the people of the ACT. In fact, I think from the latest data I have seen, around 20 per cent of our population is moving through one or either of those clinics. They do offer a bulk-billing service, and they do offer extended hours. So we cannot just sit here and insinuate that corporatisation is the end of good medical practice, because, in fact, it is not. It is a different type of medical practice, but you cannot just say that, because it is run by a corporation, it is not as good as any other type. In fact, for many people, it is exactly what they are after.

I also note that Dr Bateman has written to Mrs Burke, and he has copied me in on the letter, to respond to some of the concerns that she has raised. He cc'd me on the letter because it goes to some of the issues that I have raised with him. He does go to the fact that many of the problems in relation to general practice have been around for some time. In fact, he says:

> There has been a long-term underfunding of general practice, especially in the last two decades of the Federal Liberal Government. An example is a 2% increase in GP rebates in November 2008, versus costs of practices increasing 10%.

He goes on to say:

> There has been a deliberate Liberal Government policy to reduce numbers of General Practitioners through a variety of mechanisms, including:
>
> Reduced number of training positions for GPs

> Abolition of provider numbers for a whole generation, 5 to 8 years of GPs, from all the universities in Australia (that is, a supply of approximately 6,000 doctors that have failed to get to general practice)
>
> Reduced university intake for one or 2 years at a number of universities
>
> Reduction in intake of overseas trained doctors with limitation for those doctors in "Areas of need"

He goes on to explain the service that Primary Health Care offers, and, from his point of view, the savings and benefits to taxpayers. His letter, whilst we might disagree with the decision he has taken about Wanniassa, does go to the issues around responsibilities for the provision of GPs, the ability to train, the ability to influence workforce and a whole range of things. For the political convenience of the time that we are in, Mrs Burke will blame it on the ACT government. But the issues are federal, and they need to be resolved federally. That is what we are doing—working with the commonwealth and the other states and territories as we negotiate the next Australian health care agreement.

MR SMYTH (Brindabella) (11.24): I thank the committee for the report, and I congratulate Mrs Burke on the excellent idea to set the committee up, because, despite what the minister says, we did hear her saying, "There's nothing I can do." She said it several times in the media, and she said it several times in the Assembly. But in just one simple initiative, Mrs Burke came up with an initiative that has led to this debate today. As a consequence of the inquiry, in a very short time frame, a number of people were able to air their views. As a community, just as a minimum, that is the first thing and most immediate thing that you can do. Politicians can always provide a venue for people to come together in the hope that some ideas will come from it. Now, sometimes they do, and sometimes they do not. But you only have to look at the report to see that there are a number of recommendations from the committee about how we can progress this.

At the heart of the matter is how government has managed the whole health portfolio in the last seven years and whether the government has made Canberra an attractive place to be a GP, to be a medical practitioner. This is the nation's capital. This is the capital city of one of the richest countries in the world, and for seven years we have had a government that has not been able to address the issue of GPs. That is in stark contrast to the Liberal Party. The Liberal Party, over the years, has always had ideas or sought out ideas on ways to address the shortage of GPs, which, in many ways, has led to the closure of the medical centre at Wanniassa. Those ideas are there on the table. We started the process of establishing the medical school. We have come up with a model for west Belconnen. I know that those opposite do not like it, but we have the GP clinics, if and when we are elected in October. We have worked out that, yes, when the market does not work, sometimes you have to pay incentives for people to come. The previous federal government knew that, and it has had a significant effect on the number of GPs going into rural Australia. By getting the numbers right here in the ACT, we can also have a significant effect by making sure that we get people here and we help people to set up.

Simply throwing up your hands is not good enough. Perhaps it is a trend among Labor politicians where you say, "There's nothing more I can do on petrol prices; there's nothing more I can do on the clinic." There is always something that you can do. Simply talking to people is the start; reminding people of their responsibilities to the community is always a great start. Actually having a discussion with them about what could have been done to save the Wanniassa clinic would have been another good start.

The minister started by accusing people of being dishonest. She said it is dishonest for people to say that anything more could be done. Well, I think it is very sad that Minister Gallagher has called Annette Ellis dishonest. I went to the rally that Annette Ellis organised in a bipartisan way, and there were a number of Liberals there. Mr Pratt was there with me, and there were other Liberals there. Annette Ellis said more has to be done to stop the closure. "Things need to be done. Things should be done. Let's do things. Let's work as a community." So to have the minister call Annette Ellis dishonest in that way I think is despicable. Annette Ellis cannot respond in this place. It is probably more about the fact that she is in the wrong faction.

Ms Gallagher: The ultimate twister!

MR SMYTH: Well, you were not there. You did not have the courage to do down there and see what happened. I know it was a sitting day; I know it was a lot to ask on a sitting day, but Mr Pratt and I managed to get down there. You could have come if you had wanted to. People looked for you. Annette Ellis got there. Candidates got there, but you did not, minister. To stand here and attack Annette Ellis in that way I think is despicable. The community looked to their leaders on that day. They looked to their leaders—

Ms Gallagher: Talk to the report; talk to the issue.

MR SMYTH: This is the issue. The issue is leadership, and your lack of leadership. Do you want me to remind you of what you said? Let me remind you. I am happy to remind you:

> The practice will not stay operating; that is what I am explaining. The practice will close. There is absolutely nothing I can do.

An apologist. That is what that is. That is a defeatist:

> … there are very few things that we can do about this.

Ms Gallagher said that on 7 August.

Ms Gallagher: The ACT government.

MR SMYTH: There are plenty of things you could do.

Ms Gallagher: The ACT government.

MR SMYTH: The minister interjects, "The ACT government." It is not her now; she will hide behind the skirts of the ACT government. The committee itself listed several things that the government can do. The committee were able to come up with things. You have got a whole department. You have got a legal section; you have got a planning minister. You have got a cabinet, but the collective wit of cabinet could not come up with anything to do. That is the shame of this cabinet: they have run their time and they are out of ideas.

As to the apologist that we have for a health minister, she had not even spoken to Dr Bateman. There it is again: on 14 August the minister said there was no reason for her to talk to Dr Bateman. They were about to close the clinic that stretches from Kambah in the west across to Wanniassa that had soaked up the old medical practice at Mannheim Street, Kambah, and that had soaked up the old practice that used to be at Monash, but there was no reason to talk to Dr Bateman. Well, I would have thought there were tens of thousands of reasons—they are called constituents, and they are called patients. But, no, the government just accepted the decision because, "We're not interested and we didn't care, and we didn't have the wit or the wherewithal to come up with a single idea."

Through Mrs Burke, the Assembly was able to come up with the first idea. The committee has come up with a number of ideas in its report. Check the rest; make sure they are compliant. I would have thought that there were grounds to look at the use of market force and perhaps have a reference to the ACCC. I am disappointed that that is not in there. I acknowledge that they are a private firm, but even private firms operating in a commercial way are subject to law, at both federal and state and territory levels. Indeed, if you had local government, they would be subject to law at the local government level as well. They are subject to law, and those laws are in place, by and large, to protect the community. The minister has not looked at it, and, unfortunately, the committee did not look at it—I do not know why, I was not able to attend the committee hearings—but I would have thought that, when you have a ravenous absorption in the marketplace of numerous small businesses that are then consolidated further and further afield from where those services were delivered, it would be reasonable to look at that whole issue of market force and the abuse of market force. There is another idea for you, minister—the minister who has no ideas. There is something else perhaps you could follow up, and perhaps you can come back and tell us whether or not it is appropriate.

There are lots of comments in the report. I know somebody always finds the typo, but as I flicked backwards, the first thing I saw was the email from Mr Russell Tall—I think his name is Roger. It is signed "Roger Tall", but perhaps that is a small thing. The number of submissions received is interesting. For an inquiry that was conducted in a very short period of time, to receive 10 submissions and to have the number of people appear who did appear, shows the level of angst in the community and the fact that they are looking to us for leadership—leadership they have not got.

It is interesting that the minister has said that she was concerned and that, having supposedly done all that she could do—she has not done anything that she could do—she attempted to attack Mrs Burke. That is standard operating procedure for the

minister. I do not think it washes with those in the public. It is interesting that Primary Health Care now employs perhaps 10 per cent of the GPs in the territory. If the minister is not concerned at that growth then I am disappointed but perhaps not surprised. After seven years in office, what we have seen is a notional shortfall of nearly 60 doctors against the national average. Imagine how many that would be if the ACT Liberal government had not established the medical school here.

There are some 330 doctors in general practice. Of those, Primary Health Care employs a total of 34 general practitioners, just over 10 per cent. They have 14 at Ginninderra, 17 at Phillip and three at Kippax family practice. That is a disturbing trend, particularly in our electorate—the area that has been denuded of general practices and general practitioners by Primary Health Care. Surely there is some concern by the minister as she has watched this over the last seven years. First Kambah goes, then Monash goes, then Wanniassa goes, and they are all moved into Phillip. Without wanting to get into an argument on business practice, surely that alone concerns the government. I note that there is a section here about all the things the government is purported to have done, but they have not been very effective in the long run, as we have seen.

Ms Gallagher: You'd know, would you?

MR SMYTH: Yes, I do know. If they were effective, where are the GPs? Where are the clinics that are opening? Where are the people that are going to take on the work as the ageing workforce continues to move to a situation where they retire? We have seen them retiring, and there is no-one to fill the holes they have created. I note on page 8 of the report that it is noted that the community centre in Tuggeranong has worked as a community transport program. We have this transfer back to the community of services. *(Time expired.)*

DR FOSKEY (Molonglo) (11.34): A lot of people want to talk on this issue, which is fabulous. It is great that so many people are concerned about the provision of primary health care. I just want to reiterate—all I have read are the recommendations, but I suppose that is the nub of the report—that it is of concern that the ACT government really does not seem to see much of a role for itself, or the committee did not see much of a role by the ACT government, in facilitating the provision of primary health services in our city.

I want to preface my remarks with a reminder to the Liberal Party that it was the Carnell government that closed much of our very rich primary health infrastructure. We were well provided for by the National Capital Authority, as it was then, in the development of the so-called ideal city that Canberra was supposed to be, where social amenities, as well as physical amenities, were considered. What is a pity is the fact that this report did not take into account some of the evidence that the committee heard. I have not read the discussion there. Perhaps the West Belconnen Health Cooperative could have been considered as a recommendation. Perhaps consideration could have been given to ways that that model could be rolled out across Canberra.

It is not going to be easy, and I am not saying you are going to do it in a year. But perhaps we should have a vision that is developed in a regional sense as to what kinds

of services should be available in any one region and then look at ways to achieve it. Of course, that will involve the federal government and it will involve private practitioners. But someone needs to get up there with the will and with the vision. I would say the vision is already out there in the community; so it is a matter of coordinating those groups, bringing them together, having the discussion and saying, "What kinds of services do we want, and how can we get them?"

I think that the abrupt closure of the Wanniassa medical centre was a big shock to our community. It made people realise how little control we have at the moment over that most basic service—the provision of health and medical services. We have let the privatisation and globalisation of health services go too far. It is not going to be possible to pull it right back, but there are ways that we can ameliorate the impact. I know that the Minister for Health has exactly that aim. I just would like to have seen a recommendation in the report to that effect.

MRS DUNNE (Ginninderra) (11.38): I welcome this report. Like my colleague Mr Smyth, I congratulate Mrs Burke on initiating the inquiry that has brought about this report. While I am conscious of the short time frame—we all understood that this was a very short time frame—there are some aspects of this report that disappoint me a little as someone who is very concerned about the impact of the lack of general practice in my own electorate.

I know that this is an inquiry that relates to the Wanniassa medical centre, and I am not a member for Brindabella, but there are lessons to be learnt here, and there are things that we need to do to ensure that we do not see the same thing happening in west Belconnen. The thing that I am concerned about is that the Wanniassa medical centre and the Kippax family health centre were both owned by a company which was taken over by Primary Health Care. What happened in the case of the Wanniassa medical centre is that Primary Health Care absorbed and moved those doctors to another site, a more centralised site, which is a business argument. But it is not an argument that addresses the needs of the community.

I sought to speak about this in the debate to set up this committee, because I wanted to give some guidance. But the exigencies of the day made it impossible for me to do so because I was occupying the chair. I want to put on the record my concern about the fate of the Kippax family practice, because it is now also owned by Primary Health Care. I am very concerned that we will see the same pattern repeated where the Kippax family health centre will be closed and the doctors moved to a more central location in Belconnen. That is good business practice for the company called Primary Health Care, but it is not good for my constituents who live in west Belconnen, some of the most disadvantaged people in the ACT. They are at risk of losing their health practice.

Mr Smyth spoke very eloquently in the debate to set up this committee about people and how our concerns as representatives in the ACT first and foremost should be about our constituents. These are the people who now do not have easy access to their doctor; the people who, if they attend Primary Health Care in Phillip, may not be able to see the doctor who they have seen for a long period of time; the people who do not have the transport capacity to get them to this central location. The impact that this

has on the shopping centre, on the other businesses in the shopping centre and the impact that it has on the capacity for other doctors to come into Wanniassa and fill the gap must be considered. This is one of the things that I am principally concerned about, and I am disappointed that the committee does not seem to have dwelt on this. Mr Smyth touched on it, but I think it needs to be reinforced.

It appears to the more-than-casual observer that the course of action taken by Primary Health Care in saying that it will continue to hold the lease at Wanniassa until it expires in 2012 is effectively a restraint of trade. One of the things that I expected to see was at least some discussion of whether there should be a reference to the ACCC to see whether there is an issue in relation to restraint of trade. It certainly is not in the recommendations, and I have not had a chance to read all of the discussion. I hope that there is some discussion of that there. This is a matter that I am particularly concerned about.

I am also concerned about it as a model for what might happen with the Kippax family practice. If Primary Health Care decide to move those doctors to Belconnen, what will it do in relation to the space that they leave free in Kippax Fair? Will they do the same thing? Will they hold the lease and keep the building empty, again as a restraint of trade? The minister said, "There's nothing I can do." But that is something that she can do. She needs to look very carefully at the way these people are behaving. If it is not this minister's responsibility as the Minister for Health then it is the responsibility of perhaps the Attorney-General or the planning minister. There is something that the government can do to ensure absolutely that Primary Health Care do not act in an anticompetitive way and stop other doctors from setting up to fill the gap, to fill the void, that they have created.

It is also concerning that such a large number of doctors in the ACT are affiliated and essentially owned by private health care. I have spent a lot of time in the last little while talking to people in general practice and having discussions about this, people who have held out against Primary Health Care. The clear message is that they are, essentially, badgered time and time again and offered substantial and very attractive amounts of money to sell out their practices. It is something that will happen over time if we are not careful. As a GP said to me the other day: "Look, most GPs in Canberra are like me, Vicki. They're 50-something and they've got grey hair, and they want to continue to practise medicine, but it becomes harder and harder. It does become a temptation to sort of sell your responsibility." He knows, and other general practitioners know, that when you sell the responsibility for running your practice, you sell your soul. You do not even have any right to say where you work anymore, which is what has happened with the doctors who worked at Wanniassa.

The other thing that we know is that doctors are time and time again approached by Primary Health Care saying, "If you don't come and join with us, this will have a big impact on your own practice." We know that that is true. I know of a doctor who was relating this to me the other day. A doctor who did not sell out in Woden and who runs a practice in Woden was contacted six months after Primary Health Care opened in Phillip. They came along and said: "Look, you know we know that this has had a big impact on your practice. Don't you want to sell out to us now?" He said: "Yes, it has had a big impact on my practice. I can't deal with the number of people who are

coming to see me because they are not satisfied with the sort of service they get from Primary Health Care." Yes, it is a model, as the minister said, but it is not a model that satisfies many people in the ACT. It is not a model that goes to good health care.

One of the reasons why you cannot see a doctor of choice for the most part at these places is they do not want doctors to spend time saying, when you come in for a cold, "How's your angina going?" or "How's your arthritis going?" because that wastes time, and the process is really about churning people through for as much money as possible. They do not want doctors to take the time to talk to their patients in a way that people have come to expect in the past.

The model of the family doctor who knows all the kids, who knows the grandparents, who knows the uncles and aunts and can say, "I can see a pattern in this patient that has been repeated in their family," is not a model that Primary Health Care is interested in. Where we do not have that model, we are getting inferior primary health care for the people of the ACT. We should be doing what we can in the best interests of the community to ensure that organisations like this do not create a situation where most people are confronted with using corporatised doctors.

In the minute or so that is available to me, I have to again point to the model—and Dr Foskey pointed to this also—put forward by the West Belconnen Health Cooperative, which is an extraordinarily innovative thing. I am proud to have worked with these people in the very small way that I have and to have seen a community group embrace a problem, determine what the problem is and come up with a solution. The Canberra Liberals have committed to ensure that there is enough funding to ensure this gets off the ground. There is considerable tardiness from the Stanhope government and a sort of whining, "I'm not going to subsidise GPs." It is not about subsidising GPs. The minister should be out there finding ways to ensure that the people in west Belconnen get good health care. This is the model that the people of west Belconnen have embraced, and she will not provide a simple $200,000 extra funding to ensure this gets off the ground so that some of the poorest people in Canberra get great medical service.

I commend the model to the minister. I commend the committee members for the report. I think it could have gone further, but this is not the end of it. We have to work diligently to ensure that we have good health services.

MR PRATT (Brindabella) (11.48): I thank the committee for the work they have done. I thank Jacqui Burke for her role in that as well and for quite forcefully making her points here this morning. I note that the committee has made some very practical and excellent recommendations. The most important recommendation to me is recommendation 1 at paragraph 2.16:

> The Committee recommends that the ACT Government investigate the possibility of incorporating provisions in crown leases to protect community interests.

That is so important. The current circumstances in Wanniassa would be different if that provision had been in legislation and in our crown leasing arrangements before now. But that is a criticism that is levelled at all previous governments in this place.

Ms MacDonald: It is not the crown lease; that is not the issue.

MR PRATT: Well, that is what the recommendation says, Ms MacDonald. Read it—crown leases. It says "crown leases" on the second line of recommendation No 1, so that is the point I am talking about, Ms MacDonald. If you cannot get your head out of the sand or read or comprehend or understand, then that is your problem, not mine.

I have no doubt that a Canberra Liberals government will go some way towards ensuring that the objectives set out in the report would be achieved through our sensible approach to health management. Further, the current health minister will be doing a great service, perhaps her last—we do not wish that upon anybody, of course—if she agreed to commit to the recommendations set out by this committee now. That would be a great service done to this place and to the community. I wholeheartedly support the comments made by my colleague Mrs Burke that, to date, the health minister has conducted her role in a hands-off way since this whole saga began. After the announcement of the closure, the health minister took the position that:

> There is absolutely nothing that I can do ... There is absolutely nothing that I can do.

The people of Canberra do not want to hear that. The people of Canberra want to hear about action; they want to hear about solutions; they want to hear about options. They do not want to hear, "Oh, well, there's absolutely nothing that I, the health minister, can do."

I would quickly like to clarify for the member for Molonglo that there has been bipartisan criticism regarding this move. Indeed, it was her own federal colleague, the member for Canberra, who conducted an overnight letterbox drop, and it was her colleague from the south, a Labor candidate for Brindabella, who circulated a petition, a petition, which we, the opposition, should have perhaps managed to ensure that it could actually be tabled somewhere. Perhaps the fact that I signed that petition circulated by that member—

Mrs Burke: Me too.

MR PRATT: Mrs Burke apparently signed it, and others. Perhaps these are the reasons why the whole thing has been ignored. Of course, that is what you have with this arrogant government—the collapsing of the scrum on a range of issues. Do not govern in the best interests of the community; govern in the best interests of your own party. This is the party of comrades first, community last. While we on this side are always open to and listen to community concerns and actually represent them on matters of great importance, I suppose those members opposite are beginning to feel like we have licence on community consultation and engagement. They thought they would quickly rally the troops to somehow trump us on this important issue. I do not blame them for that. However, their effectiveness in achieving anything for disaffected residents remains questionable.

I cannot let Minister Gallagher's disingenuous comments about my colleague Mrs Burke go unchallenged. Is that the best you can do, a personal attack on Mrs Burke about her future? Is that the best that you can do?

Ms MacDonald: On a point of order, Mr Speaker: I seek your guidance as to whether or not Mr Pratt's comments about the minister making disingenuous comments is unparliamentary.

MR SPEAKER: I think not. It is a term that has been used here many times, Ms MacDonald.

MR PRATT: Thank you, Mr Speaker. In fact, they were disingenuous, and they expressed a view about Mrs Burke's future as a way of trying to distract from the substantial issues in this debate. That is, of course, because Mrs Burke quite clearly pointed out the obvious—that is, her opposite number, the minister, failed to act on this particular issue.

These clinics in our communities are so important. We need to see the strain taken off the hospital system. I have got a truckload of correspondence from constituents about the many stories of disappointment and their experiences with the hospital system. A close friend of mine, in fact, spent 12 hours on an ambulance stretcher in the emergency department. It is so regretful that this should occur. That is not an isolated story; that was an incident in January of this year. These incidents are far and wide. That is why we need to build the capacity; that is why we need to build health prevention and health administrative capacities out and away from our centralised hospital system.

Instead of seeing that, we saw the Wanniassa clinic closing down and we saw a government which simply said, "Oh, well, there's nothing we can do about that." If it had not been for the Assembly voting through the leadership exercised by Mrs Burke to undertake an inquiry, we would see nothing being done. This is a government that is bereft of ideas, moribund in its governance, and simply lacking in vision and care. Thank God there was at least an inquiry which came up with some rather useful recommendations. Hopefully, the minister will take note of them. You would hope that the minister could do something about some of these recommendations in the foreseeable future.

I actually want to read some components of an email from one of my constituents. She copied into this email a letter that she wrote to Dr Bateman about the Wanniassa clinic closure, which is the heart and soul of this report and this debate. It is very important that we put on the record at least part of what this constituent has said to Dr Bateman about the closing of the Wanniassa medical centre. I quote from Ms Taylor-Cannon:

> I am writing to you to strongly express my concerns at your organisations decision to close the Wanniassa Medical Centre. I also want to say how insensitive the closure has been managed giving patients of the service less than two weeks notice which some people only found out about due to media coverage. I am aware that there are still some people as at this morning—

that is, on 4 August—

> were still not aware the local primary GP health care service was closing.
>
> Would you please explain to me and my family the rationale behind your organisation's closure of the Wanniassa Medical Centre?

The constituent goes on to say:

> My family has been using the Medical Centre since its inception in 1978 and all our family medical history is with this service.

And so on and so on. There is a grassroots example of the concerns and the experiences which have come about as a consequence of actions for which this government seems to have found little solution.

As we finish off, let me just express what the opposition's solution is, should we win government. We talk about, of course, the bulk-billing GP clinics in the inner suburbs: three after-hour, bulk-billing GP clinics, with GPs. Notice the rumblings from the other side. Pure jealousy. There is no vision and no planning on that side. Of course, as Zed Seselja, our leader, said:

> I don't think it's acceptable the ACT remains bottom of the interstate league when it comes to health system performance.

I commend the report.

MS MacDONALD (Brindabella) (11.58), in reply: I would like to start by thanking all members for their contributions, such as they were. Let us start with Mrs Burke. I should say that Mrs Burke and others from the opposition appear to be talking about another report, because this report does not say what members of the opposition suggest that it says. Sometime in her speech Mrs Burke said that the closure of the Wanniassa medical centre is a failure of the ACT government—of course, I am paraphrasing Mrs Burke here—and that the minister did not talk to Primary Health Care for over 12 months. It has been a real bugbear of Mrs Burke's that the minister did not have regular meetings with Primary Health Care. I am a bit surprised that, if Mrs Burke was so concerned to actually put across the points that she has made today, she made no attempt to put them in the report. If she wanted to, she could have put in a dissenting report with those comments, but she did not do that. So Mrs Burke missed that opportunity.

I should point out that this report does not say it is a failure of the minister to take action. In fact, the minister was asked by the committee if she had meetings with Primary Health Care and when the last time was that she had a conversation with them, and she said that she had had a meeting 12 months previous. When Mrs Burke expressed dismay and surprise at that, the minister pointed out that Primary Health Care is not a key stakeholder. The minister has meetings with the key stakeholders—the Division of General Practice and the Australian Medical Association.

If we were to draw the inference that Mrs Burke would have us believe—that is, that Primary Health Care is a key stakeholder—then the minister would be spending all her time in meetings with every general practitioner in this town. She does not need to do that, because she does it through the Division of General Practice and the AMA. It is a nonsense on the part of Mrs Burke to suggest that the minister has failed because she did not have more meetings with Primary Health Care, which would have achieved nothing anyway.

As the minister pointed out, even if the minister had had a meeting with Primary Health Care, it would not have necessarily changed their mind. Unfortunately, Primary Health Care's modus operandi, might I suggest, is to try to attract GPs to go and work in their organisation. They have a particular model, and they aggressively seek out general practitioners to come and work for them. They do the administration which, I should say, is actually appealing to a number of general practitioners in this town. A number of general practitioners have willingly gone across to Primary Health Care centres in Phillip and Ginninderra. The general practitioner of a friend of mine has now gone to the Primary Health Care centre in Phillip, and has done so willingly. He got sent the invitation, and when Dr Sharma appeared before the committee, she talked about the fact that she gets on a regular basis an invitation—a glossy pamphlet—from Primary Health Care to go and work for them.

Mrs Burke talked about the media release that I put out as chair of the committee saying that it supported the Liberals' policy. Mrs Burke, it did no such thing. I would suggest that Mrs Burke go back and read the press release to actually check what it said. The minister answered a number of the absurd comments and criticisms that had been put forward by Mrs Burke, and I reiterate the points that she made. Then we get on to Mr Smyth, who said, "We started the process with the medical school." As you well know, Mr Speaker, it was you who started the clinical medical school, and you funded it. The people opposite might have started some sort of process, but they certainly did not fund it.

As we all know, Mr Smyth likes to twist words and take selective parts of reports and use them against the people that he sees as his enemy. Mr Smyth misquoted Ms Gallagher. Ms Gallagher was referring to the ACT government's ability to reverse the decision of the Wanniassa medical centre and the ACT government's ability to keep GP practices open. It is a federal government responsibility. Mr Smyth misses the point that it is the federal government that has the power to change things, and that is exactly what the ACT minister has continuously said.

I also need to make the following comment: Mr Smyth made some comments about the rally and the fact that the minister did not make the time to go down to it. I believe that the minister had an engagement here—it is called a sitting day, and she was required to be here for that. Minister Hargreaves could not make it because he was in cardiac rehabilitation. He was keen for me to point that out, because he would have been there if he could have been, it being in his electorate. I, of course, would have been there, but I was representing the ACT Assembly at the CPA conference in Malaysia.

Dr Foskey raised the issue of the west Belconnen model and that it is a pity that there is not a recommendation in the report about it. Dr Foskey, we do actually talk about the west Belconnen model within the report. The time that this committee had to hold hearings and deliberate was in the order of about 1½ weeks. We did not have time to make far-reaching recommendations, and the fact that this committee has come up with six recommendations I think is to the credit of the committee.

Mrs Dunne also raised the issue of the west Belconnen model and that the government would not give an extra $200,000. Mrs Dunne does not acknowledge the concerns raised by other GPs about the government giving funding to one group of GPs. The west Belconnen model may very well be an excellent model, and the report actually talks about alternative methods of delivery for GP services in this town. The committee is interested in seeing that, and I know that the government is interested in seeing that. But we have to take into account all the people that are providing services in this town, not just one group.

Mr Pratt did not say anything particularly of substance, except he did talk about the angst faced by people in the community with the closure of the Wanniassa medical centre. The committee totally agrees with that. In the conclusion, the committee states:

> The Committee considers the closure of the Wanniassa Medical Centre and in particular, the impact that this has had on the patients and residents of the Tuggeranong Valley to be unfortunate.

It is extremely unfortunate, but there are a whole raft of reasons why there are problems, and there is no quick-fix solution to this.

In the last 52 seconds that I have, I want to thank Mr Smyth for bringing to our attention that we do have at appendix C an email from Mr Russell Tall. It should be Mr Roger Tall, and I apologise to Mr Tall for having that incorrect at the top of the page. However, it can be seen from the bottom of the page that it is Roger Tall. Unfortunately, this email had to go in because Mr Tall came before the committee and gave an incorrect answer, which was later clarified through further questioning of the minister about who had contacted whom. It is unfortunate that that was the case, but I am glad that the email has gone into the report to correct the matter. I commend the report.

Question resolved in the affirmative.

Legal Affairs—Standing Committee
Scrutiny report 59

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 59, dated 25 August 2008, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

MR STEFANIAK: Scrutiny report 59 contains the committee's comments on seven bills, 21 pieces of subordinate legislation and two government responses. The report was circulated to members when the Assembly was not sitting. I commend it to the Assembly.

Education, Training and Young People—Standing Committee
Report 8

MS PORTER (Ginninderra) (12.09): I present the following report:

> Education, Training and Young People—Standing Committee—Report 8—*Vocational Education and Training to Address Skills Shortages*, dated 19 August 2008, together with a copy of the extracts of the relevant minutes of proceedings.

I move:

> That the report be noted.

The shortage of skilled workers is one of the major challenges facing the ACT and, indeed, Australia as we look to our future as a society. It has been a concern for some time in the ACT. The ACT has the dual pressure of competition for skilled workers interstate and overseas and a record low unemployment rate. The rate of unemployment in the ACT has been steadily falling and stabilised at 2.7 per cent in the first half of this year.

The question of skills shortages is not as simple as not being able to recruit or retain staff. A skills shortage is defined by the Department of Education and Training as "a lack of people in the community with the desired skills". The commonwealth government has said:

> Skills shortages exist when employers are unable to fill or have considerable difficulty in filling vacancies for an occupation or specialised skill needs within that occupation ...

The committee noted, for instance, that the ACT has experienced for a while—and we have just been talking about it—a shortage of general practitioners to meet the needs of our population. This is the experience of all jurisdictions. I repeat: this is the experience of all jurisdictions. We are experiencing a true skills shortage. However, the ACT has experienced a seven per cent drop, as was mentioned before, in the number of GPs between 1995-96 and 2006-07, with a determined effort by the medical profession and the ACT government to address this issue. Let me emphasise: this is with determined efforts by the medical profession and the ACT government to address this issue.

Mr Speaker, the standing committee had resolved to undertake this inquiry in April 2006 and, as you are aware, in 2006-07 the ACT government announced the establishment of a Skills Commission. Therefore, the committee sought advice from the commission to ensure that the inquiry's focus could be further refined.

The committee received five submissions, heard from two witnesses and visited the Queensland Health and Community Services Workforce Council and the Latham primary school. The latter was to examine the lessons to be learnt from early school-based programs. The committee recommended a demand-led response to skills shortages rather than a supply-driven response. It notes the positive work being undertaken through business and industry working together, through VET in schools and through flexible and innovative vocational education training at the Canberra Institute of Technology.

The committee also found that group training organisations provide security and flexibility for small and micro employers. There are many challenges—for example, the shortage of workplace placements for apprentices and retention difficulties in the community and aged care sectors, in health workers and in allied health workers.

The report recommended the investigation of options for funding a skills foundation project like those undertaken as part of a national skills ecosystem approach, particularly for the aged care and community sectors. The committee also recommends that the ACT government and the construction industry implement an industry-led solution to the shortage of employee placements.

Career choices of our young people obviously have a real impact on our future workforce. The committee recommends a review of the career advisory capacity within our schools and that our schools are able to access programs that enhance student knowledge and awareness of career paths, particularly in relation to traineeships and apprenticeships.

Young people can often be guided from quite an early age by their parents, most significantly, to take a course that leads them off on an academic path. Whilst obtaining academic qualifications as a first choice is often a great outcome for a young person, there are many opportunities for lifelong, well-remunerated careers by following a trades path. That is why the committee sees that the answer to this issue is not just in the hands of government, nor necessarily in the hands of industry or business; it is also in the hands of the community. We all need to address this challenge together.

I want to thank my fellow committee members, Mr Gentleman and Mr Pratt, and my committee secretary, Dr Lilburn, and the committee office for their support and their commitment to this inquiry. I would also like to thank all those who made submissions, those who appeared before the committee and those who made us welcome during our visits. I commend the report to the Assembly.

MR GENTLEMAN (Brindabella) (12.14): I do want to acknowledge, firstly, that the idea for the inquiry came originally from the VIDA board. It is interesting now to note that the inquiry outlasted the board itself, but it is good to see that their work is continuing.

There are a couple of things I would like to note in the report. One very important thing, of course, is on page 64, which talks about the recognition of prior learning.

The committee did hear from industry and stakeholders about the importance of that recognition, especially from state to state, and how it is difficult to get people to come across from different areas to the ACT to work and have their prior skills recognised. I remember, particularly in the area of the security industry, where I worked, whilst I had commonwealth recognition for security operations, it was not recognised and still is not recognised in the ACT. We do need to work hard, I think, on those areas of recognition of prior learning.

The other thing I would like to touch on is a visit the committee had to Queensland. Whilst we were there for other purposes, we were able to discuss this particular inquiry with the Queensland Health and Community Services Workforce Council. They had some very good success stories in regard to retaining staff and being able to acquire new staff in the aged care sector.

We spoke with Ms Carolyn Ovens, a senior project officer, skills formation, strategies and communities, VET partnerships, Health and Community Services Council; Ms Tracey Worrall; Ms Alisa Hall from Blue Care; and Ms Jane Clarke from St Andrew's War Memorial Hospital. They were able to tell us that in Queensland they had started on a path and were only about 12 months into this program of playing a role in trying to get new staff for the aged care sector. I had a conversation with our committee secretary, Sandra Lilburn, earlier just to remind me of the details.

What they did was provide a better career path for those in the aged care sector by allowing them to do ongoing studies whilst working in the sector and, when those studies were recognised with certificates, they were then commensurately recognised with a salary increase as well. So there was an opportunity there for people to study a bit more, get some more skills, have those recognised and then recognised with salary increases. It was very successful.

Only 12 months into the program, there was a much better staffing operation in the area. In fact, they indicated that it could only grow from there. There were some definite things we could learn from that visit. The career paths were there, as I said, with corresponding income. There were more staff and it was also a happier work place. People found that their skills were recognised and they had further career choices after that. So it was an eye opener, I think, for the committee and something that the government could look at here.

MR PRATT (Brindabella) (12.18): I commend this report to the house. I would like to say just a few words on this. I only came in toward the end of this inquiry. My colleague Mrs Dunne had been on that committee and with that inquiry for a good duration of its time frame. I came in at the end but I had a pretty good idea what was undertaken. Mrs Dunne told me quite a bit about what had previously occurred.

I am very pleased that the committee had taken on this task, to look at skills training. I think it is important to note that this inquiry was undertaken against the background of what has been a national trend, which I think has been detrimental to education in this country. The trend that I am talking about is what seems to have been the drive across Australia and in most jurisdictions, not only in the ACT, to move all children into tertiary education. That was a trend that commenced, I think, pretty much in the

early to mid-80s. It was a great idea to push every child to year 12 and then into a university degree course.

I do not entirely attack that trend. I think that was a laudable attempt to perhaps increase skills training in the country. I think the original intention was absolutely spot on but the implementation of it and the management of it went skew-whiff. In my view, we need to reverse that 20-year trend, at both commonwealth and state level, of pushing all kids to degree training. What was the use of gaining a degree in basket weaving when a student picking up solid skills qualifications should have been far more desirable? I am very pleased to see that the Standing Committee on Education, Training and Young People did see fit to note that this was a trend that certainly needed some reversing.

To their credit, the ACT government has undertaken some initiatives now and in recent years to increase our skills training capabilities at the secondary level. Of course, they have had bipartisan support in that. Numerous shadow education ministers on this side of the house have been pushing for that for a very, very long time. Indeed, one of our previous ministers for education, I know, was pushing that line as well—increased capacities for skills training, VET training, in our secondary schools. The committee has picked up on that and come up with some pretty good ideas on what we should be doing to refocus our emphasis on those issues.

I particularly like recommendation No 2, which says:

> The Committee recommends that the ACT Government commissions a review of careers advisory capacity within all ACT schools with a view to identifying appropriate bench marks for advisory services within school communities, the capacity for career relevant activities to be integrated into the curriculum, and the most effective model for achieving engagement between school communities, VET providers and industries.

I do not know whether my two colleagues agree with me—I think they probably would—that that is the central recommendation, at least in my opinion, coming out of this inquiry. It is so important that we establish the mechanisms in our secondary schools to identify very early in the learning cycle what our kids are good at and identify ways and means of encouraging kids at the 13, 14-year mark in relation to what we believe or what the system identifies are their strengths as well as their weaknesses; and, where they may not be academically built to go to a traditional tertiary stream later in life but where they demonstrate skills and attitudes badly needed in the workforce in other areas, then they need to be encouraged and counselled early in life and earlier in life than what is currently the case.

I think the minister has been looking at ideas where we might increase some of the more, shall we say, hardware side or technical side subject areas earlier in school simply to at least introduce and provide a sniff of what might be available in life earlier in the high school experience, with a view to showing kids that there are experiences that can be pursued and with a view to perhaps streaming them in the skills area. That is what recommendation No 2 goes to the heart of.

We also know that we have a very small percentage—but, unfortunately, a percentage—of kids in early high school years who are at risk of not completing

school and who, in some cases, come from disadvantaged backgrounds or dysfunctional backgrounds and are seen to be at sea with what they want out of their schooling. Those kids have got to be kept in the system. We have got to encourage that percentage of kids to get on with their schooling, complete their schooling, with pride. In many cases, it is the VET stream that will offer them the opportunities. We all have stories in this place, particularly people of Ms Porter's and my generation, of what was available and how kids were, indeed, encouraged once upon a time, early in their high school lives, to perhaps take a practical pathway.

I therefore commend the report. It is a report that is well detailed. I thank my colleagues. As I say, I was a Johnny-come-lately, but I enjoyed the participation in this particular inquiry. I have to thank Dr Lilburn, the secretary of the committee, who very competently and technically steered our direction. It was a very worthwhile report. It goes to the heart of one of the most important things that we as an Assembly can be focusing on—the development of our kids. The most important resource we have here in the ACT is that younger generation who have to move on and one day lead the way. This particular inquiry goes very much to the heart of examining issues on that.

I commend this report to the government. I do hope the government has a good, hard look at it and sees where they can value add to the approaches they have started to take on VET in our education system.

MRS BURKE (Molonglo) (12.27): I will not say too much on this. I do have an inherent interest in this topic, given that it was the area that I worked in prior to coming into politics. I was working with the ACT Chamber of Commerce and Industry, particularly in relation to school-based new apprenticeships and the student to industry program.

I am happily now just going through the report, and it is pleasing to see how much the position has come on from where it was when I was last in the system and to note, too, the work of the current government in doing some of the things to try to address skills shortages. We seem to have gone ahead in leaps and bounds in some areas and yet, in others, I know that we really need to try to hasten some of those activities to make sure that we can meet those needs of the future.

