DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

HANSARD

26 June 2003

Thursday, 26 June 2003

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The Assembly met at 10.30 am.

(*Quorum formed.*)

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

Civil Law (Sale of Residential Property) Bill 2003

Mr Stanhope, pursuant to notice, presented the bill and its explanatory statement.

Title read by acting clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.33): I move:

> That this bill be agreed to in principle.

The Civil Law (Sale of Residential Property) Bill 2003 establishes a new process for making and exchanging contracts for the sale of residential property in the ACT. The bill is designed to reduce significantly the incidence of the unethical practice of gazumping and provide increased levels of consumer protection for both buyers and sellers of residential property.

Gazumping occurs when a seller breaks their promise to sell a property to a buyer after they've orally accepted the buyer's offer. In other words, a buyer cannot be gazumped unless the seller has accepted the buyer's offer, and the seller subsequently accepts a higher offer from another buyer. It is this practice that this bill aims to prevent.

My government is not proposing to create an offence of gazumping. Rather, the bill addresses the clear factors in the sale process that lead to sellers being able to gazump. In particular, the bill aims to close the window of opportunity that currently exists between the time phase to conclude an oral agreement to sell a property and the signing and exchange of a binding, written contract.

The government has consulted with major stakeholders, including the ACT Law Society, the Real Estate Institute of the ACT, the ACT Revenue Office and the Consumer Law Centre and developed a solution that balances the rights of both buyers and sellers. In particular, I'd like to thank the members of the Law Society Property Law Committee and the executive committee of the Real Estate Institute, who gave generously of their time, expertise and vast experience to the development of this bill.

To design an effective solution, the government has examined the conveyancing processes of other jurisdictions to see how they have dealt with this problem. The solution that this bill proposes is an amalgamation of the best features of the Queensland, South Australian, and New South Wales conveyancing systems.

As well, the bill contains a number of features which are unique to the ACT and which will provide buyers and sellers with significantly improved levels of consumer protection in their property transactions.

The bill also addresses another major consumer protection issue in the sale of residential property that has crept into the ACT real estate market. I refer to the unethical practice of dummy bidding at public auctions. This practice involves the person, whether the seller, agent, auctioneer or another person, making a false bid at auction in order to increase the sale price of the property. The person has no interest in purchasing the property and is merely seeking to inflate the final sale price at the fall of the hammer.

As with the gazumping proposal, there's no intention to interfere with the seller realising the best price for their property. The aim of these provisions is to prevent an unfair and deceitful practice that distorts the market and artificially drives up property prices.

I'll now direct members' attention to major aspects of the bill.

Sellers of residential property will now be required to have a draft contract of sale prepared prior to listing the property on the market. Attached to this contract will be a number of due diligence documents and reports that will provide the buyer with all the information necessary to determine whether this is the property they wish to purchase.

Under the current process of the sale of residential property, the buyer conducts all the necessary inquiries concerning the property and also commissions certain inspection reports. The majority of these due diligence inquiries are conducted after an oral agreement to purchase the property has been concluded.

The time that it takes to conduct these searches and have a contract drafted opens a wide window of opportunity for gazumping to occur. Requiring the seller to have these documents available for a buyer to inspect from the time the property is first advertised for sale closes the window of opportunity.

The new process that the bill proposes bears some resemblance to the New South Wales system but differs in a very significant way. The New South Wales anti-gazumping legislation does not require inspection reports to be attached to the contract, as was noted by my colleague Mr Hargreaves in this Assembly some time ago. The New South Wales system has not been successful in reducing gazumping in that jurisdiction, and my government doesn't intend to make the same mistakes. The New South Wales system does not work because it fails to address the window of opportunity for gazumping to occur.

Buyers in New South Wales still have to undertake substantial due diligence inquiries before they can move to exchange, leaving the window open. Because this bill requires the seller to attach all the documents necessary to conduct an adequate level of due diligence on a property up front, the window of opportunity closes. Buyers and sellers will now be free to enter into binding written contracts as soon as an offer is accepted.

The bill will, for the first time, open up the market and allow real estate agents as well as solicitors to organise and conduct the exchange of contracts between a buyer and a seller.

The bill doesn't propose that real estate agents should draft the contract, but it does allow a real estate agent to fill in certain prescribed details, including the name and address of the parties, the sale price on the contract, the date the contract is made and any chattels included in the sale. An agent can also organise the exchange of contracts between the buyer and seller. This measure will fast-track the process of buying a property.

The bill also introduces a new five-day cooling-off period to protect buyers. This brings the ACT into line with most other jurisdictions. The government considers that it's entirely appropriate to introduce a cooling-off period for the sale of residential property, as the home is the most significant investment both financially and emotionally that most people in the ACT will ever make. The cooling-off period will apply only to residential properties sold by private treaty and will not apply to sales by auction. If a buyer decides, for any reason, during the five-day cooling-off period to cool off, they may rescind the contract.

In balancing the rights of buyers and sellers, the government has followed the prudent practice adopted in Queensland and New South Wales of imposing modest financial disincentive on the exercise of the right to cool off. Buyers who exercise the right to cool off will forfeit 0.25 per cent of the purchase price of the property. This measure will protect the rights of sellers and maintain the integrity of the conveyancing system.

The bill provides, for the first time anywhere in Australia, the compulsory application of statutory warranties in a contract for the sale of residential property. Currently, these warranties can be struck out of contracts, leaving the buyer without any consumer protection. The bill makes it mandatory for certain warranties and conditions to be included in all contracts for the sale of residential property.

The bill will also repeal the Energy Efficiency Rating (Sale of Residential Property) Act 1997 and re-enact the provisions of that legislation, with some minor amendments.

The final major reform in the bill amends the existing prohibition on dummy bidding at auctions and introduces new requirements for the conduct of auctions of residential property. The bill will now require an auctioneer to disclose publicly a bid made by a seller as a seller bid. Seller bids are only permitted in certain circumstances outlined in the bill. The bill also requires that the auctioneer is to make available a copy of the conditions of the auction for at least 30 minutes before the auction begins.

The bill creates a number of offences in relation to dummy bidding. The existing offence of making a dummy bid remains, and a new offence of falsely acknowledging a dummy bid is introduced. Persons who disrupt an auction by preventing another person from making a bid will also be guilty of an offence.

The bill also introduces a requirement that bidders at public auctions must register their details in a bidders record and only recorded bidders will be able to make a bid at a public auction. The record will facilitate the enforcement of these provisions by the ACT Office of Fair Trading.

A regulation-making power is also provided which gives the executive the power, amongst other things, to regulate the conduct of public auctions of residential property and to prescribe standard rules for the conduct of public auctions of residential property.

Mr Speaker, I want to thank all of those people who've given their time and expertise in the development of the bill. I'm confident that these measures will effectively reform the conveyancing system in the ACT by:

- opening up the market to enhance the competition and the more efficient process for the making and exchange of contracts,
- better balancing the rights of buyers and sellers of residential property,
- closing the window of opportunity for gazumping to occur
- and introducing a more open and transparent process for the conduct of public auctions in the territory.

Mr Speaker, I commend the bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Evidence (Miscellaneous Provisions) Amendment Bill 2003

Mr Stanhope, pursuant to notice, presented the bill and its explanatory statement.

Title read by acting clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.42): I move:

> That this bill be agreed to in principle.

This bill is to amend the Evidence (Miscellaneous Provisions) Act 1991. Currently the act deals with the giving of evidence via closed-circuit television by children and sexual offence complainants. The act also deals generally with the use of audiovisual and audio links in proceedings before our courts.

The main purpose of this bill is to introduce immunity for the counselling notes of sexual offence complainants. I made a commitment last year to introduce this immunity, agreeing that complainants should receive the treatment they need without the fear that counselling notes will be misused in criminal proceedings.

The ACT experienced first-hand this issue, with the subpoenaing of a Canberra rape crisis worker's notes in 1995. Upon refusal to hand over the notes on the grounds of irrelevancy, a New South Wales court jailed the worker for contempt. She was held for four hours in the Queanbeyan watch-house before her release. Some reports indicate that the briefcase containing the notes remains even today at the Queanbeyan courthouse.

This incident galvanised the issue. The Model Criminal Code Officers Committee began considering national legislation on the issue. New South Wales enacted legislation in 1997, before the committee finalised model provisions. The Model Criminal Code and New South Wales legislation form the basis for these amendments.

A complainant should not have to contemplate disclosing to the very person accused of assaulting them in the first place, and in open court, records containing intensely private

aspects of their lives. Those records could possibly contain thoughts and statements that may never even have been shared with the closest of friends or family. Mostly, those records will contain an exploration of a complainant's fears and feelings arising from the assault. We should not be compounding a traumatic incident by allowing further trauma in the courtroom.

There may also be proceedings where admission of protected confidence evidence would be in the interest of the complainant. The evidence of early conversations, in the wake of an alleged sexual offence, might assist or even bolster the complainant's evidence. The legislation will apply equally to both situations.

For the purposes of the immunity, a protected confidence is a counselling communication made by, to or about a complainant. The immunity applies automatically. A counsellor or victim is not required to object to production of a protected confidence and a counsellor will only be required to produce records where required by a court. Depending on the stage of a criminal proceeding, different degrees of immunity apply.

If the proceeding is a preliminary criminal proceeding, that is, a proceeding concerned with the grant of bail or committal for trial, the immunity is absolute. It will not generally be possible for the court to have enough information about the case presented at preliminary criminal proceedings to determine whether to maintain the immunity. Consequently, counselling notes are not to be sought for production, and they may not be admitted in preliminary criminal proceedings.

A general immunity applies to a trial, sentencing or appeal. To disclose a protected confidence to the proceeding, the leave of the court must be sought.

There are three stages. For the first stage the party seeking leave must identify the legitimate forensic purpose and satisfy the court that the records would materially assist their case. Leave should be refused if the judge is not satisfied on these grounds. A grant of leave would begin the second stage, which is a preliminary examination by the judge of the protected confidence evidence. After conducting the preliminary examination, the third stage is the court granting leave for the disclosure of the protected confidence. This can only occur if the judge believes it to be in the public interest to disclose; in essence, that it will assist an accused person to have a fair trial. Balanced against disclosure is the public interest in preserving the confidentiality of protected confidence evidence.

A number of other provisions confer necessary power on the judge to assist in making the determination and orders needed to ensure this legislation operates effectively. Additionally there are provisions which ensure that evidence may be given by a medical practitioner arising from a physical examination of a complainant to a sexual offence. The immunity also does not apply if a communication is made for the purpose of a criminal proceeding. This is intended to ensure that prosecutors and investigators are not prevented from disclosing the communication that may be in the nature of a protected confidence.

The third provision is to remove the protected confidence immunity in case of misconduct, if it appears there has been corruption, collusion or other behaviour that suggests the protected confidence is untrue.

The placing of restrictions on evidence from counselling notes or questions about the sexual behaviour of complainants and like provisions in proceedings for sexual offences has the aim of protecting essential witnesses from unnecessary humiliation or distress. The approach adopted in this legislation is one the government believes is proportional and provides certainty for the parties involved in the trial.

The immunity strikes an appropriate balance between the right of the complainant to receive confidential and effective counselling and the right of a defendant to any evidence that might genuinely assist his or her case. I'm satisfied that this immunity is compatible with an accused's right to receive a fair trial.

The bill also contains some housekeeping amendments in schedules 1 and 2. After passage of this bill, part 2 of the act will deal only with children giving evidence by closed-circuit television. The new part 4 will contain all the law of evidence that applies to complainants in sexual offence proceedings, including the closed-circuit television provisions and updated provisions from part 10A of the Evidence Act 1971.

This bill places all the evidentiary provisions for sexual offence complainants in the Evidence (Miscellaneous Provisions) Act 1991, as the Commonwealth Evidence Act 1995 precludes our inserting new provisions into the Evidence Act 1971. Part 3, providing the framework for all closed-circuit television evidence, is unaltered, except for the renumbering outlined in schedule 1.

There are also some consequential amendments to acts and regulations listed in schedule 2.

Mr Speaker, I commend this bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Justice and Community Safety Legislation Amendment Bill 2003

Mr Stanhope, pursuant to notice, presented the bill and its explanatory statement.

Title read by acting clerk.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.49): I move:

> That this bill be agreed to in principle.

Mr Speaker, the Justice and Community Safety Legislation Amendment Bill 2003 is the eighth bill in a series of bills dealing with legislation within the Justice and Community Safety portfolio. The bill makes a number of substantive as well as technical amendments to portfolio legislation. The amendments are as follows.

Cooperatives Act 2002

On 19 November 2002 the Legislative Assembly debated and passed the Cooperatives

Bill 2002. During the debate it was agreed that subclause 338 (4) should be deleted. Inadvertently, all of clause 338, which provides for the grounds for winding up, the transfer of engagements and the appointment of an administrator, was deleted. The amendment to the Cooperatives Act 2002 rectifies this error.

Fair Trading Act 1992

The amendments will remove any doubt that the Magistrates Court's power to grant relief under the act also includes the power to enforce any orders for relief made and also includes the power to make preliminary and procedural orders.

Fair Trading (Consumer Affairs) Act 1973

The amendment to the Fair Trading (Consumer Affairs) Act 1973 will permit the minister and the Commissioner for Fair Trading to make public statements where it's in the public interest to do so. These statements will identify, warn or inform the community about consumer protection matters, including any of the following:

- goods that are unsatisfactory or dangerous and the people who supply them;
- services that are supplied in an incompetent manner by traders who continually ignore court orders or the imposition of penalties; or
- unfair business practices and the people who engage in them.

For such public interest statements to be viable, the bill provides immunity from liability for statements that are made honestly and without negligence as well as clarifying that any publication of warning statements will attract the protection for actions against defamation provided by section 61 of the Civil Law (Wrongs) Act 2002 and section 31 of the Defamation (Criminal Proceedings) Act 2001.

The bill also provides that the Fair Trading (Consumer Affairs) Regulations can adopt consumer product safety standards produced by standard-setting organisations and provides the regulations can include offences, with penalties not exceeding 20 penalty units.

Leases (Commercial and Retail) Act 2001

The amendments will remove any doubt that the Magistrates Court's power to grant relief under the act also includes the power to enforce any orders for relief made and also includes the power to make preliminary and procedural orders.

Legal Practitioners Act 1970

Section 200 of the Legal Practitioners Act 1970 requires unclaimed moneys to be paid to the ACT by payment to the Chief Executive. In December 2000 the Public Trustee assumed responsibility for the functions of what was the Registrar of Unclaimed Moneys. However, a strict reading of section 200 of the act provides no basis for payments to be made to the Public Trustee. The amendment corrects this anomaly by allowing payments to be made to the Public Trustee rather than to the Chief Executive.

Second-hand Dealers Act 1906

The amendments to the Second-hand Dealers Act 1906 will alter the meaning of the suitable person for licensing requirements in section 11 (3) to provide that a licence cannot be granted where it would cause the breach of another law.

The amendments will also allow the Commissioner for Fair Trading to exempt persons selling second-hand goods from the requirement to be licensed. Exemptions will only be granted following consultation with the Australian Federal Police. Exemptions will be for one-off events and fairs where it's impracticable to draft regulations exempting the people or the event.

Trade Measurement (Administration) Act 1991

As of 2001, the provisions concerning infringement and penalty notices are found within part 8 of the Magistrates Court Act 1930. Accordingly, the penalty notices provisions in section 13 of the Trade Measurement (Administration) Act 1991 is now redundant and is removed.

Mr Speaker, as with previous portfolio bill amendments, the government is confident that these amendments will lead to more accessible and up-to-date legislation.

I commend the bill to the Assembly.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Privileges—Select Committee
Proposed appointment

Debate resumed from 18 June 2003, on motion by **Mr Wood**:

> That:
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> (1) pursuant to standing order 71, a Select Committee on Privileges be appointed to examine whether the unauthorised dissemination of information on ABC Radio relating to Report No 5 of the Standing Committee on Public Accounts and the Report into the Appropriation Bill 2003-2004 of the Select Committee on Estimates 2003-2004 was a breach of privilege and whether a contempt of the Legislative Assembly was committed.
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> (2) the Committee be composed of:
> (a) one Member to be nominated by the Government;
> (b) one Member to be nominated by the Opposition;
> (c) one Member to be nominated by a Member of the ACT Greens, the Australian Democrats or the Independent Member
>
> to be notified in writing to the Speaker prior to the Assembly adjourning on that sitting day.
>
> (3) the Committee report by 20 August 2003.

and on the amendment by **Mr Smyth**:

> Insert the following new paragraph:
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> "(1A) the Select Committee also examine
> (a) the refusal of Mr Wood to answer questions of the Select Committee on Estimates;
> (b) the refusal of Mr Corbell to answer questions of the Select Committee on Estimates;
> (c) the creation and distribution of the document known as 'Budget Estimates 2003' by certain persons within ACT Health
>
> and determine whether each constitutes a contempt of the Legislative Assembly.".

Debate (on motion by **Ms Dundas**) adjourned to a later hour.

Land sales

MRS DUNNE (10.54): Mr Speaker, I seek leave to move the motion regarding the Gungahlin Development Authority and Harrison estate 1 standing in my name on the notice paper.

Leave granted.

MRS DUNNE: I move the motion standing in my name on the notice paper:

> That this Assembly directs the Minister for Planning to table legal advice provided to the Gungahlin Development Authority in relation to dealing with the successful bidder for Harrison 1 Estate.

Over the past two or three days, Mr Speaker, we have had considerable discussion in this place and elsewhere about the botched and unhappy situation that relates to what was originally called a record auction for land at Harrison in the ACT. As you know, Mr Speaker, the sale of land and the development of land are part of the lifeblood of the ACT. One of the things that we need to have most certainty about is that, when the rules are set, the rules are abided by.

What we have seen in this case, Mr Speaker, is this: the rules have not been abided by—the clear rules set out in the auction documents that require that the successful bidder, at that auction, must pay a deposit equal to 10 per cent of the full amount at the time of the auction. In this case, Mr Speaker, this has not happened. There has been the sorry, sorry saga, of someone who, I suspect, might end up being a fall guy in this whole situation, a developer who may have got into a situation—may, Mr Speaker—beyond his capacities to deal with. At the moment, the Gungahlin Development Authority is dealing with him. His part-payment of a deposit, his $1 million, may also be in jeopardy.

I have concerns for the impact that that may have on that particular person, who is in business in town in a small way, and who has 15 or 20 employees. It might be that, because of the ham-fisted way in which the Gungahlin Development Authority has dealt

with this, this man's livelihood and, therefore, the livelihood of his employees might be at risk.

What has happened in this case, Mr Speaker, is that everything about the way the Gungahlin Development Authority has operated since the first cheque was dishonoured has hung on a legal advice, and it's a legal advice that has been clouded in some mystery. There are many lawyers around town, and many bush lawyers as well around town, who would say that the conditions of sale set out in the auction document, which is an extremely fat document, are quite clear, and there is no way that we could get around them.

As I've said before, the conditions of sale include that there is no contract unless a deposit of 10 per cent of the full bidding price is paid at the fall of the hammer. It seems, from what one hears in discussion in the media and discussion in this place, that the Gungahlin Development Authority has sought to vary that contract on the basis of an advice provided to them by, I presume, the Government Solicitor's Office. I think that there are many issues that hang on that advice, Mr Speaker. The concern is that, in this case, the whole way we do land servicing and deal with people who buy things by tender or by auction is being put in jeopardy.

This government prides itself on being open, accountable and transparent, and the Chief Minister, when he was Leader of the Opposition and making his play for the Treasury bench, trumpeted this over and over again: open, accountable, transparent. Mr Speaker, it's not happening.

In this case, on two occasions, members of the opposition have asked the minister in question time to table that advice in this place—and he does not comply with courteous requests—and the reasons that he gives for this, Mr Speaker, seem to me quite spurious.

On the first occasion, he said that he would not table it because this was about commercial dealings between two parties, and it would be inappropriate to give it to a third party. He didn't say, Mr Speaker, it was commercial-in-confidence, but he walked around the edges of that.

This is not a matter which is about commercial-in-confidence. This is a matter that is about advice that gives the Gungahlin Development Authority, apparently, the go-ahead to deal with somebody. This is not about the deal but whether or not they should deal. This is not about the substance of their capacity to do the job or anything like that, or how much money is being exchanged. There is no commercial-in-confidence reason for not providing advice about whether or not one should proceed down a certain pathway.

Yesterday, in this place, when politely asked again to table the advice, the answer was a different one: if the minister tabled the advice—there was some consideration that there might be legal action against the Gungahlin Development Authority—then the territory might be exposed.

Mr Speaker, you can't have it both ways: either the Gungahlin Development Authority is acting entirely within the law and is absolutely and utterly confident that what they're doing is absolutely squeaky clean—it's according to Hoyle—or it's not, and then the territory is exposed.

It seems to me, Mr Speaker that, although the minister protests that everything that is being done is done absolutely according to the law, he has doubts. It's demonstrated by the fact that he said yesterday that he would not release this advice on request because the territory might be exposed.

I think that there are greater things at stake here than the exposure of the territory. The exposure of the territory over one matter is important, but the principle that underlies this—the confidence with which members of the business community and members of the public can deal with this government—is a much higher principle which needs to be tested.

If at the end of the day, Mr Speaker, we come to the conclusion that everything is above board and the Gungahlin Development Authority has done everything according to Hoyle, everything is correct and there is no case to answer, I will be mildly embarrassed and I will say, "Okay, you've won; it's fine." That will be the end of it.

But at this stage, Mr Speaker, we can't test that, and this Assembly has a responsibility to constantly test whether or not the government and the executive are performing to the best interests of the ACT community. At this stage, we do not have that crucial piece of evidence. The minister keeps saying, "The Gungahlin Development Authority is acting on legal advice; everything is hunky-dory." If everything is hunky-dory, I will be the first person to admit it.

I'm always prepared to say when I am wrong, and I will always fess up to my mistakes. It's uncomfortable and it hurts, but I will do it. It would be good for all of us in this place, when we deal with people, to do that. It would be good for the government, of whatever persuasion, to do that.

We need to be open; we need to be accountable. I think, Mr Speaker, the argument that the territory may be exposed in some financial sense is not a strong enough argument. The really strong argument is that, if we don't have the capacity to scrutinise and watch what the executive is doing—it doesn't matter what political persuasion the executive is—there is a much greater risk that the territory will be exposed in a moral sense, because we don't know that we are dealing with people fairly.

At this stage there is a great body of evidence that an arm of the ACT government is not dealing with people fairly; they have set a set of rules; and when it was convenient for them—for whatever reason, which I can't plumb, Mr Speaker—they have set those aside. We can't have a precedent like this.

There were many people—I gather about 12 or 13 people—who went to that auction, apparently pre-qualified, with a cheque in their top pocket, ready to pay. One of those people who went there with a cheque in his top pocket had a rubber cheque. That's really unfortunate. It's unfortunate for a whole range of reasons. It's unfortunate for the business reputation of the person concerned; it's unfortunate because it creates uncertainty in the land market when there are a vast number of people struggling and trying really hard to get into the housing market, and the prices are going up and up. All this uncertainty creates more uncertainty and raises the price of housing.

One of the principal concerns here is that the delay and the uncertainty will mean that the already overheated land market will continue to overheat. Mr Wood said in the budget debate that we're now getting to the stage where, for first home owners to have enough money to service the entry price, they need to have a family income of $80,000. That's unprecedented; it's well beyond the capacity of people on average weekly earnings to actually now get to a situation where they can afford to enter into the market. If they've got two or three kids and they need to upgrade, it is right beyond them. We need to be constantly vigilant and constantly working for the best interests of the people of the ACT to ensure that we aren't doing things or aiding and abetting in things which will cause that market to overheat any more.

What has happened in this case is that the actions of a government agency, which have now been condoned by this minister in this place on two or three occasions, mean that there is increasing uncertainty; there is increasing dissatisfaction. I was at a social function last night where I met a number of builders—generally speaking, not big players, not the sort of person who goes to an auction and is able to bid $38 million for a parcel of land; somebody who might develop 20 houses here and five townhouses somewhere else and do that over the course of two or three years—and they are very concerned about what is happening generally with housing prices in the ACT and are deeply, deeply transfixed by this farce that is being conducted under the auspices of this minister and the Gungahlin Development Authority.

The really important principle here is to find out whether the Gungahlin Development Authority is acting in a way that inspires confidence and will inspire continuing confidence in the people of the ACT. To do that, and so that we have confidence in the Gungahlin Development Authority and its successor and so that we can have confidence in this minister, it is important that the piece of paper on which everything hinges, all these actions hinge, is made available to this Assembly so that it can be properly scrutinised.

