



**DEBATES**

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

**HANSARD**

18 February 2003

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

## **Petition**

*The following petition was lodged for presentation, by **Mr Wood**, from 21 residents:*

### **Statutory leave requirements**

To the Speaker and Members of the Legislative Assembly for the Australian Capital Territory

The petition of certain residents of the Australian Capital Territory draws to the attention of the Assembly:

The inferior entitlements of workers in the Australian Capital Territory to long service leave compared with the rights of New South Wales workers. Inferior entitlements include:

- the loss of public holidays falling in long service leave periods, and
- access to pro-rata long service leave after seven years rather than five years service; and

Your petitioners therefore request the Assembly to call on the ACT Government to amend legislation to improve the statutory leave entitlements of workers in the Australian Capital Territory and remove any inequity between the rights of ACT and New South Wales workers to long service leave.

*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.*

### **Announcement of member to fill casual vacancy**

**MR SPEAKER:** The Clerk has been notified by the Electoral Commissioner that, pursuant to sections 189 and 194 of the Electoral Act 1992, Mrs Jacqui Burke has been declared elected to the Legislative Assembly for the Australian Capital Territory to fill the vacancy created by the resignation of Mr Gary Humphries. I present the following paper:

Legislative Assembly for the ACT—Casual vacancy—Declaration of the polls—Minute from the Electoral Commissioner, ACT Electoral Commission to the Clerk, Legislative Assembly for the ACT, dated 10 February 2003.

## **Oath or affirmation of allegiance**

**MR SPEAKER:** In accordance with the provisions of the Oaths and Affirmations Act 1984 which requires the oath or affirmation of a new member to be made before the Chief Justice of the Supreme Court of the Australian Capital Territory or a judge of that court authorised by the Chief Justice, His Honour Chief Justice Higgins, Chief Justice of the Supreme Court of the Australian Capital Territory, will attend the chamber.

*The Chief Justice attending accordingly—*

## **Oath of allegiance by member**

*Mrs Jacqui Burke was introduced and made and subscribed the oath of allegiance required by law.*

*The Chief Justice having retired—*

**MR SPEAKER:** Mrs Burke, on behalf of members, I welcome you.

## **Senate vacancy**

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.37): Mr Speaker, I seek leave to move a motion to adopt procedures for the choice of a person to hold the place of a senator for the Australian Capital Territory.

Leave granted.

**MR STANHOPE:** I move:

That:

- (1) in accordance with the provisions of section 44 of the Commonwealth Electoral Act 1918, should the Chief Minister advise the Assembly of the receipt of a notification from the President of the Senate that the place of a senator for the Australian Capital Territory has become vacant before the expiration of his or her term of service, the Chief Minister shall present to the Assembly the notification from the President of the Senate or a copy of the notification and, notwithstanding the provisions of standing order 123, shall, unless the Assembly otherwise orders, move either:
  - (a) That consideration of the choice of a person to hold the vacant place of a senator for the Australian Capital Territory shall proceed forthwith; or
  - (b) That consideration of the choice of a person to hold the vacant place of a senator for the Australian Capital Territory shall be set down for a future day; and

should consideration be set down for a future day, notwithstanding the provisions of standing order 77, it shall have precedence of all Executive, private members' and Assembly business on that day;

- (2) the choice of a person to hold the place of a senator shall be conducted as follows:
- (a) a Member shall propose the name of a person and move that such person be chosen to hold the place of the senator whose place has become vacant until the expiration of his or her term;
  - (b) the Member proposing the name of a person must, notwithstanding the provisions of standing order 211, present a statutory declaration from the person proposed declaring that the person is eligible to be chosen as a senator and that, where relevant, he or she is a member of the same party as the senator whose place has become vacant as required by section 44(3) of the Commonwealth Electoral Act 1918 unless there is no member of that party available.
  - (c) the member proposing the name of a person [the candidate] to move that:  
  
that [the candidate], a person who is eligible to be a senator and is of the same party of [the senator] whose place has become vacant, be chosen to fill the casual vacancy for senator for the Australian Capital Territory until the expiration of the term of the outgoing senator and the question shall be proposed forthwith.
  - (d) this resolution have effect from the commencement of the Fifth Assembly and continue in force unless and until amended or repealed by this or a subsequent Assembly or the relevant provisions of the legislation are amended by an Assembly.

Although the motion is quite lengthy, it is self-explanatory. The motion sets out the provisions that should apply in relation to the filling of a vacancy for the Senate, as established by precedent, and I commend it to the Assembly.

Question resolved in the affirmative.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.39): In accordance with the provisions of section 44 of the Commonwealth Electoral Act 1918, I advise the Assembly that I have received a notification from the President of the Senate that the place of the Honourable Margaret Reid, a senator for the Australian Capital Territory, has become vacant before the expiration of her term of service. I present the following paper:

Notification of a vacancy in the Senate – Letter from the President of the Senate to the Chief Minister of the Australian Capital Territory, dated 14 February 2003.

I move:

That consideration of the choice of a person to hold the vacant place of a senator for the Australian Capital Territory shall proceed forthwith

Question resolved in the affirmative.

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**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.40): Mr Speaker, I propose that Gary Humphries be chosen to fill the casual vacancy for a senator for the Australian Capital Territory. I present the following papers:

Casual vacancy in the Senate –

A statutory declaration made by Gary John Joseph Humphries stating that he is eligible to be chosen as a senator and that he is a member of the same party of the senator whose place has become vacant as required by section 44 (3) of the *Commonwealth Electoral Act 1918*, dated 17 February 2003.

Letter from the Leader of the Opposition advising the Chief Minister of the pre-selection on 23 December 2002 of Mr Gary Humphries by the Liberal Party of Australia (ACT Division) to fill the casual vacancy in the Senate caused by the resignation of Senator Margaret Reid, dated 15 February 2003

I move:

That Gary Humphries, a person who is eligible to be a senator and is of the same party of the Honourable Margaret Reid whose place has become vacant, be chosen to fill the casual vacancy for senator for the Australian Capital Territory until the expiration of the term of the outgoing senator.

Question resolved in the affirmative.

## **Standing committees**

### **Membership**

Motion (by **Mr Wood**) agreed to:

That:

Mr Stefaniak be discharged from attending the Standing Committee on Administration and Procedure as a representative of the Liberal Party and in his place Mrs Dunne be appointed as a member of the Committee; and

Ms Tucker be discharged from attending the Standing Committee on Administration and Procedure; and

Mr Smyth (Leader of the Opposition) be discharged from attending the Standing Committee on Health as a representative of the Liberal Party and in his place Mrs Burke be appointed as a member of the Committee.

## **Condolence motions Bushfire victims**

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) I move:

That the Assembly expresses its deep regret at the deaths of Mrs Alison Tener, Mr Peter Brooke, Mr Doug Fraser and another person whose name has not been released, who died in the Canberra bushfires on 18 January 2003 and tenders its deepest sympathy to their families and friends in their bereavement.

The Canberra bushfires struck our community in a savage and horribly unexpected way. There are very few of us who were not affected in some way, but none of us has suffered more than the families and friends of the four Canberrans who were killed.

Mr Speaker, 474 homes were destroyed in the fires, but homes can be rebuilt. About 99 per cent of Tidbinbilla Nature Reserve and Namadji National Park was decimated, but the bush will regrow. Yet nothing can replace the four Canberrans who died.

At the time of her death, Mrs Alison Tener was 37 years old. A devoted mother of two teenage sons, Mrs Tener has been praised by neighbours and family members for the pivotal role she had in her family and with her close friends. She dedicated herself generously, without question, to those who needed her. That she should be remembered so lovingly is a tribute to the caring qualities she lavished on those around her, welcoming people and generously giving to her community. Mrs Tener was an example of how one person can make a difference in a quiet yet intensely meaningful way, and I wish Mr Tener and her sons all the best for the future.

Peter Brooke also died in the bushfires, at his son's home in Duffy. Neighbours from a nearby home, which was unscathed, have reflected on the hand of fate that struck him and left them safe. His neighbours, like all Canberrans, feel keenly for their neighbours, and pay their respects to a man they did not know particularly well.

Doug Fraser's last months were probably amongst the happiest of his life. In addition to indulging in one of his passions, flying, he had the joy of seeing his family grow as more grandchildren were born and on the way. Mr Fraser impressed many with his love of nature and left a lasting memory as a person deeply committed to the bush and its inhabitants. He was known far and wide throughout the Weston Creek community, a community of which he was a part for many years.

The family of the fourth victim of the fires has asked that we do not release her name. I know, however, that she will be greatly missed by her family and friends.

I hope it can be of some comfort to the friends and families of the four Canberrans who died to know that the entire Canberra community is grieving with them. Canberra is a small and close-knit community and every loss is felt keenly. I would like the Assembly to join me in recording this motion which states and acknowledges something that we all know, that the death of any of its citizens is the greatest loss that any community can suffer.



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**MR SMYTH** (Leader of the Opposition): Mr Speaker, the opposition joins the debate on this condolence motion with some sadness because not since 26 January 1971 has Canberra faced such a tragedy. On that day seven people died in the flash flooding that particularly hit around Curtin. As a boy growing up in Curtin I have vivid memories of the volume of water that fell, and then later that day hearing that seven people had died, indeed five from one family.

As a volunteer bushfire fighter the first thing that we are taught is that our job is to protect life. Until this tragedy, a life had not been lost in Canberra to bushfires. I think the magnitude of what has happened is magnified by the fact that this the first time that lives have been lost.

On behalf of the opposition, I would like to offer to the families and the friends of the four Canberrans who now cannot be with us because of the tragedy of 18 January our sympathies and our thoughts. As I think the Chief Minister has so rightly said, the greatest impact of any of the outcomes of the bushfires on any Canberrans must be the loss of individuals. Those people will not come back; we will not see those four again. To lose a daughter or a son, to lose a husband or a wife or a partner, to lose a mother or a father, leaves an indelible hole in everyone's life—a spot that will be cemented for all time in the memories of the families and friends, a spot that will be cemented for all time in the memory of Canberrans as the most tragic outcome of that most tragic day.

On behalf of the Liberal Party here in this place, the opposition of the ACT Assembly, I extend our sympathies and best wishes to the families and friends of those who died, in the hope that over time as the pain heals they may constantly remember the good things, that they may constantly honour those that they have lost, and that they may understand that their memories will be with them for all time, and with us as a community.

**MS TUCKER**: On behalf of the ACT Greens I also extend my sympathy to those who lost loved ones in the January fires. I think most people in Canberra are still feeling shocked about the traumatic events of January, and the loss of life is particularly shocking.

It is true that in Canberra, in fact in Australia, we are comparatively sheltered from such drama. The experience of the fires has shown that as a community we can care about each other. It has shown that under duress many people have been courageous and noble. And it is showing that we can feel the pain of those people who have suffered the greatest loss, that of a loved one's life.

Ironically, as a result of this tragedy the newspapers, television and radio are full of good news stories as well as the bad, about overcoming hardship and suffering, about the kindness of the people. I think it is worth reflecting on the impact of this. I was told a story last week about a child not directly affected by the fires who announced to his mother that this year he was going to be kind to people in the same way as he had seen on television and heard on radio people being kind during and after the fires.

Out of the darkest moments can come some light. I do not know whether this is of any comfort to those who are grieving, but I think it is something to acknowledge. My very deepest sympathy is with those who are grieving, and I pray they might find peace.

**MS DUNDAS** (10.49): On behalf of the ACT Democrats, I rise to offer our condolences and sympathy for those who suffered in this disaster that has struck Canberra to its core. The firestorm in January took the lives of four people in our community, and that means that there are four families grieving, many more friends and colleagues mourning the losses, and a community touched by what has happened in our town.

These lives have been cut short, and we are touched by their stories—of a gardener, of a spiritual woman, of a footballer, of members of small communities who are no longer with us. While in times like these we often feel powerless and words will never bring members of our community back, we have all been touched by their stories.

Today we share grief and hopefully we can move forward, recognising the great things that they have done and the great things we need to do in the future.

**MRS CROSS:** Mr Speaker, today marks the fourth week after the horror of bushfires in our fair city. That Saturday afternoon left this city a different place. As we make our way through our daily routine, no matter where we go the scorched and blackened land that was once so green and lush remains a constant reminder of that terrible day. And so it is for the relatives and friends of the four who perished trying to save their homes. We can only imagine the pain, the anguish and the grief that they must be feeling.

The four who died were fellow Canberrans. Most of us never met them but they were our neighbours who lived in and loved this city, as we all do. The day before the fires they went to work, they visited friends, they talked with their families and they worried about how they were going to pay the next bill. They were looking forward to the weekend. They were everyday people who were going about their everyday business. We can never know what their lives held but we can be sure that their passing is something that all Canberrans will mourn as we remember this years bushfires. May they rest in peace. I support this motion of condolence moved by the Chief Minister.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): I would like to join in expressing sympathies for the families of the four people who lost their lives and who, as others have already said, were part of a change to Canberra that we will feel for many years.

I have lived in Weston Creek for the best part of 30 years and I have a sense of that change, particularly across Weston Creek. I knew one of the victims, Doug Fraser, very well. Doug was a long-term contributor to the Weston Creek Football Club, the Wildcats. He was somebody who stuck with the club through some generations of change. He continued to work for the club and continued to carry on the spirit, tradition and love of the club and of the players and the people associated with it.

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I was a former president of that club. I cannot count the number of years that I had known Doug but he was with the club almost from its inception. I could not make his funeral because I was unavoidably out of town, but I have been told that there were plenty of good Dougie stories at the funeral. Dougie certainly was a character. He had a very dry wit and he always had a response. He was quite good with repartee and in many ways a very hard man to put down. He was a guy that didn't mind an ale on a hot day, as they say. But most of all, as his eulogies attest, he was a family man—he was a family man within his own close family and he was a family man in terms of the wider community within which he worked.

I would like to express condolences to Dougie's family in particular and condolences to all of the families that were so shockingly affected in one day.

**MRS BURKE:** I have obviously been following the tragic events of the last few weeks as an outsider, and now as the newest member in this place as a member for Molonglo I would like to add to the comments of my colleagues.

I express my sincere condolences to the families of the victims. May God bless those who died and peace be with them at this time. These people died in the community where they lived, worked and played. I did not know any of them but I know what it is to lose someone. It is a great sadness to us all that these people lost their lives in such a tragic way.

I will conclude my remarks by saying that their memories will live on. They will be missed by their families and they will be missed by the immediate community that they lived in. I again say that my thoughts are with those families who are suffering at this time.

*Question resolved in the affirmative, members standing in their places.*

## **Condolence motion Mrs Joan Taggart OAM**

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment): I move:

That this Assembly expresses its deep regret at the death of Joan Taggart and extends its profound sympathy to her family, friends and colleagues.

Like many Canberrans I was deeply saddened to hear of the death of Joan Taggart. Joan was a truly remarkable woman, and I know she will be sorely missed not only by her friends and family but by the Canberra community as a whole.

Born in Sydney in 1917, Joan moved to Canberra in 1964, the year Lake Burley Griffin was filled. From that year on, I think it is fair to say that Joan played an unparalleled role in Canberra's development as well as our community and political affairs. It was for her services to the community that she was awarded the Order of Australia in 1984.

Joan had a long and productive involvement in politics, which was not only an interest for her but a passion. She was the first woman elected as a party officer of the national executive of the Australian Labor Party when she was elected junior vice-president in 1979. Joan was a senior vice-president from 1982 to 1983, a member of the ACT House of Assembly from 1982 to 1986—in the days before self-government—and president of the ACT branch of the Australian Labor Party.

She was always deeply concerned about community issues and was involved in a wide range of community organisations. By way as example, she served as the inaugural president of the Canberra Labor Club. She was a senior member of the Australia Day Committee and a member of the ABC Advisory Committee for the ACT, the National Press Club, the Canberra Historical Society and the Catholic Club of Sydney. She was secretary of the Zonta Club of Canberra and national secretary of the Business and Professional Women's Association, of which she was a member for more than 40 years. That is to name just a few of the areas in which she was involved. But a list like that, however impressive, does not reflect the real impact that Joan Taggart had.

Joan had a very strong personal commitment to the Australian Labor Party and all of its causes. She was never afraid to say what she thought and she was never intimidated by others. As my federal colleague and member for Fraser, Bob McMullan, has said, Joan Taggart was a tremendously strong-willed and independent member of the national executive. She took on the biggest names in the country when she thought they were wrong; she stood up for things she thought were right.

But perhaps more than anything else, Joan's legacy has been the increased participation of women in politics. Although much more work needs to be done, we have come a long way since she was elected junior vice-president of the national executive of the ALP in 1979. Joan was once quoted as saying, "I believe in equal opportunity for women in all facets of life."

Through her work in the ALP, during which time she served as convenor of the Status of Women Committee, a member of the ACT House of Assembly and a member of community organisations, Joan broke new ground for women. She demonstrated through her commitment and ability that women had an important contribution to make. I know a lot of women have taken inspiration from Joan and followed her example, and indeed so have many men.

I knew Joan Taggart well during her periods of activism in the Labor Party. I knew her for perhaps up to two decades, as did many of my colleagues. She was a friend and an example to us all. I ask all members to join me in expressing our sympathy to the Taggart family. Joan will be sorely missed.

**MR CORNWELL:** I wish to speak on behalf of the Liberal opposition in support of the Chief Minister's condolence motion. I am the only person here in this chamber who served with Joan Taggart in the old advisory ACT House of Assembly from 1982 to 1986. I also served with Joan from 1982 to 1987 on the ACT Schools Authority, which is yet another one of the numerous organisations of which she was a member and a valued contributor. I will have a little more to say about the Schools Authority.

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One of the problems, unfortunately, of enjoying overseas travel as one grows older is that you frequently find when you come back that somebody near and dear to you—a friend, an acquaintance, a colleague—has died in your absence. This is happening a little too regularly as far as I am personally concerned. As a result, I missed Joan Taggart's funeral. I would have been present at the funeral had I been here; I want to make that quite clear. I would also like to thank my colleague, Harold Hird, for attending the funeral.

Joan shared this joy of overseas travel. She came to it somewhat late in life, as I understand. I seem to recall—I may be wrong—that the first visit overseas she made was to Madrid. I think it was a Labor Party sponsored trip perhaps to an international socialist conference or something of that nature. Whatever it was, overseas travel was—and I have also noted this—infectious. She certainly enjoyed travel and at one stage I had the opportunity to assist with her travel arrangements.

I mentioned earlier that she and I were members of the ACT Schools Authority and that we served on that body from 1982 to 1987. The ACT House of Assembly was abolished in 1986 and purely out of curiosity I wrote to the federal minister of the day inquiring whether members of the ACT House of Assembly had been formally and legally removed from the Schools Authority. Somewhat to my surprise I received a letter back saying it was not the case that that was taking place immediately, and that a cheque for 12 months additional service on the Schools Authority was being sent to me and other members. I was surprised. Joan, I think it is fair to say, was delighted. She thanked me very much because she said this would assist in enabling her to undertake further overseas travel.

