Debates

WEEKLY HANSARD

Legislative Assembly for the ACT

SIXTH ASSEMBLY

27 AUGUST 2008

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Wednesday, 27 August 2008

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

Petition

The following petition was lodged for presentation, by **Mr Mulcahy**, *from 24 residents*:

Griffith oval

> **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:
>
> *There is Development Application to construct a fence around Griffith Oval (No 1), a public playing field.*
>
> Your petitions therefore request the Assembly to:
>
> *Disallow any planning application to fence in Griffith Oval (No 1)*

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.

Standing orders—suspension

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.33): I move:

> That so much of the standing orders be suspended as would prevent orders of the day Nos 1 and 2 and notice No 6, Private Members' business, relating to the Criminal Code (Drug Equipment) Amendment Bill 2008, the Protection of Public Participation Bill 2008 and law reform in the area of abortion, being called on forthwith.

Mr Speaker, the government believes it is important that this last private members' business day of the Assembly be used to provide for serious debate on matters that are on the notice paper and ready for debate. It was very interesting that we saw this morning an attempt by the Liberal Party, in listing six new bills for debate, that had no prospect of being debated during the term of this Assembly.

Mr Smyth: You can't count.

MR CORBELL: I beg your pardon; it is five. What is more interesting, of course, is that the Liberal Party are not prepared to debate their own bills which they have now had on the notice paper for a significant period. Ten bills, introduced by members of

the Liberal Party, have not been brought on for debate, despite some of them having been introduced last year. It just shows the priority that they are prepared to give to private members' business day, because, despite the fact that they had 10 bills that they have introduced, they have chosen not to list them for debate today. Instead, we see an attempt by the Liberal Party essentially to promote a range of other issues, in the form of bills, which they know have no prospect of substantive debate or passage in this place during the term of this Assembly.

Other non-executive members do have business that they wish to see debated today, and the government agrees that it is those items that should be given priority. Therefore, the government is pleased to suggest to the Assembly that, instead of engaging in the stunt that was outlined by the Liberal Party when they gave notice of those five bills this morning, we proceed to debate immediately on the matters that are outlined on the notice paper, whereby other members have taken the time to introduce these bills and have them ready for debate today.

The government would like to allow non-executive members to have the opportunity, on this last private members' business day before the election, to debate those bills that have been introduced and which are actually ready for debate. We propose that Mr Mulcahy's bill, the Criminal Code (Drug Equipment) Amendment Bill, be brought on for debate. This is an important issue, obviously, for Mr Mulcahy, and he has given the Assembly notice of his intention to have that matter debated today. Equally, Dr Foskey has for some time flagged her interest in having a debate in this place on the Protection of Public Participation Bill, and I am pleased to say that the government agrees that we should proceed with that matter today. Of course, there is a piece of unfinished business from the last sitting, with Mr Gentleman's motion in relation to law reform in the area of abortion, and we agree that that is also a matter that should be finalised today.

The government wants to take a constructive approach to this last sitting day. We are interested in having substantive debate on matters that we know have been flagged as important and matters that are ready for debate. In contrast to those opposite, we are not going to support an attempt to grandstand on the last private members' business day in this place, where we will see five bills introduced by the Liberal Party which have no prospect of any substantive debate or passage in this place. The very shallow tactics adopted by the Liberal Party can only be confirmed by the fact that they have 10 bills on the notice paper which they have introduced over the last 18 months, and which they clearly do not even agree with anymore.

Are they saying that they do not think that the Projects of Territory Importance Bill is important anymore, Mr Speaker? Are they saying, for example, that the Anzac Day Bill is not important any more? Are they saying that the hospital boards bill is not important anymore? Mr Speaker, in these issues you can see the very shallow nature of the Liberal Party in terms of introducing bills today. They are exposed for what they are: they are not serious about their legislation program. All that they want to do is grandstand, and we are not prepared to agree to that today.

DR FOSKEY (Molonglo) (10.38): I will support the motion, and there are quite a number of pretty good reasons for doing so. Ever since I saw the program for today, it was pretty clear that the bills were a stunt, since none of them are going to be debated

before the election, and their presentation will tie us up until lunch-time. One notes that they provide a chance for the Liberals to promote the themes they are taking to the election—not that that is anything that is necessarily against them.

I have not noticed the Liberals being very cooperative with, for instance, the crossbenchers or with the rest of the Assembly in regard to MPIs. It has been a constant call for us. In a sense, while the MPI is a wonderful thing, we are getting to the point where, because we cannot debate MPIs, they are a little bit of a luxury, I believe, in the last few sitting weeks. Of course, the Liberals say they will do them and we all jump in because we do not want to talk about graffiti and so on forever.

I also believe it is unfair to tie up private members' day with Liberal business, much of which, and it is there on the agenda, is just to chastise the government again—we have heard it all before—and draw attention to the opposition. I note that Mr Seselja's condemnatory motion is given precedence over what I feel is a much more important piece of business—Mrs Dunne's Government Transparency Legislation Amendment Bill. I feel that that has constantly been marginalised. It has been on the paper for a while. I do not know how Mrs Dunne goes with respect to arguing in the party room, but she clearly has not had any success. If the Liberals were really serious about getting anything done, that would have been the first bit of business, not Mr Seselja's motion.

Private members' business day is for all private members, not just the Liberals. In this Assembly private members do get the opportunity to present more business than in most other parliaments. I would not like to think that it was a privilege; it is probably a historical thing. But there is the danger of losing it if there is another majority government. Therefore, we need to treat it with respect and use it for private members' business, not private members' politicking.

I do not want to talk too much; time is short and there is a lot to do. I wish that everyone felt that way. In regard to our anti-SLAPP bill, I have been really concerned. There was a legal affairs committee inquiry into it. It came up with a strong report which recommended that the legislation go through. It presented another model, which I tabled again this year, so we will actually be discussing a better model. My office and I have been in discussion with Mr Corbell and his office. I thank the government for bringing that on, because it would be a first for the ACT. It is a thoroughly worked, thoroughly consulted on, necessary and useful bit of legislation. I hope that the Liberals have been working in that way with the government on, for instance, the transparency legislation that is on the paper.

MR SESELJA (Molonglo—Leader of the Opposition) (10.42): I will deal first with Dr Foskey's comments. The lecturing tone that we get from Dr Foskey from time to time is quite astounding. The idea that the government would work with us to make the information flow from them more accessible is quite laughable. We have seen their attitude to it, which is why we consistently need to extract information from them in various ways, and with varying degrees of success, of course, with a majority government.

Today's move to suspend standing orders by Mr Corbell is another clear example of why we cannot afford another Labor government. This is a Labor Party that wants to

control every aspect of what happens in this chamber. Today is private members' day. There was a meeting yesterday at which notice was given of all of these things. The proper procedures were followed for listing items for today's business. Instead of it being dealt with where it should be, in the admin and procedures committee, Mr Corbell stood up at 10.30 and said: "Well, it doesn't matter what was agreed to. We're going to re-arrange business because we don't like it."

The minister, the government and Dr Foskey are saying that the government can do what it likes with private members' day and that it can shift whatever it likes. We have seen what this government have done over the last few years in terms of practices regarding some of their bills. We have seen bills passed, sometimes even in one day, but certainly within a couple of days, because they have had a majority. They have shown no regard for the proper procedures for the scrutiny of legislation.

We do have a program, Mr Speaker. We have been putting forward a program for a long time. This is a snapshot of some of our ideas for the future. I know that the government does not like it. If there was any clearer example that the government has run out of ideas, it is what has occurred today. Instead of allowing bills to be presented so that the public can look at them, the government say that motions are now more important, and they do not want even to countenance the ideas that are being put forward by the alternative government.

We understand why that is the case. We see how they have run out of ideas. We see very little of substance ever coming from their backbench on private members' day. Mostly it is self-congratulatory, mostly it is fed to them by ministerial officers, speech and all, to praise the government. So instead of engaging in real debate in this place on private members' day, what we have seen consistently from the Labor Party in this place is self-congratulation and the bringing forward of motions that, for the most part, have absolutely no substance and that will make absolutely no real difference to the people of Canberra.

When we put forward positive alternatives and positive ideas through our legislative program, this government shut it down. We will not be supporting the suspension of standing orders. It is once again an outrageous abuse of this government's majority. The fact that Dr Foskey will be supporting them in this is instructive, perhaps, of how supportive she is of the government when it suits her. The moralising that we get from Dr Foskey from time to time should be seen for what it is.

Dr Foskey sees it as being in her own interests. We heard the gripe about MPIs. Now, MPIs are no good, apparently. Putting forward matters of public importance for debate is no longer a good thing because Dr Foskey feels that the odds are stacked against her. Well, private members' day is very generous to the crossbench, given their representation. The fact that we use MPIs to raise matters of public importance that are important to our constituents is something that we do not shy away from and we are very happy to have those debates. But this move to suspend standing orders is another outrageous shutting down of private members' day for the government's own purposes.

Government members interjecting—

MR SESELJA: Well, it is. This was agreed to in the committee and then, clearly, Ms MacDonald was not following instructions, and we get the minister coming in and saying, "We're going to shut it down and we're only going to debate the things that we want to debate and we're only going to talk about the things that we want to talk about." There will be an opportunity on 18 October 18. We are very confident that this mob will not be in control anymore. In part, it will be as a result of their arrogance and their arrogant disregard for the community and for the procedures in this place, which have been demonstrated time and time again over the past four years.

MR MULCAHY (Molonglo) (10.47): That last address by the Leader of the Opposition actually provided a compelling argument for why—

MR SPEAKER: Order! The time for this discussion is concluded.

Mr Mulcahy: I am for this motion. Can I get a five-minute extension to speak, Mr Speaker?

MR SPEAKER: You need leave and I do not think you are going to get it.

Question put:

The Assembly voted—

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

Question so resolved in the affirmative, with the concurrence of an absolute majority.

Matter of public importance
Ruling by Speaker

MR SPEAKER: This morning four members of the opposition each lodged an MPI concerning the delivery of ACT government services in the community. Standing order 130 states that a matter on the notice paper must not be anticipated by a matter of public importance, an amendment or other less effective form of proceeding.

Private members' business notice No 7 listed on today's notice paper lodged by Mr Seselja and scheduled for debate later today also concerns matters relating to the delivery of government services to the community covering a wide range of government services such as roads, education services, housing affordability, health services, the Griffith library, Civic shopfront and the Alexander Maconochie centre.

Accordingly I have ruled that the MPIs submitted by those members are out of order, and they were not included in the ballot for today's MPI. This decision was taken this morning and at the time of consideration I took into account standing order 130, which I mentioned earlier.

Mr Smyth: On a point of order, Mr Speaker: recently Ms Porter put in an MPI that was considered to be out of order and she was accorded the courtesy of being able to modify it so that it could be included in the ballot. Was the same consideration given to the four MPIs that were ruled out of order in terms of having consistency of approach?

MR SPEAKER: I am trying to recall the Porter matter, but this morning I looked at the motion and as it went to those issues which I referred to in the statement I just made, I considered the most appropriate course was to rule it out of order.

Mr Smyth: Thank you for your explanation, Mr Speaker, but again I raise the point that Ms Porter's MPI was out of order and she was accorded the courtesy of modifying the words. Was consideration given to allowing the four members who had perhaps made the same mistake as Ms Porter to change their words as well?

MR SPEAKER: No, I dealt with it on its merit, Mr Smyth, as usual.

Criminal Code (Drug Equipment) Amendment Bill 2008

Debate resumed from 20 August 2008, on motion by **Mr Mulcahy**:

> That this bill be agreed to in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (10.53): The Criminal Code (Drug Equipment) Amendment Bill seeks to amend the ACT Criminal Code to make it an offence for a person to sell or supply drug equipment. The use of illicit drugs in the community and the harms inflicted on users, their families and the broader community are a major concern for the government. To date our response has been to invest in evidence-based measures to educate the community about how to prevent and reduce the harms caused by illicit drugs and to support those experiencing drug problems by providing rehabilitation and support services. The government has also introduced laws that create severe penalties for people convicted of trafficking drugs and supplying measurable quantities of them.

Mr Speaker, in the absence of any evidence related to the usefulness of these measures that have been proposed by Mr Mulcahy, the government does not believe that it can support those elements of the bill. I am aware, however, that some Australian jurisdictions have already moved to criminalise the sale of many of the items identified in Mr Mulcahy's bill. I am of the view that a decision to adopt complete prohibition on the sale of the range of items identified in Mr Mulcahy's bill is a premature step as we are yet to see the evidence in support of these measures.

However, I am aware that there is a range of issues also at play in terms of the display of these types of drug paraphernalia and whether, indeed, they should be displayed as part of making them available for sale in the community. I think it is the case that there is the potential for an amendment to this bill that would provide for a prohibition on the display of these items but not on their sale.

If that is the case, the government will be prepared to support this bill in principle and proceed to a debate at the detail stage on the appropriateness or otherwise of that approach. It certainly is the case that there are arguments to accept that we should adopt a similar approach in relation to the display of these types of products as is being proposed in relation to tobacco, whilst not prohibiting their sale outright.

Mr Speaker, the bill is related in part to matters considered by the Standing Committee on Health and Disability in its inquiry into the use of crystal methamphetamine, or ice, in the ACT. My colleague and Minister for Health Ms Gallagher will be tabling the government's response to that committee report shortly. Although I will not go into detail on the government's response at this time, I will draw members' attention to recommendation 22 of the committee's report in relation to a ban on the sale of glass pipes used to smoke ice and other drug paraphernalia. The committee recommended:

> that the ACT government give due consideration to the Ministerial Council on Drug Strategy discussion paper and consult with the drug and alcohol sector and the local community, prior to any decision to ban the sale of glass pipes used to smoke 'ice' and other drug paraphernalia.

The ministerial council is to consider a discussion paper on illicit drug paraphernalia in the near future. The ACT is represented on that council by myself as Minister for Police and Emergency Services and by the Minister for Health. I am looking forward to seeing the details of that discussion paper and I am particularly interested in reviewing any evidence that shows that banning these items leads to a measurable decrease in the use of illicit drugs.

With respect to amphetamines, the ministerial council developed the national amphetamine type stimulant strategy 2008 to 2011. The strategy is informed by the research literature, scientific evidence, a nationwide consultation process and written submissions from key stakeholders around Australia. The strategy's aim is to reduce the availability and demand for illicit amphetamine type stimulants and prevent use and harms across the Australian community.

Five priority areas have been identified by the ministerial council. One of the core concerns of the strategy is to ensure that adequate laws are in place to respond to amphetamine type stimulant-related activity. In responding to the issue of equipment related to the amphetamine use, the strategy recognises the absence of any clear evidence on the banning of ice pipes. Through the strategy the ministerial council has committed to:

> Investigate how the availability of smoking implements including over the internet influences amphetamine type stimulant use, dependence and problems;
>
> investigate the likely impact of changes to this availability and review the regulations where appropriate.

Mr Speaker, a ban on the sale of ice pipes or any other drug paraphernalia is not being pursued in the ACT at this time by the government. My view is that supporting this bill to a more complete prohibition—*(Quorum formed.)* In the week since the bill was

introduced there has not been a very large opportunity to properly consider the evidence and the likely impact of bans on the sale of these items.

More importantly, there has not been an opportunity to consult with the drug and alcohol sector and the local community as was recommended by the standing committee's inquiry. In the absence of evidence supporting the criminalisation of the sale or supply of drug equipment it is appropriate that law enforcement efforts should continue to focus on the disruption of the drug trade in the ACT. As I have already foreshadowed, Mr Speaker, the government would be willing to consider supporting this bill in principle if there was an amendment to provide for the prohibition on the display but not the sale of these items in retail premises in the territory.

Turning again to law enforcement, the advice I have received from ACT Policing is that their drug intelligence and drug investigations teams have had a great deal of success in the seizure of illicit drugs. This supports the view of the government that the current targeted approach to disrupting the supply of illicit drugs in the territory is an effective one.

ACT Policing also advises that the existing drug enforcement legislation, in terms of existing offences and penalties associated with those offences, is generally satisfactory in attending to the issue of illicit drug use in the territory. Investment in education and treatment options remains an effective way of preventing and reducing harms caused by illicit drug use. Paramount to the success of these strategies in these areas is the importance of making certain that where law enforcement measures are deployed in addressing illicit drugs, those measures are informed and underpinned by evidence. I have not seen any evidence that the sale of these items used for the administration of illicit drugs leads to an uptake of illicit drugs. I am concerned that any response we make is not a knee-jerk one.

In relation to ice pipes, I note that there remains a great deal of uncertainty about the possible harm brought about by banning their sale. Consumers of the purest form of methamphetamine, ice, often choose to inhale vaporised ice through a moulded glass or perspex pipe. Although a ban on the sale of ice pipes may lead to a decrease in the smoking of ice, it may also lead to the sharing of pipes, which brings with it an increased risk of hepatitis C transmission. A ban could also lead people to take up injecting ice, an activity we know on the basis of evidence carries a significantly higher health risk.

In conclusion, the government is looking forward to participating in the ministerial council's discussions on this matter. The government will consider the discussion paper and the available evidence on this issue in arriving at a future position on the ban of the sale of illicit drug paraphernalia. However, Mr Speaker, there are I think good reasons to give serious consideration to the potential prohibition on the display prior to sale of these items. The argument, of course, is one similar to that adopted in relation to tobacco. If the display of the items is less obvious, maybe it could lead to fewer people choosing to consider using those items in the first place.

Whilst we approach this bill with some caution, we do not entirely rule out the possibility of banning the display of these items as proposed by Mr Mulcahy in his bill at this time. But we are yet to be convinced that a prohibition on the sale of them will achieve the outcome Mr Mulcahy seeks.

DR FOSKEY (Molonglo) (11.04): Mr Mulcahy told me last week that I would not be supporting this bill. I would like to surprise him, but I will not be supporting this bill. Nonetheless, I would like Mr Mulcahy to pay some attention to my arguments because, like the government, I do see some value in the points that he is putting forward. I believe, as I indicated last night, that we could actually do something about the promotion of such equipment.

Rather than mount an exhaustive argument myself, I thought I would have a look at what some of the people that are closer to this issue are saying. Therefore, I am going to quote a thread from the RiotACT website.

Mr Mulcahy: There's an authoritative source.

DR FOSKEY: Well, it is a source that we occasionally look at for commentary on our own work. I am sure that other members do this also. Here is a selection of quotations from the RiotACT:

> It is with a great deal of amusement that we note an ABC story in which one Richard Mulcahy MLA, formerly of the Tobacco Institute of Australia, is legislating for a ban on the sale of bongs, ice pipes and other drug paraphernalia.

Mr Mulcahy's comments are then quoted:

> Mr Speaker, this bill will not solve all issues related to illicit drugs in our community not even close.

Mr Mulcahy: Who signed off on that?

DR FOSKEY: You. Mr Mulcahy went on to say:

> It will however be a step in the right direction and enshrine in legislation the principle that the ACT does not believe that we should facilitate the use of illegal drugs.

And the comment on that is:

> Because if people are smoking this stuff anyway do you want them doing it with well constructed gear? Or something they've lashed together out of hoses and tin foil?

Then there are comments about:

> 1. Oh great, time to disconnect the garden hose from the tap in the front yard.
>
> 2. Quick lets also not provide clean needles because our ideology is in conflict with practicality.
>
> 3. Is he going to stop Bunnings from selling plumbing supplies and increase numbers of ACT policing so that they can respond every time someone steals 2 inches off my garden hose?

> The Authorities can only ever do one of two things—either ban it or tax it. But hell yeah good idea in theory but no practical use.

There is some useful commentary on this site as well. There is some quite informed commentary as well as it attempts to get a laugh. It indicates:

> Users can also ingest methamphetamine through more than just an ice pipe, but the pipe is probably the cleanest and safest method.
>
> Needles are another easy method, but might I suggest you go and visit the ACT Histopathology Museum first, to see what the after-effects are, when unskilled hands think they know what they're doing? … For you, I wholeheartedly recommend a viewing of "The Thing" (Do not click the link if you are of a weak disposition … which a great many Canberra students have seen as part of high school Biology … is the perspex-encased hand of a man who chose to inject into an artery instead of a vein.
>
> It was rendered ischemic through a blockage of his arteries, by the foreign material included in his drug hit, but had it amputated only after the smell of gangrene became too much for him to bear.
>
> Imagine for a moment more people walking around your electorate with similarly gangrenous limbs. I … would urge to reconsider this policy stance before going public with it.
>
> Oh no, too late.
>
> Regards,
>
> A voter in your electorate

And finally, point 7 states:

> Doesn't he know that most younguns start smoking the chronic with something far less elaborate than a bong bought from the local smokes shop? As my learned colleagues here—

he means on the website—

> have pointed out, orchy bottles, neighbours' hoses, and other miscellany are the gateway tools that Mr Mulcahy … needs to worry about.
>
> It's much easier (and far less heartbreaking) to toss out a gunk-filled orchy bottle when your mum starts getting suss because your clothes don't actually smell of 'incense', than to part with your double barrelled chamber of sticky green love.
>
> People are always going to want to blaze up, and be creative about it too. Ban the bong and watch the wasted youth of Canberra come up with new wacky new ways to get high!
>
> Mr Mulcahy—you might wear leather patches on a tweed jacket, but you've just lost my vote!

Not that I have actually seen that jacket, Mr Mulcahy. That response I think highlights for me how transparent it is that it is not actually a bill about meaningful action; it is a bill about appearance. I am sympathetic to the concern that the public display of drug paraphernalia does to some extent normalise its use in the consumption of illicit drugs and that by allowing the public promotion and display of such items government then becomes complicit.

I would suggest that a better approach would be to put some limits on display of such items—something that has been a progression in the fight against the normalisation of tobacco, especially for young people. I am quite sure that Mr Mulcahy's bill is aimed at young people in particular. I think that there are ways that we could approach it without actually banning it. I think this would be much more problematic. We would just turn this into a black market, which is the way drugs work anyway.

Unfortunately, Mr Mulcahy's bill has only been around for a week. In the context of having a lot of other business before us, my office team and I just have not had a chance to look at sensible amendments that we could have submitted to adjust this bill or draft an amendment to another act in order to achieve a more purposeful outcome that would address the concerns that have been raised regarding the de facto promotion of illegal activities.

MR SESELJA (Molonglo—Leader of the Opposition) (11.11): I commend Mr Mulcahy for bringing forward this bill. I note a lot of the comments that we have had from both Mr Corbell and Dr Foskey in relation to it. There are some complexities in this area and I would like to address some of those.

We believe that we do need to have a comprehensive approach when it comes to dealing with illicit drugs. We need to deal with it at an education level; we need to deal with it very strongly at a law enforcement level, particularly for dealers of illicit substances and traffickers of illicit substances—and we make no apology for pursuing that very strongly—but we also need to look at rehabilitation for those, particularly young people, who find themselves with the scourge of drug addiction.

What we are dealing with here today is possibly an imperfect attempt but a reasonable attempt to deal with one of the anomalies in the way we deal with drugs in our community. We do not allow the sale of illicit drugs—and nor should we—and we have strong penalties for people who supply illicit drugs. On the other hand, we do tend to take a more compassionate approach to drug users, which is reasonable, although there is a fine balance there about the messages that we send to our young people about the appropriateness of drug use.

We have been hearing for a long time—in fact, until the last few years—more and more about how marijuana was just a soft drug and how it was not really a concern and it should be treated as a soft drug; whereas we are seeing more and more evidence now emerging in mental health that marijuana, particularly the stronger marijuana that we have seen developed in the last few years, does have serious issues and does create serious mental health issues and we should not be treating this drug lightly; nor should we be treating amphetamines and heroin and other drugs lightly. We do need to have a comprehensive approach.

The fundamental disconnect is in the message that we are sending. I think Mr Mulcahy is essentially attempting to get to the heart of that. We have been having a debate about the display of tobacco products. So we have got a government that is more concerned about the display of a legal product, as harmful as it is—and we support curbs on tobacco advertising; we support moves to get people away from smoking—but we do have a disconnect in the way that it is treated.

We have heard of the extreme example overseas where, in Amsterdam, where tobacco is banned in some places but marijuana is not, people who mix their tobacco with their marijuana are having to take the tobacco out, in order to comply with the law. You do get these absurd outcomes in the way we approach drugs.

I think the display issue is an absolute no-brainer. We should not be able to display bongs. The message that sends is that illicit drug use is normal and that that is reasonable. There are some concerns about some of the detail of this. Look, for instance, at the definition of a drug pipe. When you talk about modifications, that could potentially apply to anything.

We do not think this is a perfect piece of legislation but we have to look at the principle behind saying, "These are illicit products." We do not want young people engaging in drug-taking activity. We know of course that it does go on but we want to have measures that would reduce drug use in our community. I do not think that displaying bongs and selling bongs assists with the messages that we want to send.

We know that there is no perfect answer. We know that the passage of a piece of legislation like this is not going to stop drug use in our community, but it may well reduce it and it may well move towards helping reduce it and helping change our culture. Young people are much smarter than we give them credit for. The idea that giving clear messages about what drug use is and what it is not does not work. I think it is flawed. I think, when people do see a clear cause and effect in their behaviour, many young people will make the right decision as a result. When we downplay the effects of illicit drugs, I think we do them a disservice.

As I say, we think this is an imperfect attempt but, in principle, we do not have a problem with it and we are happy to support the legislation.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (11.16): I thank Mr Mulcahy for the opportunity to talk about this bill from a health perspective. I think it is important to note that, when we look at the burden of disease in Australia, the latest data shows that 52 per cent of the burden of disease in our community comes from cardiovascular disease, cancer, diabetes and chronic respiratory and musculoskeletal conditions and the burden of disease from illicit substance abuse accounts for about two per cent of the total disease burden in the country. Just from a health point of view, you can see that the health response and the health concerns are very much targeted at how you manage, in a very safe and healthy way, people with illicit drug use behaviour.

All the advice to me, as Minister for Health, when I have talked about this with stakeholders who work in the alcohol and drug sector, is that banning equipment like

that will definitely have an impact on drug-taking behaviour. That means it does not necessarily change the drug-taking behaviour; it just means it is done in a less safe way.

Particularly, I have looked at this very closely from the point of view of ice pipes. It is something that the Attorney-General and I have discussed on a number of occasions and sought advice on. It is much safer for people, who are going to use ice, to smoke it rather than inject it, from a whole range of levels, including, I guess, the possibility of transmission of blood-borne viruses and the toxicological impact of the drug in the system. If you smoke it, it has a milder effect than if you inject it directly into your system.

These are the tough issues, I think, that governments need to focus on and look through in terms of presenting arguments on safe drug-taking behaviour. We have to accept that people in the community will engage in illicit drug-taking behaviour. That is something that I do not think any of us here today will say we will be able to stamp out.

Therefore the question from a health point of view—and it differs very strongly, I must say, from a law enforcement point of view or a customs point of view—is: how do you ensure that there are safeguards, education and promotion of safe drug-taking behaviour in place, to make sure that we are addressing things such as hepatitis C, particularly, and HIV? These are the issues that I think any reasonable government needs to deal with.

I think the agreement by the Liberal Party today, to move to support a ban on drug-taking equipment, goes straight to the heart of the issue that they are not ready to govern. They are not ready if they think that banning this type of equipment will deal with community issues relating to illicit substance use, because all the advice to me is that, if you take this equipment away, people will make it; they will make it in a way that is dangerous; it will not change their drug-taking behaviour; and the chance of swapping needles, sharing needles and engaging in more dangerous drug-taking behaviour, is going to be the reality.

Today, we have got a statement from the Leader of the Opposition that that is okay; that it is okay to put at risk all the measures that we have put in place from a harm minimisation point of view and to acknowledge the reality that there are members of our community that, for one reason or another, take illicit drugs and smoke illicit drugs and inject illicit drugs. I think the issue of display is a good one. I think it is unfortunate that we are, at this point in this Assembly, in the last two days, having this discussion, because I think it had a lot of merit.

We have gone through this with tobacco recently. I think all the arguments that we have used about tobacco hold up when you apply them to the equipment that Mr Mulcahy seeks to ban. We have been talking about tobacco for probably the last two years. To be fair, I think you would have to undertake the same processes with industry—do a regulatory impact statement with them and have discussions about looking at how you implement a ban on display and the timetable for that. I just do not think there is time to do all that.

There is obviously not time to do all that in the next day, but I certainly, as Minister for Health, if I am Minister for Health after the election, would be very happy to look at pursuing that work with Mr Mulcahy in a way that I guess consults with the affected stakeholders and works out a reasonable way forward. I think the feeling of the Assembly is that we would all support that kind of approach.

But as Minister for Health, this is not an approach that I can support. Therefore, the government will not be supporting it. It is about, I guess, not having a very simple response to a much more complex issue and ensuring that a simple response does not cause more harm than it seeks to address.

When you look at the size of our illicit drug-taking community, it is very small. I just think we would need to do a lot more work before we could safely say that banning this equipment would not cause significant harm to that population. It is a vulnerable population; it is a population that experiences high levels of blood-borne viruses, and that impacts on their overall health and wellbeing. They are a community that we seek to support and that we seek to provide various health services to.

In conclusion, there is a stark contrast here now, established here this morning, between the Labor and the Liberal parties on this. We seek to support, educate, promote safe drug-taking behaviour, where it occurs, and the Liberals today have put that at risk.

Mr Seselja: You are really clutching, aren't you, Katy?

MS GALLAGHER: I am not clutching at straws at all. I think Mr Seselja, who has been the shadow minister for illicit drugs policy for some time and has done absolutely nothing in that portfolio, has been exposed today by Mr Mulcahy's bill. He has been exposed; he is embarrassed. He has to agree to it. We know that Mr Seselja is probably the single member in the opposition who has done the least across his portfolios, and this is an example of one of them—the much-trumpeted new portfolio on illicit drugs policy when he took over as Leader of the Opposition. My reading, across the health portfolio—and we do keep an eye on all these things—is that Mr Seselja has done nothing in this area.

Now he stands and says, "Yeah, Mr Mulcahy's ideas are good; they are not perfect, but they are okay, so we will support them," without any thorough analysis of what this decision and what the potential impact of this decision if it were supported today would have on the community that he seeks to represent as Chief Minister. Drug-takers are part of our community and they deserve the attention and the support that governments and the community can provide them. You have abandoned them today, Mr Seselja, and I am sure they will all be interested to hear that.

Thank you, Mr Mulcahy, for exposing a major difference between the Labor and Liberal parties and for exposing Mr Seselja's complete inaction in an area of his portfolio responsibility. It has been most enjoyable.

MR SMYTH (Brindabella) (11.25): I have not heard such a weak-kneed response from a health minister in the 10 years that I have been in this place. Anybody reading

the minister's speech in *Hansard* in the future will be so uncertain as to what she was saying that they will be scratching their heads.

It seems that, because Mr Mulcahy has brought a bill in about banning bongs, somehow the Liberal Party has abandoned drug users. The disconnect in that logic is symptomatic of this minister and her approach to so many issues. We see it in the way she abandoned the school community by secretly plotting to shut 23 schools. We see it in the way that she abandoned her responsibilities as a shareholder with the dance centre project and with Rhodium. Now we have got this illogical conclusion in the most inane speech ever given in the history of this place when talking about drugs. It is just appalling that the minister would purport to have some sort of knowledge.

The logic of her case is: we have not consulted on Mr Mulcahy's bill; it has only been here for a week; therefore, we cannot support it. Look at the number of bills in the last couple of weeks that the government have dropped with a week's notice and that they expect this place to pass. The double standard that she exposes and their lack of governance and good process on so many issues leave one speechless that she would even attempt to run that line.

MR SPEAKER: Really?

MR SMYTH: Sorry? Be speechless, Mr Speaker. This is the minister who wants to change the tobacco industry. I note the comments that in some jurisdictions in Europe you can have marijuana but without the tobacco and the idiocy of that. But this minister has a bill that seeks to put more punitive measures on the tobacco industry in regard to its display and sale; yet she cannot make a decision on the implements that would allow people to use an illicit drug.

She spoke about the Liberals' attack on the drug community. What suburb do they live in? It is like they are this discrete little community. They are not a discrete community, minister. If you had been doing your job properly you would know that they are scattered throughout the community. If you had visited Schizophrenia Fellowship meetings over the last four years or the last seven years that you have been in this place you would know the concerns about these issues in many of the support groups who look after people who are victims of the use of illicit drugs. This is the appalling nature of what you have just said.

I think it is shameful that you would try to politicise it in this way without having a firm position yourself. In fact, Mr Mulcahy bringing this bill forward exposes you for your failure to address this issue in the time that you have been health minister in the seven years in which your government has been in place. This jurisdiction used to lead on drug reform, certainly in the discussion of it. Since the Stanhope government has come to power it has been abandoned and you are one of the ministers that have led to the abandonment of that discussion.

Members interjecting–

MR SPEAKER: Order, members! Mr Smyth has the floor.

MR SMYTH: The speech that you gave today should make you ashamed of yourself as a health minister.

Members interjecting—

MR SPEAKER: Order! This is not a place for conversation; this is a place for debate. Members, Mrs Dunne has the floor.

MRS DUNNE (Ginninderra) (11.28): I thank Mr Mulcahy for bringing forward this issue. I am happy to support this piece of legislation because I think that it goes to the heart of the way the law should be run. What Mr Mulcahy's bill does is seek to outlaw the sale of paraphernalia that is used to help people consume illegal substances. I am sure that if Mr Mulcahy or any member came in here today with a bill to outlaw the sale of cigarette holders, Ms Gallagher would be all over it like a rash. She would be wanting to support that bill so quickly your eyes would bleed.

I think that the hypocrisy of the Stanhope government is shown by the fact that they currently have legislation before the house to make it harder for people to consume a substance which is still legal. We could have that debate—and I am happy to have that debate—but they are saying, "We want to hide it from display so that people walking past will not get the idea that it is all right to smoke cigarettes."

The logical extension of this is, in fact, Mr Mulcahy's bill. It is not unusual for me to have constituents come to me and say, "Mrs Dunne, why is it that I cannot easily go and buy a packet of cigarettes but I can walk past a range of shops and buy a bong, which is on display, and a whole lot of other paraphernalia which are on display?"

I support Mr Mulcahy's bill and I think that the hypocrisy displayed by the Stanhope Labor Party today in not supporting it shows what peddlers of double standards they are. If we are in favour of cutting back, for health reasons, people's consumption of what is now a legal substance, that is one thing. There is no real community debate opposed to the proposal that the government is bringing forward in relation to the cutting back of displays of advertising for cigarettes; there is general community agreement. In the same way, when I go out and about in my constituency, the people that I speak to who live in Belconnen do scratch their heads and wonder why it is that it is possible that their kids and their sisters and brothers and aunts can go out and buy a bong or a whole lot of other paraphernalia that help them consume an illegal substance.

When Mr Mulcahy brought this legislation forward, my first reaction was: "I wonder why none of us have ever done that before." And it should have been done before. But the thing is that, when it does come here, the Stanhope government is going to get in his way, is going to get in the way of having rational laws in the ACT in relation to illegal substances.

Yes, this is not going to be the silver bullet that stops people consuming harmful illegal substances but it goes a long way towards using the law as an educative facilitator of an understanding of what is appropriate in the ACT community. I applaud Mr Mulcahy for bringing this forward and I am happy to support his bill.

MRS BURKE (Molonglo) (11.32): I stand amazed at the words of the Minister for Health that I just heard while I was sitting in my office. I could not believe the hypocrisy of her stance. As Mrs Dunne and my other colleagues have rightly said, we are in the process of debating tobacco legislation with regard to point of sale. There is an excellent bill up for debate, most of which we support on health terms. The point of sale is the issue that we are talking about here. I commend Mr Mulcahy for doing this, and I do believe—I have not checked it—I raised that same point in a speech, and I am glad that Mr Mulcahy possibly took that up, because it is a very, very important issue. You cannot, on the one hand, be trying to prevent the uptake of smoking, particularly amongst young people, by banning point-of-sale displays and not, on the other hand, support this proposal. I thought this would be a breeze for the government and that they would say, "Of course we'll agree to this."

What perhaps need to be added to Mr Mulcahy's bill are further educative measures, as I think Mr Seselja pointed out. There needs to be a multifaceted approach, and the same argument applies for the tobacco legislation, which I hope to get to talk to by the end of this week. If you ban it, as Dr Foskey has said, you can push some of this activity underground—with tobacco it could be chop-chop, and with this you could be using hose pipes. But that is not to say that we stand in this place and say, "I can't do anything," because they are the words that nearly came out of the minister's mouth. She fell just short of saying, "I can't do anything really."

Mrs Dunne: Just like she cannot do anything about health services.

MRS BURKE: No, "We cannot do anything." So what do we do? We just capitulate; the minister capitulates and gives in. We will be supporting the bill. Just in case the minister did not hear, we will be supporting the bill. It is absolute hypocrisy at its best for this health minister to be espousing no smoking in playgrounds, no smoking in outdoor areas, no smoking in cars, et cetera and so on, with regard to legal tobacco products sold under licence in the ACT while not supporting a ban on the sale of bongs and products to aid in the use of illicit drugs. Where is the sense in what the minister said? She is saying the government will have it both ways—"We think doing drugs is bad, but, never mind. We'll continue to allow the display of and sale of such paraphernalia." It flies in the face of everything that this health minister supposedly stands for. The minister should be very, very embarrassed about that speech.

The health minister needs to consider Mr Mulcahy's bill. I agree that we have only had a week to do so, but complaining about that is rich coming from the government. My wordy, they will just ram things through with no notice; it does not matter. I got a call from the Manager of Government Business two minutes before we sat this morning telling me the plan. They do it to the community all the time: "This is the plan. Go with it or lump it." This is a serious issue that Mr Mulcahy has brought forward, and it is very pertinent this week, given that we are debating the tobacco legislation. I am absolutely stunned by what the so-called health minister has had to say about this. It is ridiculous in the extreme for her to push one thing on one side but then say on the other side of it, "No. We'll allow displays of stuff that aid the use of illicit drugs." I cannot comprehend it.

MR STEFANIAK (Ginninderra) (11.36): Well done, Mr Mulcahy on bringing forward this excellent bill, which I think really does hit the spot. The government's

stance on this is fundamentally quite ridiculous, because marijuana, or cannabis, is an illegal substance. Yes, you can get an infringement notice if you are caught in possession of a minor amount—you may have two small plants—but it is still an offence. Of course, for more serious infringements, penalties start at up to two years imprisonment, and they go much higher than that for commercial quantities. It is an incredibly dangerous drug. It is far more dangerous now than it was when I was a young bloke and people were starting to experiment with it. It is a drug that affects people's mental health. Hydroponic cannabis is 20 times more powerful than normal cannabis, and even the government seems to realise how serious that is. It is grown in the ACT, with the interior of houses actually being demolished to allow for it.

Some sensible legislation—I commend Mr Mulcahy on that—has been introduced in this place to counter the problem. The government's views on this are just amazing, though. You are encouraging young people to effectively break the law in terms of smoking it by allowing drug paraphernalia to be displayed and sold. A friend of mine actually operates a tobacconist shop and lotto agency in Belconnen Mall. He used to make a fair bit of money by selling bongs, but he found that was morally reprehensible, so he has voluntarily got rid of them, and I commend him for that. He loses a bit of money out of that, and it is a fairly difficult business at the best of times, but, clearly, his conscience would not allow him to sell these items.

Anyone with young children always worries about the risk of drugs, and cannabis is a very available drug. I have known of people whose kids have been sold cannabis for five bucks, for example, at Canberra Stadium by older kids. It is readily available for young people where they meet at schools. It is terribly dangerous too. It is not just like in the old days where perhaps it might lead to addiction to more serious drugs. These days it is very, very dangerous in its own right. Of course, Mr Mulcahy's bill does not just cover that; it covers other things as well.

If we are serious about tackling the scourge of drugs in our community, we should be doing things to make it harder for people who actually use illicit drugs. There are enough problems with legal drugs in our community—alcohol and tobacco—let alone illicit drugs. By allowing these items to be sold and, even worse, displayed, I think just sends all the wrong messages. I am very happy to support Mr Mulcahy's bill. I think it sends all the right messages. Other states have introduced similar legislation, and that is about protecting our young people. You are not going to do it by adopting the approach of the minister and the government in relation to this. I think it is a shame the government is not supporting this bill. It is a sensible bill, it is a timely bill, and it should be welcomed by the Assembly, as it would be, I think, by any right-thinking person in our community.