At one stage when I was working with the Australian Chamber of Commerce and Industry looking at the whole national perspective, we identified some of those key areas, and they still seem to be key areas today probably 10 years later. That is what I am saying. That is the difference with some things that are gone through quickly. We are working well at the school level. I think we are breaking in students to understand the practicality that university is not for everybody. I think that we do need to have alternative pathways. The report does talk about pathways, and I think it really is important that we have an opportunity for young people to follow a path that suits them, not necessarily university, but, certainly, through attaining a skill or a trade via an apprenticeship.

I think it is worth noting that it is an extensive report and that the recommendations that are made hopefully will be taken on board—we are running out of time with this

Assembly—if not by this Assembly certainly by the next Assembly. I do have a keen interest in it. I am very pleased to see that this issue is again out, and we can talk about it. We keep having the discussion about it. I know the Skills Commission is something that is really important, and we need to continue to do all that we can.

When we look at the overview of VET, for example, on page 26, there is the annual funding for CIT, the Australian apprenticeships user choice program, the strategic priorities program, adult and community education, vocation education in schools, Australian schools-based apprenticeships and career education. All those things, I think, are the genesis for moving forward and continuing to move forward and build on the good work that has been done by this government and previous governments and by previous federal governments and the current federal government.

I think it is a good report, and I will continue to enjoy reading through it. I thank members, and I thank the members of the committee for bringing it on.

Question resolved in the affirmative.

Sitting suspended from 12.30 to 2.30 pm.

Questions without notice

Capital works projects

MR SESELJA: My question is to the Minister for Territory and Municipal Services. Minister, the Stanhope government has again continued its poor record of delivering on its projected capital works spend in 2007-08. Minister, why has your department forecast an underspend of $47 million out of the Stanhope government's total capital works forecast underspend during 2007-08 of $138 million?

MR HARGREAVES: I thank the Leader of the Opposition for the question. When we talk about numbers in this place, I will take the specifics of the question on notice and I will get back to the leader on the specifics because he is asking for the relativity of $40-something million against the other figure.

I need to say that perhaps it has something to do with our vision for the territory. Maybe it has got something to do with what we want to do for the territory. Maybe it is that we want to make lives better for the people of the territory. For example, we do—

Mr Pratt: What, waste your money?

Mrs Dunne: Like underspend on your capital works budget? Your vision is to spend less? Over-promise and underdeliver?

MR HARGREAVES: Let us see how many we can get with big, gaping mouths in one go.

MR SPEAKER: Cease interjecting, please!

MR HARGREAVES: Let us see how many little birdies in the nest we can get in one go here.

Mr Pratt: You are wasting money.

MR HARGREAVES: There is one.

Mr Pratt: Wasting money.

MR HARGREAVES: That is two.

Mr Pratt: Wasting money.

MR HARGREAVES: That is three. Maybe it is because we want to do so much for the territory that we committed to these projects. Perhaps it is because there is a skills shortage in the ACT. Perhaps it is about trying to get so many projects underway that will improve the amenity of the city.

Mr Pratt: It's a poor tradesman who blames his tools.

MR HARGREAVES: Is that an echo? Little Mr Echo is having a go.

Mr Pratt: The poor tradesman blames his tools.

MR HARGREAVES: Keep it up, Mr Pratt!

MR SPEAKER: Order! Mr Pratt, cease interjecting. That is twice.

MR HARGREAVES: Thank you very much, Mr Speaker.

MR SPEAKER: Mr Hargreaves, direct your comments through the chair.

MR HARGREAVES: Maybe what we are talking about is the way in which the Stanhope government is committed to doing things like the airport roads project. Maybe it is that we have got $50 million worth of project out there, half of which belongs to the territory. Maybe it is because the projects take more than one year to deliver and, in fact, what you see in the way of rollovers is years 2 and 3, which means that we have a forward thinking approach to the way in which we deliver capital works.

I was asked a question on my way down here: can I think of one project that has been advanced by the opposition in the last four years by way of capital equipment?

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

MR HARGREAVES: Capital works, Mr Speaker, that is what I am talking about. I cannot think of one.

When we talk about Gungahlin Drive, we know that it is done.

Opposition members: Ha, ha!

MR HARGREAVES: Those opposite laugh. I drive up there quite regularly, and it is a fantastic run. What happens is: it is under budget and on time; so what can we do? We can duplicate Caswell Drive. We have made provision, in fact, for a long project for the duplication. These guys reckon they can do it in two years.

MR SPEAKER: Order! Mr Hargreaves, come back to the subject matter of the question or sit down.

MR HARGREAVES: I am, Mr Speaker. These people over here are asking why is it that we have so much in unfinished capital works. The reason for that is that it takes quite a number of years to deliver these things—millions upon million of dollars. But of course these guys do not know basic accounting 101; they would not have a clue.

Mrs Burke: Oh!

MR HARGREAVES: We hear this "oh", the baying of the cow of Mrs Burke—Jacqui with a "B", the B-grade team having another crack. Let us see: work out what accounting 101 is and you would know that big projects take a long time to deliver.

What we have in our particular capital works program is a very large series of projects, taking many years to deliver. We are in a case where there is a skills shortage. If these guys could come up with just one capital works project they have advanced over the last four years, I will be very surprised.

MR SPEAKER: Is there a supplementary question?

MR SESELJA: Thank you, Mr Speaker. Minister, what action have you taken to ensure that your record of spending your capital works budget improves?

MR HARGREAVES: I will give as an example the airport road project. We identified that we had a really big problem; that was not too hard to identify as there was a big clog on the highway. So what did we do? Instead of sticking our heads in the sand and saying, "Oh, it's the government's problem," we got together a roundtable of all the stakeholders and came up with a shared solution regarding who could afford it and who could not. We struck a deal with the commonwealth and we identified the thing properly.

We did not do what they did, Mr Speaker, with the GDE, and say that it could be done for $32 million. We did not make promises to the electorate that we could not keep. We actually went out there with real time lines. When I became minister for urban services—

Mr Pratt: And really stuffed it up.

MR HARGREAVES: This is really difficult, Mr Speaker; you know how hard it is for me. When I inherited the Gungahlin Drive project, as minister for urban services, I

told the people of Gungahlin that I would deliver the road so that they could drive out of Gungahlin on that road, and I delivered it to them. But what about these guys? With these guys, it was $32 million for a road going nowhere.

Mr Seselja: On time and on budget.

MR HARGREAVES: There was no beginning and there was no end to it; there was just a little bit in the middle. They reckon they can do the rest of the duplication in two years. Mr Speaker, it takes two years to get the planning proposals done and the contracts awarded. That just shows you that these guys have not got a clue about the processes they would have to go through. It is such a naive question from Mr Seselja, the manager of the A team. He should know better. He should know how long it takes for a project. He would be better placed asking me a question about a particular project, instead of asking why, as he has done. He would not have a single clue.

It seems to me that perhaps we are talking about the glove puppet approach to accounting 101. This sounds to me like the sort of inadequacies that we see coming from the shadow Treasurer. You can't name one project because you have not looked it up in your budget papers, have you? No. Why don't you come up with one project? I will see you tomorrow at question time and you can ask me the same question. This time, do it on a project, and I will give you the answer. But at the moment, they can't. It is a big, broad-brush approach. You are going to get lots of brownie points for doing that! I don't think so. And as for the terrier over here, the barking irrelevance of Mr Pratt—

MR SPEAKER: Order! Mr Hargreaves, the question was about what you would do.

MR HARGREAVES: What would I do? Mr Speaker, I will tell you very succinctly what I would do: I will, the government will, win the next election, shame these people and go on and deliver the thing in the same way we have done over the last four years, to their eternal shame. The problem, of course, is that we know that at least 20 per cent of them over there won't be here to see it happen. Mr Speaker, I will put 20 bucks down that one, two, three of them won't be here. That means four out of six won't be here to see us do it.

Environment—climate change strategy

DR FOSKEY: My question is to the Chief Minister in his role as minister for energy and climate change. Chief Minister, when the ACT government released its current climate change strategy, weathering the change, it reduced the target for greenhouse gas reduction in 2050 by changing the benchmark year from 1990 to 2000. The 1990 level, at 3,500,000 tonnes of CO_2 is nearly 86 per cent of the 2000 level of 4,050,000 tonnes of CO_2. Chief Minister, could you please tell me why, in 2007, when the scientific evidence on climate change is more advanced than in 1996 when the first climate change strategy was adopted, your government adopted a strategy which allows the ACT to produce more greenhouse gases, not less.

MR STANHOPE: The climate change strategy that the ACT government has released, weathering the change, builds on all of the successes and lessons of the ACT

greenhouse strategy 2000 and outlines how the ACT community—with strong and appropriate leadership, with a scientifically backed climate change strategy and indeed with the leadership and support of the government—will address climate change over the period 2007 to 2025. We have adopted a target of reducing emissions by 60 per cent by 2050—

Dr Foskey: Of 2000 year levels.

MR STANHOPE: Back to 2000 levels, the same target that every other state and territory, and the ACT, have adopted or accepted—indeed, the same as the targets that have been accepted by all of the significant Western democracies. It is the same target; it is the same scheme. Indeed, the great difference between the ACT and other places within Australia is the rigour of the climate change strategy that we have adopted and put in place.

The weathering the change strategy contains a number of action plans. The first of the action plans includes initiatives based on improving the knowledge and awareness of climate change, improving the energy efficiency of government, showcasing and promoting renewable technologies, community and business awareness, education programs and ensuring easy market access to green power. The action plan includes initiatives to reduce our emissions as well as identifying the risks we face from climate change. All 43 actions within the strategy are underway, in progress. Some have been completed. A number that have been implemented are the park and ride strategy, green power being offered to all new electricity customers, free bus travel—

Dr Foskey: Can you answer the question, please.

MR STANHOPE: the introduction of a world-leading feed-in tariff—

Dr Foskey: Point of order, Mr Speaker.

MR STANHOPE: the establishment of a business and academia—

MR SPEAKER: Order, Chief Minister! Point of order, Dr Foskey?

Dr Foskey: The minister has not yet addressed the substance of the question—why change the targets from 1990 to 2000 year levels?

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

MR STANHOPE: I am doing that. I am answering on the basis of the strategy that is in place and the basis on which and the reasons for which we adopted the strategy we have. It is a good strategy. It is backed by a real commitment in dollars. Indeed, to date the ACT government has committed somewhere in the order of $240 million to its climate change strategy over the next 10 years.

That contrasts with the commitment made by the previous government to the greenhouse strategy that it issued. I understand that in its last year in government the previous government committed somewhere in the order of a few hundred thousand

dollars for the greenhouse strategy, a strategy that pretended that greenhouse gas emissions could be reduced to 1990 levels by 2008. That was pie in the sky—absolute absurd nonsense, wishful thinking backed by no scientific data or any will by the then government to seek to implement that strategy. It was just a false hope.

One of the great initiatives is this, and this goes to the heart of the question. I will conclude on this point. Wishful thinking, pie in the sky and dreaming will not allow us to achieve the reductions which we—each of us as individuals or governments—need to achieve in order to meet any target. The previous strategy, with its fake targets, lack of rigour, scientific evidence or basis, and lack of understanding of the realities of life or community life—of growing community and increasing emissions—was nothing but pie in the sky.

In the context of an issue as serious, as demanding and as challenging as climate change is, false prophets and false hopes are some of the greatest dangers or challenges that governments and communities face in trying to achieve the targets and deal with the reality of the challenges which climate change presents. It is important for governments to be open and honest about the challenge we face and not to have this fly-by-night nonsense which the Greens peddle.

MR SPEAKER: Supplementary question, Dr Foskey?

DR FOSKEY: Chief Minister, why did your government decide not to adopt an interim target for 2020 which would have given us a benchmark which would have assisted us to reach the 2050 target, especially when scientific evidence makes it clear that our 2050 target will have to be substantially deepened?

MR STANHOPE: The government has announced the interim position.

Gungahlin Drive extension

MR PRATT: My question is to the Minister for Territory and Municipal Services. Minister, last week on WIN News, in relation to the GDE, you said, "We didn't realise that there would be 29,000 cars a day along the Caswell Drive section quite as early."

I refer to the Gungahlin Drive extension study prepared by the Department of Urban Services in June 2002 which showed that traffic volumes south of Belconnen Way were expected to be 29,700 in 2006. Interesting!

Minister, why did you claim that the government did not realise that there would be 29,000 cars a day along Caswell Drive when your own traffic studies published publicly in June 2002 predicted that the traffic volume would be 29,700?

MR HARGREAVES: Mr Pratt is quite right. The study was done in 2002. It predicted that there would be 29,000 cars going down the GDE in 2006. Well, I hate to tell you, but the GDE was not finished in 2006. There were not 29,000 cars going down there in 2006.

This is going to come as a big surprise to you, Mr Pratt—through you, Mr Speaker—but in 2006 the Caswell Drive stretch had not been completed. In fact, the advice given to me was that it would take about 12 months from the time that stretch of the road was opened before that level of traffic volume would be achieved. The reality of the day is that when we did the traffic numbers we found that the 19,000 coming from Gungahlin joined the 10,000 from Belconnen Way, and it was earlier than my recent advice.

I do not know what tricky little thing Mr Pratt is trying to achieve by this. The question really should have been: what did you do when you realised that it was 29,000? The answer to that is that we commissioned the work to duplicate Caswell Drive. We had anticipated that we would have to do that about 12 months, or maybe even a little bit more, after the road was opened.

We knew that with the construction of the GDE and the changes to the Caswell Drive stretch a lot of people were using alternative routes. They were going down Flemington Road, Horse Park Drive, Northbourne Avenue, Adelaide Avenue and a whole series of other arterial roads and overloading them by in excess of 20,000-odd a day.

We did not have an absolute date when the people would come off those major arterial roads and change their driving habits and embrace the GDE. As it turned out what happened what that people embraced the GDE a lot earlier than we had thought when we originally intended to open it. Mr Pratt is saying to me, "Well, people have embraced it earlier than you thought they would." I am happy with that. That revealed 29,000 cars a day. That is what happened.

What did we do about that? We commissioned the duplication of the Caswell Drive part of the road.

MR PRATT: Jesus wept! I do not know why the 2002 figures do not add up. Anyway, minister, why did you mislead the viewers of WIN News last week on this issue? You know what the figures were.

MR HARGREAVES: I did not, Mr Speaker. The fact was that my advice in recent times was that we would expect the traffic volumes to have been achieved considerably later than they were. Once they were realised we moved to address that particular issue. Mr Speaker, it is just a really stupid question from a really stupid person.

Mr Pratt: No, it is not. You predicted 29,000 cars in 2002. You bloody idiot!

MR SPEAKER: Order! Mr Pratt, withdraw that.

Mr Pratt: I withdraw that, Mr Speaker.

MR SPEAKER: I warn you, Mr Pratt. No more interjections.

Mrs Dunne: I raise a point of order, Mr Speaker. Mr Hargreaves called Mr Pratt a stupid person. I think that is unparliamentary and I ask that it be withdrawn.

MR SPEAKER: I do not know. Did you call him stupid?

Mrs Dunne: Yes, he did.

Mr Hargreaves: Mr Speaker, in the interests of peace and goodwill to all men, I withdraw the statement.

Economy

MS MacDONALD: My question is to the Chief Minister. Chief Minister, how has the Stanhope Labor government's economic management contributed to the ACT's strong economy?

MR STANHOPE: I thank Ms MacDonald for the question. It is true that the ACT is experiencing a period of sustained economic growth and prosperity. The last few years have seen renewed economic activity providing a foundation for increased confidence in the ACT.

Good economic management, of course, starts with good fiscal management. The growth in economic activity would not have been possible without running strong policies and initiatives and making the tough decisions since coming to office in 2001—decisions that have prepared the Canberra community for the future. This government has maintained a level of fiscal discipline unmatched by any previous government, most notably the previous Liberal government.

This government has presided over a planning regime which has enabled the most significant period of construction investment since the building of the new Parliament House in 1986-87. This government has commenced the largest infrastructure investment program of any government since self-government was established. We are building a better city and a stronger community by investing the dividends of our strong economy in the long term, with more money for hospitals, with a billion-dollar investment program over the next 10 years; schools, with just on $400 million invested over the last few years; tackling climate change, with $240 million committed over the next 10 years; and improving our neighbourhoods.

Before coming to our government's policies since 2001 and the benefits that our policies have provided for the ACT community, it would be appropriate for me to summarise what we inherited and what we had to deal with when we came to government. We inherited unfunded promises for pay rises. Nobody can forget the shambles around the nurses' pay claim at the time. We inherited six years of minimal or no investment in infrastructure and capital—an average of $76 million a year in the last term of the last Liberal government. The capacity of the Liberal Party to invest in infrastructure and to deliver came out to the tune of $76 million a year. In the last financial year, this government delivered $314 million of capital. We delivered, in the last financial year, more capital than the Liberal Party delivered in its last term. What

a stark contrast: a government that delivered in one year over $300 million as against a government which, in a term, could not deliver $300 million in capital. What a stark contrast in terms of our government's capacity and willingness to meet the needs of this community.

We inherited poorly scoped and inadequately funded projects. In that regard, let us not forget the prison—a project fully supported by the then Chief Minister, Gary Humphries, in government, and initially scoped by the Liberal Party in government. But then, of course, when they fell into opposition, it was a project which, for nothing but shallow political convenience, they completely abandoned.

We inherited unrealistic forward estimates. The greatest shock we received on coming to government was to be informed by Treasury that the outgoing government, in order to produce a surplus in its last year, before its last election, had provided one per cent in the forward estimates for wage negotiations. Can you believe that?

Ms Gallagher: Yes.

MR STANHOPE: You can believe it. That is the trouble: you can believe it so easily. In its last budget before its last election, the Liberal Party government of the day provided one per cent in the forward estimates. This was what Bill Stefaniak and Brendan Smyth did in their last budget. In order to get the budget to balance, in the forward estimates they provided one per cent for salary increases.

Ms Porter: Shame!

MR STANHOPE: It is shameful, absolutely shameful. We inherited chronic neglect of key services and neglect of the most vulnerable in our community. And we do need to reflect on this. Remember the neglect in key areas of service delivery—the neglect of the vulnerable? We remember, don't we, the Gallop commission of inquiry into disability services and what actually drove that. We remember the shameful lack of investment in mental health—the lowest per capita investment in mental health of any government in Australia. Canberra, the most prosperous community in Australia, had the lowest level of investment in mental health services. There was a chronic underfunding of child protection. There was a royal commission, no less—a commission of inquiry headed by Gallop—into the management and stewardship of disability services. And we inherited years of operating deficits—a total of $800 million of deficits over the terms. *(Time expired.)*

MR SPEAKER: Supplementary question, Ms MacDonald.

MS MacDONALD: Thank you, Chief Minister. Chief Minister, how will a strong ACT economy ensure delivery of the forecast budget surplus?

Mrs Dunne: On a point of order, Mr Speaker: I seek your ruling as to whether the question is in order. Asking how is an expression of opinion.

MR SPEAKER: He is going to explain how it is. It is not an opinion. I think he is going to go to the facts; otherwise, he will be out of order.

Mrs Dunne: I am asking you whether the question is in order.

MR SPEAKER: It never asked for an opinion; it asked how it is going to happen.

MR STANHOPE: Of course one can understand that the Liberal Party is not interested. One is not surprised that they are not interested in how a strong economy will deliver forecast budget surpluses because, in government, they did not deliver any surpluses. $800 million of accumulated deficits is the enduring legacy and record of the Liberal Party in government. Over its two terms of government it delivered a total of $800 million in deficits and then conjured up a surplus in its last budget by not making any provision for wage rises for its public servants.

Ms Gallagher: After promising it would.

MR STANHOPE: Yes, after promising and actually negotiating pay rises. Most particularly, the nurses are the starkest example. I think they negotiated a pay rise of 14 per cent over three years, with three per cent provision over the years in the budget. How stunning, to sit here after negotiating a 14 per cent pay rise and provide in the budget one per cent a year for a 14 per cent negotiated three-year pay rise with the nurses! They did not get around to mentioning that to anybody.

Mr Gentleman: You would feel comfortable being a nurse, wouldn't you?

MR STANHOPE: Yes, you would have been incredibly comfortable.

The importance of good fiscal management, of course, cannot be understated. Every Canberran has benefited from the policies and initiatives that this government has implemented since 2001. At the same time, we have avoided the reckless spending that the Liberals specialised in last time they were in government and would deliver again, based on their desperate promises in an effort to get elected.

The fact that this government's excellent fiscal management has helped deliver a strong economic performance over a number of years cannot be disputed. Growth in the ACT's economy is matched by that of the mining states, and only the mining states, in Australia—a phenomenal effort, given we do not have vast quantities of minerals which we could simply dig up. Ours is an economy built on management—good management, not luck.

The forecast surpluses published in the 2008-09 budget are achievable as high levels of economic activity continue. This government has created an environment which will ensure strong budget surpluses. At the heart of most revenue growth for governments is population and jobs growth. The ACT is no different. As long as we can assist people to move to and work in the ACT our future looks bright—not least from the budget surpluses which will arise and provide us with the capacity to continue making the territory a desirable place to live.

By delivering 3,400 blocks in 2007-08 and an additional 4,200 blocks this year the government is laying the foundation for additional workers and their families to move

to Canberra. By providing targeted assistance to first home buyers, combined with a range of other housing affordability initiatives, the government is creating an environment which will see those already living in the territory want to remain here and contribute to the success of the ACT economy.

Why would you not want to live here, despite the fact that the Liberal Party continue to repeatedly talk the town down? With near record low unemployment and high participation, this economy is operating at virtually full employment. The most recent ABS data show that the number of vacancies in the territory exceeds the number of unemployed persons. Therefore, there is a job for every unemployed Canberran who wants one. An economy displaying these characteristics is synonymous with strength; and with such strength comes budget stability, so long as there is careful fiscal management.

Now is not the time to abandon all the hard work that this government has achieved by handing over the keys to an opposition who are devoid of any responsibility, devoid of any respectability and, most importantly, devoid of any idea how to deliver and maintain a healthy budget surplus. We see that most particularly in the promises that they have made over the last four years to this electorate of the things that they would do if elected on 18 October.

The official campaign has only just begun but the opposition has already made spending promises amounting to half a billion dollars between now and 2011-12. This, along with promises to cut revenue by around $300 million, would result in a hit to the budget bottom line over the term of the next government of more than $800 million. Is not there a resonance there? That is the deficit that they accumulated last time they were in government—$800 million. Here they have already, to date, promised an $800 million hit to the bottom line if they are elected on 18 October.

Of course they have gone very quiet on some of these promises, like the 100 acute care beds that Mr Smyth promised, the $63 million commitment to 100 acute care beds. Mr Smyth is on the record—and we will table these before the end of the week—promising an additional $35 million on mental health. *(Time expired.)*

Department of Territory and Municipal Services

MR SMYTH: My question is to the Minister for Territory and Municipal Services. Minister, in June 2008 your department required additional funding from the Treasurer's advance of $10.5 million. Minister, why did your department require these funds from the Treasurer's advance?

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

MR SPEAKER: Mr Smyth with a supplementary question.

MR SMYTH: Thank you, Mr Speaker. Minister, what prevented your department from budgeting for these funds as part of the normal annual budget process, rather than having to request funds from the Treasurer's advance?

MR HARGREAVES: I will take the question on notice, Mr Speaker.

Planning—unit owner corporations

MR MULCAHY: My question is to the Minister for Planning and relates to the Unit Titles Amendment Bill. Minister, you have removed from the first draft of the Unit Titles Amendment Bill the provision it mandated that unit owner corporations put money into trust funds the interest of which would go to the ACT government. My understanding was that this component of the bill was to fund the new ACT Civil and Administrative Tribunal. Minister, can you advise whether the government has now resolved to introduce a user-pays charge on unit owner corporations?

Mrs Dunne: Mr Speaker, I raise a point of order. I think that this is on the blue for debate today and that it therefore pre-empts debate.

MR SPEAKER: Repeat that, please, Mrs Dunne.

Mrs Dunne: This question relates to the unit title legislation, which is on the blue for debate today. I think that pre-empts debate.

Ms MacDonald: It has to be on the notice paper.

Mr Seselja: It is on the notice paper.

MR SPEAKER: The Clerk reminds me that we took that standing order out in the review of the standing orders.

Mrs Dunne: Okay.

Mr Corbell: On the point of order, though, Mr Speaker, Mr Mulcahy is asking the minister to announce executive policy, and that is contrary to the standing orders.

MR SPEAKER: You cannot ask a minister to announce executive policy.

MR MULCAHY: I have not asked him to announce policy. I asked if a decision had been taken in the past, and I asked it in the past tense—as to whether the government had resolved this matter.

Mr Corbell: Has the government resolved to—isn't that an announcement?

MR SPEAKER: Mr Corbell, he has not asked for the announcement of a new policy; he has asked for a clarification of the government's position on it.

MR BARR: I thank Mr Mulcahy for the question and I note his interest in this matter. I know that he has convened a number of meetings with stakeholders and has adopted a constructive approach to negotiating with the government in relation to this legislation.

It stands in marked contrast to the falsehoods that have been perpetrated by the Leader of the Opposition, who refuses to recognise the removal of the particular provisions

within the unit titles legislation and continues to put material that is factually incorrect into people's letterboxes. It is a very poor reflection on the Leader of the Opposition and his inability to read the new legislation and to recognise that such provisions had been removed from the exposure draft and that the government had indicated that it would not be proceeding with that particular funding model for the new consolidated tribunal.

Mr Mulcahy has asked a range of questions around how we would proceed. I can advise the Assembly—as I did in my introductory speech on the legislation—that we will implement the legislation using the funds available in the agents trust account and that we will undertake further consultation with stakeholders to develop an appropriate model to fund the new consumer protection measures.

That work would occur post the passage of the legislation. Should the Assembly in its wisdom pass the legislation either later today or at some later time, we have indicated that we will work with stakeholders. But we do not require any funds through trust accounts, other than what is available to us through the agents trust account, to set up this new system.

This is an important system and there are some important reforms, particularly to recognise tenants, to ensure that there are appropriate dispute resolution mechanisms and to ensure that consumers do not get ripped off by what can only be described as some pretty appalling arrangements that some developers have put in place around contracts locking in body corporate managers for sometimes up to 30 or 40 years with exorbitant fees and locking in maintenance contracts for things like lifts and other amenities within unit complexes where the developer gets the particular product for free and then loads up a massive maintenance contract that means that everyone who resides in that particular complex is hit with massive body corporate fees.

It stuns me that the Leader of the Opposition and the Liberal Party in this place have indicated their opposition to these consumer protection mechanisms. What we have from the Liberal Party is this: they are anti tenant; they are anti pet; they are anti consumer. That is fundamentally the position of the Liberal Party on this legislation. It is to their shame, but it is perhaps no surprise. Those of us with a long memory in politics will remember the comments of the then federal leader of the Liberal Party, John Hewson, about renters back in about 1992.

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

MR BARR: We know the stance of the Liberal Party on tenants. We know that they have been opposed to tenants' rights all the way through and we know that that is why they are opposing this legislation.

MR SPEAKER: Supplementary question, Mr Mulcahy?

MR MULCAHY: Thank you. Minister, could you clarify the notice period that is going to be given to unit owners before you introduce a user-pays system—if that has in fact been determined?

MR BARR: What I can indicate is what I have announced as part of this particular process and what I alluded to in my introductory remarks for the legislation in my tabling speech, which was that we will consult with stakeholders. The proposal for the legislation is that it would not begin operation until the middle of 2009, so there is plenty of time for that consultation.

We do recognise that the costs that are associated with managing this particular aspect of consumer protection through the Department of Justice and Community Safety would be in the order of about $320,000 per year. So it is not a particularly significant cost. The costs of running the consolidated tribunal are met by combining a range of already existing budgets for the existing tribunals.

The particular assertion that has been made again by the Liberal Party, that the government was seeking to put a secret tax in place to fund the entire operation of a consolidated tribunal, has again been absolutely proven to be false and is yet another example of the lengths that the Leader of the Opposition will go to to distort the truth in what could only be described as one of the more outrageous claims that he has put his name to in recent times.

I note that he continues—in spite of all of the evidence, in spite of the tabling of the bill—to argue to media outlets and others that this is somehow a secret tax. He knows that it is not in the bill. He knows that he is wrong. I look forward to him, later tonight, withdrawing those particular allegations and withdrawing each of these pamphlets. He should go round and personally collect each one of them and take them where they belong, to a recycling centre.

Department of Territory and Municipal Services

MR STEFANIAK: My question is to the Minister for Territory and Municipal Services. Minister, I refer to a memo that was issued by the chief executive of your department on 26 June 2008 in which he said the senior management team is "to examine the budgetary pressures on TAMS" and that measures will be required "to help contain spending for the first half of the year".

Minister, why is the budgetary position of your department in such a state that your chief executive has had to initiate a comprehensive review of resource allocation and financial management?

MR HARGREAVES: Firstly, Mr Speaker, I reject the imputation that Mr Stefaniak makes on TAMS. I congratulate the chief executive, Mike Zissler, for having a prudent approach to the management of his department.

MR SPEAKER: A supplementary question, Mr Stefaniak?

MR STEFANIAK: Thank you, Mr Speaker. Minister, why does the review of your department's budgetary position require the use of independent expertise?

MR HARGREAVES: Thank you, Mr Speaker, and I thank Mr Stefaniak for the question. When you consider how much money TAMS administers on behalf of the

people of the ACT—millions and millions of dollars—and when you consider the extent to which they do capital works and are responsible for our bus services and a range of issues around the environmental management of the city, including the sport and recreational aspects of the city, it is prudent that they take independent advice from time to time.

In my view the question really should contain the following statement: And we congratulate the Department of Territory and Municipal Services for having the foresight to take independent advice. Not to take independent advice on where we are going with budgetary provisions would be short-sighted and myopic, and I have to tell you that the only thing I know about short-sightedness and myopia comes from across the chamber and certainly not from anybody in my department.

Health—services

MS PORTER: My question is to the Minister for Health. Minister, could you provide further details on how you are providing new and innovative models of health care in the ACT, such as at the Gungahlin community health centre?

MS GALLAGHER: I thank Ms Porter for the question. I have said it a number of times: it is no secret that, when we took office in 2001, we inherited a health system that was fracturing under the weight of chronic under-investment and a lack of acknowledgement of the importance of health services from the then government, the current opposition. In fact, Mr Speaker, when you look at published data for that period, AIHW figures show that the ACT was the only jurisdiction that actually had negative growth in health. In every other jurisdiction it grew from three per cent to six per cent per annum, and in the ACT we had a negative one per cent cut to the health budget. We all saw the reality of that when we came to office and became aware of the true situation.

Of course, this was indicated by the constant fighting with the workforce and the lack of provision for adequate remuneration for our health workforce. It was indicated by the 114 beds that had been cut from the system and the reduction in service being provided to the Canberra community.

We have turned that situation around. We have increased funding; in fact, it has almost doubled, from just under $500 million in 2001 to $889 million in this year's budget. It is a near doubling of spending on our community's health system, not negative growth, as was the mission of the Smyth government—or it would have been if he could have been. Mr Smyth and Mr Stefaniak's government had seen that cut to the health system.

We have funded an additional 147 beds. We have 24 more to come this year. By the time they are in place, the ACT will enjoy, for the first time, 855 beds, getting us back to where we were in the early 1990s. We have got more to do on that front, of course. We need to provide for more and extended services in our acute care system. But we also need to look at how we provide health care. One such way is to look at how we use our existing community health centre infrastructure. As everyone would know, we have very good community health centres located right across the city—in Tuggeranong, Dickson, the city and Belconnen.

In the budget we have funded the Gungahlin health centre, as that population is now moving to the point where it can sustain its own community health facility. We have announced that this land will be right next to the very popular child and family centre—another initiative of this government. It is a fairly large block of land which has been set aside so that we can provide a whole range of services out there. People would know that in our health centres we can provide dental care, allied health care, women's health care and children's health care. In Gungahlin, we have indicated in our planning work that we would like to see this as the second place in which we establish our walk-in centres, which are nurse-led centres and are able to operate out of hours and free of charge.

This will require a large block of land. That is what has been provided. We expect now, with the money appropriated and the decision taken on the land, that the Gungahlin health centre will be able to be completed by the end of 2010. This will be a significant service to the people of Belconnen. Of course, it is on top of our commitments around a pool, the schools out there and extending the police station. There is a whole range of services to meet the growing needs of that community. But it is being put at risk by the Liberal Party's ideas around supplementing existing GP clinics out there. I think the Gungahlin community have already raised concerns around whether the Liberals' announcement, if they became the government of the day, would put at risk this very valuable community asset; that is, will the people of Gungahlin actually get this health centre on time and for the full $18 million that we have allocated, and with the full range of services—children's health, dental, allied health and community nursing. They are all services that we provide in the community to our community through our existing community health infrastructure.

MR SPEAKER: Ms Porter with a supplementary question.

MS PORTER: Thank you, Mr Speaker. Minister, what other innovative models of health care is the ACT government implementing?

MS GALLAGHER: Thank you, Mr Speaker. Of course, we have outlined over the past couple of months our plan for the future—our 10-year commitment to rebuild the ACT's public health system. It goes to innovative models of care that will be able to be implemented through the new infrastructure program. It is around the women's and children's hospital. It is around our suite of mental health facilities. It is around our neurosurgery suite at the Canberra Hospital. For the first time people will be able to have brain surgery and have an MRI done in the same operating theatre. It is the first time that service will be available to the people of the ACT.

It is about looking at our emerging e-health technologies. It is about diversifying our workforce. It is about different roles for the health workforce. It is not just about doctors and nurses. It cannot just be about doctors and nurses any more. There simply is not the staff to provide the health care that we are going to need in the future through two roles. There has to be assistance in nursing. There have to be nurse practitioners, advanced practice nurses and allied health assistants. There has to be a greater role and scope of practice for some of those existing health workers that we already have.

That is what we want to see and that is why we are going to proceed with our nurse-led walk-in centres. They are operating to a very high degree of success across the world. There is no reason why they should not work here and there is no reason why we should not give our nurses the capacity to extend their scope of practice to deliver such a wide range of services as are being offered right this minute in the United Kingdom. The United Kingdom has achieved extremely high patient satisfaction levels and extremely high throughput and this, of course, has really helped ease some of the pressure on emergency departments.

This is the only way forward in health. We have seen Mr Seselja welcome our vision forward for health care in the ACT. We have not received that same commitment from the current shadow Minister for Health. She is in dispute with her leader over what is the right way forward in health.

This is not about being politically convenient. It is not about outlining policies that are unachievable or unfunded or simply cannot be delivered. It is about a realistic, sensible, well thought through, heavily consulted on plan for the future of our health system. This community deserves this plan. This community, if we are re-elected, will have this plan delivered in full and in time for the health tsunami that will hit this city in around 2016.

It is not about spaceships. It is not about patients being taken to the moon for treatment. In fact, it is not even about exorcism as a way of dealing with some of the issues that young women might present with, although I think we need the shadow Minister for Health to come out and say she does not support that type of health response to a health issue. It is not about spaceships. It is about a plan for the future that will deliver this community the health services and the health workforce that they deserve, that they, in fact, need and that will be required to be delivered over the next 10 years.

One of our key areas of pride in this city is our very high levels of health and our high levels of access to our public health system and the satisfaction and pride within our health system. It is this community's health system. To provide the system that we need for ourselves and our children we in this place, as community leaders, need to get behind the plan, support it, commit to funding it and commit to the certainties of the health work force to deliver it.

That is what the health industry out there are after. They are after strong commitments about the 10-year plan for the future of this health system in the ACT. They have got it from the ACT government. They have got it from the Labor Party. They wait in silence to hear from those opposite about the priorities they have for the public health system of the ACT, which is, and should always be, the main focus of any ACT government.

Rhodium Asset Solutions Ltd

MRS BURKE: My question is to the Deputy Chief Minister. Deputy Chief Minister, you are one of two shareholders in Rhodium Asset Solutions Ltd. In a unanimous

report from the public accounts committee, the committee concluded that you and your fellow shareholder, the Chief Minister, failed to exercise your responsibilities under the Territory-owned Corporations Act. Deputy Chief Minister, why did you and Mr Stanhope fail to issue a direction to the board of Rhodium, in accordance with section 17 of the act, formally requesting the board to take action that was not in the best commercial interests of the corporation?

MS GALLAGHER: As both the Chief Minister and I indicated last week a number of times in this place and publicly, we believe that the report on Rhodium from the public accounts committee was wrong. We have no qualms about making that statement. We have taken interim legal advice. We are taking further advice. The government will respond to that report, but I can tell you that I feel much more comfortable about taking advice about what I should and should not have done as a shareholder from the ACT Government Solicitor, and I would always take their advice before I took or accepted anything that came out of Mrs Burke's mouth.

Schools—closures

MRS DUNNE: My question is to the minister for education and relates to the struggle that the Flynn primary school P&C association is having in relation to challenging the closure of their school. The government has demanded a $50,000 surety from the P&C association and has blocked access to documents through discovery in the Supreme Court matter. The government seems to be trying to make it too expensive for the Flynn P&C association to pursue the matter through the Supreme Court. Minister, are not the actions of you and your legal representatives against the model litigant guidelines of the ACT?

MR BARR: I thank Mrs Dunne for the question. As members would be aware, the Flynn primary school P&C association has taken action against the government in the Supreme Court over the closure of the school. This matter is still before the court. The P&C has not sought any orders to reopen the school prior to the hearing. The Flynn P&C agreed to provide security costs of $50,000, payable by 23 July 2007, and this amount has been paid.

The matter is before the court and has been the subject of a number of directions hearings since November 2007. The Flynn P&C, I am advised, has informally requested the discovery of certain documents. The department has objected to the discovery of some and agreed to the production of others. The Flynn P&C has inspected documents provided. The matter is listed for further directions hearings. I understand that one was listed for 4 August and the Flynn P&C sought to postpone it, as they have done, I understand, on at least half a dozen occasions. At this point, the department will continue to engage in that process, as it has to date.

MR SPEAKER: A supplementary question, Mrs Dunne.

MRS DUNNE: Thank you, Mr Speaker. Minister, will the department or the government be seeking any further costs by way of surety from the parents of the former Flynn primary school?

MR BARR: That is a hypothetical question. I am not in a position to be able to make a comment on that. It depends on the direction in which the case heads.

Municipal services

MR GENTLEMAN: My question is to Mr Hargreaves, the Minister for Territory and Municipal Services. Minister, members of the Liberal Party often criticise the ACT government and its public servants for the so-called "look and feel" of the city. It perhaps heads up their campaign. They continually talk down the city, its maintenance and appearance.

Mrs Dunne: On a point of order, Mr Speaker: in the past you have ruled that questions need to be about ministerial responsibility and not what members of the opposition or someone in the *Canberra Times* might say.

MR SPEAKER: When I get to the question, I will be able to make a judgement on it, Mrs Dunne.

MR GENTLEMAN: Minister, could you please explain to the Assembly what actions the government has taken and how much money it has spent on maintaining the city and its suburbs?