ACT ALP members, of course, may have memories of her in respect of perhaps turbulent activities of the party. But I remember Joan as a person who certainly held beliefs—but not, as far as I was concerned, in a belligerent manner. Nor, may I say, after leaving public life, did she offer others of us still in public life gratuitous advice about what we should be doing. I appreciated that because I always enjoyed a chat with her.

I would like to extend condolences on behalf of the opposition, and certainly on behalf of myself. If I may sum up my personal feelings for Joan in an epitaph which I am sure she would appreciate for its brevity, she was a friend.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): I knew Joan Taggart. Let me say that not often but sometimes in life you meet someone who has genuine presence; someone who you know just by meeting them is of importance; someone like Joan with clarity of thought, with intellect, and with totally disarming frankness. You very seldom meet those sorts of people but Joan Taggart was one of them. You can tell this from the eulogies that she has received since her death. Many important people who have achieved high rank have spoken of Joan Taggart with absolutely genuine reverence.

I have to agree with what Jon Stanhope said about the leadership that Joan Taggart showed, particularly in regard to equality for women. Joan did not embrace the title of a feminist. She was more interested in equality and she achieved what she achieved by leadership; she achieved a whole lot and whether she likes it or not she was one of the strongest feminists I have ever met.

Let me say to Greg Cornwell, who unfortunately did miss the funeral, that it was one of those funerals that was a celebration of a life well spent. Several of her family members spoke, several of the younger generation of the family spoke, and the admiration they held for Joan, or Auntie Joan, was palpable. So I think we can also celebrate a life well spent, a life of tremendous contribution, at the same time as offering our condolences to those who now miss her.

**MS DUNDAS:** Mr Speaker, I did not have the pleasure of meeting Joan Taggart but I rise to speak to this condolence motion in recognition of her role as a trail-blazing woman in politics, which has always been, and still remains, a male-dominated profession.

I have no doubt that Joan's example inspired many women in the ALP to run for senior positions in their party, after seeing her rise to a position on the federal executive and serve so capably. Women have always been active in political struggles but too often they have remained in the background. As recently as 1972 only 2 per cent of federal parliamentarians were women, and I suspect that the proportion of women holding executive positions in political parties was even lower. It is only in the last 25 years that women have really been seen in our parliaments and in the executive bodies of Australian political parties. Joan was one of those groundbreaking women who pushed her way into a male-dominated area.

The earlier waves of feminists had been forced to create their own political organisations to raise awareness of women's concerns such as suffrage, married women's rights to own property and adequate female wages. Joan's generation of courageous women finally breached the wall that had kept women out of the most powerful political organisations in Australia.

As a result of the involvement of women like Joan in Australia's political parties, I am confident that Australia now has a stronger public education system and a stronger network of publicly funded social services. I think we should all agree that Australia is a better place for having these things. I salute Joan for her contribution to building a nation focused on equality.

**MR STEFANIAK:** I, too, knew Joan Taggart and, unfortunately, like Mr Cornwell—I was not overseas but I think I was out of town at the time—I was unable to get to her funeral.

I first met Joan in the 1980s and I was immediately impressed by her. I had a lot to do with her in the late 80s and early 90s, especially with the Australia Day Committee, on which she held a senior position. She was a very hard and, indeed, a tireless worker in making Australia Day in the national capital the wonderful success it has been over many years.

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Joan was always a great person to bump into, and I bumped into her occasionally. I remember in the early 90s meeting her at the Press Club for a drink and a chat. She certainly did not tell you exactly what you should be doing in a place like the Assembly, having been obviously a formidable politician herself in the old house, but she was always very helpful and very pleasant. I always found her to be immensely straightforward, down to earth and a very practical person. She was a very friendly person, a very outgoing person, and I found her a very easy person to talk to.

It is appropriate that this condolence motion should be moved because Joan Taggart has brought a lot to not only our community but to politics generally throughout Australia. She was responsible for pioneering groundbreaking measures in her own party. She made an immense contribution to Canberra. She was a very keen Canberran who contributed greatly to her society and I will certainly miss her.

*Question resolved in the affirmative, members standing in their places.*

### **Planning and Environment—Standing Committee Report No 12**

**MRS DUNNE** (11.11): Pursuant to order, I present report No 12 of the Standing Committee on Planning and Environment entitled *Inquiry into the Urban Service Portfolio 2001-2002 Annual and Financial Reports*, together with extracts from the relevant minutes of proceedings. I seek leave to move a motion authorising the report for publication.

Leave granted.

**MRS DUNNE:** I move:

That the report be authorised for publication.

Question resolved in the affirmative.

**MRS DUNNE:** I move:

That the report be noted.

Mr Speaker, the 12th report of the Planning and Environment Committee relates to the annual report of the Urban Services portfolio and includes the Department of Urban Services, the ACTION Authority, the Kingston Foreshore Development Authority, the Commissioner for the Environment, the Cultural Facilities Corporation, the Gungahlin Development Authority and the Trustees of the Canberra Public Cemeteries.

As the 2001/02 financial year was a year in which we saw a change of government, the annual reports for that year were predicated under directions and priorities set by a Liberal government, while the outcomes had to take into account the priorities of the incoming Labor government. It was clear to members of the committee that it was difficult to marry what was set out at the beginning with what was achieved at the end, and as a result the recommendations provided by the standing committee reflect this. The committee spent most of its time focused on the structure of the report rather than on a comprehensive analysis of the effectiveness of policies or programs that had been implemented during that financial year.

The committee, as I said, was more concerned with the quality of the reporting. We looked at issues such as the annual and financial reporting regime, which we see is designed to encourage rigorous and analytical business performance and provide a reporting framework for baseline performance against key areas such as equity, diversity or regulatory services.

The reporting regime is described and defined in the Chief Minister's annual report directions of May 2002 and the Financial Management Act. This is aimed at encouraging rigorous statutory reporting, but the committee has observed that instead it provides a highly prescribed and contrived reporting that makes it difficult for the reader to obtain a well-analysed picture of the strategic achievements, including major political, economic, business or human resources challenges that confront senior management. It is difficult to find how well the challenges have been handled and what impacts such matters have on the overall health of the organisation, its business and any changes being proposed for the future.

Compliance with the Chief Minister's directions is often simply that. Compliance does not necessarily give adequate indications of accountability and performance. Extensive information of things done dominates the report, and you often need very close and detailed examination to expose real business performance or issues that are a challenge to the organisation.

It could be said that the analysis of the reports of the Urban Services Department was nothing more than a frustrating search through several different places to find co-related information and data. It is the view of the Planning and Environment Committee that the way in which we deal with annual reports should be reviewed by this Assembly, and we have recommendations to that end. We feel that this is a process that should be more rigorous and should be done by overarching committees, rather than committees such as the Planning and Environment Committee.

I would like to highlight one of the problems we confronted. We were asked to deal with the reports of the Urban Services Department which, because of the change to the administrative arrangements, includes housing. Yet officially no member of the Community Services and Social Equity Committee was asked to look at housing, which is now an area that falls more rightly within that committee's purview.



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We had the opportunity to invite members of the committee to attend so that they could be across these issues, but that would have been a fairly cumbersome way of dealing with this matter. This is why we have recommendations in the report that we should be looking at a better, more streamlined approach that gives an overarching look at annual reports, and that this should be done in consultation and perhaps in step with the budget estimates process. I think the process that has been taken in this Assembly in relation to annual reports is less than satisfactory.

The committee highlights the problem of having multi-minister portfolios. Three ministers—the Minister for Urban Services and Minister for the Arts and Heritage, Mr Wood; the Minister for Planning, Mr Corbell; and the Minister for the Environment, the Chief Minister, Mr Stanhope—all have responsibility for the good governance and accountability of some element of the Urban Services portfolio. We are concerned that this has potential for problems with accountability and overlapping decisions on policies.

We are concerned that this situation is endemic across the ACT government, and it calls for rigorous and highly functional management and leadership styles to ensure sound management and communication and decision-making frameworks to deal with matters that overlap, and to ensure that there are close-working linkages between elements of the portfolio.

There is the difficulty of potential confusion from time to time as a result of the administrative orders and the multiple ministries. The chief executive officers have multiple reporting lines and responsibilities. We know that this is concomitant with us being a small jurisdiction with now five ministers and a small number of departments, but it is something that all members in this place need to be aware of.

One of the issues that is of particular concern to the committee is the issue of consultants and contractors. In the Urban Services portfolio nearly \$80 million worth of consultancies are put out to purchase and deliver services, and it is not really straightforward and identifiable from the report what those consultancies do. I think the members of the committee took a very dim view of, say, the contracting out of all the garbage and recycling services as a consultancy service. This is clearly not a consultancy service and should not be listed as such. The same applies to the maintenance contract for ACT housing. It is clearly not consultancy within the classical definition of what consultancies mean, and we have made recommendations that the whole issue of consultants and contractors be reviewed, not just for this portfolio but across portfolios.

The committee was also concerned about presentational issues. Some of the reports are very glossy and look more like publicity brochures than actual annual reports. At the same time, the presentation of the main Urban Services Department report was very difficult to deal with. You had to physically break the binding before you could read the thing in a coherent way.

There are many elements in the report which I hope that the agencies in the Urban Services portfolio will learn from, and I hope that in the future we will see a better and more accountable set of annual reports.

I would like to thank the members of my committee who undertook this inquiry at a time of change and upheaval for the committee, with new members coming on and others departing and at a time when we had a new secretariat. I would like to thank the secretary of the committee and the committee office for their generous contribution of time and effort. I commend the report to the Assembly.

**MR HARGREAVES** (11.19): Mr Speaker, I will not be too long. I just want to underscore something that the chair has drawn attention to in the report, and that is the format. It seems to me from my experience as a former public servant and a member of this place that often annual reports and budget papers are excellent ideas and bureaucratic snow jobs, and that is in fact what we often suffer in this place. Before I became a member of this place I used to pride myself on being able to produce bureaucratic snow jobs.

I think what is needed is a realisation on the part of those people preparing these reports that budget papers and annual reports are in fact part of the continuum of information, the continuum of flow of information to the Assembly and to the community, about what the government of the day has achieved or what it intends or is attempting to achieve by way of its programs.

What we are often seeing in fact in annual reports particularly, and certainly in some budget papers, is nothing more than a litany of workload statistics. Quite frankly, I don't care about workload statistics. I am more interested in effectiveness indicators. I want to know whether the programs are actually achieving what they set out to do.

I would point to the need for those people preparing annual reports to be aware of evaluation techniques. Evaluation techniques talk about efficiency indicators and effectiveness indicators. Efficiency indicators can be workload stats. For example, Mr Speaker, you can have people going through a doctor's surgery at a rate of knots, 45 to the hour, but if they all die the indication is that the doctor is not all that good. So efficiency indicators are not the be all and end all. What we need to do is have effectiveness indicators, and more often than not those are qualitative, not quantitative, indicators.

I suggest very seriously that the annual reports and the budget papers become part of that continuum of information flow on the effectiveness of government programs. We should be able to see as a community the performance of governments of all colours and how they are actually affecting the life of this town.

Can I also congratulate the chair and other members of the committee for the way in which these inquiries are conducted. I think it is a great process. I was really pleased as a new member of the committee to see that politics did not play a part—we actually considered things as four individuals.

I would also like to express my appreciation particularly to Linda Atkinson, the committee secretary, who has produced her first report to this Assembly. She has produced reports elsewhere but this is her first one for this committee. I know that she is probably listening to this debate and that she is as chuffed as anything to have the report finally done and on the table. I extend to her the congratulations of all four of us.

**MS DUNDAS** (11.23): As has been mentioned, this report of the Planning and Environment Committee is a process focused report. Annual reports do play an important part in accountability, and the Planning and Environment Committee in its report touches on a few issues encountered in trying to use the annual reports in line with a number of the other reports that are produced throughout the year as a tool to actually get at the accountability of this government.

Recommendation 2 specifically discusses the need for further debate about how we run our annual reports process in this Assembly in line with both the estimates process and other budgetary processes. I am very keen to have this debate. While I do not necessarily agree with the model that is put forward of one committee looking at all of these issues, be it a standing or select committee, we do need the focus of the current committees and their policy expertise to explore to a greater extent a number of issues in depth. I am keen to see the process made better.

We have encountered a number of problems this year in particular in trying to use the annual reports as an information tool and as part of the accountability process. The report and Mrs Dunne have already touched on this. While the report does raise a number of these issues—and I hope that we as an Assembly can address these concerns—we were able, through the reporting process, to look at a number of policy issues, and I would just like to touch on a few that I think are important.

One, of course, is the neighbourhood planning and master planning process that has been going on under the term of the Labor government. I was disappointed to hear yet again from the Minister for Planning that the time frame for taking neighbourhood planning out of the inner-north and inner-south is still something that we will see soon. We had this problem during the Estimates process, and we still have this problem six months later, that information about the future of neighbourhood planning and the involvement of the entire city of Canberra is not being included in the development of the neighbourhood planning process.

The committee was also able to have an interesting discussion about bushfire fuel management after the Christmas fires of 2001, and the committee was quite clear in its investigations that we were only looking up to 30 June 2002, as that was the period the annual reports covered. But I think the information that was gleaned will be important into the future.

Other issues that we touched on included the ACTION Authority's enterprise bargaining arrangements and their need to find efficiencies within their own funding regime to pay for increases to their staff. It will be interesting to see if any more efficiencies are viable within ACTION to meet pay rise demands.

Of course, we also looked at housing as part of the Department of Urban Services, even though we are the Planning and Environment Committee. Again it was disappointing to hear from ministers the answer "soon" to questions that have been floating around for six months, 12 months, about the future of fire safety arrangements and the future of some of the big flat complexes.

The issues around these policy concerns and trying to access information were, of course, made harder by the issues that we touch on in this planning and environment report—the changes in administrative arrangements, the number of ministers. The lack of follow-through across a whole range of reports makes it harder to find information that the Assembly needs to keep the government accountable.

I hope that this report will spark debate in this place about how we can make these processes better, and that the information we need can be more easily accessed so that we do know that the government is doing the job that it has been elected to do, and that is to provide good governance to the people of the ACT.

**MRS CROSS** (11.27): I am not going to repeat what has been expressed by my committee colleagues because I agree with them and I would like to support those views. I think coming from a business background my main concern as a member of this committee during the inquiries that were held was that things like key performance indicators, measures that are in place in the business environment and the corporate sector locally and particularly in Australia, do not seem to be evident in the public service.

As was mentioned by my colleague Mr Hargreaves, I think it is very important when we are conducting inquiries like this that departments look at perhaps introducing, if not enhancing, efficiency indicators. We are here for a term of three years and during that time inquiries are referred to committees, recommendations are made by committees and governments take them up, do not take them up or allow them to drop by the wayside, and the process starts again. To avoid repetition and wasting time it is important that we perhaps consider seriously introducing key performance indicators in every government department so that we can assess output, efficiency and the quality of productivity.

I want to express my thanks to the committee secretary, Ms Linda Atkinson, who brings with her to this place very extensive federal parliamentary experience. We are very fortunate to have her here. I am very grateful for her help to me as a new member of this committee. I am also very grateful to Ms Moutia for her support.

Question resolved in the affirmative.

## **Education—Standing Committee Report No 2**

**MS MacDONALD** (11.30): Pursuant to order, I present Report No 2 of the Standing Committee on Education entitled *Inquiry into 2001-2002 Annual and Financial Reports*, together with extracts of the relevant minutes of proceedings. I seek leave to move a motion authorising the report for publication.

Leave granted.

**MS MacDONALD**: I move:

That the report be authorised for publication.

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Question resolved in the affirmative.

**MS MacDONALD:** I move:

That the report be noted.

There were seven recommendations from this brief report. The committee looked into the Department of Education, Youth and Family Services annual report, which was done prior to the changes in the administrative arrangements, when areas were divided.

As Mrs Dunne mentioned, I believe there is an administrative issue with the committee looking into the youth and family services areas, which is not part of the committee's bailiwick. One of the issues raised in the report was concern about insurance of computers in schools. As a result, we have made a recommendation on that. We have said that, whilst we approve of some of the flexibility which comes out of school-based management being provided to schools, there is a need for guidance to be provided by the department on the insuring of such valuable assets as the computers which schools have added to their facilities.

Another issue the committee looked at was the exposure draft of the education bill. At the hearing, the then minister for education mentioned that there had been some changes in the draft education bill which would be presented to the Assembly. The committee felt that, as there were numerous concerns within the community about what is in the education bill, there should be enough time, once the exposure draft is presented to the Assembly, for the community to provide feedback on their thoughts and opinions on the content in the revised draft of the education bill.

Mr Speaker, one final matter about which the committee had some concern was the listing of reviews and reports. I am aware of reports done in certain areas which do not seem to be mentioned, or are very difficult to find within the department's annual report. I am sure it will come up in discussion about the Health Committee's review of annual reports that this is not limited to the education area. As a result of that, we have recommended that all reviews and reports conducted by a department be listed within the body of the report in the separate areas and then in a separate appendix at the end.

I would like to thank the members of the committee for their time and their work. I would also like to thank the secretary of the committee, Mr David Skinner, for his time and work on the report.

Question resolved in the affirmative.

### **Health—Standing Committee Report No 3**

**MS TUCKER** (11.35): Pursuant to order, I present Report No 3 of the Standing Committee on Health entitled *Inquiry into 2001-2002 Annual and Financial Reports*, together with extracts of the relevant minutes of proceedings. I seek leave to move a motion authorising the report for publication.

Leave granted.

**MS TUCKER:** I move:

That the report be authorised for publication.

Question resolved in the affirmative.

**MS TUCKER:** I move:

That the report be noted.

The Health Committee has made several recommendations dealing with the presentation of information in the annual report. We have particularly noted the need for more detail in reports when major reviews or restructures have taken place within the financial year.

A couple of such reviews been done in health, including the Gallop inquiry, and there have been restructures within the department as well. Obviously that is a significant issue. We were concerned that there should be more detail about that in the report, and equally with the restructures. When there have been restructures within the financial year, it becomes extremely confusing to understand what has happened.

We made comments about the recently added direction on annual reports, which is related to the question of Assembly committee reports, that the government of the day must report, through the relevant department, how it is implementing recommendations of Assembly committee reports to which it has agreed. That is a new direction in the annual reports. In the health report, that occurred for the first time with Aboriginal health, but we were not happy with how that was reported on. We wanted a much more detailed recommendation by recommendation response as to where the government is up to in implementing its response to those recommendations.