Without that, there is no certainty for the developer concerned; there is no certainty for other players in this process; and there is no certainty for the people of the ACT that their best interests are being looked after. Providing this advice—and it could have been done on Tuesday in a simple and straightforward way—is important; it is important for the basic principles of governance of this territory. It needs to be done now and it should be done graciously. I propose—and I will circulate it in writing—an amendment to the motion as it stands on the notice paper requiring that the minister table the advice before the house adjourns today.

I commend the motion to the house.

MR CORBELL (Minister for Health and Minister for Planning) (11.07): I am pleased that the members of the crossbench, with the exception of Ms Tucker, feel this is such an important issue that they're not present in the chamber to listen to the debate. Mr Speaker, I'd like them to do me the courtesy at least of listening to the government's argument before making a decision on this issue.

Mrs Dunne is proposing in the motion today that the government table a piece of legal advice on an issue which, as has already been signalled publicly by Mr David Dawes

from the MBA, may be the subject of legal action by other unsuccessful bidders. I think it would be an unprecedented step for a government, which is potentially facing legal action by unsatisfied parties, to have to provide to this Assembly the advice which underpins the action which is the subject of the potential dispute.

That is the issue that we are debating: should the government be forced to provide legal advice which, in any other circumstance, would be privileged client/lawyer information? That is the proposition. It's not about housing affordability; it's not about all the other issues about whether or not people can afford to buy land in the ACT. Mrs Dunne wraps all the argument up into that, but what Mrs Dunne is asking me to do today, if her motion is successful, is compromise the position of a territory instrumentality in terms of the legal advice it has received which may be the subject of court action.

It's just not acceptable from the government's perspective. No government has been asked to do such a thing. I would have no problem providing this advice if the contract was effectively done, and the matter was resolved, so that people could see on what basis the government acted. I would have no problem with that. But that is not the case.

What we have is a contractual arrangement which is in the process of being either finalised or terminated between the Gungahlin Development Authority and the successful bidder for Harrison 1. Other parties have indicated publicly that they are seeking advice as to whether or not they should take legal action against the actions of both the successful bidder and the Gungahlin Development Authority. This legal advice is central to that matter, to that dispute, which third parties are indicating publicly they are seriously considering taking action against. It would undermine the position of the territory to provide that advice on the public record.

Mr Speaker, if members feel so concerned about this matter—and clearly Mrs Dunne does—I am happy to provide a briefing to Mrs Dunne so that she can see the legal advice, but on the basis that it is in-confidence; so that she can satisfy herself as to whether or not the advice warrants the action that the GDA has taken. But it must be on an in-confidence basis, for the reasons that I've outlined. But I'm happy to show her that advice. I'm happy to show other members that advice.

Mr Speaker, the proposition that Mrs Dunne is pushing today threatens the position of any government and any government instrumentality now or down the track that, whenever there is a contentious dispute involving third parties, the Assembly can be used as a vehicle to obtain a legal opinion.

Mr Speaker, the government's view on the motion is that it's not, we believe, an appropriate course of action for Mrs Dunne to pursue today; that there are other avenues open to Mrs Dunne, as I've indicated just now in the debate. I would urge members not to support the motion.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (11.12): I would wish to speak only very briefly on the issue, to support the position or argument put by my colleague Mr Corbell. I believe it would be unprecedented, in an environment where organisations or individuals have clearly indicated that they're actively considering legal action against the territory or an instrumentality of the territory, that the territory would release its legal advisings in

relation to that matter. I support entirely everything that Mr Corbell has said about that. I believe it would be unprecedented.

In many ways it would be derelict for the minister to release into the public domain legal advice, obtained by the territory or an instrumentality or organisation associated with the territory and for which there is territory responsibility, relevant to a foreshadowed legal action. It would simply be derelict, in my mind, that the minister would expose the territory's legal position in those circumstances.

I think it's very important that members quite clearly signal that they're not prepared to be a party to an action or a result that would expose the territory's potential liability or expose it in a legal action that's been foreshadowed. We've all read and heard from representatives of the building and development industry in the ACT that there are a group of developers, it's said, that have already obtained certain legal advice and that are actively considering instituting legal action against the territory. It's seriously suggested by Mrs Dunne and by the Liberals that the government should jeopardise the territory's position in that matter by releasing this legal advice.

Mr Corbell has offered to make the advice available on a confidential basis. It quite clearly does have to be on a confidential basis. I think members, particularly members of the Liberal Party, would be very aware of the issues in relation to the Mann case, around the release of legal advisings to members of the Assembly, and of the implications of that. Dr Mann took action against the Chief Minister. It proceeded for years at enormous cost to the territory and resulted in the circumstance where the government simply can't release legal advisings, privileged documents, to members of the Assembly without a strict undertaking on behalf of members that they will respect the confidentiality of those documents.

We've been through an enormous process in relation to this issue over the last five or six years—in relation to actions for defamation, I think, essentially—as a result of the release to a crossbench member of this place of a legal advising by the then government. We need to keep that in mind. I have written to members on this subject of issues around the release of legal opinions.

I reiterate again, by way of conclusion, the point that Mr Corbell makes. It would be unprecedented for a minister to release a legal opinion in circumstances where parties have announced that they are actively considering instituting legal action against the territory in relation to the matter which is the subject of the legal opinion. I think it would be absolutely derelict of the minister to expose the territory in that way.

MS TUCKER (11.16): I have been listening to the debate. There's an amendment circulated in my name which seeks to add the following words:

> "and that the advice be held in the Clerk's office and made available only to Members, and that the advice be destroyed at the end of this Assembly.".

The last bit's just because the clerk's office doesn't want to have to hold these documents forever.

The reason I'm putting this amendment is that—and I know we've done this before in the Assembly when it's been a sensitive issue or an allegedly sensitive at the time; I remember we did it with Bruce Stadium and we also did it with CTEC; issues that involved people's names and apparent commercial sensitivities as well—if the document is held in the clerk's office, every member of the Assembly has an opportunity to have a look at it.

Clearly, people are still of the view that they want it made more widely available. I've heard the arguments from the minister which would suggest that isn't an appropriate thing; that if people, after having seen the advice, still want to do that, obviously it could be brought back for debate in the Assembly at a later date.

I move the amendment circulated in my name:

> Add the following words: "and that the advice be held in the Clerk's office and made available only to Members, and that the advice be destroyed at the end of this Assembly.".

MR SMYTH (Leader of the Opposition) (11.18): Mr Speaker, the real question here is: what is the government covering up? If you look at what has happened, you have to ask the question: why are you potentially facing legal action? Why did you actually have to go and get legal advice at all? Why? Because you didn't follow your own terms and conditions.

Mr Quinlan: Grubby little bastard.

Mr Stefaniak: On a point of order, Mr Speaker: I just heard the Deputy Chief Minister use a very derogatory term.

MR SPEAKER: What was that?

MR STEFANIAK: He used the word "bastard", Mr Speaker, and I think he should withdraw that.

Mrs Dunne: I think there was an adjective like "corrupt" that went before it as well.

Mr Stefaniak: I didn't hear that.

MR SPEAKER: I didn't hear any of this.

Mr Quinlan: Mr Speaker, if anybody did hear that remark, for their benefit, I do withdraw it, without repeating it, which was tempting.

MR SMYTH: Again, it indicates the level of debate, where we get to the personal attack instead of going to the substantive issue. The substantive issue here is: why didn't the government comply with its own terms and conditions, as advertised? It's a well-known norm, it's an established process, that says, "On the drop of the hammer you pay a 10 per cent cheque, or you don't get the contract." You then negotiate with the second bidder

and the bid reverts. The bids weren't substantially different—$250,000 over about $38 million.

So the question is: when the cheque wasn't presented or when the cheque bounced, why wasn't the process followed? That's what we're trying to get to here. What was the purpose, Mr Speaker, of continuing to negotiate with a bidder who hadn't met your own terms and conditions of the agreement that you put out, the established norms?

I think the unprecedented thing here is that we have gone so far and so hard to extend from 11 to 27 June, by 16 days, the ability to give somebody the chance to comply with something that they've failed to do—that they've failed to do against the established norm, against the terms and conditions published in your own document, and against what is the standard principle that underlies having an auction every time an auction is held.

Was there opportunity for the other bidders given to negotiate? No, there wasn't. So why are we doing it with somebody who is in default? I suspect what Mr Corbell is doing through the GDA, through his portfolio, is actually undermining the auction process. How will the industry, and in particular interstate bidders, have any faith or confidence in dealing with the ACT government or an instrumentality of the ACT government when, if you default on the conditions, you can continue in the process?

This isn't lay-by; this isn't land sale by lay-by, pay a little bit now and negotiate; use it a bit later; come back to me later; you put some money in and we'll have it on hold for you until you find the cash. Auction is auction. It's a well-known process; it's a well-defined process. The unprecedented thing here is that the government goes and gets legal advice to cover itself because it hasn't followed its own process.

What we have to send, I think, is a clear and distinct message. It came up in the Estimates Committee that particularly the GDA would issue documents for auctions and at the very last minute would actually change the terms and conditions, which makes it very hard for industry to put in sound bids. We, as a territory, through this government, may well be forgoing revenue, losing taxpayers potential revenue, because the process they're running is not suited, is not defined and is not being adhered to.

Mr Speaker, I think the important thing here is that this advice is made available to members. Ms Tucker's amendment is certainly agreeable to the opposition. The advice can be held by the clerk; those that wish to see it may go and view it. That's an appropriate way to do it.

But what we need to know is the basis for the government breaking the norm; for the government doing the unprecedented thing here. The government is potentially just covering its own legal behind because it's broken its own terms and conditions and the established norm in the auction process. This minister needs to be accountable for what he has allowed to continue to happen.

MR CORBELL (Minister for Health and Minister for Planning) (11.22): Mr Speaker, speaking to Ms Tucker's amendment: the government is prepared to support Ms Tucker's amendment because it is a way through, but only on the basis that members

would sign an undertaking to respect the confidentiality of the document and not to disclose it.

As the Chief Minister outlined in his comments, we have had circumstances previously—and I think members are all familiar with it—of legal advice being provided to other members of this place and that advice then being disclosed. There is one case where the government has been sued as a result of that information being disclosed by another member.

The Chief Minister has written to all members of this place seeking their agreement that the government will provide briefings to them and provide legal advice to them that is privileged, but only in the context that they respect the confidentiality of that advice. So all I'm asking is that members be prepared to support an amendment to Ms Tucker's amendment, once it's agreed to, that members sign an undertaking that the advice is to remain confidential and not to be disclosed.

I foreshadow, Mr Speaker, that I will be moving an amendment to that end if Ms Tucker's amendment is successful.

MS DUNDAS (11.24): Just on this motion: I think it is important that, as an Assembly, we are informed and confident that the government is taking the right and proper actions with regard to every facet of their work, and this is another way of being assured that the government is being accountable, is following the rules and laws of the territory and making sure that the actions that are taking place under their direction are proper.

In terms of Ms Tucker's amendment: I think it is the best compromise. It allows members to view the information and to rest assured, if that is what the information then says, that the government is following processes as much as it can and that everything is being done above board.

In terms of what Minister Corbell has just said: it is my understanding that Minister Stanhope circulated advice to every member that, if we are having confidential briefings, we do keep that information confidential, especially in relation to legal advice; and that undertakings will be given under that. I accepted from the Chief Minister—I assumed that other members did—that, when we are talking about legal advice, there are ramifications in terms of courts that we need to be aware of. I have no problem in following that dictate.

I'm not sure that Minister Corbell's amendment is necessary, because that undertaking has already been given.

Mr Corbell: Not all members have given that undertaking.

MS DUNDAS: Minister Corbell says, "Not all members have given that undertaking," which then does make the point that an undertaking does need to be given in terms of this. I would be happy to support an amendment if it is so put forward—so long as we can get to the point where people are informed and can rest assured that the government is doing what it is meant to be doing and the information is available to members—so that we can carry out our duties in keeping the government accountable.

Amendment agreed to.

MRS DUNNE (11.27): Mr Speaker, I move the amendment circulated in my name.

MR SPEAKER: You will need leave.

MRS DUNNE: I seek leave to move the amendment circulated in my name.

Leave granted.

MRS DUNNE: I move the amendment circulated in my name:

> After the word "table", insert "before the Assembly adjourns today (26 June 2003)".

MR CORBELL (Minister for Health and Minister for Planning) (11.27): The government has no difficulty with this amendment, Mr Speaker, but I do want to draw to members' attention that, in tabling the document, as is provided for in Mrs Dunne's substantive motion, it is a case of then deciding whether or not that document should be authorised for publication or made available more broadly. So, to clarify that situation, I foreshadow that, in the amendment that I am about to move, I will also seek to omit the word "table" and substitute words which would simply require me to provide the advice, by the close of business today, and that the advice be held in the clerk's office and be made available to members who sign an undertaking to accept the confidentiality of the document.

Mr Speaker, I think tabling the document may broaden out the scope of the availability of the document and its status, and I think it's more appropriate that the document simply be provided by me to the clerk, to be held in the clerk's office for the purpose of members perusing it.

MR SPEAKER: Mr Corbell, I don't want to attempt to steer debate here, but a lot of work on an important issue is being done on the run. I wonder whether members might consider adjourning this to a later hour this day, to have some discussions about the final form of a motion. Somebody that hasn't spoken can move that it be adjourned to a later hour this day.

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

Road Transport (General) Act 1999
Disallowable instrument 2003-79—motion for disallowance

MS DUNDAS (11.29): I move:

> That Disallowable Instrument 2003-79, made pursuant to the *Road Transport (General) Act 1999* be disallowed.

By moving a disallowance to the fee regulation, I do not wish for all registration to remain at current levels, nor do I think registration of vehicles should be free. Rather, I am calling on the government to adjust the concession scheme so that the surcharge

concession is extended to pensioners, gold card holders, and full-time student concession holders.

This year's budget saw a major change to registration: the introduction of continuous registration. What this means is, regardless of when you re-register your car, the bill will be backdated to the time that your registration fell due. Further, there will be a reduction of the "lapse" period available for registration renewal from 12 to three months, meaning that if you do not renew your registration within three months of the expiry, it will be considered a new registration. That means your car will have go over the pits for re-examination and be subject to all of the administrative requirements that go with the registration of a new or recently sold car.

Many families may not be able to pay for their registration when it falls due and may choose not to drive the car for a couple of weeks until the next pay day. Under the new system, there will be no option but to pay for the full rate, even if you don't drive the car in the interim. This reform will raise up to $500,000 in the first year from people who are already struggling to make ends meet.

What makes the new system worse is that the ACT community has not been told about this issue or consulted about its implementation. Without a community education program there will be many heated moments at government shopfronts, as motorists argue about the full cost.

There are many reasons why people may not wish to register their car on the due date. They may be overseas or interstate, or have work commitments; they may be having their car fixed or a new engine installed; or they may just be tinkering under the bonnet for a few weeks and driving another car.

Continuous registration assumes that everyone who fails to renew on the exact date is a criminal and driving their car unregistered. But there are no real facts to show this. This is just $500,000 from people who are struggling. The affordability of registering a vehicle will be affected and many people will opt for short-term registration. However, there will be a surcharge of $25 each time someone takes out short-term registration. So if you pay quarterly you will be up for $100 per year—yet another impost on those people who are least likely able to pay.

The trend is increasing towards short-term registration and more and more $25 surcharges. In 2000-2001, 41 per cent of registrations were short term, and this increased to 46 per cent in 2002-2003. In this year's budget the government expects to reap an extra $1 million from this surcharge on motorists.

This surcharge affects motorists who do not have the money to pay up front for a whole 12 months registration—people such as the unemployed, pensioners, students, veterans and the working poor. While I understand that the surcharge has been in place since 1998, more and more Canberrans are finding it difficult to pay the full year's registration.

I cannot believe that it really does cost $25 to process a registration fee. In fact, this seems to have become a flat tax on poor people. Through questions during the estimates process I have established that 33 per cent of drivers now take up three months

registration, and 13 per cent take up six months registration. The revenue generated by the short-term surcharge during the period 1 April 2002 to 31 March 2003 was in excess of $3 million.

Holders of a Centrelink health care card pay a concessional surcharge of $10. However, holders of pensioner concession cards and veterans gold cards are not entitled to the concession on the surcharge, though they do receive a concession on their registration fee. A change in the concession scheme would save affected members of our community, such as pensioners, students and veterans, up to $80 per year.

As I said at the beginning of my speech, I am not calling on the government to throw out all aspects of the disallowable instrument. I am calling on the government to change regulation 79, sub-regulations 32 (3) and 68 (8) to extend the surcharge concession to these additional categories of low income people. I hope that the government can see that this is something that does need attention, and will work on making these changes.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (11.35): Ms Dundas has raised some fair points that need some further consideration, and the government is prepared to do that. But we should point out that the disallowance motion, if successful, would have a rather significant impact. Some might see it as a good thing to totally do away with the registration scheme. I do not think that is what Ms Dundas is asking for but, on my advice, that would be the impact of this disallowance motion—that registration would effectively cease to exist. So we do not quite want to go that far today. I do not think that a disallowance is the appropriate way to address what are some quite reasonable concerns.

The $10 surcharge applies only to health care card holders. Interestingly, they are not eligible for any other concessions on vehicle registration, so that is a minor concession to them. Pensioner concession card holders pay $25—a point that you argue about—and yet they do not pay any registration at all. They get concessional registration, they pay third party insurance and that is all. But there is a reasonable argument that "they are on a concession, why should they pay $25?"

A further valid point is the cost. Officers tell me that this not a simple process—it is costly—but that if it can be done over the phone or the internet, the cost is less. I certainly give Ms Dundas the commitment that, while we will knock over the disallowance motion today, in view of the range of issues involved, the government will comprehensively review the surcharge agreements. We will do that quickly. We would be happy to involve Ms Dundas in that review, which will consider a proposal to make pensioner concession card holders and Department of Veterans Affairs gold card holders exempt from the $25 surcharge.

We will also consider reducing the administration fee for phone and internet transactions for all people, recognising that there are fewer administrative costs in such transactions. So I trust that, with those assurances, we can proceed to satisfy all needs, including those of the people Ms Dundas speaks for.

MR CORNWELL (11.38): The opposition will not be supporting this disallowance motion pretty much for the reasons that the minister has outlined—that it is not possible

to disallow one aspect of registrations without wiping out all registrations. If this disallowance is to get up, Mr Speaker, I do hope somebody will let me know as I want to make a phone call to my wife.

It being 45 minutes after the commencement of Assembly business, the debate was interrupted in accordance with standing order 77. Ordered that the time allotted to Assembly business be extended by 30 minutes.

MR CORNWELL: I welcome the minister's assurance that a review into the various concessions will be undertaken, and I grant you that they are a bit confusing. Let me begin by saying that a $25 charge for part annual registration does seem rather excessive. However, I appreciate that there will be a cost involved in processing something that is out of the ordinary, if I can put it that way.

The problem, of course, is that if you reduce the additional cost for something like this to a nominal amount it may very well end up costing the government more money than the extra amount you charge. This is always one of the problems. Therefore, there is a tendency perhaps to put the charge up to something that is well beyond what the normal charge or cost of handling would be. That is something that I think we simply have to live with.

I am not 100 per cent sure that all part payments of concessions are effectively taken up by the poor. Many people do not have the money to pay their registration annually and are obliged to pay perhaps for three months or six months, somewhat similar to rate payments that people can pay quarterly. However, the fact that some people choose to make payments in this way does not necessarily indicate that they are poor. Some people prefer to do this type of thing in order to have disposable income for other activities.

Nevertheless, this is something that needs to be looked at. Clearly, although some people may use this method of payment in order to have disposable income, other people do not pay the 12-month fee for rates or, indeed, motor vehicle registration, because they are strapped for cash.

I am concerned, however, about the minister's comment that it costs $10 to pay by using the internet, but if you go into a shopfront it is going to cost you $25. These are matters that I think all government agencies should be addressing. The internet, Bpay and various other means of electronic payment are now very much part of everyday life. Nevertheless, there are a significant number of people in the community—and I am particularly conscious of this, being spokesman for the aged—who simply do not have access to or cannot access this type of electronic payment.

I am reminded, Mr Speaker, of the difficulties experience by an elderly friend who, while not experiencing problems in terms of mental capacity, is crippled with arthritis. It is very difficult when you have got arthritis in your hands to make phone calls and Bpay transactions. This is a small example of the difficulties faced by these people. It seems wrong that they should be charged more because they cannot access electronic systems of payment.

The other problem, of course, that bedevils this whole thing is the involvement of Commonwealth payments as opposed to ACT payments and concessions. I think this

whole matter needs to be looked at very carefully. We constantly seem to be tripping ourselves up. Commonwealth health card holders get a certain concession that is not available to people who get concessions from the ACT government.

I therefore welcome the concession review that the minister has undertaken to conduct. As I say, we in the opposition will accept it, and we will do so without prejudice. Whilst I acknowledge Ms Dundas' comments in relation to gold card holders, pensioners, students and veterans, I am, of course, and I will remain, concerned about self-funded retirees. Therefore, I accept your concession review—I repeat, without prejudice—and I still retain my claim for some sort of financial justice for self-funded retirees.

MS TUCKER (11.44), in reply: Obviously, for the reasons that have been highlighted, this disallowance is not supportable. Ms Dundas, in putting her case for why this regulation should be disallowed, made the point that there are concerns about the part-payment of registration fees. Mr Cornwell does not seem to think people who take advantage of part payment are necessarily poor. However, I would think most of the people who pay in this way because they want some disposable income are certainly not well off.

The method of paying registration fees has been raised in previous Assemblies. I am interested to see that the Liberals are now are sympathetic to considering changes. This has not always been the case. This matter has been raised on a number of occasions in this place in the time that I have been a member. ACTCOSS, in particular, has drawn attention to it. But it is good to see that the Liberals have had a change of heart. It is especially good to see the Labor government picking it up today and giving a commitment to make changes.

MS DUNDAS (11.46): I thank members for their contribution to this debate today. Some very good points have been made and I believe that this debate has been warranted. I take on board the point that members have made that we don't want to throw out the entire vehicle registration scheme and, as I said, that is not what I was intending to do. I brought on this debate so as to inform the Minister and make the Assembly aware that there are problems with the vehicle registration scheme in the way it is put forward in this determination.

The Minister has given some assurance today on the public record that he will, as quickly as he can, carry out a comprehensive review of the surcharges and concession arrangements and how they relate to registration schemes. He said that this review will consider reducing administration fees and the like. That assurance has been given on the public record and I will hold him to account.

I welcome the offer to be involved in the process to ensure greater equity of fees. Considering that I have had assurances from the Minister that, in essence, what I am looking for will take place—and I could not amend the determination; I could only move to disallow it—I see no reason for the disallowance to go ahead. If what the Minister has promised does not happen, we will come back to the Assembly and have this debate again.

Motion negatived.

Executive business—precedence

Ordered that executive business be called on.

Revenue Legislation Amendment Bill 2003 (No 2)

Debate resumed from 24 June 2003, on motion by **Mr Quinlan**:

That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (11.49): Mr Speaker, this replacement bill seeks to implement two revenue measures in the ACT: namely, changes proposed to the taxation of corporate reconstruction arrangements and to the taxing of gaming machine revenues.

The first proposal concerns conveyance duty on the transfer of assets. On the one hand, this proposal appears sensible in that it removes a distinction between assets that are "land rich" and other assets. In principle, this is a good move because it removes a distinction between classes of assets.

It is also welcome because it would replace a policy that operates on an exemption basis with a policy that should be more definite and transparent in its application. From our perspective it is far preferable in principle to have taxation legislation that operates on positive parameters rather than through the provision of exemptions, where administrative discretion may become a factor in the application of a taxing policy.

Having acknowledged the merits of having a positive taxation policy, I do note that even this proposal has its own complexities. I see that clause 7 of the bill relates to concessional duty for motor vehicle registration applications. Why is it necessary to include a specific provision in relation to motor vehicles and not for any other asset that may be caught up in corporate reconstructions? I am sure there is a simple answer, Mr Speaker, and perhaps the Treasurer will enlighten us in his wrap up.

Mr Speaker, of more general concern, however, is the quality of the government's explanatory statements that accompany proposed legislation. These statements typically do not contain sufficient information in support of the measures that they are meant to be explaining. The explanatory statement for this bill is simply another example where we, as members of the Assembly, are not given sufficient information about legislative proposals in the first instance. It should not be necessary for us to ask, almost as a matter of course, for briefings on or seek other explanations of proposed legislation. For instance, I would like the Treasurer to respond to my question in relation to the inclusion of motor vehicles in this bill.