MR HARGREAVES: I thank Mr Gentleman for his long and abiding interest in the quality of our city. Mr Speaker, the short answer is that I do not think I have enough time to list all the things that the Stanhope government has done to improve the look and feel of the city that we both enjoy and love, but I will attempt to indicate some of them, for the benefit of those opposite, as well as your good self.

The Stanhope Labor government spends $1.535 million annually on maintaining and cleaning our city centre, for example. The Department of Territory and Municipal Services is working in partnership with the newly appointed Canberra CBD Ltd city ranger to improve the look and feel of the city centre, including private properties. Imagine this: a Labor Party working hand-in-glove with the corporate sector to improve the amenity of the city so that business can be conducted successfully. Ooh, that shows a decided failure on the part of those capitalists opposite, doesn't it?

Mr Smyth: Brian Burke used to do that, didn't he?

MR HARGREAVES: Ooh, we don't like that one; we are getting a bit uncomfortable.

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

MR HARGREAVES: All right, Mr Speaker. Ooh, they are getting really uncomfortable. The new city ranger has two key responsibilities—to liaise with property owners and lessees within the Civic precinct to improve the look of the city, and to work closely with TAMS to facilitate city improvements. To this end, officers from ACT Parks—

Mr Corbell: They oppose it.

MR HARGREAVES: And Mr Corbell is dead right: they oppose it. They want to denigrate the city, and they still don't like it. Mr Speaker, I am devastated. Of course, the officers from ACT Parks, Conservation and Lands have been meeting with the city ranger on a weekly basis. The management and maintenance of the city centre and surrounds is a joint responsibility between public and private interests, as I have said. Irrespective of the ownership boundary, the city should have consistency in maintenance and cleanliness.

Ageing furniture around the city will be removed as part of the Canberra central project. $495,000 has been allocated for the replacement of street furniture in Garema Place and sections of City Walk during 2008. A new shade structure and associated artwork will be installed in Garema Place in 2008 at a cost of $260,000. Bunda Street will be upgraded in 2009 with a total funding allocation of $4 million. The works will provide improvements to lighting, street furniture, street trees and paving on Bunda Street from Northbourne Avenue to Petrie Street. This project includes $150,000 for a public art component. A $3 million City West infrastructure stage 2 project will begin.

Opposition members interjecting—

MR HARGREAVES: These guys just don't like to hear the fact that we are actually spending taxpayers' money on improving the city.

Mr Pratt: Badly.

MR HARGREAVES: They are saying "badly". So it is bad news to spend $3 million on City West infrastructure stage 2. It is bad news, according to those opposite, that we have allocated an additional $1 million to spruce up the city through the removal of dead trees and shrubs. The government has committed more than $20 million towards capital upgrades to ensure that Canberra remains one of the greatest cities in Australia, in my view.

Opposition members interjecting—

MR SPEAKER: Mrs Burke and Mr Pratt, have a look at standing order 39. You should not be making noises to interrupt the speaker.

MR HARGREAVES: The government will spend $1 million to upgrade the Deakin shops, $1.6 million to upgrade the Ainslie shops and $1 million for the Garran shops upgrade. These people opposite are saying that is wasted money. Interested community members attended a successful community meeting about the Deakin shops upgrade on Saturday, 28 June and were given the opportunity to comment on it.

This funding is part of our local shopping precinct upgrade program. The ones we have already done are Kambah, Holder, Griffith, Mawson, Higgins, Holt and the recently completed Melba one. What part of "upgrades" don't these people understand? We are putting so much money into sprucing up the city and these guys over here are saying to us that it is wasted money. I think the community out there is

going to say: "I don't think that money is wasted at all. I think that money is money well spent."

Funding of $300,000 was allocated from the 2007-08 capital works budget to construct the upgrade, with an additional allocation of $60,000 worth of public art. This upgrade of shopping centres provides the centres with access, lighting and drainage, stabilised surfaces, new seating, tables, bin shrouds, bike racks and shade trees. *(Time expired.)*

MR SPEAKER: A supplementary question, Mr Gentleman.

MR GENTLEMAN: Thank you, Mr Speaker. Minister, can you expand on the work for 2008-09 and are you aware of any proposals to match or better this government's efforts?

MR HARGREAVES: Yes, there are other things that we are doing in the shopping centres. According to Mr Pratt's interjection, it is wasted money, he said. "Wasted money"! Let the record show that. What we are also doing is looking at vandal resistant features. We cannot stop people cleaning off public art, though, I must say. We do have trouble stopping people cleaning up public art, but we are working on it.

We are also introducing measures to deter vehicular entry into the shopfront courtyards of some of our shops. We are continuing the program. We will see forward design studies for Farrer, Lyons, Red Hill and Waramanga shopping centres. Preliminary sketch plans and cost estimates will be developed for future upgrades of each centre.

MR SPEAKER: Sit down, Mr Hargreaves.

MR HARGREAVES: Stop the clock, Mr Speaker?

MR SPEAKER: Stop the clock, please. Mr Pratt and Mrs Burke, if you are going to have a conversation in here, it is disorderly and is contrary to standing order 39 because it interrupts the member speaking. I have asked you to stop. Please take your conversation outside. Mr Hargreaves has the floor. You are on a warning, Mr Pratt. You know what is going to happen next.

MR HARGREAVES: In the context of road maintenance, TAMS road crews have patched 2,996 potholes. That is 3,000 potholes. But if Mr Pratt really wants another one, we will deliver one to his house because he likes a pothole at the bottom of every driveway. They use the general cold-applied patching method. These patching crews operate all year round. On the roads resurfacing program, 35,000 square metres of road resurfacing was undertaken last year and it was usually done between December and March when the weather conditions are favourable.

I am really having trouble getting through all of this because there is so much, but Mr Gentleman did ask me was I aware of anything else that was in the wings—I will paraphrase—that could do anything better than the government. I thought to myself, "Is there? Is there anything about out there in the ether?" The answer to that was:

I could not find anything. I could not find anybody out there saying what they would do; how they would improve the infrastructure in this city; how they would improve the look of the city centre; how would they improve the look of the Tuggeranong town centre.

It was this government that encouraged the restaurant strip in Anketell Street. I do not hear anything about that, but I do remember, however, going back in my mind, in terms of horticultural activities, if my memory serves me correctly, it was Mr Smyth that wanted to close CityScape. I think that is right. Yes. Closing something hardly contributes to an increase in the amenity.

Somebody across there tried to sell Actew, if my memory serves me correctly. We are looking forward to working with ActewAGL to ensure our water supply. That is about the amenity of the city. We were not going to sell the whole lot; no way. They did. What did they do? They actually sold half of it before the Labor Party stopped the sale of the other half.

I can remember also they were going to sell ACTION. We have got cabinet documents now that show that Mr Smyth wanted to sell our bus service. How good is that! That is a good way to make sure that everybody in this city has a pleasant environment in which to live.

All I can see so far is a litany of things which contributed to the downturn in the quality of life in this city. This government has ploughed millions upon millions of dollars into lifting that quality of life. How many millions of dollars have gone into the ACTION bus network? $50 million worth of rolling stock and another $8 million on top of that. We have got additional services, additional routes, additional bus drivers; we have got priority lanes. Who was it that introduced the T2 lane, I wonder? I think it might have been my colleague Mr Corbell who did that.

There are the on-road cycle lanes—who introduced those?—to make it a pleasant place and a very nice way for us to move about the city. It was Mr Corbell who did that. What did they do? I can remember addressing Pedal Power in the Hellenic Club, promising before the 2001 election that we would put in the on-road cycle lanes. Mr Smyth said they would not do it. If my memory serves me correctly, they went to the 2004 election saying that they were going to undo it. That was clever.

What have we done? We have ploughed millions and millions of dollars into the city because we want to make it the best city in the world. And we are not too far out of it. But we are doing it in spite of them. All they had to do was say, "We want to jump on board; we will work with you; let's do it." No, they have to play petty, Sun-ripened Warm Tomato Party politics.

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

Personal explanation

MR PRATT (Brindabella): Under standing order 46 I want to clarify a matter. I seek your—

MR SPEAKER: Does the member claim to have been misrepresented?

MR PRATT: You have read my mind, Mr Speaker. During question time—in fact, in his answer to the last question—Mr Hargreaves claimed that I had interjected that the funding spent on the look of the city was a waste of money. That is incorrect. For the record, I said that the money was spent badly and without supervision.

Papers

Mr Speaker presented the following papers:

> Standing order 191—Amendments to the Road Transport (Third-Party Insurance) Amendment Bill 2008, dated 22 August 2008.
>
> Travel report—Non-Executive Members—Sixth Assembly, up to and including 30 June 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:
>
> Alice Jones, dated 1 August 2008.
>
> David Dawes, dated 4 August 2008.
>
> Ian Thompson, dated 4 August 2008.
>
> Lisa Gai Holmes, dated 17 July 2008.
>
> Mark Cormack, dated 6 August 2008.
>
> Michael Kegel, dated 17 and 21 May 2007.
>
> Peter Ivan Matthews, dated 4 August 2008.
>
> Vanessa Kaye Little, dated 28 July 2008.
>
> William Stone, dated 31 May 2007.
>
> Short-term contracts:
>
> Anne Jenkins, dated 15 July 2008.
>
> David Dutton, dated 9 and 14 July 2008.
>
> Davd Morgan, dated 22 and 28 July 2008.
>
> David Prince, dated 11 and 14 July 2008.

David Read, dated 11 and 14 July 2008.

Frank Duggan, dated 14 July 2008.

Joy Vickerstaff, dated 24 July 2008.

Ken Marshall, dated 9 July 2008.

Nardine Morish, dated 18 July 2008.

Robyn Hardy, dated 16 June 2008.

Thomas Kevin Bell, dated 3 July 2008.

Contract variations:

Conrad Barr, dated 7 July 2008.

Jenelle Reading, dated 23 July 2008.

Margaret Bateson, dated 17 July 2008.

Meredith Lily Whitten, dated 14 July 2008.

Neil Harwood, dated 16 July 2008.

Simon Kinsmore, dated 11 July 2008

I seek 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 7 August 2008. Today I present nine long-term contracts, 11 short-term contracts and six contract variations. The details of these contracts will be circulated to members.

Public Health Act 1997—Chief Health Officer's report
Paper and statement by minister

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

> Public Health Act, pursuant to subsection 10 (3)—ACT Chief Health Officer's Report 2008, dated 15 August 2008.

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

Leave granted.

MS GALLAGHER: I am very pleased to table the 2008 Chief Health Officer's report. The report is a biennial publication required under legislation under section 10 of the Public Health Act 1997. The report covers the period 2004-06.

The report provides information on the health of the ACT population, including trends in health status, health risk behaviours and national health priority areas, including cardiovascular disease, cancer, mental health, maternal, infant and child health, the health of older people in the ACT, communicable diseases and health service use.

The report shows that ACT residents continue to enjoy a high level of health—61.5 per cent of adults in the ACT rate their health as either excellent or very good. Life expectancy in the ACT is higher than life expectancy nationally. Mortality rates continue to decline and the median age of death has increased. Cancer and cardiovascular disease remains the leading causes of mortality but death rates from these conditions have declined over time in the ACT.

Cancer mortality rates have declined markedly over the last 20 years, largely due to advances in prevention, screening and treatment. The mortality rate for breast cancer, the leading cause of female cancer deaths, is also decreasing. Asthma mortality rates and hospitalisations have decreased over time. This reflects improvements in asthma management through general practice and through improved self-management programs for people living with asthma.

It is especially pleasing to see that there has been a reduction in smoking levels, harmful drinking and the use of illicit substances by young people in recent years. Less pleasing is that survey results in ACT secondary schools show a sustained decline in the uptake of sun protection measures by adolescents in recent years. This trend is reflected in all jurisdictions and requires us to consider ways in which we can reinvigorate the focus on sun protection amongst our young people.

The ACT has a very low rate of potentially preventable hospitalisations in comparison with other jurisdictions. The ACT was 32 per cent lower than the national average. This outstanding result reflects effective population health programs, primary care and outpatient services that prevent the need for hospitalisation.

ACT immunisation coverage rates for children were amongst the highest in the country and were above the Australian average during the reporting period. This is an improvement on those reported in the 2006 Chief Health Officer's report.

We know that there is no room for complacency when it comes to the health of our community. The 2008 Chief Health Officer's report identifies areas where we need to continue to focus on achieving health gains in the ACT population.

The proportion of overweight and obese adults in the ACT has increased over the last decade. Healthy weight issues are expected to become the largest national preventable cause of premature death and ill-health, replacing tobacco, which is currently associated with the greatest disease burden. The health benefits that could be achieved through regular physical activity and good nutrition are considerable.

The ACT also has an ageing population, and this will have implications for health services, particularly for age related chronic diseases. Cancer projections suggest that the number of people diagnosed with cancer will increase by about 22 per cent every

year, largely because of the population growth and changes in age structure. The incidence of diabetes also continues and is expected to continue.

The ACT government has taken a comprehensive approach to addressing these issues and is supporting a range of current and planned initiatives. In the 2004-05 budget $2 million is allocated to combating childhood obesity. This funding supports physical activity programs focusing on children and families.

In addition, the health promotion grants program provides funding for a variety of health promoting activities in schools and in the community, focusing on good nutrition and the promotion of physical activity. The ACT government provides ongoing support for the Go for 2&5 fruit and vegetable campaign, a campaign which promotes healthy eating across all age groups.

ACT Health is also implementing a range of strategies and plans to support prevention and management of chronic disease. These include the ACT primary care strategy, the ACT chronic diseases strategy and the ACT diabetes services plan.

In 2005 the capital region cancer service was established to integrate existing services and improve client access and service delivery across ACT Health and New South Wales Greater Southern Area Health Service. Radiation oncology services are being broadened with the installation of the third linear accelerator that I opened in July this year, increasing capacity by 30 per cent.

The government acknowledges the health issues and opportunities for health gains identified in the report. They will be used as a map to guide future health care policy and planning in the ACT. I would also like to acknowledge at this point the contribution of two Chief Health Officers—the previous Chief Health Officer, Dr Paul Dugdale, and the current Chief Health Officer, Dr Charles Guest. I thank them for providing this very important report to the government and, through me, the Assembly.

Paper

Mr Corbell presented the following paper:

> ACT Property Crime Reduction Strategy 2004-2007—Building a safer community—Fourth progress report.

Legal Affairs—Standing Committee
Report 6—government response

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services): For the information of members, I present the following paper:

> Legal Affairs—Standing Committee—Report 6—*Police Powers of Crowd Control*—Government response.

I seek leave to make a statement in relation to the government response.

Leave granted.

MR CORBELL: In March 2006 the committee notified the Assembly that it had resolved to self-refer an inquiry into police powers and crowd control following a capsicum spray incident at a Reclaim the Streets rally in October 2004. When the committee presented its report in June of last year it commented that it was concerned that the complaints process which resulted from the incident in 2004 took two and a half years to finalise. The committee also noted that apart from the incident which sparked the inquiry no evidence of inappropriate behaviour by police was put to the committee.

I recognise that the issue of crowd control and, in particular, police handling of demonstrations and protests impact on the community's ability to act freely in a democratic society. The rights associated with activities of this nature are guaranteed under the ACT Human Rights Act 2004. The importance of these rights and freedoms made it necessary for me to consider the committee's report with diligence and seriousness.

The government is pleased to present a response that thoroughly considers the issues surrounding crowd control and evidence-based solutions and responses to the committee's report. The research suggests that a key element in effective crowd control is communication. Effective communication between police and organisers of events decreases the likelihood of disorder and violence at such events. The government has taken this opportunity to develop a response that goes to the theory of crowd control, highlighting the various factors that affect the outcome of events.

Although there is currently a liaison process for organisers of events to access, the government will use this opportunity to promote the existence of the liaison process to encourage better communication between police and organisers of events. ACT Policing will further update its website to include the details of a liaison contact and provide a hyperlink to the National Capital Authority's website, which currently contains event planning documents such as *The right to protest*. *The right to protest* outlines the process involved in planning demonstrations and other events involving crowds, including contact details for relevant agencies like the police.

Policing policies contained in the national guidelines for incident management, conflict resolution and use of force will also be provided in a version accessible to the community, including an explanation of the use of force continuum. These policies outline police protocol on the use of force. By raising the awareness of the community of the existence of these documents, the government hopes to encourage better communication and understanding between police and the broader community.

In relation to the complaints made against police that motivated the committee to conduct the inquiry three years ago, the committee noted its concern that the issue took more than two years to resolve. Let me share that same concern. I empathise with complainants and appreciate the seriousness of the issue.

The government has pursued this matter with ACT Policing and the Ombudsman. Although the government response was finalised before my department received the

Ombudsman's findings, I have recently been updated with the Ombudsman's investigation and I am pleased to provide the Assembly with the following information.

The Ombudsman found that there were a number of avoidable delays and that the delays relating to the 2004 complaint were unsatisfactory. The Ombudsman recommended that the AFP apologise to the relevant parties. I am pleased to inform the Assembly that this has been done. A formal written apology was provided to the relevant parties.

The Ombudsman also found that since the AFP investigation of the 2004 incident new benchmark timelines for the handling and investigation of complaints have been introduced and implemented. These new benchmarks will reduce the likelihood of protracted delays in the complaints process in the future.

I assure the Assembly also that I will be continuing to monitor any complaints against police in terms of their handling of investigations and other processes. I commend the response the Assembly.

Education, Training and Young People—Standing Committee
Report 6—government response

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

> Education, Training and Young People—Standing Committee—Report 6—*Restorative Justice Principles in Youth Settings—Final report*—Government response.

I seek leave to make a statement in relation to that response.

Leave granted.

MR BARR: I am pleased to table the government's response to the Assembly's Standing Committee on Education, Training and Young People's report into the practice of restorative justice principles in youth settings. This has been a lengthy inquiry, and I commend the committee for the thorough way it went about gathering information, considering the issues and preparing the report.

The terms of reference for the inquiry were very broad, and the committee was required to inquire into and report on the practice of restorative justice principles in youth settings, with a particular reference to: the development and implementation of programs in schools, youth services and youth justice settings; the allocation of government resourcing and its impact on the development or implementation of restorative justice programs; strategies for involving young people in the development of programs; programs to support young people and their families; and any other related matter.

In 2006, the standing committee released an interim report setting out 10 recommendations. On 16 November 2006, the committee advised the Assembly that the scope of the inquiry would be extended to consider the management of bullying, harassment and violence in ACT government and non-government schools and invited new submissions and/or additional comments to previous submissions. The final report of the inquiry, containing 23 recommendations, was tabled in the Assembly on 10 April this year.

The government is agreeing with eight of the recommendations, agreeing in principle to three, agreeing in part to two and noting 10. Action to support some of the recommendations is already underway. For example, recommendation 1 seeks ACT government agreement to support the development and implementation of behaviour management programs for all ACT schools that are consistent with restorative practice principles. The Department of Education and Training has implemented up-to-date training for teachers in behaviour management strategies that include restorative practices. The department is currently investigating a data collection tool which will support schools in the collection of data about student management issues. The development of such a tool could further enhance the support provided to schools in the implementation of restorative practices.

Recommendation 6 seeks agreement to host an annual restorative practice forum, with a view to sharing knowledge, facilitating collaboration and developing high quality restorative practice approaches within education settings. The department has facilitated two annual conferences in 2006 and 2007 on this issue and will fund a further conference in 2008.

Recommendations 12 and 13 have a focus on the establishment and publication of interagency protocols and partnerships. The ACT safe schools task force will consider establishing interagency protocols to build upon partnerships and agreed processes that have been developed with agencies such as the Australian Federal Police and other government departments. The public is made aware of interagency partnerships through ongoing communication strategies.

The committee recommended that a classroom-based skills development program, consistent with restorative practice principles, be funded. The Department of Education and Training has sought quality evidence-based programs, and it currently provides training in programs and practices such as the friendly schools and families program, which encourages tolerance, responsibility and improves interpersonal skills and relationships.

Schools will continue to use a range of evidence-based strategies to address issues of bullying and harassment. However, the use of restorative practices, in which students are encouraged to accept responsibility for their actions and be held accountable, is certainly increasing. The department will continue to provide support and sustain a level of mentoring capacity amongst staff to maintain the effectiveness of this practice. Further discussions on pre-service training for teachers will be held with teacher training organisations.

On the issue of teacher mobility, it is important not to negate the positive effects of the sharing of knowledge and skills as teachers move into new settings. Mobility has been listed for discussion in the next enterprise bargaining agreement for teachers to begin in January of 2009. The committee recommended that the Department of Education and Training provide prominent links to information and support services for students and parents. The department has made these links available on its website and will encourage schools to include links on their individual websites.

It is recommended that the Restorative Justice Unit continue to review and monitor restorative justice conferences, undertake qualitative evaluation and conduct a review of the referral process. The government confirms that the review is taking place, and the referral process has been streamlined by amending the legislation. The committee also recommended that the Restorative Justice Unit be adequately resourced for phase 2 implementation with a view to potential expansion in response to demand. Phase 1 required a more intensive use of resources than was first estimated, and the government will consider how best to allocate resources to the implementation of phase 2.

Recommendations 21 and 22 recommend that the legislation confirming the principles and objects of the Ngambra Circle Sentencing Court are enacted and that the court be extended to include juvenile matters. The government is of the view that further consultation is required to ensure that the circle court has the support of the local indigenous community before the court's processes are formalised and juvenile matters are included. A review is currently underway and has involved consultation with criminal justice agencies and community representatives. The consultants are due to provide their report early next month.

The committee recommended that the government investigate ways to ensure that the restorative justice principles are applied in all aspects of the Alexander Maconochie Centre and that the Restorative Justice Unit be authorised to provide post-sentencing restorative justice conferencing. The government supports the referral of ACT prisoners to restorative justice processes, and discussions are being held with the Restorative Justice Unit to guide the provision of restorative justice conferencing.

The government acknowledges that there has been a diverse range of restorative justice practices that are being developed and delivered across a range of services in the ACT. I thank the committee for its work, and I am pleased to table the government's response to the committee's report.

Papers

Mr Corbell presented the following paper:

> Subordinate legislation (including explanatory statements unless otherwise stated)
>
> Legislation Act, pursuant to section 64—
>
> > Children and Young People Act 1999—Children and Young People Official Visitor Appointment 2008 (No 1)—Disallowable Instrument DI2008-206 (LR, 18 August 2008).

Children and Young People Act 2008—Children and Young People Official Visitor Appointment 2008 (No 2)—Disallowable Instrument DI2008-207 (LR, 19 August 2008).

Environment Protection Act—

Environment Protection Amendment Regulation 2008 (No 1)—Subordinate Law SL2008-34 (LR, 14 August 2008).

Environment Protection Amendment Regulation 2008 (No 2)—Subordinate Law SL2008-35 (LR, 14 August 2008).

Mental Health (Treatment and Care) Act—Mental Health (Treatment and Care) (Official Visitors) Appointment 2008 (No 1)—Disallowable Instrument DI2008-208 (LR, 18 August 2008).

Planning and Development Act—Planning and Development (Land Rent) Policy Direction 2008 (No 1)—Disallowable Instrument DI2008-203 (LR, 14 August 2008).

Road Transport (Safety and Traffic Management) Regulation 2000—Road Transport (Safety and Traffic Management) Parking Authority Declaration 2008 (No 6)—Disallowable Instrument DI2008-205 (LR, 14 August 2008).

Taxation Administration Act—Taxation Administration (Amounts payable—Utilities (Network Facilities Tax)) Determination 2008 (No 2)—Disallowable Instrument DI2008-204 (LR, 14 August 2008).

Canberra airport development
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 Dr Foskey be submitted to the Assembly, namely:

> The benefits to the Canberra community of a more thoughtful approach to Canberra Airport development, including the imposition of a curfew.

DR FOSKEY (Molonglo) (3.58): The issue of a curfew on the arrival and departure of aeroplanes at Canberra airport is of great concern to Canberra residents, although some will not realise it until they find themselves being kept awake night after night by the sound of an aircraft breaking the silence. The Greens do not oppose the expansion of services at the Canberra airport per se, but a number of plans outlined in the preliminary draft master plan do concern us. We expressed these in our submission to the airport, which not only receives the public input but also advises the federal minister on the content. There is a blatant case of the fox watching the chooks. Members should note that we still await the final master plan.

Six or seven residents groups and community councils have joined forces to form a coalition called Curfew 4 Canberra, specifically to alert the community and to lobby governments on the issues that I am raising today. Their concerns include—this is a quote from the draft master plan:

> The long-term practical capacity of Canberra International Airport's existing runways … has been assessed as 282,119 fixed wing aircraft movements per annum … it is projected that this capacity will be reached between 2050 and 2060 … with the constraints upon Sydney Airport … and particularly given the population growth in the Sydney-Canberra Corridor, additional traffic is likely to shift to Canberra, bringing forward the date at which Canberra Airport in its current configuration will reach capacity.

To put this estimate into perspective, 282,119 aircraft movements would entail an average of one aircraft movement every one minute and 52 seconds. On one hand, the airport's executive tells us not to worry, because this is an ambit claim, but, on the other hand, it is there in black and white in the draft master plan. The master plan also includes projections for annual aircraft movements for the next 20 years. By 2027 to 2028, the forecast is for a low-range estimate of 136,209, a medium-range estimate of 149,425 and a high-range estimate of 150,551, more than double the current flight numbers.

There are other issues of concern. The severe threats posed by climate change need little discussion here. The Garnaut report suggests that the world is moving towards high risks of dangerous climate change more rapidly than has generally been understood. The Australia Institute released a paper calculating likely increases in greenhouse emissions caused by the proposed expansion of Canberra airport. The figures are based upon the airport's prediction that long-term practical capacity will be reached by 2050. Based on the airport's figures they conclude:

> By 2050, aviation emissions are projected to be twice as large as the ACT's total emission allowance, accounting for 216 per cent of its permitted emissions.

The institute argues that these are conservative projections. I should not need to detail the consequences of allowing such growth in emissions to proceed. Where they are counted—I am sure that the Chief Minister hopes that it is not here in the ACT, because it would blow his already weak carbon budget out of the water—does not really matter, since greenhouse gases have impact beyond the place of origin. Indeed, the proposed aviation emissions by 2050 would make it impossible for us to achieve the ACT government's weak emissions reductions targets, even if the rest of the ACT produced no emissions at all.

In a press release on 21 January this year, our Chief Minister argued that aviation does not and should not fall within the ACT's climate strategy. He argued that the ACT's emission reduction target was developed to be compatible with those adopted by other states and territories, with federal Labor's election policy and those in the European Union. None of these targets address aviation emissions in the manner suggested by the Australia Institute report.

It would be impractical for the ACT to ignore international practice and adopt an expensive and complex monitoring system for the relatively few air kilometres travelled within the ACT's small air space. For a start, there would be no requirement for a monitoring system. All we need to know is how many aircraft came in and out of the ACT. This is a terribly disappointing, weak response. The Chief Minister refuses

to take a lead on this issue, despite the fact that he has said it is the biggest challenge that we face. More substantively, Mr Stanhope argues that aviation should not be part of the ACT's climate change policy. This is a dangerous position. For climate change policy to have any effect, either locally or nationally, it will need to restrict greenhouse gas emitting transport, whether it is via taxes, permits or regulation. If aviation is excluded from such a scheme, it will gain a competitive advantage relative to other forms of transport. Reductions in emissions in other transport sectors would then be swallowed up by increases in aviation.

To argue that aviation is not a part of existing climate change policy is blinkered in the extreme. Any coherent response to global warming will need to address this issue. If the expansion of the airport goes ahead at the level proposed, the political difficulties of imposing responsible targets at a later stage will be significantly increased, as the airport will fight to secure its profits. In short, we need our ACT climate change strategy to reduce and offset greenhouse gas emissions overall, including our aviation emissions, especially as they are set to grow.

As an island in the middle of New South Wales, we need a transport policy for the Canberra region. Where is the plan that ensures that people from the region can easily come to Canberra to access shops and services sustainably? Over the past few years we have seen the New South Wales government erode the CountryLink network. Trains to and from Sydney have been cut back to the point where they could be labelled pensioners' transport, and other branch lines are being closed. Instead, we should have been working with New South Wales to establish regular, reliable and sustainable transport options to our neighbouring towns and cities. I hope this is one thing that the Chief Minister has put in his submission to the federal government's infrastructure fund.

Due to flight cost increases, freeway development and the resulting lowering of travel time, there has been a reduction in air travel to Sydney. A decent rail network would see this drop further, which would be good in terms of greenhouse emissions and sustainable transport. There is also potential for the airport to be serviced by a long distance rail hub, as set out in the Canberra spatial plan. In the context of an effective climate change strategy and an energy plan which takes peak oil into account, the ACT government should, in conjunction with federal and New South Wales state and local governments, make a concerted effort to develop a regional sustainable transport plan to address these issues.

Aircraft noise is a big and growing issue for our community. Of course, this is what there has been most fuss about. Increases in noise pollution impose costs upon the community at several levels. Canberra International Airport Group denies that aircraft noise adversely affects more than 0.5 per cent of Canberra residents, making me wonder whether the residents in Hackett and Narrabundah are just imagining things. The adverse consequences of aircraft noise include: harm to human health, as documented by the World Health Organisation and the Department of Transport and Regional Services; land affected by aircraft noise declining in value; the airport recommending defensive spending so that people have to put money into increasing their insulation and double glazing their windows to reduce noise; windows being closed throughout summer nights, as has been suggested to Hackett residents; and more general intangible reductions in the quality of life of affected residents.

The health benefits of a decent sleep are well known. As the costs are greatest when noise is experienced at night time, the Greens support and advocate a legislatively imposed curfew from 11 pm to 6 am. Residents should not be left to bear these costs. The government should take note of these issues and the growing number of concerned residents. The push is on from the air industry to have the curfew removed in Sydney. Politically, that will not be palatable, and that is why Canberra International Airport is pushing to become Sydney's second airport, and just take a look at their website if you have any doubt about that.

As to the curfew, aircraft noise is already being experienced by many suburbs outside the flight path, and I have been disappointed that the government has trivialised these concerns. At a public meeting I held on this issue, noise was the primary concern for residents from north Canberra—including Campbell, Reid, Hackett and Watson—south Canberra—Narrabundah and Kingston—Gungahlin and, of course, residents from Queanbeyan and Jerrabomberra. I will not go over Mr Stanhope's rude comments about the concerned residents at that meeting. He announced in this place that they pretty well all came from Queanbeyan.

With the airport's plans for expansion, we do not accept that Canberra should continue curfew free, nor that we should become a night-time passenger and freight hub. At times, it is necessary for Canberra to be an alternative landing site to Sydney, and that is acceptable, but this should remain reserved for emergency purposes only. A curfew would not make being a hub for time-sensitive freight impossible. Freight could still be landed by 11 pm and sent out at 6 am and after. Hush-kitting jets to meet regulations would not make them quiet enough for night conditions in the Majura Valley.

As to the loss of planning control, although the airport conforms to the national capital plan, we are confident that the level of development encompassed by the aircraft draft master plan was never envisaged when the plan was approved. Indeed, I do not believe that the extent of the building that has happened out there now conforms to the national capital plan. Clearly, the notion of airport-related development has broadened immeasurably since the mid-90s. The list of existing and anticipated development includes defence industry, office, business parks, retail, accommodation, conference, hotel, personal services, community facilities, horticulture, nurseries and recreation—everything but housing. This suggests little consideration of significant and potentially indiscriminate impacts on other activity nodes in Canberra and Queanbeyan. Instead, the airport has developed direct competition, such as Brand Depot. I have never been there, nor will I shop at the ACT government's competitor, the Epicentre, which is just adding to the problem. The Greens believe that developments at the airport should satisfy local planning requirements, and the Canberra community should have influence over the outcomes.

As in the spatial plan, transport and employment links between Civic and the airport need to be given high priority. I have been advocating a light rail linking Queanbeyan, the airport, Russell and the national triangle and Civic ever since I came into this place. Many employees of government departments who work at Brindabella business park are unhappy that they need to travel so far and that there is no effective public

transport system. This is despite the unarguably high quality and sustainable buildings that Tom Snow has placed there. I note the airport's positive commitments to sustainable building design, but I find no reference to mandatory standards for future development. We have just been lucky that we have had Tom Snow there who is personally committed to it. The Brand Depot buildings fall way short of environmental best practice. We have no reasons, apart from statements in the master plan, to believe that future development will not be similarly deficient, and the ACT government has no control over this.

Building shops and recreation activities at the airport for the sake of workers who are trapped there by their work is back-to-front development. The airport developments do not need the approval of the National Capital Authority. The privatisation of airports and the land around them has proved to be a profit-making boon for entities like CIC and Macquarie Bank at our expense. Here we are putting taxpayers' money into a road so that air travellers and commuters can get out of the traffic jam produced by the airport development. I hope that the Rudd government introduces measures to ensure that airports comply with local planning regimes. This issue has been raised nationally by the Local Government Association, among others.

Other issues of concern include heritage, grassland protection and sustainability. The Fairbairn, or north-east precinct of the Canberra airport, is heritage listed with the National Trust, and damage and demolition from development by the Canberra International Airport is listed as a threat. This is exacerbated by lack of planning controls. The airport's natural temperate grassland is a significant area of habitat for the endangered eastern earless dragon and the golden sun moth. The planned road to the north of the airport will cut straight through this.

I would like to know if the ACT government is talking with the transport department and the NCA about a process to pull the airport back into the local planning framework. I would like to hear whether Mr Stanhope is committed to maintaining an aircraft-noise-free sleep time for Canberra residents. I think Canberra residents would like to know this, too, and what do Mr Seselja and his folk think?

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.13): I thank Dr Foskey for raising this matter of public importance today. The government acknowledges the importance of the airport to the ACT and to our regional economy. This is outlined in the ACT economic white paper of 2003. The airport provides significant employment through the businesses that are based there and through the large amount of construction activity that has occurred in recent years and that is foreshadowed over the coming years. It also offers key national transport connections, a business park, general aviation facilities and important defence and security facilities. It plays a key role as the major gateway to the capital region.

The airport's $250 million investment plans will help ensure that Canberra remains an attractive place for business investment and for tourism. This investment, along with that of Qantas, is a strong vote of confidence in the ACT economy, recognising not only the tourism potential of this region, but also that business activity in the ACT will only continue to strengthen in the future.

I know that Dr Foskey is well aware of the fact—and she should know—that the ACT government has no control over the development of the airport. The airport is not subject to ACT government planning law. This absence of local planning regulation in relation to development within the borders of the airport has been a significant concern for the ACT government for some time. To state it categorically, the view of this government is that the airport's plans for development should be integrated with local and regional priorities to ensure that we are to avoid any negative impacts that might arise from unfettered commercial growth.

Concerns about airport planning are not unique to the ACT. All state and territory governments support the need for planning reform at airports. This is particularly true for non-aviation-related activities, such as office buildings and retail, commercial and industrial uses that are currently permitted under airport master plans. The states and territories have pointed to the significant impact that new airport developments are having on metropolitan planning and on local communities that have to meet the off-site infrastructure costs required to support airport expansion. We have a case in point currently going on outside the airport here in Canberra.

State and territory governments have pointed out that current commonwealth planning controls establish a competitive advantage for airport owners through the avoidance of scrutiny under local planning systems. The ACT government has supported the approaches put forward by the other states and the Northern Territory in terms of airport planning reforms. Because of the lack of state or territory regulatory control, the planning and development mechanisms under the Airports Act do not adequately take into account the impact of airport growth on metropolitan areas and communities.

It is true that the ACT government is very frustrated with the progress on this issue at a national level. For 11 years, the Howard Liberal government was not interested in taking any action at all to address this matter. If anything, it continued to go further in the opposite direction. It is encouraging to note that the new federal government has recently released a national aviation policy statement issues paper, which seeks submissions on a wide range of aviation-related issues. I anticipate that the planning matters raised by state and territory governments will be given full consideration during this process. Certainly it has been a matter of considerable discussion at meetings of planning and local government ministers and the federal government in recent times.

Although control of aircraft noise is also covered by commonwealth legislation, ACT planning requirements have stringent provisions in relation to development under flight paths. To date, Canberra International Airport has been able to expand its business while restricting aircraft noise to a high-noise corridor, in the main over the Majura Valley to the north and Tralee and Environa to the south. The current noise abatement requirements protect the majority of ACT and Queanbeyan residents from excessive aircraft noise. It is anticipated that these requirements will also apply to future activity at the airport. For example, for a departure from the airport to the north, commercial aircraft must reach an altitude of at least 7,000 feet before turning to cross the noise abatement zone to the left over Gungahlin and Belconnen.

The ACT government takes very seriously the issue of aircraft noise. I can advise the Assembly that the Chief Minister recently wrote to the airport and sought its advice on a review of the existing noise abatement areas to ensure that, as the new suburbs in Gungahlin come on line, they are adequately protected from aircraft noise. This is also true for new developments in north Watson. I am pleased to advise that the Canberra International Airport has supported this approach and has written to Airservices Australia and the commonwealth transport minister, Anthony Albanese, to formally request that Airservices Australia conduct an investigation into the safety, environmental and operational impact of an easterly extension of the Canberra noise abatement area to cover these new and existing Gungahlin suburbs. Again, I hope that Dr Foskey would realise that the commonwealth, through Airservices Australia, is responsible for noise and flight path monitoring at Australia's major airports. As part of this monitoring, Airservices Australia prepares a detailed quarterly report on air traffic movements and noise-related information.

In addition, the Canberra airport is very active in relation to addressing aircraft noise issues and convenes the Canberra airport aircraft noise consultative forum on a quarterly basis to discuss the airport's aircraft noise-related issues. This forum includes representatives from industry, the community, the ACT government and the Queanbeyan City Council as well as ACT and Queanbeyan community councils.

Notwithstanding this, the ACT government is firmly of the view that the airport must ensure that the information it collects and publishes in relation to aircraft noise remains accurate and objective. We insist that the airport takes all reasonable steps to minimise the impacts of noise on existing and future Canberra developments. We believe that this should include regular, independent monitoring to establish objective baseline data and regular reviews of existing noise abatement areas to ensure that new ACT and existing suburbs are properly protected from aircraft noise.

Although the commonwealth is responsible for all airport planning matters, the ACT government will continue to seek to ensure that the Australian government recognises and addresses the significant impact new airport developments are having on communities such as ours.

In closing, I thank Dr Foskey again for raising this matter. It is important that we have the opportunity to debate it in this place. But again, I note that, a few months out from an election, Dr Foskey seeks for the ACT government—

Dr Foskey: I have had that MPI in the hat for about six months.

MR BARR: Whether it is two months or eight months out from an election, the Greens are seeking to use this as an election issue when they know full well that the planning responsibility lies with the commonwealth and that the issues around the curfew also lie within the purview of the commonwealth government. Whilst it is always interesting to debate these—

Dr Foskey: What is your role then?