MR MULCAHY (Molonglo) (11.39), in reply: I thank all members for their contributions to this debate. In the time I have available I will try and address some of the issues that were raised. The Attorney-General offered the perspective that he thought this legislation was premature. What I would say in relation to that is that I have heard this old excuse trotted out before. Members will remember with the drug-driving issue, which I had an interest in pursuing as an area for legislative attention long before I came to this place. I know Mr Pratt has pursued it, and we heard the government say then, "Well, we've got to consult those affected. You know, we've got to be careful we do not pick up somebody who was using cocaine the night before, because all these drugs have half lives."

Nobody in the government seems to be leaping with concern about the people who might have been killed, the families that might be victims of somebody driving a car under the influence. I have said in this place before that I have seen studies conducted in the emergency departments of South Australian hospitals where it was found that 30 per cent of people who were admitted as the result of motor cycle accidents had traces of illegal substances in their systems. But the doubting Thomases need to be convinced; so rather than potentially impacting on the liberties of those who are using illicit substances and jumping into cars, we find reasons for delay. It is the same thing here.

I was expecting an amendment from Dr Foskey, not because she had told me about it, but the Attorney-General told me this morning that Dr Foskey had planned to move an amendment to try and have these things put below the counter. I am not surprised by the Greens. The Greens are the apologists for illicit drugs in Australian politics. That stance did them enormous damage in the federal election back in 2004, and they have been embarrassed by that ever since. They were embarrassed by that website they had up but, at the end of the day, they will pander to that section of our community, and they try to make light of the impacts.

Dr Foskey can talk about people like me, who she seems to think wear tweed jackets with leather patches—I do not actually—but let me put to her this sobering thought: there were 12 directors in the last organisation I worked for, two of whom had children who died from drug overdoses. I can tell you that there is nothing more distressing or tragic than going along to a funeral for a young person. When you talk to those parents, you will not find them saying, "Richard, it's cool to let these things be out there, because we don't want to drive it underground." You will not find that perspective from those parents or those affected families. They are the sorts of people who are delighted that people like me, and others, will come into parliaments and bring in laws to try and make it more difficult to experiment with illicit drugs.

I know that is not going to be the end of it. I said that at the beginning, and I say it today. But if you constantly take this small "l" liberal approach to everything and say, "Well, we have to consult further, and we really don't want to make a decision. We might lose a few votes from those who are into illicit substances," then what is the point of being here to take a view that we are here to govern for the benefit of all Canberrans?

We pass laws in this place about laser pointers because they could bring down aircraft. Do we go out and consult those who do it? Did we go out and consult the manufacturers of the laser pointers? I bet we did not. We passed laws here about vehicle modifications, and so we are going to seize cars from hoons because they tear up and down Anzac Parade or out at Hume or in the Mitchell estate at night and kill one another? Do we go out and say, "Well, we don't want to upset you; we should let you continue to do these things"? The fact of the matter is that there is a point when parliaments have got to pass laws and address problems that are evident.

Mr Corbell is clamouring for evidence that this might reduce illicit drug use. There is no firm evidence; I accept that. But there is not a lot of firm evidence for a host of other things too. We get the tobacco example cited: "You know, if we get rid of the

advertising, everyone will stop smoking." Nobody looked at Russia, where they did not have booze and cigarette advertising under the communists, but they drank themselves to death and smoked like it was going out of style. They were not sure how that all happened because there were no ads.

The fact of the matter is that these things are complex; they are multifaceted, and I believe you need to work on all fronts. I believe in the importance of drug rehabilitation. I will bet you I am the only person in this place who has gone to the federal government to get funds for the naltrexone clinic in WA. I have been into it, and I have seen the horrific sight of a crowded area of drug addicts, because my friend who had lost his son to heroin wanted me to see it. One has to tackle these issues on all fronts.

My friends say that tobacco is a gateway to their children to getting into drug addiction. Tobacco harm minimisation or controls are important. I still do not think the main issue in tobacco has ever been tackled by any government. But the fact of the matter is that I do not believe that we ought to be taking a softly, softly approach to illicit drugs. Nothing will convince me that this is an appropriate way to go. If you take the argument, "Well, they might go underground or use other material," why not say, "Well, let's make all the drugs legal, because we won't have illegal drugs sold at nightclubs and around the countryside around schools"? That is the rationale; that is the logic behind saying that if you make something illegal it might go underground.

As I say, Dr Foskey relied on RiotACT. It was one of the more pathetic speeches I have heard given in this place. If she can do no better than that, I think her contributions are of little value to the community at all. A series of anonymous quotes from a website is the best she could come up with. Of course, my bill does not deal with the issue of needle exchange, and that is intentional. I have spoken on the importance of that elsewhere on other occasions. The fact of the matter is that it does deal with specific matters and equipment in relation to illicit drug usage.

As is very clear, I have no sympathy for soft policies on these matters. I do not think that Mr Seselja stands condemned on this matter, as the health minister said; I think that it showed some courage on the part of the opposition to stand up. These are not always popular things to do. I can tell you that I am not surprised that RiotACT is saying what a terrible idea it is. But the fact is that most people I have talked to think these things are sensible. I have not one single letter that has gone in the other direction. I have been assured by people that they think these are good measures, and I certainly do not treat this issue lightly.

Rehabilitation is important. We do not condemn people who are addicted to drugs, but I certainly also think that, as Mr Seselja pointed out, there is a significant disconnect between the message that we are sending here where the health minister wants to get up and tell us about the awful risks of having tobacco products on display but the government is not willing to say the same thing about having products to use illicit substances on display. Nobody in their right mind can embrace that as a sensible issue.

Ms Gallagher trotted out the popular line amongst the apologists for legalising drugs. I have heard Alex Wodak; I have sat on a committee with him. He is always saying that drugs are not a big issue and that it is all alcohol. Only two per cent of people die

from illicit drugs compared to all these people who die from smoking and drinking. Of course, what he overlooks is that if you go and talk to the police, they will tell you that 80 per cent of the crime committed in this place and elsewhere in Australia is by people supporting drug habits. The attempt to play it down as an aspect of society about which we probably should not be so concerned is, in fact, not supported by the broader economic impact of illicit drugs.

I have friends who are in a medical practice in Sydney. Not every person addicted to drugs is lying in a gutter or under a tree at night. My friends tell me about the large number of addicts who have got what appear to be normal jobs and conduct normal lives but who have got themselves hooked on various substances. The cost to our society from those people is substantial. We hear a lot about the cost of the impact of smoking on people's health, and there is no question that it has a significant adverse effect. But there is also a huge hidden cost of illicit drug users in our society. They are not simply confined to those that appear to be homeless or disadvantaged and are visible to the eye; they are in many more locations in our society. It is up to us as a parliament to address those.

The rationale seemed to be from Ms Gallagher that it will not end drug taking. No, it will not, and I never argued that point of view. But I do not think that is an excuse to take no action. I have to agree that I thought her address was one of the lighter performances from the Deputy Chief Minister and health minister. I was expecting a substantial contribution. To simply dismiss it and say, "Well, the Liberals are supporting this, so they are not fit to govern," when she is clearly taking an inconsistent approach in relation to the tobacco legislation that we will debate in the next 24 hours, is a concept I find quite difficult to accept.

Mr Smyth addressed the matter also, and he highlighted the fact that the government's argument on consultation is very weak. He is right, of course, in this respect. We have got bills that have been brought into this place this week on only a couple of day's notice, and we are being asked to vote on them. In some cases, such as the unit titles bill that we voted on last night, there was a totally inadequate amount of time for the community to speak; I am still getting emails from people who are upset. It is really no argument to say that because a bill was brought in a week ago there is insufficient time to consult.

Mrs Dunne mounted the argument that if I brought in a bill today to ban cigarette holders and I did not include pipes, I bet that would suddenly be a pretty reasonable thing to do. It should have been done before this particular legislative measure. When I checked to see and found that it had not been, I was a bit surprised. The events of South Australia certainly spurred me on and, frankly, I am surprised. However, I do see this as a point of differentiation when talking to the electorate.

Finally, I welcome Mr Stefaniak's comments. He indicated to me yesterday that he thought this was a good legislative measure, and I was pleased to hear his story about his friend in Belconnen who had indicated that he voluntarily agreed to giving up selling these products because he was morally challenged by the trade that he was profiting from, which was clearly at the expense of young people in providing them with a means to use illicit substances. I believe this bill deserves the support of members in this place; I am pleased that a number of members are supporting this bill.

It is disappointing that the government is not. I said to the Chief Minister yesterday that I heard him once make an impassioned speech about illicit substances. He struggled to remember that, but I do recall it in this place. I also remember that Dr Foskey was operating on a different plateau in that same debate. But I was hoping the Labor Party would see the importance of protecting families and young people in terms of these measures.

The bill is not the panacea for all ills, but it certainly would send a very important message to the community that we are serious about trying to reduce the harm from illicit substances. Just as we have programs to try and reduce the harm from alcohol, just as we have programs to reduce the harm from tobacco, just as we have programs to try and reduce the impact of careless or reckless driving, this would be an important step in the overall equation of addressing the matter of illegal substances.

Some people argue that harm minimisation means facilitating illicit drug use by the easy provision of drug equipment. In my view it means identifying people with drug problems and providing them with care and rehabilitation, helping them through the problem so they are no longer reliant on illicit substances. It means educating people, especially children, about the dangers of illicit drug use. People have to understand that even casual experimentation with these drugs can often lead to addiction. This bill would assist with this aspect of harm minimisation. It would fix up the anomaly that currently exists where, on one hand, we try and educate our children and, on the other, we normalise the behaviour of taking illicit drugs through the sale of equipment that can only be used to facilitate their use.

I wonder what members who do not want to support this bill say to their children when they are coming home from school and they see these things in the shop and they ask, "Why are these things legally for sale? What is okay about these?" "Well, we think the things they are using them for are completely illegal and using them is a criminal act, but it's okay to sell these." Do not tell me that that does not send mixed messages to our young people. Do not tell me that that does not lead to confusion. Do not tell me that that it does not send the message "well, it's illegal but it's okay".

I am vehement in my views on illicit substances. I have never used any, and I know that probably makes me a bit of a square, but I do believe in the harm of them. I have seen the effects on people when I lived in America, people in respectable jobs who had gone through a lot of their money because they were caught up in this sort of thing. It is all well and good to try and tackle these issues when people are adults, but if you do not get the message right when people are in their developing stages, when they are kids, it can be too late. Having these things on display within 500 metres of this Assembly sends all the wrong messages to our children. I actually think we owe it to our children to support measures of this nature.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

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

Question so resolved in the negative.

Matter of public importance
Ruling by Speaker

MR SPEAKER: Members, a short time ago, Mr Smyth raised a point of order about my decision in relation to today's matter of public importance. He raised it in a way which suggested there was some sort of contrast between my decision in relation to a MPI submitted by Ms Porter and those submitted by a number of members from the opposition today. Regrettably, I could not recall the Porter matter, but I have refreshed myself in relation to it, and I think it needs to be clarified.

I must say I was inclined to rule out of order the matter raised by Ms Porter but, after discussions with the Clerk and referral to *House of Representatives Practice*, my attention was drawn to the growing practice of allowing amendments on the issue where matters are not definite. The issue of the MPI that was put forward today is quite different.

Standing order 130 is a protection for members. Mr Smyth would be congratulating me today if it were a Labor member who put forward an MPI such as that which was put forward by the opposition and I ruled it out on this standing order, as I would have, because it prevents members from gazumping discussion on matters which other members have on the notice paper. That is the contrast which makes the situations quite different. In the case of Ms Porter's matter, the growing practice is that amendment is allowed. In the case of anticipation, I take the view that it is an important protection of members. As I said, I deal with these on merit and I deal with them even-handedly.

Protection of Public Participation Bill 2008

Debate resumed from 9 April 2008, on motion by **Dr Foskey**:

> That this bill be agreed to in principle.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (12.00): As members will be aware, this bill is designed to protect public participation and discourage the use of strategic litigation against public participation—SLAPP suits, as they are sometimes known.

SLAPP suits are legal proceedings brought by entities, often large companies, which are aimed at discouraging or preventing members of the public from criticising their activities. SLAPP suits may be brought against individuals or groups in relation to conduct that includes holding, attending or speaking at public meetings; organising boycotts; and lobbying public officials. SLAPP-style litigation interferes with the freedom of citizens in a democratic society to speak freely and participate in community debate.

The government has publicly stated that it supports the policy intent of Dr Foskey's bill. However, the bill in its current form presents a number of technical and legal difficulties. Consequently, the government will be supporting today's bill, but moving a number of amendments in the detail stage. The amendments are aimed at striking an appropriate balance between the need to discourage and punish SLAPP-style litigation whilst also maintaining the right of an aggrieved person or entity to pursue a legitimate legal action.

The bill, as presented by Dr Foskey, contains three main substantive clauses. The government will remove these clauses from the bill for the following reasons. First, the bill in its current form creates a positive right to engage in public participation. The government proposes to remove this from the bill, as the Human Rights Act 2004 already sets out a number of rights that overlap with the right to engage in public participation. These rights include the right of peaceful assembly, the right to freedom of association and the right to freedom of expression, which includes "the freedom to seek, receive and impart information and ideas of all kinds".

The government also feels that it is inappropriate to create a human right outside the existing human rights framework. The Human Rights Act provides that human rights may be subject to reasonable limits. Rights created outside the Human Rights Act may not be subject to reasonable limits in the same way as rights set out within that act. Therefore, the government's preference is that rights as outlined in the Human Rights Act and its framework be considered paramount.

Secondly, the current bill provides for the Magistrates Court to declare that certain conduct constitutes public participation. This provision has no practical effect. The declaration by the Magistrates Court is not binding on a higher court and may itself be the subject of an appeal to the Supreme Court. In any event, the Supreme Court is not required to take the declaration into account when considering whether or not to dismiss a proceeding.

Third, the bill currently allows the Supreme Court to dismiss a proceeding and make an order for costs if it is satisfied that the conduct of the defendant constitutes public participation and that the defendant honestly and reasonably believed that their conduct was justified. The clause is problematic because its application is extremely wide. It may lead to the dismissal of cases in which plaintiffs have a genuine and legitimate cause of action simply because the conduct of the defendant was public participation.

The government therefore proposes to amend the bill to include a civil penalty scheme. A civil penalty would be payable by the plaintiff to the territory where an action has

been brought for an improper purpose. The penalty would deter individuals and companies who are contemplating a SLAPP suit and punish those who have brought an action for misusing court resources. Importantly, the penalty will also compensate the territory for lost court time. Regulations will provide an objective formula by which the court can quantify the cost of the action to the territory and the appropriate amount to be paid.

The government's amendments will protect the ability of ACT residents to engage in debate on matters of public importance. In particular, the proposed civil penalty scheme will serve as a strong deterrent to entities who would otherwise be tempted to misuse the territory's legal system in order to silence public criticism of their activities. In summary, the government supports the intent of the legislation but will amend it to ensure that it is both effective and fair.

MR STEFANIAK (Ginninderra) (12.05): I was on the legal affairs committee when the inquiry started, when we took some evidence down in Tasmania and also in Victoria. My colleague Mr Seselja then replaced me on the committee and saw through the carriage of the rest of the bill.

This is an important piece of legislation. It is very important that we balance the rights of individuals to protest and the rights of commercial interests to do their business without improper hindrance. It is true that some commercial interests have a plethora of legal weapons at their disposal and there are things like various torts and trade practices.

In the past we have seen defamation actions taken. I recall a case involving McDonalds in London. McDonalds lost in the end. They were using every trick in the book to basically stymie what was a reasonable point being raised by private individuals.

The notion of private individuals—third parties—being involved in the community interest has not been with us all that long. It goes back about 20 years. When I used to teach environmental law at Bruce TAFE in 1993-94, I can recall going through some of the early cases in the 1980s. In Sydney, gradually, third-party rights and people's right to get involved in the community interest were finally recognised.

You can take that too far. Perhaps certain aspects of Dr Foskey's bill here do just that. It is a very fine balancing act. The public does not have any legislative protective right to protest; people take their chances when they choose to participate in acts of political expression. We want to ensure that there is a proper right to protest and we want to ensure that the right of businesses to go about their proper activities is also protected.

But there have been some monumental issues and monumental cases where clearly the law would benefit from the change and there should be legislation to make it very difficult for some big corporation—it might even be government—to take action deliberately and unreasonably to stymie legitimate action by other parties, to misuse the system: misuse the system because they have the financial resources and the wherewithal to do so.

We see that quite frequently. I cite defamation law. I cannot recall the case, but the other day I was reading where someone was complaining that on about 50 occasions they had been stymied from making comments very much in the public interest by writs of defamation being slapped on to shut them up. Clearly there seemed to be a misuse of the law in so doing. So I think there is considerable merit in going down the path of a bill such as the one Dr Foskey has introduced.

I will now go through the government amendments. On the face of it, what the attorney says seems to make considerable sense. In supporting this bill, we do not believe that it has the balance right. In some areas, it skews the balance; it goes too far. There are some great dangers in it. But, given that the government is going to gut it and put its own amendments in—that will obviously pass, because of the numbers—there will need to be further review as to how this operates. Again, it is that fine balancing line. It is probably totally impossible to always get that, but we need to do it as much as possible to ensure that we end up with workable legislation. It may well be that, even though the bill passes as gutted, there are still problems. That is clearly something that we will need to monitor as we go ahead.

It is important, too, because Canberra is a well-educated city. Canberra is a city where a lot of people have a social and a public conscience and are very much prepared to get involved in various issues. I can see quite a number of possibilities and instances in the ACT where people will be involved and you will have the potential for the processes in the courts to be misused to stymie legitimate concerns.

This is an area where we will see this legislation operate. Things will happen as a result of it; we need to get it right. Some of these issues are terribly important because they overlap—like planning issues, where again it is very difficult to find that straight line, that fine balance. People are often passionate about the issues; and there are many interests at stake, in many instances quite legitimate. We see quite a number of those matters end up in the courts.

This bill is going to see some use. We are happy to support it. We think there are some problems. We will have a look at the government amendments. Obviously, the bill will pass. It will need further monitoring. That is something that the opposition will be doing—that it will do in the next Assembly, hopefully as a government. I encourage all members of the next Assembly to keep a close eye on this legislation.

Dr Foskey, I acknowledge, has a passion for this area. It was evident in terms of her redraft, her first bill having been referred to a committee. We had a quite detailed and very interesting inquiry in the legal affairs committee. That was effectively the genesis of what we have before us today for debate. We look forward to the debate continuing and to monitoring the impact this bill will have once it becomes an act.

MR SESELJA (Molonglo—Leader of the Opposition) (12.12): I want to commend Dr Foskey for her efforts in this area. She has pursued this over a long period of time. It has not been without considerable effort on her part and the part of her office. I think she has done a very good job in bringing forward into this place a very important area of public debate and I commend Dr Foskey for her work.

I am a big believer in freedom of speech. I do not think that in this country we protect freedom of speech as well as we could and perhaps as well as it is protected in other places. We have defamation laws that place real restrictions on people's freedom of speech and, in this area of law, on people's freedom of protest.

Within reasonable limits of the law people should be free to protest. Whether we like it or not, whether we agree with them or not and whether we label them one thing or another, they should be free to go to government and say, "We do not agree with this." I absolutely support the right of people to make that protest as long as it is done through lawful means, as long as it is not done in a violent way and as long as it is not done in a way that damages property. Peaceful protest is fundamental to a functioning democracy.

We know that organisations, governments and corporations are sensitive to criticism and sensitive to political action. We have seen numerous examples of governments or corporations using the law and the court process to shut down legitimate areas of debate. We saw the example that Dr Foskey raised in Tasmania. I am not going to drift outside the standing orders, but in my opinion at the moment the standing orders of this place are very restrictive on this point, and I think that is something that the new Assembly will have to look at. It may have been when Dr Foskey was presenting this very bill or it may have been on another issue where Dr Foskey was actually prevented by the standing orders from speaking about the Gunns case. Was it the tabling speech?

Dr Foskey: It was the tabling of this version of the bill.

MR SESELJA: It was the tabling speech. Under the standing orders, as they stand, court action in Tasmania prevented an elected representative in the ACT from putting forward her views. I do not quibble with the Speaker's ruling on that, but I think that is something we have to look at. That is a real restriction on the ability of members in this place to debate issues.

I think it is a real restraint that a corporation that is running a court case anywhere in the country can prevent members of parliament in the ACT from advocating for their constituents and arguing about policy, ideas and legislation. I think that is a real restraint and I believe it is an unreasonable restraint. In the new Assembly we will look very closely at whether that standing order can be amended.

We should be free to speak with very few set limits on that freedom of speech. In parliament we should be particularly free to advocate for our constituents. But with parliamentary privilege come responsibilities. It is an uncomfortable reality that when we allow people freedom of speech a lot of the time things will be said that we do not like and people will be offended. But that is the nature of our democracy and that is the way that parliaments have been set up.

In this bill—we looked at it in the committee—the principle is absolutely right. There is no doubt that corporations and governments should not be able to unreasonably use the court process to shut down dissent and debate and political protest. That is the intention of the bill, and we support the principle of the bill. But we must be careful.

We have a legal system that has been built up over many hundreds of years that we have inherited from the English. It is a good legal system. It is not perfect, but it is a good legal system and we need to be very careful about throwing out some of the principles of that system. If someone is breaching the law or engaging in defamatory conduct, there are remedies and people are reasonably free to pursue those.

We know that the system is always skewed to favour certain groups over others, and this legislation is an attempt to address that. I note some of the government's amendments, and Mr Stefaniak will be speaking to those. I note the government's concerns. We do not want to shift the principle too far so that reasonable litigation is prevented. That is the balancing act we are trying to find here. We need to find ways to protect this principle.

We are not going to get this perfectly right, Dr Foskey. No matter whether the bill goes through as is or with the government's amendments, there will be teething problems as members of the judiciary get used to this legislation. Whichever version passes, we will be monitoring it very closely.

We very strongly support the principle of freedom of speech. We should be agitating more for it. I believe that it is more restricted in this place than I would like it to be. We need to find ways to protect that principle. We support the bill in principle and we look forward to further debate at the detail stage.

DR FOSKEY (Molonglo) (12.18), in reply: I wish to thank all members for their support for this legislation. In a way, all of you have been on this journey with me in the formulation of this bill. If ever there was a bill that was thoroughly consulted on, it is this one. It was not just an ACT consultation; it was a national consultation. This bill is of huge importance to the environmental movement. It is of huge importance even to the quiet little activist in the coastal town who writes a letter to his paper—I refer to a real experience here—and then finds out that he has had a SLAPP put upon him.

I cannot tell you the absolute chill that that inflicts on a person in this community who is brave enough to stand up and fight for something they believe in—whether it be opposition to the clear felling of a beautiful piece of forest or opposition to the erection of an inappropriate building and the destruction of a piece of heritage. Whatever it is, people all around Australia are vulnerable because there is no legislation like this.

We do not know whether this legislation will be the answer. I take Mr Seselja's point that we will need to look at it and be prepared to refine it. Do you know why we do not know? It is because this is landmark legislation. The ACT should be very proud because this is a follow-on to the Human Rights Act, which placed us out in front. Other states and, hopefully, the commonwealth will catch up but, as yet, no other legislature has introduced a bill like this.

We know that quite a number of legislatures in the United States have introduced legislation. In the United States litigation is more common and more frightening, and they were quicker to act. I have been on the phone letting people around the country know about the legislation in the ACT and there is a great deal of excitement about it. I thank members for the process that the bill has been through.

Initially, when the government referred this bill to a committee—luckily it is a committee of which I am a member, the legal affairs committee—I was a little concerned. But now, having been through that process, I have to say that that process was a really good process. We ran an exhaustive inquiry. We did not go to Tasmania—we went to Tasmania for the police powers bill inquiry—but we went to Melbourne and spoke to Brian Walters, who is the barrister who wrote the book *Slapping on the Writs.* I gave everybody here a copy of it some years ago. It included, as draft legislation, the legislation that we first tabled in the Assembly.

I have got to say that we have come a really long way since then. In retrospect, that bit of legislation, in fact, looks somewhat naive. This bill, which will be amended by the government—and I will talk to those amendments shortly—is a much more robust piece of legislation. That is because people from the Wilderness Society had dialogue with solicitors and lawyers who came before our inquiry. Everyone had the desire to make this a better bit of legislation.

As is recognised, we have worked long and hard on this bill. The committee has liaised with the Attorney-General's office for a couple of years. It was only yesterday that it looked as though there was any chance of it being successful. We were, of course, very sad to see that due to our position on the roster for private members' day this bill might not see the light of day in this Assembly. All in all, I know the Liberals are not very happy with what happened today, but I have to say that it is actually a good outcome for the ACT and, naturally, as a Green, I am very happy about that.

I do not want to go over old ground. I have certainly put the case for this legislation a number of times. I want to commend the report of the Standing Committee on Legal Affairs. I think that the report is actually a seminal document. It should have wide circulation. Certainly it will take its place in the history of the evolution of democratic rights in Australia. I think it is the sequel to *Slapping on the Writs* by Brian Walters, the book that started off the process.

I commend the secretary, Robina Jaffray. The quality of the report has most to do with Robina. We, as a committee, were blessed to have her because she had a great deal of enthusiasm for the topic as well. It is the kind of thing that maybe a committee secretary dreams of. It is something where you can actually tread on new ground and advance the law in Australia.

I commend Mr Stefaniak, who I could see was really interested in the bill. I know that he enjoyed our encounter with Mr Brian Walters. Zed Seselja, when he came in, after a little bit of work was able to hit the ground running on this bill. He has always supported it, and that is good. We have got tripartisan support for this bill. I am not sure about Mr Mulcahy. We will see later. I also want to thank Karin MacDonald because she has also had a huge input.

It was a learning experience for us all and it is certainly an example of what can happen in this place if people put aside their partisan political positions and look at problems that come before us in a constructive and cooperative manner. The truth is that I actually think we do when there is not some sort of political gain to be made in a very quick, knee-jerk fashion. But often, when it really matters, we do do that, and committees are where that most frequently happens.

For too long, wealthy individuals and corporations have been able to use legal processes to silence their critics, even when those critics were breaking no laws. Let me tell you that most people who campaign for political change and social and environmental change are not people who want to break the law—absolutely not.

I must say that the forest movement has benefited from people who are prepared to sit up the top of trees and to get in front of bulldozers, but those laws were not in place when those actions started. We have seen the development of a huge machinery of laws, by state parliaments, in particular, to stop protests being developed. We certainly have seen that in the forest issue, and that has made it very difficult for law-abiding people who also are passionate about saving forests to act. But many of them do, thank goodness.

In this case, we have not even got people breaking laws. The laws are not there. All the SLAPP suits do is silence people. They make them very afraid. I actually think that people that still go on, even in the face of those sorts of threats, should be the ones receiving Orders of Australia and civil awards. They are the true heroes. Indeed, now that we have had a change at federal government level, I hope that we will see more financial and other support going to people who are willing to challenge governments and corporations. But we know that we have had a few hard years on that one.

I will speak to the amendments when we get to the detail stage. It is regrettable that we only saw the amendments late last night. Still, amendments are better than nothing and, on the whole, while there are problems with them, we believe they actually could have been fixed if we had had dialogue between the two offices. At this stage it is just too important to get the bill passed to quibble with those amendments and, on the whole, I think that that is fine. Most of them are really about fitting this legislation into the ACT legal framework, and that was always going to have to be done anyway.

I conclude by saying that we have a Human Rights Act and now we are going to have a Protection of Public Participation Amendment Bill passed. It is all good news from here.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 10, by leave, taken together.

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

Sitting suspended from 12.29 to 2.30 pm.

Questions without notice

Gas-fired power station

MR SESELJA: Before I ask my question, I apologise to the house; Mrs Dunne and I have to attend a funeral so we will be leaving soon after the commencement of question time. I ask that Mrs Dunne be given the courtesy of asking her question before she leaves.

My question is to the Chief Minister. Chief Minister, did ActewAGL or any other representative of the Canberra technology city consortium approach the ACT government in February this year seeking to remove the requirement for a peaking power station from the deed of agreement over block 1671? Did your government refuse their request to remove the power station from the proposal?

MR STANHOPE: I cannot recall or say with any certainty or certitude that the government received an approach in February this year. I would certainly have to take advice and check the record in relation to that—in relation to the issue that is the subject of the question or, indeed, any other issue. I will take the question on notice. Suffice to say that I have no memory of the government agreeing or otherwise to any such request, but I am more than happy to have the record checked in relation to those issues.

Infrastructure program

MR GENTLEMAN: My question is to the Chief Minister. Chief Minister, what are the government's plans for an infrastructure program that will build a better city and a stronger community that is ready for the future?

MR STANHOPE: As we are all aware, infrastructure is a vital component of economic growth and prosperity and is essential in providing for the broader social needs of the Canberra community, including our education, our health and our general wellbeing. In recent years—we are all aware of this—there has been a significantly increased emphasis across Australia on the need to maintain and enhance our national infrastructure to facilitate the continued growth of our economy.

The commonwealth government has most recently established a $20 billion building Australia fund to enable that work to proceed at a national level. Indeed, as members are aware, the ACT government is working closely with the commonwealth to identify Australia's key infrastructure projects for the future, particularly those that are pertinent to the ACT or infrastructure that is relevant to us.

It was in that context that I recently released the projects that we the ACT government have identified for funding in our submission to Infrastructure Australia. Members would also be aware that, in that response to the commonwealth, I included projects around energy and water security, health and transport projects such as light rail for the ACT. I also included as a major or national infrastructure project worthy of consideration by Infrastructure Australia the possibility of a very fast train between Melbourne, Canberra, Sydney and certainly Newcastle, if not Brisbane.

My government is committed to maintaining our existing excellent infrastructure. We are also committed to providing the new infrastructure that we need to enable continued economic growth and prosperity and to maintain the unparalleled quality of life that we Canberrans enjoy.

The timely delivery of quality infrastructure is central to the ACT's economic development strategy. For this reason the ACT government—in our most recent budget, passed just a couple of months ago—announced the $1 billion building the future fund as the centrepiece of that budget. The program incorporated within the $1 billion building the future fund sets out the most urgent infrastructure priorities for funding over the coming five years. This is the first time an ACT government has had not only the capacity but the strategic vision to incorporate in an annual budget a forward infrastructure program of the order and nature of that included within our most recent budget.

Our capacity to provide for a $1 billion infrastructure program over the next five years, in addition to our rolling or annual capital program, is a direct consequence of the economic management, the fiscal management, that has been a hallmark of this term of government, of my government.

Some of the tough decisions that were taken three years ago have resulted in a level of stability, a balance sheet that is the envy of other governments around Australia, sustainable surpluses across the budget cycle and accumulated cash to date, over the last three years, of $800 million. This $1 billion infrastructure fund, a program for the next five years, over and above the rolling capital program, is a funded infrastructure program—funded to the tune of $800 million by accumulated surpluses or cash—with anticipated surpluses over the four years to provide the billion dollars of investment which we have announced and for which we are planning. That billion dollars is additional to our average, rolling capital program.

There is an additional $300 million through a first-tranche investment to establish a health system for the future—$300 million over four years, not five, to be added to by at least another $700 million over the other six years, too, we expect at this stage. The Minister for Health will have more to say about this shortly. That is a billion-dollar investment in health infrastructure over the next 10 years.

There is $250 million of infrastructure for the territory's transport system, to increase its efficiency, to meet the needs of a growing economy. That is $250 million over and above our normal capital program. There is an additional $100 million for improvements for urban amenity. There is an additional $100 million for adaptation to climate change, taking our total climate change investment to $242 million in just the last three years. There is $50 million additionally for cutting-edge information and communication technology, particularly for the business of government. There is a $200 million boost to the existing capital works program to support growth, particularly in the land supply program. And there is over $31 million—*(Time expired.)*

MR SPEAKER: Supplementary question, Mr Gentleman.

MR GENTLEMAN: Thank you, Mr Speaker. Chief Minister, what is the government's record in delivering its capital works program?

MR STANHOPE: I thank Mr Gentleman for the question. This government's record in delivering its capital works program is sound and consistent and we have a significant, proven track record of delivery in relation to our capital program. Our record for delivering high-quality infrastructure is unparalleled and contrasts to that of the previous government. The comparison does speak for itself.

Over the last four years of this government's term, average expenditure on capital projects has been around $200 million a year. It is important to note that this expenditure record is growing and growing considerably. In 2007-08, forecast expenditure is estimated to be just in excess of $300 million. I believe that capital over this last financial year has come in at somewhere in the order of $340 million. For 2008-09, this financial year, our capital expenditure is forecast to grow to $470 million. This is a staggering increase and far eclipses the record of any former government.

This issue was raised yesterday by the Leader of the Opposition, and I am pleased to be able to respond today as the Leader of the Opposition sought to cast some aspersions on this government's record in relation to capital and the capacity to deliver capital projects. It is sobering, interesting and somewhat amusing in the context of some of the remarks that have been made that, in its last term, in 1998-99, the then government, the Liberal government, the government of Mr Stefaniak and Mr Smyth, the two survivors of that particular government, delivered a capital program of $64 million. In the year just past, in the year just concluded, my government delivered a capital program of $340 million, with an anticipated capital program in this financial year, the year we are in, of $470 million.

MR SPEAKER: If members of the opposition want to have a conversation, please go outside into the lobbies.

MR STANHOPE: In 1998-99, it was $64 million. In 1999-2000, it was $76 million that was delivered. As I have said before in this place, in the entire last term of the last Liberal government, they delivered less capital, that is, less infrastructure, fewer roads, fewer public amenities, fewer footpaths, fewer playgrounds and fewer barbeque areas than we delivered in a single year. They delivered just over $200 million in the entire term. We delivered $340 million last year.

We will have none of this nonsense that we have been hearing about commitment to capital, commitment to infrastructure and capacity to deliver. The record is there. The numbers are stark: in 1998-99, $64,000,077 under the Liberals; in 1999-2000, $76 million under the Liberals; in 2000-01, the last year of the Liberals, $89 million. Let me go to the last three years of this government: in 2007-08, $314 million; in 2006-07, $218 million; in 2005-06, $163 million; and we anticipate in excess of $400 million in this financial year. Compare the records. They are the numbers. They are stark.

It is not just a question of the quantity; it is also about the quality of the infrastructure that was delivered. When we are doing the comparisons, where do we start? We

always start, of course, with Bruce Stadium, the only bit of infrastructure they got out of the ground; a budget of $12 million; delivered, I think, at $84 million. And they broke the law along the way. Their capital program was not only committed to building things; it was also committed to taking things down. Of course we will hurry past the hospital implosion. We will hurry past the Liberal Party's commitment of capital in relation to that.

The memory fades, but there are those other wonderful programs: the futsal slab, used once; the Impulse hangar at the airport, never used. At least the futsal slab was used once. The Impulse hangar, $10 million, was never used. *(Time expired.)*

Schools—closures

MRS DUNNE: I extend my thanks to the crossbenchers for their forbearance in allowing me to ask this question now. My question is to the Chief Minister and relates to school closures. In 2006, Chief Minister, a Labor member for Ginninderra told constituents that, after the announcement of the towards 2020 proposal, you, as Chief Minister, personally pushed for Mt Rogers community school to remain open and for Flynn primary school to close. Do you think it appropriate, Chief Minister, that you played favourites in this way?

MR STANHOPE: I did not. That claim is false.

MR SPEAKER: A supplementary question, Mrs Dunne.

MRS DUNNE: Chief Minister, how will the people of Flynn ever be able to trust you after your treatment of them in this case?

MR STANHOPE: I have just responded to the question by asserting that the claim is false, and it is. I made no such differentiation. The decisions at the end of the day were made by cabinet. Why would I play favourites between Mt Rogers and Flynn? Why would I do that? Why would I intervene and play favourites between one school and another? The claim is false.

Mrs Dunne asked me why people should trust me. I will just go back to the most recent issue in relation to trust that this Assembly has been confronted by, and that is the trust of a commitment to grant a pair yesterday to the Chief Minister of the ACT, the leader of the government, for the time being—namely, me. That is a question of trust. The member asked me about the capacity to trust me. Let us go back to the most recent of issues in relation to the question of trust. I believe it was Mrs Dunne herself—the asker of this particular question—who breached the trust less than 24 hours ago. On government business, as the head of government, as the Chief Minister, as guest of honour, I was granted a pair—

Mr Mulcahy: On a point of order, Mr Speaker, under standing order 118 (a), there is a requirement that answers to questions be concise and be confined to the subject matter of the question. I do not think one word defines the entire subject matter of the question.

MR SPEAKER: Mrs Dunne raised the issue of trust, Mr Mulcahy.

Mr Mulcahy: She raised the issue of schools, Mr Speaker.

MR SPEAKER: She raised the issue of trust, Mr Mulcahy.

MR STANHOPE: The supplementary question was about trust, and let us go to trust. The question asked of me by Mrs Dunne was about trust. Yesterday, I trusted the opposition in this place; I trusted the Leader of the Opposition; I trusted the Liberal Party to honour a commitment made to me that, if I was to attend a function as Chief Minister at which I was the guest of honour, the Liberal Party would not use my absence to cast a vote against the government to the government's disadvantage. This goes to the heart of trust. This goes to the workings of this Assembly. This goes to our conventions. This goes to the Westminster system of government. This goes to the capacity of a government to govern. This goes to a simple courtesy. This goes to matters of honour. When the Leader of the Opposition, Mr Seselja, says to me, "Chief Minister, we will grant you a pair. We will allow you to attend to the business of government. We will not use your absence while you attend to the business of government—

Mr Pratt: It was a minor mistake.

MR SPEAKER: Order!

MR STANHOPE: It was a minor mistake! This matter of honour, this question of basic integrity and trust was just a mistake. Mr Seselja stands and declares on his honour and on the honour of his party that he will not use my absence to profit from my absence, and what do they do? The minute I am out, they renege, they recant, they cancel—

Mrs Burke: On a point of order under standing order 118 (a), Mr Speaker, the Chief Minister continues with this diatribe. I believe the supplementary question was whether the people of Flynn will be able to trust the Chief Minister given the treatment of them in this case. The Chief Minister should be relevant, please.

MR SPEAKER: Mrs Dunne raised the question of trust, and there was a clear imputation there. The Chief Minister is entitled to respond to it. I think it would be timely, now, to connect it to the schools issue.

MR STANHOPE: I will conclude on this remark, as I think I have made the point: I find it quite staggering that anybody in the Liberal Party today would dare to raise with me an issue of trust after the most egregious breach of trust which we all witnessed last night. It was a breach of faith, a breaking of a word, a lack of integrity, a dishonouring of a convention, and a deliberate attempt to disadvantage the government while I was absent after promising that no such thing would be done. Do not talk to me about trust.

Legislative Assembly library

DR FOSKEY: My question is to the Minister for Territory and Municipal Services and concerns the review of the Assembly and government library that was conducted

by Libraries Alive!, of which members received one part, that on the Legislative Assembly early this month. I thank the Standing Committee on Administration and Procedure for that. I found it very interesting.

However, there is the rest of the report, and I ask the Minister for Territory and Municipal Services, who is also the minister for libraries, to advise the Assembly, when that review is completed, if its recommendations suggest significant changes to the government library service and if the minister would please table the report about Canberra's public libraries in the Assembly by the close of business today? If not, why not?

MR HARGREAVES: Thank you, Mr Speaker, and I thank Dr Foskey for the question. I will answer the last bit first. No, I am not going to table the report. Then I will tell you why.

I provided the section of the report to the Assembly committee because the admin and procedure committee had an interest in where the issue around the Assembly library was actually going, where it was headed. I indicated, and I have indicated in this place before quite a number of times, that it is timely, now that this parliament has matured a fair bit, to consider the placement of the Assembly library—whether it should be within the executive, that is, within TAMS, as part of the executive or whether it is more properly placed within the parliamentary precinct and within the responsibilities of the Speaker.

It is my personal view that it should be part of the parliamentary precinct and group of services because I do believe it should have that independence. However, we need to look at it in the context of our computer system. That, too, should be part of the Assembly set of services, but it is not viable to have it that way. That has been a matter considered by the admin and procedure committee before.

I have also said in this place quite a number of times that I would take absolutely no decisions without having a conversation with the Speaker on a minister to minister basis. We can agree, if you like, as I think we actually do, in terms of the principle, but what we need to do at that point is to consider the resources that have to follow it. We have to consider the professional support that actually is provided to the Assembly library as well.

So in answer to Dr Foskey's question, this particular document is one which I regard, firstly, as cabinet-in-confidence. It is going to form part of the attitude that cabinet will take on the provision of library services. I do not propose that it is a stand-alone piece of work. It is not. I do not agree with some of the recommendations that the consultant has brought forward. For example, there is one recommendation that there should be some charges levied. I do not agree with that. There is one, off the top of my head.