Mr Speaker, the argument is made by the government that this proposal brings the ACT into line with New South Wales, South Australia and Queensland, and you have to ask why? Clearly there is merit in aligning appropriate policies that apply in the ACT with those that apply in New South Wales. However, we are only aligning up to a point, because the threshold in the ACT will be lower than that which applies in New South

Wales. So the transactions that are subject to this taxing policy will be treated more favourably in the ACT than they are in New South Wales.

But I pose the question: why don't we do what Victoria and Tasmania have done in this area of taxing policy—that is, abolish this type of duty? I am not sure of the arguments that were used by those governments to abolish the duty. However, the quantum of revenue that it is estimated will be raised by this proposed policy is only around $1 million a year—a significant amount of money on its own but not perhaps a significant amount of revenue in the total budget. Nevertheless, on balance, this measure probably appears to be reasonable, although the government, through the Treasurer, could have provided additional information to support the proposal.

The second measure is the gaming machine taxation revenue raising initiative. This proposal aims to increase the highest rate of tax from 25 per cent to 27 per cent and, as such, it should apply only to the largest and most profitable clubs. I guess, at first sight, this proposal seems reasonable in that those organisations with a greater capacity to pay tax can do so. But, at the same time, there are two significant difficulties that we have with this proposal. The first difficulty is the apparent assumption that organisations with a gaming machine turnover of more than $50,000 a month are more profitable. This is an assumption and we do not have any detail from the government to support or disprove it.

Mr Speaker, it may be the case, for example, that some organisations that generate relatively high levels of gaming machine revenue are not particularly profitable at all, for a number of factors. They may have a high level of debt; they may have high capital spending commitments due to expansion and refurbishment activities. There may be other influences on their operations. And, again, the government has not provided any detail on the likely differential impact of this measure on clubs in the ACT.

The second difficulty with this proposal is the impact it will have on revenue flows within and from the affected clubs. Our clubs make a significant contribution to the community in so many ways. They are substantial employers, they generate income within regions across the city; they use a wide range of goods and services with the appropriate flow-on effects; they provide an enormous variety of services and activities; and they make grants to community organisations and other activities. We do not accept that the government should make this community focus even harder by taxing clubs at an even higher rate. We do not think this taxing proposal is a good idea, so I will be moving the amendment that has been circulated.

Mr Speaker, there is a third point, and it is something I would like members to consider before we move ahead to becoming, I think, more addicted to gambling revenues as a government. Several governments across this country are so addicted to gambling revenues to balance their budgets that were there to be significant changes in the way they tax gambling, in particular poker machines, their budgets would be severely impacted.

I guess that one of the justifications for raising the threshold from 25 to 27 per cent is that the Productivity Commission has determined on a number of occasions that the ACT does not as a jurisdiction maximise its potential on gambling taxation. I think we should be pretty proud of that. I think we should be fairly proud of the fact that we have not become so addicted to gambling legislation that we are drawn into the trap of sucking

more and more out of the poker machines through clubs in particular and, as a city, becoming more and more dependent on this form of revenue. We could raise more revenue but I suspect we would probably end up spending more of the income ameliorating the impacts that gambling has in the community.

If it is appropriate and sustainable to tax poker machine revenue then perhaps we should, but I think there is a bigger question here. The previous government had a poverty report and the current government has been given a poverty update. I think there is a large amount of angst in the community about gambling across the board and I think now may be the appropriate time to look at whether we should go about somehow reducing the impacts of gambling rather than, as a jurisdiction, becoming more and more indebted to gamblers.

We already know that large amounts of gambling revenue come from a very small percentage of the population. Clubs ACT in particular is doing its bit to reduce the impact of problem gambling, but there still is problem gambling in the ACT. This is a dilemma because we as a jurisdiction are becoming more and more addicted to this substantial amount of money that goes up every year. Governments are tied to this problem financially and it therefore gets harder and harder for them to disassociate themselves from this source of revenue.

So I would have some huge concerns about what we are doing here today. I do not believe we have to follow the route of the other states, particularly New South Wales and, indeed, Victoria, which has a huge dependence on gambling. That is why the amendment that I will move seeks to remove clause 3 of the bill—the part that allows for the percentage to be raised from 25 to 27 per cent.

MS TUCKER (11.57): This bill increases revenue in a number of ways. It removes the corporate concession which applies to corporate reconstruction, and we are supportive of that. Also, it introduces a loan security duty on advances of $1 million or more, which will earn about $0.5 million per year. But will this actually contribute to loan security? The ACT and the Northern Territory had been the only Australian jurisdictions not to charge duty on secured loans. This is a modest introduction, with the ACT's rate coming in at half the rate of Victoria—currently the lowest and with a higher threshold.

The other aspect of this legislation is the increase in gambling tax. I listened to Mr Smyth with some amazement, considering that yesterday we had the opportunity to do something fairly concrete about empowering the Gambling and Racing Commission to take into account the social impact of poker machines on premises. Of course, community sporting facilities are now totally coopted by the gambling industry. Interestingly, yesterday only Ms Dundas cared about the gambling impacts, and now we have Mr Smyth insisting that the Liberals are right in there on this.

The problem, of course, is that this is about Commonwealth grants. It is outrageous that the Commonwealth has also shown itself to be entirely inconsistent in that it claims to understand the impact of gambling on the Australian society only when it suits them. The Commonwealth is attempting to force states and territories into increasing government taxes, and that inherently means there is a greater reliance on that source of revenue which, as I said yesterday and have said so many times in this place, is a very easy tax

slug on the community. It is a quiet tax and therefore is less likely to be of concern to the broader community.

Because gambling taxes go into consolidated revenue they inherently are linked to schools and hospitals, and this shows the cooption of government with the gambling industry. What the gambling industry in the United States has done is even more obvious. In an attempt to justify their existence, the gambling industry basically persuaded the elected representatives to agree with them that revenue from gambling would be hypothecated to particular social functions, such as education or health. The education and health sectors were coopted by the gambling industries because they were reliant on revenue from gambling to fund their areas.

In a way this is what is happening here because taxes, and increases in taxes, on gambling revenue go into consolidated revenue. It would be much better to see money that is taken out of gambling used for certain purposes. Over the years I have proposed that money that comes from gambling revenue should be related to or hypothecated to the social harm that comes from that activity. Unfortunately, the proposal to have a levy across all gambling still has not been picked up by the Gambling and Racing Commission or the government, even though it is generally supported in the community. I have never had a very negative response, even from clubs, on that. That would be a better way than what is now before us of increasing the social commitment of the clubs .

I would like again to briefly go through the impacts of problem gambling and the broader costs on our society. These consequences have been documented and they are: fraud in the workplace, depression, anxiety, suicide, family and relationship breakdown, over-commitment on credit cards, borrowing from family and friends never repaid, losing family home, evictions, no money for basic services, including feeding children, harassment by creditors, bankruptcy with all its consequences, family violence, communities under pressure to provide services for those affected, and so on.

A gambling tax is certainly an inequitable form of revenue. As I have said many times, problem gambling has a greater impact on people on lower incomes. It would be good if the Commonwealth could pay more attention to the debates on this issue that are occurring in parliaments right around Australia and change the requirement that it places on states to earn a certain amount by way of gambling tax. I will not be supporting reducing funding but certainly it is very clear that the Commonwealth is failing the Australian community in the current approach it is taking in requiring states and territories to earn a certain amount of money by way of gambling taxes.

MS DUNDAS (12.03): Mr Speaker, with this revenue bill we sink a little lower by increasing our dependence on gambling taxes and going further in the direction of Victoria. I am concerned that as gambling revenue rises as a proportion of our own source revenue, our addiction to this revenue becomes harder to shake.

I wanted to see a freeze on the number of poker machine licences but the government and Liberal Party were unwilling to take that step. I worry that this government will never seriously attempt to tackle problem gambling, most of which is focused on poker machines, if the ACT budget becomes more dependent on gambling revenue. However, I recognise that the federal government must take some, if not most, of the responsibility for our dependence on gambling revenue.

The Commonwealth Grants Commission expects all states and territories to raise a substantial amount of core revenue from gambling. In fact, the commission is of the view that the ACT government should increase our gambling tax take by 40 per cent. It believes that since Canberrans have high average levels of disposable income, we should be happy to lose more of it through gambling. However, the Grants Commission fails to properly recognise that it is often the poorest and most vulnerable in our community who gamble and lose the most.

I also recognise that by creating a higher rate of tax on the very large clubs there may a be slightly greater incentive for Canberra's pokie palaces to consider reducing their total number of machines to come in under the threshold for the higher rate of tax. I am not certain that this outcome is likely but it is something that we can hope for.

I have no difficulty with the other revenue measure in the bill that introduces a low rate of duty for transfers of property within a corporate conglomerate. This rate of duty is 5 per cent at the full rate. I have not heard any great outcry protesting against this change, which I believe is unlikely to cause significant hardship to corporations operating in the ACT. Clearly, we need to maximise revenue wherever we can, provided the revenue measures fall on those who can afford to pay.

I will be supporting this bill in its entirety, while continuing to harbour reservations. I will speak in greater detail on Mr Smyth's amendment during the detail stage.

MS MacDONALD (12.05): Mr Speaker, I rise to speak in support of the bill and against the amendment—no surprise there. What is proposed, Mr Speaker, is a small increase in tax which will really affect only the clubs with a large turnover. The government, in essence, is introducing an increased gambling tax on the top clubs in the ACT to raise $3 million.

The club industry, of course, contributes greatly to the social and entertainment activities of the ACT community but, compared with other jurisdictions, clubs in the ACT are the only ones with the benefits of gambling at the current time. This government believes that is the way it should remain because the clubs are the ones that are actually contributing to the community. Obviously, we are opposed to gambling being extended to pubs and taverns.

We are talking about only a small percentage increase and it is therefore reasonable to increase the amount paid by the large clubs. It is hardly an impost on them. I understand that the New South Wales government has just announced that there are going to be significant increases in gambling taxes, with top rates being increased to up to 40 per cent in the next six years.

Of course we would prefer not to rely on gambling taxes, but we do not really have much choice when we are having money taken away from us by the Commonwealth. We need to continue to pay for our health, education and housing, and all of the other things that the ACT community expects of us. There is an expectation by the community that we need to provide those services and we have to raise revenue in some fashion. In short, there is a necessity to put in place this slight increase—an increase on which the ACT government is not dependent but one which will assist us with our revenue raising.

Mr Speaker, I commend the bill and would urge Assembly members to vote against the amendment.

MR STEFANIAK (12.08): Mr Speaker, I have listened with interest to this debate. I also think it is rather dangerous for any governments to get too addicted to gambling revenue and I think my colleague, Mr Smyth, made some very good points in relation to that.

I would like to impress upon the Treasurer another way of ensuring that we maximise existing revenue from gaming. I understand that New South Wales, I think Victoria and certainly several other states link, through technology, the returns from machines to their relevant gaming and racing commissions. I do not think it would be difficult to link, by way of InTACT, returns from machines in the ACT. This would be an electronic way of ensuring that returns are recorded automatically.

I think that, in itself, would probably raise more revenue perhaps than a 2 per cent increase from 25 to 27 per cent. I just throw that one in for the government to consider. I think that is a much more efficient way of doing things. It would be ultimately easier for everyone involved, including both the commissioner and, of course, the clubs themselves.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (12.10), in reply: I thank members for their support, or partial support, of the bill. If only the ACT had the breadth of taxation avenues that would allow us to strike out a number of taxes, as some states have done here and there. But we are all aware that we have probably the narrowest tax base in Australia.

Just focusing on the clubs, I am a bit intrigued by what has been said. Mr Smyth is now, I think, concerned about the profitability levels of clubs that take over $600,000 per annum in gaming machine revenue. I think that really is a matter for them. I have had a little experience in the industry, and if you are in that area then, really, your fate is in your own hands in terms of how you manage and how you don't.

In debate yesterday a couple of points were made that in fact clubs had a competitive edge over pubs and taverns and could offer cheaper food prices and lower drink prices, and that that was unfair to the taverns. Very recently, New South Wales upped their taxation rate on poker machines, and the immediate reaction of the club industry was, "We'll have to put the price of food and drink up."

So there is, I think, a little inconsistency in what the opposition said. This is not unusual these days—they need to appeal to every jurisdiction they can find. Knowing that this would not go very far, it is probably reasonable and sensible politically for the Liberals to oppose this tax and claim publicly that they have done so. This is—and they know it—a very hollow gesture.

While I am talking about pubs and taverns, I would like to digress a little and talk about the pollyanna picture that Mrs Burke painted yesterday of the family taverns and the lifestyle within the taverns. Mrs Burke thinks that pokies are okay in taverns and that

scratchies are a bad thing. So scratchies can get you hooked on gambling for life, but pokies are okay. Apparently that is the logic, or extreme lack thereof.

Let me give you a couple of examples of your pollyanna view of taverns, Mrs Burke. A very good friend of mine is a former owner of the Charnwood Inn, which is now the Ginninderra Labor Club. The stories of the life within the then Charnwood Inn are legion, but let me tell you, Mrs Burke, they are not very related to happy families.

Mrs Burke: You don't like happy families.

MR QUINLAN: Unless you call a bikie gang a family, okay. My very good friend would relay stories of how it was necessary to actually ply some of the clientele with free liquor in order that they kept the rest of the clientele under control.

I also counsel you to go to the Charnwood shopping centre and ask a few of the local traders what they think about the change in ownership and tone of the building at the end of the shopping centre. They think the Canberra Labor Club is wonderful, compared to what they used to have to put up with in the great days of the family Charnwood Inn, pollyanna.

Mrs Burke: What has this got to do with revenue? What has this got to do with what we are talking about now, Treasurer? This is a little furphy, isn't it? Come on. Get on with the debate.

MR QUINLAN: I don't know what your experience of taverns is, but I have not been in once since, oh, last Sunday.

Mrs Burke: Yes, I have hit a nerve. You didn't like it, did you, Treasurer. What a shame.

MR SPEAKER: Order!

MR QUINLAN: Mrs Burke, every time you are picked up for talking rubbish, it doesn't mean you have hit a nerve. It may be that you have been picked up for talking rubbish.

Mrs Burke: No, this is about the Labor Party and revenue, isn't it?

MR QUINLAN: The last time I happened to be—

Mrs Burke: It is about revenue, yes.

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

MR QUINLAN: Thank you, Mr Speaker. I have got to tell you that the last time I happened to be in a tavern—last Sunday evening—there were no kiddies skipping in the corner. They were nice enough people, good people, but no, not the place of happy families. I really thought that I should correct your misapprehension, just in case you are planning a family night out with the grandkiddies.

Mr Smyth, I think by way of interjection, said, "What money? What money has the Commonwealth withheld?" It is important to know, I think, and it is important that you should know—

Mr Smyth: No, it's important for Ms MacDonald to know. You should answer the question.

MR QUINLAN: We are learning a bit, Mr Smyth—budget appropriation, capital recurrent expenditure. How about the Grants Commission? This could be a useful week for you. Your revenue effort is measured by the Grants Commission and your return, your share, under the horizontal fiscal equalisation formula is, in fact, influenced by your gambling effort—I think they even call it "effort". So I think it is a fact that there is pressure on states and territories to meet the average level of gambling revenue which, let me say, happily the ACT falls well below.

As I have said, I think the amendment foreshadowed by the Leader of the Opposition is pretty much a hollow gesture and, as such, I think rather crass. But it is amazing what freedoms opposition does confer upon you, I suppose.

Questions resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 13, by leave, taken together and agreed to.

Clauses 14 to 15, by leave, taken together.

MR SMYTH (Leader of the Opposition) (12.18): Mr Speaker, there is no need for me to say any more. We hear the platitudes that we are all against problem gambling, we are all aware of the problem of the addiction of governments to gambling revenue, we have all seen what happens in the other states but we are just not going to do it here. If I remember correctly, the ACT meets only 68 per cent of the norm on gambling set by the Productivity Commission. I think we should be quite proud of that, and I do not think we should be making any progress on meeting the standard that is set by the Productivity Commission.

Perhaps instead we should be asking the Productivity Commission to review what they see as the norm; whether some of the other levels that the Productivity Commission has determined to be acceptable and which are being overachieved by some states ought to be drawn back; and whether a jurisdiction like the ACT should be, in fact, congratulated for not being addicted to gambling revenues in this case.

I think that people should consider this seriously. The Treasurer says it is a hollow gesture. It is not a hollow gesture. The opposition's amendment sends the clear message, "Don't become addicted to gambling revenues."

MS DUNDAS (12.19): Mr Speaker, I would like to speak on these two clauses. The ACT Democrats are very concerned about the increasing reliance of the ACT budget on revenues obtained from problem gamblers. Before the delivery of the budget we publicly called on the Treasurer not to become addicted to gambling taxes. However, in this instance we do acknowledge that this change is driven by federal government policy.

On Tuesday of this week, along with Democrat Senator Lyn Allison, I called on the federal government to reform Commonwealth-state funding arrangements so the ACT can reduce its dependence on gambling revenue and take the lead on tackling problem gambling. Senator Allison introduced the following motion in the Senate:

> That the Senate
>
> - notes that the effect of the Commonwealth Grants Commission system is to encourage States or Territories to increase revenues from gambling and gaming …
>
> - calls upon the Commonwealth to help break the nexus between State and Territory revenue needs and gaming; and
>
> - asks the Government to ensure that the Commonwealth Grants Commission ensure that none of its determinations have the effect of encouraging increased State or Territory reliance on gambling and gaming.

This Democrat motion passed the Senate with ALP support.

Firstly, the Democrats want the Commonwealth to provide supplementary funding to those states and territories whose current gaming revenue is below the Grants Commission target, including the ACT, which is currently 40 per cent below target. Secondly, we want the Commonwealth to develop a funding formula that provides incentives to significantly cut problem gambling but leaves states and territories no worse off.

The federal government currently expects the ACT to raise substantial revenue from gambling to fund basic services. As a result, the ACT government must milk problem gamblers to help balance the budget, and so it is effectively prevented from taking steps to curb problem gambling. The ACT receives less federal money per person than other states because the Commonwealth Grants Commission thinks we should be collecting 40 per cent more gaming revenue than we currently do.

Under current arrangements, if the ACT succeeded in reducing problem gambling we would be left without enough money to pay for education and health services. The federal government is effectively mandating higher tax revenue targets from gambling, making a mockery of the Prime Minister's commitment in 1999 to lead the states in reducing problem gambling. This promise was made after the Productivity Commission found that problem gamblers lost $3 billion a year Australia-wide.

Nationally, problem gamblers represent about 2 per cent of the population but account for a third of gambling losses. Seventy-five per cent of losses by problem gamblers in the ACT are on poker machines. As has been said today in debate, gambling addictions

affect family, friends and work colleagues, so action to help problem gamblers could have enormous social benefits.

We do have to act to help these gamblers, but I do not think that opposing a rise in taxes from 25 per cent to 27 per cent for the largest clubs will have any impact on their losses. Instead, we should be working to fix the problem at its root, as I have done this week with the cooperation of my colleagues in the Senate. If the Liberals were truly committed to reducing problem gambling, as they have been saying today, I suggest they work with their federal colleagues to make changes in respect of the Grants Commission, which is putting this impost on the states and territories.

Whilst I see what the Liberal opposition is trying to achieve—and I have been working with my federal colleagues on this matter—I do not think this is the way to do it. Hence, I will not be supporting the removal of these clauses from the revenue legislation.

Question put:

> That clauses 14 and 15 be agreed to.

The Assembly voted—

Ayes 11		Noes 6	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Stefaniak
Mr Corbell	Mr Quinlan	Mr Cornwell	
Mrs Cross	Mr Stanhope	Mrs Dunne	
Ms Dundas	Ms Tucker	Mr Pratt	
Ms Gallagher	Mr Wood	Mr Smyth	
Mr Hargreaves			

Question so resolved in the affirmative.

Clauses agreed to.

Title agreed to.

Bill agreed to.

Sitting suspended from 12.28 until 2.30 pm.

Questions without notice

Medical indemnity

MR SMYTH: My question is to the Chief Minister and Attorney-General, Mr Stanhope. Minister, on Wednesday 18 June you made the following boast in this place about your medical indemnity package, and I quote: "I will stand by the product which we ultimately deliver. It will be the best and fairest of all the regimes introduced around Australia."

Chief Minister, last night doctors rejected key planks of your package leading to the ACT's hospital system making contingency plans in case key specialists such as

obstetricians, paediatricians and anaesthetists can no longer afford to practise. Why is the ACT the only jurisdiction making contingency plans for the shutdown of key elements of its health system next week if you are putting forward the best and fairest of all regimes?

MR STANHOPE: That is a very good question, in the context of the fact that the package that is being delivered by the ACT is, I believe, amongst the best of the responses by any of the jurisdictions in Australia to issues related to tort law reform and negligence, and the arrangements that should be put in place in relation to tort law, the law of negligence and the capacity for Australians and, in this instance, members of the ACT community, to take action in those circumstances where they suffer a loss or an injury as the result of the negligence of another.

This is what the law of negligence is all about. This is what the tort law reforms we are engaged in are all about. They are all about ensuring that we have in place a system that allows those within this community who suffer loss, who suffer injury, who suffer damage as a result of the negligent act of another to seek reasonable compensation for that loss, damage or injury. This covers, of course, all loss, all damages and all injury, across the board, not just in relation to hospitals or the practice of medicine, however and wherever they are occurring in the ACT.

At the base of the approach that the ACT government has taken is the need to ensure equity, justice and a capacity to seek just compensation and just return in circumstances where one suffers injury or loss. We need to keep in mind that this is what we are talking about. We are talking about how to create a tort law system that creates balance and an opportunity or capacity for people to pursue, in a reasonable way and to a reasonable extent, injuries or losses they suffer, while at the same time meeting the needs of particularly those professional groups, businesses and others in the community who have been affected by the rise in insurance premiums as a result of the insurance crisis.

It is a detailed and complex issue and, in order to respond to it, one does need to understand the causes of the crisis. Why is it that the insurance premiums went through the roof? Insurance premiums went through the roof essentially as a result of a range of factors related to the availability of insurance, which are related to events overseas—the terrorist attack in New York—and then the subsequent collapse of our biggest insurance company, HIH, followed by the collapse of the largest of the—

Mrs Dunne: HIH is not a medical defence organisation.

MR STANHOPE: I think Mrs Dunne's interjection actually illustrates the difficulty we have in relation to this issue. Mrs Dunne is here asserting that the collapse of HIH has nothing to do with the increase in premiums. How basic is that? How basic a lack of understanding of issues related to the rise in insurance premiums is that? The largest insurance provider in Australia collapsed, went bankrupt, is insolvent, is out of business and this has nothing to do the rise in insurance premiums? It goes to the heart of the difficulty we are having with this debate: that level of ignorance, that level of misunderstanding, that incapacity to grasp the basics of the issue, that this is about insurance affordability.

The HIH collapse, of course, was then followed in very quick time by the collapse of UMP, the largest of the MDOs. UMP then collapsed. It could not meet the calls that were

made on it. It could no longer function as a medical defence organisation because it did not have the resources to meet its commitments. UMP was, of course, a medical defence organisation, an insurance fund for doctors, established by doctors, run by doctors, for the benefit of doctors, and it collapsed. It was no longer able to function.

This is at the base, then, of the issue we are pursuing. We are pursuing a range of reforms designed to ensure that there is some decent regulation of the insurance industry in the first place. That is followed by a range of reforms to tort law, effectively to the way the law operates in relation to claims in negligence, to see whether there are reforms that will facilitate the capacity for a much damaged and bruised insurance industry to hold down the price of insurance and to ensure that public liability insurance is again affordable.

To that extent, through tort law reform, states and territories are bailing out the insurance industry. We are bailing them out. They failed to provide a product at a reasonable price and now the states and territories, through tort law reform, through reforms to the laws of negligence and a range of other reforms, particularly very important reforms to the way the legal process and the courts operate to ensure that we can truncate actions, speed up litigation times, reduce litigation and encourage people to settle, we will have a significant impact on the cost of litigation, the extent of litigation and, we hope, as a result of all that, the cost of premiums.

The ACT has to a large extent mirrored provisions from around the states and territories. There has been an awful lot of collaboration among the jurisdictions in relation to the packages that have been developed and all of the states are in that position now. Not all the packages from around the states have been implemented. As I understand it, Victoria, South Australia and Tasmania are in the same position as the ACT. They have bills on the table yet to be passed. Another furphy that has been spread around is that it is only the ACT that has not nailed these issues down in legislation.