MR BARR: I have just outlined my role, Dr Foskey. One thing I am not is a member of the commonwealth parliament—and I am not the commonwealth minister. So I do not have the capacity—nor does anyone in the ACT government or anyone in this place—to seek to mandate a curfew on the airport. Dr Foskey knows that; the Greens know that.

Dr Foskey: Why don't you lobby?

MR SPEAKER: Dr Foskey, cease interjecting, please.

MR BARR: I have indicated that these matters, most particularly around the planning of airports, have been raised at every planning and local government ministerial council since I have been in this place, and certainly since the time of my predecessors in those particular portfolios. For 11 years, under the Howard government, those matters were ignored. What happened was that even what little control the National Capital Authority had over airport development was removed in that 11-year period.

With the new federal government, we have finally seen some indication that they are prepared to look at these issues, particularly in the context of airport development within local planning frameworks. That is welcome. That is the position that all state and territory governments have put consistently for years.

For as long as the Stanhope government has been in office, we have been arguing this, now with successive federal governments. We look forward to the outcomes of this review. We hope that the federal government will accede to the requests of the states and territories for there to be greater local planning control over airport development, particularly airport development that essentially has a non-aviation basis.

We have seen, not just in Canberra but at pretty much every significant airport in the country, a massive boom in non-aviation-related development. That has been wonderful for the owners of those airports; they have made a lot of money. But at what cost to responsible planning within the regions? That is a question that we have asked consistently and that we will continue to raise with the commonwealth government.

The sort of political grandstanding that we see from time to time from Dr Foskey on this issue suggests that she is desperately in search of any issue—even if it is commonwealth related—on which to score a cheap political point. Again, that is what you expect. It is an election year. No great surprises.

Dr Foskey: How many points did I get?

MR BARR: The fact that she interjects so constantly indicates a certain amount of sensitivity on this issue. It is something that you observe from the Greens. They like to put themselves above politics and say, "No, we're all innocent and pure and interested in the issues," but whenever they get called on some of the politics that they like to play, they squeal like pigs. This is what we are seeing. It is a pretty consistent approach. You see this all the time whenever they are called on the politics of an issue.

It is unfortunate. If Dr Foskey was genuine about raising these issues, she might have made some representations herself and made representations through her party, through the senators that they have up in the federal parliament. They might consider making a submission as part of this commonwealth review. If the Greens have done that, I welcome that. If they have not, I suggest they should.

MRS DUNNE (Ginninderra) (4.25): I thank Dr Foskey for bringing forward the matter of public importance on the benefits to the Canberra community of a more thoughtful approach to Canberra airport development, including the imposition of a curfew. It gives us an opportunity to put on the record the views of Canberra Liberals in relation to the importance of the airport.

Dr Foskey is right and Mr Barr is also correct when they dwell on some of the issues regarding planning problems in relation to the airport. These are planning problems which are outside the competence of the ACT government to deal with. They could be partially addressed, I suspect, by a sort of cooperative and inclusive dialogue with the airport and by including the airport in a dialogue about the importance of planning in the ACT. That would require a lack of confrontation which is uncharacteristic of the Stanhope government. The on-again, off-again relationship between the Stanhope government and the airport has made it very difficult for the ACT to make a coherent contribution to important planning issues that affect the ACT in relation to the airport.

It is correct that almost all of the matters relate to decisions made at a commonwealth level in relation to planning and it is true that at the commonwealth level there does seem to be a lack of rigour and a lack of thought about the impact that planning decisions made on airports—not just the Canberra airport, but across the nation—have on the structure and fabric of the cities that host these airports.

That having been said, the Canberra Liberals consider that the airport is an integral part of the communication structure in the ACT and the transport structure of the ACT and see that it has a role as being part of a transport hub which is yet to be developed. As we all know, and bemoan on a regular basis, transport in and out of Canberra is not coherent, is not well designed and does not do a great service to the people of the ACT.

There is increasing discussion these days about the implementation of a very fast train. The Liberal Party in the ACT has always been a strong advocate of that. We lost an opportunity back in about 2000 when the federal government essentially pulled the pin on the VFT at the time. It was a decision without foresight. It was loudly regretted and it is still regretted by people in the ACT. I am glad to see that issues such as the very fast train are now back on the agenda of organisations like the conservation council and the Canberra Business Council—and to some extent on the agenda of the Stanhope government, at least and as far as to say that the Chief Minister can say, "I've written a letter to the Prime Minister saying that I think a VFT would be a very good idea."

I hope that with the new government after the election we will see a more active response in relation to the creation of more integrated transport. It is quite conceivable

that the Canberra airport would become the hub and the main arrival point for most people who travel to Canberra if we had a VFT. It makes sense that that would become the transport hub, using the Majura-Monaro corridor as the main transport corridor in and out of Canberra. But that is a matter for some planning

I want to put on the record that the Canberra Liberals are not supportive of the introduction of a curfew. There are issues in relation to noise abatement which the minister has alluded to. I am pleased to see that there has been some communication and some progress towards some analysis of the noise abatement zone, because a careful review and careful monitoring of the operation of noise abatement zones are a very important issue in ensuring that there is useful coexistence between residents and the airport. We are not at this stage in favour of a curfew and do not see the evidence there at this stage, but we do welcome the review of the noise abatement zones and look forward to working with all concerned to ensure that the noise abatement zones are effectively implemented for the benefit of residents so that their sleep and peaceful enjoyment of their homes is not interrupted by unnecessary aircraft noise.

The airport looms very large in the ACT—probably more so than in other cities simply because of the size of the economy, the size of the city and the prominence and perhaps colourful nature of the Canberra International Airport company and its principals. It is easy for people to take pot shots and to be overly critical of the work that it has done. I do not think that there is anyone in this Assembly who agrees entirely with all of the actions and statements of the members of the executive of the Canberra International Airport group, but we do recognise the substantial development and growth in the ACT economy that has come off the back of development at the airport over the last 10 or so years.

We also recognise the contribution that has been made by the Canberra International Airport group to the quality of office building in the ACT. It is quite reasonable to say that the changes and quality of the buildings that we have seen at the airport have led other developers to go down that path and provide high-quality buildings. We are now starting to see, as a regular event, four-star and five-star—and I hope soon six-star—green energy-rated buildings. We need to pay testament to the leadership of the Canberra International Airport group, who were the first people to innovate in that area in the ACT.

The Canberra Liberals recognise the importance of the work done by the airport—the economic contribution, the social contribution and the employment contribution that it has made. But there are problems. There are problems in relation to the road. Dr Foskey seems to want to blame the international airport for the congestion—saying that somehow, because the Canberra International Airport provides the means by which people can travel in and out of Canberra, it is their fault somehow—

Dr Foskey: It is all those office buildings.

MRS DUNNE: that people want to travel in and out of Canberra using aeroplanes. I think that there is a slightly Luddite approach by the Greens.

Dr Foskey: No, it is the office buildings, Vicki.

MRS DUNNE: It is the slightly Luddite approach of the Greens that somehow, in a carbon constrained future, we would like to see the end of air travel.

Dr Foskey: Is that right?

MR SPEAKER: I warn you, Dr Foskey.

MRS DUNNE: I do not think that this is a sensible way to go forward when we consider the high safety record of travel by air compared to other means of mass transit or private transport. It is extraordinarily safe. There are issues in relation to vapours and CO_2 which need to be addressed, yes, and we need to find ways to have those offset, but to take the attitude that in a carbon constrained future people will not be flying is unrealistic on Dr Foskey's part. We should be taking a forward-thinking and innovative approach to these issues rather than a Luddite approach.

Dr Foskey: Excuse me.

MR SPEAKER: Point of order, Dr Foskey?

Dr Foskey: Yes, it was a point of order. I was misrepresented there.

MR SPEAKER: That is not a point of order. It may be a debating point, but this is not a debate; it is a discussion of a matter of public importance. You may wish to raise it as a standing order 46 intervention if you have been misrepresented, but why don't we wait until after the discussion of the matter of public importance has concluded.

MR MULCAHY (Molonglo) (4.34): Mr Speaker, I am not going to join the bandwagon of criticising the airport out of hand. It seems that there are a considerable number of people in the town who seem to resent the airport and its owners. Certainly I think most people in Canberra would be aware of the sometimes escalating animosity that has existed on occasions between the airport and the government. However, I do note that relations have improved in recent times and I congratulate both on the cooperative approach to developing the roads leading to the airport.

This piece of road has long been a problem for commuters. It possibly should have been addressed sooner. Nevertheless, the current development project is welcome. Many people say to me that they cannot plan their morning schedule when travelling interstate and I must say that on the rare occasions that I travel these days I have no idea how much time to allocate to going to that airport because it is quite unpredictable now compared with the way it was. I do not oppose the development of the airport. However, I am conscious of the fact that the airport's policies have the potential to have a considerable impact on Canberra's community.

A lot of what Dr Foskey said was couched in terms of greenhouse emissions. I was expecting the predominance of her remarks to relate to loss of amenity in neighbourhoods. She did mention that, but I share a bit of Mrs Dunne's scepticism about the link between greenhouse emissions and air travel, with the underlying sense that one thinks that Dr Foskey seems to be wanting to see less and less air travel. I

know she did not go to the Singapore inspection of water, which I understand was because of greenhouse emissions from the aircraft, but did go to Brazil. I find this sort of approach a little confusing, to put it mildly.

In the context of this MPI, consideration must be given to the amenity of residents when considering the expansion of the airport. I welcome the opportunity, therefore, to have the debate today. As Dr Foskey's MPI relates to the airport's master plan, in advance of today's debate I have reviewed this plan. The airport's master plan is an important document when considering that location's development. We have all seen the rapid development of the Brindabella Business Park and other parts of the airport, and certainly the speed with which that area has been developed in comparison with areas that are subject to ACT planning controls is significant.

But this development is not without control and careful planning, and this should be recognised in any debate about the airport. The airport's master plan undergoes three months of public consultation, public comments are provided to the minister for transport and the Canberra airport is required by law to have due regard to any public comments within the time frame and to demonstrate this regard to the minister.

I understand that before the master plan is finalised and approved by the minister for transport the airport is required to undertake public meetings and advertise through the *Canberra Times* and other media. In addition to this vigorous process, before any major development is undertaken the airport must complete a major development plan, which requires three months of consultation. As with any master plan, any comments are provided to the minister for transport and the airport must demonstrate that they have treated public comments with due regard. Ultimately, it is up to the minister for transport to approve or not approve a plan.

To return to the rest of Dr Foskey's matter of public importance, she is clearly distressed about the possible impact of extra flights and development on the Canberra community. I know that freight trade offers benefits to the local economy and the expansion of this area will benefit the local region. However, if this development is to proceed then it must do so in harmony with the local community.

I do not advocate for a minute constant air traffic entering and exiting Canberra airport 24 hours a day. The amenity of residents must be a primary consideration in determining the flow of aircraft in and out of the airport. I am aware of significant concerns that have been raised with me by Campbell residents about flight noise at night and I have contacted the airport, as well as the federal minister, about this issue.

People will not accept incessant aircraft noise at all hours of the day, and they should not have to. It is worth noting that Canberra airport is already a location for night freight, and I understand that this has been the case for some time. Presently, four flights leave and depart Canberra airport each night and the airport's master plan calls for "an additional five to seven aircraft each night".

I referred earlier to the demonisation of the airport and its owners, and certainly the exaggeration of the planned increase to night-time flights seems to be a case of this.

The increase in freight flights contained in the airport's master plan does not appear to be excessive, but I would repeat my warning that the amenity of Canberra residents must not be threatened by airport expansion. If there are legitimate concerns from residents—as I said, I have been contacted by residents of Campbell—then these must be considered against the case for further expansion. I would not support any expansion plans that genuinely threaten the amenity of my constituents.

I do not agree with Dr Foskey's call on the Legislative Assembly to lobby the federal government for a curfew for night-time flights. As I have already detailed, a moderate number of flights already occur between 11.00 pm and 6.00 am. I am not opposed to a reasonable increase in this amount, but I will be very critical of any attempt to make changes that adversely impact on residents.

It is interesting that one of the main issues that has been raised with me is not, in fact, the night issue, but the issue of trainer aircraft flying around in the day-time on Saturdays and Sundays. That is what the residents of Campbell tell me is more aggravating than the commercial aircraft that are taking off from Canberra airport. The training flights tend to go all over the place and, in particular, fly at relatively low altitudes over their suburbs.

I take this opportunity to say that, while I welcome the enthusiasm for an international airport in Canberra, some 33 years ago I was involved with helping Michael Hodgman successfully convince the Australian government to put an international airport in Hobart. We thought it was a great idea with an election coming up. That, of course, turned into a great white elephant.

We got one flight a fortnight between Hobart and New Zealand. Then it became one a month, then it became a shared flight between Qantas and Air New Zealand, and then they padlocked the airport terminal up for many years, despite our misplaced belief that we were going to be inundated with flights from New York, Paris, London and Rome. I do not think Canberra is going to become that sort of hub despite the best intentions of many in the town, as wonderful as it might be. I think those that are a little anxious that that is what is going to happen are probably unduly alarmed.

The development of the airport is an important issue, but I do not agree with much of the criticism that is levelled at an array of subjects by sections of the Canberra community. I believe that much of the development that has occurred at the airport is a good thing. I think the office accommodation and the environmental approach that has been taken in the design of those buildings out there have positioned it as a world-class world leader in terms of environmental consideration in building design. I am told by people who work out there that they would like a little bit more on offer than what is presently available, but one imagines that will come as the airport develops.

Certainly my primary consideration is in ensuring that further development and additional flights do not impact negatively on the Canberra community, in particular those residents who are situated close by in suburbs such as Campbell. Certainly I hope that every effort can be made to look at flight paths to avoid disrupting people in their neighbourhoods, having regard to the fact that there are many long-term

residents in those neighbourhoods. They have not just moved in recently and we as an Assembly need to give regard to their position.

MR GENTLEMAN (Brindabella) (4.43): I would like to thank Dr Foskey for raising this matter of public importance today. It provides an opportunity to further discuss and provide an update on a number of matters related to the Canberra International Airport that have been raised publicly and in the Legislative Assembly over a number of months.

As the Minister for Planning clearly stated, the Australian government has principal responsibility for developments at all federally leased airports, which includes Canberra airport. The commonwealth Airports Act 1996 establishes a comprehensive framework for the regulation of the 22 federally leased airports. The areas of regulatory control cover: leasing and management; ownership and control of airport companies; land use, planning and building controls; environmental management; protection of airspace; control of on-airport activities; pricing and quality of service; and access and demand management.

The sale and lease arrangements also give effect to important elements of the regulatory arrangements, including a requirement that the airport lessee companies develop the airport sites to high standards to meet the actual and anticipated growth in aviation traffic.

As the long-term lessee of Canberra airport, the Capital Airport Group is responsible under the commonwealth Airports Act for the development of the airport. The act requires an airport operator to prepare a master plan for the airport site, setting out a strategic planning framework for a 20-year period. Master plans require updating every five years or earlier, if requested by the minister for transport.

Canberra International Airport's preliminary draft 2008 master plan sets out a vision for the airport's growth over the next 20 years. The master plan is a requirement under the commonwealth Airports Act 1996 and its purposes are to: establish a strategic direction for efficient and economic development at the airport over the next 20 years; provide for the development of additional uses at the airport site; indicate to the public the intended uses of the airport site; and reduce potential conflicts between users of the airport site.

Key elements of the master plan include: developing new integrated airport terminal facilities; maximising business opportunities for non-aeronautical on-airport employment and business growth; developing a 24-hour passenger and freight hub; and establishing a base for regional or national airlines and a significant aircraft maintenance centre.

There has been a significant level of public and media interest in the new plan—not too long ago Dr Foskey sponsored a forum here on the new plan—including public meetings on the airport's new draft preliminary 2008 master plan. I am advised that a total of 123 submissions, including 22 late submissions, were received. The airport is now considering those submissions, as required by the commonwealth Airports Act 1996, prior to submitting a draft master plan to the federal minister for consideration.

I mentioned the forum that Dr Foskey sponsored. I would like to take this opportunity to advise members that during the forum the mayor of Queanbeyan made some statements about aircraft traffic in relation to developments and said that the developments in Queanbeyan—in particular, Jerrabomberra—had no effect on the traffic for the Canberra airport.

I have spoken to the airport controller and you will see from the plan that, in fact, air traffic does have an effect. Because of complaints from Jerrabomberra residents about aircraft noise, flights that are capable of coming in on the ILS deviate from the normal approach to the airport and go slightly south to move away from Jerrabomberra before then returning to the normal approach to Canberra airport. So it is important that we have all the facts on the table when looking at the master plan.

The Minister for Planning noted that the Australian government has recently released a national aviation policy issues paper which seeks submissions on a wide range of aviation-related policy issues. It is expected that the matters raised by the ACT government and the state and Northern Territory governments will be given full consideration.

The Australian government has advised that the issues paper has been prepared as a basis for consultation and engagement and to encourage industry and community input to assist the Australian government's development of a national aviation policy statement. The Australian government has further advised that the purpose of the national aviation policy statement is to provide greater planning and investment certainty for the industry and to provide clear commitments for the users of aviation services and communities affected by aviation activity.

Submissions on the issues paper will contribute to the development of a NAPS green paper that will be released in late 2008. Following the release of the green paper there will be a further opportunity for stakeholder input prior to the development of a NAPS white paper by mid-2009.

In response to the proposed green paper on the national aviation policy statement, on 4 July 2008 the ACT government provided a submission to the federal government. The ACT submission, along with all other submissions that were received, has been made publicly available by the federal Department of Infrastructure, Transport, Regional Development and Local Government.

The ACT submission addresses a wide range of issues related to the aviation sector, including planning and airport development issues. The submission indicated that, while the government supports the Canberra International Airport as an important element of the ACT's economy, expansion of the airport must be well planned and managed to take into account a range of impacts, including economic, social, environment and heritage impacts.

The submission indicates that the ACT supports the adoption of a new model of airport planning regulation in order to improve metropolitan planning outcomes and airport-government relations. This would involve the federal minister for transport

being able formally to consider state, territory and local government planning and environmental policies of the jurisdiction in which an airport is located during assessment of airport master plans and major developments.

The submission also proposes revised arrangements for airport master plans, including the appointment of an independent panel in each state and territory to assess airport master plans and major planning proposals for airports. The independent panel was suggested to comprise three appointments by the federal minister for transport and two from the relevant state or territory government nominated by the planning minister in that jurisdiction.

Importantly, the submission proposed a strengthened and extended consultation process with the community to keep local communities informed throughout the development and implementation phases of the airport's master planning process. The strengthened consultative process would enable both the airport owners and operators and the local community to be more informed about each other's requirements, provide more transparency on implementation of proposals, enable a continuing change of information and promote harmonious relationships between these key stakeholders.

I reiterate the planning minister's comments that the ACT government will remain active in ensuring that the ACT community is afforded adequate protection from aircraft noise. I also take this opportunity to point out that the ACT government, through the Canberra spatial plan, has adopted specific planning arrangements to ensure that residential development does not occur in areas under the approach and departure paths to and from Canberra International Airport. These planning arrangements are more stringent than those adopted in most other Australian jurisdictions.

In regard to Mr Mulcahy's statements on members' air travel, I should advise members that most travellers—and members, of course—can purchase offsets to their carbon use on air travel. This option is usually on a pop-up or a link on the aircraft's website.

In conclusion, I would like to reaffirm that, although the Australian government has principal responsibility for the development of the airport and control of on-airport activities, the ACT government has been active in seeking to influence policy outcomes in relation to airport planning and development. I reiterate that, while the ACT government supports the Canberra International Airport as an important element of the ACT's economy, expansion of the airport must be well planned and managed to take into account a range of impacts including economic, social and environmental and heritage impacts.

MR SPEAKER: The discussion is concluded.

Personal explanation

DR FOSKEY (Molonglo): Under standing order 46, I would like to correct some misrepresentations that were made. They were made by three people. Mr Barr suggested that the Greens were fairly ignorant of ACT and national responsibility—

MR SPEAKER: It is not about the Greens, Dr Foskey. It is about you only. It is a personal explanation.

DR FOSKEY: Mr Barr suggested that I was ignorant. It was evident to anyone who listened to my speech that I am well aware of the different responsibilities.

In relation to Mrs Dunne's comment that I am a Luddite, nothing in my speech would suggest that I am a Luddite. I remind Mrs Dunne that even technophiles are concerned about greenhouse gases.

In relation to Mr Mulcahy's propagation of an urban myth that I did not go to Singapore because of greenhouse gases, certainly that was a factor, but the main reason I chose not to go, as no doubt he would know if he had asked me, was that I felt that a technical inspection of the plant would have been wasted upon me. I do not have the kind of expertise to have benefited from the visit. A three-day trip to that plant did not seem a really good investment, whereas a 20-day trip to Brazil, doing work where I was able to engage in study and activities that I understood would benefit me and also the wider polity. I certainly hope that all members are circumspect about their use—

MR SPEAKER: Order! This is not the time for a policy speech, Dr Foskey.

DR FOSKEY: Thank you.

Crimes Legislation Amendment Bill 2008

Debate resumed from 7 August 2008, on motion by **Mr Corbell**.

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (4.55): This bill is a very significant one and the opposition will be supporting it. We will be moving two amendments, which I will speak to, and I do have some concerns about the operation of that part of the bill. The rest of it is largely timely. There is one other area that I will address in terms of some problems expressed in the scrutiny report and also by legal practitioners.

The bill aims, as it states, to improve efficiencies in the justice system for witnesses and defendants, including extending the jurisdiction of the Magistrates Court. My office and I were briefed on this on 12 August this year. The bill amends some 14 acts, and many of the amendments are technical and consequential.

The purpose of the bill is to increase the threshold for matters that must be dealt with summarily in the Magistrates Court, to cover offences with a maximum penalty of two years, up from 12 months, and property offences involving up to $30,000, which is up from $10,000. That ensures that minor matters, such as minor assaults, simply cannot go to the Supreme Court. Whilst the opposition is very keen to ensure that there is a right to a trial—indeed, I have commented recently that we would like to see more jury trials in the Supreme Court rather than trial by judge alone—for minor

matters there can be forum shopping, it clogs up the court's time and it is really a waste of everyone's efforts. So I think that is a reasonable improvement to the law.

The bill enables the Magistrates Court to deal with minor examples of aggravated burglary or aggravated robbery at the defendant's election, subject to the agreement of the court, the prosecution and the defence that the matter is sufficiently minor. I am pleased to see that at least all of those parties have to agree. One of the problems in our criminal justice system—again, harking back to another jurisdiction, the Supreme Court—is that, in trials by judge alone, only the defence has to request that, and that is very different from what occurs interstate.

The bill also enables the Magistrates Court to hear ex parte matters, but only if the court is satisfied that the defendant is waiving the right to appear in person and that that decision is fully informed and made voluntarily. That, in itself, could be a problem. I am told by the officials—and I have not actually heard any complaints from practitioners or other people involved with the courts—that there are not all that many ex parte matters. These are normally traffic matters and minor offences such as that.

Some time ago, there used to be quite a considerable volume. I think it is very difficult and it highlights problems with the Human Rights Act, in that the government might say, "We have to not comply with the Human Rights Act here because of X, Y and Z," and give a very good reason. The government seems to be reluctant to do that, and tries to say that all of its legislation is compatible with the Human Rights Act when, clearly, some of it is not, and there is probably a good reason for that.

In this case, the court has to be satisfied that the defendant is waiving the right to appear in person and that the decision is fully informed and made voluntarily. That involves a fair amount of effort. When we are dealing with minor ex parte matters, which is when the defendant does not turn up, they are convicted in their absence and notice of a fine is sent out, they can set that aside if there is a problem, or apply to have the matter heard, if there is a problem, and set it aside. To force the prosecution to ensure that the defendant is waiving their right to appear in person just adds an additional burden to something which was a very simple matter and which basically operated very effectively for many years—albeit that now we apparently do not have quite as many as we used to.

In practice, it might not be a huge problem, if what I am told is correct in terms of the number of ex parte matters, but just in pure legal terms, and in terms of how much time the court and process servers et cetera are going to have to spend, it is an additional, unnecessary burden. If the system was not broken, why try to fix it? Again, it is slavishly following a provision in the Human Rights Act which has no relationship to reality.

I am pleased to see another provision—that is, increasing the Magistrates Court sentencing threshold from two years and/or $10,000 to five years and/or $15,000, in line with the Northern Territory and Tasmania. This is something the opposition has been calling for for some time. When we first put forward draft legislation in the last

Assembly, the government knocked it back. I think it might still be included in the sentencing bill that is before the Assembly, and which I doubt whether we will have time to debate, as this is the last sitting week of this Assembly.

That provision is crucially important in that it enables the Magistrates Court, which deals with the vast majority of matters, to impose proper, adequate sentences for the serious matters that come before it. The Magistrates Court can deal with matters where there is a maximum sentence of 14 years imprisonment for certain categories of offences, while for others the sentence is 10 years imprisonment. It will now be 20 years in terms of aggravated burglary and aggravated robbery, if the court agrees that it is a minor matter in terms of those particular offences. So there is a significant penalty for the more serious matters, and a five-year maximum is very sensible.

It was interesting to note the *Canberra Times* article on the weekend which showed that the Magistrates Court is far more robust when it comes to sentencing than the Supreme Court and that, indeed, there is a lot of forum shopping. In fact, I fear that an adverse affect of this sensible measure might be to send even more people up to the Supreme Court, but I certainly hope that practitioners take it in the vein in which it is meant. It will simplify matters, ensure speedier justice and ensure that the Magistrates Court has a greater discretion—and it needs that. That is what is happening interstate, and I think it is sensible that it happen here. That is a good provision.

Another amendment requires, and enables through full disclosure of the prosecution's case, a defendant to make an election at the time of listing of the hearing as to which court they wish to deal with their matter. Revocation of the election will be permitted if there is a significant change of circumstances. Again, I think that is a sensible measure. It helps to stop forum shopping. It saves time because you should have a pretty good idea, if you are representing a defendant, of what you are going to do before you get to court, whether the matter is going to be finalised in the Magistrates Court or not. I think it is very sensible to require that election earlier in the proceedings. If you intend to go to the Supreme Court, you should say so early on. You may be in two minds. You may think, "We'll probably do it in the Magistrates Court." That is fine; it is a good measure and it should keep you in that court. Again, it is a sensible measure. Of course, there is provision for people to revoke it if there is a significant change in circumstances.

Another amendment enables the Magistrates Court to commit matters to the Supreme Court for trial or sentencing without the need for oral evidence; rather, it will be based on written submissions and the full disclosure of the prosecution's case. The new provisions enable the court to call witnesses for cross-examination in very limited circumstances when the court decides it is in the interests of justice. In other words, it is a paper committal—something that is done across the border in New South Wales on a regular basis. But there is still provision for the court to call witnesses for cross-examination.

There are limited circumstances and we will need to see how it operates. One of the traditional and sensible reasons for a committal is to tease out the prosecution case. We have already got an exemption now, in that it does not happen in serious sexual assault matters, and I think in serious violence matters. That is a sensible exception

because it would put the victim through too much trauma. But there is an argument that in a number of other cases in criminal law it is sensible to have witnesses cross-examined, just to test the real strength of the prosecution case. Indeed, if a case is not strong, you ultimately might save time by just not proceeding further. If it is strong then obviously the matter will go to the Supreme Court.

We will need to see how that will operate. I think there is some justification for the view of the profession on this matter; indeed, comments were made about it in the scrutiny report. Again, it brings us into line with other states. Paper committals seem to work pretty well in New South Wales and other jurisdictions. To a large extent, they are occurring more and more here as a matter of course, anyway.

Another amendment reduces from two steps to one the process in which the Magistrates Court will commit a matter to the Supreme Court, to be on the basis of whether there is a reasonable prospect of conviction, based on the evidence before the court. That is a sensible provision.

There are also some minor changes. Terminology for "preliminary examinations"—that is, committals—is changed to "committal hearing". The legislation will replace the current two-stage appeal process with a one-stage process, which is called a "review appeal", and it introduces a scale of costs in summary criminal cases to regulate the award of costs made in the Magistrates Court. I will be interested to see how that applies. I have seen scales of costs. I am advised that the reason is that often costs awarded to defendants have been exorbitant. In many other jurisdictions, it is fairly rare for the defence to be awarded costs, even if the prosecution is unsuccessful.

The law here has been interpreted very generously. We had the ruling in McEwen v Siely that costs normally follow the event, but where the defendant basically brings it upon themselves, the court has very much a discretion not to award costs. Some magistrates would do that; others would not. The practice probably in more recent times has been that costs tend to follow the event, regardless. I think some restriction there is sensible. I have seen numerous cases where defendants have been acquitted when, clearly, they had done something wrong, but there was a technicality. The breathalyser cases spring to mind in particular. It may be clear that the defendant was very much in the wrong but they have got off because of a technicality and not because of some substantial variance of fact which would lead you to believe beyond reasonable doubt that there was some doubt as to whether they committed the crime. So anything that tightens up against excessive costs being awarded is sensible.

I note that the government—and I think this is a shame—has provided for reference appeals. I would have liked to have seen it go further in terms of this type of legislation and introduce an appeal right from the Supreme Court to the Court of Appeal for the prosecution when the judge basically gets it wrong or makes an error. Effectively, it would give the Crown, the DPP, the same right of appeal as the defendant. I note that the attorney has said that is something that he has now committed to. That is good to hear because in the past the Labor Party have actively opposed that. In fact, with respect to legislation I introduced as attorney and that was debated in 2001, they objected most strongly to that very sensible clause. It seems

they have now seen the wisdom of such an approach. I thought it could have been put in this legislation but it has not. That is a rather unfortunate omission.

These are welcome reforms. They are ones that should have been made some time ago. As I said, we have proposed a number of these reforms over the last four years, but they are only now being picked up by government. As I said, I have a couple of amendments relating to ex parte hearings. I suggest that we simply omit those, because I think they place an onerous, very time-consuming burden, in having to prove that a defendant knew all about the matter and was knowingly not going to attend court. That tends to blow out the costs, even though I am told that we do not have all that many ex parte hearings in any one week. Again, if it ain't broke, why fix it? My two amendments go to that. I make those comments in relation to this bill, which the opposition will be supporting.

MR MULCAHY (Molonglo) (5.09): I will be supporting this bill, which seeks to provide greater efficiency to our justice system through a range of administrative and substantive measures. The bill changes the thresholds for hearing criminal matters in the Magistrates Court, which will allow this court to hear a greater range of relatively minor offences. This includes matters like common assault which the Magistrates Court is well equipped to deal with. I am satisfied that the Magistrates Court has the relevant expertise to deal with these matters. By ensuring that matters can be handled in the Magistrates Court rather than in the Supreme Court, I anticipate that there will be some cost saving, as matters going to the Supreme Court generally result in a high use of resources.

The bill also allows the defendant the option to elect to have charges of aggravated burglary and aggravated robbery heard in the Magistrates Court rather than in the Supreme Court. This can only be done with the agreement of the Magistrates Court and the prosecution. My understanding is that this will occur in cases where the offence is of a relatively minor nature, notwithstanding that the class of offence also includes very serious crimes.

The explanatory statement for the bill explains that these offences cover situations in which two people steal a small amount of property from a home without any violence or property damage. It also covers situations where much more serious crimes occur. In the former case, it may be sensible to refer the offence to the Magistrates Court. This seems to be a sensible change. However, it does highlight the problems with having offence provisions that group together very serious crimes and more minor crimes. This may be something that needs to be looked at in the future.

The bill makes changes to the current procedure for ex parte hearings, as Mr Stefaniak has just outlined, which occur when the defendant fails to attend court following a summons. The current position allows the court to proceed with the hearing in the absence of the defendant. The explanatory statement says that this may be incompatible with the Human Rights Act since the defendant may not have been personally served with a summons and may be unaware of his obligation to attend court.

This may be a concern, but I do not think that the bill deals with this adequately. The bill requires the magistrate to be satisfied that the defendant knows the hearing date

and understands that the court can hear the matter in his absence. As a practical matter, I do not see how a magistrate could be satisfied about this unless there has been personal service, which seems to me to require a change in the rules for serving the summons. It does not make sense to me to allow a summons to be served in other ways and then require the Magistrates Court to be satisfied about something that it can only be satisfied about if there was personal service. For this reason, I will be voting in support of Mr Stefaniak's amendment to omit this change.

The bill also changes the rules for committal hearings to accord with the existing practice of using written statements rather than oral examinations in chief. The explanatory statement notes that this change merely reflects existing practice in committal hearings, which has departed from the legislative provisions currently applying. This, of course, was a matter recently raised by Ken Archer in his criticism of the sexual and violent offences bill, and I am glad to see it is receiving attention. It was a matter that I addressed during that debate last week. It is certainly important to ensure that the law as written reflects the actual practices being used in ACT courts. New provisions still allow a witness to be called for cross-examination so that evidence can be tested. I think this is an important protection for defendants.

The bill makes other changes, and I am satisfied that these changes in the latest amendments are a sensible means of encouraging efficient and effective use of court time. I will be supporting this bill, with the caveat that I will be voting in support of Mr Stefaniak's amendment to the bill.

DR FOSKEY (Molonglo) (5.13): I consider that this bill is another example of the government's end-of-term haste to pass various amendments before it risks losing its majority at the next election. While many of these amendments would, presumably, receive tripartisan support regardless of the make-up of the next Assembly, others would not. While it is hard to discern exactly what the main drivers behind these amendments are, their effects are reasonably obvious.

These amendments are justified partly on the basis that they will increase efficiency. They will certainly reduce court costs and tilt the playing field in favour of the somewhat beleaguered DPP. Whether or not this will achieve a proper balance between defence and prosecution is a moot point. Perhaps the present system is unfairly tilted in favour of the accused, perhaps not. But these arguments have not been put.

Merely to state that other jurisdictions have adopted these practices is not an argument in itself. It is disingenuous not to engage with these issues and to pretend that the primary strategic effect of these amendments will not be to limit the options available to defence counsel in the prosecution of their client's case.

I am glad that the government has seen fit to retain some judicial discretion with these amendments in that both prosecution and defence counsel retain a limited capacity to apply to the court for permission to cross-examine a witness. The explanatory material for this bill claims that making hand-up committals the default process:

> … will reduce stress to victims, avoid unnecessary examination of witnesses, and save time and costs for the court, the witnesses and the counsel.

It should not go unnoticed that these arguments are all drafted from a prosecution perspective. Yes, some defendants will benefit from not having their proceedings drawn out, with additional expenses incurred in unnecessarily complex committal hearings. But nothing stops defence counsel electing to have a paper committal hearing now. Amendments are not needed to achieve this result.

But what happens when the Crown's case is weak, identification evidence is questionable or the witnesses' credibility is less than satisfactory? It has traditionally been the case that an innocent person has a very wide discretion to try to use the committal process to get criminal charges thrown out and to walk away a free man or woman without the enormous stress of unjustifiable criminal charges hanging over their head.

It is misleading to claim that committal hearings are a mere administrative process. They are called committal hearings because their purpose is for a court to determine whether or not the defendant should be committed to face a criminal trial. The fact that sometimes defence counsel use the opportunity to harangue witnesses and robustly challenge the prosecution's case without having to play to the sensitivities of a jury is not a sufficient reason to abandon the process. Alternative solutions to these problems are available and should be explored.

The fundamental purpose of a committal hearing is to test the strength of the Crown's case. The prosecution must make out a prima facie case. This will obviously be much easier to do at a committal hearing if the witnesses' statements are not able to be tested under cross-examination.

While I acknowledge the arguments of the Attorney-General that it would be unrealistic to expect that defence counsel will be happy with these amendments, I share some of the concerns raised by various practitioners in the *Canberra Times* about the disadvantage these amendments will cause for some defendants. The Attorney-General does not really address these concerns. He merely dismisses them out of hand on the basis that they serve the interests of the person making them. The reverse argument is equally fitting. He would say that, would he not?

One disturbing consequence will be the disadvantage suffered by a defendant in not having a more complete understanding of the prosecution's case before he or she is forced to elect whether to have the charges dealt with summarily or not. The consequence for the defendant of making an uninformed decision can be extremely onerous and result in a higher sentence or higher legal costs. Seeking to help a defendant to make a fully informed election decision is not an inconsequential consideration. It should not be sacrificed to the interests of witness convenience or cost savings for the DPP.

In some sexual offence cases, a compromise of the rule of law is justifiable. The derogation of human rights involved in weakening the effectiveness of the committal proceedings is proportional to the benefits to be achieved by sparing the victim, similar-fact witnesses and children from the trauma of multiple cross-examinations.

Nonetheless, it is deplorable that the government has not even acknowledged these human rights implications in its explanatory material, and the Attorney-General has only made passing references to any human rights implications in his speeches on these bills.

By failing to advocate on behalf of its own Human Rights Act, the government weakens the status of that legislation. We still have an opposition that apparently opposes the Human Rights Act and has said it will revoke it if they come to power. Merely appending a minimalist compatibility statement that legislation is in accordance with the Human Rights Act is, as I have said before, a waste of paper when the arguments defending those assertions are not made public. This shabby treatment of its own Human Rights Act makes me question the government's true commitment or even understanding of the responsibility that it bears to uphold and nurture these principles.

I am not alone in fearing that the government's commitment to its own Human Rights Act is compromised by considerations of political expediency. I am also not alone in suspecting that the spate of tough-on-crime bills rushed through this house in the last couple of sitting weeks of this Assembly in part represents a political stunt by the Stanhope government to attract votes from the sadly and inappropriately named Liberal Party. It is sobering to think that some of these amendments may also have been drafted in order to achieve better conviction rate statistics in future.

The Attorney-General's 10-second sound grab, which seems to be what we hear instead of a more reasoned justification, is:

> Human rights does not only mean the human rights of criminals. The human rights of the victims are also important.

Indeed, that is true. The trouble is, no-one is arguing with that proposition. It sounds like the catchy slogan you might read on Pauline Hanson's website. Of course the human rights of victims are important. Justice is not served by placing unreasonable obstacles in the path of law enforcement agencies which are seeking to obtain criminal convictions.

But these arguments which seek to achieve a balance between defence and prosecution advantage are nothing new. Contemporary criminal processes are the result of tensions that have been played out in English common law jurisdictions for hundreds of years. The government should not be tampering with these processes without considerable justification.

The arguments in the explanatory material are primarily self-serving. They are more political arguments than jurisprudential reasoning. Last week the Chief Minister said that MLAs had no place interpreting legislation. But if he paused for a minute to reflect and think before leaping to attack his real and imaginary detractors, he would have to see that, for most of our working hours, we are engaged in making statutory interpretations and satisfying ourselves that particular statutory clauses achieve the effect that we hope they will. It is our job.

Is the Chief Minister then suggesting that we should all obtain independent legal advice before voting on every single legislative provision that comes before us? I presume not. We are tasked with deciding whether legislative proposals best achieve what is in the best interests of our constituents. When the government intends to introduce significant changes to criminal procedure, it should make the effort to justify these changes to us, our legal advisers and the community.