We focused on some issues which came up during the hearings and in our deliberations as a committee. We made particular reference in a recommendation to the question of outreach workers working in the mental health field. That has come up in the status of women inquiry as well, and appears to need still more attention from government.

As other committees have, we made comments about making sure material is presented in a clear way—not in a confusing or misleading manner. We also said that we wanted to see future annual reports include analyses of the links between performance measures and outcomes, and where each measure sits within the strategic vision of the agency.

That is probably enough to say in summary about what the report says. I thank members of my committee, and the secretary, for their support.

**MS MacDONALD (11.39):** I endorse what Ms Tucker has said about the report. I would mention as well, as flagged in the report on the Education Committee's report into the annual reports, that the Health Committee has also recommended that all reviews undertaken by, for, or within the department be included as appendixes. I got the idea from looking at the annual report for Education, Youth And Family Services, and took it along to the committee. Thanks to the acting secretary, I think we got much better wording than that which is in the education report.

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As I have said before, I think it would be a good idea for consideration to be given to all annual reports to include any reviews which have been conducted, although not necessarily to have to comment on minor reviews which may talk about the reorganisation of office space, for example. As we say in the report, any reviews which have an impact should be included as appendices.

**MR SMYTH** (Leader of the Opposition) (11.41): Mr Speaker, it is a pleasure to speak to this report. The constructive nature in which the committee went about looking at what is in reports, and how we make them more useful and more accessible for the public, really pleased me. As MLAs, we have some knowledge of that. We have staff to help us get through the reports, but it is important that the reports are usable. I commend the report to the Assembly.

Question resolved in the affirmative.

### **Public Accounts—Standing Committee Report No 3**

**MR SMYTH** (Leader of the Opposition) (11.43): Pursuant to order, I present report No 3 of the Standing Committee on Public Accounts entitled *Report on Annual and Financial Reports 2001-2002*, together with extracts of the relevant minutes of proceedings. I seek leave to move a motion authorising the report for publication.

Leave granted.

**MR SMYTH**: I move:

That the report be authorised for publication.

Question resolved in the affirmative.

**MR SMYTH**: I move:

That the report be noted.

Mr Speaker, the report makes many sensible recommendations on page 7. I hope the government looks at those recommendations in the spirit in which they are offered—that this is an opportunity to continue to fine-tune and improve the annual reports process which many of us have commented on over the years. The recommendations run through a number of themes, and I would like to address some of those.

With the Public Accounts Committee, you get 17 very diverse reports. They are diverse in style, context, content, presentation and readability. Because no two can be compared, to say they have followed a similar format, you then have an enormous task.

I would like to thank the committee members. At one stage, it was Ms Tucker and Ms Gallagher, who has now moved on to bigger and better things. We were then joined by Ms MacDonald. First and foremost, to get through this amount of information was a big task and we were ably assisted by the secretariat staff, through Patrick and Derek. I thank them for their assistance.

The vast array of information presented to us as the Public Accounts Committee is the issue at heart. How do we get this into a format where somebody who is interested in public accounts, or indeed members of the public who want to access these reports so that they can learn a little about what is happening with their money and what is going on inside their public service, can do so?

Mr Speaker, the curious thing is that, at the Australasian Council of Public Accounts Committees conference a fortnight ago, one of the issues which came up was reporting, the formats in which reports are done, and their usability.

The recommendation at 2.22 that the Auditor-General's proposal for the layout of financial statements to use a 'net costs of outputs' presentation be adopted was an important issue at the ACPAC. It was an issue which also came up in the committee's hearings and deliberations. That is simply so that people can quickly get a handle on what something costs. The clear examples given in the report—I will not go through them—are the CTEC and Stadiums Authority reports. There is a suggestion that that will add to clarity and enhance usability.

On page 12 members will find some comments about the layout of the annual reports and how difficult it is to navigate your way around, for instance, some of the reports of the Chief Minister's Department. There was no cross-referencing or systematic referencing in volume 1. In volume 2 there is no numbering for the financial statements of the department. That makes it somewhat difficult, particularly if you are talking in a committee to refer somebody to where you want them to look.

Something that was a worry to the committee is mentioned in paragraph 2.29—that the use of the word 'monitor' is perhaps an inadequate description for the purchase of more than \$16 million worth of services from CTEC. If the department is just there to monitor the purchase of services from CTEC, at \$16 million that is a big job in its own right.

The question of usability again came up—that is on page 14. Indeed, the recommendations there suggest that the Chief Minister's directions be amended so that we get some usability into the reports, and consistency across reports, to make sure people can easily access them.

Mr Speaker, on page 19, there are some comments from ACTCOSS. The PAC has chosen to comment substantially on the ACTCOSS submission, and it has been left by some of the other committees to us to do so.

ACTCOSS described annual reports as general purpose documents. I want to make it clear that we disagree with that. We think the documents are specific in their purpose and in what they do. We go on to look at some of what the ACTCOSS submission asks to occur, so that sector at least can make better use of the annual reports. I will give one example—again, I will not go through it all because it is there for members to read.



ACTCOSS cites the impact of the Gallop and Reid reports on the Department of Health and Community Care. They said they should be summarised, as to what action had been taken inside the department to respond to those two reports. However, there was very little in substance that spoke about two extremely significant reports and how they had, or indeed had not, impacted on that department. I believe the recommendations previously given by us clarify what we would like to see happen, and they are already covered.

The ACTCOSS report then goes on to say that information should be readily available in alternate formats to people with disabilities. This is already a requirement of the Chief Minister's direction, and we would certainly like to see that adhered to more closely.

The other important recommendation we make concerns the Commissioner for Public Administration. His report consists of two documents. One is his annual report, including a compliance index, and the other is his state of the service report. We think they should be separated, with the commissioner putting forward a separate document for the state of the service.

Some issues were raised which we have chosen not to make recommendations on. I refer particularly to the sustainability indicators and the progress of the Office of Sustainability and perhaps how slowly that is travelling. We would like to see more work done to ensure that the Office of Sustainability is included in this process across the budget, so we can all achieve an outcome that we very much believe in.

Mr Speaker, I refer this report to the Assembly. I would like to thank my colleagues, who listened long and argued hard about what should and should not be in the report. I would also like to thank the committee staff who assisted us in putting this report together to enable us to table it today.

**MS TUCKER** (11.50): I will add a few points on this report that Mr Smyth did not mention. We addressed a few specific issues which came up during our investigation into, and reading of, the annual reports. I was especially interested to look at the development of appropriate indicators that would enable environmental, economic and social sustainability to be factored into the budget process.

The committee was told by officials that it is unlikely we will see real triple bottom line reporting occurring by the next budget and that that is more likely to occur in the budget after that. We make the point in this report that we have an ongoing interest in looking at how work in the Office of Sustainability is integrated into budget reporting, as well as across government agencies with regard to policy deliberations.

We have commented on the contractual arrangements relating to Impulse Airlines and the money that was loaned to them. We were concerned to find that the government apparently has not sought advice as to whether, if milestones were not met, the money would be recoverable.

We mentioned the question of how many indigenous Australians, or people from culturally or linguistically-diverse backgrounds and people with disabilities, are employed in the ACT public service. That is an important issue on which we want to see the government being proactive.

The question was raised by the committee of the General Agreement on Trade and Services, and whether the government was undertaking its own analysis of the potential for that impacting on governance in the ACT in any way. We have mentioned that the Public Accounts Committee will be looking at that in the future anyway, but the committee made a note that it is something the government could look at.

Note was made by the committee of the Canberra Business Advisory Service and its relationship to sustainability. The committee asked whether the contracts produced when assisting small businesses, or businesses generally, have to take sustainability issues into account in their businesses. That is another way of trying to ensure that the whole notion of sustainability is integrated across all areas of government.

We made comment on the time it took for some answers to come back for questions raised during the process of the committee's investigation of the annual reports. There may be issues about whether it is clear that we are asking a question on notice—so the committee can take some responsibility for that. However, there were some fairly important questions raised to which we do not have answers, and we will be pursuing those.

Question resolved in the affirmative.

## **Legal Affairs—Standing Committee Report No 5**

**MR STEFANIAK** (11.54): Mr Speaker, pursuant to order, I present Report No 5 of the Standing Committee on Legal Affairs entitled *Report on Annual and Financial Reports 2001-2002*, together with extracts of the relevant minutes of proceedings. I seek leave to move a motion authorising the report for publication.

Leave granted.

**MR STEFANIAK**: I move:

That the report be authorised for publication.

Question resolved in the affirmative.

**MR STEFANIAK**: I move:

That the report be noted.

Firstly, I would like to thank the other members of the committee—Mr Hargreaves and Ms Tucker—for their diligence in this matter, and that of our committee secretary, Derek Abbott.

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Generally speaking, the reports reviewed by this committee were informative and accessible. However, the confusion of function that seems to affect many annual reports was very evident.

Annual reports are supposed to report activity and outcomes against agency objectives for the financial year. In a number of cases, agencies also use their annual reports as promotional documents or guides to a range of services offered. I highlight as an example the police report, which is certainly highly informative, but also contained long passages of descriptive material not directly related to any particular outcome for the year under review. The financial reporting, and reporting of performance against agreed targets, was tucked away at Appendix 1 and did not appear to have any cross-referencing from the descriptive reporting and text of the report.

With regard to annual reporting, the committee believes that reports should give prominence to the outcome against the agreed performance measures. If the figures quoted in the text are relevant and useful, perhaps they should be included as performance measures. We acknowledge that some agencies may wish to produce documents which describe the services they provide and the context in which they work, and consider issues with regard to their operations in a more discursive way and over a longer period that is appropriate in annual reports. I think it would be better if these later types of documents could be produced separately, allowing their content to reflect both their purpose and their target audience. As a result of that, we came up with our first recommendation there, which I want to deal with.

Most of the reports had no qualifications by auditors but the policing report did in fact have an auditor qualification in relation to what it described as inadequate reporting systems and no reported results. An example given was that these performance measures were expressed numerically, as a percentage of domestic violence cases requiring further police action, or percentage of people who rated VLO assistance as satisfactory or higher.

The auditor noted that there were nil returns against the various performance measures which reflected results which could not be verified due to inadequate systems, or the absence of a measurement system to record the result, or the performance measure itself was deemed to be mis-specified.

We, as a committee, noted that some of these measures—especially those relating to satisfaction with a particular service—are not easy to gauge, and that they must contain a significant level of subjectivity, but that where a performance measure is included that is purely numerical, it should either be reported against or dropped. For example, the percentage of domestic violence cases requiring further police action was not reported against because the collection of data “required intensive manual work which directed resources from other priorities”. We thought that, if a system cannot be put in place which records the necessary information within an acceptable resource application, then the measure should be reviewed and replaced.

One performance measure of interest to the committee was the percentage of hearing briefs of evidence rejected by the DPP. That had not been reported on because there was no process for rejection of hearing briefs provided to the DPP.

As a former prosecutor, I was amazed that you would put that in as a performance measure. There are sometimes very good reasons for briefs to be rejected, although it does not occur very often. From my experience, the quality is generally excellent, but those things do occur from time to time. Whether you need that as a reporting measure is another point to consider.

The committee trusts that the ACT police and the DPP will develop a performance measure which provides some indication of the quality of hearing briefs sent to the DPP. However, if that is not feasible, why report on it? We made a recommendation in relation to some of the problems the audit showed in relation to the police reports.

Turning now to JACS—the department itself—the committee was somewhat concerned in respect of some of the figures. We noted that JACS provided legal services to the value of approximately \$5 million to various other departments and agencies, including this Assembly, in the financial year reported on, and that these services were provided at no cost to the agencies.

The figure for the years reported—2001 and 2002—represented a 28 per cent increase over the previous financial year. We asked questions about that. The department indicated that two factors had produced that—firstly, a shift by agencies from the use of private providers of legal services to the Government Solicitor's Office and, secondly, increased litigation in the health area. The second factor is something which happens from time to time and there is not a huge amount that can be done to foresee that.

We had some concerns in relation to the shift by agencies to using the GSO and made a number of recommendations as a result of that. They were, basically, that the provision of free legal services by JACS to other ACT government agencies be reviewed, to examine whether a service provided free of charge above a certain value—for example \$50,000—should be treated as a purchase of service by the recipient agency and reported accordingly.

The other matter was to examine whether, specifically in the case of JACS, some control needs to be imposed on the provision of free legal services—and also to ensure that the recipient agencies provide explanations for any significant variations in the costs in that area. One recommendation in relation to the provision of legal aid—which relates to an annual list of payments made to various barristers in the profession—suggests that it would be handy to include that in an appendix to the report.

Turning to the administration of the law courts, this report provided information on the work of the ACT Supreme Court, the Court of Appeal and the Magistrates Court. We noted that, whilst detailed workload statistics were provided for the Magistrates Court, which deals with 98 to 99 per cent of the volume going through the total court system, no comparable information was provided for the other courts. Accordingly, we recommended that workload statistics for the ACT Supreme Court and the Court of Appeal, similar to those already provided for the ACT Magistrates Court, be provided in future annual reports.

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It was also recommended that the Supreme Court and the Court of Appeal report on the results of matters finalised by them. They are superior courts and do not handle a huge number of matters. Matters which go before them are often large matters, and it would not be difficult to simply list what the matter was and the result thereof.

That is data which the committee was keen to extract. I note that the current Attorney, when he was a shadow, also commented on—and quite rightly so, I think—the need for more information from the court system. So we made that recommendation.

The committee also heard from the Emergency Services Bureau. We went into some detail there, which I will not go through. However, this is timely, especially in light of the tragic bushfires we have had. Ms Tucker might like to speak to that, as she asked what I thought were some very pertinent questions in that regard.

We looked briefly at Corrective Services and, as I have indicated, ACT policing. We found it interesting that the crime prevention programs were not fully utilised during the year. That was an initiative of the former government. Although about \$1.28 million was allocated, not all of that was used. Some of the money was returned.

We were interested to see the extent to which police resources could be supported by relevant community organisations in the development and presentation of crime prevention programs. I believe there is some useful stuff there. It is a shame to find that money allocated was not utilised. We thought the community groups could be useful there, and that there was scope to improve liaison in that area.

Finally, Mr Speaker, I commend the report to the Assembly, and I again thank my colleagues on the committee. I also thank Derek Abbott, the committee secretary.

**MS TUCKER (12.03):** I will take up Mr Stefaniak's invitation to speak briefly on the emergency services questions, and comments in the report. The issue of black spots was raised. We were told by the officials that hand-held radios are a recent innovation and that the fire service is still coming to terms with the problems. That was not a satisfactory answer. Although there are now more hand-held radios given out to personnel, they are certainly not a new innovation. People working in the field have been raising concerns about radio black spots for some time.

The committee has made the comment that they are concerned that insufficient priority has been given, in the upgrading program, to ensuring that firefighters in dangerous situations have the best communications available. Since we had this discussion in the committee, the fires have taken place, so there will obviously be a fuller investigation of those concerns.

The committee made a comment on the fact that there was a large overtime bill incurred by the Emergency Services Bureau because there were not enough permanent employees. It commented that because that situation arose, there could not have been good planning.

The only other matter is comments made by the committee on the Essential Services Consumer Council. There were some interesting points made by the chair of the council, relating to public housing and energy efficiency. There were also comments on debt recovery from tenants and the need to liaise with the ESCC. Housing is an essential service, yet we have the Essential Services Consumer Council dealing with issues such as other essential services and debt. It would be useful to see more liaison between the two groups. As ACT Housing might benefit from that, we have suggested that that occur.

Question resolved in the affirmative.

### **Legal Affairs—Standing Committee Scrutiny Report No 24**

**MR STEFANIAK** (12.06): I present Scrutiny Report No 24 of the Standing Committee on Legal Affairs (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee), together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

**MR STEFANIAK**: Scrutiny Report No 24 contains the committee's comments on 12 bills, and two government responses. This report was circulated to members out of session to make sure members could see it and that government departments would have a chance to respond, so that we could debate these bills.

I commend the report to the Assembly.

### **Scrutiny Report No 25**

**MR STEFANIAK** (12.08): I present Scrutiny Report No 25 of the Standing Committee on Legal Affairs (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee) together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

**MR STEFANIAK**: Scrutiny Report No 25 contains the committee's comments on two bills and 19 pieces of subordinate legislation. The report was circulated to members out of session.

I commend the report to the Assembly.

### **Taxation (Government Business Enterprises) Bill 2002**

Debate resumed from 12 December 2002, on motion by **Mr Quinlan**:

That this bill be agreed to in principle.

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**MR SMYTH** (Leader of the Opposition) (12.09): Mr Speaker, the Taxation (Government Business Enterprises) Bill 2002 is a technical bill, designed to allow for the implementation of the national tax equivalent regime, as well as allowing for the application of ACT taxes to ACT government enterprises.

Part 2 of the bill gives effect to various intergovernmental agreements relating to the national competition policy and competitive neutrality of government business enterprises—competitive neutrality being the principle that an enterprise should not enjoy a favourable tax status purely because it is publicly owned. Part 2 will impose a liability on nominated government entities to pay Commonwealth income tax equivalents, with the by-product being a more competitive marketplace. It is indeed pleasing to see a Labor government embrace such important concepts—no doubt with gritted teeth.

Part 3 of the bill will impose a liability on various government entities to pay ACT taxes. Presumably, this is also to enforce competitive neutrality. Again, this is a laudable action from the government. With any luck, we will see them move even further and do something about the various ACT taxes, such as payroll tax, which continue to slug local businesses.

I am concerned with the retrospective nature of some parts of this bill. The commencement date for parts 2 and 3 is July 2002. As a general rule, I believe—and the opposition believes—that retrospective laws are to be avoided and that they are indeed bad laws. However, in this case, we will not seek to amend the commencement date as, by and large, this is purely a technical bill and the various entities that will be affected have been on notice for some time. However, I put the government on notice that retrospective laws will not be assured of such a free ride in the future.

The use of regulations to ensure flexibility in the application of the bill is supported. That is indeed a sensible way to meet the changing evolution of the wide and varied range of territory-owned corporations.

Mr Speaker, in summary, this is essentially a technical bill that meets the ACT's commitment to the national competition policy. The opposition will support it.

Debate (on motion by **Ms Dundas**) adjourned to the next sitting.

**Sitting suspended from 12.12 to 2.30 pm.**

## **Questions without notice**

### **Bushfires**

**MR SMYTH:** My question is to the Chief Minister. Chief Minister, on Saturday, 18 January, the Australian Capital Territory suffered its worst ever natural disaster when bushfires led to the death of four people and destroyed hundreds of homes. It was without doubt the saddest day in our history. Chief Minister, for the record, can you tell the Assembly the chronology of events on that day, as many Canberrans are unclear as to what happened when?