I will not be tabling the report. I do, however, want to assure the Assembly that there will be no movement towards changing the status of the Assembly library without the concurrence of the Speaker and it will not be before proper dialogue has been completed. That dialogue will be not only between the minister and the Speaker. Quite clearly, it will be a conversation between the two respective chief executive

officers, that is, the CEO of TAMS and, of course, the Clerk of the Assembly. That is to go to the actual resources.

For example, who owns the materials? Where do we source them from? Who owns the staff? Are the staff better placed as Assembly staff members or staff members seconded from the library service? What professional development will they get? What access will they have to professional development? All of those things are mechanical. None of those are adequately addressed in the report, to my mind.

When it comes to actually providing reports et cetera to the Assembly, I do not have a difficulty. If we have got a report and we have accepted the recommendations and propose to act on them, I do not have a difficulty in sharing that. But where I have a difficulty is that where that report is actually regarded by me as a working document to inform cabinet and is part of the cabinet process, then I cannot and I do not have the authority to release it, let alone table it here if it is cabinet-in-confidence.

MR SPEAKER: Is there a supplementary question?

DR FOSKEY: Could the minister, in the absence of the report, tell us more about what is in that report and what follow-up the government will undertake regarding the report's recommendations?

MR HARGREAVES: As I have indicated, I regard the report as informing a further paper to cabinet. It is not my habit, nor do I believe it was the habit of any minister who has gone before me, to discuss, on the floor of the Assembly, matters which are going to be put before cabinet. We usually discuss matters that have come out of cabinet. So the short answer, Dr Foskey, is, regrettably, no.

Gungahlin Drive extension

MR PRATT: My question is to the Minister for Territory and Municipal Services. Minister, yesterday you said this in relation to the duplication of 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.

You admitted the work would need to be initiated in as little as 12 months after completion. Minister, why didn't you build Caswell Drive correctly to begin with, therefore saving ACT taxpayers money and reducing the inconvenience to motorists?

MR HARGREAVES: I thank Mr Pratt for his second-last question in his political career. Mr Speaker, it would be irresponsible of anybody to commit the government to expenditure without having the justification to do so.

Mr Pratt: You can ask it, mate.

MR HARGREAVES: Mr Speaker, if Mr Pratt wants to hear the answer, all he has to do is keep quiet.

MR SPEAKER: Silence, Mr Pratt, please.

Mr Stefaniak: You could ask the question in December.

MR HARGREAVES: Again, I am happy to wait for them. The fact is that the scope of works included a single lane for Caswell Drive. That was completed, along with the rest of it, and it was completed before time. In fact, people embraced it, and they embraced it quicker than I understood that they would. I indicated that to the Assembly yesterday, and before then.

Those opposite have come forward with predictions. They have said, "We predicted something would happen." I have to be convinced that it is a fact, not just a prediction, before I am going to go and do something. I can predict that Mr Pratt is not going to win the election; I can predict that. When it became obvious to us that those predictions were going to come true, and that they were going to come true earlier than my latest advice, we moved. I do not know what Mr Pratt is bleating about. I would have hoped that he would have said: "Oh, you had some money there, you've actually gone on and done it. That's a good idea. We congratulate you on doing that." Do you know what has happened? In the four years that I have been minister with responsibility for that construction project, we have actually built a road; people can travel on it between the Barton Highway and the Glenloch interchange. We have completely reconfigured Glenloch interchange. For the four years that Mr Smyth was in charge of it, we did not see anything. We did not see a sod turned; we did not see anything. We saw estimates of $32 million for half of it. There were no funds provided for Caswell Drive at all—nothing.

Mr Smyth: There certainly were.

MR HARGREAVES: Mr Smyth says, "Yes, there were." If there were, why on earth didn't you start the work? There were only two reasons for that, in my view: abject, bone idleness—complete laziness, incompetence, ignorance—and the fact that you were ceremoniously tossed out of office, all of which sound good to me. I am sorry: I actually built a road for the people of Gungahlin to come out on and to go back into Gungahlin on—29,000 of them a day. I am sorry for those 29,000 people that they now have a road to go on that they did not have before.

I just cannot believe that Mr Pratt would ask such a question. We are getting on with the project. It is being done. I had a conversation with a person on the weekend who said: "I have to go onto the bike path bit. What are you doing?" I said, "We're duplicating it." He said, "Well, that's worth the wait then." When was the last time I asked whether Mr Pratt had been on it, and how often he goes on it? I suspect that is not very often at all. I do it quite regularly, and I have to say to you that it is a very pleasant trip. It is the best project. And where did the delay and the additional costs come from and who is responsible for them? Was it us that started the argument about the alignment? I don't think so. Did we have friends on the hill that we could use to do some arm twisting around the AIS to get that bit going? I don't think so. Was it us that stood on the top of an old dump at O'Connor and said, "We'll take you to court if you do this"? No, I don't think so. But what happened in that ensuing period can be laid at the feet of this guy's political predecessors. We are seeing the last vestiges of those scary Carnell years sitting here smirking like the instrument of death. The puppet master sits there with a smirk on his face. Look at him. He says, "I'll get you, sunshine." Well, bring it on.

Mr Pratt: Talk about B grade.

MR HARGREAVES: Talking about the B team, are you the vice-captain of the B team, Mr Pratt?

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

MR HARGREAVES: Okay, Mr Speaker. He is the vice-captain of the B team.

MR SPEAKER: Is there a supplementary question?

MR PRATT: Thanks, Mr Speaker. Minister, why did the ACT government fail to show foresight in developing the Gungahlin Drive extension?

MR HARGREAVES: The Stanhope Labor government showed vision. These guys showed blindness. All that these guys did was talk about it, get their sums wrong and stoke people up to slow the whole thing down. What happened was that the Stanhope Labor government started the project and started the D9 symphony and we got the road built. There is a simple fact that you cannot escape—that is, you can drive your car all the way from Isaacs, which is not in your electorate, all the way up Gungahlin Drive and into Gungahlin without going through the city. You can do that now, and you could not do it before. Mr Speaker, they could not ever do it before. They can do it now.

In fact, if he gets a pair—I am sure Ms MacDonald will agree—I will take him for a drive this afternoon, with a pair. Can we trust him with a pair? Maybe not. I will take him for a drive. And what will happen? We will be able to drive on that road because this government has delivered; the road is open. The road was not there when you guys promised the road. You promised the road and they believed you. They believed you so much that they kicked you unceremoniously out of office. I am sorry, you guys. We have got an A teamer, two B teamers and a Zed teamer over the back there. I am sorry; I didn't mean to say that, Bill. You're not a Zed teamer anymore. The point is that Mr Pratt asked whether it was short sighted. Were we far sighted? Yes, we were. The fact is that the road is built. They did not do it, and we did.

Summernats

MR MULCAHY: My question is to the Minister for Police and Emergency Services. Minister, it has been reported that the Summernats will commence on 31 December this year. Has ACT Policing liaised with the organisers of the event and can you advise the Assembly whether ACT Policing will be in a position to deal with the extra demand caused by this change of arrangements?

MR CORBELL: I thank Mr Mulcahy for the question. My advice from ACT Policing is that the implications of Summernats conducting part of their events over the New Year's Eve and New Year's Day period are currently being assessed by the people within ACT Policing responsible for the planning of New Year's Eve events and the policing of major events.

At this stage, I have no further advice as to what the implications are of this decision by Summernats. All I would say is that there is a constructive and open dialogue between ACT Policing and the organisers of Summernats. I would expect that, if any issues were to come to light that were of concern to ACT Policing, they would be discussed with the organisers of Summernats in the first instance to see if they could be appropriately resolved.

Until I have further advice from the police, I am not in a position to anticipate or pre-empt what their conclusions may be about their assessments and planning for the event.

Department of Territory and Municipal Services

MR SMYTH: My question is to the Minister for Territory and Municipal Services. Minister, we are aware that your department has engaged one of the four major international accounting firms to undertake a review of your department's financial management and financial performance. Minister, what are the terms of reference for this review? What are the implications of this review for the provision of services and grants by your department to the Canberra community? What is the expected target of savings to be found?

MR HARGREAVES: I am sorry but I do not carry the terms of reference for these things around in my hip pocket.

Mr Smyth: Why not?

MR HARGREAVES: Why not? Because it is full of insult notes for Pratty actually and because my pockets are full of congratulatory notes on Pratty. See! Look!

The implications for the public are very simple. If we can improve our financial management assistance through the receipt of external advice, that is prudent accounting management. That is a prudent management technique. Otherwise, we become inwardly looking and myopic, just like you guys. I do not think that is a very good way to go. It is not a good way to do business. In fact, it is beholden upon us from time to time to have a good look at the way in which we do things and the way we administer public funds.

Answering Mr Smyth's question about targets is pre-empting the results of such a consultancy. I have no intention of saying to people, just like they did in the Carnell years, "Here is the answer. Please go away and work the question out." I am sorry, we do not operate like that. We do things honestly. We say, "We would like you to give us advice, please." We do not say, "Tell us what we want to know."

That is what you got when the Bruce Stadium fiasco was there. That was the way in which the feel the power thing came in. That was the way in which the grass got painted green. That is, in fact, the way that the Canberra hospital went so horribly wrong. It is because proper administrative and management processes were not followed. If anybody wants to stand up and criticise me for taking expert external advice on how to do things better in my department, bring it on.

MR SPEAKER: Supplementary question, Mr Smyth.

MR SMYTH: Minister, how much is this external review costing and is there a target of $10 million of savings?

MR HARGREAVES: I do not know whether it was Mr Pratt but somebody coughed and I missed the second half of the question. There was a dollar figure and I did not hear it.

MR SPEAKER: Could you repeat that, please, Mr Smyth?

MR SMYTH: How much is the review costing and has a target of $10 million been set for savings?

MR HARGREAVES: At the moment, I do not know the cost. I will endeavour to find that out. And no.

Gas-fired power station

MR STEFANIAK: My question is to the Minister for Planning. Minister, last week on 20 August, you stated that you had not asked officials to reconsider the use of block 20, section 23, Hume, for the Tuggeranong power station data centre. That is despite the fact that the Aboriginal heritage issues had all been solved and you had not been able to sell the land. Minister, why have you not proposed to ActewAGL that they reconsider use of the site for their proposal?

MR BARR: That question is directed to the wrong minister; I do not have responsibility for land sales.

MR SPEAKER: A supplementary question, Mr Stefaniak.

MR STEFANIAK: I will redirect that question to the responsible minister for land sales. Would you like me to read it again?

MR SPEAKER: The question was directed to Mr Barr, and it was in relation to land sales. Mr Stefaniak picked the wrong minister. He is now asking a supplementary question, and he wants it directed to the relevant minister. I think that is you, Chief Minister.

Mr Stanhope: So this is a supplementary question to me?

MR SPEAKER: Yes.

MR STEFANIAK: I will ask the question again, Chief Minister.

MR SPEAKER: If you wish.

Mr Stanhope: On a point of order, Mr Speaker, is this the question or a supplementary question?

MR SPEAKER: This is a supplementary question.

Mr Stanhope: Just a supplementary question?

MR SPEAKER: Yes.

Mr Stanhope: So, this is a supplementary question to a question I did not listen to, so I think Mr Stefaniak is asking me the question so that he can ask me the supplementary question for the question that was not a question. I was just wondering what I was answering. I will answer the supplementary question. Thank you, Mr Speaker.

MR STEFANIAK: I will give it to you in one hit, Chief Minister. I will just give you the question and then the supplementary question and then off you go, Chief Minister. Last week on 20 August, it was stated that the government had not asked officials to reconsider the use of block 20, section 23, Hume, for the Tuggeranong power station and data centre. That is despite the fact that the Aboriginal heritage issues have all been solved and the government has not been able to sell the land. Chief Minister, why has the government not proposed to ActewAGL that they consider use of the site for their proposal, and now that block 20, section 23, Hume, has been passed in at auction, will you continue to seek to sell the land as an industrial subdivision, notwithstanding the failure of bids to reach reserve at auction?

MR STANHOPE: I understand that negotiations are continuing for the sale of that parcel. It is not always the case that, when an auction does not proceed to sale, that means that the matter is concluded. Indeed, I understand in relation to this particular site that negotiations have continued post auction. I think that information may not have been public, but it certainly affects the whole thrust and basis of the question which the member asked.

To satisfy and round off all those issues, I am more than happy to take it on notice and provide that information to the member. My clear understanding is that, yes, the auction was not successful, but action has continued post auction for the sale of the land.

Chief Health Officer—report

MS MacDONALD: My question is to the Minister for Health. Minister, could you provide further details to the Assembly on the Chief Health Officer's report yesterday?

MS GALLAGHER: I thank Ms McDonald for the question. If anyone has had the opportunity to peruse the Chief Health Officer's report, they will understand how important this document is in terms of planning for the provision of health services and responding to issues that are highlighted through the report as issues that require further attention.

I thank two Chief Health Officers—Dr Paul Dugdale and Dr Charles Guest—and their teams for compiling this very informative document. To a large extent the report finds

that the ACT enjoys a very high level of health status. However, it does reveal that there are health issues in particular population groups within our community.

It goes to the issues of demographic change that we have been talking about for some time and, from the Labor government's point of view, the fact that there is going to be a significant population shift in the age group over 65. We will see quite a significant growth in the percentage of the population of the ACT who are over the age of 65 even in the next five to 10 years. Similarly, it projects a decrease in the number of young people, those aged between 10 to 24 years.

The report shows that the majority of adult Canberrans rate their health as either excellent or very good. As well, indicators show that more people in the ACT are living longer, healthier lives than ever before. Our life expectancy for men is going to rise to 83.1 years by 2015 and 86.5 years for women. That is an increase of 2½ years for men and almost two years for women. The infant mortality rate for the ACT was 5.5 deaths per 1,000 registered births.

Under lifestyle and health there are some concerning findings, and they go to the issue of how we prepare this city for the results of these changes in behaviour. We can see that less than half of all adults are doing the required amount of physical activity and only 13 per cent of adolescents are engaging in sufficient levels to meet national guidelines. Also, just over eight per cent of adults consume the right amount of vegetables and less than half consume the right amount of fruit. I think students do a little bit better—22 per cent of students are reported to consume four or five serves of vegetables a day and 41 per cent are eating the right amount of fruit.

There has been an increase in overweight and obese adults in the last few years. This is something that we are seeing across all population groups and, of course, does have an impact on the health system that we are going to need for the future.

The report goes to issues of health services and their use. It goes to the fact that cardiovascular disease remains the leading cause of mortality in the ACT and is listed as one of the key areas where we see people hospitalised in the ACT. In the years to 2011 cancer projections are scheduled to increase by about 22 per cent a year, largely because of the similar growth that we are seeing in the proportion of the population over the age of 65 years. Between 2001 and 2005, there were over 6,000 new cancers diagnosed in the ACT.

Mental health is the third leading burden of disease for all Australians and is a major cause of chronic disability. We are seeing that those figures are replicated here in the ACT.

Diabetes is another area to focus on. At the moment we are seeing about 10,000 to 15,000 people in the ACT with diabetes, but it is expected that we will see an increase of around 50 per cent. That means that between 15,000 and 22,000 people in the ACT will live with diabetes.

This report really does go to support the government's argument around the need to plan a health system for the future—a comprehensive public health response to the issues that we are seeing documented in other reports but which have come to light with the tabling of the Chief Health Officer's report here in the ACT yesterday.

MR SPEAKER: Supplementary question, Ms MacDonald?

MS MacDONALD: Thank you. My supplementary question is this. Minister, what does the report tell us about the emerging challenges our health system will face?

MS GALLAGHER: The report does, as I said, highlight a number of areas where we are facing big shifts in the number of people living with particular illnesses and diseases and also the demographic profile of the ACT. It shows that there are health inequalities between population groups. For example, our Aboriginal and Torres Strait Islander people in the ACT do not enjoy the same health outcomes as the non-Aboriginal and Torres Strait Islander population. It goes to the social factors that influence health differently; it goes to issues such as disease prevention issues; and of course it goes to hospital service access issues.

This report, particularly around how we provide public health services for the future, is a really important planning document and one that cannot simply be ignored. We have picked up a lot of this data as we have gone on with the 18 months of planning work that we have done to lead to the government's plan, the *Your health: our priority: ready for the future* document, which we have released for the $300 million allocation that we have already provided to completely reconfigure our public health system. It is not just about the building or building up the public hospitals; it is about making sure that we have the right amount of community health services that are publicly funded right across the city.

The demands on our health system are immense. Over the next 10 to 15 years, we will see growth in demand for health services that this city has never experienced in the past. We are almost expecting to see hospital overnight admissions alone increase by 50 per cent. Our population is going to change significantly. We are getting older, we are getting sicker and we are living longer. All of that adds up to the fact that, unless we prepare to take these decisions now and set out on the journey to prepare our health system, we are not going to be able to meet the health needs of this city. That is just not acceptable.

This again goes to the issue of the difference between Labor and Liberal. I know that we will have the pleasure of going over this many times. Maybe you won't, Mr Speaker, but all of us will have the pleasure of going through this many times over the next eight weeks. This will emerge as one of the major differences in the campaign.

Over there we have a party that has been absolutely silent on public health, the public health system and any plans for the future—absolutely silent. We have outlined our plans and our vision. We have worked with the community; we have talked with the community. We have talked with health professionals; we have talked with patient groups; we have talked with consumer representatives. We have talked with all the major stakeholders about what the city needs in terms of a public health system.

The response we have got has been overwhelmingly supportive. Absolutely anybody who had a look at this work or talked with me about this work is supportive of this direction—everybody except Mrs Burke, who likens it to spaceships and sending

people into outer space for their health treatment. But this will be something that the Liberal Party will have to fund and accept. They will have to back this plan; they will have to support this. Their lack of focus on public health is starting to show. They are absolutely silent—not one thing to say. Not one thing to say since Mr Smyth promised 100 beds. Not one thing to say about how to build our public health system for our community's needs.

This is probably the most important issue as we go into this next period of time. We need the support of this Assembly to deliver this project. The community will need it—and all of us. It is our community's health system. It is too important to remain silent upon. The challenge to those opposite is to get behind the plan. If they are not going to do that, they need to come clean on just how they are going to address the demands that will be placed on the public health system in the future.

Hospitals—death of Alan Osterberg

MRS BURKE: My question is to the Minister for Health. In October last year, we were made aware of the case of Mr Alan Osterberg, who died at the Canberra Hospital while attending the emergency department, after waiting four hours to be seen by a doctor and despite being triaged as a category 3 patient, which meant he should have received treatment within 30 minutes. Minister, as the coroner noted during the inquest finalisation on 10 June this year, this was not "best practice". The government stated at the time that there would be an internal investigation. Minister, has this internal investigation been completed. If not, why not? If it has been completed, what did it find, and will you table it in this place by close of business tomorrow?

MS GALLAGHER: Yes, there was an internal process, a review, as there is on any number of matters that come before the public health system. I will not be agreeing to table that report. These reports are privileged through the clinical review processes. Mrs Burke asking me to table the report just highlights again her lack of understanding about the review processes available in the hospital. There has been a coroner's inquiry. That is a public inquiry. A whole range of evidence was provided in that forum, and, of course, Mrs Burke goes to one element of what the coroner said. The coroner, of course, went on to say a whole range of other things about just how busy the emergency department was that night. In fact, from memory, I do not think there were any adverse findings from that inquiry. I think that also fails to get a mention in Mrs Burke's question, which is convenient.

All the advice to me is that there was an inquiry. I have seen the results of that, but, as you would know, through the clinical review process and the clinical privileges committee process—and we have gone through this at some length to try and explain this to Mrs Burke—that information is privileged, and for good reasons.

Multicultural affairs

MS PORTER: Mr Speaker, my question, through you, is to the Minister for Multicultural Affairs. Minister, what are some of the key achievements of the ACT government in supporting Canberra's multicultural community since 2004?

MR HARGREAVES: I thank Ms Porter for the question and for her longstanding interest in matters of multicultural affairs. In particular, I thank her, along with my other colleagues Mr Gentleman and Ms MacDonald, for representing me at a myriad of multicultural events that I have been forced to miss.

The ACT government has many proud key achievements in developing our multicultural community since 2004. These achievements, I believe, have considerably enriched the social, cultural and economic fabric of our city. Our policies, programs and events have been driven through consultation with the very people that they affect.

Over the past four years, we have held many forums, both major and at the grass roots. These include ministerial forums I initiated with Canberrans from identified geographical areas across the globe, such as South American and Spanish speaking communities and Middle Eastern communities. These face-to-face meetings fed into the multicultural summit, a very successful and significant consultation which I hosted in December 2005. Personally, I attend many hundreds of events each year where I meet with community leaders and the Canberrans they represent.

The 2006-09 ACT multicultural strategy evolved out of these discussions. The strategy encompasses 10 major themes, including access and equity, cultural and religious acceptance, language policy and leadership and governance. And it has been implemented through key projects addressing the concerns and issues identified from within communities.

The ACT government will shortly be hosting another multicultural summit. This summit, three years on, will provide an opportunity to stock-take and address emerging issues. I believe the summit will provide a solid foundation for the development of the 2009-12 multicultural strategy. Facing up to racism, a strategic plan addressing racism and unfair discrimination 2004-08, is a component of this strategy.

The initial achievement of developing a policy paper addressing racism has been completed by the ACT government's reporting through two report cards, one in 2006 and now in 2008. These two report cards highlight the positive actions and energy that the ACT government agencies put into assisting people in Canberra to live a happier and harmonious life, minimising the incidence and effects of racism.

As I said in my introduction, I am particularly proud of our achievements over the past four years to enhance multiculturalism in the ACT. We have witnessed, for example, a considerable development of the national multicultural festival which continues to be Canberra's annual premier cultural event. Individuals and groups of all ages and nationalities participate in the 10-day long festival by performing, volunteering, hosting a stall at the food and dance spectacular or simply by attending events.

Research we have conducted shows overwhelming support for the festival across the whole community and for the opportunity it offers to showcase our diversity. The 2008 festival was enhanced by the guidance received from a steering committee of

community members. Community steering committees will continue to provide guidance for future multicultural festivals.

2005 culminated in the opening of the Theo Notaras Multicultural Centre and since then it has been a hive of activity for Canberra's diverse community. The centre provides a base for five peak bodies and 30 community groups. The exhibition, gallery, meeting and function rooms encourage the broader Canberra community to benefit from the centre's community resources.

A recent survey indicated that 100 per cent of the Theo Notaras Multicultural Centre's tenants are happy with conditions, usage and location of the centre. This demonstrates the centre is appropriately responding to the community's needs.

Within multicultural affairs, there are many programs that provide improved opportunities for members of the communities it serves. Settling into a new country is never easy. These programs assist individuals to gain employment skills, to better access government services and to share and maintain their heritage.

The work experience and support program, WESP, is a highly successful program that has been operating for many years and it is designed to help Canberrans from culturally and linguistically diverse backgrounds of employable age to enter the workforce. It gives them the opportunity, mainly within the ACT public service, to improve their skills and confidence, as well as develop important networks.

The funding of the multicultural, radio and language grants assists community members of all ages to participate in ACT community life. Similarly, the multicultural grants assist people of all ages to share their culture and heritage, enabling them, for example, to publish newsletters or even buy or make costumes to participate in the annual national multicultural festival.

The radio grants particularly assist elderly people who may feel somewhat isolated from community life. Community radio stations do a terrific job in transmitting information, entertainment, news and interviews in languages other than English.

These communities often have a little voice, but this government listens to them. I think the relationship the government has with these communities makes us a very much stronger community.

MR SPEAKER: Is there a supplementary question?

MS PORTER: Thank you, Mr Speaker. Can the minister please tell the Assembly what he wants to achieve by holding a multicultural summit this Saturday, 30 August, when we already have a multicultural strategy?

MR HARGREAVES: This government is committed to ensuring that multiculturalism continues to be a driving force in the ACT. Community consultation is a large part of this, and since my appointment as Minister for Multicultural Affairs I have been dedicated to consultation with grassroots members of the multicultural community in this city.

The upcoming 2008 multicultural summit is just another demonstration of this government's commitment to consulting with members of the diverse cultural groups in the ACT. Members may recall that the inaugural multicultural summit was held in December 2005, following a series of ministerial multicultural forums which I hosted with multicultural community groups throughout the year. During these forums, I received sound advice, listened to many serious concerns and was privileged to hear scores of inspiring and creative ideas. The 2005 summit was the culmination of these face-to-face community forums.

This approach worked particularly well in the development of and underpinned the ACT multicultural strategy 2006-09. Subsequent funding decisions for projects that addressed priorities for the multicultural sector were guided by this document. Since that time I have also held a very successful youth forum in 2007, where the more than 200 young people who were in attendance overwhelmingly indicated their appreciation of the opportunity to attend and to express their ideas.

Four themes were developed at that forum which will feed into discussions at this weekend's summit. They were: racism and policing; cultural education; making culture "cool"; and sport, recreation and health. The ACT government has worked to address these concerns through a number of initiatives. One of these is a project that enables the multicultural community to undertake a role in the recruitment training of ACT police recruits. An educational awareness campaign has also been instigated which addresses racism through positive slogans of "culture is cool" and "expect respect".

I would also like to acknowledge the important role of committees such as the ACT Muslim Advisory Council and the Refugee Coordination Committee. The council consists of senior figures from key Islamic peak bodies and community organisations in the ACT with close links to grassroots Muslim groups. The members include women and young people. The council is seen as a valuable source of advice for this multicultural summit as it keeps abreast of issues and concerns among the Muslim community of the ACT and gives recommendations that are based on factual findings arising within the Muslim and general community.

The Refugee Coordination Committee will also be involved in this summit and it demonstrates that this government has consistently and proudly assisted refugees and has been involved in their settlement needs. We formed the Refugee Coordination Committee to bridge the communication gap and to bring together Canberrans involved in supporting refugees. The involvement of groups such as these demonstrates this government's commitment to ensuring that the 2008 multicultural summit will provide the opportunity for members of Canberra's diverse multicultural community groups to contribute their ideas on the direction of multicultural affairs over the next four years.

The theme for this year's summit is "shaping a multicultural Canberra". The 2008 summit will be an important activity in the process of developing the ACT multicultural strategy 2009-2012. As with the current policy document, the new strategy will be a living document that has been created, debated and constructed by the grassroots of Canberra's multicultural community.

We are determined that members of the community will have the opportunity to be engaged in this process. We want to hear their ideas and priorities. The 2008 summit will also provide an opportunity for me, among other things, to report to the community about progress on the implementation of the ACT multicultural strategy 2006-09. Once again, the 2008 summit will provide an opportunity for members of Canberra's multicultural groups to contribute ideas about a wide range of issues, including creative ways to sustain the socially harmonious nature of our community; assist those Canberrans who have made a great contribution to our community but cannot speak the English language well, or not at all; support the teaching of community languages to young people; and continue to engage with members of the diplomatic missions located in the ACT. The summit will provide guidance for government and the community to address the identified issues over the next four years.

I want to reiterate on record this government's commitment to multiculturalism and to addressing the welfare of every member of our multicultural communities in this city. The ACT government will once again ensure that the voice of the multicultural community, in the form of a policy document on strategic directions for the coming four years, is heard. Most people who live in Canberra come from somewhere else, and this is their chance to become involved. Taking the multicultural community lightly is something that people do at their peril.

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

Paper

Mr Corbell presented the following paper:

> **Petition—out of order**
> Playground facilities in Gungahlin—Mrs Burke (188 signatures).

Maintenance of a sustainable environment
Discussion of matter of public importance

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

> The importance of working together to maintain a sustainable environment for the ACT.

MR GENTLEMAN (Brindabella) (3.35): "Sustainability" and the "ACT" are two words that I am pleased work so well together. It is unfortunate that I have only 15 minutes in which to speak on this issue as there is a long list of achievements that the Stanhope Labor government has implemented that ensure we work together to maintain a sustainable ACT.

I will begin with our most precious resource—water. The government has always been committed to integrated and sustainable water resource management. This has been reflected, for example, in the "Think water, act water" strategy released in 2004, in the review of the environment flow guidelines in 2006, and through future water supply considerations. But importantly, this government recognises the need for a sound and appropriate legislative base to properly and effectively manage our water resources.

To this end, this government prepared the Water Resources Act 2007, which came into effect on 1 August 2007. This act enables the territory to take a holistic and integrated approach and to manage our water resources equitably and sustainably. The Water Resources Act 2007 improves the efficiency and equity of water resources management by allowing for consideration of community values of the water resources by treating all groundwater in the same manner as surface water, by enabling water-sensitive urban design and efficient water use to be more actively encouraged and by addressing a number of legal issues with the previous act.

In the preparation of the act, consultation was undertaken to determine the public-good value of water, such as how the community valued the watering of public open space or water used in productive enterprises as compared with private use of the same water. Although there were diverse views presented by different parts of the community, particularly on the priorities that should be accorded to specific uses, it was generally agreed that water for projects of broader community benefit should have the highest priority and that water for private residential irrigation should be accorded a lower priority.

Taking into account the public consultation, this act implements a water allocation arrangement based on three priorities for water use. The highest priority is given to water used for domestic use on properties where there is no access to the urban water supply network. Not only does this formalise a longstanding presumption; it is also consistent with the water security strategy for the Murray-Darling Basin. The second-level priority is accorded to public and community use consistent with the territory plan and applies to both businesses and public spaces such as school grounds or parklands. The third priority is for urban residential use. This means there will be no new or expanded licensing of water for urban residential use.

The 2007 act provides an explicit ability to reserve water to meet future demands in each water management area. This assists in meeting government commitments or environmental considerations that may arise in the future without the need to reduce existing volumes of water and hence raise the potential for compensation claims. Consistent with national initiatives, water access entitlements have replaced water allocations.

A key feature of the water access entitlements is that they are for a share of the sustainable yield and not a set total volume. A share approach provides flexibility in managing a resource where sustainable yields may be reduced, for instance by climate change. Also, in line with national initiatives, the act has specific provisions to allow the trade of water access entitlements to higher value uses, consistent with the constraints of catchment, current water markets and the priorities of the national water initiative.

One of the more innovative changes provided for by the act is the introduction of efficient use protocols in calculating water needs of both existing and new licence holders. Previously, when an applicant applied for a licence to take water, the onus was on the applicant to demonstrate what they considered to be an appropriate volume of water for their proposed use. Few applicants had sound information on water needs, resulting in over-allocation, and often excessive water use.

The efficient use protocol was developed based on local climatic conditions, long-term metering of water use by existing licence holders, input from other jurisdictions with similar licence holders, and known scientific principles relating to recharge, evaporation and run-off. Use of the protocol on new applications and existing licences not only provides environmental benefits but also will ensure that volumes of water are equitably and sustainably allocated to licence holders, comparable with other jurisdictions. Along with ensuring that water is efficiently used, the use protocol also minimises water access entitlements so that water resources are not unnecessarily tied up, thus enabling as great a contribution as possible to reducing demand on mains water supplies.

As was previously the case, the act continues to allow the Environment Protection Authority to issue Actew with the licence it needs to manage the mains water supply efficiently and effectively. Importantly, however, the act and its regulations ensure that innovative approaches to water supply, such as the Cotter-Googong bulk transfer scheme, sewer mining projects and, potentially, the Water2WATER proposal, can be accommodated.

The act refines the functions and actions of the Environment Protection Authority in developing, coordinating, regulating and maintaining robust management of the water resources of the territory. Specifically, the act provides for greater clarity, transparency and consistency in the administration of water resources management by reducing the scope for discretionary decisions by the EPA, by being more specific on licensing, allocating and exemption requirements, and by having clearer and more effective compliance arrangements.

The government is committed to ensuring that the ACT's environment management practices are in accordance with the government's strategic objectives and national and international best practice. To give effect to that commitment, the government, through the Territory and Municipal Services Environment and Recreation Network, has initiated a number of programs. Those include the licensing of service stations and shooting ranges in the ACT under the Environment Protection Act 1997 and the remediation of the historic petrol plume located in the city area. These are only a couple of examples of where the government is ensuring that activities which have the potential to cause land contamination, resulting in adverse impacts on human health and the environment, are appropriately managed under the Environment Protection Act 1997.

In addition to these initiatives, the Environment Protection Authority is implementing a review program of all environment protection policies made under the Environment Protection Act 1997. The review of these policies, which includes consultation with the community, industry and relevant representative organisations, will ensure that the

ACT continues to have up-to-date policies and that these reflect community expectations. In 2007, the general environment protection and water quality policies were reviewed. The policies to be reviewed in 2008 include environmental noise, contaminated sites and hazardous materials. The government's environment protection and heritage staff continue to work closely with the ACT Planning and Land Authority to ensure consistently good environmental outcomes, whilst facilitating increased land supply to support housing affordability.

The government is continuing to address the health effects of wood smoke through public education campaigns under the auspices of the ACT firewood strategy. The measures include the "don't burn tonight" media alerts, enforcement activities under the environment protection legislation and continued administration of the ActewAGL-funded wood heater replacement scheme. The wood heater rebate scheme commenced in 2004 and has resulted in the replacement of approximately 600 inefficient wood heaters with cleaner alternative heating sources.

Information collected from ACT licensed firewood merchants shows that the amount of firewood sold in Canberra has reduced significantly in recent years. In 2001, licensed merchants reported selling 20,747 tonnes of firewood. In 2007, this had dropped to 13,331 tonnes, a reduction of over 35 per cent. This has clear benefits for Canberra's air quality, especially down in our electorate, Mr Deputy Speaker. The government also supports the retention of our urban forest and significant trees on leased land. The government regulates the removal of significant trees in the built-up urban areas through the provisions of the Tree Protection Act 2005.

Land development needs are balanced by a close, cooperative relationship between the Tree Protection Unit within Territory and Municipal Services and the ACT Planning and Land Authority. Development applications with possible impacts on our major trees in suburban backyards are referred to the Conservator of Flora and Fauna, ensuring that the community's expectation of the retention of the urban forest is balanced with the need for residential and commercial development.

Whilst the previously mentioned initiatives and reviews give some sense of our current direction, they ignore the very important day-to-day activities that ensure that our environment is protected now and into the future. The government has provided significant funding and resources to environment and recreation, including the environment protection and heritage area, to enable officers to engage with industry, respond to incidents, minimise adverse environmental impacts and undertake compliance activities when required. It is government's support for these day-to-day activities that continue to provide Canberrans with the wonderful environment we share.

While it is a relatively small jurisdiction, the ACT contains a rich natural heritage, ranging from relatively rare subalpine ecosystems in the Australian alps to diverse and biologically rich ecosystems in the lowland regions in and around Canberra. The ACT is committed to the protection of rare and threatened ecosystems and species that occur in the territory.

Between 2004 and 2007, a series of three conservation strategies for priority species and ecological communities were completed and published as action plans 27, 28 and

29, covering lowland woodlands, lowland native grasslands and aquatic and riparian communities. Each of these action plans covers a major vegetation type and its constituent threatened species and ecological communities and set out an integrated conservation plan with priority actions to guide government agencies and non-government interests towards achieving the strategy's aims. These documents are fundamental to achieving sustainable outcomes in relation to both urban and conservation planning in the ACT and continually inform planning decisions.

The ACT government has recently formally declared the pink-tailed worm lizard and the little eagle as vulnerable species under the Nature Conservation Act 1980. These declarations were the result of nominations by community interest groups which were assessed by the Flora and Fauna Committee before recommendations for declaration were made to the ACT government. Declaration as a vulnerable species is formal recognition that the species requires statutory protection if it is to persist in the ACT's environment on a sustainable basis. Action plans will be prepared detailing management actions by government to protect these species.

The ACT is investing significantly in aquatic systems. In particular, the recovery of threatened fish species is a priority. This year, Actew, in collaboration with the University of Canberra and Parks, Conservation and Lands, has launched a research program aimed at investigating and building artificial habitat for Macquarie perch in the proposed enlarged Cotter Dam. The objective of this project is to ensure the survival of this threatened fish species in the Cotter River, while at the same time securing the ACT's future water supply needs.

The ACT now has over 54 per cent of its land area within a protected area network managed primarily for nature conservation. Over the past four years, the government has committed significant additional areas of the ACT to conservation purposes, using a combination of strategies ranging from nature reserve, water catchment protection and rural conservation leases with conservator's directions. These include the grasslands in Jerrabomberra Valley, with 420 hectares announced in 2004; the inclusion of block 60, formerly a pine plantation, in Tidbinbilla nature reserve, with 486 hectares; and the inclusion of the former pine plantation estate in the lower Cotter catchment, with 6,000 hectares, in a new land use category of water supply catchment. That is identified in the new Planning and Development Act. These areas are firmly committed as conservation areas and in total area comprise 6,900 hectares.

This government has had a longstanding commitment to the review of the Nature Conservation Act 1980 to ensure that our legislative framework is again a national benchmark. The review of the Nature Conservation Act 1980 is underway and is giving effect to the government's election commitment to review and strengthen the role of the Conservator of Flora and Fauna, a revised statutory advisory committee and a revised ACT nature conservation strategy.

Although I have only a few seconds left in which to speak, I would like to note that we have also achieved 22 of the actions in the first action plan in Weathering the Change and we will continue that implementation.

MR SPEAKER: I welcome members of the University of the Third Age and the Canberra Central Probus Club to the Assembly.

Members: Hear, hear!

MR SMYTH (Brindabella) (3.50): I thought I was at the wrong MPI for a minute. I would like to remind Mr Gentleman of his own words:

> The importance of working together to maintain a sustainable environment for the ACT.

I thought he would get up and talk about the government's consultation policy, the guidelines and how they go about consulting. I thought he would talk about the successful partnership that the government had with business and community and other groups. I thought that he might mention when they spoke to people. But all we had—as we have so often had from this government—was this litany of things that "we have done and therefore they must be good".

It is a shame. If we truly are to protect the environment and have a sustainable environment for the ACT into the future, the only way it can be achieved is by working together. Government can enforce legislation. It can pass legislation; it can enforce legislation. But if people are not joined together with the government, the community and the various sectors to make sure that it works, it will never achieve the potential that it is truly designed for.

Initially, I thought I had come to a water debate, because all we did was speak about the water act 2007. But the reality is this: the former Liberal government, in 1998, put in place the water legislation that the government modified last year. I was very pleased to be the minister to bring it into this place, after lots of consultation with the community. During estimates, it was pleasing to hear the head of Actew, Mr Costello, say that the environmental flow guidelines that we had put in place were excellent; that they were working; and that, 10 years after they were put in place, they still provided a great basis for the future.

I thought that Mr Gentleman might talk about no waste by 2010, which is something that this community embraced. No waste by 2010 was working because the community wanted to be part of it. In the Asian meltdown in the late 1990s, an article in the *Canberra Times* said that some of the paper that had been collected for recycling may have to be dumped into the tip because the market for it had collapsed. It was not true, but the story went out. People in the community were outraged. They saw that they had a role to play, and they wanted to play that role to ensure that their kids—and their kids, and their kids after them—had a future, had an environment, had a place to live that truly was the bush capital. Instead of no waste by 2010, what we have had from this lot is no work by 2010. For the last seven years, the no waste program has been stagnant.

This territory used to lead the world in some areas of environmental best practice, whether it be greenhouse gas reduction or whether it be waste minimisation. Initiatives out of the former Liberal ACT government—with the community, in consultation with the community, at the suggestion of the community—helped change the world. When you have cities as diverse as Singapore and Mexico City, countries as diverse as the Cook Islands and South Africa, and the Welsh no waste by 2010 community recycling association coming to Canberra to find out how we had done it as a community, you know that you have made a difference.

The great shame for the environment is that for the last seven years this government has been asleep. Perhaps Mr Gentleman did not know that there are some Territory and Municipal Services guidelines. If you get on the web, Mr Gentleman, you will see that they are called *Your guide to engaging with the community: ACT government community engagement manual*. Then there is the Territory and Municipal Services community engagement policy. Mr Gentleman, I know that you were embarrassed last week when you missed the fact that your ads were on the TV and you took the point of order. I just need to tell you this: the ads are back on, Mick. If the party has not told you, they are running the same ad from about a month ago. You need to listen to the radio, mate. If they have not told you because they have not consulted with you, come to us and we will keep you informed on what is going on.

MR DEPUTY SPEAKER: Relevance, Mr Smyth; relevance.