I do not support the cost provisions in this bill. The default position should be that a person who is found to be innocent should be awarded full indemnity costs. It is inequitable that an innocent person should suffer financially after being forced to defend their freedom and their reputation. The government should be proud that the ACT led this country in compensating people who are found to be innocent. In circumstances where it is apparent to the court that the prosecution has been completely unfounded, it should be open for the court to award compensatory damages without the need for the defendant to take civil action.

In some other circumstances, the reduced scale of costs would be appropriate. For instance, where the balance of probabilities test is easily satisfied but the prosecution's case falls just short of the beyond reasonable doubt test, it should be open then for the court to award costs according to the gravity of the miscarriage of justice that the court perceives to have happened.

I do support the changes to the appeal mechanisms in this bill. I think that the existing system is wasteful and illogical. Even though I have considerable misgivings about it, I do thank the Attorney-General for his briefings on this bill which, as usual, were conducted by his staff and officers in a courteous, professional and helpful manner. They provide a glimpse of what would be possible if the government were committed to a consultative process and were minded to seek the input of MLAs at an early stage of policy formulation.

I will be supporting the government's amendments to its legislation because, on the whole, I think they improve the legislation. I do urge the government and its successors to keep a close watch on these changes and to ensure that they do not result in unjust convictions or in more innocent people being locked up on remand and acquitted at trial when they could have avoided time in custody if they had had the option of challenging the prosecution's case at committal. I will speak to Mr Stefaniak's amendments when we get to the detail stage.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.25), in reply: I thank members for their support of this important piece of legislation. The reform of the criminal justice system has been talked about in the ACT for many years. A discussion paper canvassing some of the issues in this bill was released by the current shadow Attorney-General in 2001. No legislative changes were made following that process but there have been continued calls for reform in different aspects of the criminal justice system since that time.

Finding consensus on the issues raised in this bill was difficult, particularly given the range of different interests of participants in the criminal justice system. However,

there is an objective need for change to improve the efficiency of the system and maintain public confidence in our court processes. I believe that this bill is the best option to meet that need and have taken the difficult decision to introduce these changes.

The bill reforms the criminal justice system to improve efficiency, ensuring that the court's time is used more effectively. The changes to the committal process so that a committal will take place on the basis of written evidence, unless the court is satisfied that cross-examination is strictly necessary, will streamline the process, reduce stress on witnesses and speed up the delivery of justice.

To rebut some of the comments made by Dr Foskey, it is the court's decision as to whether or not cross-examination is warranted. The change is: it is no longer a de facto right. But there is still the protection that the judicial officer can determine whether or not further evidence needs to be tested by cross-examination at committal. I think we have to have confidence in our magistrates to make those judgements. They are the people with the expertise and the experience to make those assessments. This places the power firmly in their hands.

The increase in the jurisdiction of the Magistrates Court and the increase in sentencing power of magistrates reflect their professionalism and ability to appropriately deal with a wide range of criminal matters. It also ensures that the longer and more expensive processes of the Supreme Court, such as jury trials, are kept for the most serious offences in our community, further enhancing the efficiency of the courts and therefore the delivery of justice to the Canberra community.

The bill also reinforces the government's commitment to human rights principles by amending existing provisions for hearings in the absence of the defendant, to ensure that this only happens if the defendant makes a fully informed, intelligent and voluntary decision to let the court hear a matter in the defendant's absence. I am aware that the opposition will be seeking to remove this section on the basis that the test will be too difficult to meet and that the court issuing warrants for the arrest of defendants, instead of hearing matters in their absence, will clog up the system.

In response to that, I would note that the protection of a defendant's rights should extend to all criminal matters and all members of our community, no matter how serious or minor the charges are against them. Evolving changes to the law and to the manner in which many minor matters are dealt with by infringement notice mean that there are not a significant number of criminal charges that are heard ex parte at the moment. This reform will therefore result in only a slight increase in the number of warrants for arrests issued for police to enforce, in the event that a defendant does not appear in court to answer the charges against them. It will certainly not be clogging up the system but it will be ensuring that the rights of all members of the community are properly protected.

The bill introduces a scale of costs to guide the award of costs in summary criminal matters and this provides certainty. It encourages defence practitioners to improve the management of costs and charges and will reduce the current, sometimes large, discrepancies that exist in the award of costs.

Overall, the bill introduces significant changes that will improve the criminal justice system to ensure that it is fair, effective and responsive to the needs of our community.

I note that the Standing Committee on Legal Affairs provided a scrutiny report on this bill yesterday. The committee has made extensive comments about a number of aspects of the bill. I appreciate the views that they bring to this debate and I have already considered them closely. However, I am satisfied that no change to the bill is necessary as a result of these comments. I will be responding formally to the issues raised by the committee in a letter to the chairman shortly.

I would also like to foreshadow that, in the detail stage, I will be introducing government amendments to cover some technical changes to the bill. Since the bill was introduced, members of the legal profession have drawn to my attention that some of the technical provisions in the current act have not been complied with for some years. As such, I am changing the bill to remove these provisions and to ensure that the bill best captures the practical approach to the reforms being introduced to the committal process.

As part of this practical approach, I am also introducing provisions that enshrine the need for the prosecution to serve a copy of the prosecution brief on the accused person so that they are fully informed of the case against them. While this happens already in practice, providing a legislative basis for the provision of the evidence will assist both the prosecution and defence to have more certainty about the requirements of when evidence needs to be provided. It will also improve the compliance with the human right to a fair trial by ensuring that the defendant is fully informed of the charges they are facing.

In recognition of the need for the legal profession to be involved in how these issues are negotiated, the details of the timing and requirements for service of evidence will be the subject of court rules made by the rules committee that includes representatives from the courts, the DPP and the wider legal profession.

This bill will improve the efficiency of the courts, while protecting the rights of both the accused and victims of crime. It builds on the framework of a fair criminal justice system that this government has constantly promoted, and I commend the bill again to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together.

MR STEFANIAK (Ginninderra) (5.32): I move:

> That debate be adjourned.

I have moved that debate on the detail stage be adjourned to a later hour this day. There has been a re-ordering of business which I assumed had gone through the whips, but I have been advised that that is not the case. I ask the Assembly to adjourn the detail stage of this bill so that we can get back to the Standing Committee on Legal Affairs report No 8, which I was meant to present. Apparently there has been no agreement between the whips to change the business. That is the report that I now wish to present. We can come back to the detail stage on this bill at a later hour this day. I foreshadow that I will not be proceeding with my amendments to amendments 1.84 and 1.97.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.33): The government will not be agreeing to an adjournment at this stage. We believe that it is now appropriate to move to the detail stage and to complete that as soon as possible by debating the various amendments. In relation to the matter Mr Stefaniak raises, the government would be very happy to have the committee present its report following this item, but, given the current stage we are at in this debate, the government would prefer to proceed with the detail stage at this time.

MR SPEAKER: I have had advice that this question cannot be debated.

Question put:

> That debate be adjourned.

The Assembly voted—

Ayes 5	Noes 10	
Mrs Burke	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Berry	Ms MacDonald
Mr Pratt	Mr Corbell	Mr Mulcahy
Mr Smyth	Dr Foskey	Ms Porter
Mr Stefaniak	Mr Gentleman	Mr Stanhope

Question so resolved in the negative.

Clauses 1 to 3 agreed to.

Schedule 1.

Amendments 1.1 to 1.56, by leave, taken together and agreed to.

Amendment 1.57.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.38): I move amendment No 1 circulated in my name *[see schedule 1 at page 3723]* and table a supplementary explanatory statement to the government amendment.

This amendment deletes the note for section 38 (4) of the Evidence (Miscellaneous Provisions) Act 1991 which is inserted by the Sexual and Violent Offences Legislation Amendment Act 2008. It further amends provisions introduced by that act. This note is deleted to ensure consistency with the amendments to the Magistrates Court Act 1936.

Amendment agreed to.

Amendment 1.57, as amended, agreed to.

Amendments 1.58 and 1.59, by leave, taken together and agreed to.

Amendment 1.60.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.39): I move amendment No 2 circulated in my name *[see schedule 1 at page 3723]*.

This amendment deletes the note in section 41 (4) of the Evidence (Miscellaneous Provisions) Act 1991, which is inserted by the Sexual and Violent Offences Legislation Act 2008, to ensure consistency with the amendments to the Magistrates Court Act 1936 contained in the bill.

Amendment agreed to.

Amendment 1.60, as amended, agreed to.

Amendments 1.61 to 1.63, by leave, taken together and agreed to.

Proposed new amendment 1.63A.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.40): I move amendment No 3 circulated in my name *[see schedule 1 at page 3723]*.

This amendment ensures continuity of the amendments in schedule 1, amendments 1.81 and 1.82 of the bill, which changes the test that the magistrate applies at the end of the committal hearing to determine whether a case is committed to the Supreme Court.

Proposed new amendment 1.63A agreed to.

Amendment 1.64.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.41): I move government amendment No 4 circulated in my name *[see schedule 1 at page 3723]*.

This amendment removes the provisions of the bill referring to notices of committal proceedings and replaces them with provisions that require the service of all committal evidence on the accused and for the committal evidence to be provided to the courts in accordance with the court rules. The intention is to provide a statutory basis for the provision of the prosecution brief to the accused in advance of the committal. The statutory requirement to serve a brief of evidence on the accused supports the human right to a fair trial by ensuring that the current practices whereby the prosecution provide a brief of evidence in advance of a hearing are preserved so that the accused is fully apprised of the charges and evidence against him or her before the case begins.

Amendment agreed to.

Amendment 1.64, as amended, agreed to.

Amendments 1.65 to 1.71, by leave, taken together.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.42): I will be opposing these amendments.

Amendments negatived.

Proposed new amendment 1.71A.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.43): I move amendment No 6 circulated in my name *[see schedule 1 at page 3724]*.

This inserts new amendment 1.71A. The intention of the amendment is that committal proceedings are to proceed by the prosecution tendering the written statements and exhibits rather than calling witnesses to give oral evidence. It clarifies that the court must admit the statements and exhibits but does not seek to override the laws of evidence that apply to the admissibility of evidence generally. The section is worded in a clearer manner than the provision in the bill that it is replacing.

Proposed new amendment 1.71A agreed to.

Amendment 1.72 agreed to.

Amendment 1.73.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.44): I move amendment No 7 circulated in my name *[see schedule 1 at page 3724]*.

This amendment makes provision for the prosecution to apply to the court to call a witness to give oral evidence in chief. It is not intended that this provision be used for all criminal hearings, as the clear intention of the policies informing the bill is that

committal proceedings will proceed as hand-up committals. Instead, this provision makes allowances for the prosecution to apply to call a witness to give oral evidence when a circumstance such as a technical defect arises which cannot be overcome by the preparation of an additional written statement.

Amendment agreed to.

Amendment 1.73, as amended, agreed to.

Proposed new amendment 1.73A.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.45): I move amendment No 8 circulated in my name *[see schedule 1 at page 3725]*.

This inserts new amendment 1.73A. It is a technical amendment to correct a typographic error. In the bill, amendments 1.75 and 1.76 were intended to remove provisions 90AA (11) and 90AA (12) of the Magistrates Court Act 1936 introduced by the Sexual and Violent Offences Legislation Amendment Act 2008, but they appeared as amendments to sections 90A (11) and 90A (12). This amendment corrects that error.

Proposed new amendment 1.73A agreed to.

Amendment 1.74 agreed to.

Amendment 1.75.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.46): I will be opposing this amendment.

Amendment 1.75 negatived.

Amendment 1.76.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.46): Again, the government will be opposing this amendment.

Amendment 1.76 negatived.

Amendment 1.77.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.47): I seek leave to move amendments Nos 11 and 12 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 11 and 12 circulated in my name together *[see schedule 1 at page 3725]*.

This provision is amended to provide clearer language about the fact that a witness is not to be cross-examined at committal unless a successful application is made to the court. This is an important element of the committal reform process which I outlined earlier in the debate, in the in-principle stage.

Amendments agreed to.

Amendment 1.77, as amended, agreed to.

Amendments 1.78 to 1.83, by leave, taken together and agreed to.

Amendment 1.84 agreed to.

Amendments 1.85 to 1.96, by leave, taken together and agreed to.

Amendment 1.97 agreed to.

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

Bill, as amended, agreed to.

Legal Affairs—Standing Committee
Report 8

MR STEFANIAK (Ginninderra) (5.50): I present the following report:

> Legal Affairs—Standing Committee—Report 8 (2 volumes)—*ACT Fire and Emergency Services Arrangements*, dated 22 August 2008, including dissenting reports and additional comments (Mr Stefaniak, Ms MacDonald), together with a copy of the extracts of the relevant minutes of proceedings

I move:

> That the report be noted.

This inquiry was a crucially important inquiry by an Assembly committee, and it certainly had the potential to give some very clear directions as to what should occur in the future to fireproof the ACT as far as humanly possible. The report makes a number of recommendations that certainly assist in that regard. But, I do regret to say that, in my view, my committee colleagues did baulk at making some other recommendations that I think were clearly warranted as a result of the volume of evidence and the opinion put before the committee.

I do not think the committee was as well served as it could have been by the government. Firstly, we had the Chief Minister refusing to appear, despite being requested to on some two occasions. We also have had difficulty in obtaining some documents from JACS as well. Also, as is referred to in the report, we had the minister refusing to allow two officers to answer questions on 20 June, which is

something I do not recall seeing in any committee proceedings in this Assembly. I was particularly concerned to see the Chief Minister refuse to appear, as he is the minister responsible. Some of the officials from TAMS simply could not answer questions because they related to the environmental area. So it was crucially important, as far as that was concerned, for the Chief Minister to appear. The two relevant ministers, apart from the Chief Minister, did appear.

The Chief Minister, as the environment minister, is responsible for many areas relevant to bushfire preparedness and fire prevention. There was a very real need for him to appear and answer fundamental questions, for example, questions in relation to the disastrous 2003 bushfires that still remain unanswered. I refer to such basic questions as why we were not warned. The committee dealt with quite a volume of information, including the McLeod report, the Doogan inquiry and information on our current state of preparedness, or otherwise. It was crucially important for the Chief Minister to appear in relation to that, and to answer those unanswered questions in relation to just what went wrong in the 2003 bushfires.

Having heard all of the witnesses, it is very clear to me that there is still very much that needs to be done to improve our readiness for a serious fire. Indeed, as experienced firefighters such Val Jeffrey said in evidence, it is only a matter of time before the ACT will be faced with another very serious bushfire crisis. The government needs to listen to people like Val Jeffery, Wayne West, Pat Barling and other very experienced volunteer firefighters. They do a wonderful job and have been around fighting bushfires for decades. I think they know far more than any bureaucrat ever really can. I would strongly urge the government—whichever party is the government after the next election—to second such people to run the rural fire-fighting arm of TAMS, however that agency may be structured.

When I compared some of the statements made to the committee by people in the field and their bureaucratic masters, they bore some similarities to the way World War I was won on the Western Front, and that is concerning. That is even allowing for people being passionate about what they are doing. There really does need to be a lot of work done on relationships, and I will come to that shortly. I am not saying that everyone is not trying to do their best; of course, they are. However, far more notice needs to be taken of what the troops on the front line are actually saying.

Whilst the report mentions the significant problems that still exist in terms of the relationship between the volunteers and the commissioner, I am concerned that not enough is being done to re-establish trust between the volunteers and the ESA management. There has to be an effective two-way street between the volunteers and the organisation, and the government must pull the organisation into line. It must do all that is necessary to re-establish that trust. Clearly, from the evidence before the committee and the opinions given by experienced rural firefighters, that trust simply is not there. There is a huge problem, and we saw that with fire-fighting captains throwing in their keys and putting in their vehicles not all that long ago. It seems to me that the volunteers have ongoing, real and legitimate concerns that must be addressed as a matter of urgency.

It is quite clear to me, too, from all the evidence before the committee that a stand-alone ESA should be re-established. Both McLeod and Coroner Doogan made

this recommendation, and the minister of the day simply needs to ensure it adheres to its budget, which is obviously a significant problem. That issue concerned the committee, and it made recommendations with regard to that. However, that does not take away from the fact that every expert has indicated the best format is a stand-alone ESA. I do not think the committee went far enough in relation to that particular item, and I would recommend that a stand-alone ESA be re-established.

In July 2008, Dr Foskey and I went to view the impact the 2003 fires had in the rural areas of the ACT adjoining New South Wales. There are some recommendations in the report in relation to cross-border work between the ACT and New South Wales, and I strongly commend those to the Assembly. Mr Wayne West, who had his property burnt out in the Brindabellas on the New South Wales side, organised the trip, along with a colleague of his who had been involved in fighting fires for over 40 years in that area. On the way up, I was disturbed to see fire trails overgrown. In many instances, they were actually blocked off by very large boulders. I know the committee has made a recommendation about that, but I think those trails should be opened all year round, and work should be done on them to ensure that there is ready access should there be a fire. I also recommend that new fire trails be established wherever appropriate.

It was very concerning to see regrowth after the 2003 fires, and it is very concerning to see that that has made access very difficult, with various forms of bushes and trees all very close together sprouting up through most of the mountain areas of the ACT. Urgent attention needs to be given to clearing some of that regrowth to enable access. The committee walked out to see a spot where the McIntyre's Hut fire started. It took a long time for us to walk through as it was very thick countryside. Conversely, we went to another area where there had been a controlled burn in about 1999, and that was fairly pristine. The fire had gone through there in 2003, but because of the effectiveness of that controlled burn, you could walk through that area. It was the typical scrub we were used to seeing in the Brindabella's prior to the 2003 bushfires.

It is interesting to contrast those areas devastated by the 2003 fires that had not been subject to any controlled burning and those that had been. Those areas which had been the subject of controlled burning were typical Australian bushland areas, and they are testament to what effective controlled measures and reduction in fuel loads actually can do to help counter the effect of the horrendous fires we had in 2003. The main problem, which is not emphasised enough in this report, is the need for regular reduction of fuel loads and urgent attention to the problem which I have referred to in relation to regrowth in what has been now described as the heath country.

The regrowth after the 2003 fires in that area is ugly and it is problematic in terms of getting through it. It caused great concern to even experienced firefighters like Mr Jeffrey, and it is something that the government just cannot dillydally about. It has to be addressed, otherwise we will face a serious problem. The view of experienced firefighters who appeared before the Assembly committee is that fires similar to those of 2003 will probably happen again, so we need urgent and regular reduction of fuel loads, and urgent attention needs to be given to that heath country.

I believe we need regular controlled burns, mosaic burns and any other measures to reduce fuel loads right across the ACT and into the surrounding New South Wales

area. The success of that method has been demonstrated, not just through normal fire-fighting techniques, but it is something that has actually occurred over 40,000 years of human habitation in the ACT. I recommend, over and above what the committee has recommended, that a comprehensive program be developed and implemented to reduce fuel loads in the forest areas of the ACT. I further recommend the ACT begin negotiations with the New South Wales government for a similar program to be developed and implemented in areas of New South Wales that abut the ACT.

From all the evidence we heard, it seems sensible to me for the volunteer fire brigades and other fire-fighting entities to be given much greater flexibility to assist them in putting out fires early. There is great experience in these brigades. The inappropriate way they were handled in the 2003 fires, and you only need to refer to the coroner's report—

At 6.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and negatived.

Sitting suspended from 6.00 to 7.30 pm.

MR STEFANIAK: I also fear a continuing, misguided overemphasis on environmental damage that may be caused by controlled burning. I think the greatest asset we have—and this was made very clear by Wayne West and his colleague—is, in fact, our forests. As a result of the 2003 fires, parts of our forests have been destroyed and will not recover for another century. That is how serious it is, and that is why I think that properly controlled burns to reduce fuel loads save the environment. Any adverse effects they might have on the localised environment are peripheral to the big picture. I think government needs to appreciate this rather than being captured by what is often uninformed views of some misguided people.

I think it is very important for the government not to prevaricate, obfuscate or pretend things are going fine. If they do, those dire predictions by experienced people like Val Jeffrey will come to pass. It was only by sheer luck that those dreadful fires in 2003 did not kill more people. We have to learn from the mistakes of the past. We have to make sure our systems are in place. We have to ensure morale in our essential services is good, the structures are there, the communications are there, the techniques and the training are there and the cross-border arrangements are there to ensure that we can adequately address, as far as humanly possible, future threats by fire.

We have to take the necessary precautions out there in the wilderness areas of the ACT to ensure that the fuel loads are managed, that there is access, that there is a regular program of burning and mosaic burning and that we take all the other steps that are necessary to ensure we adequately protect it. We have to ensure that there are proper communications.

The debacle in relation to the move to Fairbairn is something the committee does address. Again, perhaps some of that could be stronger. But that is something that absolutely needs to be addressed as a matter of urgency. I do think the recommendations there get to the bottom of what has been a very disastrous process

where money has been wasted and where there are some very significant adverse effects in terms of our proper preparedness.

This government and any future government owe it to generations of Canberrans to get this right. I think this report, whilst not nearly as strong as I would have liked to have seen it, points out that there are some very real problems that still face our emergency services. Morale especially, it is painfully obvious, is still very low. Something needs to be done. Maybe people need to be moved to different areas of government if they cannot address those problems but, quite clearly, there are some huge and significant issues there which are unresolved and where the situation has not improved. I fear that those dire predictions may well prove right. We simply cannot afford, though, to do nothing and to pretend that things have improved when they have not. Much more work needs to be done.

I commend my dissenting report to the Assembly. There is a lot of information in the committee report. As I indicated, I have highlighted some of the problems I have with it. No doubt, other speakers, when they read it, may well have some further issues in relation to it.

This is something we simply cannot afford not to get right. We owe it to our children. We owe it to the future. We owe it to all Canberrans to ensure that we are properly prepared for future bushfires, which will happen. It is not a question of "might"; it is a matter of "will". We need to prepare as best we can for that eventuality. Sadly, I must conclude that I do not think we are, as are result of the information that has been placed before this inquiry. Much more needs to be done.

MS MacDONALD (Brindabella) (7.35): I would like to start by placing on the record my thanks to my committee colleagues Mr Stefaniak, the chair of the committee, and Dr Foskey, my colleague on the committee. This report is a very extensive report. The inquiry has been going for quite a long time, and I think members, when they read the report, will see that there is a lot of information in here about the fire and emergency services arrangements in the ACT.

It goes into quite in-depth detail about the arrangements in the ACT as well as looking quite extensively at the numerous reports that have been presented in this area. I will just name them from the report:

1991 Hannan review and the Purdon report
1993 MacDonald Review
1994 McBeth Report
1995 Glenn Review—Task Force on Fuel Management Practices in the ACT

And then, of course, there was the McLeod review and the coronial inquest into the 2003 bushfires.

I think it is fair to say—and I do not think it would be a great surprise to anybody in this place—that Mr Stefaniak, Dr Foskey and I all had very different views on a number of issues in this report. But I have to say this is a committee that works very well together. We do not agree a lot of the time, but we always try to listen to each other. I think that is very important.

I should also at this point thank the committee secretariat who worked very extensively and hard on this report. Ms Robina Jaffray, the secretary of this committee, put literally hours and hours into the drafting of this report and the research into this report. Nicola Derigo did the issues paper that came out at the end of last year. Damelza-Rose Gale has done quite a bit of research. I would also like to say—it does not actually say it in here but Mr Derek Abbott filled in while Ms Jaffray was on sick leave earlier this year—Mr Abbott organised a number of the hearings and filled in at the secretariat functions for those hearings.

The Assembly will note that there are two dissenting reports. The chair has already spoken on his dissenting report. I have also put in some additional dissenting comments. I think those are fairly clear. They are in the back of the report at page 131 of volume 1 of the report. There are, of course, two volumes.

As I just said, each of the members of the committee has different views on a number of things, whether it be on the issue of fuel load and ways to deal with the management of fuel load or the provision of tankers, et cetera, through the Emergency Services Agency and JACS. Mr Stefaniak has put on the record his opinion that the ESA should become a statutory authority.

There were a number of those things in the original report. A number of the recommendations got taken out. As a result, Mr Stefaniak has put them into his dissenting report. The time that we had to deliberate on this report meant that there was an oversight, possibly on my part, in that some of those recommendations were taken out, as has been said, but I believe that the surrounding paragraphs that should have come out as well were not taken out. That is part of the reason that I have put in the additional comments. I could go on further, but I think my comments in the back of the report are fairly self-explanatory.

Mr Stefaniak has made much about the fact that he does not believe we are ready if there were to be another event. Of course, I am sure that all of us in this place are hopeful and prayerful, in some of our cases, that that will never be the case and that it will never be tested to that extent. But I would say that I do not agree with Mr Stefaniak on that.

I think the minister for emergency services, when he came before the committee, clearly outlined the great deal of money and effort that have been put into reforming this area and putting extra resources into this area. The minister might correct me, but I think it is something along the lines of an increase of approximately 84 per cent in budgetary terms in this area. That is a massive increase.

Of course, it is not all just about putting extra money in, but I do not believe it has just been extra money that has been put into this area. There has been a great deal of consideration. Yes, I know that there is a difficulty in that a number of the volunteers do not necessarily see eye to eye with the emergency services commissioner, but that does not mean that we are unprepared. I do not think that that has been proven. It has not been proven that we will not be prepared for an emergency event. There are question marks around things but, if you take a magnifying glass to any area within

any government service in any state or territory in this country, of course you can always find fault.

The issues that Mr Stefaniak has talked about and has, no doubt, talked about in his dissenting report are of concern to him. Yes, there are concerns about people not seeing eye to eye, but I think that is inherent within this culture. You cannot make people like each other, and just because somebody does not like the commissioner does not mean that there is going to be a problem. Just because somebody does not agree with the way the commissioner does things does not mean that there will be a problem.

I commend the main report and I commend my dissenting comments in terms of adding to things that I think should have been taken out. I am sorry that I did not get to those things, but I think it is important that I put that down as dissenting comments.

DR FOSKEY (Molonglo) (7.45): I want to echo my fellow committee members' thanks to the committee secretaries and to acknowledge the other members of my committee. I have to say that a committee of three is quite an intense little being. There we were, the three of us, pretty much the whole time. There was a spell when Mr Seselja was there instead of Mr Stefaniak. We went to Tasmania together at one point in our inquiry about police powers. A certain amount of bonding takes place. I really appreciate that about being in this place—the connections that one can form across parties. I want to see more of that.

In terms of this report, you might say that, since I am the only one who did not write a dissenting report, this must be my report. Yet, the process of consensus being what it is, there is an inevitable watering down. There are things in this report where I feel as though I compromised. But then again, is it really compromise? Are the issues around wildfire in the ACT so complex that it is not possible for three people to deal with the issue—especially when one is a member of the government; one is a member of the opposition with a very well articulated view which does not appear to me to have changed at all in the four years in this place; and one is a Greens person, me, with my perspective.

My perspective means that I am not able to agree with Mr Stefaniak's report—it was where Mr Stefaniak and I argued most in the committee—about the appropriateness of preventive burns, controlled burning. It is not just because I am a Green. I also come from the bush. That means that I might have different views from a lot of other Greens. I have actually fought wildfires. I have seen wildfires start. I have watched other people fight them. I have seen various ways in which they are approached. To me, we have here a very complex issue.

I also feel that our report did not really touch upon—and, because of our terms of reference, could not touch upon—the issues about culture within the ACT emergency services. This was there; it was the elephant in the room. I cannot say how long lived these divisions between the Rural Fire Service, for instance, and the bureaucracy have been, but I would say that they are fairly long lived.

I would also like to say that things have moved. My first experience of emergency services was in the 1980s, in a situation I will not go into here. At that time, there was

such incredible division amongst the emergency services that it appeared to me that they were actually in competition with each other. Things have moved along, and we should always acknowledge that.

We have here a situation where the people who fight fires are some of the people who put themselves at that interface between humans and nature, between uncontrollable natural forces and a bureaucratic process which makes reaction very hard. In the area that I come from, which is an area in Victoria that you will never have heard of, the issues between the voluntary fire services and the department, as it is called—it has changed its name several times; we will just call it the department—are long lived and it seems to me that there will never be a rapprochement between them. The locals believe that they know how to fight a fire and put it out, and the department believe that they know how to fight a fire and put it out. The processes are very different. The local people tend to respond—to get up and walk out there to the fire. Sometimes that is a very long walk. Namadgi is very well provided for by comparison with a lot of far east Gippsland, which is the area that I am talking about.

I just want to say that we cannot expect to solve these problems. We cannot ever be armed against the kind of fire that happened in January 2003. We must know that. We cannot spend the next four or five years in blame, as I have seen happening in this place in relation to those fires.

It is to be understood that mistakes were made. They will, no doubt, be made next time—no matter how well prepared the fire services are, no matter how many millions of dollars have been sunk into it. There are issues around culture that are not solved. There are issues around the fact that most of Canberra is bush. There are issues around the fact that we do not have control over the surrounding forests, which are governed by New South Wales. There are always going to be problems.

It would concern me if this always remained a political issue that could be brought up to blame whatever the government of the day is. Nonetheless, it seems to me that, with our very discrete area, it should be possible for us to work out various things. In our forest, Namadgi, we are really talking about one particular vegetation type; we are basically talking about dry sclerophyll. It is not like, for instance, Victoria or east Gippsland, which have a number of different vegetation types. It should be possible to work out a fire management plan that will include some controlled burning and will include a number of other methods of preventing bushfire and acting very quickly on it.

As I said, for me, coming from the Tubbut area, the fact that that fire was not put out on the first night still stuns me. I am afraid that I cannot help that; that is where I come from. If that fire had happened in Tubbut, people would have been out there and they would have stayed there all night. That is a cultural difference to me. It is also an issue about who controls a fire.

There are still basic questions to be asked. I felt from the very beginning that this inquiry was going to be a political inquiry. I was concerned about it. I had input into the terms of reference; Mr Seselja was the chair of the committee at that time. I did not want to see another blame game going on—another opportunity to blame the government, particularly the Chief Minister. I do not see how that helps anyone.

Nonetheless, there are lessons to be learnt. I would like to see a really thorough study of how we might use controlled burns to protect the rest of Namadgi. It is easy to say: "Oh, well, we've lost the whole forest. We could have lost a few little bits; then we wouldn't have lost the whole lot." That is what we have heard today. But there needs to be science brought to that. I have not seen the science and we did not hear the science in our inquiry.

I want to say also that it is a very useful document. Someone spent a lot of hours going through all the reports and inquiries. I hope that no-one ever has to do that again. In volume 2, we have a very useful document that summarises all the recommendations. It would be ridiculous to have another inquiry that comes up with the same recommendations—because they are: they are basically the same recommendations made over and over again.

If we address those recommendations, we will be doing well. I hope that we have learned something. I hope that the next Assembly does not have to spend a lot of time discussing fire. I hope that the fire we had was our one-in-50-years fire and that we do not need to worry about another wildfire of that extent for 50 years, because that is the way nature works. But we must also remember that, in the context of climate change, we are facing a lot of unknowns, and wildfire is one of the impacts that climate change will have on our territory. And we cannot control what happens in New South Wales. That is clearly an area that requires a lot of work.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (7.55): I move:

> That the debate be adjourned.

A call of the Assembly having commenced—

Mr Pratt: You've got no guts, have you? You've got no guts, have you, Corbell? You've got no guts, have you?

MR SPEAKER: Order, Mr Pratt.

Mr Pratt: Running away from it.

MR SPEAKER: Order, Mr Pratt!

Mr Seselja: You are gutless, aren't you, Simon?

MR SPEAKER: Mr Seselja, order!

Mr Pratt: You are really lacking in courage. You've got the guts of a legless lizard.

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

Mr Corbell: More than you will ever have, Mr Pratt.

MR SPEAKER: Mr Corbell! Quiet, please.

The Assembly voted—

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

Question so resolved in the affirmative.

Question put:

> That the resumption of the debate be made an order of the day for the next sitting.

The Assembly voted—

Ayes 10		Noes 5
Mr Barr	Mr Gentleman	Mrs Burke
Mr Berry	Mr Hargreaves	Mr Pratt
Mr Corbell	Ms MacDonald	Mr Seselja
Dr Foskey	Mr Mulcahy	Mr Smyth
Ms Gallagher	Ms Porter	Mr Stefaniak

Question so resolved in the affirmative.

Order of business

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (8.02): I move:

> That orders of the day Nos 2, 3 and 4, Executive business, relating to the Domestic Violence and Protection Orders Bill 2008, the Guardianship and Management of Property Amendment Bill 2008 and the Corrections Management Amendment Bill 2008, be postponed until a later hour this day.

A call of the Assembly having commenced—

Mr Pratt: Gutless and lazy.

MR SPEAKER: I name you, Mr Pratt. I propose the question:

> That Mr Pratt be suspended from the service of the Assembly.

Question put.

The Assembly voted—

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

Question so resolved in the negative.

MR SPEAKER: The Assembly stands adjourned until the ringing of the bells. I want to see the whips, the Leader of the Opposition and the Deputy Chief Minister in my office.

At 8.05 pm, the sitting was suspended until the ringing of the bells.

The bells having been rung, Mr Speaker resumed the chair at 8.30 pm.

Mr Stanhope: On a point of order, Mr Speaker: I have been granted a pair, which I have no intention of dishonouring, like others in this place. I just want to draw attention to the fact that at this stage I am paired.

MR SPEAKER: Order! That is not a point of order. I have some other matters to deal with. I intend to recommit the vote, because of some confusion, that Mr Pratt be suspended from the service of the Assembly. Those in favour say aye, against say no. The ayes have it, I think. Is a division called for? Lock the doors. All members are present.

Dr Foskey: Are there any pairs in operation?

MR SPEAKER: There are no pairs in operation. All members are present.

The Assembly voted—

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

Question so resolved in the affirmative.

Mr Mulcahy: On a point of order, Mr Speaker: I ask for a clarification in light of standing order 137. Could you explain how the matter has been recommitted and was voted on?

MR SPEAKER: Mr Mulcahy, I am relying on standing order 165.

Mr Mulcahy: Mr Speaker, could you explain to us what the confusion is. I do not know that there was confusion.

MR SPEAKER: I am looking for an artifice, if you like, to resolve a situation which was visited on the Assembly by some confusion about management of issues in the Assembly. In my view, the numbers were altered because of some confusion about the way people manage their attendance in this place. I am relying on the confusion which was caused as a result of the differences over the way members attended the chamber.

Mr Mulcahy: But, Mr Speaker, the standing order is pretty clear. It says "in case of confusion or error concerning the numbers reported". I would not have thought there was any confusion on the numbers reported.

MR SPEAKER: It adds "unless the same can be otherwise corrected, the Assembly shall proceed to another vote". I can do this again, with the leave of the Assembly, if it would clarify the issue—and I think that may be one way of dealing with it—and then everybody is satisfied. With leave of the Assembly, the matter can be resolved. I am prepared to seek the leave of the chamber to recommit the vote. Is leave granted?

Leave granted.

MR SPEAKER: I will do it again.

Question put:

> That Mr Pratt be suspended from the service of the Assembly.

The Assembly voted—

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

Question so resolved in the affirmative.

Mr Pratt was therefore suspended at 8.36 pm for three sitting hours in accordance with standing order 204, and he accordingly withdrew from the chamber.

MR SPEAKER: Thank you, Mr Mulcahy, for raising that standing order. The matter has been resolved more adequately, I think, by having leave of the chamber.

Question put:

> That Orders of the Day Nos 2, 3 and 4 be postponed until a later hour this day.

The Assembly voted—

Ayes 10		Noes 6	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Stefaniak
Mr Berry	Mr Hargreaves	Mrs Dunne	
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Seselja	
Ms Gallagher	Mr Stanhope	Mr Smyth	

Question so resolved in the affirmative.

Standing orders—suspension

MR SESELJA (Molonglo) (8.37): I move:

> That so much of the standing orders be suspended as would prevent the order of the day, Assembly business, relating to Report 8 of the Standing Committee on Legal Affairs, being called on forthwith.

The reason we have had to move for the suspension of standing orders is that this government is, frankly, too gutless to debate this important report that it has pushed back and pushed back and found ways not to debate tonight, because of the embarrassment that it causes it. We know why it causes it significant embarrassment to debate this report tonight. We know why it wanted it pushed back to this evening in the first place and then pushed back altogether, and that is because it is a damning report.

If you look at the entirety of the procedures here, with the report and the dissenting report, this is an embarrassment to Jon Stanhope and it is an embarrassment to the way he has handled bushfire management going right back, of course, to January 2003. This is a Chief Minister who said, when the coroner had a damning report on his behaviour, "These are political findings," and he looked forward to debating them in the political sphere, as did his Attorney-General. When he had the opportunity to do that, he ran. He had the opportunity to come and face up to it, to face up to the committee and put his side of the story of what happened on 18 January.

It is all well and good to fire pot-shots at judicial officers; it is all well and good from the chamber to attack the coroner—

Mr Corbell: On a point of order, Mr Speaker: the question is that standing orders be suspended. This is not a substantive debate on the conduct or otherwise of the Chief Minister.

MR SPEAKER: Tie it into the debate, please.

MR SESELJA: I will not enter into the debate. The reason we have to bring on this suspension is that this government is ducking this issue, as it has been throughout the process. As I alluded to, the Chief Minister was too gutless to front the committee and now he is too gutless to have the debate about his performance and about the performance of his government going right back to before the 18 January 2003

bushfires, on that day, in the lead-up and subsequently. And that is what this report is about. That is why it is important that we have this debate. It is important that we bring it on. That is why this government is ducking this debate.

They are too gutless, as they have been throughout this process. They did not want to front the committee. The Chief Minister did not want to front the committee. And if he was fair dinkum, if he really had a case against what the coroner had found, he would have had the guts to turn up and put it. But we know that his main defence has been that he simply cannot remember. That has been his defence. And since then he has refused to have the debate and to subject himself to scrutiny. He said these were political findings and when there was a political process he ran away. That is why we need to have this debate.

This goes to the heart of the integrity of this government. And the reason we have to suspend standing orders of course goes to the misuse of their majority. They have consistently misused their majority. And there are of course some who say majority government is bad. It is not just majority government that is of itself bad; it is this majority government; it is the misuse by the Labor Party of majority government in this place. They have got control.

In fact, what did they tell us on election day? "You have nothing to fear from a majority government." The people have seen what they had to fear and it is reflected tonight. It is reflected in the way that they use their numbers to prevent having any debate which reflects poorly on them. They use their ministerial powers to refuse to come before a committee, to front up and put their case. If the Chief Minister really believed that he was right and the coroner was wrong, surely he would not mind being subjected to scrutiny.

We would think by now that he would remember what had happened. The psychosis or the hypnosis or whatever process he needed to go into to recover that memory would have happened by now. And of course that would have been one of the first questions we could have put to him. We could have asked him: has the hypnosis worked? Do you now remember what happened on the morning of 18 January? Or have you still forgotten?

Mr Corbell: On a point of order: again, Mr Seselja seeks to cast some very unfavourable aspersions on the Chief Minister. But more significantly he is not speaking to the question before the chair.