**MR STANHOPE:** I require some specificity from the Leader of the Opposition. Chronology of the events around what—around the fire, around my movements for the day, around the movements of the ACT fire officer, Peter Lucas-Smith?

**Mr Smyth:** What happened with the fire?

**MR STANHOPE:** You asked for a chronology of events on that day. An awful lot of things happened on that day to an awful lot of people. Your question was: “Can the Chief Minister give a chronology of events on the day?”

**Mr Hargreaves:** What did you have for breakfast?

**MR STANHOPE:** Yes, what did I have for breakfast? I cannot answer a question like that. If the Leader of the Opposition gives me some specificity around the chronology of what, I would be more than happy to take the question on notice.

**MR SMYTH:** It is unfortunate, Mr Speaker. I warned the Chief Minister’s office of the question so that he could prepare. If you want to take the question on notice, that is fine. Could you give us a chronology of the growth of the fire on the day—for instance, when it got to Tidbinbilla, when it got to the Cotter, when it got to Duffy? Many people are asking questions about where the fire got to at what point in the day, and they would like answers.

**MR STANHOPE:** I am more than happy to ask the Emergency Services Bureau for a chronology of the fire’s progress during the day. I do not know the extent to which they have a detailed chronology. I am happy to provide a chronology in relation to all four fires, to the extent that it is available.

If the question is: “What was the progress of the fire?” and “Do we have times and milestones in relation to its progress?” I am more than happy to see what we can do. But I do not know the extent or the degree to which that information has been compiled at this stage. The fire was burning on a 70-kilometre front and comprised four separate fires. I am more than happy to see what we can do in developing a chronology. It will be part and parcel of submissions that will be made by ACT fire services and the Emergency Services Bureau to the two major inquiries—the inquiry into the Emergency Services Bureau, its response, and all other agencies involved with the fire and bushfire issues in the ACT, as well as the judicially based coronial inquest. Every one of these issues will be the subject of those major inquiries. We need to be mindful of the fact that a coronial inquest into each of the four deaths and each of the fires is under way.

## **Bushfires**

**MR HARGREAVES:** My question is to the Chief Minister. All members are only too aware of the death and destruction inflicted on the Canberra community by the 18 January firestorm. To its credit, the government responded quickly to the development of a committed recovery strategy. As I have travelled around my electorate since, many people have come up to me and commended me on the speed and strength with which the government reacted. Can the Chief Minister please outline to the Assembly what steps the government has taken in the implementation of a recovery strategy?



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**MR STANHOPE:** The government is committed to the recovery of Canberra. We are committed to the recovery as it affects each individual personally and directly affected and the community at large, to the extent that significant community infrastructure and community facilities have also been seriously damaged or destroyed.

It is important to be aware that we are concerned about both the physical recovery of property and infrastructure, to the extent we can achieve that, and the need for the community to recover its health, its wellbeing and its sense of community. We need all individuals traumatised or badly affected to recover within themselves.

When we talk about recovery, we talk about not just the restoration of the infrastructure—the physical face, the homes, the buildings, the roads, the equipment and all the buildings that were destroyed—but also the recovery that so many individuals are now seeking to achieve for themselves in their health, their balance and, for many, their psychological state.

I commend all those involved in our emergency management arrangements. From the moment of the disaster on the 18th, disaster relief and disaster control arrangements that had been put in place and that had been well practised slipped very easily into gear. The immediate response was absolutely fantastic. It is a credit to the ACT public service, it is a credit to all those people involved in the recovery process and the response to the emergency, and it is a credit to all of our community organisations and the many individuals who are part and parcel of them.

The recovery commenced at that moment and, in a formal sense, with the establishment of the community recovery centre in Launceston Street, Lyons, on 24 January, just six days after the fire. To date over 1,000 households have registered for assistance at the centre, and the following services are available at the centre: the disaster relief grants program; emergency assistance for food, clothing, and temporary accommodation; insurance advice; Bovis Lend Lease arrangements for clearance of blocks; PALM; personal support; professional counselling; Centrelink; and application to the Canberra Community Foundation bushfire recovery appeal.

In relation to specific financial relief provided as part of the recovery, I am pleased that the government was able to respond with the announcement of a number of grants packages. They included a \$5,000 assistance package for all householders who are owner/occupiers or renters in the ACT whose homes are uninhabitable. It provides a contribution to replace essential household and personal items; a further \$5,000, to a total of \$10,000, for those who do not have household contents insurance; grants for eligible houses or community properties to cover the costs of a standard demolition for the uninsured; and up to \$5,000 to assist with costs of site clearance for the insured.

The site clearance arrangement, being project managed by Bovis Lend Lease, commenced yesterday. As of today, over 50 households have contracted with Bovis Lend Lease for the clearance of their blocks. We are anticipating the letting of up to another 200 contracts for clearance of blocks.

We also provided assistance for rural lessees, comprising 100 per cent of cost for cartage for feeding animals for one week after the fires and for 50 per cent of cartage costs after that until conditions improve with changes in the weather. That is on a needs basis.

A \$3,000 disaster relief grant was provided to assist businesses and rural leaseholders whose business assets were destroyed, acknowledging that up to 60 home businesses operated in the 474 houses that were destroyed. Through that immediate \$3,000 disaster relief grant, the government responded to the needs of people who had operated home businesses.

A number of other significant assistance packages have been provided by the government. They include free school bus travel for students and families that have had to relocate as a result of the bushfires. Water and sewerage charges were waived for six months where homes had been destroyed. Rates were waived for six months from 1 January where homes had been destroyed. Rural leaseholders' rates can be deferred until six months after the drought declaration has been lifted. Charges on identity for drivers licences, land titles and birth, death and marriage certificates have been waived.

Interest subsidy loans were provided for businesses and rural leaseholders whose assets were significantly damaged. Fees were waived for the disposal of the fire-damaged building material from residential and community properties, with a concessional rate to be charged for institutional and commercial properties. Fees were waived on development applications and planning applications to replace destroyed buildings. At the time of the disaster, a \$75 per day short-term emergency payment was made.

The emergency task force which the government appointed is also currently undertaking a survey of householders impacted by the January fire. That commenced late last week to determine the medium-term accommodation needs of people who lost their homes. Whilst all people who lost their homes were placed in the short term, some of those arrangements will not be satisfactory in the medium or long term, and we are concerned to ensure that people have available to them medium to long-term housing until they can replace their homes.

Members would be interested to know that between 80 and 84 ACT public housing trust houses were destroyed. ACT Housing responded promptly to identify the needs of all of our clients who lost their homes as a result of the fire.

Significant ongoing issues face the government in relation to the public housing stock, in the context of insurance arrangements that applied and our capacity to access insurance and replace homes without delay.

My colleague the Treasurer oversaw the establishment of the Canberra bushfire recovery appeal, which to date has attracted around \$4.5 million in donations. I thank the community for their generosity in supporting that appeal. The Treasurer also announced a bushfire business assistance package, some details of which I mentioned before.

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The establishment of the bushfire task force and the associated community and expert reference group is a significant part of the strategy put in place by the government to facilitate a fast and dedicated response to the myriad issues the government, the community and all those people so directly and badly affected face. The task force is headed by Sandy Hollway, a person whose experience and capacity cannot be gainsaid. It comprises a group of enormous reputation and capacity in Terry Snow, Maureen Cane and Robert De Castella, along with the head of the Chief Minister's Department. It has a full-time secretariat of the most senior and experienced public servants that we in the ACT could make available to the task force.

The expert reference group comprises the most senior and significant representatives of a range of stakeholder groups that are very relevant to the recovery task which faces us. They are a conduit into the community and represent and reflect the government's determination to consult as widely, as broadly and as deeply as possible on all the issues facing the community in relation to the recovery.

It is the view of the government that it is vital that we get our processes in place in order that the recovery be dedicated, speedy and not put obstacles in the way of all those people seeking to restore their lives to some semblance of normalcy. In that context, we are yet to address a range of other issues. Time has pressed heavily in the context of the very many issues that we have been required to face. We are working through the full range of issues that we know face the community and face the government, and we will be orderly in our response to those.

The Treasurer has announced that that he will be introducing a supplementary appropriation bill, probably this week, in relation to some of the short-term but significant costs that have been part and parcel of our response to the fire and to the recovery.

There are other announcements that the government will be making. Each of my colleagues has made announcements. The minister for forests has made announcements in relation to his determination to pursue issues around the sustainability of a forest industry for the ACT. My colleague the Minister for Planning has made a number of arrangements around the planning approvals processes that will be put in place, our determination to cut red tape and our determination to pursue issues around the urban/rural interface and bushfire issues that affect the urban interface and each of our residences. They are issues the Minister for Planning is pursuing in addition to the work that is already well advanced in relation to the development of a sustainable urban plan for the future of the ACT, work very much brought into focus by the fire. The government will be announcing its response to issues in relation to the non-urban forest area destroyed by the fire, essentially the 12,000 hectares of pine forest that were destroyed. We will be announcing significant responses to issues around the future sustainable use of that land.

In brief and in summary, they are some of the recovery steps that the government has put in place. I am very pleased with the progress that has been made. It is a month today since the fire. The recovery is well under way. There is a long way to go. It is a long row to hoe. The government is determined and committed that the recovery will be fast and complete, and we will not take our eye off the ball at any step of the way. We are totally and fully committed as a government to the recovery from the bushfires.

## Bushfires

**MS TUCKER:** My question for the Chief Minister is about the conduct of the bushfire inquiry headed by Mr Ron McLeod. The terms of reference are very broad, but nowhere is public involvement mentioned. Will the process—including submissions, hearings, findings and the report—be open to the public? Could you also explain to us how members of the public will be able to give input to, or raise questions with, the inquiry?

**MR STANHOPE:** It is the government's intention that the inquiry to be undertaken by Mr McLeod be complete, be inclusive and involve public participation. I have not had a discussion with Mr McLeod about his proposed modus operandi. One difficulty is that Mr McLeod has not yet formally retired as Ombudsman, and he is loath to speak publicly until he does. I believe that he is retiring this week. I am hopeful that Mr McLeod will find himself able then to speak publicly about his intentions. I acknowledge that it is unfortunate that there has been this overlap. I was nevertheless attracted to Ron McLeod as somebody who could and would conduct this inquiry. There is perhaps no person in Canberra better placed to conduct an objective, rigorous, independent review or inquiry into all aspects of the Emergency Services Bureau's response and all issues around the fire. Ron McLeod's reputation for capacity, objectivity, integrity and independence is enormous. It cannot be questioned by anybody. I was very much attracted to the possibility of Mr McLeod conducting this inquiry, for those reasons and for the reason that it must be seen and believed by the people of Canberra to be truly objective and to be at arm's length from the government, conducted by a person whose integrity cannot be, never has been and never will be questioned and who will be absolutely rigorous in his assessment of all of the issues in relation to the response of the Emergency Services Bureau and all other agencies to the fire.

I did note in a report in the *Canberra Times*—a *Canberra Times* journalist had obviously managed to contact Mr McLeod and address the question of public submissions to him—that Mr McLeod said that he would be receiving and taking public submissions. He invited anybody willing or wishing to make a submission to make that submission to him care of the Department of Justice and Community Safety, as an interim measure until he was on board full time with the inquiry.

I regret that I cannot answer other aspects of your question, Ms Tucker. I will take further advice on them, but it will be a public process and there will be an opportunity to respond to the report when it is provided. I was determined that the report not have long lead times. It is very important that the answers that can be provided from that review be provided sooner rather than later. I have asked Mr McLeod to report by the end of June. He has indicated that, given the content of the terms of reference and the fact that he will be free to devote his entire and full attention to the inquiry, he can meet that reporting date.

As you said, the terms of reference are broad. They are all-encompassing. That was the government's intention. There is no aspect that I do not want Mr McLeod to look into. I am happy for him to look at every aspect of the response of the Emergency Services Bureau, the ACT Fire Brigade, ACT fire services, ACT police, the department of the environment and ACT Forests. Each of those possibilities is explicitly mentioned in the terms of reference.

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I expect him to look at my actions as the responsible minister on the day. I am more than happy for him to do that and to look at the decisions and the steps I took on the day. I will seek further information and see whether I can be of more assistance, Ms Tucker.

**MS TUCKER:** To clarify, I am interested in finding out whether or not the submissions will be public. That is certainly an issue of interest.

**MR STANHOPE:** I cannot imagine why they would not be, unless somebody sought confidentiality. If somebody sought confidentiality, I have absolutely no doubt that Mr McLeod would respect that. But in the ordinary course of events I would expect submissions to be made public.

I need to reiterate that running parallel to this inquiry will be a coronial inquest. I have no doubt that the coronial inquest will run well into next year. I have no doubt that it will rack up a bill of at least \$1½ million. I have no doubt that it will involve detailed examination and cross-examination of hundreds of witnesses. As is the nature of these things, it will involve a full judicial, forensic process and procedure. I cannot imagine that there will be a single aspect of the fire or the deaths that will not be covered. It will include management of the fire.

The Australian Federal Police have a task force of 10 officers working full time on the collection and compilation of evidence for the coroner. The Director of Public Prosecutions is in the process of appointing senior counsel, assisting counsel and assisting investigators to assist the coroner in every aspect of the fire, its progression and its devastating impact on the people of Canberra. Those dual processes are running in parallel.

## **Bushfires**

**MR STEFANIAK:** My question is to the Chief Minister. Can you explain to the Assembly the processes and procedures involved in declaring a state of emergency? In other words, how does the system work, and what happened on 18 January?

**MR STANHOPE:** Congratulations, Mr Stefaniak, on your appointment to the position of Deputy Leader of the Opposition. This is the first occasion I have been in the chamber when you have stood as Deputy Leader of the Opposition.

A state of emergency is declared pursuant to subsection 20 (1) of the Emergency Management Act 1999. It provides:

Where the Chief Minister is satisfied that—

- (a) an emergency has occurred, is occurring or is likely to occur; and
  - (b) the emergency is, or would be, of such a scale, or of such a nature—
    - (i) as to constitute a significant danger to the health or safety of persons in the Territory, property in the Territory or the environment of the Territory; or
    - (ii) as to cause a significant disruption of essential services in the Territory;
- the Chief Minister may, by writing, declare that a state of emergency exists.

That is the formal legislative arrangement for declaring a state of emergency. The Chief Minister takes advice on the declaration from the Minister for Police and Emergency Services. It so happens that on 18 January I was also the Acting Minister for Police and Emergency Services, so I provided advice to myself in another capacity. I advised myself to declare a state of emergency.

Before doing so, I took advice, as one would, from all those with a direct role in, or responsibility for, the issues emerging from the scale and nature of the fire. In the process of declaring a state of emergency, I attended a meeting attended by the Chief Police Officer, Mr John Murray; the Chief Fire Control Officer, Mr Peter Lucas-Smith; the Fire Commissioner, Mr Ian Bennett; the executive director of the Emergency Services Bureau, Mr Mike Castle; the chief executive of the Chief Minister's Department, Mr Rob Tonkin; and the chief executive of the Department of Justice and Community Safety, Mr Tim Keady. Also in attendance at that meeting was my chief of staff, Mr Greg Friedewald. I am not aware whether there was any other attendee at that meeting.

At that meeting with those six officials, there was a specific discussion around the desirability of declaring a state of emergency at that time. That meeting for the purpose of discussing whether or not a state of emergency should be declared convened at between 2.00 and 2.30. I would have to take advice from others in attendance as to the actual time.

The case for a state of emergency was put by the Chief Police Officer, Mr John Murray. The pros and cons, the requirements and the legal aspects were then discussed. A position on the legal requirements was put by the head of the Department of Justice and Community Safety, Mr Tim Keady. He was assisted in that presentation by the executive director of the Emergency Services Bureau, Mr Mike Castle. There was a broad-ranging discussion by all in attendance around the desirability or otherwise of declaring a state of emergency. There was a range of views.

Before declaring a state of emergency, I put a specific question to Mr Rob Tonkin, head of the Chief Minister's Department. I think I can remember it verbatim. I asked, "Mr Tonkin, is it your advice to me that I should declare a state of emergency now?" Mr Tonkin responded, "Yes." I put the same question to Mr Keady: "Mr Keady, is it your advice to me as Chief Minister that I should declare a state of emergency at this time?" Mr Keady responded, "Yes, Chief Minister." I thereupon declared a state of emergency at 1445.

**MR STEFANIAK:** My supplementary question is: when were you first informed that a state of emergency might be necessary?

**MR STANHOPE:** Between 2.00 and 2.30 pm—or 1400 and 1430 hours, as the Emergency Services Bureau likes to put it—on Saturday, 18 January.

## **Bushfires**

**MRS CROSS:** My question is to the Chief Minister in his capacity as Minister for the Environment. Minister, following the terrible bushfires we have just experienced, many citizens of Canberra have been left with burnt and dangerous trees that could threaten their property and lives. Can you please confirm whether Environment ACT has been facilitating requests from residents to remove trees they consider to be dangerous and, if so, what is the process those requests have been following?

**MR STANHOPE:** This is one of the issues of significant interest and concern to a number of residents, in particular residents of the suburbs most significantly affected by the fire. It is not as straightforward an issue as, on first blush, one might think it to be. A number of trees primarily and principally in Duffy, Holder, Chapman and Kambah were significantly affected by the fires. A significant number of trees were rendered unsafe, and some parts of a number of trees were rendered unsafe.

Members would be aware that the windstorm that was very much part and parcel of the firestorm wreaked considerable havoc, particularly through Chapman and Kambah. The strength of the wind was enormous. A number of trees were uprooted or seriously damaged.

The Department of Urban Services and Environment ACT have both been heavily involved in the assessment of trees, the felling of trees that have been determined to be dangerous and the pruning of trees where it has been believed that branches or parts of trees have represented a danger. Both organisations have been rigorous in responding to community concern about dangerous trees. I understand that officers meet every request for advice on a dangerous tree at the earliest possible moment.

As members would be aware, during the state of emergency the head of Environment ACT suspended operation of tree protection legislation. That suspension terminated at the lifting of the state of emergency, and a number of people have expressed angst and some frustration at their inability to remove, as a matter of course, trees that they believe represent a danger in both their structural safety and their potential to damage a nearby house. This is a vexed question. This is a question that I think will test us as a community for some little time to come, as we continue to work through a range of issues around ensuring that our houses are as safe as possible.

That is some background to your question, Mrs Cross. Quite specifically, the Department of Urban Services and Environment ACT respond as soon as possible. I do not believe there are any delays inherent. However, in a number of instances, there are differences of opinion between officers of the Department of Urban Service and Environment ACT about the safety or integrity of certain trees, and some significant differences of opinion have been expressed between the department and residents around whether or not particular trees should be removed. We are trying to negotiate our way through those.