Mr Smyth: We are only responsible for the ACT.

Mrs Burke: We are not responsible for anyone else.

Mr Quinlan: You asked why they are different.

MR STANHOPE: The point is you asked why they are different and why we have not done it. Of course, we are in the same situation, the same circumstance, as many of the other states and territories. Indeed, the legislation—

Mr Smyth: No, they are far in advance of you.

MR STANHOPE: No, they are not. They are in exactly the same position as us, except for the most important—

Mr Hargreaves: On a point of order, Mr Speaker: I am particularly interested in the Chief Minister's response and I am having a dreadful time trying to hear it.

MR SPEAKER: Order! Members of the opposition will maintain order and cease interjecting. Members of the government will not bait them, Mr Quinlan. Order members! The Chief Minister has the floor.

Mr Quinlan: You have my apologies, Mr Speaker.

MR STANHOPE: I will conclude on this point: the situation in the ACT is essentially not in any significant way different from that in a number of other states, with one major exception. That exception is that our legislation, our package, is better thought out, more comprehensive and better than theirs.

MR SPEAKER: Before you ask your supplementary question, Mr Smyth, I would like to welcome students in the gallery from Canberra Girls Grammar.

MR SMYTH: Mr Speaker, I have a supplementary question. Chief Minister, why are so many women having obstetric procedures at private hospitals over the next three days if they did not believe that you have totally failed to protect their interests in this matter?

Mrs Dunne: Is that a good question, too?

MR STANHOPE: Well, it is an interesting question. In looking at the approach and attitude that the ACT government has taken to reform of the laws of negligence, it is interesting that, in standing firm on a need to ensure balance between the rights of the patient or the rights of the citizen and the rights of the professional delivering a service, we have stood firmer than any other jurisdiction in Australia for the patient. And that is, of course, at the heart of the problem. The doctors want us to limit the rights of patients further than we have.

You need to understand the fundamentals of the debate. What the doctors are asking us to do now is to further reduce the rights and capacity of patients to sue. That is what they are asking us to do. We have reduced the rights of patients, we have reduced the rights of individuals, we have reduced the rights of potential litigants very significantly in this package.

I have made this point again and again: the tort law reform exercise that we are engaged in around Australia is essentially about reducing the rights of individual citizens. That is what it is about. Be under no misapprehensions about this: what we are doing is reducing rights. We are taking away existing rights. What doctors are saying is, "You haven't taken away enough rights". They want us to reduce further the rights that currently exist and the government is saying we believe that we have struck an appropriate balance. This, we believe, is a balanced response. That is what we are doing.

The doctors are saying, "Take away more of our patients' rights." The government is saying, "We believe we have taken away enough of the rights of individual Canberrans and individual Australians to pursue legal action where somebody, acting negligently, has done something to them which caused them loss or damage or injury. It is very simple: somebody does something and they have acted negligently, and by acting negligently they injure you, they cause you loss, they cause you damage. As things stand, we have a right to sue in certain circumstances. The doctors want us to reduce those rights to sue them when they do something negligently that injures one of their patients. We are saying the balance is right.

Medical indemnity

MR HARGREAVES: Mr Speaker, I am concerned that the information being provided in the media is not necessarily fully understood by all of the people affected by—

Mr Smyth: Is this a statement or a question?

MR SPEAKER: I am sure that Mr Hargreaves is coming to the question.

MR HARGREAVES: Speaking to the point of order, Mr Speaker: I wish to put the issue in context. It is the same as has been raised by other people.

Mrs Dunne: On a point of order: whom are you asking the question of?

MR HARGREAVES: Mr Speaker, will you please sit Mrs Dunne down?

MR SPEAKER: Proceed to your question, Mr Hargreaves.

MR HARGREAVES: Thank you, Mr Speaker. This morning's *Canberra Times* reports that doctors and their union—

Mr Pratt: I rise to a point of order, Mr Speaker. To whom is the question?

MR HARGREAVES: It is to the Attorney-General. Mr Pratt, if you showed the patience which God gave you, but which you usually dispense with with such vigour, and waited until the end of the question, you would figure it out. Perhaps you ought to go back to school.

MR SPEAKER: Order! Please proceed, Mr Hargreaves.

MR HARGREAVES: Thank you, Mr Speaker. For the benefit of the people opposite, I will go through it again. My question, through you, is to the Attorney-General.

Mr Smyth: Ah! Step one.

MR HARGREAVES: Are you clear on that, kiddies? Good one! Mr Speaker, my question, through you, to the Attorney-General is: this morning's *Canberra Times* reports that doctors and their union, the Australian Medical Association, still have concerns about the government's proposed reform of laws to do with medical indemnity. Can the attorney tell the Assembly whether the doctors' concerns are reflected by the response of other interested parties to the government's reform package?

MR STANHOPE: Yes, it is a feature of media reporting that it is often done in grabs, such as, "Doctors reject package." It is true that some have, but many have not. I have had significant feedback from a significant number of specialists and doctors that by and large, whilst they would like us to go further here and there, they do find the package of legislation provides them with the certainty and the security they seek in relation to their practices.

I think that it is fair to say that blanket statements about wholesale rejection of the package by doctors are not true. There is a significant level of acceptance within the medical profession and there is a significant level of acceptance within the legal profession that the package does provide the doctors with the certainty that they seek.

That level of acceptance is backed up by two of the very significant medical defence organisations. For instance, as members would be aware, Dr Paul Nisselle, the chief executive of the Medical Indemnity Protection Society, MIPS, has responded very positively to the government's package. That is, of course, the peak organisation responding to issues around medical indemnity protection for doctors. Dr Nisselle says in his letter, which has been made available to all members:

> The proposed ACT legislation seems to leave judges less "room to wriggle" than in other states—

in other words, it provides greater certainty in the judicial process than is the case in any other state—

> that is, there will be few, if any, avenues left for a judge to be able to set aside the SOL—

statute of limitation—

> and allow a statute-barred claim to proceed.

That is what the Medical Indemnity Protection Society thinks of the legislation. He goes on:

> Further, the ACT bill will provide financial incentives to potential plaintiffs to bring their claims earlier rather than later as some heads of damages will not be available if claims are taken after certain prescribed times.

Another concern expressed by doctors has to do with the run-off cover—the insurance cover for retired doctors. That is a significant issue. Dr Nisselle went on to say in relation to that that MIPS would provide reasonable cover in such circumstances. He said:

> We will do so by amortising the cost over the first six years post-retirement, so that those 6 payments will in total bring in a sum equal to one to two extra premiums. After that six years, the annual fee will fall to a low-cost administration fee—perhaps $50-$150 annually.

Dr Nisselle's response directly addresses some of the key concerns raised by some medical specialists. It confirms the government's considered approach to the insurance crisis, an approach that will deliver the certainty and security that the medical profession has always sought.

In addition to that, Mr Mark Valena, the CEO of the Medical Defence Association of Victoria, one of the very significant medical defence organisations in Australia, has responded in similar terms. Mr Valena said, and this quote is from a medical defence

organisation, one of the significant providers of indemnity insurance to the medical profession in Australia:

> In response to your specific reforms, we would initially comment that: We would expect that the reforms will flush out the majority of claims or possible claims for earlier reporting than is currently the case…All Tort Reform has a delayed impact (and indeed normally gives rise to a claim spike) before positive benefits are shown. We recognise that the proposed reforms in the ACT have made an admirable attempt to minimize any claim spike.

In light of these positive responses to the government's reform package, it is disappointing that there is still some confusion amongst some members of the medical profession around the form, extent and value of the reforms that the government has introduced.

MR HARGREAVES: I thank the attorney for clarifying the issue. As a supplementary question, I ask: what can the government do to reduce the confusion that obviously exists in the minds of doctors? What is the essential aim of the government's reform package?

MR STANHOPE: I addressed many of those issues in the answer given to Mr Smyth's question and alluded to them, of course, in my answer to your question, Mr Hargreaves. Suffice it to say, let me conclude by repeating, that the government have worked tirelessly over the past 18 months through this whole process of reform—this is the second package of legislation that we have introduced in relation to tort law reform—to include the professions in all of our deliberations. We have consulted consistently and regularly with the AMA in relation to the package of legislation tabled this week.

In addition to that, as I have indicated, I announced in April the essential content of this legislation. I tabled the details of that. I made them publicly available and said at the time in a statement that they were the essential elements of the reform package that the government would introduce in June, with one exception. I was very open about the one exception. That was that the government had not concluded its position on the statute of limitations in relation to children.

Except for that, all other aspects of this reform package were released by me in April. They were provided to the AMA in April further to consultations which were held on a regular basis with the AMA. There is an issue there, of course. I do not know the nature or basis of consultations between the AMA and its members, but I assume that the AMA, like all other unions, keeps its members fully informed of its deliberations.

Fundraising

MRS CROSS: Mr Speaker, my question is to Mr Quinlan in his capacity as Treasurer and minister for emergency services.

Mr Stanhope: Just Treasurer.

MRS CROSS: Bill's got emergency services now. Excellent. Any minister. Actually, I'd like to ask Mr Quinlan this question in his capacity as Treasurer.

Yesterday I put a question to Mr Corbell on issues of fundraising with respect to the Canberra Hospital, celebrity agent Max Markson of Markson Sparks and the visit of former New York mayor Rudolph Giuliani. Later in the day, Minister, you said that you knew Max Markson and indeed you had worked with him in putting on the biggest fundraiser at the AIS for the bushfire appeal. I am amazed that you did not answer that question at question time.

Minister, did the government enter into a contract with Mr Markson of Markson Sparks to stage the fundraising event; and, if so, why did the government not call on the expertise of their own people at the Canberra Tourism and Events Corporation who understand the territory's needs and wants and who are, after all, paid to promote the capital?

Minister, were your cabinet colleagues aware of your approach to Mr Markson; and what fee was paid to Mr Markson for the part that he played in the organisation of that fundraising event?

MR QUINLAN: There are a few questions there, but let me put it in perspective. We're talking about the bushfire fundraiser now, aren't we? The main question: fee? Nil. Did I approach Mr Markson? No. Mr Markson, in concert with Ros Kelly, former member for Canberra, approached the government and asked what they could do.

Yes, government members were aware that there was a fundraiser being organised. It was not the government's fundraiser; it was a fundraiser that was, in fact, managed by a group of interested people. I am just trying to think of the various people. There were people from Prime Television; there was Richard Tindale from the zoo. A number of people formed a committee and held committee meetings which I attended; not as an official, purely as a liaison or connection of information.

It was effectively an offer made by people, particularly Ms Kelly, who had direct interests in Canberra and wanted to do something. That was an offer that the government, quite obviously, would take up. I haven't got the records, but we were assured that everybody that appeared at or was involved in that fundraiser gave of their services for free. There may have been some costs associated with one or two of the artists in terms of their equipment. I think arrangements were made for complimentary plane fares, for virtually everything. It was really just people doing Canberra a favour.

I would be very, very concerned if there is even a hint that there was some form of conspiracy associated with the fundraiser. It was a very generous contribution by so many people to benefit Canberra.

MR SPEAKER: Mrs Cross, supplementary question?

MRS CROSS: Thank you, Mr Speaker. Minister what date was Mr Markson given for the collection and sign-off on the money, pledges and donations raised by that appeal; and are there still moneys yet to be retrieved by the government?

MR QUINLAN: I forget exactly the date, but I certainly advised Mr Markson that we were closing the fund. I think it was at the end of April—something like that. I would have to check that.

To successfully run the fund, we wanted to know exactly how much was involved and we needed a cut-off. Funds still flowed in afterwards, but we needed a cut-off so that we knew the amount of money we had and could actually distribute it and take into consideration the relevant priorities or claims against it. That is the only way to do it, totally and effectively—to have all the dough in, then get the applications in and do it in two complete stages.

I don't know of any outstanding funds. The money that was raised was conveyed directly to the bushfire appeal. You are probably aware that I invited the Canberra Community Foundation to manage the appeal. I think it is appropriate, as it was a fund on behalf of the people, that it was by managed by people who were not government officials. The government wanted to keep separate what the government gave to people, what concessions we gave and what assistance we gave. Because we are the government there is an expectation of absolute hard and fast rules.

It is difficult, unfortunately—and this place is a prime example of why it is difficult—to be flexible in that process. No matter what happens, there are always questions like: "Why didn't you give it to someone else?" Even that occurs. Common sense dictated that, when there were discretionary decisions to be taken on the distribution of that money, we would give that role to people that, in fact, performed that role on a regular basis for government or for the people of the ACT. That is precisely what happened.

No fee. Most of the people—the MC, the artists that appeared—no fee. Wherever possible, complimentary fares were provided by airlines. Virtually everybody had the arm put on them, quite frankly, to provide all of the arrangements for the function for free.

Obviously the catering couldn't all be provided for free. There was a cost there. I think the costs were minimal compared to any other function. It was not the type of function that CTEC had ever run before; it was certainly a function that Mr Markson had run on a very regular basis. I don't think CTEC had quite the connections that Mr Markson and Ms Kelly have together to get the array of people who provided the entertainment that night. It was a great success. Is there a problem?

Commonwealth-state housing agreement

MRS BURKE: My question is to Mr Wood, minister for housing. Minister, would you please inform this Assembly why you persist in misleading the public? I refer to your media release this Tuesday on the absence of any further GST compensation in the new Commonwealth-state housing agreement, when this government has known all along—and the Chief Minister signed a COAG agreement—that GST compensation was a one-off arrangement related to the new Commonwealth tax system under the current agreement expiring this week.

MR WOOD: I recall that I said that the new agreement does not include the continuation of GST funding from the Commonwealth, and we are not continuing to receive the GST funding. That is what I have said. I do not know where someone finds the difficulty in me saying, "What is the case?" It is as simple as that.

MRS BURKE: If you were so reluctant to sign up to the new agreement, as you assert in your media release, why have you now agreed to sign? Why didn't you hold out, like other states, and try to negotiate a better deal for the ACT?

Is this performance simply a reflection of your own incapacity to fight for a better slice of the budget cake within your own cabinet? Or is the reality that this is a good deal for the ACT? If so, why don't you say so, accept this jurisdiction's housing responsibility and be positive about it?

MR WOOD: I am well aware of what my state colleagues have been saying about the agreement. Over at least two meetings of ministers, we have agued that point. Senator Vanstone is a strong senator and states her case firmly. States realised—I along with them—that we were not going to get any further, so we signed on. Much the same applies to the disability agreement we will be signing on to shortly. Again, we are not going to get the funds we believe we need and that the Commonwealth has an obligation to give—but we will be signing on. When you go as far as you can go, that is the story of it.

MR SPEAKER: Before we go to your question, Mr Stefaniak, I note that Mr Corbell won't be here. Who will be taking questions for him?

Mr Stanhope: I beg your pardon, Mr Speaker. I should have indicated earlier that I will take questions for Mr Corbell. We advised other members of the Assembly this morning that Mr Corbell would be absent, at a funeral, this afternoon.

Prison—funding

MR STEFANIAK: Mr Speaker, my question is to the Chief Minister, in his capacity as minister for corrections. Chief Minister, this morning, on radio 2CC, you said the following, in relation to your sudden enthusiasm for building a prison:

> I don't recall ever saying that the prospect of the ACT being put off or deterred from developing a prison was related to the cost of the facility.

However, on 27 February this year, you issued a media release which read:

> The simple fact is that we will enter this budget with a shortfall of at least $55 million. Faced with a deficit of this magnitude, it is safe to say that the government will not be building a full scale, $110 million prison, in the next few years.

Why did you mislead the people of Canberra on 2CC this morning, when you said that you did not recall saying anything about being put off about a prison in terms of cost?

MR STANHOPE: Quite simply, Mr Speaker, because I did not recall it. Essentially, it is the classic spin, really, in terms of a little quote in the context of a discussion around the impact of the bushfire on the ACT. Since 18 January, I don't think I have been at all surprised at the determination by the Liberals in this place to take whatever petty, shallow, nasty, political advantage they can out of the fire. They started on the day of the fire and they have not stopped. On the day of the fire, they wheeled out Wilson Tuckey.

Mr Smyth: I wish to raise a point of order, Mr Speaker. Under standing order 118(b), he cannot debate this, or stray from the question. The question is clearly about prison funding and not about what the Liberals have said or done.

Mr Pratt: The "f" word was not mentioned, Mr Speaker.

MR SPEAKER: I did hear mention in the question of the impact of a deficit. I think the Chief Minister is entitled to deal with that issue.

MR STANHOPE: Thank you, Mr Speaker—precisely. It was an attack by Mr Stefaniak—an attack consistent with the attitude the Liberals have taken to the fire since 18 January. On 18 January, or the day thereafter, they wheeled out Wilson Tuckey. We all remember his involvement in the debate on the fire.

By 20 January, they were wheeling out Kate Carnell. She had a few words to say about the fire. She was out there playing the blame game. It was Wilson on the 19th. It's all the fault of this person and that person. Let's take a few scalps—let's see whom we can hang. On the 20th, it was Kate Carnell and, since then, the Liberals—our colleagues here, who are rudderless, leaderless and thoughtless.

Mr Smyth: On a point of order, again, standing order 118(b) does not permit debate. The minister must answer the question specifically about his own comments in relation to whether or not we would have a prison—and his apparent policy on the run. Please direct him to answer the question.

MR SPEAKER: Come to the point of the question.

MR STANHOPE: It goes very much to the answer I gave on 2CC. The fire had a tremendous impact on the community—a devastating impact. The fire caused the deaths of four of our citizens and burnt down over 500 houses—but does that stop the Liberals playing politics with it? And then there is this determination to find a scapegoat.

Mrs Dunne: Mr Speaker, I wish to raise a point of order. This question is about the government's announcement yesterday to build a prison. There is no mention of the fire anywhere in the question. So far, in four minutes of answering the question, the Chief Minister has not actually got to the question of the prison. I think that, under the standing orders, you should call him to come to the point and answer the question.

MR SPEAKER: Come to the answer to the question.

MR STANHOPE: The reference to the fire which Mr Stefaniak made in his question was that there was a significant cost to the community as a result of this.

Mrs Dunne: You are wrong—there was no mention of the fire.

MR STANHOPE: The reference to the fire is the reference to the cost to the community of the fire which, on the day—and it is still the case—was estimated at around $55 million. What do you do with the $55 million to which Mr Stefaniak is referring? Mr Stefaniak was referring to the cost to the Canberra community of $55 million.

In the interview to which Mr Stefaniak referred, I costed the fire to the community at around $55 million—and that is the cost.

MR SPEAKER: Order, members! Order, everybody, please! Chief Minister, come to the point of the question.

MR STANHOPE: The point of the question was that the fire had cost this community a considerable amount. That is true—not just physically, and not just in respect of the resources we are now applying to ensure that we recover fully from the fire.

I did say on 2CC—I don't remember the date, although Mr Stefaniak referred to one—that the cost of the fire would very likely have an impact on other governmental priorities—because our first priority had to be to ensure that we recovered fully from the fire. That is still this government's first priority. I said that other priorities, such as the prison would have to wait.

Mrs Dunne: Mr Speaker, on a point of order: standing order 118 (a) requires the minister to be concise and not digress from the point. We are still talking about the fire, when this is a question about the prison decision.

MR SPEAKER: I just heard him mention the prison, Mrs Dunne—resume your seat.

Mrs Dunne: It was only in passing—and he forgot about it as soon as possible!

MR STANHOPE: I will conclude, Mr Speaker. I was interviewed on 2CC some months ago. I do not remember my words—I will have to get them out. The point I was making was that there was a significant cost to the community of the fire; that the government had a range of priorities, one of which was new correctional facilities. I said, at the time, that I anticipated that our priorities would have to be adjusted and that I felt a prison was one of the priorities that would have to give way to full bushfire recovery.

As a result, however, of the absolutely fantastic management of the ACT's economy, we now find ourselves in the situation where we have a surplus of around $100 million. I give credit to every member of the government—and of course to the Treasurer—because we have an economy which is performing better than any other economy in Australia. On every one of the indicators such as employment, growth, retail trade, housing and land sales—just mention one and I will tell you how well the ACT is going—this Labor government here in the ACT is performing better than any other government in Australia. As a result of that, we have produced a surplus of over $100 million, which has given us the capacity to have some flexibility in our thinking and the funding of our priorities.

I congratulate the ACT government and thank Mr Stefaniak for giving me the opportunity to draw the attention of members to just how well the ACT economy and the ACT government is performing.

MR STEFANIAK: Mr Speaker, I have a supplementary question. Chief Minister, you said this morning:

> I don't recall ever saying that the prospect of the ACT being put off or deterred from developing a prison was related to the cost of the facility.

Why did you say that when, even now, you are admitting that you did talk about fires and $55 million earlier? Why did you make that comment this morning ?

MR STANHOPE: I thought I had just explained that.

Mr Pratt: Do it again, Chief Minister! Tell us about the economy. Tell us about Fujitsu.

MR STANHOPE: Now that you have reminded me, I think I will. In talking about the state of the economy, we might have been able to move faster towards the development of a prison if it had not been for the $3 million thrown down the drain on Fujitsu and the $1,500,000—this is now the topic of the week. It is Fujitsu this week and it was FAI last week.

Mr Smyth: I wish to raise a point of order. Mr Speaker, earlier this week, you ruled out a comment on a previous Auditor-General's report because it was going to the Public Accounts Committee. I wonder whether or not it is appropriate for the Chief Minister to discuss this.

Mr Hargreaves: No, it was in the paper. It is a newspaper article to which you are referring, isn't it?

MR SPEAKER: Order, Mr Hargreaves! I think the Chief Minister was referring to the front page of the *Canberra Times* this morning—or a report in the *Canberra Times*.

Mr Smyth: In that case, it would be out of order, under the standing order of relevance, because the question was not about Fujitsu or the *Canberra Times*—it was about his apparent memory loss, back-flip and policy on the run over the prison.

MR SPEAKER: It is about context. Mr Stefaniak did mention the cost of the fires. The Chief Minister is entitled to refer to other costs as well.

MR STANHOPE: I will conclude, Mr Speaker. It is appropriate that we dwell on the waste which continues to be revealed, even a couple of years after the Liberals left. We have now discovered $3 million poured down the drain on Fujitsu.

I encourage all members to read yesterday's Auditor-General's report on Fujitsu. We need to remind ourselves that three members of that government sit here—two of them were in the cabinet at the time.

There is an interesting story to be told as to what Mr Smyth and Mr Stefaniak knew about previously. I am told Mr Smyth was not here—I beg pardon.

Police stations

MR PRATT: My question is to the Minister for Police and Emergency Services, Mr Wood—and, by the way, it is good to see you back on your feet. I refer to the following quotes in the Canberra *Sunday Times* of 22 June from Laurie Hutchinson of the Australian Federal Police Association:

> These cuts in numbers create even more stress and tension on already overstretched resources.

He goes on to say:

> Another major concern we have is that the six patrol cars at City Station have also been cut down to two or three which is just not good enough and, as a result, jobs [calls from the community] are being missed.

The ACT opposition has also received complaints from citizens in Woden that their calls to the Woden police station are not being answered. How can the people of Canberra feel safe when their phone calls to ACT police stations are not being answered?

MR WOOD: Mr Speaker, I think when answering questions last week, or in some other debate here, I indicated clearly what telephone numbers should be used for calls. If you need urgency you ring 000 and—here is a test for me as for you—if you require immediate police attention, it is 131444. In general, you would only ring police stations when you have to make a routine call to an officer on some follow-up issue. So that should ease the situation. In that circumstance, all calls are appropriately and well dealt with.

MR PRATT: Mr Speaker, I have a supplementary question. Mr Wood, I see that you do not claim that there has been a cut in resources. If there has not been, why do we have a situation where the number of police cars patrolling the city district has been cut from six to two, phone calls to police stations are not being answered and Gungahlin no longer has a 24-hour patrol service? If our capability is fine, why are these things happening?

MR WOOD: I can respond to the Gungahlin one. I have not sought information on any supposed cut from six to two in the city but I will seek information on whether or not that is the case.

As to Gungahlin, it was staffed on a temporary basis, a trial basis and a full time basis. The trial quite simply showed that it is not justifiable to maintain an open presence of law there 24 hours a day. It is simply not justified, and that is what the trial showed.

I think members will agree that in any circumstance the calls that you would make overnight would be either 000 or 131444. Those calls direct cars to where they are needed.

Mr Smyth: There are no cars.

Mr Pratt: And their response—

MR SPEAKER: Order! Members of the opposition will cease interjecting.

Adopt-a-road program

MR CORNWELL: My question is to the Minister for Urban Services. Can the minister advise us of the current status of the adopt-a-road program in light of the long-running public liability insurance crisis? Is the program still operating? If not, what is being done to bring it back to operating, and when might this happen?