MR SESELJA: I will very briefly conclude. We need to suspend the standing orders because this government is gutless; it is hiding from this debate, as it has done throughout the term of this Assembly. *(Time expired.)*

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (8:43): The government will not be supporting the suspension this evening. The government, contrary to the accusations made by the Leader of the Opposition, did permit debate on this report this evening. As is the usual practice when reports are presented in this place, the three members of the committee were permitted to speak to the report before the debate on the report was adjourned. And it is not true for the

Leader of the Opposition to argue that the government has failed to engage in debate on this issue.

Indeed, there was a no-confidence motion regarding the Chief Minister following the coroner's report and there was a full debate in this place on that matter, which the Chief Minister fronted up to and participated in. What humbug from the Leader of the Opposition to claim tonight that the Chief Minister or the government are not prepared to countenance any debate on this matter.

In fact, it is those opposite who seek to rake over the tragedy of the 2003 fires for their own political advantage, which sees this matter seeking to be visited yet again tonight. They are the ones who are seeking, for their own crass political advantage, to exploit the tragedy that was the 2003 fires. It is as simple as that. We have had these debates. We have had these debates ad nauseam. We have seen numerous motions moved in this place. We have seen a no-confidence motion moved in the Chief Minister. We have seen endless reports.

I appeared before this inquiry as the responsible minister. And that is right. The government sent the responsible minister—shock, horror—to give evidence on this matter. And I spent numerous hours before the committee answering the questions of the committee. So for those opposite to bring forward this trite humbug about a government not prepared to engage in debate really is absurd.

There is a range of important legislation before the Assembly tonight. I would ask why the opposition are not interested in debating amendments that will extend domestic violence protection arrangements to people who are currently excluded from being able to access those. I would ask why the opposition are not willing to debate tonight the legislation that will extend new powers to relatives and friends of people who are injured in things such as car accidents and are unable to give their consent to medical treatment. I would ask why they are not even prepared to debate important reforms that will extend important consumer protections to tenants who live in rented accommodation across the territory as well as clarifying the roles and responsibilities of bodies corporate.

Those are the matters that should be debated this evening, not this crass political opportunism from those opposite who would seek, for their own political ends, to simply exploit the tragedy that was 2003. And let us not forget that. That is what they seek to do this evening. These issues have been investigated ad nauseam. I think the Canberra community have made their judgement one way or another about the role of the government, the role of the emergency services, the role of all those involved in that terrible set of events. And they will make their judgements and they will decide for themselves. There is an election in October and they will be the final arbiters on that particular matter.

But for those opposite to seek to exploit it for their own crass political ends when there are significant and important reforms on the table tonight that need to be debated, that should be debated, shows just what priorities those opposite have.

MR SMYTH (Brindabella) (8.48): Mr Corbell has ranked in importance the bills before us this evening. Sadly, he fails to remember that he is the one that put off the

Domestic Violence and Protection Orders Bill and the Guardianship and Management of Property Amendment Bill and the Corrections Management Amendment Bill. Those on this side of the house voted against that reordering because we know that the Domestic Violence and Protection Orders Bill is important. We said, "Let's do it, and do it first."

Let us look at the order of business. Perhaps Mr Corbell forgot, as he so often does, that he orders this. He is in charge of the paper. He is the manager of government business. He puts forward the order. He establishes on behalf of the government the order in which these things will be debated. It is his order and he seeks to change it. His management is cast into doubt by his manoeuvres this evening.

Let us face it. The government simply do not want any more debate on the report on the ACT Fire and Emergency Services arrangements. Why not? It is because they do not want to face the truth. The minister is very good at rewriting. He said that the usual practice in this place is to let just the committee members speak. That is not true.

Mr Seselja: What happened this morning?

MR SMYTH: What happened this morning in the debate about the closure of the Wanniassa health clinic? There were almost 10 speakers. It was fine this morning to have the usual practice, which is that any member who wants to speak to the issue can speak in the debate. But when it does not suit Mr Corbell he rewrites the usual practice. That is the style of this manager of government business. He just picks and chooses.

Curiously, he jumped the order this afternoon so that we could go to the Crimes Legislation Amendment Bill. Why? It was because they did not want to debate the bushfire report before dinner. Then it came back. Mr Stefaniak was interrupted and he lost his flow of thought. You have to wonder whether it was a deliberate ploy to interrupt Mr Stefaniak in that way. Then it was put off so that we could go to something else. We simply wish to bring it back and have the proper debate and give it the due regard that it should have and that any item on the program should have.

The problem for the government is that people now know them for what they are. The Chief Minister bolts as soon as anything containing the word "bushfire" is brought on in this place. He cannot actually come down here and defend the decisions of his government.

What we saw this afternoon was appalling. What we see now is even more appalling. The minister simply rewrites the practice of the house. This is an important issue. There are a lot of people who want to know why the Chief Minister did not appear. Why did he not have the courage, as he said he would? He said: "Blame me. I will take full responsibility for this." He has spent the last four years ducking and weaving and avoiding responsibility of any kind. It is curious to note, Mr Speaker, that every other senior official who was on duty that day has gone, has been relieved of the service of the people of the ACT. The only one left is the Chief Minister, but he refuses to answer any questions.

This debate should be brought on today and resolved before the end of the sitting. We have got two days to go. People are vitally interested in this. My office is regularly contacted by people who want to know when the report is due and what is going on. The only way that they can now find out about what was said in this report is for us to have this debate tonight so that people can know where the government really does stand, so that the Chief Minister can answer why he refused to attend, so that we can find out why questions still remain unanswered and so that we can get to the bottom of what happened so that those mistakes are not repeated again.

We do not need Mr Corbell to rewrite the practice. He has shown already that he does not understand the practice and just picks and chooses what suits him. We need to have the Chief Minister come down and give answers. The Chief Minister tried to use government funds to fight the coroner. When the coroner crossed the line—the supposed line—the Chief Minister said that the matter had become political and he tried to shut the coroner down. He said: "This is political. I will answer in the political arena."

Well, this is the political arena. If you are not afraid of what you have done, if you are not afraid of what you have said and if you are not afraid of your actions being held to account, you will have this debate tonight. This shows that the Chief Minister is afraid to answer the questions. The Chief Minister is afraid to be held accountable. The Chief Minister does not want to be held up to scrutiny. On the day of the election in 2004, he said, "There is nothing to fear from majority government," because he would be, as was said so often in the lead-up to becoming Chief Minister, more honest, more open and more accountable.

There is nothing honest or open or accountable in refusing to appear before a committee. There is nothing honest or open or accountable in refusing to appear this evening in this place and have the debate. It is not honest, open or accountable simply to use your numbers in this way to stymie the efforts of the community to get to the bottom of this fire. (*Time expired.)*

Question put:

> That so much of the standing orders be suspended as would prevent the order of the day, Assembly business, relating to Report 8 of the Standing Committee on Legal Affairs, being called on forthwith.

The Assembly voted—

Ayes 6		Noes 10	
Mrs Burke	Mr Stefaniak	Mr Barr	Mr Gentleman
Mrs Dunne		Mr Berry	Mr Hargreaves
Mr Mulcahy		Mr Corbell	Ms MacDonald
Mr Seselja		Dr Foskey	Ms Porter
Mr Smyth		Ms Gallagher	Mr Stanhope

Question so resolved in the negative.

Unit Titles Amendment Bill 2008

Debate resumed from 7 August 2008, on motion by **Mr Barr**:

> That this bill be agreed to in principle.

MR SESELJA (Molonglo—Leader of the Opposition) (8:56): I am pleased that we have the opportunity to debate the Unit Titles Amendment Bill tonight. We now have the new edict from Mr Corbell about the hierarchy of importance of legislation. Mr Corbell believes that the Unit Titles Amendment Bill is more important than the Domestic Violence and Protection Orders Bill. That is the new standard.

We are pleased to debate the bill at any time. We will be pleased to debate it at 11 o'clock, 9 o'clock or any other time the government wants to debate it. It is interesting that we now have a hierarchy of the importance of bills and the Unit Titles Amendment Bill, as important as it is, according to the Attorney-General of the ACT, trumps the Domestic Violence and Protection Orders Bill.

The government drafted an issues paper to address unit titles legislation and applied it to the following stakeholders: unit owners, unit occupiers, unit purchasers, professional body corporate managers and on-site building managers. The organisations or classes of groups affected are owners, corporations, government agencies, developers, lawyers, real estate agents, industry bodies and community groups.

Issues identified as concerns warranting legislative change were: inadequate dispute resolution processes; enforcement of articles; inappropriate division of functions among the general meeting, executive committee and body corporate managers; inappropriate approval levels, that is, types of resolutions for general meeting decisions; accountability of executive members; conduct and competency of some body corporate managers; disclosure to off-the-plan unit purchasers; more disclosure to secondary and subsequent unit purchasers; the regulation of long-term developer sponsored agreements entered into by the owners corporation; building defects; conduct of some developers; animals and maintenance of common property. There were a number of important issues, Mr Speaker.

The government has not handled this process very well at all and that is why we have seen this go back and forth and why we have seen such concern amongst stakeholders over a period of time. One concern was that the draft legislation did not codify well enough the skills and experience required to maintain a range of properties of various sizes and with varying levels of service complexities.

Another issue of concern was that the legislation required the manager to be a licensed real estate agent. The initial position of the government was to mandate licensed real estate agents as the only common class of persons to manage an owners corporation. Hence all current and would-be body corporate managers would need to secure a real estate agent's licence. As noted by objectors, the management of large multistorey corporations is not a task in which most licensed real estate persons are experienced.

Secondly, the push to narrow the management role to licensed real estate status was viewed as likely to limit competition and lead to the creation of a monopoly of unit title managers by real estate agents. The government did take this concern on board and now allows a manager to be someone who is a member of the corporation and appointed by the owners corporation. Hence a separate and distinct title appears.

However, this needs to be clarified, because a residual concern appears to be that to facilitate the Unit Titles Amendment Bill changes are needed to the Agents Act. Moreover, a brief from ACTPLA refers to the creation of new obligations on owners corporations and managers to be licensed under the Agents Act 2003 and comply with the code of conduct. Uncertainties exist as to how a manager of a body corporate will, in principle, on implementation, be treated.

The new bill mandates the appointment of a chairman to an owners corporation. Current legislation allows a committee rather to delegate responsibilities to its members for certain executive roles. It seems that these roles in the current legislation can change at any time and by consensus or vote. It is argued that the new system provides an unhealthy security of tenure arrangement. We believe that there should be flexibility in the act which is not there at the moment, that is, the option to appoint a chairman and the option to delegate executive positions to certain members.

The new system in its entirety reinforces the following unit title provisions: a general administration fund for day-to-day repairs and maintenance and a sinking fund for all capital works. It is understood that under the Unit Titles Amendment Bill, once passed, general administrative fund moneys will need to be held in a trust account by the newly set up ACT Civil Administrative Tribunal.

The government's position on this is a concern. At the moment they have pulled back from reaching into the pockets of unit owners and renters. But we know what they want. They indicated here and it was made clear by the minister to unit owners that what they want here is to get their hands on some of this money. They have been forced into an embarrassing backdown on this issue, and we welcome that, but we do not trust them. We do not trust them not to do it.

We see what their real intentions are. Even though they have pulled back from having this in the legislation and while the issue is difficult to ascertain at the moment, ACTPLA have said that they will remove the trust provision for administrative funds and instead will consider implementing a small levy on all ACT unit title owners. Either they will reach in and grab the money and, therefore, the interest at the expense of owners and renters or they will look to implement a levy. We know when that levy might come. That levy will come if they are re-elected.

They have signalled their intention to interfere unreasonably with these moneys and to interfere with unit title owners and, of course, renters because this will be passed on to renters. If the expenses of the owners of units go up as a result of the government reaching into owners' pockets, that will eventually flow down to rents. All renters will be disadvantaged once the government completes its true agenda. They have already put it on the table. When asked about this, ACTPLA said, "Well, we will look to do a

levy." So they will reach in and get the money or they will have a levy. One way or another, they want to get the money.

We draw the line. We will not be supporting this legislation, for a number of reasons. They simply have not got it right. They have not done the work to get the balance right. We acknowledge that this area needs reforming. But, as has happened in so many areas in the last few years, this government has not got it right and community concern continues.

It is a concern when we have had so much time to get this right. We have a majority government. They do not have to negotiate the fine detail with the crossbench and others, and they still get it wrong! They do not listen to the community and, in the end, they are chopping and changing and they are not sure which way they are going to go. That has been clear from the outset of this debate. That is why there is still concern in the community, and the broader concern, broader than the legislation itself, about what this government will do if it is re-elected.

If it is re-elected it will find a way of slugging the unit owners. Mark my words: if this mob gets back in office, they will do it. Mr Barr will get up and protest and say, "No, no, no. We have pulled back from that. We have no plans to do that." We have heard that before, haven't we, Mr Stefaniak? We have heard them promise not to do certain things before an election. We heard them promise not to close any schools prior to the 2004 election.

Mr Barr: You cannot even go for 10 minutes on the actual subject of the debate.

MR SESELJA: Mr Barr is very sensitive on this issue, Mr Speaker.

Mr Barr: You are so far from your portfolio responsibilities!

MR SPEAKER: Order, Mr Barr!

Mr Barr: You cannot even go 10 minutes.

MR SESELJA: He is very sensitive on this issue, Mr Speaker.

MR SPEAKER: Order, Mr Barr.

MR SESELJA: He is very sensitive on the issue of this government, the Labor Party, going to elections and not telling the truth. Of course, he is the man who implemented the broken promise. He got into government, became a minister and started closing schools in defiance of the government's 2004 election promise.

MR SPEAKER: Relevance.

MR SESELJA: It is relevant, Mr Speaker. This is about what the government had in this bill and what it will put back in the legislation after the election. There is no doubt about it. If they are re-elected, unit owners and renters will be slugged.

They have gotten this bill wrong, in a number of ways. We propose that this bill be put aside. If they were fair dinkum, they would wait until after the election. We will have a new Assembly, a different Assembly. We are dead sure there are not going to be nine Labor members. There will be at least a couple less than nine. They will not have majority government. When we are in government, we will go through a process of actually properly consulting with the community—

Mr Barr: At the rate you are losing your members, mate, you would be lucky to come back with seven yourself.

MR SESELJA: and properly listening to the community, Mr Speaker, we will listen to the community and we will get it right.

MR SPEAKER: Order, Mr Barr!

MR SESELJA: This government have not taken the time to get it right. They have got it wrong. We will oppose this legislation as it stands. We will come back after the election and we will get sensible legislation. We guarantee that we will not be reaching into the pockets of unit owners and renters in order to fund our promises. We will not be imposing a stealthy tax of the kind that they initially proposed and which we know they still have plans to bring in. One way or another, whether it is a levy or whether it is the interest from administration funds, they will do it.

There are significant problems with this bill. The bill does not get the balance right. The government has had to bring in a number of minor amendments at the last minute, and that is because of the confusion caused as a result of not getting this bill right in the first place. But even with these minor amendments they do not get the balance right. We will be opposing the bill.

DR FOSKEY (Molonglo) (9.07): The Greens will support this bill in principle, but we agree with Mr Seselja that we would like to see the detail stage postponed until a later date. The unit titles regime in the ACT has needed an overhaul for some time, and I commend the ACT government for the review programs to date. That includes the issues paper prepared in 2006 and a draft bill released for comment earlier this year, for arguably too short a time.

I am aware that there are considerable concerns with this bill, and while I flag general support for it I would rather that it was passed early next year after more consultation, particularly with owners. People who own units often comment on their frustrations about the operations of their unit plans by their unit plan managers. In part, that is due to expectations that might be unreasonable given the actual funding and powers that are available to those managers, or it could be because of a lack of clarity and/or accountability. I believe that this bill goes some way towards making those responsibilities and expectations clearer.

With those clearer responsibilities and accountabilities come some costs. The requirement for funds to be kept in trust accounts clearly seems unfair to owners who are in control or who believe they are in control of their operations. It does provide

some protection, however, for owners against managers who may be careless or misappropriate the funds. It would also provide a mechanism by which the government could establish funding for a regulatory scheme. It is that aspect which has clearly rung alarm bells—certainly it has rung the alarm bells of the Liberals—and that is, in essence, why I believe it would be better to hold off passing the bill until more dialogue can be conducted.

There are provisions in this bill that are fairly universally supported. I think we are all aware of the issues that surround unit title arrangements in developments. The interests of the developer are not the same as those of owners and so some protection of the eventual owners in the development process is important. I will not go through those provisions in detail as they have been quite well explained by others. Suffice it to say that new owners need to be made aware of any contracts entered into, in effect, on their behalf by the developer. Furthermore, it is reasonable that owners who are participating in the management of their unit corporations are not outmuscled by the developer.

One of the highlights of this legislation in a media sense—and, let us face it; the media has cottoned on—is the amendment which will prevent units corporations from specifically excluding pets, and while owners or tenants may not get permission from their body corporate to keep a pet, such decisions will now have to be made on a case by case basis.

This will result in a great improvement in the quality of life of many people. In fact, an issue that has been raised with me a number of times over the years is that elderly people moving into units because they cannot manage their house and their yard anymore really regret that they cannot have a pet. For some others inevitably there will be compromise. But, on balance, I think this is a step in the right direction given the general community move into medium and high density living.

I also think that the situation of tenants in a unit title property has needed to be considered for some time. I am pleased that the intersection of tenants' rights and responsibilities and those of owners of the corporation itself has been teased apart a little to ensure that the issues that relate to tenants in unit title habitations are not simply confined to the Residential Tenancies Act. Tenants and owners corporations will be required to have more careful regard for each other, rather than simply hiding behind the absent owner of those particular units.

I am aware that several owners are very strongly concerned about the introduction of tenancy matters into this legislation. There will always be issues about where people believe the balance should lie in relation to landlords and tenants, and I am sure that the government will always be dealing with that balance, but the reality is that tenants are also cohabitants with owners in such situations and it is not possible to push any matters relating to those particular inhabitants into another realm.

The issues that have sprung up around this bill are a combination of a number of factors: the conflicting interests of resident unit owners, investor unit owners, tenants, unit plan managers and property developers. There are quite a lot of players with quite diverse objectives complicated by various misunderstandings and the somewhat

clumsy introduction of a unit titles scheme dovetailed with the development and commencement of the ACT's new Civil and Administrative Tribunal—the ACAT.

It may also be that some of the concerns raised are a little mischievous in that this bill, if passed, will introduce competition to the units plan managers and will set up greater expectations and extract more rigorous accountability in their field. In many ways it seems to have proved to be too tempting for some with a vested interest in the existing unit titles management sector to highlight concerns in a fairly alarmist manner. For example, the decision to set up some kind of licensing regime for managers of owners corporations has led to some agitation and worry, particularly as it has been done through the agency of the Agents Act, indeed, under the heading of real estate agents. We all know what most people think of real estate agents. Where are they on the list compared with politicians? Not much higher, one imagines.

I have received numerous submissions, as, I am sure, have other members, and comments in person protesting at an apparent requirement for managers of owners corporations or units plans, as they used to be known, to be real estate agents. In fact, under a provision of the act managers, while described as real estate agents, would, in fact, be licensed as owners corporation managers. It is a shame that it was not possible to find a simpler way of communicating that approach so that there was not room for those who were ill-informed or simply annoyed to spread alarm. But, Ms Madam Temporary Deputy Replacement Assistant Speaker, the fact is—

MADAM ASSISTANT SPEAKER (Mrs Dunne): That could be considered disorderly, Dr Foskey. You should get your terminology correct.

DR FOSKEY: I knew one of those would be right. There was a vacuum there and within that vacuum alarm has been placed. I sought some explanation of how the act works and was given this advice, which, for ease of explanation, I will quote verbatim. It states:

> The Real Estate Agents licence covers a wide range of business functions. To this extent it might be regarded as a generic licensing platform in relation to a range of similar property management/selling business activities.
>
> Previously, real property auctioneers have been brought within this scheme using the conditional—

I think it might be previously real estate property auctioneers:

> licence system. As with the present case, many of these auctioneers were also licensed real estate agents.

Now, after the amendment to the Agents Act, which would be affected by this bill, a licensed real estate agent will also be able to act as manager of an owners corporation for a units plan. Furthermore, under these amendments the holder of a conditional real estate agent's licence who only acts as a manager of an owners corporation will only be able to undertake the function of acting as manager of an owners corporation for a units plan. I hope this is making sense. In effect, it is a special licence, as requested by stakeholders, for unit plan managers. In my mind it has just got the wrong name.

There is also, without a doubt, the issue of funding. This government has put the funding formulae or approach on hold until early next year. The intent is clear, however, that the costs of administering the oversight scheme, including that component of tribunals that this scheme would draw on, should be managed on a user pays basis. That issue, unresolved as it is, is the most significant factor in my decision to support this bill through the in-principle stage only and to suggest that the bill really ought to be debated once the ACT Civil and Administrative Tribunal is properly established.

The point has been made that under the Residential Tenancies Act, for instance, income accrues to the ACT from interest earned on rental bonds and that income is used, among other things, to cover the costs of the Residential Tenancies Tribunal. In fact, I have been advised that the income that accrues to the ACT from this funding, while variable, is around $1.5 million to $2 million. The total approximate cost of running the Residential Tenancies Tribunal is only $350,000 per annum. So it looks like the ACT is doing very well out of that scheme.

In that context—and this is simply a ballpark figure that may underestimate the cost, but it is indicative—we can expect annual costs of managing the unit titles regime to be around $320,000 per annum with an additional expenditure of approximately $190,000 in 2008-09 to get it up and running, and the minister will, of course, contradict that in his speech. Averaged out over all unit holders, that would be a pretty small sum—around $10 a year. I think that the ACT could sell that to owners overall with the time and the opportunity—two things it has not given itself.

Nonetheless, despite the experience of the Residential Tenancies Tribunal, I do think there are issues about having tribunals operate on a user pays basis. It is my view that a more open discussion would be the way to resolve these issues. I know a lot of matters will be sorted out down the track by regulation, but I am not really comfortable with that approach. I think that we should solve the problems around this bill, and it would be better to do so prior to passing it.

I would like to add that incorporation of this scheme into the tribunal structure has been part of the communication problem. There are many interested parties out there who imagine a stand-alone tribunal would be fairer and would echo provisions in other states. In my mind, in a small jurisdiction like the ACT the combined tribunal structure, once it is all sorted out, will probably deliver better.

Similarly, it is worth noting that the tribunal processes themselves will encourage some internal attempt to resolve disputes and some time spent in mediation prior to a full hearing. That, indeed, is the kind of process that was suggested in the discussion paper and that some of the owners who have contacted me are suggesting. I believe they can be reassured that the new system, when in place, will deliver something close to the model that they are calling for. But as the tribunal itself is not up and running it is proving hard to convince interested parties that this bill and the ACAT with which it is linked is an appropriate approach for this jurisdiction. That is a part of the unsettling nature of this process.

I believe that this project is the result of important and good work conducted by the ACT government over the past few years. I am concerned that a few issues have blown up in ways that work against these achievements. Given that there are so many people who own unit title property who will be affected by this bill, I believe that the advantage in terms of understanding—and so acceptance—to be gained by slowing this process down outweigh the advantages of pushing it through now.

I ask that this bill be reintroduced following more discussion. Once we have an understanding of the legislation, we can look at it again early next year with everyone reading from the same page with the need for very few changes. It is important that we do this because there is no doubt that many more people will be living this way in the future and we need to get it right now.

MR MULCAHY (Molonglo) (9.22): This bill has generated a great deal of interest from the community and obviously a great deal of controversy. From my perspective, it is a very good example of the dangers of rushing legislation through this place in time for an election deadline. There have been a great many concerns expressed to me by constituents, which the minister is aware of, both about the consultation for the bill and about the substance of the bill itself. This bill will affect a great many units. It will affect the apartments that we see springing up in Canberra as well as some aged-care villages which are organised as unit corporations.

My own experience, having been given a briefing on this bill by the government, has unfortunately been the same as the community's. In fact, I can honestly say that in four years in the Assembly my briefing on this bill was the poorest quality briefing I have ever had. This is not mere hyperbole; my office has contacted the minister's office to make it clear to him that the briefing on the bill was highly unsatisfactory. In this case, the briefing given by the minister's office—in fairness, it was primarily driven by ACTPLA—was completely lacking in crucial information and the officials present seemed to make unsupported accusations about management corporations and to take the view that no serious rationale is required for changes that would put unit corporations entirely under the thumb of the government.

For example, one of the officials explained that they wished to increase competition because of the "exorbitant" fees that are allegedly being charged, or they allege are being charged, by manager corporations. When I asked for figures that the government had to corroborate this claim of exorbitant fees, they were unable to refer to me any evidence on the matter. In fact, it appeared to me that this was merely the subjective assessment of a particular official passed off as a rationale for change. I am not sure whether this was the view of the minister or the department or whether it was the official offering speculation of her own, but when I asked why changes to various rules were being introduced I was told that this was due to complaints from unit owners. When I asked how many complaints there had been, I was told that there were no records of the complaints; they were all thrown away.

In the four years I have been in this place, I have gone through budget processes and estimates. They are right down to logging the number of calls that go into Canberra Connect, how many they achieve, what their targets are and what their KPIs are. Then

you hear a major ACT government agency just saying, "No, we don't keep any record of the complaints." I found it absolutely staggering. I hope the minister might address that when he speaks in a moment. It certainly shook my confidence in the rationale for this legislation and it prompted me to escalate my concerns.

When I asked why the licensing provisions for body corporate managers were being introduced, I was told that this was necessary to ensure proper regulation to protect unit owners. ACTPLA officials assured me that this was a matter that had been raised with them by many constituents, but, when I asked what the requirements and costs for these licences were and how they would protect unit owners, officials did not know anything about those criteria. They did not even know what the licence requirements were that they were introducing. This is simply incongruous and shows that the government does not have any clear rationale for the changes it is introducing.

The briefing followed a disastrous attempt at community consultation, with many constituents feeling marginalised. I acknowledge—and the government does deserve a measure of credit here—that, since the concerns were raised, and in particular since the meeting that I held here in the Assembly, the minister and his advisers have taken the time to sit down with residents and go through their concerns. The result of those meetings has been a greater level of understanding amongst some residents about what the changes will do and how they will operate. If the initial process had been as thorough then, I suspect that a lot of the concerns we are seeing today may not have eventuated.

There are a number of serious problems in the bill and with the various proposals that have accompanied the bill in its previous drafts. The government has now dropped the requirement for unit corporations to hold their funds in trust accounts with interest payments skimmed off the top by the ACT government to pay for the ACT Civil and Administrative Tribunal. In the debate on the ACT Civil and Administrative Tribunal Legislation Amendment Bill, the government said that this would lead to a more efficient use of resources and avoid wasteful duplication of administrative functions. I would have hoped that under these circumstances we would see savings from this change so that no such requirement for additional funding would arise, but nevertheless the government has made it clear to us that it intends to establish some kind of user-pays system for unit owners to cover the cost of tribunal functions pertaining to unit owners. It is not settled as to whether this will be by way of a mandatory trust account requirement or some other mechanism.

I have had informal discussions with the minister. I know what he says and I think he is sensitive to the fact that there should be savings. But I am still very much ill at ease—and I know many of my constituents are—at the thought that we are going into a process where we are going to be asked to vote on legislation when these matters are left up in the air. It is not therefore without some high level of concern that people are writing in and saying, "These things ought to be resolved before we rush legislation through the Assembly."

One of the changes in this bill that has received criticism from many unit owners is the restrictions on who can be the manager of an owners corporation. New section 55 introduced by the bill provides that the manager of an owners corporation must be

either (a) "a person holding a licence as a real estate agent under the Agents Act", which can include a conditional licence; (b) "a member of the corporation"; or (c) "someone else who is not a manager of another owners corporation", and whose income as manager will not be their primary source of income.

This means, for example, that if a husband and wife live in a unit which the husband owns then the wife cannot serve as corporate manager without a real estate agent's licence if this would be her primary source of income. If the minister has a different view, I will be delighted to hear the perspective. The government seems to ignore the fact that only a relatively small percentage of unit complexes are large enough to retain a professional manager. This bill places an onerous requirement on smaller complexes that might otherwise manage themselves.

Officials from ACTPLA have assured me that the requirement for a conditional licence as a real estate agent is not an onerous one. They have assured me that one can obtain a conditional licence to act as the manager of an owners corporation without having to qualify as a bona fide real estate agent. However, ACTPLA were unable to answer several important questions about this conditional licence. I asked what the requirements of the licence were; they did not know. I asked how much it cost to apply for the licence; they did not know. I asked whether the authority issuing the licence has any general, subjective discretion over the issue of a licence or whether there were clear, objective criteria; they did not know.

ACTPLA promised to come back to me with this information, but as of tonight they still have not done so. So, regardless of the actual conditions, it seems to me impossible to argue that a licensing requirement is useful when those who seem to be developing this idea do not even know what the requirements for the licence are. Maybe again the minister can set our minds at ease.

The third category of people who are allowed to act as managers is also a bit strange since it seems to discriminate against professional body corporate managers and against people who do not earn income from some source other than as a manager of the owners corporation. On my reading of it, it seems somewhat irrational. In particular, it seems to me to hinder two valuable categories of manager: (a) professional managers who manage several owners corporations and therefore bring skills and experience that other managers may not have; and (b) people whose primary income comes from their role as manager. In this case, this is probably because this is their main job and they can, therefore, devote substantial time to doing it well. In both cases such a person can obtain a conditional licence as a real estate agent, but there is still an additional requirement.

The new bill introduces detailed legislative provisions on a number of matters, including the appointment and dismissal of managers, a code of conduct for managers, the appointment and dismissal of a communications officer, rules for pets and rules for engaging service contractors. New section 51A sets out rules for keeping pets. This requires unit owners to apply to the owners corporation for permission to keep a pet in their unit. Permission may be given subject to conditions but may not be unreasonably refused. Sections 55A to 55G set out the rules for managers, including a term limit and a mandatory code of conduct. Section 55H and 55I set out rules for

communications officers. Sections 55J to 55V set out rules for service contractors and financiers.

One of the concerns raised with us is that these rules are very prescriptive and cannot be altered by the unit owners. There was a concern that these rules may not be suitable for all owners corporations. One constituent at the community meeting held on this issue described it as the nanny-state approach of the Stanhope government.

Previously, the Unit Titles Act has dealt with many of these matters through having default articles of incorporation for owners corporations. These default articles are set out in regulations that apply to an owners corporation unless they choose to amend them by special resolution. This meant that unit owners could alter these rules to suit their own circumstances by a special resolution. Under the new approach many of these rules will be enshrined in legislation and cannot be altered by the owners corporation regardless of how many unit owners agree.

My staff asked ACTPLA officials what was the rationale for these changes. They said that the new provisions were being added because managers and others were not clear on their functions. When asked why these rules were being added as legislative provisions instead of as default articles of incorporation, which would make them just as clear but which could be amended by special resolution of unit owners, ACTPLA officials had no explanation. We were just told again that managers and others were not clear on their functions.

New sections 62 and 63 of the bill establish a requirement for owners corporations to prepare a plan of anticipated sinking fund expenditure 10 years in advance and approve this plan by ordinary resolution. The bill also includes requirements to review this plan. This requirement seems to me to micromanage aspects of running a body corporate that are best left to the articles of incorporation.

I will not be supporting this bill at this point, and I urge other members in this place not to do so. At the very least, I would hope that members would vote against the bill until the issues raised by large numbers of constituents have been satisfactorily resolved. I acknowledge that the government's efforts at the 11th hour of this bill have been better and that some concerns have been addressed, but I still feel that there are too many uncertainties that need to be addressed to offer this bill my support. I do appreciate that the minister has tried to work cooperatively with us, but the fact that the implementation date for this has blown out quite a bit is a pretty fair indication that there is still a high level of angst and uncertainty out there.

The minister showed me an email he had from someone who was very content. I am sure he will refer to it in his speech; he has given me a copy. But I had an email tonight signed off by a couple of people who attended the meeting I held the other day. They said:

> Thank you for your work so far.
>
> We, the 'consumers' who own and live in unit title properties, continue to be extremely concerned that the ACT Government intends to push the *Units Title Amendments Bill* through the Assembly before it rises as we will be saddled with legislation that includes discriminatory, inequitable and adversarial conditions …

They cited some of those conditions. They said:

- The Bill proposes adversarial dispute resolution processes (without reference to the accepted approaches, mediation, conciliation, negotiation, before litigation
- The Bill imposes onerous and overly bureaucratic requirements on volunteer committee members
- The Bill does not bring the ACT into line with other states
- Turns Body Corporate Managers into real estate agents

My constituents write:

> We were not consulted by government on the drafting of this Bill, nor has the government considered the impact the Bill will have on the large number of pensioners, self-funded retirees as well as young families.
>
> While the *ACT Residential Tenancies Act* Tenancy Act prescribes tenants rights to "quiet enjoyment, reasonable peace, comfort and privacy", this Bill does not.
>
> This Bill when passed will also increase red tape, increase cost of living and reduce owner's quality of life simply because 100,000 Canberrans have chosen to live in medium to high density housing.

They go on to attach various discussion papers they sent me today. They say:

> We urge you to consider these issues carefully and to please work toward making the required changes to the Bill.

I know the futility that occurs sometimes with votes taken in this place, although tonight showed that you cannot always predict what will happen. But with that concern and with the commitment I made to the people I represent, I want to formally move that debate be adjourned on this matter. I seek leave to move the adjournment of the debate.

Leave not granted.

MR MULCAHY: I move:

> That so much of the standing orders be suspended as would prevent Mr Mulcahy from moving that debate be adjourned.

Question put.

The Assembly voted—

Ayes 7		Noes 9	
Mrs Burke	Mr Smyth	Mr Barr	Mr Hargreaves
Mrs Dunne	Mr Stefaniak	Mr Berry	Ms MacDonald
Dr Foskey		Mr Corbell	Ms Porter
Mr Mulcahy		Ms Gallagher	Mr Stanhope
Mr Seselja		Mr Gentleman	

Question so resolved in the negative.

MRS BURKE (Molonglo) (9.39): It is a pity that we are not taking more time to review this very important legislation, which is obviously going to have seriously detrimental impacts upon many in our community. It was said of the Bourbon kings of France that they forgot nothing and learnt nothing. The first, I think, referred to an appetite for revenge against those who opposed them. In fact, the Bourbons, with their arrogance and their calculated inability to hear what their subjects were saying, puts one in mind of this government with its autocratic and arrogant Chief Minister. With this government across every portfolio we get lese majeste and the refusal to consult, except after the fact as a means of justification when it means nothing except ticking a box.

Labor also have a reputation, both locally and federally, for being vengeful towards those who dare criticise them. The Chief Minister is on record as calling the Property Council an arm of the Liberal Party. This bill concerning unit titles is the Stanhope government up to their usual tricks. This is the equal highest taxing government in Australia, which is some achievement among a swathe of Labor governments. It is really what they do best. That is why the Chief Minister's chief boast is about the money he has spent. It is not what you spend but how you spend it which makes the difference to public welfare.

In the case of the Unit Titles Amendment Bill, the ACT government is sneaking in yet another means of getting hold of the hard earned cash of the people of Canberra—in this case, all unit and apartment owners. This is because the bill changes important rules for the operation of owner corporations, body corporates, unit occupiers and on-site building managers in the ACT. According to these changes, body corporates will have to hold all general and administrative fund moneys in an ACT government trust fund. How convenient for this money-hungry scrooge of a government. With its hands in the pockets of unit and apartment owners, it will take the interest on those funds. The interest on the funds will be lost to the body corporate and the individual unit—

Mr Barr: Didn't you listen to your own leader on the news tonight and in his own speech just 20 minutes ago?

MRS BURKE: How unfair is this? But we should not be surprised, because this government makes an art form of taxing its citizens for anything and everything whilst continuing to reduce services. The money taken in this way would normally be used to meet the needs of the trust holders and used to offset maintenance costs which, of course, can be very high. Under this bill, the interest money flows straight into

government coffers. It also has to be said that you need a decoding device for this tricky legislation. That is why we should have stopped this process tonight and gone back and done the consultation, which was never done properly in the beginning, to get this right. Why are we rushing it through? Why is there this big urge to get this faulty, flawed legislation through? It is a ridiculous move by the government. Most people who will be affected will no doubt be none the wiser until it is too late. Of course, this Labor Stanhope government is a past master of tying up processes in unnecessary bureaucracy and red tape, which has the effect of stifling enterprise and adding to costs, and the Unit Titles Amendment Bill is no different.

Another real inequity in this bill concerns the needs of developers to have all service agreements approved by the ACT Civil and Administrative Tribunal. This is likely to add significant delays to getting housing into the marketplace, and delays mean more costs and housing will become less affordable. This bill is yet another example of the Stanhope government's failure to consult, and the higher costs that will result to unit and apartment owners as well as the loss of interest moneys is no small outcome. The bill also provides that developers will have to accurately forecast the operating costs of their unit or apartment complexes two years into the future. This is rich coming from a government which year after year fails to accurately predict its own budget bottom line. It found, recently, that—surprise, surprise—it had an extra $100 million in the kitty. But the developers will be punished for not being able to predict what costs will be in two years time, even though much of this may hang on costs that are totally beyond their control. This will have serious consequences.

What this means in practice is that under section 31A (3), the buyer of the unit may, by written notice given to the developer, cancel a contract of sale before the contract is completed if the developer's disclosure under section 31A (2) is incomplete or inaccurate and the buyer is significantly prejudiced because the disclosure is incomplete or inaccurate. The Property Council believes that this provision will be detrimental to a development proceeding because it is common for the financial lender to require that all contracts for sale be unconditional. A developer would then be able to warrant the requirement to their lender and make it difficult to secure finance. It is a remedy that is far more than required to adequately protect a buyer. It would also seem to give the buyer the ability to cancel a contract because they have changed their minds.

The additional layer of bureaucracy provided in this bill means that the new ACT Civil and Administrative Tribunal, or ACAT, will become the arbiter of just about everything. Owners will have to go through ACAT to get approval to do anything to their properties, even the most minor thing, such as installing air conditioning or building a pergola. You can imagine the bureaucratic minefield being created here. It means, too, that all disputes go to ACAT instead of through the currently very workable mediation and Magistrates Court processes.

The normal process is for the owners corporation to enter into contracts for the maintenance and management of the units plan immediately after registration of the units plan. This bill provides that such contracts have to be approved by ACAT. The consequence is that the owners corporation will not be in a position to effectively and efficiently manage the units plan. The involvement of ACAT will also mean that there

will be a delay in settlements as the owners corporation will no longer be able to contract with its own manager to prepare a budget and the section 75 certificate until the contract has been approved by ACAT. This is from the government that claimed that the Canberra Liberals' plan for a community hospital board was adding another layer of bureaucracy.