The government is adopting the attitude that we cannot assume that every tree is an enemy and that all trees that are very much part of our urban streetscape or landscape should be removed without justification. That is the position we are working our way through. It is a vexed and difficult issue. The government is doing all it can to be sensitive to the concerns and anxiety of individual residents. But the government has a position of not just responding to every request to have trees that are significant parts of the urban landscape removed.

## **Bushfires**

**MRS BURKE:** My question is to the Minister for Planning, Mr Corbell. Minister, can you tell the Assembly how many houses have been destroyed and how many damaged in the bushfires? What is the breakdown on current estimates?

**MR CORBELL:** I cannot advise the Assembly of the exact number of houses destroyed. As I understand it, 450 to 500 homes have been completely destroyed or rendered uninhabitable as a result of the bushfire event on 18 January, and a significant number have been damaged but not to an extent that makes them uninhabitable. Our assessment has been based on whether or not the dwelling is uninhabitable. In that category there are 450 to 500 dwellings. I will confirm the number for Mrs Burke as soon as I can.

**MRS BURKE:** Could the minister please clarify what assistance is available to people whose houses have been damaged in the bushfires, not totally destroyed?

**MR CORBELL:** I presume Mrs Burke refers to assistance in relation to my portfolio responsibilities—planning approval and so forth. A range of assistance is available to householders who have been affected by the fire. It goes right across agencies, not just those in the planning area. I can speak in relation to my responsibilities as Minister for Planning.

Where a home is still habitable, then clearly there is no need to rebuild. The home is essentially intact, although there may have been some superficial damage to the exterior. The government is providing a range of advice to householders, particularly in relation to processes householders need to go through if, say, they have had a garage, shed or other outbuilding destroyed as a result of a fire. There have been quite a number of those.

Equally, the government is providing advice on what issues householders should consider when it comes to replanting gardens. Quite a number of householders saw their gardens destroyed but were able to save their home. I will be releasing shortly information to all affected households outlining what sorts of issues and what sorts of plants and trees residents should bear in mind when it comes to planting, or replanting, what will hopefully be a fire-wise garden.

The government is providing advice in that regard, as well as advice in relation to what approvals, if any, are required for the removal of damaged or destroyed outbuildings such as garages.



## **Bushfires**

**MRS DUNNE:** My question is to the Minister for Planning, Mr Corbell. Minister, in your media release on 7 February you announced certain measures in relation to the demolition and rebuilding of houses in the bushfire-affected areas. You said in part:

Under new conditions for bushfire victims, those home-owners wishing to rebuild according to previously approved house plans will not be required to lodge a development application, saving both time and money.

Minister, is it not a fact that very few of those affected will be covered by this provision and that very few homes can be rebuilt as they were, because the building code has changed and they will have to be rebuilt according to existing requirements?

**MR CORBELL:** The government has announced a range of reforms to assist in the recovery, in particular in the rebuilding of destroyed homes. The reforms focus on three classes of potential rebuilding. The first is rebuilding in accordance with previously approved plans. The second is rebuilding where there is no significant addition to building height, number of dwellings or total floor area. The third is redevelopment beyond the scope of the previous category—for example, if a householder wants to build a much larger house than they previously had or wants to do something like a dual occupancy.

In regard to the first category, the category Mrs Dunne is referring to—rebuilding in accordance with previously approved plans—it is proposed that no DA be required. This has been the general practice in the past. But as it is not completely free from legal doubt, particularly where the previous approval predates the land act, regulations will be made—and I have signed regulations to give effect to this—to ensure that such approval is free from legal doubt.

Yes, the new building code will apply, but it does not prevent the householder from effectively rebuilding what they previously had. Some of the technical requirements will have changed, but householders will be able to substantially rebuild what was previously there.

How many householders will take up this option nobody knows. We are still at a very early stage in the recovery. Those people who have lost their homes are going through a very difficult decision-making process about whether to stay, whether to go, whether to rebuild what they had or whether to do something different. The government's objective is to provide as much assistance as possible and as much information as possible so householders can make the choice which is right for them.

For the information of members, I outline the other categories I have mentioned. In relation to category 2—rebuilding where there is no significant addition to the building height, floor area or number of dwellings—the government is proposing, and has put in place, regulation waiving public consultation requirements, except where it is intended to build closer to side or rear boundaries than the normal building setbacks, unless this is to replace a previously approved structure.

It is also proposed that the high-quality sustainable design pre-application process for replacement houses in suburban areas introduced through draft variation 200 be minimised. To assist with this, Planning and Land Management set up yesterday a design advisory service, based at the recovery centre in Lyons, where householders can not only seek advice on the technical requirements they will need to adhere to in rebuilding, but also receive free advice from an architect, supplied courtesy of the Royal Australian Institute of Architects, in relation to potential design.

Our emphasis is on giving the necessary technical information as well as on encouraging people who choose to rebuild to rebuild in a way which meets their needs but which is also more energy efficient and takes account of fire protection requirements and a range of other issues. The government's approach is absolutely collaborative. It is based on getting the best possible information in the most timely way so that people who lost their homes can make appropriate decisions that suit them and their families.

**MRS DUNNE:** Minister, in your answer to my question you talked about significant variation. Can you quantify or define "significant"?

**MR CORBELL:** For example, if someone had a single-storey dwelling and they wished to build a two-storey dwelling, or if they wanted to increase the total floor area, those would be significant changes. As with any development application, there is a level of discretion, and PALM staff will be working closely with people seeking approval to rebuild, to make sure that the process is as streamlined as it can be to enable them to rebuild in a timely way.

## **Bushfires**

**MR CORNWELL:** My question is to the Treasurer. Treasurer, can you advise how much of the ACT government asset losses and unforeseen expenditure caused by the recent bushfires will not be covered by insurance?

**MR QUINLAN:** I guess the short answer is "not with certainty", because we will have the normal interface that one has with an insurer about the various assets we have. I have asked my department to look further at the damage we have sustained and where it begins and ends. We can talk, on the one hand, about concrete or firm individual assets. On the other hand, there is the whole amenity of the city. As I said on radio this morning, I live in Weston. The Cotter Road median strip between the Tuggeranong Parkway and Stretton Drive had nice landscaping that was wiped out. Whether that is covered or not, and what the expenditures will be in putting the city back in the shape it was in before the fire, is going to be very difficult to measure.

The other dimension of how much we are covered is that under the natural disaster recovery arrangements between the Commonwealth and states, after we have spent about \$4.5 million on recovery, the Commonwealth will weigh in on a dollar-for-dollar basis, and once we get to a little over \$8 million they will weigh in on a three-for-one basis.

For the firefighting effort and whatever we are up for, we are presuming something well in excess of \$8 million in recovery expenditures. These are elements we are going to have to work through. At this stage the best estimate I am able to give, or I have—and I will not sign my name to it because, given the pervasiveness of the damage and the pervasiveness of the issues that arise out of the process of recovery, there are a few things that are going to come out of the woodwork later—is that we expect to be directly out of pocket by \$19 million to \$20 million. And we have not counted the shrubbery down the middle of Cotter Road in that.

**MR CORNWELL:** With the involvement of the Federal government—you mentioned \$19 million as a ballpark figure—why are you calling for fire levies and cutting budget expenditures?

**MR QUINLAN:** First, \$19 million or \$20 million is no small amount in the context of the ACT budget. We have a budget in excess of \$2 billion, but it is a combination of local government budget and state government budget. The level of discretion expenditure is only a small fraction of the overall budget. Tomorrow we will have hospitals, schools, garbage collection and all those things, no matter what. We will not have choices in many of the services we provide. Every government since self-government has been budgeting at the margin, as we will be. At the margin, this amount of money does loom as quite a substantial amount.

Let us get a couple of things clear, because some issues get legs. The media asked the Chief Minister fairly early after the bushfires, as they might when they were looking for information and angles on the process, “Will we be out of pocket?” Answer: “Yes.” “How will we recover that?” Answer: “Everything is in the mix.” Nod if I am getting this wrong, but I think the media then said, “Would that include a fire tax?” Answer: “Everything is in the mix. You have to consider everything.” So because it is emotive, fire tax takes off. That is about the level of the government’s commitment to, or association with, a specific fire tax at this point.

Beyond that, I have said for public consumption that the budget coming up will be difficult not only because of the bushfires. The major factor contributing to the difficulty in budgeting this year will be the bath we are taking on our superannuation investments. If you had the superannuation in a trust, which I think somebody stood in this place a few times over about four years and said we ought to, and you looked at the operation separately, then you would get a better bead on where we are at. It is probable that if you took the superannuation out the territory has never been in surplus. Maybe it could have been in surplus a couple of years ago when premium conveyancing duties came in at an absolute peak. But other than that, the territory, on a narrow tax base, faces considerable fiscal pressure to provide services at the level we provide them in Canberra. That has been a constant for every Treasurer, and it remains a constant.

When you garnish that with actual capital losses on your superannuation investments—on some predictions, returns will remain very low through to about 2006—then we have a genuine problem. Like it or not, there is a whole level of services we need to provide and a raft of possibilities in how we provide them.

If you add to that \$19 million or \$20 million of bushfire costs and accounting—and trust me, it is “and accounting”—then that adds a dimension to the budget which it is worth discussing and which it is worth people being aware of as a distinct influence on the next budget.

### **Education—funding**

**MR PRATT:** My question is to the minister for education. The report of the Connors inquiry has largely endorsed the current education system, while launching a largely ideological attack on independent schools and the Howard government. The former minister for education would not allocate the \$7.4 million slush fund, now sitting idle for eight months, pending the release of this report. Will the minister now get on with allocating the \$7.4 million, and can the minister advise the Assembly which recommendations will form the basis of this allocation?

**MR SPEAKER:** I think you are asking the minister to announce executive policy in relation to a report the government have under consideration, so I am going to rule that part of the question out of order. Minister, you may answer the rest of it.

**Mr Smyth:** I take a point of order, Mr Speaker. Was the question not as to what recommendations the government might accept, which is hardly about announcing the government’s policy?

**MR SPEAKER:** It called on the minister to announce executive policy. It is pretty plain to me.

**MR PRATT:** Mr Speaker, can I help the minister by rephrasing the question?

**MR SPEAKER:** That would be helpful.

**Mr Hargreaves:** Is that the supplementary question?

**MR SPEAKER:** No. Mr Pratt, if you want to rephrase the question, it might be helpful, provided that you do not ask the minister to announce executive policy.

**MR PRATT:** Thank you for your assistance, Mr Speaker. Shall we go back and ask that question again? The report of the Connors inquiry has largely endorsed the current education system. The former minister for education would not allocate the \$7.4 million slush fund, now sitting idle for eight months, pending the release of this report. Will the minister now get on with allocating the \$7.4 million and advise the Assembly what plans she might have to do that, without waiting for the recommendations of that report?

**MS GALLAGHER:** Mr Pratt, I do not think it has been any secret that the \$7.4 million will be allocated in this budget round. We have not been sitting idle in the allocation of that money. In fact, over the past year recommendations have been sought from the Government School Education Council and the Ministerial Advisory Committee on Non-Government Schooling about how they would like to see the \$7.4 million allocated. We are receiving their submissions. We are considering their requests, and decisions about the \$7.4 million will be made in light of the budget.

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**MR PRATT:** My supplementary question is: can the minister confirm that her fight to retain the \$7.4 million referred to in the *Canberra Times* will be a fight with the forces of general revenue as a result of her government's economic mismanagement, following the Treasurer's revelation this morning that the ACT's bushfire costs will be largely covered by insurance?

**MS GALLAGHER:** Mr Pratt, I have had no advice that the \$7.4 million will not be spent in the education portfolio. In thinking about what question you might ask me today, I thought that that would probably be the one, and I was right. When I saw you scribbling away as soon as I said it in the media conference, it made me think maybe I had just said the wrong thing. Perhaps the choice of words should have been: "If in addition to the \$7.4 million I need to go in fighting for the budget, then I intend to do so."

### **Community service contracts**

**MS DUNDAS:** My question is for the minister for community services, Minister Wood. I understand that this government promised to end the purchaser/provider model of funding for the community sector in the ACT, and hence all community service contracts are set to expire on 30 June this year so they can continue in the 2003-04 financial year under a new model. Minister, can you please inform the Assembly what progress has been made to ensure that funding for community services will be provided after 30 June this year under a new model, and when will that model be available?

**MR WOOD:** We still have a little distance to go before that time. We are working through all the issues around that. I am aware of the concern in the community sector about the various contracts and the various levels of funding that apply. I cannot tell you today just what the outcome will be, but I am confident that all those measures will be dealt with within the timeframe quite comfortably and that that very excellent range of services will continue.

**MS DUNDAS:** Minister, I welcome your commitment to meet the deadline of 30 June, but given that many deadlines in the process of developing a new model have already been missed and that both the government and community services are extremely stretched, how do you intend to meet the deadline of 30 June and put an end to the uncertainty in the sector.

**MR WOOD:** I give the obvious answer, Ms Dundas: by good management, by attending to all of the issues and by covering all the details, we will do it quite well.

### **Education—funding**

**MS MacDONALD:** My question is to the minister for education, Ms Gallagher. I would like to congratulate her on her appointment as minister. I am sure she will do a sterling job as Minister for Education, Youth and Family Services, Minister for Industrial Relations and Minister for Women. Can the minister tell the Assembly what the government intends to do about the recommendations of the report of the inquiry into ACT education funding, the Connors report?

**MS GALLAGHER:** I thank Ms MacDonald for her question and acknowledge her significant interest in the education portfolio. As members would know, the Connors report was publicly released last Friday. I have written to all major stakeholders, providing them with a copy of this report, and I will be arranging meetings with them to seek their views. I am grateful for all the contributions that were made via submissions and through meetings connected with the inquiry. I acknowledge that those contributions were often made in people's own time.

It is a significant report. I do not know whether members have had the chance to read it. I have spent some time reading it. The detail in the report is extremely complex, certainly the formulas for determining funding to both public and non-government schools.

I have indicated to the stakeholders that I will be arranging meetings in March to discuss the report. I am also keen to hear the views of the Government School Education Council and the Ministerial Advisory Committee on Non-Government Schooling.

Through my considerations of the report's findings and the feedback I receive from stakeholder groups, I will be in a position to prepare a response for the consideration of government. Considering the inquiry has run over 11 months and it is a significant document addressing complex issues, we cannot be rushed into responding without listening to the views of others, including all my colleagues. It would not do the report justice if we were to reach conclusions or make decisions prematurely.

**MS MacDONALD:** My supplementary question is: would the minister please outline the process of consultation undertaken during the inquiry and, in particular, advise the Assembly of the extent to which interested parties made submissions on the matter?

**MS GALLAGHER:** Yes, certainly. The terms of reference for the inquiry emphasised the need for openness and consultation with the ACT community, and Ms Connors sought to canvass the broadest possible range of views. Public submissions were invited through advertisements in the press, and key organisations and interest groups were invited to public meetings to discuss the proposed process and the timing of the inquiry. As a result, 48 submissions were received—36 from stakeholder groups and 12 from individuals. A full list of those who made submissions appears in the appendices to the report. Again, I would like to thank all of the respondents for their efforts in contributing to such an important and timely inquiry.

A noteworthy no-show, given his stated reservations about the conduct, independence and cost of the inquiry, was the opposition spokesperson on education, Mr Pratt. Notwithstanding that, the government look forward to hearing the opposition's views on the inquiry's recommendations in due course.

**Mr Stanhope :** I ask that further questions be placed on the notice paper, Mr Speaker.

## **Bushfires**

**MR CORBELL:** Mr Speaker, to follow up a question from Mrs Burke during question time today, I can advise that as of 11 February, based on all data sources and validation work, PALM has assessed that there are a total of 474 totally destroyed, uninhabitable properties in both the urban and rural areas of the ACT. A further 109 properties have been assessed as having damage to the main dwelling and/or outbuildings, including garages and sheds. The status of a further 66 properties, comprising urban and rural, is being investigated and will result in some further refinement of these figures.

The variation in these figures from those originally recorded in the *Canberra Times* of approximately 530 results from the removal of duplicate entries in the database—for example, where two addresses and block section references were inaccurately recorded. In some cases buildings were recorded as destroyed that had had minor or no damage. This reflects the pressures placed on the various agencies involved at the height of the crisis in trying to gain an accurate picture of the damage.

Over the last three weeks all the available data has been validated by Planning and Land Management building, electrical and plumbing control inspectors. This has been a difficult process, which has been complicated by incorrect and incomplete data, further updates from the AFP, lack of access to some properties and duplication of data with minor variation of errors and the problem of identifying whether some dwellings were illegal or unapproved. So the latest status is 474 totally destroyed, 109 having damage and 66 still to be investigated further.

## **Convention on the Rights of the Child—report**

**MR STANHOPE:** On 21 November Ms Dundas asked a question of Mr Corbell as Minister for Education, Youth and Family Services relating to Australia's combined second and third report under the UN Convention on the Rights of the Child. I have responded separately to Ms Dundas, but now I ask leave to have the answer incorporated into *Hansard*.

Leave granted.

*The document read as follows:*

I am responding to a question asked of Mr Corbell because, as it is in relation to Australia's obligations under an International Treaty, it is a matter for my portfolio rather than that of the Minister for Education, Youth and Family Services. The answer is as follows:

The UN Convention on the Rights of the Child entered into force for Australia in 1991 with a requirement for the submission of periodic reports on implementation of measures supporting the rights outlined in the Convention. Australia submitted its First Report to the UN in 1997. Australia's Combined Second and Third Report under the UN Convention on the Rights of the Child, is due in February 2003.

The ACT Government has provided several contributions to Australia's Combined Second and Third Report to the UN. A whole-of-government submission was provided to the Commonwealth Attorney General's Department on 19 April 2000. This submission responded to issues identified by the UN Committee on the Rights of the Child in Australia's First Report.

A second ACT whole-of-government response was submitted to the Commonwealth Attorney General's Department on 17 August 2001, detailing how the ACT government was responding to issues raised by State and Territory Governments, Australian NGOs and the UN convention on the Rights of the Child Committee.

## **Executive contracts**

### **Paper and statement by minister**

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment): For the information of members, I present the following paper:

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

Long term contracts:

Michael Harris, dated 5 February 2003.  
Pamela Davoren, dated 20 January 2003.  
Lucy Bitmead, dated 17 January 2003.  
Mark Kwiatkowski, dated 12 December 2002.  
Anthony Curtis, dated 7 November 2002.  
Harriet Elvin, dated 11 December 2002.  
Richard Johnson, dated 6 February 2003.  
John Meyer, dated 8 February 2003.  
Peter Ottesen, dated 17 January 2003.