MR SMYTH: The important thing here is that you can only do this as a complete community. I can rattle off a list of things that we did in government. We were the first jurisdiction in this country to put together a greenhouse gas strategy. We put out a draft; we went out and consulted; then we came back with a greenhouse strategy that set real targets. The Chief Minister has said, "Oh, you know, you can't achieve them; they weren't real; they were going to cost too much money." He quoted the figure of $114 million. But six years later, when he announced his own greenhouse gas strategy, what was the cost? It was $100 million. We wasted all those years.

We wasted six years before the minister for the environment woke up to the fact that he was the minister for the environment. Setting up the Office of Sustainability—job done—did not work. People are not fooled by it. The reductions we proposed saw gigagrams of 4,057 reduced to 3,120. What did the Stanhope government propose? We saw 4,450 reduced to 4,400—50. It was 937 gigagrams under the Liberal Party, 50 under the Stanhope government. Approximate cost per tonne of reduction—under the Liberals, $121,000; under the Stanhope government, $2 million. They were not listening to the community; they were not consulting; they were not working with their community. They were telling the community what they did.

Previously in this place, when we were a minority government, there were motions that came up on things like the firewood strategy. I personally went and spoke to many of the firewood sellers to find out how we could work with them. We had roundtables where we invited people like the cons council, the business community, the community at large and health professionals to work out what the problems were and how we could educate people so that we could do this together. That was very successful.

Adaptable and accessible APUs: we heard what the community were saying. We heard them say they wanted to be able to age in place but they needed houses that they could adapt. We came to that.

The restocking fish program: I can remember personally going out and talking to everybody from the water police officer out at Lake Ginninderra to the fishing groups to find out what they wanted and going to the experts to find out how it would work.

One of the great achievements of the previous government was the earth charter. I congratulate Ms Tucker, who brought to my attention that the earth charter was going to fall over because the state Labor government had defunded the program. At very short notice, working cooperatively in the Assembly, we passed a motion which some would remember and some I suspect have tried to forget. There was the Liberal Party and the Greens. I give Ms Tucker full credit for bringing it to my attention. We found the money; we set up and ran a program here. It was spectacular. Yet again, Canberra as a community was doing what a nation's capital should do: lead, set an example, show how things work. It was not done by the government reading off a litany of its supposed achievements; it was done by a government listening and working together.

What about east O'Malley? The proposal was to develop east O'Malley. I can remember being up there on a Saturday morning talking to the cons council, Friends of Grasslands and the residents. To give him his due, Mr Corbell turned up later. We had a discussion, and we agreed as a community because we consulted. We actually talked with people; we were not arrogant about it. We went out and we came to a conclusion as to what could go ahead and what could not go ahead. It worked very well.

I just remind the government—particularly Mr Gentleman, given that he did not use the word "consultation"; I think he used the words "working together" once—of the recommendations regarding time frames in *Your guide to engaging with the community*:

> It is strongly recommended that the absolute minimum for any community engagement activity be six weeks. For large projects, policies and strategies seeking comprehensive feedback, twelve weeks is recommended

You only have to look at the issue of the power station, which has immense health, environmental and economic considerations to be viewed. The government was dragged kicking and screaming to put in place firstly the health impact assessment and then the EIS. The community had said that they wanted it. Mr Deputy Speaker, I remember you standing in this place and saying: "Let's have the EIS. Listen to the community, government." And there they were, dragged kicking and screaming to do something they did not want to do.

It is easy for us to make decisions in here, but we are not the ones who are going to live next to this for 10, 20, 30, 40 or 50 years. Most of us are in favour of the facility; people just do not want it on that site. They want to be listened to; they wanted adequate consultation; and they wanted the time. The government probably had not even read its own consultation guidelines; it certainly was not listening to the community.

There have been some enormous lost opportunities in regard to developing sustainability industries in the ACT. We have an enormous intellectual wealth in the ACT, from the ANU, the UC and the CIT to the postgrad students at ADFA, the Catholic University and Charles Sturt. Coupled with the intellectual clout in all the federal and territory departments, as well as Canberra being the head office for the CSIRO, that puts an expert next door to everybody in this city. It is great; people have

opinions and they speak up. But it is about government listening to them and making sure that they listen to them.

In terms of opportunity, it is also about building a future for the ACT. Dr Foskey raised it. We saw the incredulous reaction from the government benches as to what actually were sustainability industries—what they are and how we can work on them. The best example is the work of Dr Andrew Blakers at the ANU—some of the work that he is doing on solar cells. It is extraordinary work, amazing stuff, but most of it would appear to be destined to go elsewhere because the government did not have the foresight to try and keep the industry that that group has created, which has now gone to South Australia. South Australians and South Australian governments will benefit, but not our government.

If you are out there talking and working with the people of the ACT, you will see what is required. Indeed, with consultation, there is the big issue, the dam. We proposed a dam in February 2004. The Chief Minister said that we would not require it for 20 years, if ever—that we were never going to build a dam, not do it. We were out talking to people; we were out listening to people. We were out listening to the experts; we were out listening to ordinary people who simply wanted to water their gardens. The government refused to listen. Then it had to do the enormous backflip that we all know it did, and now we are enlarging the Cotter Dam. That will add to the water security of the ACT. But it is interesting how late the government came to the process. When I was the minister, we had started the mini hydro plants that are in Stromlo. We understood that that is what the community wanted. They told us; we listened to them and we heard what they had to say.

Much was done in the six years of the former Liberal government; very little has been done in the seven years under the Stanhope government. Quite frankly, the government was asleep at the wheel. I can remember the Chief Minister suddenly realising last year that the environment was an issue and making pronouncements in this place, talking about the greatest threat this century—you know, stentorian stuff. It was stirring; it was moving. But we have seen little action and we have lost many good people who have moved on. To give them their due, the Office of Sustainability was a great idea. Pity it has not worked. Pity there are not guidelines. Pity it is not influencing the way the government works across the board, because it will not even listen to its own bureaucrats.

This is a government that is so lofty and arrogant, so isolated and so cocksure of itself that it does not have to listen to anyone. We had the Chief Minister last year declaring that climate change was the biggest issue facing us this century, without having done anything for five years; and then, late last year, introducing his report, which, quite frankly, is an embarrassment in terms of what it is attempting to do. That shows that this is a government that is not interested in and does not understand the importance of working together to maintain a sustainable environment for the ACT.

We did hear that, and we saw it. That is why, in 1987, the former government signed up to Kyoto. We were ahead of the game. We were the first ones out with a draft greenhouse strategy; we were the first ones out with a greenhouse strategy. We started and implemented no waste by 2010. We had the bio-bin trial, which has languished. We put in place the firewood strategy. We had second-hand Sunday. We set up

high-quality and sustainable design to make sure that we got the best out of our buildings and our city. We started the building upgrade of Mac house and other government departments. We started methane mining and electricity generation at the Long Gully Road tip.

At that time, we implemented all of the threatened species action plans that were required. We were the first jurisdiction to complete them and to review them. We did that. We revamped the Tidbinbilla visitors centre so that people could go out and understand what the bush capital was about, through having the recycled water plant there, through having the new mud brick building there and by putting in place the walks, the boardwalks and the things that were required so that people could see it.

We set up an accessible and adaptable aged persons unit. We did the mini hydro at Stromlo. We put land back to the reserves. We moved the Gungahlin town centre because that is what the community said they wanted. We said that there would not be construction in the Jerrabomberra valley in the ACT. We cut back on east O'Malley. We started the weed removal. We started the water tune-up program. We put in place the water legislation. We did the restocking of the fish. We put groynes in the river. We signed the packaging of Forde. We started the grey-water mining. We had school programs. We started GreenChoice. We had Greenfleet. We participated in the earth charter. We gave support to Revolve. And so the list goes on.

We understood and listened to the community. We worked with them—unlike those opposite, who could not even mention working with the community in the speech that Mr Gentleman gave.

DR FOSKEY (Molonglo) (4.05): Thank you, Mr Gentleman, for giving me such a fantastic topic to wax lyrical upon. Of course the ACT is blessed with a wonderful natural environment that, unfortunately, is becoming seriously stressed by drought and by human incursions—not that the ACT, as a capital city, can fully take all the responsibility for that. We know that Canberra, as a sheep farm, with its fragile soils, was already feeling the strain well before it was chosen to be Australia's capital city.

Indeed, I would acknowledge that, in many ways, becoming a capital city may have saved some areas of our environment. For instance, if there was not a capital city here, would Namadgi national park have been declared? Perhaps it would have been just included in the Brindabella national park. But we must be very careful not to just generalise and always assume that human development is bad for nature. The trick is to find a kind of human development that enhances nature, at the very least does not damage it and, preferably, provides for that balance between human activity and natural activity.

More and more, we are beginning to understand that if the environment collapses, we collapse. But it is extraordinary that we went through so many centuries of thinking that human beings could do what they like and the environment would recover. There was a belief that there was no limit to resources such as oil and coal and all those things that drove the wealth and made many families very rich. They maintain that richness today and they use that richness to guard themselves, they believe, against the environmental degradation.

However, there is no guarding against environmental degradation. That is one area in which any amount of wealth will not assist any person. We all breathe air, we all drink water and, even if one can create the ideal little snow-scape environment, it will be a bubble out of which people will not be able to move. I suppose, for those of us who are not among them, there is some small satisfaction in the fact that huge wealth will not save anybody from the disasters of climate change, rising seas, biodiversity loss, peak oil and all those things that we know are coming.

I guess that what is amazing to me is that we know all this is happening and yet we are running on "business as usual". It is pretty incredible, is it not? It is a bit like saying, "But how can those people live on the San Andreas fault in California when they know there is going to be a massive earthquake there one day?" But people go on with their lives; they pretend it is not happening.

There is a huge amount of denial on climate change. One can understand that, because it could well be the end of life as we know it on this planet, and it is high time that we pulled our finger out. For that reason, people do look to governments. Governments provide the policy setting in which they, as individuals, can act. Individuals can replace their light globes; they can get a Prius or get rid of their car altogether or move down to one car, as I know some families are doing. But in the end, if there is not an alternative to driving that car, for instance, they cannot make that change. As it happens, most people do need to go to work; children do need to go to school; and, indeed, we would want it so.

The government has a very serious role. There is growing and very large literature on litigation, realising that governments may in fact be responsible, in years to come, for instance, for developing land that is going to be subject to ocean rise, an issue that is affecting the coast. I guess this is one area where we are glad we are up in the high country.

There are some disappointments for me and for the Greens since coming to this Assembly. I remember that, just before the election, the government—or, as it was, a party seeking re-election at that time—issued a pamphlet which indicated what it was planning to do on the environment. I think a lot of people believed that stuff. They said: "Okay, we have just had a federal election. Gee, the Libs got in there; let's put in Labor here at the ACT level. Look what they're going to do for the environment." Unfortunately, they have been disappointed. I hope they have kept their eye on the ball.

We had the Chief Minister's speech in December 2004, when, as environment minister, part of his speech was devoted to the lead he was going to take in sustainability. He bragged that the government had not shirked its responsibilities or shied away from that task. At that time, the Office of Sustainability was the government's centrepiece and the Chief Minister boasted that it would be in the Chief Minister's Department and made responsible for greenhouse, water and energy policy, taking a whole-of-government focus. That, indeed, is exactly what we need if we are really going to tackle these issues.

Unfortunately, it did not last. With that functional review in 2006, we saw the Office of Sustainability moved to TAMS. Then, unfortunately, we found that it was not

doing too well there; we could not trust Minister Hargreaves with the task of the environment; so those portfolios went back to Mr Stanhope. Unfortunately, the Office of Sustainability, I do not believe, has yet been given the opportunity to recover.

I note that it does have that opportunity because a number of positions have been advertised there. I am not sure whether they have been filled. But there has been a split between policy and implementation and I am not sure how that is tracking. I would really love the Auditor-General to do an inquiry into how sustainability is being progressed, remembering the report she did two or three years ago.

We also saw the quiet disappearance of the sustainability expert reference group, a group of very committed people. There must have been some problem there, because the group does not exist anymore, and that diversity of expert information is not being fed into this government.

We are still waiting for our sustainability legislation. We have been told that that would make a huge difference in the development and we would have a sustainability act which would inform the way the government carries out its work, right across all the work.

On financial management guidelines, maybe that triple-bottom-line approach that we have been calling for, for the whole of this Assembly, is required. Every estimates we find out that it has not moved at all. Is there secret sustainability business going on? I hope so, because there is not a lot of open sustainability business.

There are a lot of issues. I am not denying that good work has been done. It has, but it has to be in that whole-of-government approach that every minister, having sustainability in his or her head, has in the work he or she does. Sustainability applies to the hospitals and to health, as much as it applies to the management of national parks. So it is a message that we have to put across.

The next term of government, of any political persuasion, is going to be totally crucial. I had that feeling about this term. I have worked as hard as I could to get some of the information out there and to do something. It is a little hard when you are one crossbench member, with a majority government, but it is so incumbent; it is so serious.

If we are going to tackle sustainability, we also have to remember that it is within a social context. We have to make sure that that penetrates through to those rich people who think they are going to be okay when the oceans rise. We must make sure we look at those little people, the people of Bangladesh, who will not be able to move when that river goes up, when the floods happen. We have to have in our minds, as we tackle these problems, those people who are least able to help themselves in this society. And God help the children.

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) (4.15): I thank Mr Gentleman for raising this matter of significant importance to the community. This government has doubled the amount of funding we provide for the environment and

for key programs like tackling climate change. We have been able to do this because we have kept Canberra's economy strong so that we can invest in the future with more money for schools, hospitals, the environment and building a stronger community.

We take our responsibilities in the area of sustainability seriously. We know and accept that we have an obligation to future generations to not leave them our mess to clean up and we know that, while the costs of action are significant, they are manageable and must be undertaken now. The costs of delay of course are unthinkable.

We are most fortunate in the ACT to have a willing community that is up to the task of reducing our collective impact on our natural environment. Canberrans are aware, forward-thinking and engaged people. We have demonstrated how our changed behaviour can result in major changes, like our response to water conservation and recycling.

This government accepts the overwhelming scientific evidence of climate change. We know what greenhouse gases are doing to our climate and we have the knowledge to start action to address it and then, over time, to reverse it. We increasingly know what will happen to our environment if we do not act and, as a consequence, what the impact is likely to be on future generations.

Since taking government, we have faced devastating bushfires, drought, localised storms and flooding of disproportionate strength and duration. These are normal, but their intensity and increasing frequency are the symptoms of unsustainable environmental change. They have significant impacts on our planning for the future. So we can adapt but we cannot of course just adapt; we must take action to correct the underlying causes and to protect our environment. And a major part of our response is providing a range of incentives, rebates and assistance to Canberrans to play their part and to make a difference.

While climate change is a natural process, it has been significantly accelerated by the emission of greenhouse gases, primarily caused by the use of fossil-based fuels. It is generally accepted by the international science community that the world must reduce its emission of greenhouse gases by 60 per cent of 2000 emissions by 2050 if we are to limit average global warming to two per cent. Greater global warming than this is expected to cause dramatic irreversible changes such as the melting of the Greenland icecap.

The ACT government is committed to assisting Canberrans to respond to the challenge of climate change, both through setting an example itself and through delivering innovative educational infrastructure and socially equitable programs. This government has had a long history of local and national environmental leadership.

Over the years, as our understanding of climate change and its impacts have become better understood, we have faced the challenge and come up with practical ways of tackling this most pressing of issues. Over the past two terms the government has focused on the future, acted decisively, taken the necessary steps and forged partnerships to deal with the challenges we face.

Back in June 2002 we released the discussion paper *Towards a Sustainable ACT*. This process engaged the people of the ACT in developing our sustainability policy called *People Place Prosperity: a policy for sustainability in the ACT*. In April 2004 we released our sustainable transport plan as well as the "Think water, act water" campaign, aimed at helping Canberrans reduce their use of this precious resource. And in January 2005 the ACT greenhouse gas abatement scheme was introduced, clearing a path for the ACT's fight against climate change at a time when other jurisdictions were waiting for that path to be made clear to them.

The reality is that each Canberra household produces 14 tonnes of greenhouse gas emissions a year; so we each need to do our bit to contribute to a more sustainable future. We have set our goal to reduce greenhouse gas emissions to 60 per cent of 2000 levels by 2050. In everyday terms, that is like taking 566,000 vehicles off ACT roads each and every year until 2050. As a government, we are leading by example and by encouragement. Future generations will of course judge us on the efforts we make today; so we are providing opportunities for and assistance to individuals to make a contribution to the overall goal of reducing our carbon footprint as well as pursuing sustainability in our own operations.

Weathering the Change, the ACT climate change strategy, builds on the successes and lessons of the ACT greenhouse strategy and outlines how the ACT community, with strong leadership and the support of the government, will address climate change over the period 2007 to 2020.

We are encouraging Canberrans to switch their thinking on water and energy use. We have introduced the ToiletSmart program to assist ACT residential property owners replace single-flush toilets with water-efficient, dual-flush toilets. Replacing an 11-litre single-flush toilet suite with a four-star dual-flush toilet which uses just 4.5 litres for the full flush and three litres for the half flush will result in a saving of 6.5 to eight litres of water per flush. Over one year this could add up to a saving of around 36,000 litres of water for an average Canberra household of between two and three people. So far 358 dual-flush toilets have been booked.

We have established the GardenSmart program to help ACT residents have a healthy garden without using too much water, by providing expert horticultural advice on plant choice, garden design and maintenance, mulching and watering techniques. Since the program began, 3,600 tune-ups have been completed. We have given away 10,000 grey water diversion hoses free of charge to ACT residents. We are offering rebates for the installation of rainwater tanks with an internal plumbing connection to inside the home. So far 1,377 water tank rebates have been issued.

The ACT energy wise program offers complete home energy audits for $30. Homeowners who spend at least $2,000 on energy efficiency improvements during the audit are eligible to receive a $500 rebate from the ACT government plus a refund of the audit fee. The ACT energy wise program was a national first. While there are several home energy audit and rebate programs around the country, this was the first to offer a combined home energy audit and a flexible rebate package.

We are also making sure public transport is a viable option to Canberra commuters, with new and improved ACTION routes and timetables and allowing bike users to travel for free on ACTION buses.

Just over a year on from the release of Weathering the Change, progress has been substantial. We have legislated for the nation's most advanced and most generous feed-in tariff. We have also required energy retailers to offer new customers green power as the product of first choice, making what was an opt-in scheme an opt-out scheme.

We have worked on a differential stamp duty for vehicles, depending on their fuel efficiency. Indeed, it was with great pleasure that that legislation passed the Assembly last week. The differential stamp duty scheme becomes operational next week. We have pursued, and it has to be said, legislation which the Liberal Party could not find it within themselves to support and I would be interested to see any contributions by the Liberal Party in relation to climate change or greenhouse gas emissions when they baulk at supporting a simple, direct program such as the differential stamp duty for green vehicles legislation. I think it will stand forever almost as a hallmark of the extent to which the Liberal Party are not prepared to take any decision, let alone tough decisions, in relation to the issue of climate change.

We have pursued energy efficiency at our own government buildings, including introducing solar lighting at places like Macarthur House. We have installed thousands of efficient light bulbs in our street lights and, within months, every government agency will have a resource management plan in place.

Our ACTION public transport fleet will be replaced with new natural gas buses, with 16 buses due for delivery in October. More than 100 water efficiency audits and trial energy audits have been undertaken at businesses, schools, offices, clubs and hotels. More than half of all Canberra schools are now involved in the Australian sustainable schools initiative, a commonwealth-territory partnership that aims to make schools carbon neutral by 2017.

We have transformed our entire government car fleet to four-cylinder cars. We are protecting our precious natural environment by putting an additional 1,460 hectares of woodland and grassland to reserves, including the Goorooyarroo and Callum Brae reserves.

We are working on the corroboree frog recovery program and restoring our stagnant bog habitats which are an important part of the ACT's water supply. We have created the stunning and award winning new sanctuary at Tidbinbilla and are about to receive the results of a study we commissioned into feasibility of a solar farm for the ACT. This has the potential to take us down a new road into sustainable electricity generation.

The greenhouse gas abatement scheme is the single most effective abatement measure currently available to the territory. Between 2005 and 2007 this scheme reduced greenhouse emissions in the ACT by 926,000 tonnes of CO_2, equivalent to taking 215,000 vehicles off our roads. The ACT government currently purchases 23 per cent of its power requirements from green sources. We plan to review this this year to set

the next challenge as we work towards the overall policy of carbon neutrality. These programs and outcomes are a demonstration of the government's commitment to reducing energy use and thus the territory's greenhouse gas emissions.

A sustainable environment depends on the availability of water. The sustainable management and use of water is a core component of sustainability policy and implementation for the ACT. Future water security and sustainability for the ACT and the region has been one of the most critical challenges facing the government and indeed the ACT. The ACT has a plan to manage and use its water resources sustainably. This is reflected in the development of the water strategy "Think water, act water".

The government has been implementing a comprehensive and integrated approach to supply and demand components of water sustainability and "Think water, act water" sets significant objectives and targets which are being met. Canberrans, it has to be said, have done extraordinarily well in conserving this precious resource and have reduced water use by 13 per cent. We have developed and implemented catchment management plans for Namadgi and the lower Cotter catchment.

These are just some of the successes of this government in relation to its absolute commitment to pursuing a sustainable future for Canberra now and into the future.

MR PRATT (Brindabella) (4.25): I welcome the MPI as an opportunity to shoot down the government's claims that they are effectively maintaining a sustainable environment. In fact, with all the claims made by Mr Gentleman, I would love to see him go through that list and prove these claims.

Let us go through a number of issues. With waste management, for example, the no waste by 2010 strategy has been allowed to languish. The government have even stopped talking about it, but then they probably have to because they have committed $850,000 in the 2008 budget to identify a new site for yet another landfill. They keep digging up the territory. There is no other commitment in that budget of any substance for any other broad-ranging initiative that might substantially diminish the landfill requirement. This should be seen by all in the ACT as a clear departure by this government from the ACT no waste by 2010 strategy.

This government has lost any credibility on waste issues and lacks the vision needed to take us beyond unsustainable fixes and into the future. Where is the consideration of expanded options for recycling and other sustainable treatments for waste? The option of green waste collection from households as well as commercial operations should have been investigated and costed well before now. Why has no active consideration been given to biomass recycling of putrescible waste?

Minister Hargreaves confessed on radio last week that he had not even bothered to travel the short distance to the ANU to look at their HotRot system. I suppose if he is unable to understand that his department's assessment of 29,700 cars in 2006 probably means that a minimum of 29,000 cars can be anticipated to be on the GDE in 2008, which he grossly underestimated, he is to be forgiven for not walking one kilometre to view one of the few biomass recycling plants in Australia. There were no travel allowances available, I suppose.

With respect to public transport, what have Labor done to promote more sustainable transport in the ACT? In 2006, they slashed and burned the ACTION bus network. Every other city in the world invests in its mass transit systems to reduce traffic congestion and lower the environmental impact of commuter journeys, but not Labor in the ACT. And so badly did they do it that they were forced to reconsider and restore some funding in 2008, but still not to a sustainable level. Many routes are still operating below their original frequencies and passenger dissatisfaction persists. How are we going to attract people to get out of their cars and catch public transport, and therefore make a real commitment to sustaining our environment, if the government simply wreck public transport and cannot even restore it to pre-2006 levels?

With respect to transport futures, what about the longer term? Only last week, we saw their rebadged "integrated transport plan". It is a nice document but lacking in new ideas and initiatives. Some time ago, they toyed with the idea of light rail—as long as someone else was prepared to pay for it. But serious consideration of it has not been given. I recall a year ago, in the ABC studios, debating with Mr Hargreaves about transport futures. He absolutely pooh-poohed the idea of light rail and had no other statements to make about other possible transport futures, other alternative fuel options. He had no idea, he pooh-poohed the idea; he shot down Dr Foskey and me in that studio because we dared to talk about analysing the concept and at least doing a feasibility study. So there you go: no vision, bereft of ideas. Where is the vision to try and really get in there and sustain our environment?

Consideration of the city's broader transport needs and options into the future has been lacking. It is all too hard. Sustainability comes a distant second to political expediency in the Labor mentality. What about water capture on public buildings? Mr Gentleman talked today about water initiatives. He has made a big play about that, yet we still see no sign of innovative, imaginative, relatively cheap initiatives to capture rainwater run-off and perhaps trickle-feed green spaces and gardens in close proximity to our public buildings. It is a relatively cheap initiative but they cannot even get that right.

The MPI refers to "working together to maintain a sustainable environment". What about the Tuggeranong power station fiasco? How much working together was there over the eight-month period when this government and ActewAGL were sneaking beneath the radar on the Tuggeranong power station project? And don't tell us that the Labor Party did not know about the intention to put that power station in place. Do I need to remind you, Mick, about the Tuggeranong Valley Labor Party branch meeting where this very issue was discussed way back in mid to late 2007? If people in the party knew about this initiative, why didn't the government talk to the community? Working together with the community—I don't think so. Comrades over constituents, Mr Speaker; that is the mentality in this governing party.

How committed to a sustainable environment were the government when they offered a site 600 metres from Macarthur for a 210-megawatt power station? That is bloody hypocrisy. You talk about a sustainable environment but you wanted to put a 210-megawatt power station 600 metres from residential sites. How committed were the government in allowing, without intervention, the flawed ActewAGL plume study to justify the decision to site a power station near Macarthur? There was not even a comment from this government that perhaps that was not a very good idea and that

perhaps the analysis had been flawed. Where are these sustainable environmental credentials?

Today, we have heard that Mick is committed to saving subalpine species and the pink-tailed worm lizard, but not the residents of Macarthur, Fadden, Gowrie, Gilmore, Wanniassa, Chisholm, Isaacs, Farrer and Pearce. Mr Speaker, to paraphrase Richard Attenborough, as he lurks through the rolling hill country of north Tuggeranong, if you can imagine him there: "Ah, there we see Mick's pink-tailed worm lizard. Oh, look over there, the little furry Macarthurite. Oh, but alas, soon to be extinct, gobbled up by the non-sustainable massive Labor gaso-ranosaurus." This is "working together to maintain a sustainable environment". What a load of bunkum!

How committed are the government to a sustainable environment when they refuse to commit, despite repeated demands from the opposition and the community, to doing a fully independent EIS on the data centre, the scaled-down project, still in the Macarthur Valley? Why don't they just move the thing? The opposition is committed to seeing through the EIS process on the scaled-down project. But why didn't this government save trouble for the proponent and trouble for the community, make a sound decision in the first place and move the data centre to a better site?

What about this power station concept, in any case? It is amusing to me, and I am sure to the people of Canberra, to have here today a Stanhope Labor government that is so willing to look at its record with regard to a sustainable environment and see where it has made significant policy positions which completely undermine, and in some cases negate, any such environmental consideration.

The power station issue is but one example, and a prime one. Despite the significant benefits attached to the proposal—although it is still unclear exactly who will enjoy most of those benefits—and the purported employment benefits to the ACT community of having such a facility here in the territory, there is little in this project that offers real vision in terms of increasing our capacity to reduce our reliance on non-renewable energy sources.

The government have been spruiking the line that it will be the cleanest and greenest such power station in the world. Frankly, that means nothing at all because their poor attempt to qualify this project as being green, and thus sustainable, is completely and utterly false. The power station will still emit carbon dioxide, among a number of other toxic chemicals. It will absolutely increase the aggregate greenhouse gas emissions for the ACT. Can Mr Gentleman, Mr Hargreaves or the Chief Minister explain to me and the people of Brindabella exactly how this development is sustainable? Did the government not consider what impact a future carbon trading scheme might have? Obviously not, Mr Speaker.

MR SPEAKER: The time for this discussion has expired. *(Quorum formed.)*

Protection of Public Participation Bill 2008
Detail stage

Clauses 1 to 10.

Debate resumed.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (4.37): I seek leave to move amendments Nos 2 to 7 circulated in my name together.

Leave granted.

MR CORBELL: I move amendments Nos 2 to 7 circulated in my name together and I table a supplementary explanatory statement to the government amendments *[see schedule 1 at page 3869]*.

These amendments deal with a range of issues that the government has concerns with in relation to this bill. Amendment No 2 omits clause 5 of the bill and substitutes a new clause 5. It removes references to other clauses that will be removed from the bill and inserts a clearer definition that includes an objective "reasonable person" test. The new provision states that the purpose of the act is to protect public participation and discourage certain civil proceedings that a reasonable person would consider interferes with engagement in public participation.

Government amendment No 3 omits clause 6 of the bill and substitutes a new clause 6. The amendment modifies the meaning of "improper purpose' so that a proceeding is started or maintained for an improper purpose if a reasonable person would consider that the main purpose of the proceeding is (a) to discourage the defendant or another person from engaging in public participation; (b) to divert the defendant's resources away from engagement in public participation; and (c) to punish or disadvantage the defendant for engaging in public participation.

The amendment avoids penalising a plaintiff who has a very legitimate cause of action but is also motivated by a desire to penalise or discourage a detractor. The court should decide how the merits of the plaintiff's case are to be treated.

Government amendment No 4 omits clause 7 and substitutes a new clause 7. The new meaning of "public participation" is substantially the same as the omitted provision except that, as amended, it relies on the belief of a reasonable person. The exclusions from that meaning set out in clause 7 (2) are also substantially the same, with the following exceptions. Paragraph 2 (b) now excludes unlawful vilification under the Discrimination Act 1991; paragraph 2 (c) now excludes conduct that causes or is reasonably likely to cause physical damage or injury to property; new paragraph 2 (e) excludes conduct that constitutes an offence punishable by imprisonment for longer than 12 months; paragraph 2 (f) replaces paragraph 2 (e); and paragraph 2 (g) replaces paragraph 2 (f).

Government amendment No 5 omits clause 8 of the bill and substitutes a new clause which describes the application of the act. Clause 8 (1) provides that this act applies to civil proceedings in which the plaintiff may claim damages. The act will not apply to an action for defamation, a prescribed proceeding or an action commenced before the commencement of the act.

The original clause 8 creates a positive right to engage in public participation. This will be omitted, as the government's Human Rights Act already sets out a number of

rights that overlap with the right to engage in public participation, and because it is inappropriate to create a human right outside the existing human rights framework.

Government amendment No 6 omits clause 9 of the bill and substitutes a new clause 9—"Civil penalty". The new section will apply if a person commences proceedings to which the act applies and the court is satisfied that (a) the defendant's conduct is public participation; and (b) the proceeding is started or maintained for an improper purpose.

Under clause 9 (2), the court may order the plaintiff to pay to the territory a financial penalty not more than the prescribed amount. Regulations will also provide for a way in which the penalty is worked out. An order may be made on application by the territory or on the court's own initiative. Clause 9 contains a note advising that, if a proceeding is for an improper purpose, the court's power to award costs includes the power to order that those costs be assessed on an indemnity basis.

Finally, government amendment No 7 is in relation to the original clause 10, which allows the Supreme Court to dismiss a proceeding and make an order for costs if satisfied that the conduct of the defendant constitutes public participation and that the defendant honestly and reasonably believed that their conduct was justified. This clause is being omitted as it may lead to the dismissal of cases in which plaintiffs have a genuine and legitimate cause of action simply because the conduct of the defendant was public participation.

The government amendment omits clause 10 of the bill and substitutes a new clause 10 and clause 11. Clause 10 gives the executive a regulation-making power. Clause 11 provides for the act to be reviewed as soon as practicable after 1 January 2012.

MR STEFANIAK (Ginninderra) (4.44): The JACS officials who briefed my office in relation to this matter indicated that the government's amendments are designed to protect public participation and for courts to impose penalties on plaintiffs who bring actions for an improper purpose—for example, to silence public opposition to activities of the plaintiffs. They are also intended to maintain the integrity of the general body of civil wrongs. During the briefing the officials advised that the bar is supportive of the government's amendments, as is the author of the Civil Law (Wrongs) Act.

It should be noted, in dealing with these amendments together, that no other jurisdiction in Australia has similar legislation and that in the ACT there have been no cases of the kind that this bill would target. However, it would not be beyond imagination, for example, that the gas-fired power station had the potential to be our first. One must wonder then about the urgency in getting this bill through now, but we can understand that and we have all agreed that it will go through; that is fine.

We will be supporting the government's amendments. I will mention a few of the amendments. It is very much a matter, as I said earlier in the in-principle stage, of waiting to see how this pans out in practice. Starting with the last amendment that the attorney has brought in, amendment No 7 states that "the minister must review the operation of this act as soon as practicable after 1 January 2012". That means we have got a bit over three years before the minister has to do it. That section expires on 1 January 2014.

I think it would have been sensible to have a date by which the minister has to review the act, rather than reviewing it between 1 January 2012 and 1 January 2014, which is over five years away. But at least there is something there. Perhaps we are not going to be inundated with cases and that will be fine. So that may be a reasonable time frame.

I am a bit concerned about amendment No 6, which creates a new section 9—"Civil penalty". If a court is satisfied that a defendant's conduct is public participation and the proceeding is for an improper purpose, the court can impose a financial penalty on the plaintiff. I think legislation like this probably needs that in order to be effective.

The, as yet unwritten, regulations are supposed to provide guidance on the calculation of the penalty which will serve to discourage plaintiffs from bringing on these cases. The court can then make a penalty order on application by the territory, or on its own initiative, and the court will have power to assess costs on an indemnity basis. I am a little concerned that it is stated that the court can impose a financial penalty and regulations which at the moment are unwritten will provide guidance on the calculation of the penalty. I think it would be great if we could have details of what the penalties are going to be and what the regulations are going to say. I would certainly like to see that happen as soon as possible.

Mr Mulcahy: Oppose it.

MR STEFANIAK: Well, you never know, Mr Mulcahy; we just might oppose clause 6, in terms of the regulations. I think you make quite a good suggestion there. That is something that the attorney needs to get on to, to make sure that this actually works.

We are seeing another example of incomplete legislation. I know this is groundbreaking stuff and everyone has been supportive of it—most people in the Assembly have. But there are going to be a lot of difficulties here and it would be good if we could get it right as much as we can to start with. We would certainly like to see just what the penalties are going to be and what is being proposed. Even if it is an indication in terms of draft regulations, that would be of great assistance.

Some of the other regulations certainly seem to be quite sensible. For example, in amendment No 2, which amends clause 5, the government has changed it so that, instead of reading that "the purpose of this act is to protect and encourage public participation", "encouraging public participation" has been taken out. I think that would take it much too far. The act should not actually encourage people to get out there and publicly participate in all manner of things.

I mentioned during the in-principle stage that, for the last 25 years or so, we have had a developing body of case law in terms of third parties. Thirty years ago, third parties could not appeal or get involved in anything, and over the years they have been able to do so. That is well and good, but you can go to ridiculous extremes. We have seen that with some of our planning laws in the territory.

To willy-nilly encourage public participation I think goes far beyond the scope of what this legislation should be doing. So that is a sensible amendment by the

government in seeking to change that. Whilst the act protects public participation and it discourages certain civil proceedings that a reasonable person would consider were interfering with engaging in public participation, it does not actively and legally encourage public participation which is probably a bit of a nonsense. So that seems to be sensible.

The opposition is comfortable with most of these amendments. However, we will certainly keep a watching brief on how this legislation pans out. It may not be earth shattering; it may not lead to a lot of cases. I am pleased to see a review period. It is a fair way out. In some other areas of the law we have had review periods after 12 or 24 months, and that might be more appropriate. I suppose that, in something like this, where we have yet to see any such cases in the ACT, a review after three years and certainly before five years is probably not unreasonable in the circumstances.

MR MULCAHY (Molonglo) (4.50): I have looked at the government's amendments to this bill, and they seem to be even more obstructive of legitimate action to protect private property rights, and I do not support them for that reason. Dr Foskey's bill contains a requirement that it can only be used where there is no reasonable expectation that the proceeding will succeed—in other words, the bill seeks to supplement the existing law on frivolous law suits. The government's amendments to the bill—I call them amendments, but really they constitute a complete redraft of the bill—remove any requirement to demonstrate the suit in questions without merit—in other words, the government would allow the suppression of legitimate actions in court which have merit and which seek to protect legitimate rights against, for example, trespass of property.

It is worth reflecting on that very issue, because section 7 (2) of the bill recognises several situations in which actions will not be recognised as legitimate public participation under the bill. While trespass on a private residence is recognised as illegitimate, it is highly revealing to note that trespass to private property in general is not recognised as an exception to legitimate public participation—in other words, you cannot barge into someone's home and then claim it is public participation, but you can feel free to barge into the offices or other property of a private company and then claim that it is public participation deserving protection.

This does not appear to be a mistake in omission. After all, the fact that trespasses against private residences is given as an exclusion means that the Greens have obviously turned their minds to the issue of trespass to property. It is clear then that they have intentionally defined public participation to include trespasses to private property, so long as this is not a residence. This aspect of the bill illustrates the complete and utter disregard displayed by the Greens and the professional protesters that make up their core support in relation to private property rights.

In terms of the amendments, as I have indicated, I do not think that the government's amendments give me any more comfort; they do not provide that level of protection that I believe is important. Mr Stefaniak has circled around the issue. In fact, I am quite amazed that the Liberals are supporting this. When I first saw that report back in May 2007 and saw the opposition leader's name all over it, I came to the conclusion that maybe he had not had time to read it, because it seems so philosophically out of character for the Liberals. It seems even more philosophically out of character for

Mr Stefaniak and Mr Pratt to support this sort of legislation. But wonders will never cease to amaze, and this is how we find the local Canberra Liberals these days.

I find it ridiculous that the government would impose a so-called civil liability on the plaintiff which goes not to the defendant but to the territory—in other words, it is not a genuine civil liability paid to the person the bill is supposed to protect. In fact, it is just another revenue-raising exercise. I do not support the amendments, and I will not be voting for the bill. I may be a solitary voice on this, but I am sure, over time, that many of those engaged in lawful business activity who have been the subject of the sort of conduct that we have seen of the Greens in the past will look with amazement that there is only a solitary voice in opposition to this legislation.

DR FOSKEY (Molonglo) (4.54): I thank all members for their contributions to this debate. It is always salutary to have a dissenting voice in the Assembly. However, I would be interested in hearing from Mr Mulcahy a much stronger argument than just "I'm surprised that the Libs are supporting it" and the usual go at the Greens. That does not sound very deeply thought through. Very clearly, Mr Mulcahy and I are on different sides of the philosophical fence in relation to these issues.

I am going to comment on all the government's amendments. In regard to amendment No 3, I have some concern that having to prove that the improper purpose was the main purpose of a proceeding may be too onerous a burden on a defendant. Perhaps the wording should be changed to make it that a defendant has to prove that a "dominant" purpose of a proceeding was an improper purpose.

Some additions to my bill are very welcome, and I readily acknowledge that they are an improvement on my original bill. However, I worry about subclause (e), in that it will be difficult to prove. However, I support the intent, and I trust that minor problems with the bill can be worked out with subsequent amendments. I do not agree with the Attorney-General that it would be inappropriate to create rights outside the Human Rights Act. The area of tort law produces new rights outside of that act on a regular basis. Changing community values produced new rights in the jurisdiction of equity. In fact, it may be a mistake to confine new rights or the statutory crystallisation of existing common law rights into the restrictive confines of the Human Rights Act. These rights are a pale shadow of real rights.

The need for these kinds of laws has increased in recent years as the High Court has read down and effectively emasculated the implied freedom of political expression that a previous court found to exist as a consequence of our system of representative democracy. The government has raised the status of the rights contained in the Bill of Rights to the position of being grounds for review in a natural justice or procedural fairness action. That is a move in the right direction, but it is still not strong enough. Most of these rights need to become actionable in their own right. This bill is itself a watered down version of what I would really like to see enacted, but it is certainly a significant improvement on what currently exists.

I worry that the government has exempted defamation actions from the scope of this bill. The explanatory material does not provide any guidance whatsoever on the rationale for this omission. The Attorney-General and his advisers might think that current defamation laws are adequate to protect against SLAPP suits, but defamation

actions can still be brought by company executives who claim that they are so closely tied to a corporation that any attack on the company's practices is an attack on them. Also, a corporation with fewer than 10 employees can bring a defamation action. Defamation actions have proven to be a favourite vehicle for SLAPP suits in the past, and they should not be excluded from the operation of these laws.

Perhaps the government is reluctant to introduce laws that may impinge on the uniformity of the so-called model national defamation laws. The ACT had to compromise some of our existing defamation provisions when the uniform laws were introduced. If the exclusion of defamation from the purview of this act is as a result of the COAG arrangements, it is yet another example of how our participation in COAG has not served the best interests of the ACT. I query what prescribed proceedings are contemplated by the government as being excluded from the purview of the act under regulation. Again, the explanatory material sheds no light whatsoever on which proceedings will be prescribed.