In conclusion, I would like to refer—I think Mr Mulcahy did earlier in his speech, too—to the many representations the opposition have received. We have had people send in pages and pages of what they believe to be issues with this bill. Why is the government so hell-bent on not listening to the people who are on the front line in the community? You obviously think you know better. You obviously know much better about what is supposed to be there and what is not. This is what is wrong with the bill: the people who are right in the front line—the unit title owners—are being treated differently to single title owners; dispute resolution processes are not included in the bill—how bizarre is that; there is no reference to an approved mediator process before recourse to litigation or referral to a civil tribunal; the bill is legislation by exception; it will pit neighbours against neighbours; it includes provisions that do not even belong in unit titles legislation; and it will lead to frivolous and vexatious claims and will overload tribunals. Again, one would have to ask why on earth we are debating such flawed legislation tonight.

This is an absolute crock. It will not be workable. Clearly, there are many major problems with it. Let us get to the facts that are being ignored. This is where the community are not being listened to. There has been no credible consultation with principal stakeholders. How can you have drawn up this legislation without talking to the very people that it is going to impact? The bill ignores or misunderstands the major findings of experts—for example, the Bugden report. The government says: "Let's just toss out the window the advice of those people who know about it. Let's ignore their advice."

I could go on and on with this. It is an absolute travesty that this government are so hell-bent on pushing their legislation program through—we tick the box, yes, we have done that—to the detriment of the community out there. I understand that we are talking of upwards of around 100,000 people that this bill could impact. That is a huge number of people who are being ignored.

In conclusion, what we get from the government that never forgets its enemies but never learns anything is more arrogance, more unworkable, unwieldy bureaucracy and more exorbitant taxing of its citizens. That is why the Canberra Liberals are voting against this bill: it will make housing more unaffordable; it will make the administrative processes more onerous; and it constitutes an effective tax hike on apartment and unit owners and, therefore, wrongly penalises those owners in our community. We will not be supporting the bill.

MRS DUNNE (Ginninderra) (9.49): The future of people who live in unit titles is a very important issue. There is mixed opinion in the community about what needs to be done, and there is mixed opinion about the efficacy of the current proposal. That opinion is generally summarised by opinions ranging from complete lack of regard for the proposition put forward by the government and the desire on the part of many

people to throw the thing out and start again. At the same time, it is tempered by a level of frustration amongst people who live in unit titles and who are affected by this legislation because, at the moment, the system does not work.

I have worked in this place for 13 years, and all the time that I have worked here, either as a member or before that as a staffer, I have dealt with people who have had problems with various iterations of the unit titles legislation. There are some standout and spectacular cases of where the unit titles legislation does not serve the people who live in units. We have to remember this—and Dr Foskey is right—there are increasing numbers of people who live in units, apartments, town houses and the like who are governed by body corporates. There are an increasing number of people in the ACT who are paying a very high price by having many of the freedoms that we take for granted taken away from them.

Many people who live in unit titles do not have the true enjoyment of their property that people have come to expect, especially when you live in detached housing. It is nigh on impossible to own a pet, and that is a great disincentive, as Dr Foskey pointed out, for many people. This legislation, of course, does take steps towards addressing that issue, and that is welcome. There are some changes in the bill that are welcome. However, the overall effect is still a flawed piece of legislation. I suppose it is what we have come to expect in the ACT, year in and year out, and, I have to say in all honesty, government in and government out, in that the unit titles legislation does not meet the needs of the people of the ACT who live in units, apartments and town houses.

The fact that I am saying this today is not new; it has been like this for 13 or 14 years to my knowledge. When I first came to work in this place as an adviser to Mr Humphries, who was then the planning minister, I had a lot to do with people who were tearing their hair out in frustration at the capacity for one person in a unit title to veto anything that was going on. There were problems with the raising of money for sinking funds; there was the differential treatment between class A and class B units; and there were problems over time with encroachments which made it impossible for people to sell properties that were subject to unit titles. The problems go on and on, and there has been a bandaid here and another bandaid there.

To its credit, the government started a consultation. The feedback that I have had from many people who were involved in that consultation was that it started off very well indeed. They felt that they got a really good hearing from the official, Mr Bugden, who came and spoke to people about unit titles. He worked through their problems, and they felt that they were actually going to make some progress. But, somewhere along the line, all the work of Mr Bugden seems to have been thrown out like the baby with the bathwater. It now seems that the model proposed by Mr Bugden was unacceptable to the government and that the government has decided to reinvent the wheel.

What we actually have now is a hugely bureaucratic structure which will make it, in most cases, harder for people to run their unit titles. There will be much more constraint and much more recourse to an outside umpire for even the simplest things. Mrs Burke pointed to the fact that it will now become the case that you actually have

to have ACAT sign off on maintenance contracts and the like. That is a crazy way to operate, because it will mean that it is very difficult to actually set up the unit title in the first place. It will be hard to get the certificate of occupancy so that people can move into new unit title structures, because there will almost certainly be a backlog of people waiting to get permission. There is a backlog now. The approval of unit titles is blowing out from what used to be five or eight weeks to numbers of months now. People are waiting around for the opportunity to move into houses for which builders and developers cannot get certificates of occupancy, so the builders and developers are accumulating debt waiting for officials to sign off on unit titles. It will get worse under this regime because of the layers of bureaucracy that go into this.

After all the experience that members like me have had of dealing with people who have a litany of complaints about the operation of the unit titles legislation as it currently operates, it is interesting to hear Mr Mulcahy's revelation that ACTPLA does not keep records of this, and that is an indictment of ACTPLA. If this is the case—and the minister needs to address this issue—that, after years and years of people complaining to ACTPLA, they do not actually keep a record of the nature of the complaints, how is it that this organisation can come up with a new model? They seemed to have invented this legislation without any reference to the concerns of people that have been brought to them for year after year after year—a decade's worth of complaints, to my knowledge, and Mr Mulcahy was told by ACTPLA that they do not have a record of those complaints. How is it that they can propose to the government and the government can propose to this Assembly tonight that we pass this legislation when they do not have a reference point for what it is that they are trying to fix?

As with all of these complex pieces of legislation, a lot of the detail is in the regulations. As is its wont, the Stanhope government does not provide even draft regulations with complex pieces of legislation. There have been assurances from the minister that there will no longer be a provision for moneys to be paid into an ACAT trust and that the government will not be skimming the interest off for its own purposes. But we have not seen the regulations; we do not know what is in the regulations. We do not know that the regulations will not reappear after this Assembly to reinstate this method. If you listen very carefully to what the minister has said, he has been extraordinarily cagey on this issue. He keeps saying: "Look at the black letter in this law. It isn't here, so we must have done away with it." But if you really, really push him, the words are quite different. There is a caginess about it.

Of course, there is the final statement that if we do not go ahead with the trust provisions in the ACAT legislation then there will be a levy. So, either way, Jon Stanhope and Andrew Barr are coming after the unit title owners and occupiers in the ACT to put their hands in the pockets of owners and occupiers, to pick their pockets once again. The thing is that it will not be a small levy, because nothing the Stanhope government does is a small levy. It will not be a levy that just covers the cost of ACAT; there will be something on the top for Jon Stanhope.

What I have outlined tonight is all the things that are wrong with this legislation. Unit titles have been in trouble for years in the ACT. There is no denying that. But what Andrew Barr has brought in here tonight, expecting us to pass, will not solve the

problems for the majority of people in unit titles. It will, in fact, make it worse. There are plenty of models that he could have adopted. There is the Queensland model. The government asked Mr Bugden to come down and run the consultation, given his knowledge of the Queensland system, but they did not adopt the Queensland model.

There is this hugely bureaucratic system about who can be the manager of a body corporate and who may not be a manager of a body corporate. If this legislation passes, there are body corporates all across the territory which will be thrown into confusion simply because there are people around this town whose job it is to manage body corporates, and they do not manage one, they might manage three or four or five or six. Most of those people will only be able to manage one, so the other four or five or six are going to be without a manager and they are going to have to go out and find a manager. All of these things add to the confusion and do not actually address the legitimate concerns that people have.

There are still vetos in body corporates, and that will not necessarily be overcome by this. It is just going to be overlaid with more and more bureaucracy. I know there are people who are concerned about this and who have a miserable time living in their units and their town houses and their apartments because of the way the body corporates are run, and that should be addressed. But this bill does not do that, and it will create a whole lot of other new and different problems.

That is why the Canberra Liberals have said that we will oppose this bill. It is why we have said that when we come to government after the next election it will be the first bill that we repeal, because we do not want to create a situation that is worse than it currently is. We will run a proper consultation. We will probably start with the work that Mr Bugden has already done, which got rave reviews from the people that I speak to at shopping centres who come to me and say, "What are the Liberals going to do about this dreadful unit titles legislation?" They said they started off with high hopes, because Mr Bugden did great work. They had high expectations, and they have not been met by this legislation. We would probably start with that work, but we would work with the community.

There are people who have real concerns which should be addressed. There are people who have real fears because of the way the ACT government has managed this, and those fears need to be addressed and those people need to be assured that a Canberra Liberals government will not have their hands in their pockets unnecessarily. That is why the Canberra Liberals have said that we will oppose this legislation. When we come to government, we will repeal it and we will write new and better legislation in consultation with the community.

MR STEFANIAK (Ginninderra) (10.02): Carrying on from where my colleague Mrs Dunne finished, let me say that over the years I, too, have heard lots of concerns by unit holders. There are some clear things that need fixing up. There are ongoing problems, for example, in a large complex in Belconnen where owners have had people wandering through and trying to vandalise cars and other things and, simply because of issues with the body corporate and other areas—indeed, I think in some aspects of the law—they cannot protect their motor vehicles because of needless bureaucratic problems. These things all need to be fixed up.

When someone like Mr Bugden is engaged, I am amazed that he was gagged. What we have come up with here is not the preferred model suggested by him. I know that the government will say that they started the consultation in 2005, I think. But at the end of the day, back in July when these issues were first raised and aired, it became painfully obvious that real consultation had occurred over probably only a matter of a few weeks.

I suggested to one of the government ministers then, and I suggest it again today, that, in terms of major pieces of legislation, it is not rocket science. You can solve it. You get out a piece of legislation. Ideally you would get out your draft regs. You put those on the table and then ask people further. That is when you are going to get some real comments coming in.

We have seen it time and again over the last few months. Complex pieces of legislation are put on the table. The government say, "We started a consultation process one year ago"—or two or three years ago. But the people at the other end, the ones who are meant to be consulted, say, "We have only seen this for three or four weeks; no-one told us." The government then is left to make a series of amendments to fix up what is a dog's breakfast, in doing so often making it far worse.

As this bill was written back in June or July, about 50 or 60 different sections that the unit title holders and their organisations had seen were problematic—50 or 60. It was on four pages. That is a huge amount. It was probably more than that; I think I counted up that many dot points. For example, there was section 56 to 63A and things like that, so you are probably talking about a lot more than 60 sections of a bill that were problematic. Mr Barr brought in some amendments—not many, but some amendments. Even then, as some of my colleagues have said, the language was somewhat guarded and it was difficult to understand, to see what he was really getting at.

New South Wales and Queensland have very effective unit title processes. Unlike the ACT, they do not seem to have the same concerns about governments dipping into their pockets. Money is held and, in my understanding, in many instances, the interest stays and goes back into the body corporate; sinking funds actually have interest. There are other funds. Minor repairs around the body corporate often are paid for because of interest earned. Surely that is a fairer and much more effective way of doing business than what we have here.

It is important to get this right. There are 30,000 units in the territory and it is growing. There are a lot more high-rise and medium-density buildings. People are wanting to downsize. There are some very good-quality units coming onto the market. There are changing demographics in terms of how many people there are per household. More and more people are going to be living in units. It is crucially important that we get it right.

I would not dispute figures saying that anything up to about 100,000 people may be living in units in the ACT. That is about 30 per cent of the population. You are talking about a lot of people who are going to be affected. You are also talking about

legislation that has been problematic over the years. But if you are going to rewrite it and if you are going to try to set things up so that we have a fairer system that benefits all, why on earth not do it properly? Why not accept the fact that you might have got this consultation process wrong again? Why not just defer this?

I initially had some carriage in this matter and suggested that we defer it for six months. Everyone concerned would have been happy with that. It would give ample time to sit down and consult with all the relevant people. Amend the legislation that you have. If you have regulations, show them what those regulations are. Then bring this back in maybe March next year. Or we could bring it back in March next year if my party is the government. But do it properly. It is too important to do it in a slapdash manner. It is too important to not recognise the concerns of people who say that they have not been consulted and who list a whole series of faults, which means that the bill is inherently flawed. It is a somewhat pointless exercise to try and secure amendments to rectify what is effectively a terminal process.

When the minister brought in his amendments, I thought, "This will be interesting. They at least have listened to do that. Maybe they can fix up most of it." Alas, that was not the situation at all. We are still left effectively with legislation that will be a dog's breakfast.

I am leaving this place. There is only one other member here who will probably remember a little debate in 1991, and that is the Speaker. We were doing planning legislation. We had the Residents Rally, who loved planning—my dear old colleagues in the Alliance government. I think we might have fallen out at that stage. I can remember David Snell, a government official who is still with the JACS department, pulling his hair out. For a very fine halfback, David was a very mild-mannered gentleman, but, as were his colleagues, he was frustrated with amendments coming left, right and centre, trying to fix up what was pretty bad legislation and what then became even worse because of last-minute amendments trying to plug holes here and put bandaids on there. It would have been far better if that whole debate had been shunted off and we had come back in about three months time and done it properly. It took about seven or eight years to overcome some of the problems with what turned out to be ad hoc amendments trying to rectify problems that had suddenly cropped up, probably due to a lack of foresight. I am not quite sure how much, if any, consultation was engaged in then, but clearly it was not a very good process.

We are doing the same thing here again. We have detailed legislation, which is crucially important and which affects many people in our territory. There are some very good things in this, but there are also some very bad things, which still have not been rectified. When this was first raised, I was hoping that the government would say, "Let's get it right. Let's put it off and bring it back." What is the rush? You started a process in 2005; it is now late 2008. What on earth is wrong with finishing that process in March 2009 when you know you will be much more likely to get it right?

Why the need now to push through—rush through—in the face of huge opposition in the community, a bill that has so many problems? You may not now have 50 or 60 different individual dot point sections as problems; you might have knocked out 10 or 20 of those. But we still hear that this is a bill that should not go through as it is. It is a bill that should be withdrawn. It should be adjourned and brought back later on.

Given that the government is not going to do that, we have no option but to vote against it. The government can ram this thing through; it has the numbers. It becomes a rather futile and pointless exercise, though, to apply some numbers when you are going to put through bad legislation. In this place, first and foremost, we are legislators; we produce legislation. It is crucially important to get that right. If you introduce bad law, especially bad law which is really complex bad law, it takes a lot of time to get it right. I hark back to the problems which the planning legislation had for those very reasons—not being well thought out; with amendments put in in a rush and not being comprehensively dealt with; and with people who were in the know not being listened to. It took ages to fix that up. If you put this through tonight, a future government will have only the option of scrubbing it and effectively getting it right. It would be far better for you to start that process now.

As I said earlier, this is not the only piece of legislation where we have had this problem. It is always a problem if you are trying to rush things through at the end of an Assembly period, but it is a problem caused by simply not recognising how you need to consult on these things. People need something black and white in front of them, usually in the form of a draft bill or regulations. That effectively is your real starting point.

Clearly, from everything we have been told, that has not happened here. I would strongly urge you to go away and fix this up. The opposition has made its position quite clear in terms of what we intend to do, because it seems quite obvious that you are hell bent on getting this through tonight. That is most unfortunate. It will just mean a lot of extra work by a lot more people. In the meantime, quite a number of unit holders in the ACT will be lumbered with new legislation that is far more bureaucratic than it should be and that in many instances causes far more problems than it actually solves. That would be a great pity.

MR SMYTH (Brindabella) (10.13): I am pleased to have an opportunity to speak to the bill tonight because, based on the way the bushfire inquiry was treated normally after three speakers, the debate will be shut down.

MR SPEAKER: Order! Just come to the subject matter of the bill.

MR SMYTH: The minister, in his introductory speech, outlines what he attempted to achieve and then goes on and ignores it. In his introductory speech, which of course any court would refer to if this was ever appealed, the minister says that the bill that he is "tabling today has been in response to the strong public feedback that the current dispute resolution mechanism in the Unit Titles Act was not operating effectively". So there is the genesis of what is going on here. "We have had a complaint from the public that something is not working and they would like the government to fix it."

The government goes away and appoints a Mr Gary Bugden. It is some years later that the government tables a bill in the Assembly that bears no relationship to what the consultation determined. Indeed, my understanding is that Mr Bugden was not consulted on the final outcome. It is interesting that Mr Bugden, I am told by people who took part in the consultation, reported that what we should have is the adoption

of a hands-off or a win-win approach to dispute resolution processes so that what we try to do is keep it out of a tribunal, try to build community and have a process that does not lead to mistakes being continued into the future.

Instead, what we have got is a very heavy-handed and ham-fisted approach from the government. I think this bill may well be synonymous with the approach that the government has taken with so much of its legislation in the last seven years: state that there is a problem; appoint a consultant; do not listen to the outcome of the consultation; delay for several years; put something out, in this case quite stealthily by just putting it on the web as a draft; ignore the consultation and the reaction of the public; put a slightly modified bill on the table to give the impression that one has listened; and then ram it through the Assembly a couple of hours later.

Here we are at quarter past 10 at night debating fairly significant legislation and legislation that affects a very large number of Canberrans. In case the minister does not know how many people it will affect and how many units it will affect, one estimate I will quote from says that, in 2006, of the 2,653 registered unit plans in the ACT, 989 contained two-unit residences, 1,100 contained three to 19 units, 180 contained 20 to 100 units, and 26 unit plans contained more than 100 units. Since 2006, that number would have grown. We are talking about an extraordinarily large percentage of the population which will be affected by this bill.

While I have heard from a few people that some aspects of the bill are acceptable, I have not heard an overwhelming endorsement from anyone that this is the approach that we should take. So the residents who were affected by it are not in favour of it; those who will administer it are not in favour of it; Mr Mulcahy is not in favour of it; the Greens are not in favour of it; the Liberal opposition is not in favour of it.

The only one who seems to be in favour of it is the government and, as they behaved so arrogantly over the last several years, they will simply ram this through because they can. And I think that is sad. I have never seen such a bill in the 10 years that I have been here.

We need to go back to the tabling speech of the minister, and it is quite interesting. There are a number of issues that have been raised tonight. Let me refer to two: the creation of the licence for the managers and the funding. And what does the minister say? The minister said, "Remember, in 2005, this process started; in 2006, consultation; in July 2008, a draft was put on the website; in August 2008, the bill was finally tabled in the Assembly." And how complete is it? It is this complete:

> It is intended that a new category of licence be created under the Agents Act. At this stage it is like to be referred to as the owners corporation manager's licence. It is intended that those persons who provide owners corporation management services but do not hold an owners corporation manager's licence will be grandfathered in the legislation.

We have not even got a name for these people. After three years of process, we have not worked out what we are going to call them, let alone the process by which they will get registration and by which their qualifications will be proved. And if that does not tell you there is something wrong with this legislation, then I suspect nothing will.

We then go to page 7 of the minister's tabling speech where he talks about the funding. The funding is a concern because the minister is asking us to take again on trust that he will not take our money after the bill is passed. I guess we will apply the same amount of trust we took to the government's statement that there would be no school closures. And I guess the public would be right in applying the same amount of trust they took when the minister said that excess school land would not be sold and the same amount of trust they applied to Minister Corbell's statement that the Gungahlin Drive extension would be built on time and on budget to the budget specifications, because this government has no credibility. There is no trust left in their words.

Let us hear what the minister says. The minister says, "It is off the agenda; we are not going to take your money." Let me read what he said in his speech:

> The submissions received to date highlighted a number of aspects of the proposed funding model, including that it was not equitable and that it was to be used to fund the new ACAT.
>
> It has been decided to implement the legislation using the funds available in the agents trust account, and to undertake further consultation with stakeholders to develop an appropriate model to fund the new consumer protection measures and dispute resolution arrangements.

It is simply a smokescreen; it is simply a tax grab. By his own admission, there is enough money in the agents trust account to fund the model as it is. On that basis, why do you need the additional money that will come from the accounts that the government would clearly like to have under their control? The only answer that one can come up with is that they want the money. And that is why this bill should be stopped today.

Unless a minister can come into this place and clearly detail what is going to occur under the act that he seeks the authority of this place to put in place, then that act should not be passed. When the government says, on the basis of its history in the last seven years, "Trust us we will get this right," I do not think there is any trust left within the community. On so many issues, particularly in education, where they said they would not close schools and they would not sell the land, the community does not trust this government.

If we go back to the start of it, what the people who made comment in their submissions wanted was something more like the Queensland system. Why we cannot have the Queensland commission system which has a Body Corporate and Community Management Act 1997, with oversight by a commissioner of unit titles, is beyond me. It is a simple system. It works. It has a lot, I think, to make it attractive for units in the ACT. But, no, we have gone off with one of the most inappropriate pieces of legislation that is yet to make this place. And I think that is a shame.

This bill represents everything that is wrong with the Stanhope government and their approach to consultation, to legislation and to openness. The consultation was appallingly flawed. And you only have to look at how it was carried out. Do not take

my word for it; let us hear from the Strata Managers Institute of the ACT Inc. I quote from their release:

> While the new legislation has taken more than 12 months to draft, the industry, unit owners and tenants have only been given three weeks to look at this hefty bill and that is not enough.

The Strata Managers Institute has called on the government to amend the bill and re-present it to the Assembly following this year's election. It is not an unreasonable request. Here we are at almost 10.30 pm on the third last day of the Assembly, on such an important issue, and the government is going to use its numbers to ram it through. Remember that the Chief Minister said, "You have nothing to fear from majority government." I think time and time again we have been let down by majority government.

What the government has done is made a half-arsed attempt at consultation with the community and with business back in 2006. Then, like so much of their consultation—and, again, you can go back to the minister's flawed consultation on education—they have been ignored. Consultation is not always about acquiescence—you hear something and you give up—it is about listening to what people have said.

The critical issues that were raised in the consultation have not been listened to. They engaged a consultant. Mr Bugden drew up an issues paper and then nothing happened. And not only has nothing happened, the man who drew up the consultation paper and did the consultation has now been gagged. I am told he is not allowed to speak out; there is a confidentiality clause which has been evoked to stop him commenting on the flaws in this bill. If we have got an expert and that expert has been used, why would we not listen to what that gentleman has to say? Then the next thing was the local Strata Managers Institute made suggestions, comments and requests and they have not been heard either.

The minister will get up, I am sure, and say in his closing speech, "We have taken those bits out." But, by his own admission, they are looking at other ways of putting them back in. You only have to look at the fact that the ACAT bill refers to processes here and the Agents Bill outlines the way in which money can be taken quite easily. And that money is still up for grabs.

It was most unfortunate that the minister sought to trivialise the complaints of people by referring to pets. Pets are an important issue. How pets are cared for and maintained in a unit complex is good for some and not necessarily good for others. But he has trivialised this whole process by his inability to detail, on at least two very important and probably far more important issues, how they will operate in the future. He simply says this bill is good because it lets people have pets. People can have pets now. It was like it was some revelation: "I, Andrew Barr, will allow you to have pets." It is not true; you can have a pet now.

It is an interesting process. Perhaps it could be better. But to highlight that as the great strength of this bill, when you are talking about where people live and how they live and, perhaps most importantly for many of them, how they maintain where they live

both in a physical sense and in a relation sense with their neighbours, I think, shows the degree of discomfort that the government has concerning this bill. And I think it is most unfortunate that he has treated it in that way.

The government has made much of the fact that there are some late changes that the government has made; they are not going to go ahead with certain bits; they are also going to omit a couple of clauses. But the fundamental reason for addressing the bill is still not there—that we have some sort of meaningful dispute resolution. This morning, for instance, and in a previous sitting week, we have talked about dispute resolution; we have talked about circle sentencing; we have talked about not taking people to courts and not getting people caught up in tribunals. Yet, all this bill allows for is exactly that.

Where is the situation where you can go to mediation? Where is the situation outlined in this bill where you can resolve these things that—

Mr Barr: It is in the ACAT legislation.

MR SMYTH: It is in ACAT? You will get your chance in a minute, Mr Barr. You can speak to it then. People do not understand this and they are confused by the bill that you have put before us. When you have got almost 30,000 people affected by this directly, then I think it is worthy that we should get this right.

The main problem is that most people do not understand why the government is ramming this through. The problem for many people is that they have read this bill and they are confused by it. And they are confused by the fact that the consultation that they thought would deliver them a better outcome has simply been ignored. The simple point we would make is that when you look at, for instance, how somebody might become eligible to manage a unit title, it is so unclear and has not been addressed by this government that, again, it can only lead you to the one conclusion: that this bill is so flawed that we should stop it.

The problem with doing it at this stage is that, of course, the government may have regulations ready to go and we have not seen the regulations. I would like an indication from the minister, when he speaks to close the debate, as to exactly when the regulations will be tabled. Is it their intention to put those regulations in place before the calling of the election? I think people outside who have watched this debate with great interest are most concerned to find out the exact timetable for when this bill will come into operation and what will be in the regulations. And it would be very pleasing if the regulations could be made public as quickly as possible so that there can be some consultation on them before they are tabled and promulgated.

This bill is so flawed, this bill is so inadequate, this bill fails every test of good legislation, the consultation process on this bill has been so flawed, the consultation process on this bill has been so inadequate and the entire debate that we have had has been so ignored by the government that the only reasonable thing to occur this evening will be for the minister to stand up and move that the debate be adjourned. And if he truly believed in representing his constituents and if he truly believed in equity, that is what he would do. But I do not believe that will happen. For that reason, the opposition will be opposing this bill.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.28), in reply: I thank members for their contributions to the debate. I would be the second youngest member of this Assembly, and I acknowledge I have not been here in the capacity as a member for that long; in fact, I would be the shortest serving member of this place. However, I have observed ACT politics right back to the very first Assembly, and I have worked in and around this place since its inception going back to the early 90s. My observation is that when we get these sorts of arguments and people are opposed to something, they generally go down two tracks: column A is around their concerns about process, and column B is normally when they might actually have an intellectual position and have undertaken some rigorous thought about the piece of legislation.

What we have witnessed from contributions in this debate is a bit of a variance. Mr Smyth indicated that some people do not understand the legislation. Some of those people include some of his colleagues, and that was quite evident from the contributions that they made, most particularly Mrs Burke, who seemed to be reading a speech that was drafted some months ago in relation to an exposure draft rather than the actual piece of legislation that we are debating this evening. A lot of questions have been raised, and I will come to those in detail in my response.

The bill is the result of an extensive process of consultation that goes back more than two years. I do note that nearly every speaker in the debate has agreed that there is a need for reform, and they have all agreed, to varying degrees, that there are many, many good provisions in this legislation. I have said that in the democratic process you are not going to get agreement on everything and that it is very healthy that we do have this opportunity to debate the various levels of detail of this legislation. But, fundamentally, the passage of this bill will ensure that those who live in units, town houses and apartments will have access to faster, less legalistic and less expensive dispute resolution. Why is this important? It is because, under the current act, there is literally no mechanism for the resolution of disputes, except in two or three small owner plans under section 126.

I am indebted to John Kilcullen, who has experienced the problems with the existing legislation and who wrote to me earlier this morning indicating his experiences, most particularly with the Magistrates Court and an interpretation in a 2006 case by Magistrate John Burns that effectively means that, if an owner opposes something that is objectively in that owner's interest, then the court can compel that owner to submit. Under no other circumstances can the court issue a deadlock order. The existing Unit Titles Act, in some cases where a unanimous or unopposed resolution is required, gives each individual a power of veto for which no reasons need to be given.

On Magistrate Burn's interpretation of section 125, there exists no machinery, no mediation process and no possibility of court intervention for resolving disputes where there is any conflict of interest between owners. Mr Kilcullen goes on to contend that the proposed revisions to the Unit Titles Act remove most requirements for unanimous or unopposed resolutions and provide a means of resolving disputes. There is an individual who has experienced the current legislation. He has

experienced difficulties with the Magistrates Court and is in very strong support of what the government is proposing.

This legislation will provide further protection for the purchasers of units, especially those buying off the plan, and will better control the actions of owners, corporation managers and the executive committees and their members. We have had more than two years of consultation in response to strong public feedback that the current dispute resolution mechanism in the act was not operating effectively. I would like to highlight some of the key aspects of the bill. This legislation protects consumers after a units plan is registered. During the period defined as the development control period, an owners corporation cannot enter into a contract unless that contract is disclosed in a contract for sale of a unit in a units plan. So starting from the day the units plan is registered and ending on the day that more than one-third of unit entitlements of the units plan are held by persons other than the developer, there are controls on what the owners corporation can do. That period is defined as the developer control period, and during this period an owners corporation cannot enter into that contract.

It would appear the Liberals are opposed to this unit owners protection measure. They believe that developers should continue to have absolute rights over owners corporations, free, it would seem, to lock them into expensive service contracts and other arrangements detrimental to the interests of unit owners. One instance that has been brought to the government's attention is in relation to a major southside development where the developer who owned the majority of units in that development engaged a relative as a managing agent against the wishes of the minority of individual unit owners. This is the sort of unscrupulous activity that this legislation will address. This is the sort of activity that the Liberal Party supports. That is where the Liberal Party stands in 2008.

There are a number of other consumer protection provisions included in the bill. Community consultation revealed a very strong view that more disclosure is needed to protect purchasers under off-the-plan contracts. This bill includes a number of disclosure provisions which are not onerous or unreasonable to expect of a developer, including disclosure of proposed articles of the owners corporation, details of contracts the developer intends the owners corporation to enter into, and, importantly, the developer's estimation of the buyers' contribution to the corporation's general funds for two years after the plan is registered. An example of why this is important is that I am advised that someone who purchased off the plan was given an initial estimate on exchange of contracts that the body corporate fees would be in the order of $2,500 per annum. That became $8,500 per annum on settlement.

We have heard a lot about people reaching into other people's pockets, and we have heard a lot of accusations from the Liberal Party about that being the government's intent in this legislation, but they are quite happy to sit by and watch developers stick their hands into the pockets of people who have purchased off the plan to the tune of something like $6,000 a year. That is fine; the Liberal Party sanctions that. That is their developer mates, so that is fine. That is not a worry at all, there are no concerns about that.

Mr Seselja, in his media release, even went so far as to point this out as a terrible thing that developers might be required to forecast and to give a reasonable estimation

of what those body corporate fees might be over the first two years. But, no, Zed Seselja's Liberal Party could not possibly support that because the Property Council does not support it. They are quite happy to see people ripped off to the tune of nearly $6,000 a year. That is the sort of position that the Liberal Party is putting in this debate.

Through this legislation we are putting in place a provision that the buyer may cancel the contract of sale before the contract is completed if the developer's disclosure under this bill is incomplete or inaccurate and that the buyer is significantly prejudiced because of this. In the example I have just given, to the tune of $6,000 a year, I think there would be a pretty significant case that someone had been significantly prejudiced. This bill creates for the first time licensing and code of conduct requirements for all owners corporation managers. Substantial changes have been made in relation to the appointment of an owners corporation management, including their conditions of appointment and the manager's obligation to comply with the code of conduct and to take out public liability insurance. As Mr Smyth has quoted, and I will repeat again, it is intended that the new category of licence be created under the Agents Act, and it is intended that those persons who provide owners corporation management services but do not currently hold an owners corporation manager's licence will be grandfathered in this legislation.

Another key aspect of the bill is the protection it provides owners corporations, unit owners and tenants through the creation of the new low cost tribunal system. In the event of a dispute, instead of applying to the Magistrates Court, an owner or occupier of a unit in a units plan can apply to the ACT Civil and Administrative Tribunal, or ACAT, to resolve the dispute. I am sure Mr Stefaniak, given today's news, will be a very strong supporter of the work of that tribunal, and I am sure he will do an admirable job in hearing any cases that come before him. ACAT will be empowered to make a number of orders which are specified in the bill, and these amendments will provide a more cost-effective dispute resolution procedure than exists in the current legislation.

There are countless examples of people who have had bad experiences with the Magistrates Court and, as Mr Kilcullen has indicated in his correspondence, the decision of Magistrate Burns really does limit the capacity under the current legislation for the Magistrates Court to hear these particular disputes. It is important to note—even Mrs Burke in her speech could not quite get with the program with the rest of the Liberal opposition in relation to the changes to the legislation—that the bill does not put forward a funding model for the new Civil and Administrative Tribunal. I acknowledge, and I have on a number of occasions, that it was an aspect of the exposure draft of the bill, and a number of submissions were made around the proposed funding model. It is one of those things that whenever you are in government, you are damned if you do and damned if you do not put forward an exposure draft for consultation. If you make changes to the draft, then all of a sudden there is something sneaky going on, and if you do not make changes, you are not listening. You cannot win either way, but I am pretty used to that.

After a couple of years in this place now, I am pretty used to that accusation. That is pretty much what you get. That is just standard political fodder. It is getting pretty boring, I would have say. We have heard it all before, and it is just a standard line.

You pull the string out of the back of an opposition politician, and that is what they will say. In the first term of this government, we consulted too much. In the second term we are not consulting enough. They have nothing constructive to say, which goes back to my initial comments—a little bit of column A; it is all about the process. If you cannot find a substantive argument against what the government is intending to do, there must be something wrong with the process. You get that a lot, too, in politics, particularly 51 days away from an election. It is almost entirely column A now.

It is important that government does respond, and we have sought to do so through the changes that were made to the exposure draft to the piece of legislation that we are now debating tonight. The government has removed a range of provisions that were the subject of some concern from some stakeholders. But it should be very clear that the funding proposed in the exposure draft was not intended to fund ACAT, and nor will any future model relating to this legislation. There is no way—and I make that absolutely categorically clear—that the funding of ACAT will come from unit owners. That is certainly not the case.

Finally, and very importantly to many people, the bill provides for the keeping of pets. Rather than having the provisions as part of the default articles and the schedule in the regulations, the bill allows for a unit owner to keep an animal and for an owners corporation to give consent with or without conditions. The bill also provides that the consent of the owners corporation cannot be unreasonably withheld. In the show of support for this bill, I am pleased to say that the RSPCA have agreed to work with the government to develop a set of procedures to assist owners and owners corporations to resolve disputes and any appeals that will be heard by ACAT. The RSPCA has also indicated its willingness to assist owners and owners corporations in the dispute resolution process.

This bill is the result of public feedback on the inadequacies of the current act and the government's determination to address those inadequacies. It is the result of two years of extensive public consultation. The bill provides greater consumer protection and fairness to all parties and access to faster, less legalistic and less expensive dispute resolution. It is fair to say that it is progressive legislation that reflects the kinds of changes that have been introduced in other jurisdictions, and it is legislation that will benefit many in our community. The bill has also been endorsed by the Tenants Union, the RSPCA and many constituents who have contacted ACTPLA and my office to urge the passage of the bill. I commend the Unit Titles Amendment Bill to the Assembly, and I thank members for their support.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 10		Noes 6	
Mr Barr	Mr Gentleman	Mrs Burke	Mr Stefaniak
Mr Berry	Mr Hargreaves	Mrs Dunne	
Mr Corbell	Ms MacDonald	Mr Mulcahy	
Dr Foskey	Ms Porter	Mr Seselja	
Ms Gallagher	Mr Stanhope	Mr Smyth	

Question so resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill, by leave, taken as a whole.

Standing order 76—suspension

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

> That standing order 76 be suspended for the remainder of this sitting.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10.47): I seek leave to move amendments Nos 1 and 2 circulated in my name together.

Leave granted.

MR BARR: I move amendments No 1 and 2 circulated in my name together and table a supplementary explanatory statement to the government amendments *[see schedule 2 at page 3725]*. These are very simple amendments that remove the reference to a code of conduct—proposed new section 55P—for a service contractor. Under the proposed legislation, the code of conduct does not apply to service contractors. This was included in the bill in error and applies to both amendment 1 and amendment 2.

DR FOSKEY (Molonglo) (10.48): I oppose the amendments. As I said in my speech, I am willing to support the bill to the in-principle stage. Everything that we have heard tonight indicates that we should not be voting it into law tonight.

Amendments agreed to.

Bill as a whole, as amended, agreed to.

Question put:

> That the bill, as amended, be agreed to.

The Assembly voted—

Ayes 9		Noes 7	
Mr Barr	Mr Hargreaves	Mrs Burke	Mr Smyth
Mr Berry	Ms MacDonald	Mrs Dunne	Mr Stefaniak
Mr Corbell	Ms Porter	Dr Foskey	
Ms Gallagher	Mr Stanhope	Mr Mulcahy	
Mr Gentleman		Mr Seselja	

Question so resolved in the affirmative.

Standing orders—suspension

MRS DUNNE (Ginninderra): I move:

> That so much of the standing orders be suspended as to allow the bringing forward of the item on the daily program in relation to report No 8 of the legal affairs committee entitled *ACT fire and emergency services arrangements*.

MR SPEAKER: It is the same question. I rule that out of order.

Domestic Violence and Protection Orders Bill 2008

Debate resumed from 7 August 2008, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (10.52): This bill seeks, inter alia, to address matters raised in 2005 by the Supreme Court in SI bhnf CC v KS bhnf—ACT Supreme Court, page 125—or I v S. It restructures the act and introduces some substantive changes, including addressing issues to do with incompatibility with the Human Rights Act raised in I v S in relation to the circumstances in which an interim order can become a final order. These issues relate mainly to the circumstances of the respondent to an order.

The bill also provides a mechanism in the Magistrates Court for reviews of final orders. It incorporates a substantial restructuring to improve its use and understanding, particularly relating to restraining orders under the Magistrates Court Act and protection orders under the Domestic Violence and Protection Orders Act. It extends the category of relationships within the act to include intimate heterosexual and homosexual relationships in which the parties do not reside together. And it eliminates children under the age of criminal responsibility—that is, 10 years—from being respondents to protection orders, preserving the ability of a child to apply for a domestic violence order in their own right and preserving the ability for a child to be named in an order where that child requires protection.

The bill provides the court with flexibility in relation to protection orders, allowing it to amend interim orders and to make short-term amendments to final orders in certain circumstances. It allows housing and community services to access information about orders when a child protection matter is involved; it expands the definition of domestic violence to include psychological abuse of a child or young person; and it allows a person to write a letter of support for a client to assist in organising their personal affairs where the client consents. It also facilitates a matter that has not been resolved at the conference stage of proceedings and is subsequently set down for hearing, and it adds trespass to the definition of domestic violence in the context of a domestic relationship.

The engine room of the bill is contained in clauses 36 and 93. They outline the process in relation to interim and final orders and provide fairness for both

complainant and respondent. There are two types of orders available: domestic violence orders and personal protection orders. Each can be in interim form—up to two years—or final form—up to two years or longer—at the discretion of the court, except for consent orders. Workplace orders are also provided for; these are a specific type of protection order. Emergency orders are available for domestic violence matters.