Short term contracts:

Graeme Dowell, dated 10 January 2003.  
John Thwaite, dated 4 February 2003.  
Sue Ross, dated 26 August 2002.  
Brian Jacobs, dated 24 December 2002.  
Tony Gill, dated 7 February 2003.  
Phillipa De Veau, dated 15 January 2003.  
Robyn Calder, dated 26 November 2002.  
Nick Horn, dated 29 January 2003.  
David Snell, dated 11 December 2002.  
Schedule D variation:  
Sandra Lambert, dated 23 December 2002.  
Peter Gordon, dated 6 December 2002.  
Sue Ross, dated 28 September 2002.  
John Robertson, dated 4 December 2002.  
Geoff Keogh, dated 12 December 2002.  
Geoff Keogh, dated 20 December 2002.  
Michael Zissler, dated 4 and 13 December 2002.  
Glen Gaskill, dated 12 and 13 November 2002.  
Glen Gaskill, dated 9 December 2002.  
David Butt, dated 5 and 10 December 2002.



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Mark Mullins, dated 16 December 2002.  
Bronwen Overton-Clarke, dated 23 December 2002.  
Richard Johnston, dated 8 and 14 January 2003.  
Richard Johnson, dated 6 February 2003.  
Adrian Robertson, dated 16 December 2003 and 15 January 2003.  
Ian Hubbard, dated 23 December 2002.  
Andrew Rice, dated 16 December 2002 and 6 January 2003.  
David Snell, dated 30 January 2003.  
John Meyer, dated 8 February 2003 –

I ask leave to make a statement.

Leave granted.

**MR STANHOPE:** These documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which require the tabling of all executive contracts and contract variations. Contracts were previously tabled on 10 December 2002. Today I present nine long-term contracts, nine short-term contracts and 19 contract variations. The details of the contracts will be circulated to all members.

## **Financial Statements**

### **Paper and statement by minister**

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): For the information of members I present the following paper:

Financial Management Act, pursuant to section 26 (4) – Consolidated Financial Management Report for the financial quarter and year to date ending 31 December 2002 –

I ask leave to make a short statement in relation to the report.

Leave granted.

**MR QUINLAN:** Members will notice in the statements just tabled a revised estimate for the rest of this financial year. I would normally have left that to members to read themselves, as they no doubt would have.

We have today a press release put out by Mr Smyth, saying “budget blown before bushfire disaster,” and I want to refer to a couple of elements of this press release because I think it is important and because Mr Pratt slavishly and ill-informedly referred to it in his question.

Within this press release Mr Smyth compared the bottom line, a whole-of-government figure for 31 December—that is, government operations and business operations—to the expected performance of just government operations. It is not an auspicious start to throw around incorrect numbers that have dramatic effect.

Members will recall that in the past Assembly, and even last year, Mr Smyth played John Howard to Gary Humphries' George W Bush in echoing misinformation in relation to past performances. I do not intend to rise to that, but I have to say—and I have said in this place before—that misinformation has been persistently peddled. It is about time for the standard of this place to be raised. It is a new start: there is a new leader of the opposition and a new shadow treasurer. Let's have a bit of an increase in the standard of information.

Things are tight enough in the ACT. You will have plenty to work with without manipulating the figures or providing misinformation about the past, let me assure you.

**MR SMYTH** (Leader of the Opposition): Mr Speaker, I seek leave to comment on the report.

Leave granted.

**MR SMYTH**: Mr Quinlan was absolutely correct: I quoted the wrong figure. Instead of pointing out that the deficit was \$43 million across the total territory sector, I should have pointed out that the deficit is now \$20 million. For that I do apologise.

But the point is that we have gone from a projected surplus of \$6 million to a deficit of \$43 million in the general government sector and across the territory to one of \$20 million. That is a dramatic turnaround in six months, and that is the turnaround that this Treasurer has presided over. I think the December quarter statements will come as a surprise to the ACT community in a number of areas.

On the one hand, we see that, in the general government sector over the six months from 1 July 2002 to the end of the year, there has been an increase in revenue collected of nearly \$65 million and an increase of expenses of \$20 million—confirming that this is a very high taxing government. That leads to a surplus over the six months of \$75 million or an increase of \$45 million in the budget estimate. Those figures were out significantly, but in this case it has gone up.

On the other hand, we said the government was projecting a deficit in the general government sector for the full year now of nearly \$43 million—\$43 million in the red. That is a turnaround in six months of \$49 million from the predicted surplus of \$6 million.

Here we are at the halfway point in the financial year in a situation where revenue continues to grow strongly yet the government is projecting a substantial deficit at the end of June 2003. How can this be? Is the Treasurer presiding over a deterioration of the territory's financial position? The answer is yes.

Are there problems with the assumptions that have been made about the likely outcomes for different components of the general government sector of the ACT budget? We have to ask what happened during the first six months of this year.

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If you look at the documents that are provided, you will find that taxes, fees and fines have gone up by \$24 million. That includes an increase in stamp duties of \$12 million and in payroll tax of \$7 million. Interest received rose \$23 million, and lease sales were up \$15 million. Non-ACT government user charges rose \$7 million, and the Commonwealth grants rose \$7 million as well. So, in part, the outcome is a result of the government being a high taxing government.

Some expense items were also increased. Grants and purchased services were \$3 million. There was a loss on superannuation related equity investments of \$25 million, and there were some offsetting reductions in spending on legal and administrative matters.

In summary, it would appear that, despite continuing difficulties in global equity markets, there has been quite strong growth in revenues, balanced by some increases in expenses over the first six months of the financial year, leaving the general government sector at the end of December 2002 with a surplus of \$75 million.

What is the outlook for the second half of the year in the revised figures? We need to understand what has happened to this point and to question some of the government's assumptions about outcomes over the next six months. We need to look at the key items of revenue for the general government sector.

Taxes, fees and fines in the first half of the year increased by nearly \$24 million. Why is the government then assuming that there will only be a further \$8 million growth in revenue? Interest increased by \$23 million in the first half of the year. Why is the government assuming that there will actually be a reduction in the interest earned of \$19 million over the next six months? Other revenues increased by \$10 million. Why is the government assuming a reduction of \$45 million over the full year?

As for expense items, the only expense item that is assumed to change is "other expenses", which are projected to increase by more than \$40 million. What are these expenses that will total \$40 million over the course of the rest of this year? Are these reasonable assumptions to make?

At the same time, I find it surprising that over the next six months:

- the government assumes a slowing in the rate of increase of tax revenue collected, despite the experience of the first six months;
- the government assumes a reduction in interest received, after an increase of over 80 per cent in the first six months; and
- the government assumes a reduction in other revenue of \$45 million, after an increase of \$10 million to 31 December 2002.

It would be very nice to get a brief on the assumptions underlying these estimates, and I will ask the Treasurer's office if they can explain how they have come to these conclusions.

As far as I can tell, there seems to be a disconnect between the assumptions that have been used for the full year and the outcomes that have been achieved over the first six months of the financial year. At a general level, it is often hard for an opposition to analyse these quarterly reports because it is difficult to reconcile all the data that they contain. I will give you an example.

In attachment E, the total revised revenue from taxes, fees and fines is \$671 million. The estimated revenue from taxes, fees and fines in attachment C, however, is estimated to be \$691 million, and there are no taxes, fees and fines in attachment D. So where is the missing \$20 million? I am sure there is a perfectly reasonable explanation that the Treasurer will be able to give us, but the figures vary in the various attachments that are connected to the report.

It looks as though some intersectoral adjustments are being made, but there are no details of these adjustments, so it would be helpful if all the data necessary to examine these reports was provided.

But the bottom line is this: we started this financial year with a projected surplus of \$6 million, excluding the activities of trading enterprises. Halfway through the year, the Treasurer is now telling us that we will have a deficit of \$43 million at the end of this financial year. That is a turnaround of \$49 million in six months, and that is not what we in opposition consider to be good stewardship by this Treasurer.

## **Revocation of development application Paper**

**MR CORBELL** (Minister for Health and Minister for Planning) (3.44): Mr Speaker, for the information of members, I present the following paper:

Land (Planning and Environment) Act – Revocation of Development Application  
No. 20024238 - Block 2 section 6 City - Statement pursuant to paragraph 229A (7),  
dated 14 December 2002 –

I move:

That the Assembly takes note of the paper.

Question resolved in the affirmative.

## **Leases Paper**

**MR CORBELL** (Minister for Health and Minister for Planning): For the information of members, I present the following paper:

Land (Planning and Environment) Act, pursuant to section 216A – Schedules –  
Leases granted, together with lease variations and change of use charges for the  
period 1 October 2002 to 31 December 2002 –

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I ask for leave to make a statement.

Leave granted.

**MR CORBELL:** Mr Speaker, each quarter I table in the Assembly the schedule of leases granted for the period 1 October to 31 December 2002. Section 216A of the Land (Planning and Environment) Act 1991 specifies that a statement be tabled in the Legislative Assembly underlying details of leases granted by direct grant, leases granted to community organisations, leases granted for less than market value and leases granted over public land. However, during this period there have been no leases granted. I have also tabled two other schedules relating to variations approved and the change of use charge collected for the same period.

## Papers

**MR WOOD** (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage, Minister for Police and Emergency Services): For the information of members, I present the following paper:

Performance reports

Financial Management Act, pursuant to section 30A – Quarterly departmental performance reports for the December quarter 2002-03 for the following departments or agencies:

Chief Minister's.  
Disability, Housing and Community Services.  
Economics Development, Business and Tourism Portfolio and Sport Portfolio (within Chief Minister's Department).  
Environment Portfolio (within Urban Services).  
Planning Portfolio (within Urban Services).  
Education, Youth and Family Services.  
Health and Community Care.  
Attorney-General's portfolio (within Justice and Community Safety).  
Police and Emergency Services (within Justice and Community Safety).  
Treasury.  
Urban Services.  
ACT WorkCover.

Copies of those reports that were not circulated to members out of session will be distributed.

For the information of members I also present the following papers:

Out of order petition

Petition which does not conform with the standing orders –

Free parking – Tuggeranong and Belconnon retail areas – Mr Wood (882 citizens).

Subordinate Legislation (including explanatory statements, unless otherwise stated

Animal Welfare Act – Animal Welfare Act 1992 Determination 2002 – Disallowable instrument DI2003-2 (LR, 9 January 2003).

Casino Control Act – Casino Control Amendment Regulations 2003 (No 1) –

Subordinate Law SL2003-3 (LR, 17 January 2003).

Civil Law (Wrongs) Act – Civil Law (Wrongs) Regulations 2002 – Subordinate Law SL2002-41 (LR, 20 December 2002).

Construction Practitioners Registration Act – Construction Practitioners Registration Amendment Regulations 2002 (No 2) – Subordinate Law SL2003-2 (LR, 16 January 2003).

Fair Trading (Consumer Affairs) Act – Fair Trading (Consumer Product Standards) Regulations 2002 – Subordinate Law SL2002-39 (LR, 12 December 2002).

Gambling and Racing Control Act – Gambling and Racing Commission – Appointments 2002 (No 1) – Disallowable instrument DI2002-207 (LR, 29 November 2002).

Gas Safety Act, Road Transport (General) Act and Road Transport (Safety and Traffic Management) Act – Urban Services (Application of Criminal Code) Amendment Regulations 2002 – Subordinate Law SL2003-1 (LR, 9 January 2003).

Health Professions Boards (Procedures) Act – Health Professions Boards (Procedures) – Nurses Board of the ACT Appointments 2002 (No 2) – Disallowable instrument DI2002-219 (LR, 16 December 2002).

Hotel School Act – Hotel School Appointment 2003 (No 1) – Disallowable instrument DI2003-3 (LR, 23 January 2003).

Independent Competition and Regulatory Commission Act – Independent Competition and Regulatory Commission (Reference for Investigation) Determination 2002 (No 3) – Disallowable instrument DI2002-227 (LR, 19 December 2002).

Justices of the Peace Act – Justices of the Peace – Appointment of Justices of the Peace 2002 (No 2) – Disallowable instrument DI2002-233 (LR, 23 December 2002).

Land (Planning and Environment) Act – Land (Planning and Environment) Act – Consent to Transfer Land 2002 – Disallowable instrument DI2003-1 (LR, 10 January 2003).

Legislative Assembly (Members' Staff) Act –

Terms and Conditions of Employment of Staff of Members Pursuant to Section 11 (2) 2002 (No 2) – Disallowable instrument DI2002-209 (LR, 5 December 2002).

Terms and Conditions of Employment of Staff of the Speaker Pursuant to Section 6 (2) 2002 (No 2) – Disallowable instrument DI2002-210 (LR, 5 December 2002).

Terms and Conditions of Employment of Staff of Office-holders Pursuant to Section 6 (2) 2002 (No 2) – Disallowable instrument DI2002-211 (LR, 5 December 2002).

Magistrates Court Act – Magistrates Court (Trade Measurement Infringement Notices) Regulations 2002 – Subordinate Law SL2002-36 (LR, 12 December 2002).

Mutual Recognition (Australian Capital Territory) Act – Mutual Recognition Regulations 2002 – Subordinate Law SL2002-35 (LR, 11 December 2002).

National Exhibition Centre Trust Act – National Exhibition Centre Trust Appointment 2002 (No 2) – Disallowable instrument DI2002-212 (LR, 5 December 2002).

Nature Conservation Act – Nature Conservation Declaration of Protected and Exempt Flora and Fauna 2002 (No 2) – Disallowable instrument DI2003-6 (LR, 10 January 2003).

Occupational Health and Safety Act –

Occupational Health and Safety Council – Appointment 2002 (No 3) – Disallowable instrument DI2002-223 (LR, 16 December 2002).

Occupational Health and Safety Council – Appointment 2002 (No 2) –

Disallowable instrument DI2002-224 (LR, 16 December 2002).

Occupational Health and Safety Council – Appointment 2002 (No 1) – Disallowable instrument DI2002-225 (LR, 16 December 2002).

Public Health Act – Public Health Act – Fees – Determination 2002 (No 1) – Disallowable instrument DI2002-217 (LR, 12 December 2002).

Public Place Names Act –

Public Place Names Nomenclature 2002 No 22 (Geographical Feature Name – District of Stromlo) – Disallowable instrument DI2002-213 (LR, 12 December 2002).

Public Places Names 2002, No 21 (Street Nomenclature – Gungahlin) – Disallowable instrument DI2002-222 (LR, 16 December 2002).

Public Places Names 2002, No 23 (Street Nomenclature – Gungahlin) – Disallowable instrument DI2002-221 (LR, 16 December 2002).

Public Places Names 2002, No 19 (Street Nomenclature – Gungahlin) – Disallowable instrument DI2002-231 (LR, 23 December 2002).

Race and Sports Bookmaking Act – Race and Sports Bookmaking (Sports Bookmaking Venues) Determination 2002 (No 4) – Disallowable instrument DI2002-228 (LR, 19 December 2002).

Road Transport (General) Act –

Road Transport (General) – Declaration that the road transport legislation does not apply to certain roads and road related areas 2002 (No 8) – Disallowable instrument DI2002-208 (LR, 6 December 2002).

Road Transport (General) – Declaration that the road transport legislation does not apply to certain vehicles and persons – 2002 (No 5) – Disallowable instrument DI2002-229 (LR, 20 December 2002).

Road Transport (General) – Declaration that the road transport legislation does not apply to certain vehicles and persons – 2002 (No 6) – Disallowable instrument DI2002-230 (LR, 20 December 2002).

Road Transport (General) Revocation of Declaration for Traffic Marshals 2002 – Disallowable instrument DI2002-232 (LR, 23 December 2002).

Taxation Administration Act – Taxation Administration Act (Levy) Determination 2003 – Disallowable instrument DI2003-4 (LR, 23 January 2003).

Trade Measurement Act –

Trade Measurement (Miscellaneous) Amendment Regulations 2002 – Subordinate Law SL2002-37 (LR, 12 December 2002).

Trade Measurement (Weighbridges) Amendment Regulations 2002 (No 1) – Subordinate Law SL2002-38 (LR, 12 December 2002).

Tree Protection (Interim Scheme) Act – Tree Protection (Interim Scheme) Determination of Criteria 2002 – Disallowable instrument DI2003-5 (LR, 10 January 2003).

Utilities Act –

Utilities (Approval of Industry Code) 2002 (No 1) – Disallowable instrument DI2002-216 (LR, 12 December 2002).

Utilities (Revocation of Determined Industry Code) 2002 (No 1) – Disallowable instrument DI2002-215 (LR, 12 December 2002).

Utilities (Non-franchise electricity customers) Declaration 2002 (No 1) – Disallowable instrument DI2002-226 (LR, 19 December 2002).

Utilities (Water Restrictions) Regulations 2002 – Water Restriction Scheme Approval 2002 (No 2) – Disallowable instrument DI2002-220 (LR, 12 December 2002).

Victims of Crime Act – Victims of Crime Amendment Regulations 2002 (No 1) – Subordinate Law SL2002-40 (LR, 20 December 2002).

## Passive smoking

**MR CORBELL** (Minister for Health and Minister for Planning) (3.47): I seek leave to move a motion to alter the reporting date for the resolution of the Assembly of 25 September 2002 relating to passive smoking.

Leave granted.

**MR CORBELL**: I move:

That the resolution of the Assembly of 25 September 2002 relating to the tabling of an analysis of air quality in workplaces and a Government response to the report be amended by omitting the words “by the first sitting day in 2003” and substituting “as soon as practicable”.

On 25 September the Legislative Assembly requested that the government examine air quality in premises which had an exemption under the Smoke-free Areas (Enclosed Public Places) Act 1994 and that a report, together with the government’s response, be presented to the Assembly on the first sitting day of 2003.

The indoor air quality study is being undertaken by the Health Protection Service with support from ACT WorkCover. The air quality monitoring commenced in November last year and was scheduled for completion at the end of January this year.

On 18 January this year the Health Protection Service’s offices in Holder were seriously damaged by fire. The offices of the environmental health unit were completely destroyed, and the ACT Government Analytical Laboratory was forced to cease operations for just over four weeks. The Health Protection Service is gradually resuming the provision of services, as essential equipment and other resources are replaced.

In terms of the present study, some data was lost, together with valuable background material. It is now necessary to conduct further air quality testing in a number of premises, to compile and analyse the results and to prepare the report of the findings and the government’s response to them. Although it is possible that things may move more quickly, I do not currently anticipate that the requested reports will be presented to the Assembly before May this year.

In the meantime, however, I am aware of the concerns expressed in the Assembly’s motion about the detrimental health consequences of environmental tobacco smoke exposure. The Assembly expressed particular concern about the health risks experienced by employees who work in premises where smoking occurs by virtue of exemptions under the smoke-free areas act.

Given these concerns, and given the government’s commitment to review the exemption system, I do not believe that the development of effective public health measures should be delayed. The air quality study will continue, along with the results providing information to be considered as part of the review of the exemption system.