It is a mistake to omit clause 9 of my bill, which would provide that the Magistrates Court could issue a declaration that particular conduct would constitute public participation. I take the Attorney-General's point that the Supreme Court ought not be bound by a lower court's declaration, but I think this misses the point. It would be a brave or foolish plaintiff that proceeded with an unmeritorious SLAPP suit in the face of a Magistrates Court declaration. It would also be a brave or foolish lawyer who agreed to act for a plaintiff wanting to pursue an unmeritorious action.

The government's amendments mean that a person being threatened or monstered by a hostile corporation will have to wait until they are actually being sued. There is no response left in this bill which one could use in response to bullying legal threats. You will have to wait until you are sued, and then you will have to go through the process of defending that legal action. Under my original provisions, the threat of legal action would also trigger the right to go to court and get a declaration that you are simply engaging in your right to public participation. A declaration would serve as both a shield and a reassurance that a person or organisation was likely to be able to resist improper interference with their planned course of action. A declaration could be used to convince other people or organisations that their assets and private lives were likely to be safe from being devoured by a hostile SLAPP suit if they chose to exercise their right of public participation in the manner covered by the declaration.

The choice of using the Magistrates Court as the forum for seeking a declaration was on the basis of minimising costs. If the junior nature of the forum is the problem then perhaps the Supreme Court would be the appropriate venue or possibly a form of action in the new ACAT. I urge the government to look at reinstating this clause.

In regard to amendment No 6, I have some concerns about the limitation imposed by these regulations on the quantum of damages available. I wait to see what the regulations will look like and what formulae will be prescribed to work out financial penalties. Perhaps the government could explore the possibility of setting potential damages at the same level as the damages claimed by the plaintiff in their statement of claim.

I also disagree that the plaintiff should have to pay a financial penalty to the territory. This is a very strange provision. Why should the territory benefit from the abuse of legal process while the defendant is only entitled to indemnity costs? Indemnity costs do not fully compensate a defendant. They do not account for personal time and resources expended. They do not make up for lack of sleep. They do not compensate for stress and medical expenses. Punitive and exemplary damages should be spelt out in this act. If the government sticks to this scheme, perhaps it could direct any funds collected by this process into an account which is able to be accessed by the Environmental Defenders Office or a similarly appropriate public advocacy organisation.

Finally, in regard to amendment No 7, I do not agree with the Attorney-General that existing court rules adequately provide for striking out SLAPP suits or the imposition of penalties for lawyers who lodge or file pleadings in relation to unmeritorious damages claims. The courts have been extremely unwilling to punish lawyers who argue cases that have no reasonable prospect of success. The Law Society and JACS both paint an unrealistically rosy picture of the probity and trustworthiness of litigation lawyers. I am afraid most people do no share that view. Many litigation lawyers are exemplary and praiseworthy professionals, but not all. My Greens colleague in the South Australian parliament, Mark Parnell, was one of the architects of the bill before the Assembly today. He is a very experienced lawyer, and he says that most people do not fully appreciate that lawyers, or at least many lawyers in Adelaide, are simply guns for hire who will do whatever their clients ask of them regardless of the merits of the case.

I maintain my view that the bill should include clear guidance to the court of the Assembly's intention that unmeritorious SLAPP actions should result in appropriate financial penalties for the plaintiff and professional disciplinary actions for the lawyers involved. I welcome the review in 2012. I think that should be an important part of every new piece of legislation, and I hope that that review will show that the legislation has discouraged the imposition of SLAPP actions in the ACT.

Amendments agreed to.

Clauses 1 to 10, as amended, agreed to.

Dictionary agreed to.

Title.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (5.03): I move amendment No 1 circulated in my name *[see schedule 1 at page 3869]*.

Given the substantive amendments that have been made to this bill, it is appropriate to amend the title to provide for a new, more concise title that reflects the nature of the bill as it has now been amended.

Amendment agreed to.

Title, as amended, agreed to.

Question put:

> That the bill, as amended, be agreed to.

The Assembly voted—

Ayes 16		Noes 1
Mr Barr	Mr Hargreaves	Mr Mulcahy
Mr Berry	Ms MacDonald	
Mrs Burke	Ms Porter	
Mr Corbell	Mr Pratt	
Mrs Dunne	Mr Seselja	
Dr Foskey	Mr Smyth	
Ms Gallagher	Mr Stanhope	
Mr Gentleman	Mr Stefaniak	

Question so resolved in the affirmative.

Abortion

MR GENTLEMAN (Brindabella) (5.08): I move:

> That this Assembly:
>
> (1) recognises the ACT Legislative Assembly's progressive law reform in the area of abortion and a woman's right to choose; and
>
> (2) reaffirms its support for the laws reformed including the de-criminalisation of abortion in the ACT.

The discussion surrounding pro-choice or a woman's right to choose has long been filled with controversy and today I suspect we will see again a diverse range of views. Already I have received several emails from the Canberra community both supporting and condemning this motion.

I have put forward this motion because I strongly believe that recognition should be given to this Assembly for ensuring that a woman's right to choose without risk of criminal prosecution is protected. I have put forward this motion because I strongly believe that this Assembly should be proud to have conducted the debate.

I firmly believe that the progressive reform agenda carried out by the Stanhope Labor government, both in minority and majority, over the past eight years is something that all Canberrans should be proud of. As I mentioned, the debate surrounding a woman's right to choose has long been a controversial one.

Six years on from the previous debate and in light of the Leader of the Opposition's statements in the *Canberra Times* of Saturday before last where he is quoted as saying

he opposes abortion, I believe it is appropriate for us to revisit this issue. If the Leader of the Opposition wishes to raise the topic of a woman's right to choose, then I believe all members of this Assembly should have the right to speak to the issue on the record. We are, after all, representing our constituency and I believe they have the right to know where we all stand.

First, I would like to revisit several of the members' views set out in the 2002 debate in order to set a context for the current members as to how this Assembly came to make the important decision to support progressive reform by allowing a woman's right to choose. Before I do that, I would like to remind all members that while I was not an elected member of the Assembly at the time of that debate I personally wrote to each member asking them to support Mr Berry's proposal. As a proud member of this Assembly, I have supported and will continue to support progressive law reform that ensures women maintain their civil liberty of a right to choose. I have held a long interest in this matter and I would have liked to have actively contributed to the previous debate in 2002.

I believe strongly in this Assembly and self-government for the ACT and I believe strongly that it is our position, as elected members and legislators, to ensure that law, whether it is in relation to human rights, stem cell research or a woman's right to choose, must be current and reflect the views of the community we represent.

I would like to elaborate on that point of progressive law reform for just a moment. I believe that, while having this debate, we should first acknowledge this Assembly's other progressive reforms. Apart from the Crimes (Abolition of Offence of Abortion) Bill 2001 and the subsequent bills that supported the decriminalisation of abortion in the ACT, this Assembly has supported Australia's first Human Rights Act, enshrining in law key international standards of human rights.

Industrial manslaughter was another example of progressive law reform that the ACT was the first to legislate on. Granted, these bills are not as riddled with controversy as the pro-choice debate or even the euthanasia issue; however, they are equally important in terms of their impact on society and as progressive law reform.

Furthermore, the ACT also passed law in relation to stem cell research, the Human Cloning and Embryo Research Amendment Act 2008, which ensures that the ACT has a nationally consistent approach to research involving human cloning and embryonic research. This Assembly also passed progressive laws in relation to civil unions. And the list goes on.

Dr Foskey did mention, in the recent Human Cloning and Embryo Research Amendment Bill 2008 debate, that she thought that none of us here in this Assembly were qualified to provide an effective contribution to the issue without relying on sound advice from experts. I agree with Dr Foskey, and I believe it complements your statement, Mr Speaker, when you gave your description of our duty as members, as outlined in the 2002 debate on the Crimes (Abolition of Offence of Abortion) 2001. Mr Speaker, you proclaimed:

> We as legislators have to accept that it is our responsibility to make good law, we cannot sit idly by and ignore bad law because it is controversial.

I wish to echo that sentiment here today. We are elected by our constituency to do a job. That job is to legislate on all issues and, in doing so, we must ensure that we are provided with a sufficient amount of expert information. We must ensure that the decisions that we make reflect not only our own beliefs but those of the people we represent. After all, the people that we represent have a right to know what, if any, beliefs a current or future representative may have if it is going to reflect on how they make their decisions.

I did note a comment at a public forum recently: "A person whose religious beliefs oblige them to oppose abortion may not come out and implement a law banning it, but they might cease funding clinics, or other similar sideways actions." I believe that is an important point to raise. As I said in my opening remarks, if the Leader of the Opposition wishes to raise the issue of a woman's right to choose, then let us have the debate where decisions can be made that affect it. As this Assembly has shown over recent years, we are not afraid to tackle the big issues.

As I said, I was not an elected member of the Assembly at the time of the debate in 2002. I was, however, enormously proud, as a resident of the ACT, to see our local government taking on the challenge that other jurisdictions have reluctantly pursued in part. I was enormously proud to see the ACT Legislative Assembly support laws that remove the threat of criminal prosecution for those exercising their right to choose.

Since the 2002 debate here in the Assembly, there has continued to be a monumental movement for other states to follow the ACT's lead. I will read from a press statement issued in 2005 by the group known as Reproductive Choice Australia:

> A nation-wide coalition of women's health organisations and pro-choice groups has emerged to combat recent attacks on women's reproductive rights by conservative federal MPs.
>
> Reproductive Choice Australia was formed to provide a voice for the 81%+ of Australians who believe in a woman's right to decide when, and under what circumstances, to continue with a pregnancy.
>
> "Reproductive Choice Australia is collectively taking action to protect the existing reproductive rights of women and address the many shortcomings in the law and service delivery in Australia," said Dr Leslie Cannold, ethicist at Melbourne University's Centre for Applied Philosophy and Public Ethics.
>
> Reproductive Choice Australia is a coalition of over 20 organisations including Sexual Health & Family Planning Australia, Children by Choice, the Public Health Association of Australia, the Australian Women's Health Network, the Women's Electoral Lobby, and all state based Pro-choice coalitions.

On the point of other jurisdictions, I am pleased to announce that the women's affairs minister in the Victorian parliament, Ms Maxine Morand, last week tabled a bill that will remove further restrictions on a woman's right to choose in Victoria. In her speech, Ms Morand said:

> Women deserved legal certainty when making difficult choices about their reproductive health. Modern legislation that reflects current clinical practice and community standards is long overdue.

As a result of the introduction of the Victorian legislation, the Australian Medical Association is writing to all MPs asking them to support the bill, saying it would not affect the number of abortions. This is of course a common counterargument for the pro-life supporters. Victorian health minister, Mr Daniel Andrews, also said, in a media report last week, that the laws would reflect current practices and research that shows decriminalising abortion would not trigger an increase in terminations.

Also of note is the interesting media coverage surrounding the selection of American Republican presidential hopeful John McCain's vice-presidential candidate. ABC News, along with CNN and several other major news outlets, have been reporting that Mr McCain will be selecting a pro-choice candidate for VP.

Before I revisit a few of the debating points that provided members with an abundance of information on which to reach their informed moral decision here in the ACT, I would like to begin with a quote from *Hansard*. Mr Speaker, this quote formed part of your introductory remarks on the Crimes (Abolition of Offence of Abortion) Bill 2001, where you wisely remarked:

> … legal or otherwise, abortions will continue to occur. Regardless of anyone's views on the moral question, we have the collective responsibility to ensure that we cannot be charged with turning a blind eye to the reality of ACT women having access to abortion and, at the same time, the existence of criminal sanctions.

In the ensuing debate, we were subjected to a range of views from all members, some of which I will highlight here. The Chief Minister mentioned:

> As individuals, women are responsible for their own reproductive decisions. Women must have the right to make reproductive decision for themselves and the community should respect and support such decisions. I believe that the provisions relating to abortion should be removed from the ACT Crimes Act to reflect the principle that the regulation of human reproduction is a health issue and not the business of the criminal law.

The Chief Minister also referred to other jurisdictions and their positions on the issue, stating:

> All Australian jurisdictions have felt it necessary to review their abortion laws in recent years and regulate abortions in some way.

Going back to the previous debate in the ACT, Minister Corbell alluded to Mr Berry's statements in the debate, highlighting:

> Abortions should be safe, they should be legal and they should be rare.

Again, I agree. Mrs Cross said in 2002:

> I agonised for so long over this matter and I canvassed views from as many sources as I could, including views from lobby groups and prominent figures in the national-level debate—people who have had first-hand experience, medical practitioners and people with diverse views from different age groups and different professional, socioeconomic and religious backgrounds. Then I tried to weigh objectively the range of views that I was presented with.

I will repeat it:

> Then I tried to weigh objectively the range of views that I was presented with.

Mrs Cross went on:

> Let it be enough now for me to say that I have heard enough sad tales from all quarters—tales of grief, or ignorance, of deprivation, of desperation, of shame—to persuade me to support the legislation.

I will come back to Mrs Cross in just a moment. But of all the views and points that I have mentioned here today, it is the most recent that has caught my attention. It came from a member, like me, that was not part of the debate in 2002. In the *Canberra Times* on Saturday, 16 August 2008, there was an article headed "Dr Jon v The Boy Avenger". For those that missed it, it was a reference to the Chief Minister and the Leader of the Opposition. Between the caricatures of the leaders, there was some text about Zdenko Seselja. The text said:

> He is against abortion but says that a Liberal government in the ACT would not seek to recriminalise it.

With that sweeping statement, the boy avenger has politicised the issue. Perhaps it was unintentional; nonetheless, he did. The boy avenger is on the public record, in a special piece about the election, speaking for his party, that they would seek not to re-criminalise abortion in the ACT. We only have to go back to the previous debate to see that the Liberal Party, apart from Helen Cross, voted against pro-choice. We all know what ended up happening to Mrs Cross. During her speech, she even said:

> I am aware that I am the only Liberal member voting for Mr Berry's bills today and, to be honest, this makes me more than a little nervous.

Mr Smyth said, in a previous debate in 2002:

> Until you prove to me that it is safe for women to undertake an abortion, I will resist all that you attempt to do in this place.

I ask through you, Mr Speaker: has it been proven to Mr Smyth, since the debate, that the procedures are safe? Are you now in agreement with the majority of the Canberra population who are in favour of a woman's right to choose? If not, if you are so strongly opposed to pro-choice, are you going to support your leader who stated in the *Canberra Times* on Saturday the 16th that a Liberal government would not seek to re-criminalise abortion?

I do question the motives of those opposite as to why, after such a firm position on the issue in previous debates, they will not pursue re-criminalising it if they ever form government. Did the Leader of the Opposition's fellow members know that the leader was out in the press, speaking on their behalf on this issue? Or could this be an indication that the Leader of the Opposition understands that the majority of Canberrans support the type of progressive reform that the Stanhope Labor government has pursued over the last eight years?

What does Mrs Dunne have to say on the matter? And Mrs Burke? Mr Pratt, you were quite opposed to pro-choice legislation in the ACT. Are you in agreement with your leader that the Liberal government will not seek to re-criminalise abortion in the ACT?

I am pleased because, once again, this Assembly is ensuring that progressive reform in the areas of human rights, stem cell research and a woman's right to choose will continue to be pursued in the ACT. We are legislators that have been elected to do a job and we cannot shy away from our responsibility on the ground that it is too controversial. *(Time expired.)*

MR SMYTH (Brindabella) (5.23): My views on the issue of abortion are well known in this place. You have heard them over the past 10 years, Mr Speaker, as I have heard yours. It is an important issue. Let me reiterate my views on all conscience issues affecting life so that there can be no uncertainty about where I stand. I am against abortion, I am against euthanasia and I am against capital punishment. As I have said so many times in this place, I believe in the sanctity of life.

It is unfortunate that Mr Gentleman has taken such a narrow approach to this issue in his motion. The chant used to be—you, Mr Speaker, have used the words during debates in this place and I note Mr Gentleman brought them up—safe, legal and rare. Two of the three issues are yet to be addressed in this place. "Legal" has been addressed by this place. The question of "safe" is yet to be fully addressed and "rare" is never addressed. The simplistic approach of this motion on such an important issue is something that I cannot support.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (5.24): I thank Mr Gentleman for raising this matter. I do believe it is important that, ahead of an election and at a time when the people of Canberra will have to make a fundamental decision about the sort of government they want leading them for the next four years, this issue is canvassed.

In one of her interjections across the chamber earlier, Mrs Dunne accused me of being the first to raise this issue. She is probably right in relation to Mr Seselja. That is probably the case. The reason I did raise that concern at the time was that we had heard nothing from the Leader of the Opposition. In my view, Zed Seselja is the most conservative Liberal leader in the country. I think he makes Mr Smyth and Mr Stefaniak look like chardonnay sipping left-wingers. His position on so many social issues is to avoid, at any point, actually having to take a stance. He avoids having to take a position on any of these issues of substance. I note that he is generally absent from the chamber and absent from any of the votes on important progressive social reform issues—be that in the area of gay and lesbian law reform or in pretty much any other area of social policy.

Let us make it very clear that Zed Seselja is no Kate Carnell. He is no bleeding heart leftie under the guise of a pro-business, sort of small "l" liberal. This man is the most conservative leader that the Liberal Party has in this country. The reason that I raised my concerns in this place on a number of occasions stem back to a Marcus Mannheim

report in the *Canberra Times* of 29 April 2006 where he refers to then opposition planning spokesman Zed Seselja as being "the only other MLA to have declared gifts since the last election". He noted that he had been a guest of the universal peace federation conference in South Korea last year. This federation is part of a movement founded by the controversial cult leader, the Reverend Moon, whose followers believe he is a messiah. It paid for Mr Seselja's travel and attendance and gave him a watch and a gold tea set of unspecified value.

What do we know about this organisation? What does Mr Seselja's attendance at this event say about his personal values and the sort of Chief Minister and leader that he would be in this community? I think we need to have a look at what this organisation stands for.

Mr Stefaniak: I raise a point of order, Mr Assistant Speaker, on relevance. We are talking about an abortion debate, not some religious fellow in Korea.

MR ASSISTANT SPEAKER (Mr Gentleman): Mr Stefaniak, we are talking about the reaffirmation of progressive law reform.

Mr Pratt: On the point of order, Mr Assistant Speaker: what has the reaffirmation of the—

MR ASSISTANT SPEAKER: That is the motion, Mr Pratt.

Mr Pratt: abortion law got to do with the Moonies in Korea?

MR ASSISTANT SPEAKER: Hopefully we will find out shortly.

Mr Pratt: Can you just tie this down?

MR ASSISTANT SPEAKER: Are you taking a point of order, Mr Pratt?

Mr Pratt: I am. Relevance and its non-relevance.

MR ASSISTANT SPEAKER: I call Mr Barr.

MR BARR: Thank you, Mr Assistant Speaker. The relevance of this question goes to the fundamental values that a person brings to this chamber and the leadership position that Mr Seselja now holds. It is interesting to look at this organisation, the sorts of values it holds and what it says about someone who would accept free travel and free accommodation to attend a conference organised by this group.

The Reverend Moon is described as a fundamentalist with a vengeance. He prescribes a ready-made doctrine for impatient young people. This is an individual who took out four-page ads in major newspapers defending President Nixon at the height of the Watergate controversy. Among the goals of the Moon organisation is the establishment of a worldwide government in which the separation of church and state would be abolished and which would be governed by Moon and his followers.

What are his views on a range of important social issues? We know that the Unification Movement is allied politically with Evangelical Christians in the US; so we know the sort of social agenda that this organisation is pursuing. We know that Moon has spoken vehemently against free sex and against homosexual activity. In talks to church members he describes homosexuals as dirty dung-eating dogs and he has prophesised that gays will be eliminated in a purge on God's orders—

Mrs Burke: Point of order, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Do you have a point of order, Mrs Burke?

Mrs Burke: I have. Relevance; this is not relevant to the motion before us. I draw your attention to that, Mr Assistant Speaker, and seek your ruling on that.

MR BARR: It is entirely relevant—

MR ASSISTANT SPEAKER: Yes, I think it is relevant.

MR BARR: as it goes to these exact social issues and the position that the Leader of the Opposition would accept a gift from the Universal Peace Organisation, an organisation that espouses these sorts of views. It goes to the heart of where he stands on social policy.

The RiotACT website has this as one of its major discussion points under the subject heading "Zed the Moonie and other tales of disclosure". There are quite detailed accounts. It does raise the question: what is Zed doing hanging out with the Moonies and how does he reconcile that with his own faith and the positions that he would put in this chamber as Chief Minister? That is a pretty fundamental question and the sorts of views that are espoused by this organisation do call into question why any member in this place—any member of a mainstream political party—would attend such a conference and seek sponsorship from such an organisation. It really does go to the heart of where Zed Seselja stands as an individual.

I am prepared to make my views on the range of social policy issues very clear and to vote on them in this chamber. Everyone knows where I stand on those issues and for the purposes of the particular issue you have raised today, Mr Assistant Speaker. I, of course, support a woman's right to choose and will always do so and will always vote that way in this chamber.

Anyone who seeks to vote for me in this election and any future elections will always know that is my position, just as they will know my position on legal equality for gays and lesbians, just as they will know my position on the range of important social issues. There is no point in his trying to run to be Chief Minister of this territory while he is trying to duck and weave his way around all of these social policy issues. He knows in his heart of hearts that he is the most socially conservative leader of the Liberal Party in the history of this territory and certainly amongst all Liberal leaders in Australia at the moment.

This is not a small "l" liberal party. This lot have entirely given up any claim to being liberal. They are big "c" conservatives and you see that not only on these issues but on

pretty much any issue around social policy. It is about time that the Leader of the Opposition came down into this chamber and indicated his position on all of those social issues because so far in his brief term as leader he has ducked for cover every time—just like he did on radio this morning. He could not face a bit of tough questioning on the future of his party now that Mr Stefaniak has walked away.

This is yet another example of where the Leader of the Opposition fails to step up to the plate and say what he really stands for. His association with the Moonies and the sorts of values they espouse should be a worry to every Canberran who believes in a free, progressive and tolerant society.

MR PRATT (Brindabella) (5.32): Let me start by saying that the record will show that Mr Barr today has brought into disrepute a number of Christian organisations here and overseas. Let the record show that. Let the record show that in blurring a very important debate about a very important issue, he has taken the opportunity to bring into disrepute a number of Christian organisations across this country and internationally.

I personally do not support the criminalisation of abortion. I do not believe that criminalisation is the answer. Abortions are a sad reality in our society, but they are a reality. Therefore, it is a matter to be dealt with sensibly and sensitively on a case-by-case basis. I, like most people, have no idea about the data on abortions in the ACT because the government runs a closed shop on the issue.

While abortions are necessary, what I feel in my heart is that there are still far too many abortions carried out. Mr Assistant Speaker, are you really serious about reforms? You and your comrades over there are never really serious about reforms. The only thing you are ever concerned about is the consolidation of Labor power built on the concealment of the facts. If you are really serious about reform then you will seek greater transparency in keeping the community informed about what is happening in the ACT with abortions—the number of them, the cases and the demographics involved. Society has a right to know about these matters. They are very important issues. But, of course, driven by your ideology, you conceal these facts.

I present an amendment to the motion, which I now move:

> Omit all words after "this Assembly", substitute:
>
> "notes that:
>
> (1) the issue of abortion has traditionally been a conscience vote for members of all major parties in all Australian jurisdictions;
>
> (2) Members of the Assembly and the community have a range of views on this subject;
>
> (3) regardless of those views, the incidence of abortion in our society is a concern;
>
> (4) the re-introduction of criminal sanctions is not the solution to this problem; and

(5) providing greater support to women who experience crisis pregnancies is a matter of the greatest importance.".

I am going to speak to that amendment now. I will deal with the first issue listed, which is that:

> the issue of abortion has traditionally been a conscience vote for members of all major parties in all Australian jurisdictions;

I think this principle is an extremely important one. Let me say this: I presume that the government and the ACT Legislative Assembly will demonstrate maturity by honouring this convention, and by not politicising the abortion debate by attacking MLAs' personal positions. Every politician in every parliament in the Westminster world is able to undertake a conscience vote on a range of matters.

The abortion debate is one of those quite often seen across our Western world parliaments—and developing country parliaments, by the way. A conscience vote is allowed for members on both sides of the parliament. I would be interested to see whether all Labor members will be able to speak freely here today and as freely as we are on this side of the chamber about this very important and very sensitive issue. I would be very interested to see whether that is the case.

I say again that I presume the government party in this Assembly will honour this convention and not seek to ridicule and attack here today—or beyond today through the media—individual MLAs in this place for the positions they hold in this very sensitive debate. It is a very important but sensitive debate.

The second paragraph that I speak to in my amendment states:

> members of the Assembly and the community have a range of views on this subject;

That is a reality. That is a reality that this Legislative Assembly must honour and respect. Across the ACT community we have a range of views, some of which are political. We have a range of views, some of which are of a religious nature. And we have a range of views which may, in fact, simply be cultural or family oriented.

Every person in the ACT has a right to contribute to this debate. It is a very important debate. It goes to the heart and soul of a range of family and social issues. That is why I seek to move in this amendment that we honour that particular principle. I will have a bit more to say about this shortly.

The third paragraph of my amendment states:

> regardless of those views, the incidence of abortion in our society is a concern;

Mr Assistant Speaker, I do not know whether you spoke to that particular point. You might want to clarify the position in your closing remarks. Did you say that the incidence of abortion in our society is a concern? We will see. It is a concern. It is a reality and we have to deal with it. That is why we do not drive it underground. That

is why we do not criminalise it. We must treat this matter seriously, but we have not yet found the answer as to how to minimise the need for abortion in our society. We still have not come to grips with that properly. I personally feel very concerned that we have not yet found the mechanism in our society to minimise the problems that we have in this regard.

The fourth item referred to in my amendment relates to the reintroduction of criminal sanctions not being the solution to this problem. I have already spoken to that. I have reiterated that that is my personal view. That is why I have included it in my amendment. For the reasons that I outlined earlier, it would be pointless, it would be stupid, it would be counterproductive, it would be unfair to criminalise abortion and to have it seen to be driven underground, as it used to be in the bad old days—well, depending on what your perspective is, of course, at least in other days.

The fifth paragraph of my amendment calls for:

> providing greater support to women who experience crisis pregnancies is a matter of the greatest importance.

Frankly, I think this is one of the most important issues that I wish to address. It is so important that government put in place the mechanisms to ensure that women of any age have all the instruments in place to receive the best possible advice, counselling, education and information around the question of abortion. It is a very serious issue for a young woman, particularly a young girl and her family—if her family and partner are privy to the issue—to sort out. I do not believe we have the mechanisms in place anymore.

I think it is very important to take into consideration the views of a broad spectrum of the informed community on the subject of abortion and the associated faith, social and ethical considerations. I do not believe the Stanhope government does that. There are far too many frustrated messages from many widely respected social and community groupings that clearly illustrate that. This is in addition to those of the traditional commentators representing women's rights. They must have, they do have and they should have a primary position in influencing public policy on abortions.

In addition to that, the Australian Christian Lobby, the right to life groups, our local Muslim councils, other religious and cultural groupings, and groupings such as Family First also must be given a chance to express their views and be given an equal ear by the government. That does not happen.

For far too long under Stanhope Labor such groups have been marginalised in this debate. This government does not give a damn about the advice coming from expert quarters that examine the potentially serious psychological and social impacts on young women and their partners who may need to make very difficult decisions relating to abortion.

There is little confidence that expert services, including counselling mechanisms, are in place. The interest is to safeguard secrecy and muddle-headed ideology. I will perhaps have a little more to say later. I commend the amendment to the Assembly.

MRS DUNNE (Ginninderra) (5.42): The motion that has been brought forward today is little more than political grandstanding in the dying days of the Assembly. It is interesting that this motion has been brought forward by the Labor Party in a way that seems to throw out all notions of a conscience vote on issues relating to abortion, which has always been the case. I echo the hope voiced by Mr Pratt when he said that he hoped that this was not a change whereby the Labor Party was going to impose the whip upon their members. My recollection of the debate that you dwelt on, Mr Assistant Speaker, is that there were members of the Labor Party who did not support what you call progressive law reform on that day and who voted against those bills. I hope that they are not being sandbagged for that at the moment.

This motion talks about progressive law reform, but we need to remember, Mr Assistant Speaker—you were not there at the time—that the laws were not reformed; they were repealed. There is no law; so it makes it very difficult for us to support the law. Motions affirming support for existing ACT laws are, at the very best, pointless ego trips and, at this stage of the Assembly proceedings, a waste of valuable sitting time, which is now quite limited. The law is the law and we add nothing to it and take nothing from it whether or not we endorse it.

It was a conscience issue for both parties when it was debated and I hope that this is not an attempt in some way to lock in people's position in advance. I hope that this not a precursor for what we will see if we have a resurgent Stanhope government after the election where the conscience vote will be removed and there are more changes in this area.

I want to thank Mr Pratt for the very thoughtful amendment that he has brought forward. It really does more to address the breadth and depth of this issue than the glib throwaway line from you, Mr Assistant Speaker. I have considered the content of Mr Pratt's amendment and I would be able to support a motion, so amended, but I am unable to support the motion that you originally brought forward. The Liberal Party, at least, continues to regard this as a conscience matter and, as such, it would oppose any attempt to lock in members of this or the next Assembly, which the ALP seems to be doing today.

Your motion, Mr Assistant Speaker, does not take account of the diversity of views in this place or in the community on this subject. But the diversity of views notwithstanding, there is a fair degree of unanimity that the incidence of abortion in our society is too high. I think it is a shame, Mr Assistant Speaker, that you did not touch on that in your words. I believe that we as a society should provide strong support for women who are confronted with pregnancies that cause them concern and trouble and ensure that they are provided with real choices, not just surgical solutions.

More than just holding that view, Mr Assistant Speaker, I actively advocate for and support organisations who reach out to pregnant women in need. Recriminalisation does not reach out to pregnant women in need. In any case, and without reflecting on the vote, I was opposed to the Berry bills when they were introduced and if they were being debated here today I would oppose them again. I am on the record as supporting life, Mr Assistant Speaker, from when it begins at conception. I believe that innocent life should not be deliberately destroyed.

MR BERRY (Ginninderra) (5.47): Mr Assistant Speaker, I will not be supporting this amendment because it suggests that there is something wrong with abortion. That has been the problem with the religious right since this argument started. They believe that this is wrong, that women are doing the wrong thing when they have an abortion. It is not a problem for a lot of women. It is a solution. Get that into your thick heads. It is a solution for women who need to terminate a pregnancy.

This is the very problem that we deal with when we talk about abortion law reform. What you people want to do is go outside this place and wag your fingers at women who have had an abortion. That is what you want to do. You want to tell them that they have done something wrong. This is where you miss the point completely. Abortion, for a lot of women, is the solution, not a problem.

Mrs Burke: I raise a point of order, Mr Assistant Speaker. I object to Mr Berry wagging his finger. Would you direct him to direct his comments through you? He is making this a personal statement.

MR ASSISTANT SPEAKER: There is no point of order.

MR BERRY: I am trying to replicate what you do. Metaphorically, you are out there waving your fingers at women who are considering abortion and saying, "If you consider this, you are doing the wrong thing." Well, they are not doing the wrong thing. They are finding a solution for themselves. What right have you got to determine what a woman does with her reproductive system? That is the issue that this legislature has confronted many, many times. I take great pride in the fact that women in the ACT have access to terminations.

Mr Pratt: Mr Assistant Speaker, I raise a point of order. We have asked a couple of times that, in accordance with standing orders, you direct Mr Berry to direct his comments through the chair

MR ASSISTANT SPEAKER: Mr Pratt, it is my understanding that he is directing his comments at me.

Mr Pratt: Well, you must be blind, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Mr Pratt, if you wish to move a substantive motion against the ruling of the chair, you can. Otherwise, sit down.

Mr Pratt: Carry on, Mr Assistant Speaker.

MR ASSISTANT SPEAKER: Mr Pratt, withdraw that.

MR BERRY: Stop the clock, please.

MR ASSISTANT SPEAKER: Stop the clock.

Mr Pratt: I am not sure what you wish me to withdraw, but I will withdraw whatever it is you wish.

MR ASSISTANT SPEAKER: You said, Mr Pratt, that I must be blind. Please withdraw it.

Mr Pratt: Okay, I withdraw that particular component.

MR ASSISTANT SPEAKER: Thank you.

Mr Pratt: I withdraw the comment about you being blind.

MR BERRY: It is a matter of fact that the activities that the religious right get involved in are hard on women who are considering an abortion or who have had one.

Mr Assistant Speaker, paragraph (2) of your motion states:

> reaffirms its support for the laws reformed including the de-criminalisation of abortion in the ACT.

Members of this crowd over here supported women being forced to look at pictures of foetuses before they had a termination of a pregnancy. That is what members of this crowd over here supported. They wanted women to be forced to look at photos of foetuses while they were making the decision about having a termination. That is the sort of creatures we are dealing with here.

They believe that women are not sensible enough to make the decision about an abortion without a cooling-off period. They wanted to force women to have a cooling-off period. A woman goes to a GP and says, "I want a termination." The GP says, "Well, dear, you will have to go away and think about it for 72 hours," or whatever it was. What an outrageous position for people to be supporting.

Then, of course, they wanted the decision as to whether they had a termination or not considered by a couple of doctors. Some of them wanted them to go before a panel. It is all about this position that they have that an abortion is a problem. As I have said repeatedly, it is the solution for many women. When you people come to that view we might be getting close to some progress.

This is an extremely important health issue for women in the ACT and across Australia. When I came to this place I was approached very early in the piece about 1,200 or so women being forced to go interstate for terminations, and sometimes up and back in the one day. One case that was reported to me was that of a young woman who went to Sydney and back on the same day on the back of a motorbike to have a termination in Sydney because she had been told that it was wrong and she did not want her parents to find out about it. This really is abuse. This is the sort of stuff that members of this crowd opposite supported for many years.

Let us not forget most of them opposed the decriminalisation of abortion. They find it hard to defend now. They say, "We would not recriminalise it." But aside from changing the criminal law you can do a lot of other things to make it hard for women to get terminations. You can force them to look at foetuses like you did once before.

You can force them to have cooling-off periods like you did once before. You can force them to go through all sorts of hoops as you did before. You can wave your finger at them when figures on the number of terminations come out. All of a sudden there is the cry from the Right to Life Association and other tub thumping anti-abortionists about the babies that are dead. These are the sorts of tactics that the Christian right amongst you lot get up to. It is an absolute disgrace!

I applaud Mr Gentleman for moving this motion tonight because it is extremely important that the views of those opposite are on the record. I can see now that there is a bit of a mood swing. They say, "We are not going to recriminalise it." I want to see Mrs Burke support the law reform that has occurred. Front up and vote on it because the community out there deserve to know.

In the course of this debate I want to applaud Helen Cross. Helen Cross stood up against the tide in the Liberal Party and voted to support those changes because she knew it was right. She knew that the approach that had been taken by the Liberals on this question was obscene. That is my position. The position of the Liberals and the Christian right on this has been obscene for a long time, and continues to be in other places.

Mr Corbell: And Mr Pratt says we should listen to them all.

MR BERRY: Mr Pratt's position is that abortion is a problem, a concern. It is the solution for many, many women. If the Liberals had had their way, 1,200 or 1,500 women would still be travelling interstate to have terminations. That is what would be happening here in the ACT if you people had your way. That is what would happen.

Mr Mulcahy: What do you think about euthanasia?

MR BERRY: This is not about that debate. You can interject all you like—

MR ASSISTANT SPEAKER: Mr Berry, do not address the interjections.

MR BERRY: I might as well label you too, mate. You are somebody who wants to associate with the Christian right. Go for your life, son. What we need to know, through you, Mr Assistant Speaker, is where you stand. Honeyed words are all very well, Mr Mulcahy, but we really need to know exactly where you come from.

I know a few things about where you come from. I have talked about the tobacco industry and the grog barons and all that sort of stuff. I know where you come from, but we need to know where you come from on the issue of pro-choice as well because the community out there need to know what the Christian right in this place is going to do about access to terminations for ACT women and how they are going to legislate in the future if we ever again have the misfortune of their having anything to do with government.

Debate (on motion by **Mr Corbell**) adjourned to a later hour.

Executive business—precedence
Standing orders—suspension

Motion (by **Mr Corbell**) put:

That so much of the standing orders be suspended as would prevent orders of the day Nos 1 and 2, Executive business relating to the Corrections Management Amendment Bill 2008 and the Tobacco Amendment Bill 2008, being called on forthwith.

The Assembly voted—

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

Question so resolved in the affirmative, with the concurrence of an absolute majority.

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.

Corrections Management Amendment Bill 2008

Debate resumed from 21 August 2008, on motion by **Mr Corbell**:

That this bill be agreed to in principle.

MR SESELJA (Molonglo—Leader of the Opposition) (7:30): The Corrections Management Amendment Bill 2008 expands upon the current power of the chief executive to direct ACT Corrective Services officers to strip-search a detainee. The opposition believes that the power to search prisoners is vitally important to the health and safety of prison officers and prisoners themselves. Without these searches there is a far greater risk that concealed weapons, drugs and other banned objects will be smuggled into the prison system.

Under the act as it currently stands, the chief executive may direct a corrections officer to strip-search a detainee only if there is a suspicion on reasonable grounds that the detainee has something concealed on the detainee. New provision 113B replicates the current provision by providing a similar power to strip-search a detainee on suspicion on reasonable grounds.

New provision 113C goes further, to say that a strip search may also occur on grounds of prudence—that is, without necessarily suspecting on reasonable grounds that a

detainee has a seizeable item concealed on them. This proposed section 113C is targeted at detainees who are returning into custody—for instance, remandees on their way from rehabilitation programs, returning from court or being transferred from New South Wales prisons. The section is qualified by the requirement that the power may be exercised only where there is not an effective means available for scanning the detainee at the time.

The bill also has a requirement for the chief executive to produce policies and procedures to guide officers in the execution of their duties. I note that strip searches are regulated in a different way from body searches, for which there are different and more extensive protections under the existing provisions of the Corrections Management Act 2007.

On face value, the new replacements are sound provisions. They widen the strip-search powers under section 113. They are an improvement on the old provision. The opposition will be supporting the amendments. Notwithstanding our support for these changes, it is important that I put on the record our concerns over how the amendments arose. The minister alluded to only part of that background in his speech last week. There is quite some story behind this saga. It would have been informative if the minister had been more forthcoming with all of the facts.

The bill was introduced only on Thursday last week. It has not been subject to committee examination. The government is seeking to sneak this one through with the minimum possible time for debate and scrutiny. It is another example of the government's practice of rushing in bills and bypassing the committee system. It is not only bypassing opposition scrutiny but also running from its own backbench who, we have seen in the past week, have started to join in criticism of this government.

The prison is due to open its doors in September. It is disappointing, to say the least, that the government is bumbling around at the 11th hour trying to put in place new legal arrangements which it has not properly put through the processes. Strip searching is currently suspended, so why the shambolic and last-minute attempt to change the laws?

According to the *Canberra Times* a little over a week ago, on Saturday, 17 August, there was an edict from Corrective Services saying that detention officers were henceforth banned from routine strip-searching of prisoners. This unexpected ban was imposed because of legal advice to the Stanhope government from the ACT Ombudsman telling them that routine searches at the Belconnen Remand Centre were in breach of the law. The minister did not mention this legal advice when he spoke in this place on Thursday; nor did he inform the Assembly of the sudden and unexpected ban on strip searches.

According to media reports, the ACT Ombudsman advised the government that strip searches were rendered illegal under the government's own legislation which it had passed in December, namely the ACT Corrections Management Act. The minister has some serious questions to answer about when he was aware of the legal ramifications of his own legislation. His legislation in December created the problem and is one of the reasons why we are back here in August seeking to stitch the situation back together with amending legislation. It is quite amazing that the power to conduct strip

searches should fall into a legal black hole at the very time the ACT corrections system should be transferring prisoners into the new prison at Hume.

This is not a small embarrassment; it is a significant stuff-up. The *Canberra Times* quotes a concerned prison officer, who says:

> Without strip searches, prisoners have little or no fear of being caught with contraband which can easily be hidden in clothes and the safety of all centre staff and prisoners is being put at risk.

The *Canberra Times* article goes on to say that detainees have been quick to take advantage of the ban on strip searches. Prison officers have told the media that prisoners have "used the new rules to step up the supply of drugs into the remand centre", which is a concern. Prison officers say that "they fear they could be vulnerable to weapons smuggled into the centre", which is also a major concern.