MR WOOD: To the best of my knowledge, it is operating. There was a change. Certain of the groups that were helping in this situation had to make some adjustments to their insurance, as I recall. The system has continued. It may have been the case that some contributors dropped out, but the government was able to assist in some measure. I have not had any report that the system has stopped.

MR CORNWELL: I have a supplementary question. I wonder if you could check that for me, Minister. I have had reports that a lot of those zones—those that are shown up as adopt-a-road—appear to have more litter in them. I suspect that there could be some confusion about the public liability question. Could you check that for me and assure the adopt-a-road people?

MR WOOD: I certainly will. There were a number of issues around public liability, and they were not all worked out to a satisfactory conclusion. I will check the extent of carry-on of the program.

Chan Street, Belconnen

MS DUNDAS: My question is to Minister Wood. Minister, have you or your department been made aware of safety concerns relating to Chan Street, in Belconnen. If so, what is your department going to do about them?

MR WOOD: I have had a number of letters pointing to a difficulty there, and I have sought advice on it. I have not received that advice yet.

MS DUNDAS: We will await the advice the minister gets on this issue. I have a supplementary question. Minister, considering the current level of concern about safety on Chan Street due to the works on Chan Street, will you consider placing a temporary pedestrian crossing on Chan Street while those works go on?

MR WOOD: I will certainly see if officers consider that justified.

Prostitution

MRS DUNNE: Mr Speaker, my question is directed to the Attorney-General and relates to the issue of sexual servitude. Attorney, on 15 April this year you asked the Chief Police Officer to provide you with a guarantee that relevant provisions of the ACT

Prostitution Act and the Commonwealth Crimes Act relating to sexual servitude were being fully enforced in the ACT.

Can you, as attorney, tell the Assembly, as a result of this, what investigations were set in train after the disclosure in a New South Wales inquest that a Thai woman who had been trafficked to Australia at the age of 12 had worked in an ACT brothel at some stage? Has the brothel been identified? What inquiries have been undertaken relating to how the woman came to be there and who was responsible for employing her?

MR STANHOPE: Following the previous question that I received on this issue. I, or my office, contacted the Chief Police Officer; I can't quite recall the details of that. I'll find out exactly how I did respond to that and what the response was. I don't quite remember the detail. I am more than happy to provide that detail to the Assembly.

In relation to the distressing revelations that the member refers to: the ACT government did respond to that through the Minister for Women, who made contact, I think on that very same day of those particularly distressing revelations, with the New South Wales minister. Our minister, Ms Gallagher, is working closely with New South Wales in relation to an inquiry which New South Wales is fostering into the issue of sexual servitude in the ACT and New South Wales. I would be more than happy to ask Ms Gallagher to give details of the steps she has taken.

In relation to any further steps that the ACT police may have taken: that is a matter for my colleague the minister for police.

Mrs Dunne: Mr Speaker, on this—

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

Mrs Dunne: No, this is a point of order, because it goes to relevancy. I asked a specific question. Under 118(a) I would like an answer to the question: what investigations were done to find out if this woman was trafficked into the ACT; where was she working and—

MR SPEAKER: I think the Chief Minister has said that he would examine the record in relation to that and report back.

MR STANHOPE: I actually hadn't finished my answer when Mrs Dunne took the point of order, Mr Speaker. What I was saying about the response that I'm aware of, subsequent to the revelations, was that the Minister for Women has made contact with her New South Wales counterpart. The Minister for Women may be able to provide further details of the collaborative work that is now being done between the ACT and New South Wales in relation to this issue generally.

In relation to any steps that the ACT police may have taken: I will ask my colleague the minister for police, because I am not responsible for policing matters. In relation to the issue generally, as Chief Minister and Attorney-General, I am more than happy to take the question on notice, which I now do.

MRS DUNNE: My supplementary question goes directly to the minister's responsibilities as the minister responsible for the licensing of brothels. If you find out where this woman was trafficked, how she came to be there and who was employing her, what action will you take—

MR SPEAKER: That is a hypothetical question.

MRS DUNNE: I presume he will. What action will be taken against the brothel owner on the grounds of duress, as defined in the Prostitution Act, for which you have responsibility?

MR SPEAKER: I think you have asked for a legal opinion there.

MR STANHOPE: That is a request for a legal opinion, Mr Speaker. I don't wish to avoid the question, but I don't have in front of me the relevant legislation, the Prostitution Act, so I actually can't answer the question.

Public Interest Disclosure Act

MS TUCKER: My question is to the Chief Minister and is in regard to the Public Interest Disclosure Act. The Chief Minister will recall that I asked him about the efficacy of the act, particularly in the context of allegations about the University of Canberra.

Chief Minister, in response to those questions, you wrote to me earlier this week advising me that protection from reprisals are properly a matter for the Ombudsman's office to consider. You also advised me that you have asked your department to review the provisions of the act in terms of effectiveness, and I thank you for the prompt response.

Can you assure the Assembly that the difficulty of investigating complaints and obtaining injunctions and the procedures of and ease of communication between departments and agencies involved in the PID investigation are also examined in that review of the provisions of the act?

MR STANHOPE: I am more than happy to take up that suggestion and follow through with it, and I am more than happy to ask the department to ensure that those issues are included in their review.

MS TUCKER: I have a supplementary question. Presuming the review also has regard to the jurisdiction of the PID Act, what consideration has been made of extending the act to cover organisations in which the territory has a 50 per cent or more share, such as ActewAGL?

MR STANHOPE: I cannot say that it has been considered, but in the face of your question and your interest in the matter, Ms Tucker, I will ensure that it is pursued.

Full retail contestability

MS MacDONALD: My question is to the Treasurer. Can the Treasurer please inform members about the role of the full retail contestability public awareness committee, and can he detail the committee's information campaign aimed at Canberra households in the run-up to the commencement of full retail contestability on 1 July?

MR QUINLAN: Thank you, Ms MacDonald. As members will be aware, full retail contestability commences on 1 July 2003. I want to advise that there is currently a public awareness campaign in progress. The campaign reflects information I gave members in a ministerial statement in November last year.

The campaign is being managed by a steering committee consisting of representatives of consumer advocacy groups ACTCOSS and the Essential Services Consumer Council, of small business through the ACT Chamber of Commerce, of the local electricity distributor, ActewAGL, and of licensed retailers ActewAGL, Country Energy, Energy Australia and Origin Energy, as well as government agencies. The steering committee has held five meetings to review and endorse the campaign material to ensure that it meets the needs of all stakeholders, especially ACT electricity consumers.

The steering committee decided that the campaign should commence on 16 June and run for a three-week period, two weeks before the commencement of FRC on 1 July, and one week after that. This period was determined because of concerns that, if the campaign ran too early, it may lose impact. This view was primarily promoted by the Essential Services Consumer Council and ACTCOSS.

The campaign will focus on an information brochure setting out a number of questions and answers relating to FRC, together with contact telephone numbers for the Independent Competition and Regulatory Commission and the Essential Services Consumer Council. Canberra Connect was provided with information on the introduction of FRC in October last year.

The campaign is centred on an information brochure, as I said, called *Informed choice: which electricity retailer is for me?* It does list all the electricity retailers currently licensed in the ACT, reinforces that consumers are not compelled to change from their current supplier—but may, if they are given a decent offer—and sets out a series of questions and answers prepared by the steering committee in relation to the introduction of full retail competition. One hundred and seventy-five thousand copies of the brochure have been printed. A braille version is available for the sight impaired and a translation service is available for people who do not speak English.

Delivery of the brochure to households in the ACT started last Friday, 20 June, and was expected to have been completed by yesterday, 25 June. Supplies of the brochure are already being distributed to all government shopfronts and over 70 community organisations throughout Canberra. Based on Mr Wood's experience with garbage collections and the brochure he put out, and the fact that people ignored the brochure, a series of advertisements has been running daily in the *Canberra Times* and weekly in the *Chronicle* since the start of the campaign last week, advising readers to expect the brochure. Advertisements have also been running on commercial radio since 16 June.

Information on the public awareness campaign has been located on the ICRC's website since 13 June, under the "what's new?" link.

Very few inquiries have been received so far. Whether that is because people have shrugged and accepted it or because they are not aware it is happening, I do request members' assistance in letting people know wherever possible that the change has taken place, and that this exciting little brochure will arrive or has arrived in the letterbox. Do not chuck it away: at least read it.

Mr Smyth: Is your picture in it?

MR QUINLAN: No. Had it been, Mr Smyth, we may have had less difficulty.

There is a campaign, we have involved community organisations and we have involved the stakeholders. We do request that, wherever possible, members at least nudge the public where it is appropriate to really look around, shop around and do the best for themselves because, if competition bites, that will keep the price of electricity down.

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

Estimates 2003-2004—Select Committee
Responses to questions on notice

Mr Speaker presented the following papers:

> Estimates 2003-2004—Select Committee—responses to questions on notice Nos 393 to 430.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (3.33): I ask for leave to move a motion to authorise publication of the responses to questions on notice.

Leave granted.

MR WOOD: I move:

> That the Assembly authorises the publication of the responses to questions on notice Nos 393 to 430.

Question resolved in the affirmative.

Paper

Mr Speaker presented the following paper:

> Study trip—Report by Mr Berry, MLA—Hobart, 13-15 May 2003.

Supplementary answer to a question without notice
Refugees

MR WOOD: On Thursday of last week, Ms Tucker asked me a question concerning the provision of housing to refugees. The 1999 Commonwealth-State Housing Agreement provides housing assistance to ensure that people here have access to affordable and appropriate housing. While the CSHA does not make specific mention of housing assistance for refugees, the ACT government provides a range of assistance measures to refugees funded under that agreement.

Humanitarian entrants—that is, people who have been granted permanent residency by the Commonwealth—are eligible for public housing assistance in the same way as any other ACT resident. Refugees who have not been approved for permanent residency by the Commonwealth, such as holders of temporary protection visas, are, under the standard criteria but not as a direct result of the Commonwealth-State Housing Agreement, not eligible for public housing. However, the Commissioner for Housing has the ability to waive the eligibility criteria in cases of hardship.

The number of TPV holders coming to the ACT and staying has been relatively few. However, the ACT government has been quite concerned that the Commonwealth government has transported TPV holders from places of detention to cities round Australia and left them with little support. Accordingly, the ACT government has provided accommodation to a number of refugee families with temporary protection visas by leasing ACT Housing properties to non-government organisations. These properties have been leased at full market rent, though the TPV holders are able to access Commonwealth rent assistance on the same benefits as other recipients of Centrelink benefits. It should be noted that public housing tenants are not eligible for Commonwealth rent assistance.

It has recently come to the attention of the government that this arrangement may be causing undue hardship for some TPV holders as they may be paying a significant proportion of income in rent and the government has agreed to review that arrangement. In addition, the new rental bond scheme that I will announce today, which will commence on 1 July 2003, has the same eligibility criteria as the public housing program, and hence offers the potential for TPV holders to access assistance should they rent in the private market.

Paper

Mr Stanhope presented the following paper:

ACT Criminal Justice—Statistical profile for the March 2003 quarter.

Financial Management Act—instruments
Papers 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 papers:

Financial Management Act, pursuant to section 17—

> Instrument varying appropriations related to Commonwealth funding for payment of GST administration cost to the Australian Taxation Office, and a statement of reasons, dated 24 June 2003.
>
> Instrument varying appropriations related to Commonwealth funding for the First Home Owners Grants, dated 24 June 2003.

I ask for leave to make a short statement.

Leave granted.

MR QUINLAN: As required by the Financial Management Act 1996, I have tabled two instruments issued under section 17. The directions and statement of reasons for the instruments must be tabled in the Assembly within three sitting days of being given. The instruments relate to the 2002-03 financial year.

Section 17 of the Financial Management Act enables variations to appropriations to be increased for any increases in existing Commonwealth payments by direction of the Treasurer. The Department of Treasury has received Commonwealth funding for GST administration costs to be paid to the Australian Taxation Office totalling $183,000 and the original first home owners grants totalling $300,000, which is greater than originally budgeted.

The first instrument authorised the appropriation of $183,000 and the second instrument authorised the appropriation of $300,000, both of which are to be appropriated as expenses on behalf of the territory. These variations are budget neutral as they are matched by revenue from the Commonwealth.

Totalcare Industries Ltd
Paper and statement by minister

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): Mr Speaker, as committed earlier in this sitting, I present the following paper:

> Review of the operational activities of Totalcare Industries—Working group report, dated May 2003.

I seek leave to make a statement.

Leave granted.

MR QUINLAN: The working group comprised representatives of Totalcare's various stakeholder groups and included representatives of several ACT departments, Totalcare staff and unions and Totalcare's management. Due to the level of commercial-in-confidence material contained in the report, the version I have tabled has some material blacked out, but not a lot. This relates to expressions of interest from external parties and details of clients.

In the interests of maximising the disclosure to the Assembly, I am seeking an independent view from the Auditor-General on the appropriateness in terms of commercial confidentiality of the information that has been blacked out. If the Auditor-General advises that any of the blacked out information is not considered commercially sensitive and could be released, I will provide that information to the Assembly.

The government will make a formal announcement advising the future direction of Totalcare in due course.

Mr Cornwell: Is the Treasurer going to seek to take note of the paper so that debate on it can be adjourned? I am just raising the question of the blackout, Mr Treasurer.

Mr Quinlan: I have just explained that, Mr Cornwell.

Mr Cornwell: I know you did, but you are awaiting advice on that.

Mr Quinlan: Yes, I am.

Mr Cornwell: Will you move that the Assembly take note of the paper so that debate on it can be adjourned?

MR SPEAKER: That is up to the Treasurer.

Mr Quinlan: No. If someone wants to, they can. One of the concerns that I have is that this paper—

MR SPEAKER: Order! I think that Mr Cornwell is attempting to raise some sort of query, but it is not a point of order. If the Treasurer wishes to move a motion to take note of the paper, he can; but it is entirely up to him.

Mr Smyth: But that was the request: would the Treasurer please move that the Assembly take note of the paper?

Mr Quinlan: I had not come in here to do that, Mr Speaker. Let me say that I know that this is going to turn into a political football—

MR SPEAKER: Before we go any further with this matter, because we are getting right off the track a bit, if people want leave to make a statement on it—

MR QUINLAN: I did seek leave to make a statement. There is nothing to stop any member engendering debate in here on anything, I do not think, but it was not my intention to deliver this paper so that it would then turn into a debate. It was requested under the banner of the Assembly needing to know and needing to be fully informed. It is highly probable that it will turn into a political football anyway, because we have not reached dizzy heights in this Assembly so far in terms of debate, but I had not intended to invite debate on it and I do not see why I should do so. If you want to turn it into a debate, move a motion or whatever.

MR CORNWELL: I seek leave to make a statement, Mr Speaker.

Leave granted.

MR CORNWELL: Mr Speaker, I find the Treasurer's statement quite extraordinary. We have asked that this paper be tabled here. We wish to look at it, we wish to read it, and we wish to have the opportunity, if necessary, not to turn it into a political football, but to—

Mr Quinlan: You will.

MR CORNWELL: Do not judge everybody by your own actions. The fact is that we wish to read the paper and, if necessary, debate it. What is the point of tabling various reports or various statements and then saying, "But all you're allowed to do is read them; you can't possibly raise them in the Assembly?" What is the point of that?

Totalcare is a very important issue. It concerns many, many people. All I am asking is that you give us the opportunity to adjourn debate on this matter. I am, further, interested in adjourning it because, in the event that advice is received by the Treasurer that some of the blacked out sections can be, in fact, filled in, that will add to the report, it will add to the interest of members in reading it and it may add to the debate that comes up.

All I am asking is that the Treasurer move that the paper be noted so that I can adjourn the debate. I do not think that that is an unreasonable request. If the trend of this government is not to do so, then all I can say is that it is attempting to stifle debate and prevent the people of the ACT knowing what is going on in the government.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming): I seek leave to respond briefly. I will explain.

Leave granted.

MR QUINLAN: Mr Cornwell, there are a number of vehicles that allow you to come back to this place and debate that paper. In my statement I said that if there is further information to be added to that paper after the review by the Auditor-General, I will bring it to this place. You would have plenty of opportunity to get off your butt and engender debate if you wanted to. I did not come in here with the intention of putting it on the business paper for debate, and I still do not. If you want it on the business paper for debate, put it on the business paper for debate, but do not ask me to do it for you.

Mr Cornwell: Mr Speaker, I seek your guidance or perhaps that of the clerks. How do we put it on the business paper for debate now, considering that the Treasurer does not have the courage to do so?

MR SPEAKER: Let me answer that. You can put a motion on notice and deal with it as private members business, you can seek to suspend the standing orders or you can seek leave to move a motion. There is a range of things that you can do. I think we can move on at this point.

Mr Cornwell: Very well. I shall be happy to follow your advice, Mr Speaker. Thank you.

Papers

Mr Wood presented the following papers:

> Legislation Act, pursuant to section 64—
>
> > Housing Assistance Act, pursuant to section 12—Rental Bonds Housing Assistance Program 2003 (No 1)—Disallowable Instrument DI2003-153, together with an explanatory statement.
>
> Cultural Facilities Corporation Act, pursuant to section 29 (3)—Cultural Facilities Corporation—Quarterly Report (for the third Quarter 2002/2003: 1 January-31 March 2003).

ACT taxi subsidy scheme
Paper and ministerial statement

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (3.46): Mr Speaker, I ask for leave of the Assembly to make a ministerial statement concerning the taxi subsidy scheme.

Leave granted.

MR WOOD: I present the following paper:

> Introduction of the revised ACT Taxi Subsidy Scheme—Ministerial statement, 26 June 2003.

I move:

> That the Assembly takes note of the paper.

Today it is my pleasure to announce significant enhancements to the ACT taxi subsidy scheme for people with a disability. The changes I will outline today will both increase the subsidies available to eligible people with a disability and ensure that they are targeted at those with the most need. I am confident that the revisions will be appreciated by people with a disability and the individuals and organisations that support them.

The taxi subsidy scheme provides subsidised taxi travel to people with a severe disability who are unable, because of their disability, to use the public transport system. The scheme, which commenced in 1986, is a lifeline for many people in the community. It provides the opportunity for people with a disability to undertake essential activities that most of us take for granted, such as attending medical appointments, undertaking social activities and visiting family.

There are currently 3,637 members of the ACT taxi subsidy scheme and the service is provided by the ACT at a cost of $420,000 a year. It had not been reviewed since 1990. The review was long overdue. We have consulted extensively with the people who use the service and the organisations which support them.

Three key changes will occur from 1 July. The subsidy will increase from the current 40 per cent of the taxi fare to at least 50 per cent. People with a disability who use wheelchairs will be subsidised for 75 per cent of the taxi fare. The 50 per cent subsidy will be available to people who currently have vouchers that extend beyond 1 July 2003, and these can be upgraded. People who use a wheelchair, or who need more vouchers, will need to complete a brief form to confirm their circumstances. Access to the higher subsidy, or additional vouchers, will then be available to those eligible individuals.

The second change affects the number of taxi trips per year for which an individual can receive a subsidy. Currently, people are subsidised for approximately 52 trips a year with the standard allocation of vouchers. Under the newer arrangements, this will more than double to 125 trips a year. This is a significant increase that will better enable people to meet their often complex travel needs. Extra vouchers will be available for special designated purposes.

The third change concerns the number of vouchers required for each leg of the trip. Where up to six vouchers are currently required, in the future only one voucher will need to be completed to gain the subsidy. That will be much appreciated by taxi drivers, among others. For individuals in wheelchairs, this voucher will also record the lift fee as well as the subsidised fare.

People in wheelchairs will further benefit by the introduction of a $7.50 lift fee for the drivers of the wheelchair-accessible taxis and that will be at a cost of $661,000 over four years. The new lift fee will ensure that people in wheelchairs will be given priority by the drivers. Also, they will no longer be required to pay for the time spent loading and offloading, thereby reducing the overall cost of a fare.

A publicity campaign will be implemented outlining the new arrangements and enhanced subsidies, including the distribution of a revised application form, an information brochure and newspaper advertisements. This campaign will be targeted at existing and potential users of the scheme, doctors, health professionals and key support people, as well as taxi companies.

Mr Speaker, because new technologies are becoming available, we are actively investigating avenues through which the subsidies could be recorded electronically. This could alleviate a good deal of the paperwork that people with disabilities experience with the voucher system.

Mr Speaker, I commend these changes to the taxi subsidy scheme and reaffirm this government's commitment to enhance services for people with a disability.

MR CORNWELL (3.52): Mr Speaker, I will be very brief. I just want to compliment the Minister for Disability, Housing and Community Services for practising the openness

and transparency of this Labor government which has not been exercised by the Treasurer.

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

Absence of Speaker and Deputy Speaker

The acting clerk informed the Assembly that the Speaker, Mr Berry, will be absent from the Assembly from 27 June to 13 July 2003 inclusive and that, in accordance with standing order 6, the Deputy Speaker, Mr Cornwell, shall perform the duties of the Speaker from 27 June to 3 July 2003 inclusive and the Temporary Deputy Speaker, Mr Hargreaves, shall perform the duties from 4 July to 12 July 2003 inclusive.

Leave of absence

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

> That leave of absence from 27 June to 18 August 2003 inclusive be given to all Members.

Planning and Land Legislation Amendment Bill 2003
Detail stage

Proposed new clause 3A.

Debate resumed from 19 June 2003.

MS TUCKER (3.54): I did seek adjournment of this matter previously because we had not had a chance to look at the government's amendments, but I am happy to say today that I am supporting the government's amendments to the legislation. They are largely machinery provisions which I do not think should cause us concern. I look forward to seeing how well the new planning and land development system works in practice. I understand that a review of the legislation is intended.

MR CORBELL (Minister for Health and Minister for Planning) (3.55): Mr Speaker, I move amendment No 1 circulated in my name *[see schedule 1 at page 2667]*. Section 18 (2) of the Planning and Land Act allows the ACT Planning and Land Authority to delegate its lease granting function to the Land Development Agency. A delegation is being prepared under section 18 (2) limiting the delegation to land that has been delivered to the agency by the ACT Planning and Land Authority and stating that the delegation may only be exercised if the lease and its conditions are agreed to by the Planning and Land Authority. Section 56 of the Planning and Land Act relates to delegation by the LDA of its powers. The act currently provides that a delegation may only be given to the CEO of the agency.

Mr Speaker, this amendment has come about because sometimes the Land Development Agency will need to grant several hundred leases at a time. It is clearly necessary to empower staff at the agency, under management, to sign leases, that is, senior officers and SES officers. Section 18 (2) does not allow the authority currently to delegate

directly to staff of the agency, because the allocation of duties and powers within the agency is a matter for the board to decide.

The board can only delegate to the CEO. Delegation by the CEO to staff would be a subdelegation, which is not permitted by the Legislation Act. To make clear the ability to delegate from the agency to staff, the government has decided that section 56 should be amended, and that is what this amendment is about.

This amendment to the bill does not affect the actual level or nature of delegation. It only operates to the extent that the agency itself has a delegation from the ACT Planning and Land Authority. The amendment is a technical one to avoid the possibility of breaching the Legislation Act by providing for subdelegation and allows for the proper administration of the Land Development Agency's functions.

Mr Speaker, I wrote to all crossbench members and to Mrs Dunne on 18 June this year outlining these amendments and offering a briefing. I make the point that this was prior to the amendments being circulated in the Assembly when consideration of this legislation was last adjourned.

MRS DUNNE (3.57): Mr Speaker, the Liberal opposition will be opposing this amendment. The minister gives a reasonable representation of why this provision might be necessary one day: it might be necessary for someone to issue several hundred leases at one time and that would be inconvenient for the chief executive, which is what it boils down to.

This issue was specifically canvassed in evidence and in discussion before the Planning and Environment Committee when we looked at the planning and land legislation in October of last year. It was an issue of some concern because this power is already delegated, Mr Speaker. It is a power that rests with the executive as being delegated to the ACT Planning Authority, as it will become on 1 July. At the time, members of the committee had considerable reservations about whether that delegation should be further delegated to another authority.

At this stage, having had discussions with parliamentary counsel as to the genesis of this delegation, the Liberal opposition is not satisfied that the need has been demonstrated, that we need to further delegate this power. Delegation is always a difficult and contentious issue. How far do you delegate? Who has the power to do it? I do not want to see the situation arise where the power to issue leases ends up the responsibility of a registry clerk or something of this nature.