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I will be providing further information about this review in the near future. I trust the Assembly will understand the exceptional circumstances which have led to the delay in completing this project and in preparing the requested reports.

Question resolved in the affirmative.

## **Duties Amendment Bill 2002 (No 2)**

Debate resumed from 12 December 2002, on motion by **Mr Quinlan**:

That this bill be agreed to in principle.

**MR SMYTH** (Leader of the Opposition) (3.50): Mr Deputy Speaker, I hope this is the right bill, for the right speech, at the right time. It was such a good read the first time, I might read it all again.

This bill is a technical one, emanating from the stamp duties rewrite project that was undertaken by the New South Wales, Victorian, South Australian, Tasmanian, and ACT governments. This project aimed to produce stamp duty legislation that was contemporary in language and presentation, simpler to administer and, where possible, consistent across participating jurisdictions.

Since the introduction of the Duties Act on 1 March 1999, several amendments have been made to the ACT, in line with amendments made to the New South Wales Duties ACT, to maintain these aims. This bill will continue that trend.

The bill appears to be innocuous, and both the Treasurer and the explanatory memorandum assure us that there will be no direct revenue or cost implications. Time will tell on that score.

The basic functions of the bill are to:

- extend duty exemption to the transfer of interests in shares or units quoted on the stock exchange;
- clarify the method of determining the dutiable value of certain business assets by ensuring that duty is now charged on the value of a business asset attributable to sales to territory customers;
- in prescribed circumstances, allow the commissioner to obtain the unencumbered value of a crown lease at the time it is granted;
- limit concessional rates of duty available for certain transactions to superannuation funds or trusts to where the transfer is from a trustee or custodian of a relevant fund;
- effect payment of duty only on the additional land where the regranted land includes all or part of the surrendered land;
- extend the prohibition on the registration of instruments where duty has not been paid to also apply to dutiable transactions, where they may not be an instrument, and to cases where the transfer is made by electronic means, and
- omit the duty exemption for the buy-back of shares so that an unlisted public company is not exempt.

The bill goes a long way towards clarifying various issues relating to duty and, given that it will not have a revenue impact, the opposition will be supporting it.

**MS TUCKER (3.53):** The Greens will also be supporting this bill. I understand that the act that this bill amends, the Duties Act 1999, was part of a joint initiative of several Australian jurisdictions to produce consistent, clear and simple to administer duties arrangements across participating jurisdictions. It is essentially a machinery bill that maintains the aims of the original legislation and realigns it with changes already made in New South Wales. I understand the government expects it to be revenue neutral.

I am a little concerned about the provision extending the commissioner's power to obtain revaluations for disputed valuations and to recover costs for those revaluations. It appears a little heavy-handed. I would like to be assured that in practice the provision has been, and will continue to be, administered fairly and will not be used to require lessees to unfairly pay for the errors or omissions of others.

For example, where the granting body has not done a valuation or where the commissioner challenges a valuation and orders a revaluation and the revaluation turns out to be similar to the original one, I am asking whether it is fair that the costs should be borne by the lessee.

With that proviso we support the bill.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (3.54), in reply: I thank members for their support, and I thank members for saying most of the things that I was going to say in closing the debate. I assure Ms Tucker that the powers within the bill will be exercised fairly and equitably.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

## **Justice and Community Safety Legislation Amendment Bill 2002 (No 2)**

Debate resumed from 12 December 2002, on motion by **Mr Stanhope** :

That this bill be agreed to in principle.

**MR STEFANIAK (3.55):** Mr Speaker, this is the seventh in a series of JACS bills. The first ones were started by the previous government—I remember introducing a few as the Attorney-General—and we are now up to the seventh one. This process may not be the best way of doing things in terms of substantially amending legislation, although it does help tidy up legislation. This bill provides for a number of not insignificant but, I must say, fairly sensible changes as a result of problems which have been brought to the department's attention by other departments, practitioners or the courts themselves.

Without going through each subheading in the bill, there are a number of amendments which improve the operation of things, such as the changes to the Administration and Probate Act, recognising that Hong Kong is no longer a member of the Commonwealth, an interesting change in relation to registering probate from Scotland, improvements to the Fair Trading Act, and improvements to the Fire Brigade Act. Two excellent officers of the Fire Brigade are present in the gallery for the consideration of that amendment, which will make their job somewhat easier and bring that act into line with some other acts.

There are a number of substantial changes to the Juries Act. I cannot remember when changes were last made to that act. At present, only persons who have attained the age of 60 can claim exemption under the act. Every other category there is automatically exempt. This amendment breaks the categories of persons able to claim exemption into two—a part 2.1 and a new part 2.2. This bill alters the status for ministers of religion, editors of newspapers, household officers and staff of the Governor-General, and education professionals. Persons in those categories are no longer automatically exempt, but they may claim exemption. They form now a section of the new part 2.2.

As I said, the only part there which was in the old act was point No 7, which is about people who are 60 years of age or older. If you are over 60 years of age and you get called up for jury service and want to serve, you can. But if, for example, you feel that you are not quite up to it as you have some physical problems, something which has always been recognised, you can say, “Thanks very much, but I don't want to go there. I claim exemption under part 2.2.”

I must say that I am a bit concerned about the fact that an editor of a newspaper, previously automatically exempt, can now sit on a jury. God forbid, we might have Crispin Hull, Jack Waterford and who knows else sitting on our juries! That is a possible consequence of this new clause, but people in those situations can still say, “No, I can't. I claim exemption.” Similarly, a minister of religion can now sit on a jury if he or she is called up and so desires, but also can claim exemption. I do not see that as a great problem; it is probably fairly sensible.

I have been lobbied, as indeed have members of the government and crossbenchers, by a group called the Brethren, which was very pleased to see item 2 in part 2.2, which enables a practising member of a religious society or order the beliefs or principles of which are incompatible with jury service to claim exemption. That is enough for them to be exempt. Previously, they would have had to get up in front of a judge and give evidence as to why they should be exempt, but they would not necessarily be exempted, depending on the judge.

Having been involved in quite a few jury trials, mainly for the prosecution but even a few for the defence, exemption does depend basically on how the judge feels on the day and quite a few people probably have felt a bit aggrieved by having to sit on a jury when they had a reasonable reason not to do so. Sometimes, of course, they are assisted by the prosecution or the defence simply challenging them or standing them aside, which solves the problem and they do not sit on the jury, but that is a particularly good provision.

A professor, lecturer, schoolmaster or schoolteacher engaged in full-time teaching of organised classes at a university, college or school can still say that they do not want to sit on a jury, but they can if they are called. I do not know whether we want too many academics on juries, but they are entitled to sit there if they want. But if the pressure of their work is such that it would be inconvenient to do so or they cannot, they can claim exemption, as can a practising nurse, including a nurse enrolled under the Nurses Act 1988, which is terribly important.

We have heard of crises in our hospital system and problems with the recruitment of nurses. Nursing is a crucially important profession. Other crucially important professions are exempt automatically from jury service. Whilst this new clause will enable a nurse who wants to sit on a jury to be able to do so, it gives them for the first time a chance to claim exemption. For a long trial, that might be very important. It might be very inconvenient and difficult for nurses to be sitting on, say, a two or three-week fraud trial in terms of their work commitments and the need for those nurses in the system. Again, that is a sensible improvement.

Exemption will apply to a household officer or member of staff of the Governor-General. The secretary of the Governor-General is exempt but, prior to this amendment, a household officer or member of staff was not exempt. Exemption will not serve any real purpose. There are a number of staff of the Governor-General—I have probably met a few of them—and there is probably no real reason why they should be exempt, although, again, they can claim exemption if they need to.

This amendment increases the gene pool for juries. If you look at part 2.1 you will see a large number of categories of people who are exempt, and exempt for very good reason. That is important just for the proper functioning of our criminal justice system. But this amendment does, in fact, increase the gene pool a bit, yet enable some groups which previously had a problem to be exempt. I think that is one of the highlights of this bill.

There are some other good amendments. For example, the amendments to the Legal Practitioners Act enables trust moneys to be banked as soon as practicable but within five banking days. It used to be one, but the closure of a lot of the banks in suburban areas has caused problems for solicitors in suburban practices. The provision is still reasonably onerous. I would not like it to be more than five days, I think it is crucially important that solicitors are most diligent with their trust accounts.

Virtually all the instances we have of solicitors getting into trouble and being struck off relate to misuse or incompetence in relation to trust accounts. I think that it is crucially important in any practice to attend to and be extra diligent with a trust account, but that amendment is reasonable because it does recognise that it may be quite impossible for a solicitor to bank the moneys within the same day.

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I think that that improvement is fair enough, as is the Liquor Act improvement. A number of these improvements have come to light as a result of problems experienced by the courts with the existing law. Something has been raised and the law, obviously, has needed improving and it is important that the law is amended when we do see problems with its operation. We have one such instance here in relation to the Liquor Act in terms of the definition of a bar room. I understand that it is the result of a recent case in the AAT. The amendment simplifies the situation. Some of the acts and regulations we have are somewhat complex, often unduly so. This amendment is an improvement in that regard.

A similar situation exists with regard to infringement notices issued under the Magistrates Court Act. Some of the matters which, properly, are dealt with by infringement notices actually carry as well a term of imprisonment. Infringement notices are for relatively minor matters and cannot be used currently if there is also a penalty of imprisonment. It is quite common to see reference in legislation to a maximum penalty of \$1,000 and/or three months imprisonment or six months imprisonment. Obviously, it is sensible for the issuing officer there to have the discretion to issue an infringement notice for, for example, \$200, being a realistic penalty for the type of offence, as it is not going to be any more if the matter goes to court. I can recall such an issue arising when the cannabis infringement notices first came in.

I do think we need to improve that as there are some real problems with it, but the concept was probably reasonable in that infringement notices for \$40 to \$100 were fairly similar to what people were being fined in courts for minor infringements. Perhaps it was not unreasonable to have infringement notices there. Other parts of that scheme might be a problem, but I give that as an example. Again, I think this is a fairly sensible amendment. The example given in the explanatory memorandum is quite sensible. It is about a minor matter to do with the Liquor Act, I think, and indicates that it something for which a term of imprisonment as well as a fine applies. Obviously, the use of an infringement notice is sensible there.

A number of other acts are being amended and the Opposition will be supporting those amendments. We have also seen, belatedly, government amendments and the reasons for them. They relate to some matters in, I think, Ron Cahill's court where there were some problems. They clarify the law. They will also assist in clarifying the law in terms of dealing with some other cases that are backing up, as I understand the situation. Accordingly, we have no real problems with those amendments. I note that Ms Tucker has some amendments which, obviously, she will speak to. I thank the Chief Minister for a quick briefing in relation to the government's attitude to those as well. The Opposition will be supporting this legislation.

**MS TUCKER (4.05):** This omnibus bill is a combination of mostly technical changes and some policy changes. The Greens have some concerns about a number of points. At the appropriate time, I will be moving an amendment to the Attorney-General's amendment regarding clarifying the Magistrates Court's jurisdiction to hear and determine commercial and retail lease matters. I have a few comments to make on other matters of interest to me as well.

The first is probate resealing, which affects the legal basis for ACT courts to approve wills which concern property held in other jurisdictions, particularly overseas jurisdictions. The process established here differs from that recommended by the New South Wales Law Reform Commission and from the national draft bill. The difference is that our model does not include guidelines for establishing acceptable countries. Instead, it is open to our government to maintain a list in the regulations of acceptable countries.

The government has explained that it believes that this list is sufficiently flexible to keep up with developments. I am prepared to accept its assessment, but I do see the logic of establishing guiding principles in addition to a list, so that courts can make assessments at the time if changes have not been kept up with in a hypothetical, future, overstretched department, without having to significantly delay the settling of a will.

An interesting change has been proposed to the Juries Act to accommodate the situation of a particular religious group, the Brethren, whose beliefs proscribe their participation in juries because they fundamentally believe that judges and parliaments are appropriate decision makers, that they do not have the authority to order someone to do something against their will, and they have difficulties in making joint decisions with people who do not share their faith.

I am assured that this clause has been written tightly so that it will not represent an escape clause on what is a citizen's responsibility in our democracy. The Brethren have found in some recent cases round Australia that their previously accepted requests for exemption were being unmet. This amendment will ensure that they will be acknowledged. Individuals will still have to plead their case, but religious beliefs will be a legitimate ground to consider.

**MS DUNDAS** (4.08): The ACT Democrats also will be supporting this bill, which contains technical and non-controversial amendments to 14 pieces of legislation. It recognises that Hong Kong is still included in the Administration and Probate Act, despite returning to China's rule 5½ years ago. The Fair Trading Act is being updated to take into account national model legislation in the area of pyramid selling and includes Commonwealth decisions in regard to product safety areas.

The amendments to the Fire Brigade Act allows the Fire Commissioner to inspect building works for fire safety and assess the works for compliance, making the situation workable and, importantly, enforceable. The changes to the Juries Act are minor, but worthy of some note. No longer will newspaper editors, teachers or ministers of religion be automatically exempt from jury service, but they may claim to be exempt. I believe that the wording of this clause of the bill is sufficient enough to address the concerns that have been raised by some members of the community.

There are also to be changes to the Law Officer Act and the leases act in light of a recent decision by our Chief Magistrate. The Magistrates Court Act is being amended to allow the issuing of infringement notices for all offences, whereas previously offences that contained imprisonment penalties were excluded.

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We will be supporting this bill as it is important to keep our statute book modern, up-to-date and reflecting the will and common practices of our community. I have had time to peruse the amendments that have been circulated and they seem to be worthy of support as well.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (4.09), in reply: I thank members for their contribution to the debate and their foreshadowed support of the legislation. As has been indicated, the Justice and Community Safety Legislation Amendment Bill does make essentially minor and uncontroversial amendments to a number of laws administered by the Department of Justice and Community Safety.

Portfolio bills of this sort are a very efficient and convenient way of amending the law, particularly where it can be agreed amongst us that the amendments are essentially minor or technical. It is important that we keep amendments in omnibus bills of this sort minor and technical in order that we can have some confidence in the process, that we are not trying to slip in in a devious way some significant policy issues or initiatives that change the nature of the world as we know it. It is the government's submission, of course, that all of the amendments that are proposed achieve that.

As members have indicated, I have circulated some proposed government amendments as a result of a decision by the Magistrates Court since the tabling of the Justice and Community Safety Legislation Amendment Bill (No 2), this bill, which highlighted a possible conflict between the Leases (Commercial and Retail Act) 2001 and the Magistrates Court (Civil Jurisdiction) Act 1982. In light of the court's decision in that matter, the government deems it appropriate to consider further amendments to the Leases (Commercial and Retail) Act and the Magistrates Court (Civil Jurisdiction) Act. I have circulated those amendments and I will move them at the appropriate time.

The only issue that I will comment on is the issue in relation to the Juries Act that was raised by both Mr Stefaniak and Ms Tucker quite specifically. The advice that I have is that only one other jurisdiction in Australia does provide the same exemption from jury duty, that is, Victoria. Victoria has not kept any detailed statistics or advice on the extent to which the exemption is claimed or utilised by people in Victoria seeking to assert religious belief as a ground for non-service on a jury. Anecdotally, however, we have been advised that the exemption is rarely sought and is not an issue for Victoria.

I am advised that no other Australian jurisdiction has an exemption of the same order that proscribes religious beliefs as a belief that would prevent service on a jury. It is not just the Victorian experience on which I would rely. I have to say that, in any event, if a person appears in a court, summonsed for jury service, and asserts that they have a genuine belief, based on religion, which renders it inappropriate for them to serve on that jury, they should thereby be excused. It is not one of those things that people go around doing. If somebody did do it in a spurious way, I would trust in the judgment of the court, or those officers appearing before the court for either the prosecution or the defence, to take the appropriate steps or actions in that instance.

It is just one of those things in relation to human behaviour and the pursuit of community life and our involvement as individuals in community life. I do not proceed on the basis that people with genuine beliefs, heartfelt beliefs based on religion, will romp into court and say, "This really does create a problem for me," only to have the power of the state, through the juries legislation, say, "Too bad, you can sit here and serve, feel uncomfortable and deal with it as best you can." I honestly do not believe that we need to proceed in that way. I do not believe that it is a significant issue for us.

There are other issues. Both Ms Tucker and Mr Stefaniak alluded to them. I sometimes think we are a little bit soft and slack in the range of exemptions that we do give for jury duty. There is a significant issue around who it is that, at the end of the day, serves on juries in our society. Some significant criminological studies have been undertaken into who it is that, at the end of the day, does serve on juries within most of the Western or common law countries.

The findings have been interesting and, to some extent, disturbing. There are even some socioeconomic conclusions that can be drawn or deductions made in terms of the range of people. They do not need exemptions to achieve it, but you do not find many professionals ever serving on juries. You do not find many people who work in banks or the professions—in a whole range of what might be termed upwardly mobile or white collar professions or pursuits—serving on juries. There is an issue, one that we might pursue through further study, about who it is at the end of the day, without the need to rely on exemption, manages nevertheless to get out of jury duty or jury service.

Ms Tucker used an expression along the line of fulfilling our duties as members of the community in ways such as jury service. I tend to think that there is probably a bigger issue around the range of people who manage to get out of jury service, not on the basis of a formal exemption, but in some other way. That is probably the issue that we need to pursue in relation to jury service, rather than nitpicking around somebody with a genuine religious belief who presents and says that jury service really does offend them morally in some way, only to have the system come down and crush them. I do not think that it is a big issue. I think that it is something that we, as a community, should have no hesitation in acceding to. I thank members for their contribution to the debate.

Question resolved in the affirmative.

Bill agreed to in principle.

### **Detail stage**

Clause 1 agreed to.

Clause 2.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (4.16): I table a supplementary explanatory memorandum to the government amendments to this bill and move amendment No 1 circulated in my name [*see schedule 1 at page 123*].



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The need for the amendments that the government is proposing has arisen, as I said before, from a recent Magistrates Court decision and a possible conflict raised in that decision. The terms of the government amendment to remove this possible conflict are as follows: amendment No 1 replaces clause 2 of the bill that was previously circulated. In the bill previously circulated, only parts 6 and 7 were to commence on the day after this act's notification. The government amendment will provide that part 11 and new part 14A of the Justice and Community Safety Legislation Amendment Bill will also commence on notification. Part 11 contains amendments to the Leases (Commercial and Retail) Act and part 14A contains amendments to the Magistrates Court (Civil Jurisdiction) Act 1982.

Amendment agreed to.

Clause 2, as amended, agreed to.

Clauses 3 to 56, by leave, taken together and agreed to.

Clause 57.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (4.18): I move amendment No 2 circulated in my name [*see schedule 1 at page 123*].