The minister is reported in the media as saying that he pushed through laws in the Assembly last week to solve the problem. In fact, those laws have not been passed; we are debating those laws right now. If the minister has been accurately reported in the media, he was providing the public with a false assurance. I ask him to clarify what he told the *Canberra Times*.

There is another major issue that ought to be highlighted in this debate. In his speech last Thursday, the minister was more frank about the failure of the government to put in place arrangements for an X-ray body scanner in time for the opening of the prison. We were told long ago that prisoners would be routinely X-rayed and that this would help avoid the need for strip searches or body searches. The opposition welcomed this. The X-ray machine was trialled at the Belconnen Remand Centre in late 2006 and early 2007—some time ago. After the trial of the scanner, an application was made to Corrective Services to obtain a licence to use the scanner at the new prison. The minister now advises the Assembly that permission has not yet been given to grant the licence.

After years of planning and preparation the machine is still tied up in red tape due to the ACT government's own procedures. Again, this is an unacceptable farce. The minister needs to clarify to the Assembly how the situation arose. Was there a defect in the application made by Corrective Services? Are there problems with the efficiency of the ACT Radiation Council? It is untenable that on the eve of the opening of the prison the ACT community has no assurance that we will have modern scanning systems in place to ensure that weapons and drugs are kept out of this institution.

I have been pleased to see previous statements by the government saying that the Alexander Maconochie Centre will be a drug-free prison. The opposition has been concerned, however, that the government has been talking about this as a temporary policy position, one that is subject to review. It is very concerning to learn of the latest developments which have seen the strip-search powers banned from use and the X-ray machine not yet granted a licence. These two developments are a serious blow to efforts by prison officers to keep the new prison drug free and to keep weapons out of the hands of prisoners. The minister does have a lot of explaining to do.

The government has boasted that this prison project will be on time. However, the opening days keep slipping. The ribbon was to be cut in August. Now it is September. Some journalists have been trooped through for previews, but the opening ceremony keeps slipping. It may yet slip even further. The minister may like to enlighten the Assembly on what exactly is the latest time frame for commission of the prison and what are the cost implications of a delay in the opening of the prison.

The opposition support the bill but we do note our many concerns about the temporary collapse of the strip-search regime and the delay in X-ray arrangements. This was a preventable situation and should not have arisen. (*Quorum formed*.)

DR FOSKEY (Molonglo) (7:38): We have before us a bill to amend the Corrections Management Act 2007 to permit strip-searching of detainees when the chief executive believes it is "prudent" to do so. In briefings arranged by the minister's office, my office has been advised that the amendments will increase the onus on the chief executive to justify ordering a strip search. But this reassurance is not backed up in the wording of the amendment. Given that this bill will inevitably pass today, I can only urge the government to maintain a very close watching brief over the exercise of these powers and to work very hard to ensure that they achieve what they think they will achieve and are not abused or used any more than is absolutely necessary.

Section 113 of the current act provides that the chief executive may direct a corrections officer to strip-search a detainee only if the chief executive suspects on reasonable grounds that the detainee has concealed contraband. Monday's *Canberra Times* contained an article by Noel Towell which revealed that the Ombudsman recently gave the department of corrective services legal advice that they did not have the power to routinely strip search detainees in the absence of any reasonable suspicion. I wish to acknowledge the opinion piece by Bill Bush in today's *Canberra Times*, which has informed this speech.

Presumably these amendments are designed to rectify the situation from the perspective of corrections officers and to grant them the power that they had always assumed they had. The Attorney-General is quoted in the article as denying that security has been compromised in the absence of these powers. I agree with him in that, as previously explained, under existing section 113 searches are permitted if there are reasonable grounds of a security risk. If this is the case, why are these amendments needed?

I have no qualms about granting corrections officers the power to conduct strip searches if they really do have reasonable grounds and if there are no alternative means to deal with the situation, such as surveillance, cell searches, sniffer dogs or metal detectors. But, as I shall surely detail, strip searches carry their own costs and should not be a routine part of the operations of ACT corrections services.

Proposed section 113C introduces a new stand-alone power. No longer must there be a suspicion of concealment on reasonable grounds; it will be enough that the executive thinks it is prudent to conduct a search and that the detainee may have had an opportunity to obtain a seizeable item.

These new powers are partly necessitated by the Chief Minister's opposition to a needle-exchange program and his fanciful belief that he will be able to provide the world's first drug-free prison at the same time as he delivers the human rights compliant prison which focuses on rehabilitation. These aims are incompatible. The level of coercion which will be applied in pursuit of a drug-free environment will defeat the far more important aim of fostering a rehabilitative environment.

Echoing experts in corrections and drug addiction issues, I have said before in this place that the effectiveness of a coercive, authoritarian regime in healing drug addiction problems is dismal compared to the effectiveness of an approach that encourages the detainee to take responsibility for their own drug issues and helps him or her to find the self-worth and motivation necessary to overcome their addition.

What does a strip search involve? A university study describes it thus:

> After having her clothes inspected, a prisoner is told to open her mouth for inspection, run her fingers through her hair, lift up both arms for inspection, as well as to spread her fingers and lift her breasts for inspection. She is then asked to turn her back to the officers, lift up one leg at a time and wriggle her toes to dislodge any hidden material. Finally, she must spread her legs and bend over for a vaginal and anal inspection. If an inmate is menstruating she may be required to take out her tampon and show it to the guards before placing it in a bag and being issued a new one.

The Human Rights Commission describes the process in the ACT as being very similar, except that the detainee will be half-clothed. I doubt that that will make the experience much less humiliating, traumatic or disempowering. This is what the Assembly is now being asked to authorise where a corrections officer considers that it is prudent. In reality, corrections officers will treat this power as reinstating their power to order routine strip searches.

And how often is it likely to be prudent? According to the *Canberra Times*, the Human Rights Commission reports that ACT detainees are subjected to numerous strip searches. If regularly visited, for example, it would be possible that a detainee could be subjected to 10 strip searches a week. Five visits in one week would involve 10 strip searches, one before each visit and one afterwards. Three visits in one week, a court attendance and a cell search would involve nine strip searches. Detainees who were receiving regular visits from family members said they were strip-searched several times each week. Prisoners at high risk of self-harm are to be strip-searched every night before they are locked in their cell. Taking of urine samples for drug testing, which occurs on a routine, random and compulsory basis, involves further stripping. The detainee is strip-searched and then has to urinate in the presence of two officers.

The minister holds out the hope that the SOTER X-ray body scanner, when finally approved, will obviate the need for strip searching. That would indeed be an improvement, but I fear that he is overly optimistic. During its trial, concern about radiation limited its use to only a fraction of the times required for male detainees. Women were excluded from the trial out of concern for radiation injury to foetuses and unfertilised ova.

The explanatory memorandum acknowledges the inevitable humiliation of the strip-search procedure. Body scanner or not, it seems that detainees will be subject to this humiliation frequently. In these circumstances, it is surely reasonable to expect the government to explain why it is seeking to expand the current power for the chief executive to direct ACT Corrective Services officers to strip-search a detainee. The fact that it merely reinstates past practice is not a sufficient argument.

In its response to the Human Rights Commission audit of remand facilities, the government has stated that a strip search of prisoners on a random or targeted basis is an integral part of maintaining appropriate levels of safety and security. Statistics on the effectiveness of drug searching are generally unavailable to the public, but what there is forms no reasonable basis for the ACT to expand this humiliating practice.

Anna Bogdanic, of Monash University, reports that over a four-year period there were 41,728 strip searches at the Brisbane Women's Correctional Centre. This led to only two discoveries of illicit drugs. Over a 27-month period, 35,288 searches at the Dame Phyllis Frost Centre in Victoria produced only 20 items of unspecified contraband. Bogdanic observes that, in spite of that intense effort, the presence of illicit drug use is still significantly high in both Queensland and Victorian women's prisons.

The recently published national corrections drug strategy concedes as much nationally:

> … approximately 60% of offenders report drug use on at least one occasion during their current term of imprisonment. Around 33% of people who inject drugs continue to inject drugs in prison. A smaller percentage of people also begin using drugs and injecting drugs for the first time when in prison.

The burden of proof is surely on the government to convince the Assembly that the power of inevitable humiliation it seeks to expand is justified on the grounds of prudence. Where does the bill specify limitations consistent with respect for human rights and dignity? It does not. Cocooned in our comfortable, middle-class existence, it is almost impossible for ministers and other members to empathise with and appreciate the extreme distress and humiliation that such practices impose on people whose self-esteem is already often at an extremely low ebb.

The prison health plan tells us that the human beings that the legislation will declare it prudent to strip-search are likely to be in very poor mental health. Prisoners are more likely than the general population to have a psychotic illness, major depression or personality disorder. Indeed, if New South Wales is anything to go by—and currently our prisoners are part of their group of prisoners—the incidence of mental illness will be 30 times higher in a prison population than in the general community. Many detainees will have an overlapping substance abuse disorder.

A study by the ACT Community Coalition on Corrections on mental health and the new prison makes the point that providing good health services will not in itself make for a healthy prison that rehabilitates. What is also important is an operational regime devoid as far as possible of the environmental stresses that cause or aggravate mental illness.

Strip searching is bad enough for men, but for women its impacts are extreme. Many experience it as rape, particularly those who have suffered sexual abuse. A Queensland survey revealed:

> … a high number of female prisoners report sexual abuse prior to the age of 16 years (37%). An even higher number reported some form of non–consensual sexual activity (42.5%). In a number of cases, the abuse occurred before the age of 10 years (35%). More than a third of these abused women were subject to multiple episodes of attempted or completed intercourse before the age of 10. Among the women who had been sexually abused, the abuse continued in some cases for more than five years …
>
> By contrast in the greater population, 8.8% of Queensland women aged 18 or more report being the victim of rape or sexual assault.

For many women, being strip-searched is similar to a state-sanctioned sexual assault. Some symptoms of being strip-searched include feelings of anger, depression, anxiety and self-blame. Flashbacks and nightmares are not uncommon. Sexual dysfunctions are a common response in victims of rape. Women who are strip-searched often experience the same. For these women the trauma of strip searching induces in them feelings of disgust towards their own bodies. Perhaps it is meant to.

The emotions of women who are raped are often directed inwards and lead to depression and self-harm. For some women, strip searching makes it more likely that they will self-harm or even commit suicide. Most women detainees are not security risks. Are the negative dimensions of routine strip searching in pursuit of a flawed drugs policy worth the costs? These provisions will lead to greater sharing of syringes and greater transmission of blood-borne diseases.

We need to ask if we are meeting our duty of care to these women, who are as much our constituents as the burghers of O'Malley and Red Hill. In my opinion, the answer is no; we are failing them yet again.

A Queensland inquiry found that a significant number of women elected not to have contact visits from family and friends, mainly because they knew that they would have to be strip-searched afterwards. Not surprisingly, families and friends think twice about visiting detainees, and are traumatised when they realise the consequences for the person they visit. It makes a bit of a mockery of the government's claim that prisoners will have greater accessibility to and interaction with family and other supports to assist in their rehabilitation and to maintain family unity.

What we are possibly witnessing is the government retreating from its commitment to a human rights compliant prison before it has even opened. I invite the government to prove me wrong; I want to be proved wrong. But the signs are not encouraging that it recognises that a break needs to be made from existing failed corrections practices if its vision of a rehabilitative corrections environment is to be realised.

Perhaps the crowning irony of strip searching is that it is intended to protect detainees from drugs yet it is likely to deepen their drug problems. As Bogdanic points out:

> … just as victims of rape may turn to alcohol and drug use following the sexual assault, so too may women in prisons turn to illicit drugs as a way of blocking out the memory of being strip-searched and thus regain a degree of control over their thoughts and feelings.

The government places great reliance on the requirement in this bill for the chief executive to develop a policy in relation to strip searches. But the policy is not written. These powers should not be considered—they should not be granted—until that policy is written. And the policy itself should have to be approved by the Assembly. At the very least, it should be a disallowable instrument. Consequently, I cannot support this bill in its current form.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (7:52), in reply: In closing the debate on this bill, I would like to highlight the purpose of it, which is to ensure the safety and security of detainees, corrections officers and visitors to ACT correctional centres in the interim period when it is not possible to use the SOTER X-ray body scanner.

As I previously informed the Assembly, following a trial of the SOTER X-ray body scanner at the Belconnen Remand Centre in late 2006 and early 2007, application was made to the ACT Radiation Council for a permanent approval to use the SOTER X-ray body scanner as an alternative in most instances to the use of the strip-search technique. The ACT Radiation Council is still currently considering an application from my department to use the SOTER scanner and has requested additional, independent technical advice on the ramifications of granting such an approval.

The bill introduces a further authority for the chief executive to direct a corrections officer to strip-search a detainee under division 9.4.3 of the Corrections Management Act 2007 in the interim period when it is not possible to use the SOTER X-ray body scanner. The bill restates the power that the chief executive has under the current section 113 of the Corrections Management Act 2007 to direct a corrections officer to strip-search a detainee. The bill expands this power to instances where the chief executive believes that conducting a strip search is prudent on reasonable grounds and a less intrusive means of searching is not available or appropriate in the circumstances.

The bill also allows for a detainee to be strip-searched in circumstances where a detainee has not been under control or immediate supervision of a corrections officer for a period and may have had the opportunity to obtain contraband, and where a frisk search or ordinary search is not likely to detect more than a limited range of possible seizeable items on the detainee. Examples of circumstances in which a detainee may be strip-searched include: where the detainee is returning from community service outside the corrections centre; where the detainee is returning from police or court cells; following an unsupervised contact visit; and where the detainee is returning from leave that has been granted under chapter 12 of the Corrections Management Act 2007.

The bill also empowers the chief executive to direct a corrections officer to strip-search a detainee in the situation where body scanning technology is available but a detainee has refused to undergo a scanning search, and the use of force to conduct a scanning search is likely to make the result of a scanning search ineffectual.

I would also like to take the opportunity to address a number of the comments made in the article that appeared in the *Canberra Times* earlier this week titled "ACT ban on searches 'real risk to safety'". The article asserted that the government had slapped a ban on routine strip searching of detainees on their way back to the Belconnen Remand Centre, which is now resulting in an increased risk to the safety and security of detainees and Corrective Services officers. It is true that a decision was made by ACT Corrective Services to limit strip searches to situations where there is a belief that a particular detainee has concealed an item. This decision follows concerns raised by the ACT Ombudsman's office about routine strip-searching practices. However, this decision has not, on the advice I have received, led to any increased risk to detainees or corrections officers.

I want to reassure the Assembly that the advice I have is that detainees at the Belconnen Remand Centre are currently strip-searched where there is suspicion on reasonable grounds that they have concealed contraband on them, or an item which could be used to cause harm or intimidate other detainees or corrections officers. The government's concern is not solely about the issue of illicit drugs, an issue that Dr Foskey has focused on to some degree. Our concern is equally about items that could be used as weapons or other items that could cause harm to other detainees or officers of a corrections facility.

It is also important to note that the power that is being proposed in this bill is the power that was previously available to Corrective Services officers prior to the introduction of the Corrections Management Act earlier this year. It is interesting to note that there has been little or no adverse commentary from those who are now critical of this bill on the custom and practice that has been in place and authorised under the law for close to the two decades since self-government—that is, that strip searches were conducted routinely as a way of preventing contraband from entering a corrections facility such as the Belconnen Remand Centre. I find it a little bit hypocritical for those who are now critical of this bill to have been silent for the past two decades when this power was exercised routinely and was a standard part of the law here in the ACT.

I also find it disappointing that the government's efforts to change and move beyond a situation where strip searches are routine are criticised in this place. We are endeavouring to do what no other jurisdiction in the country has tried to do—that is, to move away from the routine use of strip searches. The government is well aware of the issues such as those raised by Dr Foskey in the debate tonight. We are aware of the humiliating nature of a strip search; we are aware of the intrusiveness; we are aware of the psychological impact that it can have on a detainee who is regularly subjected to such a search. That is why we are seeking to put in place an alternative; that is why we are seeking to establish on a permanent basis the use of an X-ray body scanner as an alternative to strip searching in almost all circumstances. We treat the issue seriously, and we are moving to try and address it.

I am disappointed that the decision has not yet been received from the ACT Radiation Council on this matter, but I understand their caution and I understand their need to be satisfied on all the issues before they make a decision on the application. It is certainly not the case, as asserted by Mr Seselja, that the government has left the application

too late. Indeed, the application has been with the Radiation Council for quite some time. But what we are proposing is an Australian first, and the Radiation Council are aware that if they grant approval for the use of the X-ray body scanner here in the ACT, it will be followed by many similar applications in other jurisdictions. So an approval granted here has significant ramifications for all equivalent licensing bodies in other states and territories. I understand their caution and their need to be fully satisfied on all the issues, and I look forward to their final advice on the matter.

In the interim, though, we do need to resolve any doubt that may exist about when strip searches can be conducted and in what circumstances they are permitted. Of course, as I say, this issue will become largely academic when the X-ray scanner is, hopefully, approved for use in the Alexander Maconochie Centre. I know that the new Bimberi facility will also be potentially contemplating the use of such a facility.

It is also important to emphasise that, under the Corrections Management Act 2007, strip searches are just one of a number of methods Corrective Services officers have available to them to prevent contraband, such as illicit drugs, weapons, and items that can be used to self-harm, from entering correctional centres. These methods include the use of drug detection dogs, random cell and area searches, routine frisk searches, metal detection scanners, routine supervision, camera observation, and urinalysis.

I think a point that was missed in Dr Foskey's critique of this bill was her failure to acknowledge that this issue is as much about a duty of care as it is about safety and security in a Corrective Services environment. The territory has a duty of care for incarcerated persons, and it has a duty of care to ensure, for example, that they do not self-harm when they are in prison. If we do not have the ability to properly search detainees, whether it is by X-ray scanner, which is certainly the preferred method, or by more traditional search techniques such as strip searching, one of my very real concerns is that detainees will bring in items that will not be used to harm others, although that is a risk, but will be used to harm themselves.

I can just imagine the critique of failure that would come from the crossbench and others if the government permitted a situation where we did not do everything reasonable to prevent someone from trying to self-harm. That weighs on me particularly heavily because, when a person is put into custody, they are entrusted to the state for their safety and security. They are deprived of their liberty and they are entrusted into the care of the state. The state—in this case the territory—has an obligation to make sure that, to the greatest and most reasonable extent, they are protected not only from harming others but from harming themselves. That is an issue I think members should also keep in mind.

In conclusion, the bill ensures the ongoing safety and security of corrections officers, detainees and visitors to our correctional centres. As I say, we hope that this will be an interim measure pending the final approval for the operation of the SOTER X-ray body scanner. I would like to thank members for their contributions, and I commend the bill to the Assembly.

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 15		Noes 1
Mr Berry	Mr Mulcahy	Dr Foskey
Mrs Burke	Ms Porter	
Mr Corbell	Mr Pratt	
Mrs Dunne	Mr Seselja	
Ms Gallagher	Mr Smyth	
Mr Gentleman	Mr Stanhope	
Mr Hargreaves	Mr Stefaniak	
Ms MacDonald		

Question so resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Tobacco Amendment Bill 2008

Debate resumed from 6 March 2008, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MRS BURKE (Molonglo) (8:11): The opposition will be supporting the bill tonight because there is a majority of the bill which we do not have a problem with. There will be some issues, though, that we will be foreshadowing in the house now and that we will revisit after the October election. The opposition does not have a problem, as I said, with the majority of this bill which, amongst other things, seeks to prevent the taking up of smoking, particularly by our young people. The main consideration in this debate is that of health, and so it should be—the centring on the health and wellbeing of all citizens, particularly our young people.

We cannot, however, discount the fact that there are other practical implications to consider regarding point of sale. Many retailers who sell tobacco, which, as I have said before and will keep reiterating, is a legal product sold under licence, are of course small family businesses. The minister contends she has listened to all of them but I know that is a bit of a contradiction because she has said she personally will not speak to major tobacco companies. That is her call. I find that a rather odd position because you cannot say you have consulted and get other people to do that; you need to get face to face with these people to find out where they are coming from. You might absolutely disagree with them but I think, to be selectively choosing whom you talk to, is not full and proper consultation.

I would like to read to members from an email I received—and I think the minister got this as well—from a Mr Kym Lovett, who represents the people who run, I suppose, kiosks, for want of a better word, in Canberra:

> Dear Minister,
>
> I am in receipt of your letter dated 22nd August 2008.

this is dated Tuesday, 26 August 2008—

> Unfortunately, a majority of businesses won't receive this letter until after you propose debating the Amendments to the Tobacco Bill and therefore will not be made aware of your changes. This is not fair.
>
> While your staff have heard some of our arguments, it is obvious they were not listening or did not relay our concerns to you. I'm sure you are aware, but I would like to point out the status in other states; New laws passed in Tasmania last November will allow for specialist tobacconists to be given dispensations from the total bans.
> In July this year, NSW introduced bans, but have given specialist tobacconists four years to prepare for the changes.
> Victoria has released a tobacco control strategy for public consultation—they have stated they will consider a ban or restriction on tobacco point of sale displays in retail outlets.
>
> If the information session that was facilitated by Minter Ellison back in 2006 was the start of the consultation period, then why after two years have we not seen a copy of the Regulatory Impact Study the Government is obligated to provide to businesses before new legislation is introduced?

I did have a briefing on this. This was an interesting thing. I had been emailing the minister's office and I was told from the minister's office finally, after tracking somebody down, that there seemed to have been a breakdown in communication. Somebody thought the minister was doing it and the minister thought somebody else was doing it. I then found out that the Greens had been given a briefing. Therefore, I asked for a briefing. At this briefing I did ask about the regulatory impact study or statement and was told that the government simply would not be releasing that because it was cabinet-in-confidence.

This is, sadly, the way that this government gets the community off side; it just hides everything. If there is a strong case to be had for the banning of point-of-sale displays then why not provide the regulatory impact study or statement to these people? Surely, it would firm up the government's case. But to hide it or refuse to table it, or refuse to expose it, only gives cause for concern to those people who are wondering what the government is trying to hide.

Mr Lovett goes on:

> Minister, there are still too many areas to be clarified and agreed upon before you can ask your Assembly colleagues to debate this.
>
> Regards
>
> Kym Lovett.

Unfortunately, here we are tonight debating yet another bill the government failed to adequately and appropriately consult the community on. The consultation process at best was a total shambles and at worst was non-existent. I have been told that. Either they are not telling me the truth or I have to believe them. And I have no reason to think that they would lie. I said, "I was told from the minister, 'I am sorry, the minister has said she has consulted with you.'" They have said, "That's not true." There has been a breakdown again all the way through this.

I understand the minister's penchant for pushing things through. It is an election year, and she wants to make herself look good. This is a very contentious issue, and the minister is trying to have it every which way on this. I am a non-smoker. I used to smoke but I do not smoke now. I hate the things. But I think there is a courtesy that should have been extended to the dozens of family businesses in Canberra who will have to make certain arrangements in terms of the point-of-sale display bans.

I guess the correlation of this odd debate that we have had today was Mr Mulcahy's legislation. We allow paraphernalia that is used in the taking of illicit drugs to be displayed. The government apparently do not have a problem with that. I find it weird. I find it absolutely a contradiction and hypocrisy in the highest. I thought the government would have supported that hands down, particularly because of what we are debating here tonight—the main point.

I will go through the minister's media release in a moment and just say that the majority of what she is saying is fine; it is sound; the industry do not have a problem with it. But to be sidelined and not even listened to in terms of other models that are being used very successfully around Australia to wean away the community is fine, is it, minister? No. We have to do it because there is an election on.

It is disappointing. The failure and the lack of adequate consultation by this government have really bugged the community. And it could have been done better. The bill is two years old. This consultation, supposedly in 2006, was an information session. It was not consultation at that point. Then the industry heard nothing virtually until 6 March 2008. I think that is appalling. That is not consultation.

The government then appears to have conveniently forgotten, shall we say, about having to consult with the community. Obviously something went wrong. We have had lots of breakdowns of communication. I do not know what is going on in the minister's office but there seems to be a bit of a breakdown in there. Let us not worry about family businesses. In fact, I tabled in this place a signed petition from 120 or so businesses right across the length and breadth of Canberra expressing their concern at the lack of consultation on behalf of this minister and this government. That is a key signature or tune of this government and that is really sad. That is a major failing of this government. These family businesses will be severely impacted.

All right, maybe people will say, "In the short term we have got to think of the health of people." I have not yet seen any evidence that banning point-of-sale displays is going to have a great impact on the community. If I believed that was the case, if I was fully convinced—as I have said before, I cannot abide smoking; I cannot stand it—I would be backing the minister absolutely 100 per cent.

By far the majority of businesses selling legal products—and I repeat, they do so under licence—are fully in favour of the responsible sale of tobacco. You know that; they have told you that, minister. And so am I. It is always the one-tenth that ruins a really good piece of legislation. It can be a major plank in your legislation that will let you down, and people will let you know about that in October.

It is, once again, a great disappointment that the Stanhope government has failed to listen, failed to properly consult and failed to listen to the genuine concerns and address them through real and meaningful consultation, and not just with a few handpicked stakeholders. That is a pathetic way of carrying on. The one major area that needs more attention is, as I have said, in relation to the point-of-sale display bans of tobacco products.

We will not block this legislation tonight because 99 per cent of it is good, is proper and should be there, but we foreshadow that we will go back and talk to the community. You can sit there, Chief Minister and Deputy Chief Minister, smirking and looking very embarrassed because you know that exactly what I am saying is true. This is your major failing. The major failing of this Chief Minister and his deputy and health minister is they think they can ride roughshod over the community; it does not matter. Let us just shove things through this place because we have got the numbers and we can do it and we will look really good.

Ms Gallagher: You are supporting it.

MRS BURKE: I am supporting it, yes. What they have failed to do is bring the community with them again. And the community will let you know. I will say to you that—

Mr Stanhope: I was smiling to hide the pain.

MR SPEAKER: Order! Cease interjecting, please.

MRS BURKE: It is all right. It is rather pathetic. If that is the best they can do, do their worst.

The visibility of tobacco products does not encourage people to take up smoking but informs those adults that choose to smoke what products are available. Like most other consumer goods, tobacco is already differentiated against at the point of sale. The purchase of tobacco products requires the interaction of a third party, the retailer, who can enforce the laws relating to the purchase of tobacco products, including age verification.

The antismoking organisations argue that tobacco is ranged in the vicinity of children's products and confectionery. Untrue! How many lollies are placed behind the retailer's counter next to tobacco displays? The impact that tobacco visibility has on tobacco consumption is also questionable. These are the things I think we need to investigate further. If we are going to do something, let us do it properly. And that is all I am saying.

Are we going to allow legislation to go through that is half baked in this particular area? It is an important area. An email I have received states:

> The UK Government has acknowledged this in its recent consultation document stating that the decline in Iceland since a ban was introduced there has not been definitive. The Canadian Government's own research shows that smoking prevalence has actually increased since the visibility ban came into effect in 2005, particularly amongst the youth. The suggestions that tobacco displays need to be prohibited because they make smokers buy on impulse has no evidence to justify it. The one piece of research referenced on numerous occasions is that attached. If tobacco displays are as powerful as suggested by antismoking organisations then why is it that only 2.9% of smokers always purchased cigarettes when shopping for something else?
>
> We understand that the ACT bill will allow displays until December 31 2009 in general retail stores and until December 31 2010 in tobacconists.

I do appreciate the amendment. I do appreciate and acknowledge it is a very last-minute, last-ditch attempt to try to appease and fob off the community and the stakeholders somewhat, to extend it a little. But I still do not believe that is long enough, in terms of what has happened in other jurisdictions, to allow family businesses to get their affairs in order to properly cater for what is being required here. The email continues:

> ITA cannot understand on what logic and evidence a visibility ban should apply to specialist tobacconists?

Other jurisdictions have quite ably put in legislation to exclude specialist tobacconists. The email continues:

> Children under 18 would not be permitted into these stores so the rationale that it is to protect children is flawed. The argument that it is to stop impulse purchases is also flawed as the individual smoker has already made the decision to enter a specialist tobacconist. In all other countries or States where tobacco legislation on display bans has been implemented specialist tobacconists are exempt. This includes Canada, Iceland and Tasmania. The UK consultation paper already makes it clear that an exemption would apply for specialist tobacconists. Why is the ACT Bill the first to take this position?

It seems we have to be first in doing extreme things. I guess that is the case. The email continues:

> Comments made by Ms Gallaher today—

and I think this was on 26 August—

> suggest she has received approximately 1,000 letters on the issue.

I think you said that. But you do not tell us how many—and maybe you can do that tonight—of these letters were in support of or against the ban on tobacco displays.

There are varying degrees of what the minister is telling us about what has or has not happened. It will not really matter because they have got the numbers and it will go through.

Ms Gallagher: But you are supporting it, Jacqui.

MRS BURKE: We do support a majority of what is being said. But I am not going to just stand here and say, "Oh, yes, everything is fine," because it is not. The process was shambolic and you must be very embarrassed, minister.

I think the thing that we need to look at is the minister's media release that she has put out today at whatever time it was, quarter past five. I have sort of worked through it. Industry and I are agreed on this. It states:

> Industry was concerned to see that they would have adequate time to adjust to the new arrangement so the government has agreed to amendments that will see the postponement of the introduction of the point of sale display bans until 31 December 2009 for general tobacco retailers, and until 31 December 2010 for specialist tobacconists.

There are good things in here but the point-of-sale displays will be something we will revisit. We will try to do it properly. If we come up with the same conclusion, fine. But I think this has been rushed through; it really has. This particular element has. The release states that the bill will:

- remove the ministerial exemption for tobacco advertising and sponsorship;

That is fine. It continues:

- amend the definition of vending machines;
- ban rewards for smoking product purchases;
- ban flavoured cigarettes and split packets.

None of that is a problem. I want to finish on this point in the release:

> Further measures currently being looked at include:
>
> - Prohibition of smoking in outdoor eating areas;
> - Prohibition of smoking in front of building entrances;
> - Prohibition of smoking at underage functions;
> - Prohibition of smoking in playgrounds; and
> - Prohibition of smoking in cars with children.

I would like to raise something as well here. I would like to add to that list very much. I have already raised it with the CFMEU. I refer to smoking at building sites. As most people will know, when a new building is erected, it is fine for people if they need to smoke. As I have said, I have got no problem if people choose to do that; that is their choice. But once the windows are installed in a building then my understanding is that smoking has to therefore stop within that building. I have had people ring me—apprentices, other people that work in confined areas in buildings that they are

currently working on—and they have had smoke in the tearoom and in the toilet. They have to stand beside people who are smoking all day. It does not matter whether it is one or 2,001; you get so hung up on that.

What I am asking the minister to do is look into that because it is a serious problem. We are getting young people, apprentices, on these building sites, working in buildings, doing the fit-out or whatever they are doing and they are exposed to second-hand smoking. I would be happy for the minister to agree with me on that one. I would ask that she put that on her list too and that we take it up with the CFMEU so that, once the windows have been put in a building, we look also then at the banning of smoking inside places such as that.

A I said, we will support the bill; we will be revisiting the point of sale, to properly work through with those stakeholders and make sure that family businesses are not further impacted in a way that they need not have been had the government consulted properly in the first place.

MR MULCAHY (Molonglo) (8:28): I have given this bill a great deal of thought as it involves a number of regulatory changes that have been discussed at length in recent times. I have had several briefings on this issue, including a briefing from the government, and I have had briefings with relevant stakeholder groups. I have taken the decision to support this bill, though I have some concerns which I will highlight and which I think need ongoing monitoring and consultation. My decision was made in light of the government's decision to delay the implementation of the point-of-sale changes to allow practical considerations for business to be worked through.

The most contentious point of this bill is that it requires retailers to keep cigarette products out of sight behind the counter. This is intended to reduce the attractiveness of cigarettes, particularly to young people. I will make the point at the outset of my remarks that at the end of the day tobacco and cigarettes are legal products. With the exception of age restraints, which I think should be rigorously enforced, and restrictions on smoking in public places, cigarettes are still legal. People can make the choice to smoke. However, I take the minister's point made during her presentation speech, and I referred to this in the debate on the Criminal Code (Drug Equipment) Amendment Bill debate. She said:

> Storing tobacco out of sight will prevent people, in particular children, from being able to see tobacco. Research shows that point-of-sale display acts to promote and normalise smoking. The territory will be the first to send the message that it is not normal.

I recognise this point and think that it has some merit, but it is worth noting that a balance is needed between this policy and practical consideration. The government relied on this defence this morning when failing to support my drug equipment bill and now must recognise that the same argument not only applies but is much more relevant in relation to the sale of tobacco. It is more relevant because the sale of cigarettes is a much larger percentage of many businesses' bottom lines than, thankfully, the sale of illicit drug equipment.

These changes will impact in varying degrees on businesses ranging from newsagencies to local stores, supermarkets and specialist tobacconists. Because of the practical considerations that must be balanced against the government's policy, I will, as I have indicated, be supporting the amendments that the government has indicated that it will be moving.

Delaying the implementation of these changes seems sensible and will allow shop owners, the main group with whom I am concerned, a chance to consider ways to minimise the practical impact of the changes on their businesses. These practical considerations include complying with information provisions about availability and price and managing the changed arrangements to the layout of their shop, including potentially even the way people queue for items.

The ACT government's position in relation to point-of-sale display of tobacco has been recognised and mirrored—although I am not entirely clear who initiated this action first—by New South Wales, which I understand is passing legislation that will prevent point-of-sale display. I mention New South Wales because I think it is generally important for a jurisdiction the size of the ACT to retain parity and some consistency with our neighbour, especially on commercial activities and even, to a large extent, on taxing regimes.

It is also worth mentioning New South Wales because my understanding of the process in that jurisdiction is that it has been much more thorough than we have seen here in the ACT. I was somewhat amazed that in response to a question without notice Ms Gallagher indicated some time ago that she had not met and would not meet with some of the key tobacco stakeholders. I found this a somewhat amazing position because the tobacco industry, whether you like it or not, is a key stakeholder and should have been consulted to engage in the cooperative development of appropriate regulation. If she refuses to meet with industry representatives, I would hope that she meets, or at least ensures that there is ready access to departmental officials for, shop owners who will be impacted on by this bill.

New South Wales consulted much more extensively than the ACT did in planning its legislation. I believe that the ACT should take this lead in relation to consulting and working with stakeholders in the practical implementation of these significant changes.

I was happy to arrange to meet the Action on Smoking and Health representative today, although it did not happen. I got an email late yesterday saying that their representative would be in Canberra. I asked the staff to advise that I would be happy to meet with them. They said: "It would be easier if you chased them. Here is the phone number." I do not think that we ever got to chase them up, but certainly we sent them a note indicating that we would have been happy to hear their point of view. You have to get everybody's perspective on this sort of legislation, which is always topical and somewhat controversial.

I acknowledge that businesses will have to make significant changes because of these changes. I hope that over the coming months the government is prepared to work cooperatively with those businesses in the ACT community, many of whom have written to me—and, I suspect, Mrs Burke, from the tenor of her remarks.

I was somewhat heartened by the minister's public comments this week in this regard. As I have already mentioned, I welcome the amendments that will extend the period available to store owners to make the necessary changes. This extended period is required because the changes that are required from local businesses are quite extensive and need to be implemented sensibly.

I again draw the distinction between tobacco and illicit drug equipment, which we discussed this morning, because the volume of the trade and the reliance of business on the trade of tobacco, a legal item, are much greater—not to mention the issue of legality.

There are some required changes that will present significant challenges to both businesses and consumers. For example, the bill mandates strict regulations for the size of price lists for cigarettes. These regulations are strict indeed, mandating that these prices must be displayed in 12-point times new roman font. I was a little intrigued by this aspect of the legislation. It seems to be interfering with the ability of a person to read the price of a legal product which they wish to buy.

I do not think that this aspect of the legislation does much to target young people, most of whom have very good eyesight and can easily read a price list of this size. Instead, it imposes a hurdle for older people, who may not be able to read 12-point times new roman font. I often use reading glasses to read my speeches, which my staff tell me are typically written in 14-point font. I know that many people older than me would have no chance of reading a price list that is written in 12-point font. In this case, people can ask for prices to be read to them, but this aspect of the legislation seems to me to be micromanaging aspects of cigarette sales in such a way as to inhibit legitimate sales to adults who make those purchase decisions. It will probably cause delays in busier shops and create some unnecessary difficulties above and beyond the government's policy intention, but I am not sure that it is going to deliver any great outcome in reducing the incidence of smoking in our community. I suspect that that particular requirement will have no effect from that perspective.

I suppose the point that I am trying to make here is that, whilst the government has a policy direction that we will implement here today, there are practical considerations that need to be taken into account. As much as the government does not like to admit it, cigarettes are in fact a legal item that can be purchased in this city; as such, there are consumer issues that need to be considered.

We need to consider that adult consumers are able to make a choice to purchase tobacco and ensure that, when making that choice, they can still, under the new confines of this bill, make an informed choice.

It is also worth noting that restricting the flow of information that consumers receive on purchasing items also restricts the impact that mandatory health warnings on cigarettes will have on consumers. I am not entirely sure that they have much effect anyway, but, as with my bill this morning on another front, I think that probably everything you can do to try and sensibly persuade people about lifestyle choices that may impact adversely on them should be embraced within reason.

There are other elements of this bill that I will touch on briefly. However, I focus my remarks on the most controversial element of the bill. I do not have an issue, for example, with another element of the bill that has received public attention since the introduction of this legislation—the banning of smoking in cars with children. I think that this will be quite difficult to enforce, but the message that parents or adults should not be smoking around children is a sensible one and one that we should be encouraging. I believe that the minister is correct in taking that initiative.

To conclude, let me say that I will support this legislation. New South Wales has also committed itself to this path. There is merit, as I have already mentioned, in maintaining consistency with our neighbouring jurisdiction. This should extend, however, to ensuring that practical considerations that this bill will place on businesses are also consistent.

I welcome the government's amendments, which will provide more time for these practical considerations to be addressed, but urge the government to ensure that it does not simply wash its hands of this legislation. It would be irresponsible for the territory government to pass this legislation with its majority and then sit back and say the job is done. The job will not be done with the passing of this legislation. There are still significant concerns that need to be addressed to balance the policy direction prescribed in the bill with a practical outcome.

The government must work with businesses in this territory, particularly small businesses, to implement these changes and be conscious of the rights of consumers and family businesses that operate throughout our territory.

DR FOSKEY (Molonglo) (8.39): It is well known that many retailers are annoyed by the initial bill that this one amends. For some, it is a very reasonable question of expense and inconvenience. I am thinking of businesses like newsagents, where it is very difficult to do any work without closing the newsagents, something they cannot afford to do. So there are those issues out there; there is a level of irritation.

I want to quote the comment of one of these people who I randomly saw a couple of days ago who said, "Well, you know, it's legal." Mr Mulcahy was saying—as was, I believe, Mrs Burke—that for some people that is just a contradiction in terms. I am quite sure that the government has heard that from a number of people, but it is important to keep in mind that not everybody has the crusading sense that we need to hide tobacco products and that that will make much difference. They see themselves as being pawns or agents against their will. Some of these people do not actually own a shop that is set up to sell tobacco products, but may own a shop that is set up to sell newspapers or groceries and just happen to have cigarette products because that is what people expect.

Let's face it: cigarettes were normalised through my mother's and father's generation; they have been denormalised now. It is a hard one. It is slow and there is always reluctance.

That is the background. There is no doubt, however, that the aim of the legislation is a really worthy aim. I have questions about whether the process of hiding cigarette

products from view will help achieve that aim, but if we look at it from the perspective of children and young people we can see that it may be more effective than it would be for an older generation; if it is, then in that sense it is worth while. Indeed, that is the area where the effort needs to be made—in stopping young people taking it up at an early age: the longer they put it off, the less likely they are to take it up and become habituated; they will not ruin their health to the extent that they will if they take it up later on; and we can see them as being more creatures of free will if they are older and adult.

There are all kinds of good motivation behind this bill. The amendment does give people a breathing space—the ones who need to put up the barriers and put that investment into it, especially when they do not particularly believe in that investment, in which case it makes it harder.

Nonetheless, I have been told by the government—I also receive correspondence from ASH, and read their point of view in the newspaper, and the Heart Foundation; the point is often made—that the ACT is no longer leading the world or Australia in making things tougher for cigarette sellers and the notion of selling objects but prohibiting their display is not unique.