This is a very important matter. It is a matter that occupied some time and some amount of discussion in the Planning and Environment Committee when we looked at this bill. We had concerns about the necessity or the efficacy of delegating again that power which was already delegated. Using the legal nostrum delegatis non delegare, I cannot at this stage support this amendment.

If the minister wants to come back here after the land agency has been operating for some time and demonstrate that there is an absolute need to delegate this power further, I will consider it. At this stage, I am not convinced. I think that it is sufficient, for something as important as issuing leases in the ACT, that this power should be kept to a

very select number of people and at this stage we are not convinced that it should be delegated beyond the chief executive officer of the land agency, to whom this power has already been delegated from a higher authority.

Question put:

That **Mr Corbell's** amendment No 1 be agreed to.

The Assembly voted—

Ayes 10		Noes 7	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Smyth
Mr Corbell	Mr Quinlan	Mr Cornwell	Mr Stefaniak
Ms Dundas	Mr Stanhope	Mrs Cross	
Ms Gallagher	Ms Tucker	Mrs Dunne	
Mr Hargreaves	Mr Wood	Mr Pratt	

Question so resolved in the affirmative.

Proposed new clause 3A agreed to.

Clauses 1 to 3, by leave, taken together and agreed to.

Clauses 4 to 6, by leave, taken together and agreed to.

Clause 7.

MR CORBELL (Minister for Health and Minister for Planning) (4.04): I move amendment No 2 circulated in my name *[see schedule 1 at page 2667]*.

Mr Speaker, this amendment simply identifies that the authority as mentioned in the Territory Plan is consistent with the new legislative arrangements for the ACT Planning and Land Authority. At the moment, under the Territory Plan, the authority is defined as the ACT Planning Authority. This change simply brings the language into line with the name of the new authority, as provided for in the Planning and Land Act.

Amendment agreed to.

Clause 7, as amended, agreed to.

Schedule 1.

Part 1.1.

MR CORBELL (Minister for Health and Minister for Planning) (4.06): I move amendment No 3 circulated in my name *[see schedule 1 at page 2667]*.

Amendment agreed to.

Part 1.1, as amended, agreed to.

Proposed new part 1.1A.

MR CORBELL (Minister for Health and Minister for Planning) (4.06): I move amendment No 4 circulated in my name, which inserts a new part 1.1A in schedule 1 *[see schedule 1 at page 2667]*.

Amendment agreed to.

Proposed part 1.1A agreed to.

Parts 1.2 to 1.4, by leave, taken together and agreed to.

Proposed new part 1.5.

MR CORBELL (Minister for Health and Minister for Planning) (4.07): I move amendment No 5 circulated in my name, which inserts a new part 1.5 in schedule 1 *[see schedule 1 at page 2667]*.

Amendment agreed to.

Proposed new part 1.5 agreed to.

Title agreed to.

Bill, as amended, agreed to.

Firearms (Prohibited Pistols) Amendment Bill 2003

Debate resumed from 17 June 2003, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

MR PRATT (4.09): Mr Speaker, we will support the government's legislative amendment, although I must also point out we won't be supporting the Democrats' amendment to what Mr Wood proposes. The government's legislative amendments are sensible and fall into line with the benchmarks for sporting pistol activities outlined in the December 2002 COAG meeting.

By and large, it seems that all of the jurisdictions are now legislating to conform with COAG. The ACT's legislation will simply be adjusted to conform closely with that of New South Wales because to do otherwise would mean that administering laws on prohibited firearms and prohibited shooting practices would be extremely difficult and, indeed, unworkable if we were not conforming with the state that surrounds us.

The Prime Minister has given his imprimatur to these COAG principles, which govern the design of these legislative amendments. I am also aware that some of the amendments to this proposed legislation put forward by various ACT stakeholders will not be supported by the Prime Minister, nor by COAG. This further convinces me that this proposal is sound.

It is also my personal belief that this is legislation that still meets many of the requirements of the shooting organisations—not to mention pistol collectors—and provides adequate protection to the community at large. That is the important thing: it meets the requirements of the majority of stakeholders, but it also seeks to protect the community at large.

I believe, therefore, that this legislation will be a winning proposition. Having said all of that, I am told by the government that they have consulted widely and deeply with the major stakeholders and across the community in general. That is what Mr Wood's staff have told me and I trust, Minister, that you can assure me that you have got all the feedback and all the consultation you could possibly get. You won't necessarily get everybody's agreement

Mr Wood: We haven't had everybody's agreement.

MR PRATT: I know. But as long as you can assure this place that you have spoken to everybody you possibly can—

Mr Wood: Everybody?

MR PRATT: The major stakeholders. I have spoken to a number of stakeholders and to the police as well. The police seem satisfied with the provisions of this amended law. That gives me, and the opposition, confidence that the law will be sound. I am willing to trust the police's judgment, and we are reasonably confident about this legislation.

Some of the stakeholders within the shooting community are not exactly over the moon about this proposal. For example, they would prefer to see 0.45 calibre firearms in service and other more combat style shooting practices allowed. I can understand their disappointment. They do, after all, feel that they are being singled out to be penalised because of the reckless and illegal actions of others.

However, the reality is that more stringent control measures right across the country for all firearms are imperative. The illegal trafficking of hand guns, ammunition and other illegal substances and contraband, we must all admit, is more of a challenge to safety and law and order.

The number of desperados quite prepared to carry and recklessly use an array of prohibited and non-prohibited pistols and machine pistols is multiplying rapidly. Sensible, law-abiding sporting shooters and pistol collectors see that, and I am sure that they understand this reality. While they may be reluctant, the shooters will agree to these amendments to the Firearms Act 1996, and I commend the sporting shooters and pistol collectors for arriving at this very sensible position.

COAG is considering minor amendments to the legislation in the future to reflect possible changes to the range of shooting competitions currently available. These will be dealt with as changes to regulations and would merely reflect enhancements needed to keep Australian sports shooters up to speed with Olympic approved international shooting.

I hereby call upon the government to assure that this legislation will only allow minor changes, meeting such international competition and COAG approved benchmarks. If the minister can assure this place that this will be the case, then there will be no objection at all to this legislation.

I do not support the Democrats' amendments. They suggest changes which I think are well outside the agreed COAG benchmarks. While I agree with the concerns and the spirit behind those proposed amendments, I do not believe that they are necessary. The opposition therefore stands to support this piece of legislation.

MS DUNDAS (4.16): Mr Speaker, the ACT Democrats have many concerns with not only the proposal in this legislation but also the hurried nature that it has been made in. This bill is to prohibit the possession of a number of hand guns. The ACT Democrats are supportive of tighter gun control, believing that, whilst there are a number of legitimate sporting shooters who should be able to continue in their sport, there is no reason why hand guns need to be stored in domestic homes.

Further, given that the ACT is a largely urban city-state, the ACT could be leaders in our nation with the tightest regulation of firearms. This round of restrictions on hand gun ownership was first proposed following the mass shootings at Monash University in October 2002. That tragic event saw two students killed and five injured. I note here that the Monash shooter was licensed and a member of a shooters club.

At the time, Prime Minister Howard took a firm stand. He wanted essentially to create two categories of hand gun. One list would have weapons that could be used under strict conditions by legally recognised sporting shooters; weapons on the other list would be generally banned. Those with a legitimate use, such as police and licensed security guards, would be able to have exemptions. This is the sort of reform I thought we were going to have.

In early November 2002, federal customs minister, Senator Chris Ellison, released a list of the guns that were likely to be banned. The initial hand gun proposals included a ban on all hand guns other than those used in official sporting competitions. The list included the Beretta .22, the Browning Baby .25, the Colt .38 Special Lady, the Glock 9-millimetre and the .357 magnums. Yes, the Dirty Harry style .357 revolver—said to have been a favourite of the American police during the mobster era, as it could shoot through a car's engine block—was going to be banned.

Chief Minister Stanhope was reported in the *Sunday Times* around that time as saying that the ACT was going to lead the country with the tightest gun laws in the nation. Then when the police ministers met, the leadership showed by Howard and Stanhope started going back. Since that time, information has been scarce as to which guns will be banned and which will remain legal. Police ministers said it would be too hard to list makes and models, and the ban became watered down.

Some months later, Victoria was the first to introduce the legislation. The proposal before us is a partial ban, with a buy-back scheme, based on the calibre, barrel length and shot capacity of the gun, and it is meant to be effective from 1 July 2003. We still have no comprehensive list of what is in or what is out. From my research of hand guns, I

believe there are many guns that will remain legal, and there is no reason that they should.

These are guns such as the 9-millimetre Browning pistols, which Thomas Hamilton used to tragically murder 16 schoolchildren and a teacher before shooting himself at Dunblane in Scotland in 1996. From the Monash shooting, the Smith & Wesson .357 will remain legal. The gun, as we famously know from Dirty Harry, "can blow your head clean off".

While the proposed legislation will ban some hand guns, many semi-automatic hand guns will remain legal. In fact, we do not know how many of these weapons will escape the ban, because there is no comprehensive list of models and compensation. This means that the government's buy-back scheme will simply refinance the upgrading of firearms for some licensed holders. They can sell what will be illegal weapons to the government and use the money to buy legal weapons, many of which will be just as dangerous and have no legitimate place in sport.

So much for Chief Minister Stanhope's promise to make the community safer. Any scheme where gun owners can use taxpayers' money to buy new semi-automatic hand guns will not prevent the spread of firearms. However, we are told that it is important to get this legislation through today due to COAG wishing to commence its agreement on 1 July.

While I understand the great desire to have it all start on the same day, both New South Wales and South Australia have deferred the start of the project until 1 October, another three months away.

It is important that we get it on time, but it is more important that we get it right. We still have not been provided with a definitive list of what is in and what is out, with prices or with a thorough investigation of the ACT situation. Let's not rush through some second-grade legislation; let's get the regulations right and make sure they are right for the ACT, so that we can lead the country on gun control and make the reforms what they were going to be last November.

I have one amendment that I think will make this piece of legislation better and will hopefully fix the problems that I have raised with the legislation. I will speak to it further in the detail stage.

MS TUCKER (4.21): The Greens will be supporting this legislation and also the amendment from the Democrats. This new, nationally agreed legislation picks up a number of amendments that I actually proposed on behalf of the Greens in the last round of gun control legislation in 1996, specifically, reinforcing active membership requirements, reinforcing active club requirements, registering guns held by collectors and requiring membership of clubs for collectors.

We know there still will be guns in the homes of people, and we still have concerns about that. We were initially hoping to get support for the proposal to have all guns stored in secure areas away from the home, and it seems that this would certainly not be getting support. Because we have been rushed with this legislation, I have not put that amendment, but I think it would be wise, if we are taking this issue as a public health issue.

The notion that guns are just for self-defence or sport has to be put in the balance with the number of deaths in this community and the tragedy of those deaths, whether they are suicide or whether women and children are killed, which is also a too frequent use of guns. This legislation will put checks on storage and place obligations on clubs to keep records of members and of members who maintain active membership. I see this approach as more about a concern for public health rather than crime control, and I support that approach.

Australian Institute of Criminology studies show that, in the majority of cases where firearms are used to commit homicide, the firearms were not registered and the perpetrators were not licensed firearm owners. It can be interpreted as showing that it has to be made difficult for people to obtain firearms illegally. The way you do that, obviously, is to reduce the number of firearms in a community. That has to be the ultimate aim of any legislation.

MR STEFANIAK (4.24): I would like to say a few things in relation to firearms control. From the previous government I am the only minister here who was around in 1996 when the landmark post-Port Arthur legislation, brought in by the Prime Minister, was accepted.

I must declare a couple of things before I speak. I have been a sporting shooter for quite some time. Obviously, I shot in the army. I am a gun owner, I am a member of the 3RNSWR Military Rifle Association and I am a member of the ACT branch of the Sporting Shooters Association. I occasionally get out and have a bit of a shoot on the range and sometimes go out shooting feral animals, too, when I have the chance.

I am therefore fairly well aware of a lot of the issues around pistols. I have also been to one meeting of police ministers where police pistols were quite a contentious issue. Police minister Bob Debus from New South Wales had some interesting concerns, as did the then justice minister, Amanda Vanstone, from the Commonwealth. It was an interesting meeting.

It is true to say that the buy-back in 1996 worked very well. Generally, the prices received were reasonable and fair. Most firearm owners who participated in that—and I was one—were very happy with the arrangements. I think it worked well. Despite some of the worries of legitimate shooters at the time, we have seen a significant drop since then in firearms deaths caused by long arms.

That was because many households had firearms that did not need them and a number of cowboys had them. It was also because of problems with the total lack of secure storage, as much as anything, when persons involved in domestic violence would grab for something like that. Murders amongst people who know each other, and, indeed, murders within the family, make up one of the largest categories of murder in Australia. There was a significant drop there.

With pistols it is a little different. Some figures I saw indicate that deaths by pistol, apart from by criminals, are very rare. That tragedy at Monash was a rarity. I actually wonder why that person was ever issued with a pistol licence and why proper checks were not

done. It would be very difficult for a person in that situation to get a licence under our legislation as it stands now. As a result of that, there was some further tightening up.

I have no dramas with storage; that can still be an issue. Legitimate shooters who have their weapons properly stored have nothing to fear. ACT Policing are currently doing, I think, a random 10 per cent check. I do not think storing any firearms, pistols or whatever else in a central armoury is as good as storing them in properly secured facilities in homes. There is a real issue of how secure armouries might be to determined criminals trying to get at such weapons. Unless they are properly patrolled and under proper surveillance, that might not be the best way of doing things. It would also significantly affect legitimate firearm owners.

In relation to pistols, Mr Pratt has contacted and spoken to a lot of sporting groups. I have had one complaint only in relation to what is proposed. Being a rifle shooter and not a pistol shooter, and not very good at either, I do not profess to know a great amount about the sporting shooting of pistols. I understand the most popular categories of barrel length for shooters are either 115 millimetres or 125 millimetres, and this legislation would ban anything under 120 millimetres. There have been some complaints about that but, whenever you go down this path, you cannot make everyone happy.

Nevertheless, it is a national scheme. There are compensation aspects there. There seems to be a realisation that we do not want to interfere with persons training to represent Australia in national and international competitions and that due provision has been made for them. I have been pleased over the years to see a few hiccups in the 1996 national scheme fixed up, enabling legitimate sporting, target and competition shooters to go about their sport without unnecessary hindrance. A few sensible amendments have been made in this Assembly, not only by the previous government but even this government, and I would urge that to continue in relation to pistols and legitimate shooters in sporting competitions.

Ms Dundas quite properly says this is a bit rushed—the last one was—and could have unintended consequences. Like my colleague Mr Pratt—I do not know what the government is doing; I assume it is not supporting her amendment—I think it might have an adverse effect. It might ban a lot more than is proposed under the agreement.

One thing that comes to mind is that a pistol can be concealed; it is an ideal weapon for criminals. In Sydney there have been some particularly nasty gangland-type murders—and in Melbourne too. I remember that their police minister had some real concerns about that at the police ministers conference.

There are concerns about importation and the fact that some things could be tightened up there, which was made known to the Commonwealth minister at the time. That is an ongoing issue, and it is not our responsibility; it is the Commonwealth's. Anything that can be done to enforce the law and ensure that pistols and parts cannot illegitimately get into this country is worthy of support. No doubt, that is occurring at the Commonwealth level.

Another thing I would commend to the minister and to his colleague the Attorney-General—although it is not so much a problem here as it is in Sydney—is to ensure that the police have proper powers to randomly search known persons, persons acting

suspiciously or persons they have cause to believe are in possession of concealed weapons, searching both the person and the premises.

Even though New South Wales has introduced some excellent law and order measures in recent times, as I suggested to Bob Debus, there is further scope for action to be taken to enable the police to make an inroad into seizing illegal pistols. In all the crimes we have seen with pistols, very few pistols are registered. Among stolen pistols it is about 4,000 out of either 250,000 or 600,000. It is not a huge figure, and some of those might have come from persons with legitimate private ownership. Improved storage and tightening up will help there, but that is the tip of the iceberg.

There are a lot of pistols out there that are illegal—not registered—which are used on a fairly regular basis by criminals, especially in the major capital cities of Sydney and Melbourne. There are areas of the Crimes Act that I think should be loosened up to give the police more ability to do random searches of individuals, if we are really going to start getting unlicensed pistols off criminal elements. That will have a significant effect on the murders, gangland murders and armed robberies that criminals want pistols for. With pistols we are talking the nastiest crimes. They are favourite weapons of the serious criminal who is going to engage in a hit, a murder or an armed robbery.

That sort of crime is far more serious than anything else, and every government needs to look at this, especially the governments of the big states. Even though it does not seem to be quite the same problem here as it is in New South Wales, it is something the ACT government at least needs to monitor and, if need be, take steps to put in that legislation—if our current laws do not offer innocent, law-abiding members of the community proper protection.

If we do not do that assignation, if we do not take the relevant steps at a federal, state and territory level, I fear that, whilst there will be some benefit from this legislation, the real problem of unlicensed pistols will go largely unaddressed and we will still see those very horrible crimes being committed as a result.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (4.34), in reply: Mr Speaker, I thank members for their contribution. There seems to be general support for this legislation, which is uniform across Australia. Mr Pratt had a particular point about what the regulations might say.

Mr Pratt, not only do we table variations to regulations; we also point them out to you, at the time, to save you the task of going right through them, so that you can keep your eye on what is happening. We will let you know what that outcome is, if it has not been part of the general debate before then, although there will probably be plenty of discussion ahead of it, in any event. We will certainly go out of our way to let you know about that.

Ms Dundas and Ms Tucker each said, or implied, that this is hurried legislation. We tabled it last week, but it has been on the agenda for over six months, and it has been in the public domain for quite a time. While it is much in debate in the community, when you get back to a bill, it might seem a short period of time. But it has been thoroughly well researched, and the groups have been consulted. Not every last person, as Mr Pratt indicates, is happy with the outcome, but it is a generally agreed package. For that reason

I will hold with the bill. I do not think we can accept amendments, because we are inheriting a package that has been widely supported amongst governments, and I believe we should hold to that.

Ms Tucker pointed out a range of issues around the holding of weapons, some of which have emerged today in the tightening-up process. Mr Stefaniak might have to become a very keen member of his various organisations—if he is in a pistol club, at any rate—because you would have to be keen to maintain your licence. The legal avenues that Mr Stefaniak raised are a matter for another time, but they are something to be considered.

It might be appropriate if I foreshadow now the amendments that I will move and then not repeat them, unless I have to, as we go through the detail stage. There were some outstanding matters nationally, which require resolution by COAG, and these have been addressed in a recent letter from the Prime Minister to our Chief Minister.

A significant matter is the composition of the accredited events for which hand guns up to .45 calibre will be permitted so as to enable international level competition to proceed. The bill, in amendments to the Firearms Regulation 1997, specifies metallic silhouette and single or western action as the accredited events. The Prime Minister has stated that his preference is for these to be the sole accredited events.

There are other events in which shooters may compete internationally, such as those associated with the International Practical Shooting Confederation, IPSC, which comprises combat style shooting; the National Rifle Association, which uses large-calibre hand guns; and the police and service match events, which use military and police hand guns.

It is argued that these events can continue to be conducted with up to .38 calibre hand guns, but shooters involved in some of the IPSC events, in particular, may not be internationally competitive, as .45 calibre is the standard. This government has stated that it will conform with any COAG decision on this matter, and I will advise members of any consequential changes to the regulations.

The amendments to the bill, which I will be moving shortly, are directed primarily at facilitating the removal of additional hand guns from the community, a proposal which was made by the Prime Minister in his letter to all state and territory premiers and chief ministers and which has generally been accepted. The amendments will provide for target pistol shooters who are not able to meet the stringent new requirements for hand gun ownership to surrender all of their hand guns and receive full compensation, provided their licences are also cancelled for a minimum of five years. The Prime Minister has advised that this compensation will be fully funded by the Commonwealth.

This provision will address any concerns that the bill does not facilitate the removal of a broader range of hand guns from the community. The amendments also clarify that compensation will be paid to collectors for surrendered post-1946 pistols and to shooters for parts and accessories which are intrinsic to their surrendered hand guns. This is provided for in the buy-back arrangements.

Further, there is a requirement for the regulations to provide for a dispute resolution procedure. This will comprise a valuation panel, consistent with all other jurisdictions, to

assess the disputed value of any standard or specialised hand gun and determine a fair price. The ACT will employ the services of the New South Wales valuation panel to ensure consistency.

I should also address a number of matters in the report of the scrutiny of bills and subordinate legislation committee. The report draws attention to the adequacy or otherwise of the buy-back scheme for surrendered prohibited firearms in respect of the right to property. Prohibited firearms, and associated parts and accessories, which are surrendered to the police will be compensated for in accordance with nationally agreed values for standard hand guns in as-new, good and fair condition. These values will be published on a national website.

Any disputes about the initial valuations by police, or of specialist non-standard hand guns, will be referred to the valuation panel, and their decision on the level of compensation will be final. It is, of course, open to any shooter who is not satisfied with this process to take the matter to the Supreme Court under the Administrative Decisions (Judicial Review) Act.

With regard to clause 7 of the bill, which amends section 16 of the Firearms Act 1996, I note the comment that the example given refers to circumstances in which a person authorised to use a firearm uses that firearm for a purpose other than that established by their genuine reason, and this may create a perceived limitation to the offence. However, the words of the proposed section 16 (1) (b) are clear and unambiguous— namely, that a person cannot possess or use a firearm unless authorised by a licence or permit. The example is but one of many possible examples and does not limit the operation of the section.

The scrutiny committee questions the strict liability offence relating to the manufacture of a firearm in proposed section 84A. The unauthorised manufacture of a firearm is a serious matter, both in terms of individual safety and to the community, and there can be no reasonable excuse defence. Such manufacture can range from a young person constructing a firearm from a piece of pipe to a criminal assembling one or more parts.

Clearly, this is not acceptable. Firearms are complex and dangerous items, and their manufacture requires skill and experience. They need to be safety tested and accounted for. Their unauthorised manufacture would undermine the whole licensing and registration regime as well as community safety. I am satisfied that the strict liability offence is appropriate.

The committee also raises concerns about the broad regulation-making powers in the bill. These are necessary to detail the elements of the buy-back, including the list of nationally agreed values and the procedures for resolving disputes. As I indicated earlier, there are a number of outstanding matters for national resolution by COAG that do not affect the fundamental operation of the bill but which may need to be provided for following COAG's decision. All such regulations would be disallowable and subject to consideration by members. I have undertaken to advise members in advance of any such regulations.

The Prime Minister has clearly stated that the Commonwealth requires all states and territories to conform fully with the COAG agreement and will vet each jurisdiction's

legislation to ensure this. Endorsement by the Prime Minister will enable bilateral and intergovernmental agreements to be signed between the Commonwealth and each jurisdiction, giving effect to the buy-back procedures and the associated Commonwealth funding.

There is a national understanding and expectation that, apart from New South Wales and South Australia, the legislation and associated buy-back will commence on 1 July 2003. I understand the legislation has been introduced, if not passed, in the lower house of the New South Wales parliament. The bill complies fully with COAG agreements, and we are on track for the buy-back to commence at the City Police Station on 1 July. There is a strong expectation among hand gun shooters that the legislation and the buy-back will commence then. Information sessions by the department and the dissemination of details of the buy-back procedures to all owners have been organised.

The bill creates a comprehensive regime for the prohibition of certain unacceptable and unjustified hand guns. Hand gun shooters who wish to use legal hand guns must meet stricter genuine reason and genuine need tests to own and use those hand guns. All competition hand gun shooters, particularly those contemplating taking up the sport, must pass stricter tests to determine their fit and proper status to own and use a firearm. The vast majority of hand gun shooters now conform to those provisions, and they will continue to do so. These provisions form part of their current regimes and, as a consequence, the provisions were recommended at national forums established to develop the new regulatory regime.

This continues previous efforts. Members across the way received strong support from this Assembly in 1996 with the then new firearms legislation. As a result, the ACT was the first jurisdiction to enact its legislation and commence its buy-back. That legislation has stood the test of time and served the community and shooters well. I am sure that, when this bill is passed today, it will serve the test of time just as well. I thank members for their support.

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.

MS DUNDAS (4.46): I move amendment No 1 circulated in my name *[see schedule 2 at page 2668]*. This amendment is a simple amendment that allows the police minister to name other weapons as prohibited pistols. The naming of any extra pistols would be a disallowable instrument. What this amendment allows the minister and the government to do is truly lead the country, with the tightest regulations in the country.