The amendment replaces clause 57 of the bill as previously circulated. The amendment reproduces the existing parts of sections 144 and 145 of the Leases (Commercial and Retail) Act and adds a further subsection to both. The subsection added to section 144 enables the Magistrates Court, when acting under the jurisdiction of the Leases (Commercial and Retail) Act, to exercise any power that the court could exercise under the Magistrates Court (Civil Jurisdiction) Act. The new subsection also provides that the court may exercise any other power that is necessary or convenient for the exercising of the jurisdiction under the Leases (Commercial and Retail) Act 2001.

Amendment No 2 also inserts a new subsection into section 145 of the Leases (Commercial and Retail) Act. The new subsection, 145 (2), provides that an application in relation to a dispute that may be made under section 145 of the Leases (Commercial and Retail) Act cannot be made under the Magistrates Court (Civil Jurisdiction) Act. This prevents a dispute from being brought under both the Magistrates Court (Civil Jurisdiction) Act and the Leases (Commercial and Retail) Act.

**MS TUCKER** (4.19): I seek leave to move together amendments Nos 1, 2 and 3 circulated in my name and to present an explanatory memorandum.

Leave granted.

**MS TUCKER**: I present an explanatory memorandum to my amendments to the bill and move amendments Nos 1, 2 and 3 circulated in my name [*see schedule 2 at page 125*].

The government's amendment is intended to clarify for the Magistrates Court that it has jurisdiction both to hear and to determine certain matters under the Leases (Commercial and Retail) Act 2001. Essentially, this is tidying up after the mammoth new law that the Assembly brought in in 2001. A technical problem has been identified by the courts and these amendments fix up the problem. This follows a case last week in which the magistrate pointed out that, although the intention appeared to have been to carry across to the Magistrates Court all the powers to hear and remedy that the Tenancy Tribunal had had, some powers had been lost in the translation. In a similar vein, I am interested in pursuing in a separate bill the power to reopen leases which the Tenancy Tribunal has, but that is a matter for another day.

My amendments today seek to improve the clarity of the final version to avoid any future confusion in the Magistrates Court. The first amendment, whereby I am deleting "decide" and inserting "hear and determine", will make the wording consistent with the wording of section 6 (1) of the Magistrates Court (Civil Jurisdiction) Act and remove any doubt as to the Assembly's intent for the court's powers.

The second amendment, at the end of proposed new section 144 (2), will add "and the Magistrates Court is not limited in any amount it may order to be paid in relation to an application", because when an application is made in the civil jurisdiction of the court for an amount over \$50,000 the court will not hear the matter unless the amount claimed is reduced to \$50,000. The first part of proposed new section 144 (2), as proposed in the Attorney-General's amendment, clearly would allow the court, in the tenancy jurisdiction, to hear the matter, but might not allow the court to make an order for an amount of more than \$50,000. This amendment will remove any doubt in that area.

The third amendment inserts the word "as" after "1982" in proposed new section 144 (3). I think that there may have been a grammatical error. The addition of the word "as" here will make the intent of the clause clear. Although not an issue in the most recent Magistrates Court decision, at least one magistrate has commented on similar wording in the Tenancy Tribunal Act to the effect that the word "as" was probably intended to be there. Without the word "as", it could be read in a different way. Although this is not the intention, without this amendment the clause could be read as a restriction on the powers of the court.

I thank the Law Society and the Commercial Retain Tenants Association for their work in this law reform process.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (4.22): The government will accept Ms Tucker's amendments. I do feel the need to say on behalf of the Office of Parliamentary Counsel that they would be prepared to argue with me that we should not, but it is not a matter of great moment to them and the government is happy to support them.

**Ms Tucker's** amendments agreed to.

**Mr Stanhope's** amendment, as amended, agreed to.

Clause 57, as amended, agreed to.

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Proposed new clause 57A.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (4.23): I move amendment No 3 circulated in my name, which inserts a new clause 57A [*see schedule 1 at page 124*].

Amendment No 3 is consequential upon amendment No 2. Amendment No 3 inserts a new section of the transitional provisions of the Leases (Commercial and Retail) Act. The new section 168A will save any Magistrates Court orders made in proceedings under the Leases (Commercial and Retail) Act 2001 that were commenced before the introduction of this section. Section 168 (2) provides that, if an order made was not provided for by the Leases (Commercial and Retail) Act, the order is taken to be made or to have been made validly under the powers that the court can exercise under the Magistrates Court (Civil Jurisdiction) Act 1982.

Proposed new clause 57A agreed to.

Clauses 58 to 69, by leave, taken together and agreed to.

Proposed new part 14A and proposed new clauses 69A and 69B.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment)(4.24): I move amendment No 4 circulated in my name, which inserts a new part 14A and new clauses 69A and 69B [*see schedule 1 at page 125*].

Amendment No 4 is a new amendment that is consequential upon amendment No 2. The amendment removes section 12 of the Magistrates Court (Civil Jurisdiction) Act 1982, which caused conflict between the Magistrates Court (Civil Jurisdiction) Act 1982 and the Leases (Commercial and Retail) Act 2001. Furthermore, the purpose of section 12, which was to ensure disputes under the Leases (Commercial and Retail) Act 2001 could only be brought under that act, is better achieved through amendment No 2.

Proposed new part 14A and proposed new clauses 69A and 69B agreed to.

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

Bill, as amended, agreed to.

## **ACTION Authority Amendment Bill 2002**

Debate resumed from 12 December 2002, on motion by **Mr Corbell**:

That this bill be agreed to in principle.

**MRS DUNNE** (4.26): The ACTION Authority Amendment Bill will be supported by the Liberal opposition because it makes good the undertakings of successive governments to the staff of the ACTION Authority that the employee entitlements that they enjoyed as members of the ACT public service would be maintained.

In setting up the ACTION Authority, undertakings were given to staff that they would maintain their staffing entitlements. It was an unintended consequence that when staff of ACTION became employees of the ACTION Authority they ceased to be employees under the ACT Public Sector Management Act and therefore potentially lost their entitlements to transfer from ACTION back to the ACT public service and have their service in ACTION counted for the calculation of benefits and to remain in Commonwealth superannuation schemes, the CSS and the PSS.

All these things would have serious implications for the conditions of service. Most important in that regard would be the entitlements of members of the ACTION Authority to superannuation under the Commonwealth schemes. That was not in the spirit of the undertakings made by the previous government or this government to ACTION employees. It is on that basis that the opposition will be supporting this bill.

I note that scrutiny of bills committee reports have raised the issue of retrospectivity, but from my own look at this matter and the advice that I have received from the staff of DUS and the Parliamentary Counsel I can find no-one who would be disadvantaged by these retrospective provisions. I think that we need to keep in mind that it is not so much the retrospectivity that is bad, but that we actually disadvantage someone by so passing retrospective provisions.

I note that the scrutiny of bills committee's report No 24 raised issues in relation to the powers of the Commissioner for Public Administration that are set up under this act being needlessly broad. It was a lineball call for me as to whether they were needlessly broad, but I note that Ms Tucker has circulated an amendment to clarify this matter. It is a simple, straightforward and sensible amendment, and the Liberal opposition will support it as well. We lend our support to this bill because it is a matter of keeping our word to people to whom we made undertakings. I commend the bill to the house.

**MS DUNDAS (4.29):** The Australian Democrats are also happy to support this bill. It appears eminently sensible to unify conditions of employment across the ACT public sector. It serves no purpose to have different conditions for ACTION staff from those in the general ACT public service, except to perpetuate uncertainty and confusion.

The process of corporatisation has been undertaken as a precursor to privatisation and whether privatisation is ultimately pursued. Corporatisation is also a strategy used by governments to avoid taking responsibility for properly funding services. The executive and board of a public corporation are frequently forced to keep identifying cost savings to cope with a failure by government to increase funding to keep pace with rising costs.

In this cost-cutting environment, the wages and conditions of staff in corporatised organisations are particularly vulnerable, so I support this move to bring ACTION back to being closely in line with the ACT public service as it should provide greater security for ACTION staff. In general, I do not support retrospective legislation, but in this instance it appears that no-one will be disadvantaged by the retrospectivity and hence I am willing to support this legislation in this instance and its retrospectivity.

I note that Ms Tucker will be moving an amendment that I will be quite happy to support. It is sensible in terms of clarifying a section in the amendment and hence we will be supporting it.

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**MS TUCKER** (4.30): The Greens support this bill. The intention is to make sure that employees are not disadvantaged, will not lose entitlements, and are covered by the same conditions as the Public Sector Management Act provides, and the bill seems to be worthy of support.

**MR CORBELL** (Minister for Health and Community Care and Minister for Planning) (4.31), in reply: I thank members for their support for this legislation.

Question resolved in the affirmative.

Bill agreed to in principle.

### **Detail stage**

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

Clause 5.

**MR CORBELL** (Minister for Health and Community Care and Minister for Planning) (4.32): I move amendment No 1 circulated in my name [*see schedule 3 at page 126*].

Mr Deputy Speaker, following the tabling of the bill it was brought to my attention by Parliamentary Counsel that there was a need for a technical amendment, with proposed new section 39A needing to be amended to change the wording of the final part of subsection (1) so that it actually means before the gazettal of the bill, not the commencement of the section. This is, as I say, a technical amendment required to ensure that this section has the desired effect of covering staff employed between 1 January 2002 and now.

Amendment agreed to.

**MS TUCKER** (4.33): I move amendment No 1 circulated in my name [*see schedule 4 at page 126*].

This amendment picks up a concern raised by the scrutiny of bills committee that the power granted to the Commissioner for Public Administration in order to ensure that the entitlements of staff, other than members of staff at an executive level, are protected are, in fact, too broad. Basically, this amendment is changing proposed new section 39B to say that the Commissioner for Public Administration may take any action, including giving directions, that the commissioner considers is necessary or desirable to protect employee entitlements. That is being done to confine those powers and make the intent of the provision explicit.

**MR CORBELL** (Minister for Health and Community Care and Minister for Planning) (4.34): The scrutiny of bills committee did note that proposed new section 39B provided the Commissioner for Public Administration with very broad powers, perhaps exceeding those he might otherwise normally have. The government's response to the scrutiny of bills committee's report noted that it was not the intent of this clause to increase the commissioner's powers, but simply a catch-all to ensure that the intent of the clause was implemented.

The amendment to proposed new section 39B proposed by Ms Tucker restricts the scope of this clause but, given that it nevertheless addresses the concern the government had to ensure that the Commissioner for Public Administration could do such things as were necessary to protect employee entitlements, the government will be supporting this amendment.

Amendment agreed to.

Clause 5, as amended, agreed to.

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

Bill, as amended, agreed to.

## **Adjournment**

Motion (by **Mr Wood**) proposed:

That the Assembly do now adjourn.

## **Mrs Jacqui Burke**

**MRS BURKE** (4.35): As I was saying before I was interrupted, albeit some 15 months ago, what a wonderful community to be part of and what an even more wonderful community to serve. Thank you to those members from around the Assembly who so kindly welcomed me back. I do thank those voters who put their faith in me again. To those who did not, let me say that I am here as their representative as well.

I have the unique distinction of having followed two Chief Ministers into the Assembly by way of casual vacancies. I have one up on Mr Corbell, the only other member of this place to have succeeded a former Chief Minister. Further, by my appointment to the Legislative Assembly, the ACT can now claim to have the highest representation of women in any Australian parliament. I commend my colleague Ms Dundas, a member for Ginninderra, on her investigations and revelations in this regard. Well done, Ros.

I am told that I can also claim the distinction of having been the only member so far in the history of self-government in the territory to have been sworn in by two different chief justices. We have lost a great deal of corporate memory with Gary Humphries leaving here after 14 years. Whilst I do not claim to be able to fill the gap in that regard, I come with enthusiasm aplenty. Mr Deputy Speaker, I am glad to be back. Whether you are glad to have me is another matter, but I am glad to be back.

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The roller-coaster ride of the past week or so has been a frantic one, not just with the countback, but with the bereavement of my father, which has mixed the emotions somewhat. Someone, somewhere called me the comeback kid, or is it the countback kid? That was flattering in a way, but the fact is that I never went away. I was absent from this place, as I have said, for 15 months, but for all that time I have been out in the community doing what I do best—talking, listening and helping where I can.

It concerns me that there are so many people out there who feel that no-one is listening, despite all the pre-election promises that somehow under Labor that would never be the case. I shall continue to be out there, as I have been, looking, watching, listening and being able to make a difference wherever and whenever I can. I think those of you in here who know me will know that I am a tenacious person and will not be easily brushed aside. Jacqui Burke does not go away easily.

What I hear out there I will give voice to in here. May I never lose sight of the people who put me in here and of what they had in mind when they did so. It is a sad but true fact that too many elected politicians lose sight of the fundamental reason they are here, that is, to serve the community. We are not the masters. That is the role of the people. We lose sight of that at our peril.

I know that people are cynical about politicians and, even worse, cynical about institutions. I am not a cynical person. Cynicism, it is said, is a great corroder of the soul, and it has been said that cynicism is the last refuge of the idealist. Mr Deputy Speaker, I am still that idealist. I have been given the shadow portfolios of housing, community care, community services, vocational education and training, and higher education. I am delighted because in so many ways that makes me the shadow minister for people, a voice for the community.

I am happiest being among people, sharing my time with people and helping them where and when I can. Let me promise this: whatever I do will be done with all the enthusiasm I can muster and all the drive, energy and commitment that I can find. I am glad to be back to serve the people to the very best of my ability. I thank members for their time.

### **Mr Gary Humphries**

**MRS DUNNE (4.38):** Mr Deputy Speaker, in my maiden speech, I paid tribute to a range of people who had brought me to this place. In that speech, I said:

The person I most admire in this place, Gary Humphries, demonstrates every day that in politics, as in all other things, substance and integrity are what matters.

Today we saw a small passing of Gary Humphries from this place with the appointment of Jacqui Burke and the appointment of Gary Humphries to fill the casual vacancy to succeed Senator Margaret Reid. To echo what Mrs Burke has just said in her speech, no-one will be able to fill the void of skill, the forensic mind, the clear thinking and the skills as a debater that 14 years of experience in this place have brought.

I note that no-one will again be able to say in this place that they have been Gary-ed. I always thought that that was a backhanded compliment because it really meant that his skills as a debater had really got under the skin of his opponents. It was that skill as a debater and that great general political skill that saw me grow up politically in the 5½ years I had on his staff, under his tutelage.

I would have to say, as I said in a more private function, that there was no better boss than Gary Humphries and he provided me with no better employment. I would like to recount that a friend of mine who acquired a job on the hill recently as a staffer rang me up and said, “Hey, this is a really great job. You get to do politics 24 hours a day.” I said that there is one better job, and Gary Humphries gave me the opportunity to take that step to that one better job—not just to be a staffer, but to be a member and have the opportunity to serve the people of Canberra in a particular way.

While the skills and attributes of Gary Humphries will be lost to this place, I know that they will not be lost to the people of Canberra. I hope that he will have many years of service in the new place on the hill, and I wish Gary, Cathie, Owain and Felix well.

Question resolved in the affirmative.

**Assembly adjourned at 4.40 pm**



*18 February 2003*

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## Schedules of amendments

### Schedule 1

#### **Justice and Community Safety Legislation Amendment Bill 2002 (No 2)**

Amendments circulated by the Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment

#### **1**

##### **Clause 2 (1)**

**Page 2, line 6—**

*omit clause 2 (1), substitute*

- (1) The following parts commence on the day after this Act's notification day:
- part 6 (Fire Brigade Act 1957)
  - part 7 (Fire Brigade Regulations 1958)
  - part 11 (Leases (Commercial and Retail) Act 2001)
  - part 14A (Magistrates Court (Civil Jurisdiction) Act 1982).

#### **2**

##### **Clause 57**

**Page 35, line 5—**

*omit clause 57, substitute*

#### **57 Sections 144 and 145**

*substitute*

#### **144 Jurisdiction**

- (1) The Magistrates Court has jurisdiction to decide applications under this Act.
- (2) The jurisdiction of the Magistrates Court for this Act is not affected by the amount claimed in an application.
- (3) The Magistrates Court may, when acting within the jurisdiction given under this Act, exercise—
- (a) any power that could be exercised by the court under the *Magistrates Court (Civil Jurisdiction) Act 1982* if the court had this jurisdiction under that Act; and
  - (b) any other power necessary or convenient for the exercise of this jurisdiction.

**145 Applications that may be made**

- (1) An application may be made in relation to a dispute to which this Act applies.

*Note* Section 17 sets out the disputes to which this Act applies.

- (2) An application in relation to a dispute to which this Act applies cannot be made under the *Magistrates Court (Civil Jurisdiction) Act 1982*.

**3**

**Proposed new clause 57A**

**Page 35, line 12—**

*insert*

**57A New section 168A**

*insert*

**168A Saving of certain court orders for relief**

- (1) This section applies to a Magistrates Court order in a proceeding that—
  - (a) relates to a dispute under this Act; and
  - (b) commenced in the Magistrates Court before the commencement of this section.
- (2) To the extent that the order provides for something not provided for under this Act—
  - (a) the order is taken to be, or have been, made under power the court could exercise under the *Magistrates Court (Civil Jurisdiction) Act 1982* if the court had jurisdiction in relation to the dispute under that Act; and
  - (b) the court is taken to have, or have had, that power.
- (3) This section is declared to be a law to which the Legislation Act, section 88 (Repeal does not end transitional or validating effect etc) applies.

4

**Proposed new part 14A**

**Page 40, line 13—**

*insert*

**Part 14A Magistrates Court (Civil Jurisdiction) Act 1982**

**69A Act amended—pt 14A**

This part amends the *Magistrates Court (Civil Jurisdiction) Act 1982*.

**69B Section 12**

*omit*

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Schedule 2

**Justice and Community Safety Legislation Amendment Bill 2002 (No 2)**

Amendments circulated by Ms Tucker to Attorney-General's amendment No 2

**1**

**Amendment 2**

**Proposed new section 144 (1)**

*omit*

decide

*substitute*

hear and determine

**2**

**Amendment 2**

**Proposed new section 144 (2)**

*after*

application

*insert*

and the Magistrates Court is not limited in any amount it can order to be paid in relation to the application

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**3**

**Amendment 2**

**Proposed new section 144 (3) (a)**

*after*

1982

*insert*

as

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Schedule 3

**ACTION Authority Amendment Bill 2002**

Amendment circulated by Minister for Planning

**4**

**Clause 5**

**Proposed new section 39A (1)**

**Page 4, line 18—**

*omit*

commencement of this section.

*substitute*

day after the day the *ACTION Authority Amendment Act 2003* is notified.

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Schedule 4

**ACTION Authority Amendment Bill 2002**

Amendment circulated by Ms Tucker

**Clause 5**

**Proposed new section 39B**

**Page 5, line 4—**

*after*

is necessary or desirable

*insert*

to protect employee entitlements