Furthermore, the task before us, we are told, is to work against the marketing strategies of tobacco businesses who are doing everything they can to normalise tobacco purchase and consumption. Let us remember that, while we are closing down markets here, markets are opening up in developing countries and using all the devices that we have ruled out here, like selling cigarettes singly, selling cigarettes that are much higher in tar and selling cigarettes without filters—all those things.

People are being pushed down that path. Somehow or other, it is looking cool. I guess that is the amazing thing about the tobacco industry—that they are managing to make smoking look cool. That is paradoxical given that it is in every way not cool. In my view, the highly visible positioning of cigarettes in supermarkets, newsagents and so on is an issue. For those reasons, I support the intent of this bill.

We need to remember that supermarkets and newsagents are places where people go for reasons other than to buy cigarettes and tobacco. People might decide to buy something just because they can see it, but they are also places where parents send their children to pick up household items and they are places where children themselves go to buy lollies, comics and books. They are not likely to randomly walk into a tobacconist.

Like Mr Mulcahy, I find the specification of 12-point times new roman as the font to list all prices in tobacconists a bit bizarre. That goes to the point that people who walk into tobacconists are usually going in to buy tobacco products, unlike the people who walk into newsagents. And here we are dealing with a product which is legally available to anyone over a certain age.

Another consideration to cigarette smokers, I would have thought, would be to allow some more adequate display of tobacco products in tobacconists—not in any shop, and perhaps only in spaces that people above the relevant age are allowed to enter, such as a new form of licensed premises. I find it a little odd to understand how

existing tobacco products can maintain their position in the market while new products cannot compete. If tobacco was sold only by governments, perhaps, so that there was no commercial competition, such a constrained approach would make sense. As it is, however, all the signals are mixed, though everyone is concerned about not sending mixed signals.

I would like to draw the connection between tobacco display and the display of alcohol and other drug-related apparatus. If the plan is to abnormalise tobacco smoking and not entice reformed smokers back to their coffin nails and deal with people who may want to indulge or who are addicts and need to feed their habit, shouldn't we also put some form of prohibition on the public display in front windows of alcohol on the one hand and illicit drug paraphernalia on the other?

Very many people in our society have some issue with alcohol. The health and social costs of problematic alcohol use are enormous. The ongoing, incessant invitation to drink seen on TV, at the front door of supermarkets—in how many supermarkets do you have to walk through the grog department to get to the milk?—and in the street is enormous. If ever anything was normalised in this society, it is continual alcohol consumption. We have managed to move on the social acceptability of smoking, but we have hardly begun with alcohol. Of course, not all alcohol consumption is harmful, but there are enough reasonable comparisons that can be made between tobacco and alcohol for this particular bill to be looked at closely for what it is doing and the bar it is setting.

It seems, however, that in this case the retail industry is more or less prepared to adjust to these latest limitations—that is what we heard in our briefing—with the adjustments in timing included in the process. In that case, who are we to demur? I will support the bill and the amendment.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (8.48), in reply: I thank members for their contributions to the bill tonight. To begin with, I think we need to go to a few of the facts that no other members have gone to tonight—that is, every year in Australia 19,019 people die from tobacco-related illnesses, 2,831 die from alcohol-related disease and 863 die from illicit drug use. Those are the figures—19,019 people every single year in this country die because they smoke. If this were in any other area—for example, the road toll, bus crashes or airline crashes—people would be saying there is a serious crisis to which we would need to respond. In this instance, it is a tobacco-related crisis that 19,000 people die every single year from some kind of tobacco-related disease.

This bill is one of a few measures that this government have taken in relation to tobacco control measures. It is not all we would like to do, but it goes some way to addressing some of the issues that we see that we believe encourage the uptake of smoking. It does go to the prohibition of the point-of-sale displays; it does remove the ministerial exemption for smoking and tobacco advertising and sponsorship; it does amend the definition of vending machines to remove seller-controlled units from our pubs and clubs; it does provide power for the minister to declare flavoured cigarettes to be prohibited; and it does prohibit split packets. They are all measures designed to increase the uptake of smokers in our community and all worthy of the attention in this bill to prohibit and ban them.

The schedule to the bill will harmonise the act with the principles of the Criminal Code. Today, with the passage of this bill, the ACT will be the second jurisdiction to have in place a ban on point-of-sale displays. Only Tasmania has legislation in place so far to get smoking products out of sight, with its ban to take effect in February 2011. This bill builds on the ACT being the first jurisdiction to prohibit in-store tobacco advertising and to place strict limits on the display of tobacco products through angled stacks and only one point of sale.

Research shows that point-of-sale displays act to promote and normalise smoking. The displays are one of the last remaining ways tobacco companies are able to display their wares. It is now time to get them out of sight. It is the right thing for the territory to do, and I am pleased to see that the New South Wales government have announced they will join the ACT in getting these displays out of sight.

As members would know, I have foreshadowed an amendment to provide for the date of commencement of the point-of-sale ban. Following the introduction of the bill in March 2008, it became clear that six months was too short a time for small businesses to adjust to this important legislation. I am therefore proposing an amendment to provide that point-of-sale displays come to an end on 31 December 2009, and I am also proposing an additional year for specialist tobacconists. These Canberra small businesses will be allowed to display until 31 December 2010.

As I have previously advised the Assembly, I met with a number of stakeholders and received numerous letters about the proposal. Some have argued that the display ban would require shops to refit, that people need to see the product they are purchasing and that it is too difficult for the staff to find the products. By providing a date 14 months from now, the government is proposing to give businesses the time to adjust to the proposal. It should be pointed out that industry has been given the flexibility within the bill to manage the point-of-sale requirements. It will no longer have to comply with a complex display formula as it will be a simple rule—out of sight.

The bill also makes other amendments that reinforce the ACT's position as a leader in tobacco reforms. The ACT was the first, and so far the only, jurisdiction to prohibit the use of vending machines for the sale of smoking products to the public. This bill will close a loophole that has allowed so-called seller-controlled units to operate within the territory. These units are merely converted vending machines, which were banned in the territory on 1 September 2006. It also shows the speed with which the industry can respond when bans are put in place to amend their machines to take advantage of the loophole that existed. The intention of the ban will then be given full effect.

The bill will strengthen the territory's ban on receiving rewards for purchasing cigarettes around the country. We have seen discount fuel vouchers or FlyBuys points being given in return for a smoking product purchase, but now the territory and other states are moving to restrict the rewards for smoking product purchases. The government hopes that this will send a clear message that smoking tobacco is not to be rewarded.

I have touched on just three of the amendments that will all have a significant effect on reducing tobacco use. The Australian Institute of Health and Welfare reported in 2007 that the national smoking rates have dropped 17 per cent, a drop from 40 per cent in 1977. The ACT has the lowest daily smoking rates among adults between the ages of 30 and 59 of any state or territory, and the proportion of young people who smoke in the ACT has declined markedly from 20.4 per cent in 1996 to 8.6 per cent in 2005.

Through appropriate tobacco control measures, the ACT government are committed to ensuring that our smoking rate continues to drop and that the ACT leads the nation in reducing the harm that tobacco causes. The government have also done much in the field of health promotion and education to reduce the incidence of smoking in the territory. Canberra Stadium and Manuka Oval went smoke free at the beginning of the year. High school students are using the resource pack that was developed in partnership with ACT Health, the Department of Education and Training and the Cancer Council of the ACT. We provide funding for smoking cessation services provided by the Cancer Council and also provide sponsorship grants to health groups to promote the smoke-free message via sporting and other groups. The government continue to explore new initiatives for the ACT's next phase of reform, which is minimising the public's exposure to the harmful effects of tobacco smoke.

In conclusion, I will go to some of the concerns that have been raised by other speakers during this debate. I thank members for their support of this bill, albeit conditional support in some cases, and I would also like to just to go to the issue of consultation. The government went through a very rigorous consultation process, but a consultation process does not necessarily mean that you come out with everyone agreeing on the outcome. That has been the major difference here in terms of criticism of the process. We undertook a very rigorous regulatory impact statement which went to cabinet. We spoke with the Tobacco Retailers Association of Canberra and all of the tobacco companies, including British American Tobacco, Philip Morris and Imperial.

After the tabling of the bill, there was some concern from retailers across the city, and we undertook further extensive consultation with them, including with Kym Lovett and two other local tobacconists who I met with. I met with Simon Beynon from FreeChoice, and my office met with British American Tobacco, Philip Morris and Imperial Tobacco several times—I think there was numerous approaches—as well as Coles, Woolworths, BP, Master Grocers and some of the IGA supermarket proponents, who also raised concerns. The amendments that I will move go to trying to address some of those concerns.

My preference would have been to have had no amendments and to have started this ban within six months of the passage of this bill. But in trying to meet the needs of a whole range of groups in this debate, a reasonable extension of that time to the end of next year is appropriate. It does give general retailers 14 months to make the necessary amendments to their businesses and also for us, as a government, to advise them of the changes to the law and to make sure that they all understand what the new regime means. Specialist tobacconists, of which there are 15 in the ACT, have a further year—that is in excess of two years—to adopt this new regime and to adapt

and restructure their businesses should they deem it necessary in light of the changes to the law.

The government do not apologise for this policy outcome. The policy outcome we want to see is that displays of tobacco products are removed from the point of sale, and that is because it is the last form of legal tobacco advertising that exists. I know Mrs Burke argued that visibility does not impact on people's decisions about cigarettes—

Mrs Burke: That's what other people are saying. There's no evidence there.

MS GALLAGHER: When she was reading from that, she was reading directly from advice that she has obviously been given by the big tobacco companies, because that is information that I was given. It actually flies in the face of all the evidence, which is that point-of-sale display is the last form of advertising of tobacco products, and it promotes the uptake of tobacco. It says, "It's okay to smoke. Here it all is. Come and buy it." Mrs Burke is obviously in the pockets of the tobacco companies, because that is what she has read from tonight—that it does not have an impact on choice and it is really just adults making informed decisions when they go to purchase their cigarettes.

The other hypocrisy of this evening's debate was that Mrs Burke spent 10 minutes criticising the government for our consultation processes when earlier today, on a bill that was introduced last week, she sought to ban products without a regulatory impact statement and without consultation with business. She sought to ban products sold by the very same businesses she seeks to protect tonight. Who sells ice pipes and bongs, Mrs Burke? Who sells them? The tobacconists sell them. What was your argument tonight? Your argument tonight was that they have not had enough time, it would impact on their business, the consultation processes were flawed.

Mrs Burke: You condone illicit drugs.

MR SPEAKER: Order! Mrs Burke, I remind you that you are on a warning from earlier.

MS GALLAGHER: This is the argument that the alternative health minister, if the Liberal Party were elected to government, has put on tonight: it is okay to ban something without talking to any retailer for the purposes of the legal grandstanding they have been a part of today, but when it comes to the government undertaking two years of discussion with industry on changes about the point-of-sale displays for tobacco, it is all wrong. We have not consulted enough, but it is okay for Mrs Burke to ban ice pipes from the very same shops that she accuses us of jeopardising through these bans. In fact, the opposition go so far as to say they will unban the ban if elected and if they have the majority of votes in this place. That is what they have said tonight.

We expect it from Mr Mulcahy, an apologist for the tobacco industry. He worked for the Tobacco Institute and organised for the tobacco industry when he was with the AHA, so we expect his conditional support tonight, which we have got. He has obviously understood that the community supports tobacco control measures, and so he is supporting them tonight, and we are very pleased to see the complete reversal in his decisions around tobacco and prohibition of advertising of tobacco products.

Mrs Burke tonight had a vote each way. She said she will vote for the bill, but she does not support the point of sale. If she does not support the point of sale, she should stand up, move an amendment, oppose it in the bill, stop being lazy and actually put her money where her mouth is. What she said tonight is: "We don't like it. We're worried about the impact it has on businesses. We want to beat up the government, but, hang on, it won't be very politically comfortable for us if we oppose point-of-sale displays for tobacco purchases." She understands that the community supports tobacco control measures.

That is what we have seen tonight—the lazy approach from the opposition yet again. They have done nothing around tobacco control. Four years in this place and they have done absolutely nothing. Mrs Burke is tonight having a vote each way: "We'll support your bill, but it's just the government crunching the numbers through, forcing through this legislation. We'll support it, but we don't actually agree with it. We'll revisit it, and we'll unban the ban." That is the argument from Mrs Burke tonight. It was a Mrs Burke special.

It was better than prime time TV tonight to sit down here and listen to Mrs Burke's speech. It is what we expect from her; it is not rational, as usual. It fails on every test of rationality. She speaks from information she has been given from the tobacco industry, and then, after all of that, she says, "We'll support the bill, but it is really the majority government pushing this through." What a load of rubbish. We are seeing tonight that the shadow Minister for Health does not support point-of-sale display bans on tobacco. Shame on you, Mrs Burke.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Bill as a whole.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (9.04): I seek leave to move amendments Nos 1 to 5 circulated in my name together.

Leave granted.

MS GALLAGHER: I move amendments Nos 1 to 5 circulated in my name together *[see schedule 2 at page 3872]*. I table a supplementary explanatory statement to the government amendments.

I will speak to all of these amendments together. The first amendment to clause 2 of the bill provides for the commencement of four sections the day after the bill is notified. These provisions relate to the repeal of provisions that allowed expired retail tobacconists licences to be revived. The clauses should be commenced to coincide with the new licensing period that commences on 1 September 2008. The bill has a

transitional provision at clause 22 which is to ensure that licensees who may have been entitled to rely on the provision are not adversely affected.

Amendment No 2 updates dates included in the transitional provision related to the repeal of a licensee's ability to revive an expired licence. Licences are issued for one year and expire on 31 August. As the bill is being debated very close to the commencement of a new licence period, clause 22 is proposed to be amended so that holders of retail tobacconists licences have the benefit of section 52 of the act for a short period of time. Amendment No 3 provides that the repealed section 52 will continue to apply for three months to 30 November 2008 to give licensees the time to submit any overdue licence application. Amendment No 4 provides that clause 22 expires on 30 November 2008. The section will then be removed from the Tobacco Act 1927.

The final amendment provides for the transition to the new point-of-sale provisions. On 31 December 2009, tobacco licensees whose main business is not the business of selling smoking products—for example, supermarkets, petrol stations and liquor stores—will be required to place their displays out of sight. Tobacco licensees whose main business is the selling of tobacco products on their premises and not part of other premises used by the person for retail purposes are classified as specialist tobacconists. Specialist tobacconists will be required to place their displays out of sight from 31 December 2010. This will provide industry with a time to adjust to the removal of point-of-sale displays.

Amendments agreed to.

Bill as a whole, as amended, agreed to.

Bill, as amended, agreed to.

Personal explanations

MRS BURKE (Molonglo): Mr Speaker, I wish to make a personal explanation under standing order 46.

MR SPEAKER: You have been misrepresented, Mrs Burke?

MRS BURKE: I was indeed, Mr Speaker. I think the minister must have misheard. She said I was going to unban the ban. In fact, I said I would revisit this issue. I do have amendments already drafted but, unlike her, I am not prepared to rush them through tonight.

MR MULCAHY (Molonglo): I wish to make a personal explanation pursuant to standing order 46. I believe I was misrepresented. The minister said that when I was working for the AHA I was working for the tobacco industry. I did not work for the tobacco industry when I was at the AHA. I received no remuneration or benefit. I worked for them for 15 months, 20 years ago. The same claim that was made tonight was made in 1993, and the *Canberra Times* published a retraction of a myth that was false.

Abortion

Debate resumed.

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) (9:08): It is always problematic for men to pronounce upon issues that go to the heart of whether a woman ought to have the power to make her own reproductive decisions. The dilemma is that we humans are social animals, and if we are to accord a woman the power to make her own reproductive decisions we must do so as a community, as men and women. That means respecting the power of a woman and the decisions she takes. It means supporting her power and her decisions.

This community had a debate in relation to a woman's right to terminate a pregnancy back in 2002. Back in 2002 this community, through its elected representatives, chose to respect the right of a woman to control her own reproductive destiny. Personally, I sense no appetite and no agitation in the community for a renewal or a revival of that debate. I sense no pressure in the community for a revisiting of the decision made at that time, a decision that gave Canberra women power over their bodies.

But I do sense, and I am fearful, that there are some in this place who will not rest until abortion has been recriminalised in this territory. We have already witnessed under-the-radar attempts to redefine the legal point at which life begins—packaged creatively, to be sure, but nonetheless the first salvo of those who would recriminalise abortion in an instant if they had their way.

The current Leader of the Opposition may protest in the media that he has no intention of reviving the abortion debate. But what of his team? What of Mrs Dunne? What of his deputy, Mr Smyth? What of Mr Pratt? And, crucially, how would the leader vote should one of his team choose to revive the issue for him in the event of a Liberal victory in October?

Removing provisions relating to abortion in the Crimes Act was a deliberate and quite explicit statement by the legislators of this territory. It was a deliberate and explicit statement that the termination of a pregnancy was a matter for a woman. But it was more than that. It was a deliberate and explicit statement that abortion was no business of the criminal law.

Of course, that does not mean it is no business of society. It is surely the business of society to support women in all of their reproductive choices. That includes supporting women in their efforts to avoid unwanted pregnancies in the first place. It means extending to them a range of choices when it comes to contraception. It means supporting open and clear sex education so that young women in particular understand their contraceptive choices and make decisions based on good advice. It means empowering women to say no to sex if that is what they want to say. It means empowering women to say no to sex without a condom if that is what they want to say. It also means ensuring that, when women do make the difficult decision to terminate a pregnancy, they have access to a procedure that is safe and free from complications.

Worldwide, about a third of all the maternal deaths related to pregnancy and childbirth are due to unsafe abortions. The risk of death faced by a woman who resorts to an illegal or unsafe abortion is up to 500 times greater than the risk faced by a woman in a jurisdiction such as ours where abortion is no business of the criminal law.

That brings us to the assurances Canberrans may feel that they are entitled to get from those opposite. Do those opposite, in particular the Liberal leader, believe that abortion should be, as it is now, subject to regulations that ensure that it is performed by qualified medical practitioners under controlled conditions? Do they believe, in short, that the appropriate controls our community should impose are those that ensure, as far as such things can be guaranteed, the health of the woman? Or do they believe that abortion should again become the province of the criminal law, a matter for moral judgement rather than medical competence?

In those parts of the world where abortion is illegal, abortion still occurs. It is just that it involves a far greater risk of death or lasting injury to the woman and far less control over the abortionist. Where, under such circumstances, is the informed consent? Where is the follow-up care and counselling, including contraceptive counselling?

I believe the approach that we take to abortion here in the territory is one that respects a woman's power to decide for herself but supports her as she reaches a decision. It is an approach that encourages informed and appropriate use of contraception. It is an approached based on the premise that information is empowering and that realistic and reliable information about reproduction is the best protection anyone can have against unwanted pregnancy.

I hope that as an Assembly we can reaffirm today the position adopted in this chamber in 2002 when we decided that abortion was no business of the criminal law.

DR FOSKEY (Molonglo) (9:14): I think it is time a woman got up and spoke in favour of the motion. So far, two women have spoken, I think. I have not heard everybody; maybe I missed somebody. It does make me uncomfortable when I hear women who argue strongly against the right of other women to choose what happens to their body.

For a little while there, I was wondering whether it makes me feel uncomfortable when men speak on women's rights in the way they seemed to be doing when I was down here before. Then I remembered something. One of the debates that I have become very involved in, off and on, over the years—less so since I have been in this place—is the issue of population growth. That is always the touchstone in the environment movement, because there are many who argue that we have too many people in the world.

This is an issue that I wanted to examine. If we have too many people and we decide that we must do something about that, who are the targets of those policies? Of course, women are the targets of those policies. For many years during the 1960s and the 1970s, we saw women in the Third World whose bodies were used as experimental bases for contraception; there is no way that a feminist could approve of that.

So this is a debate that has many sides to it. It is, of course, also terrible to hear of women who are made to use contraception against their wishes, especially when that contraception is bad for them, which was the case in the early days of Depo-Provera. And I guess we all know of the 1970s forced sterilisations of Indian women.

There is no doubt about it: women's bodies are a battlefield. In this country, the touchstone issue is abortion. Because of the fight of feminists, as women in this country we are, on the whole, very well off compared to a lot of women in other parts of the world, something that we should never be complacent about. I remember when the debates were going on in this Assembly a few years ago. There was the issue of women being given a cooling-off period and shown photos of foetuses in a way to "assist" them to make their decision.

It was a matter of having to get out on the streets again. There is nothing more wearing than having to march again, speak again and rally again for a right that you believe you have won. For women this is the case. Abortion is such an issue. It is an issue that unfortunately we have to fight for over and over again.

I guess people know that my PhD was a study on the International Conference on Population and Development, in particular the influence of the so-called moral right—that is what I call them, because they are not all religious—on the policies of the American government. They are highly influential in this area. We saw cuts to the funding of a United Nations Population Fund. We saw women at the 2000 conference Beijing Plus Five hassled, preyed upon and leapt upon by strange men wearing monks' robes who felt they had the right to accost young women, especially. Those young women were there because they were speaking up for women's rights to contraception, abortion and the ability to choose whether or not they had children and how they lived their lives. Lesbianism is another of these touchstones and often merges into these debates.

We get into very dark places when people start talking about stopping women's rights. When people debate when a child's life begins and incontrovertibly say that it begins at a certain time, I almost wonder how consequential that issue is and how much it gives anybody the right to tell a woman what she can do.

I want to touch on something that we also need to avoid. In the debate around population, the popular thing to do—and, of course, it is true to some extent—is to say, "Well, if women can choose whether or not to have children, if women have their rights, we have solved the population problem." These people—and they are right to do so—talk about girls' education, women's education, access to employment and economic equality. That is the World Bank's particular conversation. But these discussions always exclude men. Women cannot do it unless men are there supporting them.

That takes me back to my earlier comment on men speaking in this debate. It is absolutely essential that men do speak up for women's rights on abortion, just as they need to be speaking up against violence against women. There is the debate about AIDS in particular. Let us talk about Africa and Melanesia, where in many places women's rights are a long way off. There, if a woman is educated, it may not help her

if her partner does not believe she has any rights. Therefore we must bring women and men along in this debate.

This is always going to be an emotive debate. It is never easy—for very few women is it easy—to make that decision to have an abortion, especially when there is so much stuff hung around it. It is very hard to tell how much of what a woman feels is her own emotion and how much is the emotion that is put on her by the moral right, which has turned it into a moral issue. I am not sure whether it really belongs in that territory, but that is where it is at the moment.

Nonetheless, this is an issue about women's reproductive rights—her rights and her health, both things. Don't forget maternal mortality, the 500,000 women who die each year around the world. It is an unfortunate figure and it does not budge very much. A lot of those deaths are in botched abortions or in pregnancies that should never have gone ahead because women lack the health, lack the nutrition and would not be having that baby if they had their way. Just remember that in the so-called saving of the foetus's life you could be destroying the woman's life.

I want to comment on another thing. When I was doing that research, it became fairly obvious that some of the states where abortion was outlawed on moral grounds were also the places where women who went ahead and had those babies—especially single mothers, poor women and so on—were very frequently shunned. And very frequently there were not social welfare systems to help them along. It was okay: they had their babies; they were supposed to. But society did not come along and help them.

There are many issues around this. If we care about social justice, we also care about women's rights, women's health and women's empowerment. It is up to men to speak up for women as well. I cannot see us ever losing this legislation in the ACT. Women will get up again, as they did last time. They will not want to. They do not think they should have to fight for this one again; we have already won it. Because it works, because it gets women out and because it attacks women where it hurts most, I expect we will have to fight for it again sometime. But I can tell you that I sincerely hope not.

MR CORBELL (Molonglo—Attorney-General, Minister for Police and Emergency Services) (9:23): I am very pleased to rise tonight on this important motion put forward by Mr Gentleman. I thank him for raising it; this is an important matter for the Canberra community.

The one big, absent figure in this debate is the Leader of the Opposition. He just does not want to be here for this debate. You would expect that, as the alternative Chief Minister, this man above all others would be here to set the record clear and straight on what his position would be if a member put forward legislation to in some way impact on the progressive law reforms that we now have in place here in the territory or indeed what would be position of his government and the governing party should they be in that position after the 2008 election.

I have been on the record for some time as supporting a woman's right to choose and recognising that it is the choice of the individual woman which is paramount when it comes to these matters. As you yourself said in this debate, Mr Speaker, an abortion is

a medical procedure. It is not the problem. The problem is why the women seek an abortion. They should be able to do so without the public shame that those who oppose abortion seek to impose on such a procedure.

In the debate tonight I was very interested to hear how all those members of the opposition are suddenly converts to the idea that decriminalisation is a good thing and that we will never go back to those dark days, as Mr Pratt characterised them. Given that, I felt that it was worth while to check the record on how members in this place voted when, only six and a bit years ago, the question was put to them as to whether or not abortion should be decriminalised.

Mr Speaker, you would be most aware of this: the Crimes (Abolition of Offence of Abortion) Bill 2001, which you put forward in this place at that time, was debated and agreed to in principle on 21 August 2002, six short years ago. Which members who stood up tonight and said that decriminalisation was appropriate voted against the proposition in 2002? I will read them out to you, Mr Speaker: Mr Cornwell, Mrs Dunne, Mr Hargreaves, Mr Humphries, Mr Pratt, Mr Smyth, Mr Stefaniak and Mr Wood.

We all understand that members have diverse views on this matter, and that is respected on both sides of this place. But it is hypocritical in the extreme for those who voted against decriminalisation to now profess a new-found commitment to maintaining abortion as a decriminalised matter. What hypocrisy. Mrs Dunne, Mr Stefaniak and Mr Pratt have all stood up tonight and said, "We're not going back there." But they opposed it; they are on the record as opposing it. Why wouldn't they go back there again? Their views clearly have not changed when it comes to the matter of abortion.

And now we know that they are joined by their leader, Mr Seselja, who again is on the record as saying that he personally opposes abortion. Will he join those of his colleagues who have voted against decriminalisation in the past? Will he adopt a similar morally conservative view? There is no reason to think that he will not. There is no doubt at all. Mr Barr has outlined the type of company that Mr Seselja is interested in acquainting himself with—organisations such as the Moonies in South Korea, who profess to be absolutely opposed not only to the provision of safe and legal abortion but also to same-sex law reform and the recognition of gay and lesbian couples and their equal rights in our community.

We know that we have a Leader of the Opposition who is not a humanist. He is a big "c" conservative. He leads the most conservative Liberal opposition we have ever seen in this place. All the small "l" Liberals have been purged. Mrs Cross and others like that, and even those who want to remain true to Liberal values, have been forced out—Mr Mulcahy. All we have left are the true social conservatives, the true reactionaries of the ACT Liberal Party.

The gaping hole is there. Where is the Leader of the Opposition? Where is his leadership on this matter? It is not just about his personal views; it is about how he will provide leadership on this important social issue that affects so many women in Canberra each and every year—how he will give leadership and direction? Will he support humane policies that would recognise the importance of allowing women to

choose without the pressure and stigma that those who oppose abortion seek to put on it or will he lead a reactionary and morally conservative government that responds more to the dictates of prejudice than to the recognition of the rights of a woman?

They may now—not then, but now—oppose decriminalisation. Where do they stand on the other issues that will equally cause stigma, that will equally cause shame to women who seek legitimately to have an abortion if that is what they believe is needed? Where will they stand, for example, on the issue of photos—requiring women to view demeaning photos of foetuses at different stages of development? Where will they stand on imposing cooling-off periods—as though a woman can be quite rational when it comes to any other medical procedure and giving consent, but when it comes to abortion there is a need for some cooling off as though you are buying a television? Where will they stand on the issue of restricting access to abortion services, government funding for abortion services, the leasing of government buildings for abortion services or even the simple issue of the provision of statistical information and its use to manipulate the anti-abortion calls?

These issues are equally important, and they are silent on them. They need to answer those questions. The Leader of the Opposition, most particularly, must answer those questions. Progressive Canberrans will be looking and thinking about this issue. They themselves will be raising in their own minds the question of whether we are going to be getting a conservative government that revisits those divisive debates of the last decade or whether they will stick with a government whose commitment to law reform and progressive social policy has meant better services and respect for a woman's right to choose.

MR STEFANIAK (Ginninderra) (9.33): Mr Corbell talked about divisive debates of the last decade. If you feel that way, why on earth did you bring this particular matter on? It is one of the more bizarre things I have seen in the Assembly—in some strange way having a go at Zed Seselja, the Leader of the Opposition. It is quite bizarre! The Attorney asked, "What will the Liberal Party's position be if it is the governing party after the next election?" Paragraph (1) of Mr Pratt's proposed amendment states:

> the issue of abortion has traditionally been a conscience vote for members of all major parties in all Australian jurisdictions.

Der! Mr Corbell just read out a list of how people voted in the last debate we had on this subject in August 2002. Guess what? Mr Hargreaves and Mr Wood exercised their conscience vote. It has always been a conscience vote for the Liberal Party, and if the Liberal Party is the government after 18 October that is exactly how it is actually going to remain.

Paragraph (4) of Mr Pratt's proposed amendment states:

> the re-introduction of criminal sanctions is not the solution to this problem.

Mr Corbell made much of that and said that this is somewhat hypocritical and a change of position. I do not think anyone has ever been particularly hung up on issues such as criminal sanctions because rarely were they ever exercised in the past. For the government to say that that is hypocritical is hypocritical in itself. Look at how the

government's position on school closures changed. For 15 years we had this consistent opposition to any closure of any school and then, suddenly, whammo, the government made a 180 degree turn and wanted to close 39 schools. So do not talk to me about hypocritical positions.

My views have been consistent; they have not changed. I do not believe that innocent life should be destroyed. Certainly we have all heard of people who have had dreadful experiences deciding whether or not to keep a child. Despite your criticism of it, one of the more sensible attempts to debate this contentious issue in the Assembly, I thought, was when Messrs Osborne, Humphries and Moore actually got together and came up with some legislation that actually seemed to strike a reasonable balance. Michael Moore was hardly a big "c" conservative. Michael Moore was very much on the left side of politics, but the compromise position was acceptable to him. It was a compromise that I think worked.

Members have spoken about a cooling-off period. It was suggested that it is not like buying a car. No, it is far more important than just buying a car. This is someone's life. This is a woman's decision about whether she wants to have a baby or not have a baby. I would have thought that if the woman is uncertain the more information and the more thought that goes into helping her come to a conclusion, the better. That was the purpose behind the cooling-off period.

The government often makes much about education and the need for people to be informed. I recall that the idea behind all those pictures was merely to educate and to provide sufficient assistance to ensure that people did really appreciate just what was actually going to occur. I think you are really going off on a large number of tangents there.

I know it is an emotional issue. It has been emotional for you, Mr Speaker, since you came here. You have championed a certain point of view. We have different ideas. I think that Mr Pratt's proposed amendment is quite a reasonable amendment to Mr Gentleman's motion. Who really could quibble with paragraph (1), which refers to the issue being a conscience vote? It always has been, and people in the Assembly and the community have a range of views on it. Paragraph (3) states:

> regardless of those views, the incidence of abortion in our society is a concern.

Members who have expressed pro-choice sentiments tonight have made that very point. I think you, Mr Speaker, made that point tonight. You have made it consistently in terms of your pro-choice stance. You still say, however, that the incidence in our society is a concern. Paragraph (4) states:

> the re-introduction of criminal sanctions is not the solution to this problem.

It is not the solution now, if indeed it ever was. Who could quibble with paragraph (5):

> providing greater support to women who experience crisis pregnancies is a matter of the greatest importance.

It is a matter of the greatest importance. What a sensible expose of the position is Mr Pratt's proposed amendment. Of course, you are not going to vote for it, but you can hardly criticise Mr Pratt for what seems to be a very sensible view. I think most people in the community would say, "Yes, that is fair enough. It recognises that people have different views. It is a sensible position."

I am not going to say much more, except that I find it very strange that the government has brought on this motion and raised an issue that I thought had probably been put to bed over many, many years in this Assembly. Maybe it has not; maybe it will not be. But I think you are raising it for some weird—maybe crass—political gain, which is not going to work. There have been some extraordinary things said tonight in this debate, especially in relation to Moonies and God knows what. I find those sorts of comments to be somewhat bizarre.

My views have not changed. I reiterate that I do not believe that innocent life should be destroyed. I have known people who have experienced abortion. I have known people who have very strong views either way. I have known people who have been pleased they have gone through with it. I have known people who greatly regretted having an abortion and wished they had had a chance to have a bit more assistance—a bit more counselling, a bit more thought going into it, a bit more help and a bit more time perhaps to really appreciate just how huge the issue is and just what effect it can have.

I think it is ridiculous to try to portray people who do believe in the right to life as mad religious nutters. I think that just shows a great ignorance. It is like portraying people who believe in abortion as dreadful people. That is equally ridiculous. For government members to try to portray people in the Assembly as mad religious nutters I think shows a certain level of ignorance that actually is rather sad. This is an emotive issue; it always has been, but it has been brought up. I would urge members to consider Mr Pratt's quite reasonable amendment.

MR MULCAHY (Molonglo) (9.41): Mr Speaker, I was impressed by what Mr Stefaniak said just then. I think it was one of the most useful contributions I have heard to the debate. I certainly will be speaking against the motion. My position on life issues is well known. I have not departed from that stance and I think I share that with the previous speaker in that I do believe in the protection of human life. I am not ashamed of that view and if that makes me some kind of a zealot, well, let others make that call.

I have a strong and consistent belief in the sanctity of life. I held that view long before I got into this place. I have had that view on the public record since being elected and have not been ashamed in any way to declare that position. As I said, I believe in the sanctity of life and, for that reason, I also oppose things such as capital punishment and euthanasia. I find it impossible to support anything where we seek to take the life of another individual.

I believe that the self-congratulatory points of this motion really are worthy of opposition. This motion—and I think Mr Stefaniak alluded to this—really is a waste of the Assembly's time. We are asking staff to sit back here at this hour of the night for what is really a bit of a political stunt. It will not accomplish anything.

One would have thought that with a day left in the Assembly there would be more relevant matters for this place to consider. I hate this business of laws being brought in and rushed through like we are seeing with this important workplace legislation tomorrow. I think the people of Canberra would expect us to be more preoccupied with giving appropriate consideration to those matters than getting into an argy-bargy of gamesmanship.

The timing of this motion has, I am sure, got somewhat to do with the introduction of changes in the Victorian parliament, which I understand occurred last week, and I note that the Speaker made a trip, at taxpayers' expense, to the Victorian parliament to discuss this issue. The motion and the use of the Assembly's time is as much use, as far as I am concerned, as that expenditure was. I understand the Victorian legislation differs from the ACT's. I understand that abortion is being decriminalised up to 24 weeks into a pregnancy. After that point an abortion will only be allowed if multiple doctors sign off on it. I think in that regard the Liberal Party amendment does not really reach a point that is consistent with that new position in Victoria, so I have got issues with the amendment.

The compromise in Victoria reflects the complexity of this issue, the different views in play and, by extension, the extreme nature of the ACT's position. I would be the first to acknowledge that this is a divisive issue in both parliament and in the community. I have had arguments, like Mr Stefaniak has had, with friends who favour—particularly some of my American friends, who are great advocates of this—what they call the pro-choice position: "it is the right of the woman; nobody else ought to interfere".

We just heard Dr Foskey get up and announce this position: this is all women's business and nobody else has a say. If you are a parent, as I am, of four children and have sensed the movement of a baby before birth, I struggle, frankly, not to see a life there. There is more than one perspective on this particular issue. I personally believe in the protection of life.

This motion calls on the current Assembly to reaffirm its support for the law's reform, including the decriminalisation of abortion in the ACT. I do not know what I am being asked to reaffirm because I was not here and I am not about to reaffirm something that I was not part of and did not previously vote for.

But to address the specific points in Mr Gentleman's motion briefly, the first element refers to the right to choose. As I have said, I place greater emphasis on the right to life, and I must say that it is somewhat ironic that, for a government that prides itself on human rights, one of the most basic of all human rights—that is, life—is ignored in a self-congratulatory motion.

I am disappointed that the Liberal Party has, I think, assisted this government in turning this into a political issue. I would have liked to see the opposition leader here throughout this debate because it has played, frankly, somewhat into the government's hands. It is a political stunt on the eve of the completion of this term of the Assembly.

The main issue, as far as I am concerned, is that when you come to placing an emphasis on a right to choose, when it comes to another human life, it does create a

dangerous precedent. I know there are others who do not believe that, but that is the school of thought to which I adhere. If you are going to start giving the freedom to choose whether a life should continue or not in relation to a pregnancy, then the logical conclusion is to allow people to decide when or where to end their own life, and I know there are people in this place who think that is a good idea too. The thing that troubles me is that it then becomes a very fine step between when it becomes the choice of the individual and the choice of those around them and we very quickly reach a point where life starts to become dispensable.

We have not had, as far as I know—certainly not in my four years here—the opportunity to consider the question of euthanasia. But if you begin to lessen the emphasis on the right to life, you begin to weaken any argument that exists against the preservation of life at any stage. I was happy some years ago when we had a great public relations exercise in this place—I apologise if I misrepresent her—but I think Ms MacDonald led the charge about capital punishment somewhere in Asia where Australians had been apprehended.

Somebody said, "Well, Mulcahy is on the right. He is all for hanging." Well, I gave a fairly detailed presentation, having met people on death row in an American prison, and I gave a fairly detailed presentation. It only confirmed my complete loathing for the idea of capital punishment. My guiding principle and my consistent position is that, no matter the crime, I do not believe that taking another life is a solution on any grounds. I know that is a view that is probably shared by most in this place.

I am opposed to euthanasia; I am opposed to abortion, and I do believe that the right to life must be held as paramount. I am disappointed the government has sought, for what I would have to say is a cynical political purpose, to embark on this exercise. I know an election is looming. I know this is probably seen as fair game, but the issues are, in my view, too serious to trivialise.

I was disappointed that the Speaker resorted to personal abuse and attack. I think that you do that when your argument is not strong. I will not respond to that because I am not going to lower myself to that level. I just heard Mr Stefaniak give a compelling argument. He acknowledged the fact that there were people who took issue with him. That is fine, but I think that is a big step away from simply hurling every manner of abuse. It was directed at the opposition leader. He and I have had plenty of differences, but on an issue as serious as life, then I think it is important to respect the fact that people in this place may have different views.

I was intrigued when Mr Corbell read out the voting patterns. I was not aware that Mr Wood and Mr Hargreaves had voted in that direction, I was not then that involved in ACT politics. But I think good on them that they exercised their freedom of choice. I do not think it is appropriate to come into this place and say that if a member has reached a conscience view, that member must be some kind of a religious fanatic or nutcase.

So I take my position. If it costs me my seat, "the best of British luck" to those who come in. I think most people know that when I say I stand for something I believe in, I will not depart from that position. But I think this motion should not have been brought on tonight. I think it serves no good. I am not all that excited by the Liberal amendment.

Most of it I probably am comfortable with, but, frankly, as a matter of principle I will oppose both the motion and the amendment.

MR HARGREAVES (Brindabella—Minister for Territory and Municipal Services, Minister for Housing, Minister for Multicultural Affairs) (9.50): It is six years and six days since that vote was taken when Mr Wood and I voted differently from our colleagues. I would like to let people like Mr Mulcahy know, because he was not here at the time, that that was not the first time that I had done it; it was in fact the second. I rise in a debate that I really would prefer not to take part in, but it would be hypocritical of me to solicit the views of the Leader of the Opposition without having the courage to stand up and give mine first.

One of the issues that we have as members in this place, whether the issue is one of conscience or whether it is something which is more mechanical than that, is that we have an obligation to our constituents and to the people of the ACT to make it clear where we do stand on issues, whether or not we are people of conviction or courage or whether or not we are cowards and will use all of the wordsmith expertise that we have about our persons to duck and weave away from that.

I think I have grown during my tenure in this place. When I first came in here, as we all did, at one point we were raw politicians; we really did not have a clue about where we were going in the first couple of sitting periods. Then, the longer we served here, the more we were aware of our responsibilities and where we have to go. As I went from a backbencher to the whip's position and to the ministry I became more acutely aware of the extent to which the community looked to me and my colleagues for guidance.

On this particular issue—I know that Bill Wood shares this view—we have an incredible amount of discomfort. As men, we do not want to face up to this particular issue if we can get away with it; we do not want to do it; we want to have somebody else take these decisions. But we cannot.

I wanted to reiterate something I said the last two times, and that is to pay a tribute to my colleagues for not only allowing me the opportunity to have a conscience vote and to express it in contradiction to the general thrust of what my colleagues were saying but also for giving me support in the caucus room and in the corridors for what was a very difficult position. And those people that have had difficulties in party rooms of late would know how difficult these particular issues of conflict can be.