The address of an aggrieved person can be suppressed from an order. If a respondent holds a firearms licence, the licence is suspended and the firearms and ammunition seized and detained for the period of an interim emergency order or cancelled and the firearms and ammunition seized in the case of a final order. There is some flexibility available to the court in the case of personal protection orders. There are also some relevant links to the Children and Young People Act.

We will be supporting the bill. Members should note that there were some comments made in the scrutiny of bills report in relation to these particular matters. This is a vexed area of the law. There are very strong laws laid down and some very significant powers given to police and other agencies that do not exist in other areas of the law. That is largely for very good reason, but it does mean that there are some very real human rights issues here.

In one aspect, the bill slightly improves the rights of respondents. In this area of the law, in terms of the matters that come across my desk, that is not such a bad thing, because from time to time these very strong laws have been abused, the processes have been abused and innocent parties have suffered considerably until such time as a court basically rejects what has been alleged. It is an area where we always need to be particularly vigilant, for all manner of reasons. Domestic violence is obviously quite abhorrent, but there is potential for other factors to come into play here. There are a couple of instances where this law improves the situation. And the bill contains what I would regard as relatively non-contentious areas which I have outlined. The opposition will be supporting this legislation.

MR MULCAHY (Molonglo) (10.57): I welcome this bill. It provides an important protection to vulnerable people in situations of domestic violence. Domestic violence is a very frightening thing, but it involves different dynamics to violence between strangers. The intimate relationships involved often make resolutions very tricky and make it difficult to separate people. Domestic violence laws concentrate on protection orders that recognise past instances of violence and are designed to prevent anticipated violence in the future.

The main change in this bill is in clause 15, which sets out the class of people protected by the provisions of domestic violence laws. That section extends the protections from domestic violence to domestic partners and their children, relatives, a parent of the child or person. The act of committing violence against anybody vulnerable, particularly when there exists a relationship of trust or guardianship, is despicable and cowardly. It is vital that we have protection to afford security against this sort of behaviour.

This bill provides protection for a wide class of people. I am particularly glad to see that the bill extends protection to parents, since it is unfortunately the case that some

elderly people have become victims of domestic violence. I have heard the Deputy Chief Minister previously cite this as an area of concern in our community, and I was particularly pleased to see this addressed in the legislation. The additional protection that this bill extends to elderly people is needed; I particularly support this inclusion.

It is important to note that, as the percentage of elderly people in the community increases and as places in aged care accommodation become scarcer as supply struggles to keep pace with demand, more and more people are going to be living with family as they age. This has the potential to present unique pressures and stresses on everybody. It is appropriate that this bill extends existing law to protect people who are amongst the most vulnerable in our community. Unfortunately, it is a fact of life that, as the situation of people ageing in place or being cared for by relatives becomes increasingly common, which it will, we must have legal recourses enshrined to ensure that one of the most heinous of crimes is covered by legislation. It should also be noted that protection extends to the pets of these people, since violence against a pet is included in the definition of domestic violence under the act.

It should not be thought that people outside the scope of the bill are left without any protection against domestic violence. In these cases, the ordinary laws of assault and other violent crimes apply. The purpose of the Domestic Violence and Protection Orders Bill is merely to create an additional legal mechanism for the prevention of violence that is tailor made for situations involving domestic violence where different dynamics apply.

I will take this opportunity to speak on one aspect of the present bill that does trouble me just a little, and that is the definition of domestic violence and personal violence in clauses 13 and 14 of the bill. What troubles me about these definitions is that they define violence as including behaviour that is merely offensive to the relevant person. I find this to be a bit of a stretch; I think that it is untenable to claim that anything offensive constitutes genuine domestic violence.

I mention this because there has been some criticism of domestic violence laws and domestic violence statistics for failing to distinguish between genuine violence and other things that are merely deemed to be violence under the law. I note that this is already the situation in the current act; the bill before us makes no change to this situation. Whilst this could have been an opportunity to draw a clearer distinction between violent and non-violent conduct, the bill does not make the current situation any worse; therefore, I am not going to dwell on this apparent deficiency in the bill.

I will be supporting this bill for its extensions to the scope of people afforded protection. It is sensible and, as I have mentioned in my remarks, welcome because it will extend legal protection to people in society who are in a position of potential vulnerability.

DR FOSKEY (Molonglo) (11.01): We have moved an awfully long way in dealing with domestic violence over the last three or four decades. I can remember—how could one forget?—being in the situation where a gun was being held to my mother-in-law at the time by a family member. When we called the police, the police did not come because it was seen as a domestic situation.

It seems to me to be a very big step that needed to be taken to open up that so-called private sanctum, the home, where everything is expected to be lovely and nice, and if it is not we do not talk about it. That certainly was the case in the rural area where I lived at that time. I have also—related to that same perpetrator—seen pets used as a threat: "If you don't do such and such, I will harm your animal." People who wish to wield power in the domestic scene will use whatever they see as vulnerable about the person that they wish to wield power over.

I think it is very hard to draw the line, as Mr Mulcahy was suggesting we do, between different kinds of domestic violence. Is it domestic violence if you just live with the threat of having a trigger pulled or a fist thrust into your face? I think that it is domestic violence even when the action does not happen, and I think that it happens not just between man and wife but between man and mother-in-law, man and whoever. We know that it occurs in our gay and our lesbian communities as well. I welcome the fact that, if we are going to have equality—which we have not quite got yet—in terms of civil unions, we must also have it in terms of the more negative sides of domestic arrangements.

I acknowledge as well what Mr Mulcahy said in relation to elder abuse. That is a growing problem. It has all the hallmarks of domestic violence in that the elder is usually quite powerless and often, unfortunately, especially in the situation where we have housing affordability problems, has little choice but to stay in that situation.

It is important that we strengthen the laws. It is also always going to be important that we try and remove the causes of domestic violence. That is usually around issues of power. There are still people who feel that they have the right, due to their position in the household, to inflict or threaten violence on another person, whether it be emotional or physical. That is the long-reaching project that we have ahead of us. We cannot ever solve that with laws. Unfortunately, what happens in the home is still invisible to many people and there is a shame in reporting it.

With this legislation we have to acknowledge the work of the Rape Crisis Centre and all the people who work in this area—who work with women and children and who also work with the men who are the perpetrators and with women when they are the perpetrators. We in this town are very lucky in the quality of people we have working in those services—in the refuges, in the domestic violence area. It is very unfortunate that their work does not diminish; if anything, it increases. By passing this legislation, I expect that, ironically, we may be increasing their workload, and broadening it as well.

Nonetheless, there are a lot of really good things in this legislation—the fact that a household is not a defining factor any more; that it is recognised that relationships cross domestic boundaries; that there are initiatives which work towards the protection of children and young people; that we are recognising that these issues also concern people in same-sex relationships; and that we are recognising the human rights of the victims.

The scrutiny committee did point out issues about the explanatory statement. As members, we rely on explanatory statements a great deal. The Attorney-General will

be familiar with all the points that the scrutiny committee makes about problems with the explanatory statement. It is a bit concerning when you get an explanatory statement like that, because it usually means that it is rushed, and often there are new problems with the content as well. Today I have already raised the problem with human rights issues not being adequately dealt with in explanatory statements, even though those are the places where we are meant to find that discussion.

But all in all, this is a good bill. I commend the people who worked to make it so.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (11.08), in reply: I would like to take this opportunity to briefly set out what this bill will change and what it will not change.

The bill will not change how a final protection order is made: factors the court must take into account before making a final order or the type of conditions that can be included in a final order. A final order in response to domestic violence will last for a maximum period of two years. Emergency orders and workplace protection orders will also remain the same. In terms of the management of firearms in circumstances where domestic violence orders are made, the provisions will also remain the same, namely that firearms licences will be automatically cancelled.

A significant change to this bill is how interim domestic violence orders will become final orders. The current provisions relating to this issue were adopted from the national *Model domestic violence laws* report. These provisions automatically make an interim order into a final order in circumstances where a respondent does not respond to the court by a specified date.

The Supreme Court critically examined these provisions in the case of I v S. The court considered circumstances in which a respondent who had an identifiable legal disability, a minor, did not have the legal standing to respond to the requirements set out under the act in order to engage with the legal notices issued by the court. The Supreme Court found that a process that did not involve a judicial decision to make an interim order a final order would be inconsistent with a respondent's right to fair trial.

The bill therefore addresses the fair trial issue raised by this case, whilst maintaining an effective system to protect people in the need of the protection of an order. To achieve this, the bill changes the process for interim orders becoming final orders and introduces a new set of review powers for the Magistrates Court.

An interim order is a short-term protection order issued by the court on application by a person seeking protection. An interim order can be made if the court is satisfied that an order is necessary in the absence of a respondent. The interim order triggers a process that results in a hearing involving both parties, prior to the interim order becoming a final order.

Unfortunately, as a consequence of the very nature of domestic violence there are respondents who resist engaging with the process required by the legislation that leads to a final hearing. Likewise, there are some respondents who do not engage with the process for perfectly acceptable reasons. The new process detailed in this bill will

account for respondents who do not engage in this process without adversely affecting their right to fair trial.

A magistrate is given the discretion to decide an application for a final order following an interim order in circumstances where the respondent does not engage in the process but unexpectedly attends at court on the hearing date for the final order. The magistrate will be able to ascertain whether the respondent is a person with a legal disability who does not have a litigation guardian to assist them with the process. In addition to this, the magistrate can ascertain whether or not the respondent had a reasonable excuse for failing to engage with the process as required by the legislation. If the respondent does not engage in the process, the legislation will enable the magistrate to make an interim order into a final order.

The bill also enables the Magistrates Court to review final orders that are made as a consequence of an interim order process. This will ensure that no injustice is done to respondents who do not engage in the process for acceptable reasons.

I would like to highlight two other important changes introduced by this bill: the extension of intimate relationships covered by the law, and increased protection for children exposed to domestic violence.

The community is rightly concerned that protection from domestic violence should be provided to people who are in a variety of forms of intimate relationships. The bill expands the types of relationships contemplated by the law to include intimate homosexual relationships and to include relationships where the parties do not reside together.

The bill extends protection to children in a number of ways. The bill enables child protection workers to have access to information from the courts regarding the existence and content of an order when the safety of a child is being investigated. The bill expands the definition of domestic violence to incorporate the psychological abuse of a child or young person. This will enable orders to be made that protect children from exposure to domestic violence. The amendment is consistent with the provisions in the government's Children and Young People Act which was passed earlier this year. To protect young children, the bill clarifies that children under 10 years old are not to be respondents to a protection order.

The bill also strengthens the protection of children who are named in an order in circumstances where the applicant wants to revoke that order. If an applicant applies to revoke an order and children are named on it, the bill will provide an additional safeguard by requiring a magistrate to be satisfied that any child named on the order is no longer in need of the protection afforded by that order prior to any revocation of the order occurring.

In closing, I would like to thank all of the people and organisations who contributed their thoughts and analysis in deliberations with my department and the government. In particular, I would like to thank the staff of ACT courts, Legal Aid, the Domestic Violence Crisis Service, the children's commissioner, the Women's Legal Centre, the Victims of Crime Coordinator, the Domestic Violence Prevention Council, ACT

Policing, and the Department of Disability, Housing and Community Services. I thank members for their support of the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Guardianship and Management of Property Amendment Bill 2008

Debate resumed from 7 August 2008, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MR STEFANIAK (Ginninderra) (11.15): This bill inserts a new part 2A to provide for a scheme of health attorneys. A health attorney is a person who can give consent for medical treatment on behalf of a patient who has impaired decision-making ability to consent to their own medical treatment—in other words a protected person. An adult person who has decision-making capacity can take on the role of a health attorney if the patient has no appointed attorney or guardian. A health attorney can be a domestic partner, carer, a close relative or a close friend. This is in accord with community expectations that a person close to a patient who lacks capacity can be involved in the decisions affecting the patient.

A health professional, a doctor or dentist, may seek consent from a health attorney whom they believe is best able to represent the views of the patient, and both must follow the decision-making principles under the guardianship legislation. This includes a health professional providing the health attorney with sufficient information to enable an informed decision to be made about medical treatment. There are some rules around this. Where disputes arise, the health professional must refer the matter to the Public Advocate, who may try to assist in resolution of the dispute but otherwise may apply to the guardianship tribunal for guardianship. The health professional must also inform the Public Advocate when a health attorney's consent to treatment continues for more than six months. There are provisions to protect health attorneys and health professionals acting in good faith from civil and criminal liability. Health professionals are otherwise subject to the usual liabilities of their profession.

The scheme is not intended to diminish a person's right under the Human Rights Act to make their own decisions in relation to medical treatment. It is intended to augment the existing arrangements and make them simpler where an appropriate health attorney is available. Health attorneys will not be able to make decisions about certain prescribed treatments. They will be able to provide emergency medical treatment without consent, and the Attorney-General, in his tabling speech, indicated that consent to withdraw or withhold treatment is more complex. I think he indicated that that would be considered at a later date.

This legislation would bring us into line with other jurisdictions, including New South Wales. It does overcome problems that can arise when those close to a patient who has diminished capacity to make their own decisions can feel sidelined when it comes to making decisions about medical treatment for the patient. Having been in a situation like that about 25 years ago with an old friend, I know that this would have been very handy legislation then. It does relieve some of the pressure on the Public Advocate by not having to get involved unless disputes arise or if treatment extends for six months. Potentially it could place additional pressure on health professionals in terms of assessing whether a health attorney is best able to represent the views of the protected person. The opposition will be supporting this legislation.

DR FOSKEY (Molonglo) (11:18): The Greens will be supporting the bill as well. The treatment of protected persons in emergency situations is a delicate matter which requires consideration of the person's wishes, human rights and the duty of health professionals to protect life. This bill enables those closest to a protected person the right in certain circumstances to make decisions on medical treatment on their behalf. As the Attorney-General noted, the majority of the community probably assumed that this was already the case, but, prior to this bill, decisions on the medical treatment of protected persons fell to appointed guardians, those with enduring power of attorney, or the ACT Public Advocate. This bill allows for non-appointed family members, close friends or carers to make treatment decisions on the protected person's behalf.

While I imagine that many protected persons already have appointed guardians, this bill provides for those who do not, for those who could be in perfect health but, as a result of some unfortunate event, end up in a coma or are in some other way unable to make their own treatment decisions. There are safeguards in the bill to ensure that the wishes of the protected person are at the foremost as far as possible.

The ACT is in the process of harmonising much of our legislation with other Australian jurisdictions. On the surface, harmonisation makes sense, but we need to be wary that we are not reducing our laws to the lowest common denominator. I do not believe that this is the case here, but we have to make sure that it is good policy and not just shared policy.

Currently, as confirmed by the Attorney-General in his answer to my question on notice No 2082, close relatives or carers or people with enduring power of attorney cannot make decisions about mental health treatment, and that is not being changed by this bill. These decisions must go to the Mental Health Tribunal, where the wishes of the incapacitated person and those close to them may or may not be taken into account. Even if the person has a voluntary advance care agreement those wishes may be ignored. Mental Health ACT is currently investigating the possible implementation of advance care agreements as a legal mechanism. I do wonder what their impact on the Guardianship and Management of Property Act might be.

The Public Advocate has suggested that this restriction on the rights of those with enduring power of attorney to act on behalf of a mentally ill protected person could be changed specifically around involuntary treatment. It need not be so general about treatment for a mental illness, and I am wondering if the government has discussed

this with the Public Advocate. To quote Nick O'Neill's submission to the HEREOC living wills discussion paper on behalf of the New South Wales Guardianship Tribunal:

> Where a person does have insight into their illness, the benefits of enduring guardianship and advanced directives are many. Enduring guardianship is suited to an episodic illness in that the appointment comes into effect when the person loses capacity and is suspended when the person regains capacity. A person with insight into their illness may wish to execute an advance directive that contains their wish to receive treatment despite the fact that they may not take or express such a view when they become unwell. An agreed treatment plan may allow for an earlier and therefore less intrusive treatment in the event of an episode of mental illness. Involved persons may also be more willing to act if they know that it is with the agreement of the person as expressed when he or she was well.

I hope the Attorney-General's Department is working with ACT Health to develop these types of agreement and any changes which may be required to the act. One of the last statements that the former Community Advocate, Heather McGregor, made was a very passionate call for a just provision such as this. I think at the time the issue was around an American woman who was young when she was involved in the accident that led to her being in a coma and who was kept alive on life support systems for many, many years thereafter. It is precisely those sorts of situations that this particular legislation might help in dealing with. I am very happy to support the legislation.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (11:23), in reply: I would like to thank members for their support of this important bill. The bill amends the Guardianship and Management of Property Act 1991 to allow people to consent to the provision of certain medical treatment for an adult who cannot give his or her own consent because of impaired decision-making ability. Under this new option, people who are close to a patient will be eligible to give the consent that a doctor or dentist needs before providing medical treatment to the patient.

We know that consent is an important part of giving medical treatment to a patient. Medical treatment could amount to assault at law if the patient has not consented to it, despite the treating health professional's good intentions. The Human Rights Act 2004 recognises the right of a person not to be subjected to medical treatment without his or her free consent. An impaired ability to give consent may arise from a person's physical, mental, psychological or intellectual condition or state. How can someone whose decision-making ability is impaired give his or her free consent?

I would like to briefly note the options currently available in the ACT for consenting to medical treatment for a person who has no ability to give his or her own consent. I will refer to a patient in this situation as a "protected person", which is the term used in the Guardianship and Management of Property Act. A person may authorise an attorney to act for him or her, under an enduring power of attorney, to consent to medical treatment. The enduring power of attorney will operate when the person's

ability to make a decision becomes impaired. If there is no attorney under an enduring power of attorney or the enduring power of attorney does not give the particular required authority to the attorney, family members or others who have a personal interest in the welfare of the protected person may apply to the Guardianship and Management of Property Tribunal for the appointment of a guardian to consent to medical treatment.

If there is no attorney under an enduring power of attorney and no guardian, or even if the attorney under an enduring power of attorney refuses to give consent, a treating health professional in the ACT would be forced to bypass family members and relatives of the patient. Those people are not empowered by law currently to give consent unless they go through the legal process of applying to be appointed as a guardian. The health professional would instead contact the Public Advocate, and the Public Advocate would seek appointment as an emergency guardian to give consent.

Family members and relatives may accept the Public Advocate's role in those circumstances because they would want to ensure by any means the wellbeing of their loved ones. However, while most other jurisdictions recognise the ability of a person close to a protected person to consent to medical treatment, the ACT has not done so until now. This bill remedies the current situation and brings the ACT into line with other jurisdictions. A domestic partner, carer, close relative or close friend in the ACT will be able to give consent to medical treatment for a protected person. The need to seek consent from a health attorney would only arise if there is no attorney under an enduring power of attorney and no guardian. The scheme provided for in this bill will sit alongside the currently available options. It is not a substitute for them; it is most likely, in fact, that a protected person with a long-term need for medical treatment will have a guardian to make decisions for them acting on their behalf.

I am pleased to note that this bill is the outcome of an extensive consultation process undertaken by my department. In late June last year, I released for public consultation a discussion paper entitled "Consenting to treatment: developing an ACT legislative framework for giving consent to providing, withholding or withdrawing medical treatment to an incompetent adult". The discussion paper canvassed a number of issues, mainly about whether or not family members and relatives should have the ability to consent to providing, withholding or withdrawing medical treatment to a patient with impaired decision-making ability.

From the comments received, there emerged a number of draft legislative proposals on the issue of consent to medical treatment. With regard to consenting to withholding or withdrawing medical treatment, however, I note that the common law continues to apply. It became clear from discussions on the discussion paper that the government will need to undertake further consultation, in particular with the medical profession, if we are to change that position. Therefore, the government considers that that issue should be considered at some future time.

The consultation process acquired another layer when my department convened a reference group to consider and refine the draft legislative proposals. The reference group consisted of representatives from the Chief Minister's Department, ACT Health, the Public Advocate, the Department of Disability, Housing and Community Services

and the Human Rights Commission. Importantly, it included some senior ACT health professionals. The bill seeks to implement the proposals agreed to. The two layers of the consultation process undertaken ensure that appropriate consideration was given to the policy and practical aspects of the proposals. I am confident, therefore, that the scheme under the bill can easily be accommodated within the hospital system, and that it would be welcomed by the ACT community.

I am pleased to note that members agree that the measures the bill proposes safeguard the interests of the patients who cannot consent to treatment. A medical practitioner and a health attorney acting under the new scheme must follow the decision-making principles set out in the Guardianship and Management of Property Act. Briefly, some of these key principles are that: the protected person's wishes, as far as they can be worked out, must be given effect without significantly adversely affecting the person's interests; if the protected person's wishes cannot be given effect at all, the decision-maker must promote the person's interests; and the protected person's life, including their lifestyle, must be interfered with to the smallest extent necessary.

When selecting a health attorney, a health professional will be obliged to: ask for the consent required for medical treatment from a health attorney who he or she believes on reasonable grounds is the best able to represent the views of the protected person; consider the health attorneys for the protected person in the priority order, which I will explain shortly; and not use a health attorney if the health professional believes on reasonable grounds the health attorney is unsuitable.

The priority order amongst health attorneys is: first the patient's domestic partner; second a carer for the patient; and, third, a close relative or close friend of the patient. A carer would be someone who gives or arranges the giving of care and support to protect a person in a domestic context. A domestic partner is clearly someone who must have a close and continuing relationship with the protected person, and a close relative or friend must have a close personal relationship with the protected person.

The circumstances in which a health professional would believe a health attorney not to be suitable would be, for example, if the health professional becomes aware that the health attorney is under undue influence or the interests of the health attorney and the protected person are in conflict. The health professional must record the reasons for his or her belief as to why a particular health attorney is not suitable.

The bill also requires a health professional to provide specified information to a health attorney, for example, the health professional should set out the reasons why a person is a protected person, the condition of the protected person, the medical treatment for which consent is sought, any alternative treatment that is available, the nature and likely effect of the medical treatment for which consent is sought, any alternative medical treatment and the decision-making principles. This information will ensure that the consent of a health attorney is informed.

The Public Advocate has a significant reserve role in the health attorney scheme. A health professional may not be able to find a suitable health attorney for a protected person. In that case, the health professional may contact the Public Advocate. It is not necessary for the bill to expressly provide for this. If a selected health attorney refuses

to participate in the consent process or a number of health attorneys disagree about what action should be taken or if the treatment consented to continues beyond six months, then the health professional must advise the Public Advocate. If a health professional contacts the Public Advocate in these circumstances, the Public Advocate will be in a position to decide when and how to act in the interests of the protected person.

Family members and relatives may have concerns about their potential legal liability for giving consent. It is important to note that the bill affords them protection from liability so long as they act in good faith. Similar protection is given to a health professional who acts in good faith in accordance with consent from a health attorney or a person whom the health professional believes on reasonable grounds to be a health attorney. Nevertheless, the health professional would not be relieved of liability that would otherwise exist if the protected person did not have impaired decision-making ability and the medical treatment had been given with the person's consent.

I am confident that the family members, carers, relatives and friends of a protected person will welcome a scheme that enables them to act for their loved ones. They will now be in a position to actively engage in the medical treatment decision-making process. I am also confident that health professionals will welcome the scheme, because it will expand the options available to them in ensuring that patients receive timely and appropriate treatment. I thank members for their support of the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Adjournment

Motion by **Mr Corbell** proposed:

> That the Assembly do now adjourn.

Chief Minister—attendance at bushfire inquiry
Gungahlin Drive extension

MR SESELJA (Molonglo—Leader of the Opposition) (11.34): I just wanted to touch on a couple of issues that were dealt with today. The first is the issue of the Chief Minister's non-attendance in relation to the debate on the bushfires and the performance of this government. We do find it quite extraordinary that the Chief Minister refused to attend the bushfire inquiry even though he was, of course, the responsible minister at relevant times in the inquiry. And it needs to put into context that this inquiry, which commenced when I was chair of the legal affairs committee, had a wide ambit which did go back to 2003 and prior.

The Chief Minister was a relevant witness and he refused to be examined by the committee. We can only take it from this that the Chief Minister's protestations about unfair findings against him are simply hot air because, if he genuinely believed that, he would have relished the opportunity to come and put his case. It is one thing to have a debate in the Assembly but it is another thing to be examined by a committee and asked questions about your performance. The Chief Minister did not have the courage to do that. Then today we saw that debate shut down so that there could not be a discussion of that issue.

His refusal to front up to that committee is a poor reflection on the Chief Minister. That committee was to examine these issues. The Chief Minister and the Attorney-General said that it was for political judgements to be made and they refused to allow themselves to be subjected to those through the proper processes that were set up in this Assembly. It does display a complete lack of courage.

Mr Corbell: I attended the inquiry. What a load of nonsense. Did I not give evidence at the inquiry, Mr Seselja?

MR SESELJA: Mr Corbell is probably not listening to me. Mr Stanhope did not attend. He did not subject himself to it. He would not subject himself—

Mr Corbell: You said me as well; you included me.

MR SESELJA: I did not, so you can only—

MR SPEAKER: Order! This is not a conversation.

MR SESELJA: But this is about the Chief Minister, the man who failed to warn us, refusing to come and put his case. If he had a strong case he would have come and put it. Instead, he was happy to throw rocks at the coroner and then not be subjected to scrutiny for those comments and for his actions.

All we got during the coronial inquiry was Mr Forgetful. We had Jon Stanhope, the forgetful Chief Minister, who could not remember anything. We would have been keen to know whether or not he now remembered what had gone on. His failure to do so and his failure to allow debate tonight is another demonstration of him running away from this issue and not showing courage on this issue in the slightest.

I did want to also touch on the issue of Mr Hargreaves's extraordinary answer today in question time. When faced with the bald facts of his statement on WIN news "we did not know there were going to be 29,000 cars" and the projection that they had in 2002 that there were going to be 29,000 cars, I think, in 2006, Mr Hargreaves's answer—one of the most absurd answers we have heard in this place—was: "What we thought was that we would build this road and we were hoping that no-one would really use it; we were hoping it would take 12 months before people realised that there was this road and they would start using it." It was an absurd answer, trying to cover up for the fact that he is trying to gild the lily here.

On WIN news, he said, "We did not know there was going to be this much traffic. That is why we did not duplicate it," when his own figures show he did know there was going to be this much traffic. In fact, they thought there was going to be more traffic than there is even now. Mr Hargreaves was seeking to distort the truth on WIN news; there is no doubt about it. His answer today was a pathetic attempt to rewrite history.

The fact is that this government knew, as did everyone, through its own projected figures, that this road was going to need duplicating straight away, and it waited until the eve of an election to do it. Now we are seeing the results of that negligence; we are seeing the results as we see the delays start again on Gungahlin Drive. We see the extra costs that go with it and the extra years of delay.

Mr Hargreaves summed it up well today, did he not, when he said, "I am going to get re-elected and we are going to do it in the next few years, the same way we have done in the last few years." That is a promise you can bank on. If John Hargreaves is minister again after the election, this will be slow and it will be handled in an incompetent manner in the way that it has been done in the last few years.

Legal Affairs—Standing Committee report

MR PRATT (Brindabella) (11.39): I stand to talk quickly about the Standing Committee on Legal Affairs report into the ACT fire and emergency services arrangements and to express my deep dissatisfaction with that report. After that I want to talk about the government's attitude to the tabling of that report.

Let me start by saying this: we have not had time of course to scrutinise this report properly yet. But a quick glance at the 22 recommendations would indicate that only six of those recommendations go to the heart of addressing something like 14 serious issues raised by a very significant body of witnesses who presented quite detailed evidence to the inquiry. So it is very clear to me that a lot of very, very important evidence presented by a broad cross-section of very experienced people, including an ex-commissioner, two ex-chief officers, a group of captains—in fact, the captains group of five—and a range of people was ignored by that inquiry.

I am quite critical of that inquiry and the way it was conducted. I will pick on one example right now. There is not a single indication in the list of recommendations about the morale issues which have clearly bedevilled the emergency services in the last 12 months. If I can go to one of the many references in the *Hansard* report of the evidence presented to that committee of inquiry. I want to quote from Mr Val Jeffery in response to an answer about morale:

> I would term morale as being at the lowest point that I have ever seen it in my history of bushfires. It was certainly low after the 2003 fires, but there was a feeling amongst the firefighters on the ground that they had done the best they could, they had made an effort, and they had tried. A lot of people achieved a lot in those firefighting days. But from then on we have been doing nothing else but fighting battles and what you might call stabs in the back from left, right and centre, and getting nowhere.

He went on further, on the question of leadership, responding to a question about ministerial oversight and senior management in emergency services:

> It gets down to one simple thing, Mr Pratt, leadership. We have got to have leadership from the top down. We have got to eliminate some of the levels in between. It gets down to one thing: just plain leadership.

He was referring to the bureaucracy and the tangled web of the chain of command. He went on:

> I do not think the minister is listening to anything we are saying really, honestly. Certainly the commissioner is not listening; the deputy commissioner is, but he is lower down the food chain.

He went on:

> I would challenge the minister and the Chief Minister to come out and show me how better prepared we are.

That is just a one sample of, I would suggest to you, Mr Speaker, about 26 substantive issues that have not been covered in this report.

As to the government's response to this report, today we have seen the cowardly response by Mr Corbell and by the Chief Minister in relation to debating the substantive issues in this report. We saw a Chief Minister who refused to come back and answer in the inquiry a range of questions asked—for example, the one that I have just outlined—which the Chief Minister should have answered. When Mr Corbell was asked to respond to matters dealing with the very interesting McGuffog report, he would not allow Mr McGuffog to speak and there was no indication about detailing other fundamentally important reports which go to the heart of describing the performance issues of the emergency services.

What we have seen from go to whoa is a gutless government, a Chief Minister too frightened to appear, a minister too frightened to give evidence and a minister here today who lamely stood up, shaking in his boots, and collapsed the debate on the presentation of the report. This government should be ashamed of its attitude on this matter. We are talking about fundamental issues which go to the heart of the protection of our community and safety management matters. This government does not give a toss about these duty of care matters. *(Time expired.)*

Chief Minister—attendance at bushfire inquiry

MR SMYTH (Brindabella) (11.44): It is curious that, of all those that were in charge on 18 January 2003, there is only one left, and that person is the Chief Minister. When the opportunity came for him to speak to or defend or explain what occurred on 18 January 2003, he squibbed it. The opportunity was there to quite clearly put on the record and explain what had happened and, indeed, what had happened since in his government, and he squibbed it.

The opportunity was there today for the Chief Minister to come and explain and have a reasonable debate in this place. Instead, we had from the leader of government business another on-the-spot ruling that only committee members normally speak to a report and then we adjourn it, which of course is patently false. It is made false and the lie is put to it by the fact that this morning we had a debate on the closure of the Wanniassa Medical Centre and everyone was free to speak to it. Indeed, nine or 10 members spoke to it.

The government squibbed it. The evasiveness and the number of rabbit burrows they ran down during the day were just extraordinary. There it was: we had finished the education debate and we should have gone to the debate on ACT fire and emergency services. But no, we jumped to the Crimes Legislation Amendment Bill. Why? Because we are afraid of the scrutiny. Why? Because we know that the Chief Minister cannot answer the questions. Why did we do it? Because we did not want to be held accountable and because we have simply got the numbers. Then, instead of going to orders of the day Nos 2, 3 and 4, we jumped to No 5. When we tried to bring it back on, we were stifled by the numbers.

MR SPEAKER: Order! You should not reflect on a vote of the Assembly.

MR SMYTH: I take back whatever it is that you wish me to take back, Mr Speaker. It is interesting that all of the other players have gone, players that Mr Stanhope as Chief Minister said he would stand by. When the reshuffle came and when the move came to the authority, they did not get the jobs because he did not want them around. It is interesting the former head of the Chief Minister's Department, the head of the Chief Minister's Department on the day, has gone. The head of the justice and community safety department on the day is no longer with us. The head of the Department of Urban Services at the time has gone. The head of the then Emergency Services Bureau has gone. The head of the ACT Fire Service at the time has gone. The head of ACT emergency services at the time has gone. The head of the Rural Fire Service at the time has gone. They are all gone. The only one left to defend them and speak for their actions and to defend the government who was in a position of authority and a part of it on the day is of course the Chief Minister.

Who is left to answer? Who has all the knowledge? Who is the only one that can correct the record? That is the Chief Minister. And what did he do? He squibbed it. In a display of gutlessness, unseen in parliament, particularly in this parliament, he has left his chair empty all day because he did not want to answer. He has turned up. Fantastic! He said the coroner had overstepped the line. Who is he to judge what the coroner does? He funded the appeals against the coroner to stop the coroner getting to the truth.

We had Mr Corbell, as reported in the *Age*, say, "The coroner made it political. What will we do? We will answer in the political realm." When the opportunity came to have his say, to correct the record in what they have deemed the political realm, the committee of the Assembly, he squibbed it. And when the opportunity came today to have the debate, to defend his record, he squibbed it. He has squibbed it all day long.

He saunters in here with that wry grin that he sometimes wears. I am glad you are here, Chief Minister. It is about time you got up and stopped squibbing it. At 12 minutes to 12 on the third last day of the Assembly, we are finally going to hear from the Chief Minister—I hope we are going to hear from the Chief Minister because these are important issues.

My bushfire brigade has its AGM tomorrow night, as we have had every year, in the second last or the last week of August for as long as I have been a member. The members of my brigade still ask questions. The captain of my brigade appeared before this inquiry, along with other captains, along with some former serving officers, some former officers of the various services, so that he could have his say on behalf of his members who are looking for answers and do want assurances that it will not happen again. But they did not get it today. They did not get a full debate. They did not hear the government defend its record. At 11 minutes to midnight we are at last going to hear from our Chief Minister.

Civil and Administrative Tribunal—appointment of Mr Stefaniak

MR STANHOPE (Ginninderra—Chief Minister, Treasurer, Minister for Business and Economic Development, Minister for Indigenous Affairs, Minister for the Environment, Water and Climate Change, Minister for the Arts) (11:49): I would like to take the opportunity in this adjournment debate today to congratulate a long-term colleague of mine, Mr Bill Stefaniak, on the very significant appointment that was made today. Mr Stefaniak has today accepted an appointment with the Civil and Administrative Tribunal—a very significant honour, an honour that certainly befits Mr Stefaniak's experience, certainly his experience as a solicitor, as a prosecutor, as a former Attorney-General, as a long-time public officer. I quite genuinely extend to Mr Stefaniak my congratulations on his appointment to this most significant position today.

Mr Stefaniak has been a member of this place second only to you, Mr Speaker, in length. It is certainly the case that he is the longest serving Liberal within the Assembly, certainly the most experienced member of the Liberal Party in the Assembly, certainly the most popular member of the Liberal Party in the Assembly. He has made a very significant contribution to this place. I am not quite sure whether his colleagues will miss him but, certainly in the context of the contribution that he has made, Mr Stefaniak today stands as a very worthy appointee to this particular position. And I do extend to him my congratulations and my best wishes for the future.

It must have been a difficult decision that he has made. I can understand, in the context of the timing of that particular decision and the decision that he has made to move on, that it would have been difficult. I have no doubt that it would have been a quite significant shock to his leader and to his party this morning to be informed for the first time by Mr Stefaniak that he was leaving the Assembly, that he was forsaking them, that he was moving on to another life and another appointment. But I guess they will get used to that.

I might conclude by again congratulating Mr Stefaniak, somebody that I met in 1970 at law school. We have known each other for that entire time, through a whole range

of scenarios and circumstances. It has been quite an enduring friendship that I have had with Mr Stefaniak. I certainly do, as I say, congratulate him and wish him all the best.

Question resolved in the affirmative.

The Assembly adjourned at 11.52 pm.

Schedules of amendments

Schedule 1

Crimes Legislation Amendment Bill 2008

Amendments moved by the Attorney-General

1
Schedule 1
Amendment 1.57
Page 20, line 14—

omit amendment 1.57, substitute

[1.57] Section 38 (4), note

omit

2
Schedule 1
Amendment 1.60
Page 21, line 11—

omit amendment 1.60, substitute

[1.60] Section 41 (4), note

omit

3
Schedule 1
Proposed new amendment 1.63A
Page 22, line 9—

insert

1.63A Section 89A (5) (b)

substitute

(b) all the evidence for the prosecution has been taken;

4
Schedule 1
Amendment 1.64
Page 22, line 10—

omit amendment 1.64, substitute

[1.64] Section 90

substitute

90 Committal proceedings—prosecution evidence to be given to accused person

(1) This section applies if a person (the ***accused perso***n) is charged with an indictable offence and a committal hearing is to be held in relation to the charge.

(2) Within the period, prescribed under the rules, before the date set for the committal hearing, the informant must serve the following documents on the accused person:

(a) a copy of the written statements that the informant proposes to tender at the hearing;

(b) for each exhibit identified in the statements—a copy of the exhibit or a notice relating to inspection of it.

(3) A copy of the documents served must be filed in the court within the period prescribed under the rules.

(4) Before the committal hearing, the accused person or the person's lawyer may ask the informant to allow the accused person or the person's lawyer to—

(a) inspect the exhibits mentioned in the notice (if any) served on the accused person under subsection (2) (b); and

(b) if a statement is in the form of a transcript of a recording as mentioned in section 90AA (3A)—listen to or view the recording.

(5) The informant must comply with a request under subsection (4).

(6) Subsection (4) (b) does not entitle the accused person or the person's lawyer to be given or make a copy of the recording.

6
Schedule 1
Proposed new amendment 1.71A
Page 24, line 5—

insert

[1.71A] Section 90AA (1)

substitute

(1) If the informant has served a copy of a written statement on the accused person in accordance with section 90, the court at the committal hearing must admit the statement (and any exhibit identified in it) as evidence of the matters in it unless the statement (or exhibit) is inadmissible under this section or according to the rules of evidence.

7
Schedule 1
Amendment 1.73
Page 24, line 8—

omit amendment 1.73, substitute

[1.73] Section 90AA (10) and (11)

substitute

(10) A prosecution witness may give evidence-in-chief in person at a committal hearing only with the court's leave.

(11) The court may give leave only—

(a) on application by the prosecution; and

(b) if it considers that the interests of justice cannot adequately be satisfied if the witness's evidence-in-chief is not given in person at the hearing.

8
Schedule 1
Proposed new amendment 1.73A
Page 24, line 9—

insert

[1.73A] Section 90AA (12), definitions of *proceeding for a sexual offence* and *sexual offence*

omit

11
Schedule 1
Amendment 1.77
Proposed new section 90AB (1)
Page 24, line 22—

omit

The court must not require a witness to be called for cross examination

substitute

A witness must not be cross-examined

12
Schedule 1
Amendment 1.77
Proposed new section 90AB (2)
Page 25, line 4—

omit

The court must not require any other witness to be called for cross-examination

substitute

A witness (other than a witness mentioned in subsection (1)) must not be cross-examined

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Schedule 2

Unit Titles Amendment Bill 2008

Amendments moved by the Minister for Planning

1
Clause 16

Proposed new section 55P (1) (b)
Page 20, line 21—

omit

2
Clause 16
Proposed new section 55P (2) (b) (ii)
Page 21, line 4—

omit