I understand the difficulties that faced our police minister at the Australian Police Ministers Council meeting and at the Council of Australian Governments, where the bigger states, with a lot more people interested in guns in them, would push what we are

trying to do here in the ACT off the drawing board. But I do not buy the argument that we have to have uniform laws in this area and that the reason we cannot proceed with these amendments is that it will move us out of step.

We are pretty much a city-state, with no need for hand guns in our community, and we should take a stand. We do not have to be the same as New South Wales. In the same way the ACT has different regulatory approaches to brothels, porn, cannabis, fireworks and gaming machines—just to name a few areas—why not have a separate approach to possession of firearms?

Many times we hear in this chamber how we take a different approach to law and order, concentrating on rehabilitation and an end to recidivism—an approach much different from our interstate colleagues. Yet the only argument I have heard from this government on why we are not taking a tough stand in regard to this piece of legislation is that we have to agree with the other states. Well, I am afraid that we should not leave hand guns in the community just because we want to have the same laws as Western Australia, Queensland, New South Wales or the Northern Territory.

There are a number of hand guns in the community. If we banned them, our registered shooters would still be able to actively compete in international events, and the Commonwealth and Olympic games. I hope that the minister will consider listing some of these guns, on top of the guns listed by the federal government. I understand that the federal government have a list of 8,000 or 9,000 makes, models and accessories that would be banned.

Unfortunately for the Assembly, the government and the community, this list is not available. In the absence of this information, I have compiled my own list. Although not comprehensive, it is a list of weapons about which it is not clear whether they fall inside or outside the banned list and which I believe are not required for any international, Olympic or Commonwealth game competitions. I have been unable to ascertain whether they will be banned or not. I seek leave to table this list of weapons.

Leave granted.

MS DUNDAS: I present the following paper:

> Firearms – Copy of list depicting make, model, type, calibre, magazine capacity and barrel of pistols.

I have already shown it to some members. The list contains over 100 weapons, including the Smith and Wesson .357 magnum, which was the model used by Richard Dern when he walked into the Nanterre town hall in France and shot eight councillors. The Smith and Wesson .357 and the Browning 9 millimetre were the hand guns used by Thomas Hamilton when he killed 16 children, a teacher and himself in Scotland. The .357 magnum may now remain legal because it is hard to conceal; however, it is a gun that is not necessary for target shooting and is a danger in our community. Just because you can see a gun coming does not mean that the bullet won't hurt as much.

I have also included in the list a number of SIG pistols. A SIG-Sauer was used in Switzerland in September 2001, when a man walked into a regional parliament and shot

14 people. Before you dismiss these as illegal shootings and illegal guns, I should add that these criminals were members of their respective gun clubs.

What I am doing with my amendment today is allowing the minister to add to the number of prohibited pistols so that pistols that fall outside the banned list and have no legitimate use can also be removed from our community. It does not take us that much out of step with the national regulations; it just allows us to go that one step further. The definitions that are being put forward will mean that guns will remain in our community that have no legitimate sporting use. I do hope this amendment is supported.

MR PRATT (4.51): I rise to support the government's amendment.

MR SPEAKER: This is Ms Dundas' amendment.

MR PRATT: I am sorry. I rise to support the government's position but not to support that amendment. If this legislation continues to entice and encourage further buy-back of surplus-to-requirement legal weapons, then that is what we should be drilling down, too. I sympathise with the position on the list of weapons put forward by Ms Dundas, and I would like to explore that further.

Beyond the piece of legislative action occurring today, I would like to look down the track at how we might encourage COAG to tighten that list of weapons, so that we get right down to only the essential legal types of weapon, which are genuinely required by genuine sporting shooters for approved activities. Ms Dundas raises a good point. Do we need 118 pistols, plus whatever else we have got swirling around, for competition shooting in this country or even to keep up with international best practice sporting competition standards?

I will just make a comment in passing that this is something we will probably want to revisit in terms of tightening the net on the types of hand gun that are not really necessary in Australian society—beyond those which are seen to be genuinely needed for international and national competition.

MS TUCKER (4.53): The Greens will be supporting this amendment. It gives the minister the capacity to develop a list, which would be disallowable. That sounds a very sensible way of having further action to reduce the number of guns in the community. The list has not been put into the legislation; all it does is enable there to be such a list. So it is a good idea.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (4.54): As indicated, the government won't be supporting the amendment. It is not a complete list, as Ms Dundas said, and that is part of the reason. Even if you specify every type of weapon, and the measurements with which you can accomplish things, I am not sure you will ever get a completely exhaustive list.

If I heard Ms Dundas right, she said that some of those pistols she mentioned had killed people and that people who used them might have been members of gun clubs. If that is the case, that is one of the reasons that we are making club membership more difficult.

Pistol club membership is becoming quite stringent now, and that will make it more difficult. It won't stop it altogether, if such events should occur, but it does make it hard.

This is a reasonable package. By all means explore the future, but this needs to be explored very carefully with all those involved, and I would not want to raise it off the floor here today.

MS DUNDAS (4.56): I want to briefly respond to some points that were made and to thank those members who are supporting my amendment. It looks like this amendment will go down, so I won't move my second amendment.

The technical nature of the industry and the number of products that are on the market make it difficult to know where to draw the line. The lack of information coming out of the federal government and the ACT government has meant that gun owners—licensed shooters—have been left a little in the dark. This is why other states have deferred the commencement of their buy-back. The amendment I am moving will allow the minister to fix the gaps.

No, my list is not 100 per cent comprehensive. It does not include all of the guns that have no sporting use and hence should be removed from the community—neither do the definitions in this legislation. This is about trying to close the gaps and get as many of these guns out of our community as possible. The list that I tabled was a guide that, if this amendment got through, the minister could use as a starting point to further explore what other guns are going to fall through the cracks and still be out there in the community for no legitimate reason.

But if the minister is 100 per cent sure he has got it right, then so be it. I am disappointed by that; his commitment to following other states' regulations means that he is turning down this opportunity to make the ACT law better.

Amendment negatived.

Clause 5 agreed to.

Clauses 6 to 21, by leave, taken together and agreed to.

Clause 22.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Arts and Heritage and Minister for Police and Emergency Services) (4.59): I seek leave to move amendments 1 and 2 circulated in my name together and circulate the explanatory memorandum to that, which has already been distributed.

Leave granted.

MR WOOD: I move amendments 1 and 2 circulated in my name together *[see schedule 3 at page 2668]*. The reason for these has been elaborated on in my speech.

MS DUNDAS (4.59): I cannot let another opportunity go by without speaking on guns! We will be supporting this amendment, which corrects an anomaly that I believe was spotted by the department. This amendment is an indication that the legislation is being rushed. This bill was introduced nine days ago and then brought forward today for commencement in just another five days.

At 5.00 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

MS DUNDAS: As I was saying, we still have no copy of the regulations that describe the compensation, we have no comprehensive list of hand guns and accessories and we have no price list that is attached to these accessories. I am supporting the bill but wish to make the point that other states have not rushed this through to start on July 1, as they are not 100 per cent certain that they have either the legislation or the administration correct.

I flag here that, if there are further delays, I offer my support to the extension of the amnesty and compensation period, if it is required, in the future. It is important to get this right, as the safety of our community is at stake. But I think the amendments that have been moved—a number of pages being circulated today—indicate that we should have taken a little bit more time to work through this. Even today I have received phone calls to my office about this piece of legislation from people asking for more time to work through it, and it is a shame that we have had to rush it through in the way that we have.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Arts and Heritage and Minister for Police and Emergency Services) (5.02): We received advice from the Prime Minister very recently about this. It is understood that there has been a deal of discussion over a period. We were awaiting certain outcomes, and we have incorporated those.

From our end of the business it does not seem that things are rushed. They are certainly moving apace, but it is all measured. Bear in mind, too, that the Prime Minister's letter that encouraged these amendments also indicated that they will fund fully that part of the buy-back. So there is some good news in it, too.

Amendments agreed to.

Clause 22, as amended, agreed to.

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

Bill, as amended, agreed to.

Workers Compensation Amendment Bill 2003

Debate resumed from 19 June 2003, on motion by **Ms Gallagher**:

> That this bill be agreed to in principle.

MR PRATT (5.03): I rise to support this motion—as I am aware that much of this legislation is indeed time critical—to ensure the continued smooth running of already existing legislation.

In particular, I am supportive of the change to the definition of company auditor. Without this change, it is difficult for businesses to fulfil their obligations, as there are only three or four firms in the ACT who have registered company auditors in accordance with the new federal company and securities act. This change will mean that, although wage declarations will still be subject to independent verification, it will be easier and less expensive to get this done within the required timeframe.

I am supportive of the extension of terrorism coverage, although I make the point that this does seem to be a bit of a band-aid approach. That is no fault of the government—it is something we have all been lumped with.

In my view, we need to accept that terrorism is here for longer than we would like it to be and that, as a result, the reinsurance industry may never come to the party. I can see us here in two years time—provided we are all re-elected—pushing through the same extension.

Ms MacDonald: I think that is more uncertain!

MR PRATT: That is true. Perhaps we could think about trying to have a good talk with the insurance industry, in an endeavour to obtain a more permanent resolution of the problem, to bring certainty back to the business community and the community at large.

I am supportive of the recovery of claims amendments and the cross-border changes. I will go on to raise other interesting issues. Looking at the explanatory memorandum, I am a bit perplexed—perhaps because I am not very experienced in dealing with these matters. I notice we have an explanatory memorandum for this proposal today and yet, for the Revenue Legislation Amendment Bill 2003, we had an explanatory statement. Is there any difference between a memorandum and a statement?

Ms Gallagher: No, there is not—it is a name.

MR PRATT: Is there a point here about consistency and protocol, perhaps, or am I being a bit too sweet? I drop that point on the table anyway. Otherwise, I have nothing further to add. We will push through and support the government on this. I have no other sweet comments to make.

MS DUNDAS (5.06): When we debated the Workers Compensation (Acts of Terrorism) Amendment Bill in June last year, I expressed grave reservations about that bill. This bill extends the scheme introduced by the act—and my concerns remain as valid as they were a year ago.

That bill made the ACT government the reinsurer for all insurance companies providing workers compensation coverage in the ACT, in the event that an act of terrorism occurs which results in workers compensation claims costing more than 5 per cent of the amount collected in workers compensation insurance premiums in one year. In effect,

every ACT taxpayer took responsibility to find money to pay compensation for personal injury or death in the event that an act of terrorism occurred.

I wondered what the ACT taxpayer was receiving for assuming this risk. I learnt that the answer was: absolutely nothing. As taxpayers, we assumed a risk previously borne by insurance companies but received no payment for that risk. I have not heard of insurance premiums for employers dropping as a result of the ACT government assuming this new liability. In that way, the bill arguably created a small windfall for insurance companies.

Last year's bill provided a mechanism for the recovery of money from insurers in the event that compensation was paid for an act of terrorism, yet the bill was silent on the proportion of any compensation payout that would be recovered from insurers. Hence, it was not clear how much risk the ACT taxpayer was assuming.

At the time, I pointed out that, if there were a terrorist attack in the ACT, it was likely to target a Commonwealth government building rather than a privately owned or ACT government building. It was, and still is, possible that the ACT government would be required to pay the full cost of compensation for the deaths of, or injuries to, people contracting to the federal government.

Most of those people might be ACT residents, but the federal government should be wearing some of that risk. It would be more appropriate for the Commonwealth to pay part, or all, of the cost, if the government is to meet the cost at all. However, it is my understanding that the federal government has not been approached for any assurance regarding contributions to any future compensation payouts.

I do not dispute the fact that every employee in the ACT should be fully insured against injury or death occurring in the workplace, but there is more than one way to achieve that goal. I believe that last year's changes were made without proper consideration, and that that was a bad law. A law that was bad a year ago is one which I believe is still bad, even though we have been fortunate enough not to have been affected by an act of terrorism in the meantime.

In fact, this bill is even more disappointing than last year's bill. Despite 12 months having elapsed, the government has failed to investigate what would represent an appropriate premium on insurers or employers to compensate the government for the assumed risk of providing reinsurance cover.

While there is an end date of 2006 in the legislation, this scheme could easily drag on beyond the extension period. It would become the norm for the government to provide terrorism reinsurance at no cost to employers or insurers. I do not think this is a good precedent to set.

I will be opposing this bill, which extends the government's reinsurance scheme for a further two years. This is because I am dissatisfied that the government has failed to collect any payment in exchange for the additional risk all taxpayers have assumed, and because I believe there are other ways we could be dealing with this problem. As I have said, this piece of legislation is not the best for the ACT taxpayer.

MS TUCKER (5.10): This bill extends the arrangement under the workers compensation scheme for acts of terrorism to be covered by government—and for insurance businesses to not be liable for them. It changes the obligation on companies to have their wages figures attested to by a recognised, rather than registered, auditor. The bill also makes it clear that the criminal code does not apply to offences against the act where they are already covered—more severely, as it happens—by the act itself.

The last two points are linked. On the one hand, there are only a few registered auditors in the ACT, whereas there are more than enough registered accountants. As the penalties in the act for failing to supply correct information are severe, the requirement to have qualified accountants who are members of the relevant trade institutions is stringent enough.

Apparently there was to be an increase in the number of registered auditors in the ACT, but that is now not going to occur. I do not know what that says about the profession of auditors. Recent events in Australia and the US have clearly cast the profession in a less attractive, although arguably more valuable, light. In any event, if there is an insufficient number of auditors to undertake a comprehensive and scrupulous examination of business accounts, then shifting this requirement under the workers compensation scheme to accountants seems perfectly reasonable.

The real issue goes to extending the ACT government's coverage of workers compensation scheme exposure to acts of terrorism. When this provision was introduced last year, the argument was put that the international underwriters would come back into the market in a couple of years and, therefore, for the ACT government to pick up the risk would be a temporary measure. Clearly the other risk is having a privately underwritten workers compensation scheme in the first place, given that insurers can choose to take the business or not.

The ACT being a small jurisdiction, a government-run scheme without the cost limiters and flexibility which are built into a private system could easily and quickly become a drain on resources, with no great benefits. Just look at the costs and limited benefits of the government scheme in New South Wales!

Given the international cost of the responses to acts of terrorism, the general enthusiasm of the insurance industry to get more hard nosed about its core business and the poor performance of general investment over the past few years, the expectation that insurance companies would be happy to come back into the terrorism market in two years was clearly too hopeful by half, and we do need to extend it.

It is interesting to see how quickly the pack of cards which is insurance business and investment—which one might describe as the high point of capitalism—has come tumbling down on the backs of a few greedy business managers and one or two precisely targeted acts of violence.

There are massive costs associated with catastrophic injuries and death, due in part to the limits of support offered by the state. If we lived in a more equitable world with a better record on social and health support, perhaps the insurance industry would not exercise such influence on our lives. We will be supporting this bill.

MS GALLAGHER (Minister for Education, Youth and Family Services, Minister for Women and Minister for Industrial Relations) (5.14), in reply: To close the debate, I thank members for their comments on, and support for, this bill. It was important for this bill to be passed before 30 June. I acknowledge the short timeframe members were given to consider the bill. I also acknowledge the officers from the Chief Minister's Department, who ensured that all members who wished to be briefed were briefed on this bill within such a short timeframe.

I acknowledge the comments made by Ms Dundas in relation to her concerns about the government taking over a previously non-government area of responsibility. It certainly was not the desire of government to take on the possibility of workers compensation in light of a terrorist attack, but international events have forced this situation upon us. The legislation and temporary fund is definitely not a subsidy to the insurance industry—rather, it is an emergency vehicle to create a pool of money by which to provide necessary compensation funds to injured workers.

There is capacity within the act to impose levies for the fund and repayment of any compensation paid from the fund. Nevertheless, this would come into being only in the event of a terrorist attack. As I said in the presentation speech, the bill makes minor but important amendments to the Workers Compensation Act.

The purpose of the temporary reinsurance provisions for acts of terrorism is to ensure that, if a worker is injured or killed due to an act of terror, the worker or, in the case of the worker's death, the worker's family will be able to claim their existing entitlements under the Workers Compensation Act. It was hoped that we would not have to extend these provisions but we must remember the events in Bali last year and around the world. There was the hope that terrorism would not remain a concern for all of us, but the insurance industry was put off by those international events.

Whilst Mr Pratt says this is a band-aid approach, it is definitely only a two-year extension. We hope that, by that time, the insurance providers will have returned to the market and taken over this area of responsibility.

The other change to the act, through this bill, is to extend the definition of a registered auditor. We did not want to be in a position, come 1 July, where some employers, through no fault of their own, may have been in breach of the act because they were unable to obtain a registered auditor to certify wage and salary declarations. That was an important amendment too, and I acknowledge members' support.

I also acknowledge the short timeframe members had to consider this bill. It was in and out in a week, and I thank members very much. I also wish to acknowledge the Chief Minister's Department for getting this through and briefing members.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Canberra Tourism and Events Corporation Amendment Bill 2003

Debate resumed from 19 June 2003, on motion by **Mr Quinlan**:

> That this bill be agreed to in principle.

MR SMYTH (Leader of the Opposition) (5.18): This bill is to change the name of the Canberra Tourism and Events Corporation. This is something the government announced they would be looking at in their review of CTEC. The Australian Capital Tourism Corporation, as it will become known, has some advantages, I would suggest. In his speech, the minister made the point that the capital is a big part of the Australian capital region and I do not think anybody would doubt that.

I have some small concerns. The removal of the events is not an indication that we will totally abandon all events. We need to be focusing on a blend of local tourism, national tourism and event tourism.

I note the passing of the Queen's Birthday weekend with the lowest occupancy rates the territory has experienced for some time, because of the government's inability to come up with an idea to replace the V8 car race. That is a shame, because the V8 car race achieved the breaking down of the stereotyping which had surrounded Canberra for a long time.

I hope the change of name is not a dramatic change of attitude and that, in dispensing with the tourism and events corporation, we are not also dispensing with the idea of having events in the ACT. Floriade will continue, I have no doubt, but we need to find events placed strategically throughout the year to try to help the hospitality sector through some of the quieter times of the year.

The other major point of the bill is to have a larger board. The board will have two additional members. If that puts more appropriate expertise on the board, I do not believe you can argue with that.

I would like to congratulate the existing and previous board members on the job they have done. They oversaw a period of good growth of tourism in the ACT. They certainly changed it and they definitely changed people's attitudes towards tourism in the ACT. That is important as well. There is a big job to be done. The additional board members will hopefully bring with them a different slant and different expertise on how we might improve tourism in the ACT.

Mr Deputy Speaker, these sorts of changes do not come without cost. I wonder whether, when the Minister for Tourism closes debate on this issue, he could give us an indication of what the cost of the change will be, and whether the existing logo, which is reasonably well known—certainly locally—will change.

I notice that, on their website, they have dropped the words "tourism and events corporation", and there is now a sunny sort of Parliament House logo, with the word

"Canberra" under it. Will that be changed to "capital", or will it be necessary to find a brand new logo, with all the attendant costs? Given that there is some doubt about the size of the existing CTEC budget into the out years, will we see a drop from approximately $16 to $12 million because of the removal of the V8 car money? Will the costs be substantial—and how will they be accommodated inside the existing CTEC budget?

That being said, the opposition certainly wishes the Australian Capital Tourism Corporation well. May it continue the good job started by CTEC; may it bolster the hospitality industry as an industry which employs lots of young Canberrans; and may it help to display all the facets of Canberra—from the local, the territorian and the national to the environmental. May it help bolster growth of respect for Canberra and help break down some of the bad stereotypes which still exist about Canberra, which we should be overcoming.

I will close by reiterating the point I made on events. Events are essential, whatever the criticism of the previous government of some events that were run. Events are important on the tourism calendar. The readings about the cities that will survive well into this decade, and go further into this century, indicate the need for some events-based activity, to ensure people understand that these are lively cities; that these are cities worth visiting; and that they are not sleepy hollows.

I sound that note of caution—that I hope we do not see, with the loss of the word "events" from that title a loss of events across the board in the ACT in the tourism field, because events are a valid and essential part of the tourism world. The opposition will be supporting the bill.

MS DUNDAS (5.23): The ACT Democrats will be supporting this bill today. Tourism is a vital element of the ACT economy, and a key area of employment growth for Canberra. This is a simple machinery bill that changes the name of the Canberra Tourism Events Corporation to the Australian Capital Tourism Corporation, and expands the board from seven to nine members, to allow for an expansion of industry representation, which is important. This is an area I have received a number of calls about—where people are saying that we need more and diverse representation on tourism bodies in the ACT.

The recent difficulties in CTEC have resulted from an inappropriate focus on the staging and promotion of single events, such as the ill-fated V8 car race. I believe CTEC has been through a rigorous review, and the bill is an important outcome of that process. Of course, a name change will not fix all the problems in one breath, but it is a good place to start. Hopefully it will encourage a greater focus, in the tourism body of the ACT, on promotion of the ACT as a tourism centre.

Growth in the Canberra tourism market has the potential to increase the diversity of the ACT economy and increase our employment base. Tourism has the potential to provide jobs for many underskilled and unemployed people already in Canberra. Investment in the development of Canberra's tourism potential provides the important benefit to the ACT population not only of increased economic activity but also additional social and community activities that tourism can provide.

The new-look ACT tourism strategy will hopefully provide an opportunity for us to work more closely with the surrounding region. While our role as the national capital will always be central to tourism in the ACT, we ought to work with the many other attractions in and around Canberra, including the natural beauty and environment of Namadgi National Park, as well as the numerous wineries and agricultural attractions in surrounding areas. I hope this piece of legislation is the first step in the kick-starting and reboosting of tourism in the ACT.

MS TUCKER (5.25): The Greens will be supporting this bill, although we are not terribly enthusiastic about it. I appreciate that it simply changes the name from Canberra Tourism and Events Corporation to Australian Capital Tourism Corporation.

There was a fundamental regime change in CTEC about a year ago. The ongoing financial drain of the V8 car race put the nails in CTEC's big-event coffin, as it appears unlikely that CTEC or Australian Capital Tourism, if this bill is passed, will again take on the task of running major sporting events. I am disappointed, however, that the focus still seems to be all about Parliament house, Floriade and bed nights, and that it has no real vision of the Canberra it is promoting and supporting.

In this context, it is worth considering issues raised by the National Folk Festival. In a letter to me dated 14 May, Dr Keith McHenry, president of the festival, makes the point that CTEC's support for the national festival this year was 47 per cent less than for 2002. In fact, since the festival located permanently to Canberra, total ACT government support has fallen from $96,000 in 1993 to $65,000 in 2003.

Over the same time, the festival has quadrupled in size, and has had to deal with major new costs, such as increased public liability and the GST. In the context of ACT tourism and events, the National Folk Festival attracts thousands of visitors to the ACT, injects millions of dollars into the territory economy and has thrown Canberra into a very positive light.

If only Canberra Tourism and Events Corporation, or Australian Capital Tourism, the Canberra authority—or whatever we want to call it—were really committed to developing events and activities in this city which are enriching and satisfying locally, as well as of great benefit to the local economy!

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (5.27) in reply: I thank members for their support. The government is concerned to ensure that we do have events—and, hopefully, they will provide for locals as well as visitors.

This bill changes the name, and hopefully adds to a change in orientation, of CTEC. It is the case that the V8 car race cost us even more than the figures we have been shown. Going by the mjaMatchpoint report, the V8 car race clearly occupied a great part of the resources of CTEC, to the point of—at least in the view of the industry generally—preoccupation. I really cannot tell you how much it was costing, but it was costing a lot. The race was diverting energies and resources, but I will not dwell on that.

As people probably know, CTEC has already reorientated itself and is running programs. We have run an autumn program and we now have a winter promotional program up and running. These seasonal programs will take place, and they seem to be getting the appropriate reaction—particularly the autumn one. With regard to the accommodation industry, one of our best performance times was over Easter and the following weekend, which was the Anzac Day long weekend.

In response to an issue raised, Australian Capital Tourism will be looking at its logo. That is a process towards which they are working. In the longer term, they will be looking at the question, although not necessarily the answer yet, of the value of badging. I refer to things like "All the parts of Victoria" or the Northern Territory motto, "You'll never, never know, if you never, never go!"

The Victorian campaign seemed to work. Although just about everybody in Australia can repeat the Northern Territory one, it did not seem to have any impact on tourism itself. It is just that we knew it was attached to the Northern Territory. We want to look at that question to see if it works—in terms of effect, as well as recognition.

In response to Ms Dundas' point, we intend to have a regional focus. It has already been discussed in our draft—our discussion paper leading up to the economic white paper—that, in all things, we recognise that we are part of a region. The orientation in tourism these days is for people to experience tourism. We must be able to provide an experience. That should not be restricted by artificial boundaries.