I have to say that I am particularly privileged to sit amongst colleagues who allow me the freedom to express how I feel about these issues. In that sense, I am reminded of what Machiavelli said. It goes along the lines, not exactly, that a prince is judged by the stature of the nobles he gathers around him. I have never met a Moonie in my life.

This motion does not encourage trivialisation of the issue. This motion does not encourage the application of the procedure of termination. It is a particularly serious motion and it is something that people discuss around the dinner table from time to time in the society that has grown. I have come to know, in the years that I have been in this place and listening to this debate the two times that I have listened to it, that in a sense society has moved. Our society has moved. Some in this place would say it

has moved to places they would rather it not have moved to. But it has moved and we are now much more aware, I believe, of the sanctity of human life. We are coming, I hope, as a society, closer to where I believe it is.

I know for a fact that Mrs Dunne and I share one particular definition, if we differ on many others, and that is that life begins at conception. That is something that both of us and Mr Stefaniak know. We may differ from that point going forward but that is where our belief lies. I find it horrendous that a decision would need to be made at all. I know, Mr Speaker, that you share that belief that it is horrendous that the decision would need to be made at all.

But society has now moved to a position where we discuss whose final decision this is. We need to give this leadership to the community; we need to stand up and say where we stand on this. I have done it twice in this place. I have gone out of this place and I have been pilloried for my views; I have been mocked; I have been abused; and I have been spat on for my views. I have endured that because I have done what I believe to be right. I know there are people who hold the contrary view to me who have been abused, have been threatened and have been called incredibly horrible names when there is no need for that.

I am not the leader of my party, but I have got the courage to stand up here and say to you all now, "I do not change my view on where I was six years and six days ago; I do not change my view of where I was before that." But that is not what this motion is saying. This motion is saying that we reaffirm the laws of this territory as decided by the democratic process in this parliament. And I will affirm that tonight. The motion also talks about "reaffirms its support for the laws that have been reformed". I believe they have. I would sometimes change some of them but, for the most part, they are for the better.

I will be supporting this motion and I would urge all of us here to consider the motion itself and try to be very careful in what we say to each other, as we leave this chamber, about what has been said here this evening. I have been doing a fair amount of work upstairs and, whilst I have been doing it, I have had the reticulation of this debate on in my office. There have been some appalling things said and I think that we need to examine our hearts on this issue.

We have absolutely no doubt where the leader of the government sits; Mr Speaker, we have no doubt where you sit; and we have no doubt where my colleagues sit. I hope people in this chamber have no doubt where I sit and stand on this issue. I know very clearly where Mrs Dunne and Mr Stefaniak sit; I know where Mr Smyth and Mrs Burke sit. I respect their positions.

I would like now, to make this complete—and I thank Mr Mulcahy for his articulation because it puts me very firmly in the picture—to hear the 17th member of this chamber so that I can be absolutely clear in my mind.

MR SESELJA (Molonglo—Leader of the Opposition) (9.58): It is a pleasure to rise to speak to this motion. I am glad that we could finally get here. It has been put off a few times. I will not be supporting this motion, for a number of reasons.

This motion, I think, tries to take a complex issue and a difficult issue and an issue which clearly divides the community at various stages and drill it down and turn it into a slogan and turn it into a simple issue. This motion seeks to pretend that there are no differing views in our community on this issue. It pretends that there are no differing views on this issue in this chamber. And we know that not to be the case. We know that in our community there are very passionate, strongly held views on the issue of abortion that are at total opposite ends of the spectrum and we know that most people sit somewhere in between.

But there is no uniformity. What this motion tries to say, and tries to get us to agree with, is that there is some uniformity on this issue; that we all agree; that we put aside all the complexities and the difficulties, some of which Mr Hargreaves just referred to, some of which Mr Mulcahy and others have referred to, about the complexity of dealing with the issue of human life.

I make no apology for who I am or for what I believe. I do believe in the sanctity of human life and this is something that I have always stood up for and said. So I do not think it will be a surprise to anyone that I do not think that this is about getting information. But none of that has changed.

My real problem with this motion and why I cannot support it is that it simply tries to turn the issue of abortion, a complex issue, into a slogan. It tries to say there is consensus on this issue. There is not consensus either in this place or in the community. And anyone who believes that there is is kidding themselves.

I commend Mr Pratt for this amendment—and I will be supporting it—and it is worth going through the various elements of it. This has been a conscience vote, traditionally across parliaments, and certainly we in the Liberal Party believe that it should be a conscience vote and it should continue to be a conscience vote. Under my leadership it always will be. I am sure that long after I am gone it will continue to be a conscience vote in the Liberal Party. And that is something that should not be forgotten. It sometimes seems to be treated as a partisan party-political difference when each of us needs to come to a conclusion on this issue based on our own conscience.

The second part I have already alluded to. "Members of the Assembly"—and this is what is not reflected in the original motion—"and the community do have differing views". There seems to be in some quarters, and clearly on the part of Mr Gentleman, this view that those who have a different view to his do not have a legitimate view; that they should not have their voices heard; and that we should all pretend that those views do not exist. It is not true and we should acknowledge that. That is why this part of the amendment acknowledges and respects the range of views in the community on this. There has been an imposing of the will of the majority—and it has been the majority view of this parliament in recent times—but to argue that that has been an overwhelming consensus is simply wrong.

The third part of the amendment is:

> regardless of those views, the incidence of abortion in our society is a concern …

The number of times I have heard politicians get up and almost universally say, regardless of how they vote on these issues, they are concerned about the numbers of abortions is amazing. I think that is a concern that is shared by many in the community. The reintroduction of criminal sanctions is not the solution. That is clear. We have seen in the past, I would suggest, not much difference in practice from before, when it was criminalised, and subsequently. I think that there are many of us in the community who do believe in the sanctity of human life and who particularly would be very concerned about young women in some way being criminalised. I think that those who have a genuine view on this would never seek to attack young women who find themselves in really difficult circumstances.

The final part of the amendment goes to "providing greater support to women who experience crisis pregnancies", and I think that is something that we should all agree on. This is something that a number of us are involved with, in organisations such as Karinya House who do provide that kind of support. I think they do an outstanding job. I believe the government does give them some funding but they are a group that I have always been proud to support in whatever way possible because they do provide that on-the-ground support to young women who find themselves in really difficult situations.

This is an amendment that I can certainly support. I will not be supporting this motion. I do not believe it is reflective of the range of views in the community. I do not believe that it is something that I can in good conscience support. I do believe in the importance of protecting human life. I do not shy away from that; I do not shy away from those views. That is who I am but I think that this amendment provides an excellent balance and is something that I am very proud to support. I will be voting in favour of it.

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (10.05): I thank Mr Gentleman for the opportunity to talk to this motion tonight. My comments and my views on abortion are well known; they are public; they are based on principle; and they have remained constant. In fact, Mr Speaker, I worked alongside you in your groundbreaking legislation to decriminalise abortion back in 2002, when I moved my own amendments to another piece of legislation to provide additional protection for women and medical practitioners who were providing a service for women who were terminating their pregnancy.

I am very pleased to have the opportunity to support Mr Gentleman's motion tonight. Whilst others have talked about the complexity of this issue and that this motion seems to try to simplify it, my response to that would be that this motion simply seeks to maintain a view on the status quo. This is reaffirming what the current arrangements are for women who seek to have a termination of their pregnancy. That is all it does. It is not really a complex issue. It does not seek consensus; it merely calls on the Assembly, through a motion of which there is hardly ever a consensus in this place, to commit to the status quo.

I think Mr Mulcahy's comments earlier tonight really go straight to the issue of why we are discussing this tonight. Mr Mulcahy, in his comments, felt that it was a waste

of time discussing it, that staff were staying back and that there were many issues that were far more important than this. Mr Mulcahy was not here when thousands and thousands of people gathered outside this Assembly in support of the legal framework which currently exists—thousands. It would have been the biggest rally that this Assembly has ever seen, in fact.

We were able, through the votes of individual members, to create a legal framework which provided, I think, the most supportive regulations on termination of pregnancy that exist across the country. I was very proud to follow your lead, Mr Speaker, and be a part of that experience. I know it was a highly charged time in this Assembly but ultimately the legal framework which currently exists came into force and is commonly accepted as a very safe, protective and supportive framework for women who are seeking a termination and for medical practitioners who provide that service.

If we go back to where we were before that and, as a woman, travel through the journey of what it was like under the arrangements—and this is in addition to the decriminalisation; decriminalisation is one issue—we note the support of those opposite for not reintroducing criminal sanctions in relation to termination of pregnancy. But it was not just the criminalisation of the matter; it was much more than that. It was on, I think, the rather cutely named Health Regulation (Maternal Health Information Act) 1998. For a woman who was seeking a termination of pregnancy, a whole range of steps had to be carried out before she was able to proceed.

To begin with, a medical practitioner would have to provide a woman with a whole range of advice about the medical risks of termination of pregnancy and carrying the pregnancy to term and a whole range of other criteria underneath that. They would have to offer—this, under law—the woman the opportunity of referral to appropriate and adequate counselling. Obviously, under law, we would force women to undergo appropriate and adequate counselling.

We would then provide women with information that was approved under section 14 (2) of the legislation. We would then kindly not charge for the provision of that information. Once all of that had been provided—adequate referrals and advice, information—then there would be a joint declaration made between the medical practitioner and the woman and the woman would have to leave for a cooling-off period of not less than 72 hours after making that written declaration with her medical practitioner. This is what a woman would go through: patronising, condescending legislation telling her how she could make decisions about her own body.

Then you go to the information that is provided. In regard to foetal development—and this information has been approved under the maternal health information regulations—this information would be provided to women at perhaps the most stressful, emotional point in their life. Women would then be made to view, consider and receive counselling on pictures of foetuses, including a description of how big the foetus is and at what stage its development was. For example, the heart has been beating for two weeks and limbs are beginning to develop at six weeks. It goes on through the eight weeks, through the 10 weeks and onto the 12 weeks, 14 weeks and 16 weeks. At 12 weeks, the foetus is about eight to nine centimetres from head to rump and weighs 45 grams. The foetus is able to swallow and the kidneys are able to make urine. Tests will be able to tell whether it is a girl or boy.

This is the information that women were subjected to under the legislation when they were making a decision about their body—a decision, for any range of reasons, which legislation just cannot comprehend or allow for. This is the information that was provided to women up to 2002 in this jurisdiction.

This is what Mr Gentleman's motion goes to: this Assembly commit to maintaining the status quo and that we reaffirm out commitment to not make women undergo mandatory counselling; to not force a woman to make a joint declaration with a medical practitioner, to not force woman to view highly emotional literature and pictures of foetuses, under law; but that we allow the woman the opportunity to make her own decision, as she does of course—a fraught decision, obviously—without committing any offence under any legislation. That is what Mr Gentleman's motion goes to.

In fact, if you go to Mr Pratt's amendment, perhaps the most interesting part of the amendment would be paragraph (5):

> providing greater support to women who experience crisis pregnancies is a matter of the greatest importance.

That indicates—and I think the argument was used at the time—that written declaration, pictures, information about foetal development, forced counselling and referral to appropriate services were all part of providing greater support to women who experienced crisis pregnancies. That was the argument used at the time and that is what you want us to accept tonight. I certainly do not accept that. I do not leave the door open on it, which is what Mr Pratt's amendment does. Because what that says to us is that all of those who are going to support Mr Pratt's amendment support going back to the future, back to 1998's legislation, and that you do not support the status quo.

Mr Gentleman's motion seeks to support the status quo, and Mr Pratt's amendment to the motion, by stealth, seeks to reintroduce the archaic, patronising, condescending regime which this Assembly chose to repeal in 2002. And that is why I will be supporting Mr Gentleman's motion. We know that those who support Mr Pratt's amendment would be supportive of going back to a regime which was unacceptable to women in the past and will be unacceptable, patronising and condescending to women in the future if it is ever reintroduced.

MRS BURKE (Molonglo) (10.15): Like Mr Hargreaves, I find this an extremely difficult issue. I know that several people on that side of the house take delight in castigating us on this side of the house, and I was rather disappointed by some of the rather venomous attacks tonight. I do believe in the sanctity of human life, but I will go on. I have listened to all the debate, and I am still looking at this motion and trying to work my head around it, because I feel straddled across a great divide. It is a somewhat mischievous motion. I have to say that it is mischievous, because, as Mrs Dunne and Mr Pratt quite rightly said, the issue of abortion has traditionally been a conscience vote for members of all major parties in all Australian jurisdictions.

The Leader of the Opposition said that the motion here is not reflective of the wide range of views in the community. Are we to be castigated and vilified for that? Some

of the comments made tonight have been extremely venomous, and that is disappointing. Woe betide those who dare to disagree with the government's position or hold a different position to that which is put here—and there is a wide range of views. Mr Corbell said that those who seek to choose abortion should do so without shame. I agree, and I am staggered, again, that Ms Gallagher would not want organisations like Karinya House to exist. She is saying she does not want support for women who may be on the cusp of saying, "Do I get rid of this baby? I don't want it. I can't cope. Or shall I try to work through it and keep the baby?" Support for women, Ms Gallagher seems to be saying, is not a good idea. Mr Pratt's amendment says that providing greater support to women who experience crisis pregnancies is a matter of the greatest importance. How can you say it is not?

Women who seek to have an abortion should do so without shame. Unfortunately, Mr Speaker, you were very venomous, and there was a lot of finger wagging, particularly aimed at me. I will not really go into too much detail here, but women who choose to have an abortion need compassion and understanding, just as do those women who choose to keep their babies under very difficult circumstances. Members have no idea about the personal lives of other members and those of our families. I will not say any more than that, but this goes to the heart of why this is so difficult for me. I have views about the sanctity of life, yet I have compassion in my heart for those women who choose to have an abortion.

Life is all about choice, and if abortion is a woman's choice, then it is her business, but it is not her business alone, and I will go on to that later. It is a complex issue and one that should not have been politicised like it was tonight. Paragraph 2 of Mr Pratt's amendment says that members of the Assembly and the community have a range of views on this subject, and paragraph (3) says that, regardless of those views, the incidence of abortion in our society is a concern. We would all say that, regardless of whether it is the backstreet variety or whatever it is. It is a traumatic occasion for a woman, her partner and her family to have to go through.

This matter should not have been politicised. Very sadly and very pathetically, the debate really was about drawing out members for political purposes. As angry as you got, Mr Speaker, I respect your view; I respect it 100 per cent. We should respect one another's views on what has always been and will be a conscience vote for members. Mr Gentleman's motion talks of recognising the ACT Legislative Assembly's progressive law reform in the area of abortion and a woman's right to choose. I have thought about this, too, and there has been mention made of several things that happened a few years ago when I was not here.

I am not sure if Mr Gentleman realises this, but it was a great pity that this appeal by him goes directly against the decisions of some of his Labor colleagues who supported the abolition of the Osborne bill in 2002. Why do I say that? Because the Osborne bill talked about the needs of women and a woman's right to choose. Effectively, what happened—Ms Gallagher delighted in giving some graphic details—was that it took away the choice to abolish a woman-centred approach to decisions about abortion.

I have always made my position clear about abortion—personally, I am against it and would, wherever possible, choose to save life and not destroy it. We are hearing more

and more about this, and this is why Mr Hargreaves can change his mind, and if Mr Wood were still here, he may have changed his mind too. There is continuing new evidence about the way that we look at the mental state of people in a variety of ways, especially in light of emerging evidence of the adverse medical and psychological outcomes abortions have on a woman. What about the time to inquire into some of these assertions? If they are wrong, that is fine. We should re-evaluate the effects of abortion on a woman.

I am also of the mind that it is the government's role to lead the way in making available any information that would assist a woman in making a decision about her health outcomes. Regardless of whether that is mandatory, we should have the information available. A woman should be able to choose to have that information available so she can be informed about her health outcomes. As I said, it is a pity that it was some Labor MLAs who took away that choice for women, which is against the very thing Mr Gentleman is now fighting for.

I do not consider that criminal sanctions are the solution—no way. I believe a woman does not take the decision to have an abortion lightly and needs, therefore, to be given proper support and information before taking the traumatic step of having an abortion. At the end of the day, I am of the mind that we should not legislate against life or death; I do not believe this is our role. I do believe that, in the case of abortion, such decisions have to be between the woman, her family and/or her medical practitioners. It is a decision that women need to make, but not in the absence of being fully informed.

Mr Speaker, on the balance of it, as you can hear—I have made my case clear—I cannot support this motion. In agreeing to Mr Gentleman's motion, we would be taking away, in effect, the woman's right to choose about the information. I know you will disagree, but I hope you will respect my views, as I respect your views. I appreciate what Mr Pratt has tried to do here, and I think that, on balance, I cannot accept Mr Gentleman's motion, and I will accept the amendment.

MR GENTLEMAN (Brindabella) (10.24): I thank members for their contributions. I will not be supporting Mr Pratt's amendment. This amendment removes the thrust of my motion, and it takes away the recognition of the ACT Assembly's progressive reform and the reaffirmation of those reforms.

Mr Stefaniak said tonight that he does not understand why this has been raised. The issue was raised by the Leader of the Opposition in the *Canberra Times* in a specific article on the leader's views leading up to the ACT election. The Leader of the Opposition raised this issue in the public arena by stating he is against abortion. Tonight, though, Mr Seselja failed to say whether he will protect a woman's right to choose or whether he is pro-life. You need to own your position, Mr Seselja. Stop trying to wriggle out of it. We all know it is a difficult issue, but we on this side are capable of articulating our position so the public know where we stand.

Labor understands that for hundreds of years women have been and continue to be discriminated against. Labor has a progressive program to address this, and I have been working in the community and with my colleagues and in this Assembly to remove discrimination in all forms. As a man, I have been outspoken on women's

issues, because even in our modern world, women are still discriminated against. They still hit the glass ceiling in the workforce; women are still paid less than men for the same work; they are still the target of domestic violence. Increasingly, in almost all cases, it is men that bring on that discrimination.

Earlier on I mentioned Dr Leslie Cannold. This year, Dr Cannold was appointed to the Victorian Department of Human Services' Human Research Ethics Committee, and she wrote a piece on this issue on 22 August, just a few days ago. She said:

> Whenever abortion is at issue, questions about the place of men in the debate loom large and unspoken. What role do men play in political and personal discussions about termination, and what role—morally speaking—should they play?

Dr Cannold goes on to say:

> The facts are simple. Men dominate the politics of abortion in the same way they do all other issues. One source claims that 77 per cent of anti-choice leaders are men. And male religious leaders such as the Pope (through the Vatican's membership of the United Nations) have significant influence on global reproductive health policy.
>
> Even on the pro-choice side, where most leadership roles are held by women, men have been critical to the success of campaigns that give women the right to decide.

I will continue to quote from the article where it says:

> ACT politician Wayne Berry and Canadian Henry Morgentaler have driven legal change that sees abortion treated like all other medical procedures.
>
> Research shows that while the vast majority of women faced with an unplanned pregnancy don't want counselling, they do want information from the biological father. Indeed, he is the person they are most likely to consult. Does he want a child, now or ever? What role will he play in raising it? What support might he provide if she decides to go it alone? The willingness of a man to engage in such discussions, and the answers he gives, will critically affect the woman's decision.
>
> Men's role in the decisions individual women make about problem pregnancies is a simple fact of life to which no concept of "ought" can or should apply.
>
> But before you can determine the proper role of men in the political debate, you must recognise that the decision about continuing or terminating a pregnancy is not open to compromise. You can't have half a baby or half an abortion. While most women do consult the biological father, ultimately, one person's view must prevail.
>
> The law privileges the woman's decision because the bodily experience of pregnancy and birth invest her more heavily in the outcome.
>
> What matters is not that men are involved but how they are involved. Men lack moral standing in the abortion debate—indeed are guilty of moral arrogance—when they push for control over the procedure they'll never have to have because they can't get pregnant.

> But when men implicitly acknowledge their lesser standing by raising their voices in support of laws that take away power from their own sex to give it to women, they can feel confident they are doing the right thing.

Mr Speaker, by reaffirming our support for these progressive laws, we reaffirm our belief that women should be able to choose their own destiny, free of any discrimination. With that, I move:

> That so much of the standing orders be suspended so as to require a vote to be taken on the question—That the motion be agreed to.

Question resolved in the affirmative, with the concurrence of an absolute majority.

Question put:

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

The Assembly voted—

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

Question so resolved in the negative.

Question put:

> That the motion be agreed to.

The Assembly voted—

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

Question so resolved in the affirmative.

Adjournment

Motion (by **Mr Corbell**) proposed:

> That the Assembly do now adjourn.

Standing orders—suspension

Motion (by **Mrs Dunne**) proposed:

> That so much of the standing orders be suspended as would prevent notices Nos 1 to 5, Private Members' business, relating to the Duties (First Home Owner Exemption) Amendment Bill 2008, the Civic Development Authority Bill 2008, the Health Professionals Amendment Bill 2008, the Adoption Amendment Bill 2008 and the Emergencies Amendment Bill 2008, being called on forthwith.

Motion (by **Mr Corbell**) put:

> That the question be now put.

Mrs Dunne: You are a coward, Simon Corbell, an absolute coward.

Mr Corbell: I ask Mrs Dunne to withdraw that comment, Mr Speaker.

MR SPEAKER: Withdraw that, Mrs Dunne.

Mrs Dunne: I withdraw it.

The Assembly voted—

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

Question so resolved in the affirmative.

Question put:

> That the standing orders be suspended.

The Assembly voted—

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

Question so resolved in the negative.

Commonwealth Parliamentary Association

MS MacDONALD (Brindabella) (10.38): As this is my second-last sitting day, and I will be giving my final speech tomorrow evening, I want to talk about the Commonwealth Parliamentary Association conference in Kuala Lumpur, Malaysia, that I went to a few weeks ago on behalf of the Assembly. Mr Speaker, as you know, you were going to be attending that conference and I stepped into the breach at the last moment.

As always, I had a great time at the conference, this being the third plenary that I have been to. The Clerk informs me that I may have equalled Kerrie Tucker in the number of CPA plenary conferences attended overseas. I have had a couple of nightmares about being stuck back in Nigeria; I do have to confess that I am not necessarily eager to go back to Nigeria. But I have had a good time at all of the conferences.

At this conference, I spent much more time at the small branches conference, which was formerly called the small countries conference. The name has been changed to better reflect the role. Of course, not all of the smaller branches are countries, and that is part of the reason why the name has been changed. In the last two plenaries that I have attended, I was there as the Australian representative for commonwealth women parliamentarians. That is why I did not get to spend as much time at the small branches conference in the past.

There were many excellent sessions at the small branches conference on many issues of interest in a wide-ranging field, from corruption to electoral systems and environmental issues. A lot of excellent work was done at those sessions. While I do not think that the plenary sessions were as productive as the sessions at the small branches conference, as they were often a talkfest, there was some good work done in those, and it was certainly interesting to observe.

Mr Speaker, as you know, and as I think a number of members here know, the role of the Commonwealth Parliamentary Association is about promoting parliamentary democracy, particularly for the newer and less stable democracies. I believe that the CPA does an excellent job in that field, in providing information on issues such as accountability through public accounts committees, the scrutiny role that parliaments can have, and resolving issues of violence within parliaments et cetera. So it has a great role to play. Unfortunately, I think there is a tendency at times for some members who go to these CPA conferences to think that the CPA's role is much bigger than it actually is and that it can achieve more than it can. It should keep its eye on what it is about and on what it can achieve.

At this conference we had a vote for a new chairperson. The outgoing chairperson was elected at the ExCo to the position of treasurer, which is a little bit concerning to me, but I will talk about that privately at another time. There was also the vote for the chairperson's position. There were two people running: Lord Swaraj Paul of Marylebone, who is originally from India but who is a member of the House of Lords in England; and Minister Shafie—I do not know his full name but it is quite extensive.

I want to raise my concerns about the future of the CPA. There has been a lot of block voting going on and a lot of things that are of concern. As a retiring member of the

Assembly, it is not so much of concern for my future but it is of concern regarding the future of the CPA. I wanted to raise that issue in the Assembly.

Treharne, Mr Ed—death
Legislative Assembly—pairs

MRS DUNNE (Ginninderra) (10:43): I would like to take some time in the adjournment debate tonight to mark the passing of Ed Treharne. Ed was a friend of some nearly 30 years. For most of the 30 years that I have lived in Canberra, he and his circle of friends intersected with mine in many ways—through church, through the old ACOA and through the Liberal Party. The very sudden death of Ed Treharne was a great shock to us. He was a well-known member of the Australian public service who had worked in the department of agriculture in its many forms through most of his working life.

Ed was born in Sydney, grew up in Adelaide and was a lifetime member of the Liberal Party, a strong member of the union movement, a great aficionado of sport, a lover of cricket and a lover of gardening. He was, along with a couple of other members of the Liberal Party, the constant returning officer, the person who knew all the rules, the person who helped with the interpretation of the constitution and a person who was always available with a wry wit and a good quip to help difficult circumstances to move along more smoothly. Ed was buried today, interestingly and coincidentally, on the 100th anniversary of the birth of his great hero, Sir Donald Bradman, and it was not without remark at the time.

Canberrans and people across the country have lost a great friend in Ed Treharne. The Liberal Party has lost a great stalwart. I pay tribute to him and I send my condolences to his family and his large circle of friends.

On another matter, today, and last night as well, the Chief Minister made disparaging comments about how the Liberal Party had reneged on a pair. Had I been able to stay after question time I would have sought to use the standing orders, but I will instead use the opportunity afforded by the adjournment debate. I need to put on the record that there was a pair in operation last night and there was some discussion as to whether we should maintain the pair. It was decided that we should maintain the pair, mainly out of integrity. But with some coming and going, what happened was that I had the pair and I came into the chamber. As I sat down, Mr Pratt managed to get himself named and you, Mr Speaker, ordered the locking of the door before I could leave. I was in a position where I could do nothing but stay, and if I stayed I had to cast a vote.

I was inwardly trying to send telepathic messages to someone on the crossbenches that they might support the Speaker's ruling, but that did not happen. We do have the most interesting set of minutes of proceedings as a result of that. But I want to put on the record that the Liberal Party did not renege on a pair. It has never reneged on a pair, unlike the Chief Minister, who has done so three times in the last little while. I would also like to say that the comment that the Chief Minister made, that there had been a reneging on a pair, is some imputation on your integrity, Mr Speaker, because you said when you came back in here that you were recommitting the vote because there was some misunderstanding about leaving, or words to that effect, and if there

had been a reneging on the pair there would have been no misunderstanding. I think that you should review what the Chief Minister said and make up your own mind as to whether that was an imputation on your integrity.

MR SPEAKER: Mrs Dunne, I do not want to get involved in the debate, and I take what you have said as you have said it, but for everybody's information, if somebody gets trapped in here because I have ordered the doors to be locked, in future, if they appeal to me on the basis that a pair is in operation, I will allow people to take off.

Mrs Dunne: I will make sure that, if it happens tomorrow, Mr Speaker, that is what happens.

Election campaign forums

MS GALLAGHER (Molonglo—Minister for Health, Minister for Children and Young People, Minister for Disability and Community Services, Minister for Women) (10:48): In the lead-up to the election, all of us here are invited to many candidates forums. In fact, it is a part of the hustle and bustle of an election campaign that we all look forward to. Quite a number of organisations have already arranged those meetings. I take this opportunity to talk about an interesting one that I attended at lunch today, the annual general meeting of the National Disability Services, NDS. Over a month ago, they wrote to all candidates, to individual parties, to come and address this meeting in a kind of candidates forum—a political panel.

This group represents all the peak disability groups. There were probably 40 people there today when I got there. It was perhaps the most interesting political panel I have ever been to because I was the only person to show up. The NDS actually apologised to me and said that the panel would no longer be a panel but that I would have the floor for the entire time. They expressed some concern about this. The Greens, to their credit, had apologised as they were unable to be there, but they had not heard back from anyone else, including the other major political party.

This was a significant forum—or it was meant to be—for parties to come along and indicate their policies on disability services to the people of the ACT. Certainly, I took the opportunity to discuss at length the record of the ACT government, our vision for the future and the challenges ahead. But it was interesting to note that the shadow minister for disability, who I believe is Mrs Burke, did not even respond to the invitation and no other candidate from any of the minor parties took the opportunity to attend.

I look forward to more of those candidates forums, if we can organise it, in the lead-up to the election. Certainly, this government takes those candidates forums very seriously and we will be attending all of them to express our full range of policies and our agenda, not only from the seven years in government but for the next four as well.

ACT—geological map and guidebook
Leukaemia—fundraising

MR GENTLEMAN (Brindabella) (10:51): I want to say a few words firstly about a launch I did just the other week—the launch of the geological map, guidebook and

GIS CD launch in the Assembly here on behalf of Geoscience Australia and the Geological Society of Australia. *A Geological Guide to Canberra Region and Namadgi National Park* is a 140-page handbook that highlights the evolution of the Canberra region landscape and geological features within that landscape. The geological map of the Australian Capital Territory is a 1:100,000 scale geological map on which you can actually see your particular residence and the geological formation that is underneath it. There is also a compact disc for use by teachers and the public on home/school computers to view the geological map information using a geographical information system.

It was quite an exciting launch and it is the first study and production done for the ACT in that area. I want to congratulate David Gibson from the ACT division and Vice-President of the Geological Society of Australia; James Johnson, chief of division, OEMD, of Geoscience Australia; and Kevin McCue from the National Parks Association. They all did a fantastic job.

I recently had the privilege of attending another event, on 19 July, with 80 other community members—the 2007 Brindabella Motor Sport Club's Christmas in July fundraiser, to raise money for the Leukaemia Foundation. The event, held at Thoroughbred Park in Mitchell, was a fantastic affair, held in the name of a good cause. Set in the spirit of Christmas, the whole event was themed around the festive season, creating a successful atmosphere that led to large donations from those in attendance. I am pleased to announce that the whole evening was a roaring success.

We were fortunate enough to have Sue and Simon Evans, the current Australian rally champions, as guest speakers on the night. The couple generously donated their time by addressing those in attendance with an insight into the world of rallying and the Australian Rally Championship. Simon and Sue gave entertaining insights into life at the top of Australian rallying and the struggles that it took to get there.

It is encouraging to see community-based organisations collaborating to raise funds for underprivileged individuals who suffer from such a terrible condition. The Brindabella Motor Sport Club, along with the Leichhardt Motor Sport Club, administered the evening. Members of both clubs organised and patronised the evening, all in the name of benefiting the lives of others. It is incredibly humbling, as an elected member of the ACT, to see the community come together and rally around those who are less fortunate.

The function was also well supported by local and national businesses, with over 75 products donated for raffle prizes. I take the opportunity to commend those generous sponsors who made the event possible. The major prize for the weekend was a weekend for two at the Coach House Marina Resort at Batemans Bay, won by Sue Hellyer. The lucky door prize was donated by Harvey Norman and was won by Peter Taylor. Peter and co-driver Kim Martin have recently won the BRM Silverstone Rally in their Toyota Corolla.

On Tuesday night, at the regular BMSC meeting, the club presented to the ACT Leukaemia Foundation a cheque from the profits made on the Christmas in July charity fundraiser. Through raffles, auctions and donations from members and guests, the club was able to donate $3,400 to the foundation. I had the privilege, along with

the BMSC president, John Stilling, of presenting Mrs Shiela Lynch, from the ACT Leukaemia Foundation, with the cheque. Mrs Lynch then addressed the audience and informed all of us of just how important this money is to families in the ACT and surrounding New South Wales who suffer as a result of the terrible disease of leukaemia.

For the information of members, I retrieved these statistics from the Leukaemia Foundation website. In 2007, around 2,936 people in Australia, including 250 children from nought to 14 years, were expected to be diagnosed with leukaemia. In most cases, the cause of leukaemia remains unknown, but there are likely to be a number of factors involved. It is important that we all encourage fundraising to help development and research in the area.

I take this opportunity to congratulate Cheryl Holberton and all in the Brindabella Motor Sport Club for their generosity. I am looking forward to next year's Christmas in July raising more support for the needy in our community.

Step into the Limelight

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (10:56): Just across the square from us here tonight, at the Canberra Theatre, a sell-out crowd has had the great pleasure of witnessing the 2008 *Step into the Limelight* gala performance. This event is in its second year and I am very pleased to advise the Assembly that its growth has been extraordinary. This year we have seen around 1,000 students participating. Students from across the ACT's public school system have demonstrated their excellence in the arts.

The organisation of an event like *Step into the Limelight* is not an easy feat. It has been pulled together by an amazing group of people. I take the opportunity to bring to the Assembly's attention and recognise the contribution and commitment of the 2008 steering committee and their commitment to *Step into the Limelight*. The committee is headed by Wayne Chandler, Director, Schools, Northern Canberra; Mr Craig Edwards from Lake Ginninderra College is the production manager; Lynne Petersen is the artistic adviser; Christopher Allen is the stage manager; Nadia Blackley is the music director; Derek Bruce is responsible for digital media production; Maria Gibson and Hiria Reppion are responsible for the drama and dance components; Bob Jankowski is responsible for visual arts; and Kathryn Chapman and Nance O'Brien are responsible for administrative support.

This steering committee would have had nothing to present without the very strong support of their colleagues in schools—teachers who are inspiring their students every day. We have seen—and I got to witness the first act tonight—an outstanding level of participation and commitment from all of the students who have made the *Step into the Limelight* gala event such a great success. Their many hours of rehearsing have certainly paid off.

I would also like to acknowledge the support of the major sponsors for the event: Active Leisure Centre; Creative Safety Initiatives; and the Teachers Credit Union. There is no doubt that the ACT government strongly values the partnerships with

business and community groups as they contribute a great deal to the education of our students.

It was terrific to see a full house at the Canberra Theatre tonight. We thank all of our students, our schools and our teachers for their commitment to highlighting artistic excellence. We all take considerable pride in the accomplishments of the ACT's public school students at this wonderful event tonight.

Question resolved in the affirmative.

The Assembly adjourned at 10.59 pm.

Schedules of amendments

Schedule 1

Protection of Public Participation Bill 2008

Amendments moved by the Attorney-General

1
Title

omit the title, substitute

A Bill for

An Act about protection for participation in public debate and matters of public interest

2

Clause 5
Page 3, line 1—

omit clause 5, substitute

5 Purpose of Act

The purpose of this Act is to protect public participation, and discourage certain civil proceedings that a reasonable person would consider interfere with engagement in public participation.

3
Clause 6
Page 3, line 23—

omit clause 6, substitute

6 Meaning of improper purpose

For this Act, a proceeding is started or maintained against a person (the ***defendant***) for an ***improper purpose*** if a reasonable person would consider that the main purpose for starting or maintaining the proceeding is—

(a) to discourage the defendant (or anyone else) from engaging in public participation; or

(b) to divert the defendant's resources away from engagement in public participation to the proceeding; or

(c) to punish or disadvantage the defendant for engaging in public participation.

4
Clause 7
Page 4, line 13—

omit clause 7, substitute

7 Meaning of *public participation*

(1) In this Act:

public participation means conduct that a reasonable person would consider is intended (in whole or part) to influence public opinion, or promote or further action by the public, a corporation or government entity in relation to an issue of public interest.

(2) However, ***public participation*** does not include conduct—

(a) that contravenes a court order or constitutes contempt of court; or

(b) that constitutes unlawful vilification under the *Discrimination Act 1991*; or

(c) that causes, or is reasonably likely to cause, physical injury or damage to property; or

(d) that constitutes unlawful entry at residential premises; or

(e) that constitutes an offence punishable by imprisonment for longer than 12 months; or

(f) if—

(i) the conduct is communication by a party to an industrial dispute between an employer and employee, former employee, contractor or agent; and

(ii) the communication relates to the subject matter of the dispute; or

(g) that constitutes the advertising of goods or services for commercial purposes; or

(h) that incites others to engage in conduct mentioned in paragraphs (a), (b), (c), (d) or (e).

(3) Subsection (2) applies in relation to a person's conduct whether or not the person has been convicted or found guilty of an offence for the conduct.

5
Clause 8
Page 5, line 10—

omit clause 8, substitute

8 Application of Act

(1) This Act applies in relation to a civil proceeding in the Supreme Court or Magistrates Court in which the plaintiff may claim damages.

(2) However, this Act does not apply in relation to any of the following:

(a) a cause of action for defamation;

(b) a proceeding prescribed by regulation;

(c) a proceeding that is started in the Supreme Court or Magistrates Court before the day this Act commences.

(3) Subsection (2) (c) and this subsection expire 1 year after the day this Act commences.

6
Clause 9
Page 5, line 14—

omit clause 9, substitute

9 Civil penalty

(1) This section applies if—

(a) a person (the ***plaintiff***) starts or maintains a proceeding to which this Act applies against someone else (the ***defendant***) in relation to the defendant's conduct; and

(b) the court is satisfied that—

(i) the defendant's conduct is public participation; and

(ii) the proceeding is started or maintained against the defendant for an improper purpose.

(2) The court may order the plaintiff to pay to the Territory a financial penalty of not more than the amount (if any) prescribed by regulation.

(3) The financial penalty must be worked out in accordance with a regulation.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction (see Legislation Act, s 177 and *Court Procedures Act 2006*, s 20, def ***judgment*** and s 31).

(4) The court may make an order under subsection (2)—

(a) on application by the Territory; or

(b) on its own initiative.

Note If a proceeding is for an improper purpose, the court's power to award costs of the proceeding includes power to order that the costs be assessed on an indemnity basis (see *Court Procedures Rules 2006*, r 1752).

7
Clause 10
Page 6, line 9—

omit clause 10, substitute

10 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

11 Review of Act

(1) The Minister must review the operation of this Act as soon as practicable after 1 January 2012.

(2) The Minister must present a report of the review to the Legislative Assembly within 3 months after the day the review is started.

(3) This section expires on 1 January 2014.

Schedule 2

Tobacco Amendment Bill 2008

Amendments moved by the Minister for Health

1
Clause 2
Page 2, line 3—

omit clause 2, substitute

2 Commencement

(1) The following provisions commence on the day after this Act's notification day:

- sections 16 to 18
- section 22.

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

(2) The remaining provisions commence on a day fixed by the Minister by written notice.

Note 1 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 2 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

2
Clause 22
Proposed new section 100 (1) (b)
Page 17, line 8—

omit

31 August 2007

substitute

31 August 2008

3
Clause 22
Proposed new section 100 (2)
Page 17, line 13—

omit

31 August 2008

substitute

30 November 2008

4
Clause 22
Proposed new section 100 (5)
Page 17, line 19—

omit

31 August 2008

substitute

30 November 2008

5
Proposed new clause 22A
Page 17, line 19—

insert

22A New section 101

insert

101 Transitional—application of new point of sale display provisions to tobacconists

(1) The new point of sale display provisions do not apply until 1 January 2010 in relation to a person (a ***standard tobacconist***) who—

(a) holds a retail tobacconist's licence or wholesale tobacco merchant's licence in relation to premises; and

(b) carries on business as a retail tobacconist or wholesale tobacconist at the premises; and

(c) is not a specialist tobacconist.

(2) The new point of sale display provisions do not apply until 1 January 2011 in relation to a person (a ***specialist tobacconist***) who—

(a) holds a retail tobacconist's licence in relation to premises that are not part of premises used by the person for other retail purposes; and

(b) carries on business at the premises the main purpose of which is selling smoking products by retail.

(3) Until the new point of sale display provisions apply in relation to a standard tobacconist or specialist tobacconist, the old point of sale display provisions continue to apply in relation to the tobacconist.

(4) In this section:

new point of sale display provisions means the following provisions of this Act, as in force after this section commences:

(a) part 2 (Points of sale), other than section 8 (Numbers of points of sale);

(b) section 20 (Display of smoking products);

(c) section 23 (Prohibited smoking advertising);

(d) section 24 (Removal of smoking advertisements);

(e) section 56 (Disciplinary action—general).

old point of sale display provisions means the *Tobacco Regulation 1991* and the following provisions of this Act, as in force immediately before this section commences:

(a) part 2 (Point of sale displays);

(b) section 20 (Display of smoking products at points of sale);

(c) section 22 (Health warnings at point of sale displays);

(d) section 23 (Prohibited smoking advertising);

(e) section 24 (Removal of smoking advertisements);

(f) section 56 (Disciplinary action—general).

retail tobacconist's licence—see section 43.

wholesale tobacco merchant's licence—see section 43.

(5) This section expires on 1 January 2011.