Looking to the future, it is my hope that Australian Capital Tourism continues to evolve, and that the membership of the board of Australian Capital Tourism will become more representative of the industry. I have not moved quickly on that because there is still division between stakeholders within the tourism industry, as to whether that is necessarily the best way to go, and whether it will bear any fruit in the form of material support from the industry.

I do not want to see Australian Capital Tourism, as it replaces CTEC, turning into an organisation which has an amount of government money to spend, with stakeholders in the industry telling us how to spend it. It has to be a little more strategic than that. If you look at the mjaMatchpoint report, you will see that it contains a number of criticisms.

Nothing much in that report is positive or constructive. We still have a way to go to get to the constructive point. We must recognise that, although a number of the stakeholders in the industry promote Canberra, they do so through their own promotions and venues. All of the hotel chains promote, "Stay with our hotel chain when in Canberra."

Whilst we want to work with those people, we want to work with the "Come to Canberra" message, as well as the messages, "Stay at this place" or "Visit this particular place when you are in Canberra." There is a desire on the part of the government to involve the industry more, but it must be a two-way contract. The additional positions on the Australian Capital Tourism board will allow us to step towards that and to, in fact, test the water.

If it is going to be a straight government-funded exercise, we will certainly take advice from the industry. However, it may not evolve to the point I would like to see it arrive at, where there is a mixture of industry resources, our resources, resources from the NCA blended with ours and resources from the major attractions blended with ours. I have had discussions with virtually all of those stakeholders, and there is potential for that. Everybody thinks it is a good idea. So far, like the weather, we have only talked about it and not done a lot about it, but we are heading in that direction.

Mr Deputy Speaker, I thank members for their support and assure them that we will be working towards making sure we get our share of tourism. The federal government's green paper, presented by Minister Joe Hockey, talks about a greater emphasis on internal tourism within Australia and a possible reduction in international tourism—replacing quantity with quality, as they put it.

However, I believe it is more about security and the load visitors from overseas, and people attending international events, impose upon the national budget, as far as the security requirements they engender are concerned. There are security risks associated with tourists in the modern age. We will certainly be working with all of the stakeholders, if they are interested in working with us.

Question resolved in the affirmative.

Bill agreed to in principle.

Leave granted to dispense with the detail stage.

Bill agreed to.

Land (Planning and Environment) (Compliance) Amendment Bill 2003

Debate resumed from 20 February 2003, on motion by **Mr Corbell**:

> That this bill be agreed to in principle.

MRS DUNNE (5.35): The Liberal opposition will support this bill.

Mr Quinlan: That was a good speech!

MRS DUNNE: You do not get off that lightly, although you will get off fairly lightly. I have no hesitation in saying that this is overdue. I have said around this place for some time that compliance in the ACT has been in chaos for 13 years. I believe this is a timely or overdue rectification. The bill gives the new planning authority the power to make orders and rectifications, carry out works on behalf of the territory and recover moneys. At the moment, the compliance provisions under the legislation are poor indeed and provide no flexibility for enforcing necessary compliance work.

As a member, and having worked as a ministerial adviser in this area, I know there are a large number of complaints received about compliance issues, and they are a headache. I know that people in the authority do not have the powers they need to quickly and effectively deal with these matters. We will be supporting them, because I think the measures go in the right direction. We will be watching to ensure we have the right number of powers to deliver to people the sort of compliance they need, so we have a built form and a lease administration which meets the needs of the people of the ACT.

I am pleased to see some amendments incorporated into this bill, which will allow for difficulties we have with leasing issues where there are encroachments onto public land. This is a matter which has transfixed one constituent of mine, who has dealings with this sort of thing on a day-to-day basis. I had some reservations about whether this was the best possible mechanism for addressing the issue. Nevertheless, it is the mechanism that is here and I believe it will do the deed. We will be supporting the amendments.

I note also that both the minister and Ms Dundas have circulated amendments. I applaud the minister's amendment, because that was an oversight. Having dealt with issues in relation to the enforcement of orders, I think it is important that there is a penalty regime which ensures that orders are not only given but can also be enforced.

I support the thrust of Ms Dundas' amendments. I believe she is right. The way things currently stand under the land act, only the executive has the power to do a number of things in relation to compliance. It is cumbersome, untidy and inefficient.

I think it is a good move to vest those powers in the authority. I believe it is unnecessary to vest them in both the executive and the authority, given that—as was pointed out to me—the executive already has the power to direct the authority to do certain things. This means it can effectively use any power which already exists under this act. In that regard, the Liberal opposition supports the bill. It also supports the amendments put forward by both Ms Dundas and the government.

MS DUNDAS (5.39): The enforcement of the ACT's planning system has been under review for a number of years. The government has advised me that this legislation has been in the pipeline for some time and was originally developed under the previous government. The ACT Democrats welcome this initiative to reform the compliance system for planning in Canberra.

During my time in the Assembly, I have had a number of inquiries about the enforcement of planning laws. A number of disgruntled residents have expressed their dissatisfaction with the current arrangements. This proposal addresses a number of inadequacies in the present procedures. The ACT Democrats will be supporting this bill.

Canberra—internationally recognised as a planned city—has always placed specific emphasis on the importance of planning for future development and the layout of our city. At the moment, the territory is developing the Canberra spatial plan, which will hopefully inform our planning decisions over the next 20 to 30 years. However, there is not much point in investing a great deal of time and energy into good planning if our authorities do not adequately enforce the principles.

This legislation creates three major new tools to assist compliance with planning regulations. The first is allowing the new Planning and Land Authority to make orders on its own behalf. Currently, in order to enforce planning laws, officers may respond only to applications from individual residents or make applications for orders as private citizens.

The ability of the Planning and Land Authority to make orders on its own behalf will make it more responsive to enforcement issues. Equally, the new ability to issue a prohibition notice will allow the authority to act quickly to stop any work or actions contrary to planning regulations. The ability to order rectification work and, where necessary, carry out rectification work at the owner's expense means that inaction or resistance by infringers will be able to be adequately addressed.

I have a number of amendments to this bill which go to the independence of the Planning and Land Authority. Part of this whole exercise was to give the authority the ability to work effectively in an orderly administrative manner.

This bill has been drafted in a way which means that, by allowing them to be implemented by both the executive and the authority, the powers are duplicated. This crossover of jurisdictions is not in the interests of efficiency—it goes against the principle of creating an independent planning authority. I will speak briefly to the amendments during the detail stage, so they make sense when we are going through them.

Finally, this bill deals with the issue of minor encroachments over public land. I want to make it clear that the Planning and Land Authority should be attempting to ensure that encroachments over public land are minimised in the construction of new buildings.

The incidence of accidents when major developments slightly overhang public land or roads, because of small mistakes in construction, should remain as infrequent as possible. However, when accidents do occur—I use the example of the James Court apartments, where the building overhangs the road reserve by a few millimetres—the Planning and Land Authority clearly needs a less cumbersome method of addressing the issue. This will provide one such a solution and, to me, that seems relatively effective. I will speak further on this during the detail stage. With our amendments, the Democrats will be supporting this bill.

MS TUCKER (5.42): This bill seeks to provide the government with the powers for a new regime of sanctions or penalties, to be applied where a leaseholder is in contravention of lease conditions. It also provides for a more streamlined resolution of building encroachment issues.

I acknowledge that, before the election, the government undertook to enhance the planning authority's powers to enforce lease compliance, and that this followed frustration among members of the community about PALM's effectiveness, or lack thereof, in its enforcement actions. The Greens' policy also proposed increased powers and resources for this purpose.

Another aspect of this bill is that it makes it easier to resolve building encroachment issues, essentially by proving them after the event. I do not think that was in the

government's electoral platform. I understand that the government now sees the need for this, in order to relieve the planning authority of the administrative inconvenience of the notification process currently required where a minor building encroachment occurs.

The bill provides for the planning authority to approve certain building encroachments, that are deemed to be minor, by simply licensing them. Depending on how the authority uses this provision, it could deliver an increase in administrative efficiency as it promises. However, if wrongly used, it could conceivably provide a convenient mechanism to formalise, after the event, a situation where a developer has simply taken a liberty—either by design or by accident.

Developers have been known to gain significant advantages by being given approval to encroach on adjacent territory land, and we are not comfortable with the government's intention to streamline this process. I hope this is not code for making it easier for developers to get what they want. If so, this could be done at the expense of public space and convenience. With the notification provision dispensed with, no public input would be allowed for—the public would not even know. The information would become public some time thereafter, but only when the minister tables a quarterly listing of direct grants.

Even if something inappropriate is picked up at that stage, by then it is too late to do anything about it, apart from challenging the government to provide an explanation for its decision. What constitutes a minor encroachment is defined but, effectively, it comes down to a reasonable person test. We are required to trust that the authority's exercise of its discretion to determine what is minor will broadly equate to what the community considers reasonable.

With regard to enforcement, I accept that the government is responding to a perception that the existing enforcement powers were inadequate and did not give PALM a sufficient range of tools to use to deal with non-compliance issues. I understand that, when trying to negotiate a solution in response to complaints, PALM found it a problem that its only ultimate sanction was the revoking of the lessee's lease.

I hope this new regime will deliver the orderly development the minister promises, but this will depend on how it is implemented by the authority. We are also taking it on faith that planning authority officers will use these powers sensitively and appropriately.

This is a significant range of new penalties. Most people in our community would not be aware of them, as they have not been widely publicised. There is provision for a fine of $1,000, six months jail, or both, for resisting an authorised person carrying out an order—for example, for rectification work—plus the costs of the rectification work. This is a strict liability offence, so the prosecution does not need to establish fault.

This places the authority in a powerful position, relative to an individual leaseholder who may have a disagreement with the authority about the issues forming the subject of the order. Their recourse in such a situation is to challenge the order in the AAT, where the process and the decision are reviewable on their merits.

These orders are often initiated by the complaints of neighbours, who would like to be sure these new powers will not be used oppressively against home owners who are

pursuing a legitimate aesthetic practice on their land, different from those adopted and approved of by their neighbours—for example a permacultural garden, as opposed to manicured, high water usage lawns—or an innovative energy-efficient owner-built home that does not look the same as the perhaps less inspiring normal brick and tile houses around it.

I expect no-one knows better than PALM compliance officers how murky and difficult the world of neighbourhood disputes can be, where one person's idea of what is reasonable comes into stark conflict with that of another.

Acceptable community standards are subjective and, as time passes, they change. I trust the authority's officers are sensitive to the breadth of our community standards and the changes occurring, given that there are no written standards on what constitutes excessive vegetation or the satisfactory appearance of a block. This too is based on the reasonable person test and how it is applied—firstly by the officer representing the authority and then, if an order is challenged, by the AAT.

I hope this legislation does provide a better kit of tools for compliance officers to work with and that they find them useful in bringing about, to the greatest extent possible, amicable and satisfactory resolutions to these difficult problems. Nevertheless, I will be watching with interest how they are interpreted.

MR CORBELL (Minister for Health and Minister for Planning) (5.48), in reply: I thank members for their support for this legislation. As members have pointed out, it is timely—in fact, it is more than timely. We need an improved regime to address matters of compliance in relation to breaches, or potential breaches, of leases. We also need to address the issue of encroachments.

This bill addresses both of those matters, and I thank members for their support. I foreshadow that the government will be circulating the amendments to which members have referred. The government will also be supporting the amendment moved by Ms Dundas. It is a reasonable provision. I will say more about that in the detail stage. I would also like to table, for the information of members, a revised explanatory statement to the bill.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 7, by leave, taken together and agreed to.

Clause 8.

MS DUNDAS (5.50): I move amendment No 1 circulated in my name *[see schedule 4 at page 2670]*.

This amendment removes the ability of the executive to make an order under the land act on its own initiative. The intent of this amendment is similar to that of the other

amendments I am moving today, which go to the independence of the Planning and Land Authority, as well as clear lines of responsibility for the implementation of compliance laws.

The ACT Democrats went to the last election with a clear commitment to support and protect the independence of the Planning and Land Authority. This bill currently gives the planning authority the power to make orders on its own initiative, but does not revoke them from the executive. This means the authority is not operating independently of the executive and can be overruled by decisions of the executive.

It is also noted that an order made by the executive is not appealable to the AAT, but may be challenged in the Supreme Court. I believe it is unwise to duplicate a power between an administrative body and a political office, especially for decisions which are administrative in nature.

From my discussions with officers from PALM and the Department of Urban Services, it is not intended t these powers be used generally by the executive as in all previous cases of executive orders being made, such as the Transgrid decision or the protection of heritage in Red Hill. The authority would now be empowered to make orders under this legislation and no longer require an executive order.

However, should circumstances arise where the minister needs to direct the Planning and Land Authority to make an order, the minister is still able to direct the Planning and Land Authority to do so under the more transparent processes outlined in the Planning and Land Act.

My amendments remove these powers from the executive and place them firmly with the Planning and Land Authority, to be implemented administratively with full appeal rights, without any political interference. I commend them to the Assembly.

Amendment agreed to.

MS DUNDAS (5.52): I seek leave to move amendments 2 to 13 circulated in my name together.

Leave granted.

MS DUNDAS: I move amendments 2 to 13 circulated in my name *[see schedule 4 at page 2670]*.

The rationale for these amendments is the same as I have previously mentioned. They are mostly consequential and principally do the same thing. I mention specifically my amendment No 10, which removes the ability of the executive to direct people to undertake rectification work in relation to a controlled activity. The ability to direct rectification work will remain with the Planning and Land Authority. I mention that because it is important for the purpose of the next amendment I will move, which is an amendment to the minister's amendment.

MR CORBELL (Minister for Health and Minister for Planning) (5.53): I will speak briefly, to indicate that the government will be supporting Ms Dundas' amendments.

These proposals effectively put the regulatory power in the hands of the planning authority. The government has no objection to that—it is consistent with our philosophy about the role of the Planning and Land Authority.

The safeguard, I guess—if the authority is in some way negligent or is not acting in a timely way—is for the executive to give a direction to the authority to do certain things. On that basis, the government is comfortable with the amendments Ms Dundas is proposing this evening.

Amendments 2 to 13 agreed to.

MR CORBELL (Minister for Health and Minister for Planning) (5.54): I move amendment No 1 circulated in my name *[see schedule 5 at page 2673]*.

Amendment agreed to.

MS DUNDAS (5.56): I seek leave to move amendments 14 to 19 circulated in my name together.

Leave granted.

MS DUNDAS: I move amendments 14 to 19 circulated in my name together *[see schedule 4 at page 2670]*.

Amendments 14 to 19 agreed to.

Clause 8, as amended, agreed to.

Clauses 9 to 17, by leave, taken together and agreed to.

Schedule 1 agreed to.

Schedule 2.

MR CORBELL (Minister for Health and Minister for Planning) (5.57): I move amendment No 2 circulated in my name *[see schedule 5 at page 2673]*.

Amendment agreed to.

Schedule 2, as amended, agreed to.

Title agreed to.

Clause 8—reconsideration.

Ordered that clause 8 be reconsidered.

MS DUNDAS (5.58): I move my amendment to the Minister for Planning's amendment No 1 *[see schedule 6 at page 2674]*.

This is a simple amendment to reflect the fact that, under the other amendments we have just agreed to, the executive may no longer make a direction to carry out rectification work. This amendment clears that up in the minister's amendments.

Amendment agreed to.

Clause 8, as amended, agreed to.

Bill, as amended, agreed to.

Suspension of standing and temporary orders

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

> That so much of the standing and temporary orders be suspended as would prevent private Members' business, order of the day relating to legal advice to the Gungahlin Development Authority and then Assembly business, order of the day No 1 relating to the proposed Select Committee on Privilege being called on forthwith.

Land sales

Debate resumed.

Amendment agreed to.

MR CORBELL (Minister for Health and Minister for Planning) (6.03): I seek leave to move the amendment circulated in my name.

Leave granted.

MR CORBELL: I move:

> After the word "members" insert "who sign a confidentiality agreement that is provided by the Minister for Planning".

This amendment addresses an issue that the Assembly was debating earlier this day that outlines the government's concerns surrounding the confidentiality of legal advice. The advice is privileged in that it is advice from the ACT Government Solicitor to the Gungahlin Development Authority addressing an issue that is a matter of some commercial dispute between the authority and unsuccessful bidders who have indicated that they are seriously considering potential action against the authority.

The government is concerned that that advice not be made known to parties who may be taking action against the authority. However, it is prepared to make that advice available to members in this place so they can be satisfied that the authority has acted in accordance with the advice received from the ACT Government Solicitor. This sensible amendment is consistent with the approach adopted by the Chief Minister, who wrote to members earlier this year seeking their agreement to the signing of a confidentiality

agreement relating to any potential briefings that they had received about legal matters in this place. I commend my amendment to members.

MR SMYTH (Leader of the Opposition) (6.05): When Mr Corbell raised this issue concerning the signing of confidentiality agreements I asked the clerks if they could advise me whether there was a precedent for it or an inherent danger in it. For the information of members I do not believe that any members of the Liberal Party have agreed to the letter that was written earlier this year by the Chief Minister seeking their concurrence to the signing of confidentiality agreements, because it would limit what they as members of the Legislative Assembly do in the public interest. That is a dangerous precedent.

I wish to read from a document that has been provided to me by the clerks. The document, which is in the form of verbal advice from Mr Evans, Clerk of the Senate, states:

> I am advised that Senate practice is to receive all documents presented by Ministers in public. Where Ministers wish to impose conditions on the provision of documents to Senators, e.g. that they be provided on a confidential basis, that is arranged between the Minister and Senators outside the auspices of the Senate.
>
> The Clerk was not aware of any precedent for a legislative chamber receiving documents on condition that members could only view those documents after first signing a confidentiality agreement of some sort.
>
> Mr Evans also directed my attention to the practice of the NSW Legislative Council, where an independent adjudicator may review documents for which a claim of confidentiality has been made, and if he supports that claim, provide them to members on a confidential basis. I understand the acting clerk is following this up with the Clerk of the Council.
>
> As a general comment, I would counsel against entering into any written agreements or even giving oral undertakings not to reveal the contents of a document received by the Assembly under any circumstances. It bolsters what I would consider to be a bad practice in the Assembly—receiving documents in confidence. It also defeats the logic of providing the document. If the content of a document reveals information that there is a clear public interest in publishing then members should retain the right to do so.
>
> Specifically with regard to legal professional privilege, note that the NSW court of Appeal, in *Egan v Chadwick and others* (1999) held that the "… [Legislative] Council's power extended to the production of documents (Cabinet document accepted) to which claims of legal professional privilege and public interest immunity could be made."
>
> If the only way of getting access to the documents is to receive them in confidence then the motion before the Assembly could be amended to insert, in Ms Tucker's amendment, after "… members only", the words "… on a confidential basis".

I do not believe that is the way we should be going about this matter. Members might seek advice, or direct a minister to give them advice, and that advice might be provided on a confidential basis, after receipt of a signature, from the safe of the clerk of the house. What, then, if we find something in that information that is in the public interest?

As an example, some years ago gas meters that were being installed in Canberra were found to be faulty. What if the government wanted to hide the fact that those meters were faulty? Members of the Assembly would then call for the report, and the minister might say, "This is a commercial-in-confidence report. I will give it to the clerk, and he can put it in his safe. Members can view it at any time, but it is confidential."

What do we as members do when we are given a report that reveals that Canberra residents are exposed to some danger but, because we have signed a confidentiality agreement, in theory we cannot use it? When does public interest override confidentiality?

This case concerns a matter of public interest. For many years, most people have accepted that they have some basic rights—for example, at an auction, on the hammer, when they have to pay a 10 per cent deposit. If they do not pay the deposit, they do not get the deal. There is no negotiation afterwards. That is the whole purpose of an auction. Those people who want to negotiate should embark on some other form of sale—for example, a lay-by system.

This is an attempt by executive government to limit the functions of this place. The executive is not in charge of the Assembly; we are. Any attempt to water down the power of the Assembly and to place terms and conditions on the receipt and use of documents limits us as members and sets a dangerous precedent.

The Clerk of the Senate said that he was "not aware of any precedent for a legislative chamber receiving documents on condition …". If we ask for those documents, we might end up setting conditions for ourselves. It would be a retrograde step if we chose to do that tonight. However, we do not have to do that. We could ask for those documents to be produced and, if a public interest needs to be met, I think members have to meet it. After all, that is what we are here for.

This is an attempt, which we will discuss later this evening, by the executive to hinder the way members go about their business. It is quite clear from Egan v Chadwick that legal precedent can be overcome by a request by the Assembly or by chambers. Given the interest in the way this matter has been conducted and the lack of information forthcoming from the minister, it is clearly appropriate for these documents to be tabled in the Assembly and for members to have unfettered access to them—if they choose to use them and in the interest of the public.

If we accept the path suggested by the executive of limiting the way we do our business in this place, we will start the slide down a very slippery slope. How will you deny it the next time? How do you set up conditions that say this one is allowable, and that one is not allowable? Do we therefore set up a set of standing orders or subrules or guides on how documents are tabled? The more rules you make and the further you take this, the more limiting it becomes for members, and that is dangerous.

I suggest that the original motion as it stood, amended for the date effect, should stand. I take Ms Tucker's point that the best way to do it is to put it in the basis. I can see the case that she would make for that and keeping the document in the clerk's safe. But the

signing of confidentiality agreements is a fundamental breach of members' rights to information.

If it hinders us in any way in doing our jobs, it is a diminution of our standing as members of the Assembly and our ability to represent our constituents to the fullest of our efforts. It is a sad day for this place when executive government attempts to do that to us, the Assembly of the people. So we will resist this amendment by the Minister for Planning to sign confidentiality agreements. I certainly won't be signing such an agreement. Should the Assembly choose to go down that path, we will have started down a rocky slope where the executive is seen as being above the Assembly. That is not how it is meant to be.

MRS CROSS (6.12): Mr Speaker, I am flabbergasted by the suggestion of the Minister for Planning that all MLAs sign a confidentiality agreement prior to reading information about the Gungahlin land debacle. It is one thing to attempt to protect commercial-in-confidence information; governments have always done that and oppositions have always objected. It is another thing to attempt to prevent MLAs from pursuing issues as part of their responsibility to the community.

Of course, members will wish to discuss what now appears to be the Gungahlin land financial debacle with their advisers, and with each other, if it seems necessary to hold the government accountable over this issue. Minister Corbell knows that this is part of the important role that members play in a democratic system. However, the reluctance of this minister to allow this is strange, given that he was elected on a platform of making things more open and accountable than had the last government.

This minister often demanded of the previous government that such documents were tabled by the end of a sitting day in motions such as this. Conditions were never placed on such motions. Even Ms Tucker's amendment, as I understand it, was never part of this sort of motion in the past. It is simply unacceptable that Minister Corbell should attempt to stymie the political process by placing manacles of this type on elected members.

MR STEFANIAK (6.14): I agree with the sentiments ably expressed by Mr Smyth and Mrs Cross. This is a very worrying sign and could be regarded as a fundamental attack on some of the principles we hold dear and what the Westminster system is all about. Public interest is very important. The relevant part of Mr Evans' advice is that, if the content of a document reveals information that there is clear public interest in publishing, members should retain the right to do so.

That may well not occur here if this document is innocuous and nothing comes of it, but we would be establishing a precedent. What if a document that a member signs a confidentiality agreement about has something that is criminal in it, something that may be exposed as corruption or something that indicates some real problem that the member has a duty to try to get fixed in the community interest? What happens then? That member is stymied. That is a very dangerous precedent to set.

Members in this place can be pretty well trusted to do the right thing. In this little parliament—indeed, in parliaments in Australia generally and throughout the Westminster system—we occasionally have a situation where there is a gentlemen's

agreement on something that is very confidential and that, quite properly, should not come before the public at a point in time. National security interests come to mind in terms of the federal parliament.

We do not see the need for that quite so much, but there is ample precedence for that to occur, too. If there is no clear public interest in exposing or publishing something in this parliament in terms of this advice, no-one will. If this advice is, indeed, innocuous and just gives a legal opinion, I am sure that members would have no need to do anything untoward with it if there was no clear public interest.

There are precedents in this house. I can remember one, which you, Mr Speaker, and members who were here in the third Assembly would also remember. As education minister, during some rather difficult situations at the School Without Walls, I went to great pains, in stating a situation and giving some examples, to ensure that people could not be named.

Because of the nature of the place and the possibility of that happening, we ensured that the document had to be cleared through the Speaker before it was given out to anyone. It was not given out to anyone. The then members had a copy of it. One week later, I was surprised and somewhat dismayed to see a whole lot of incidents regurgitated in the *Canberra Times*. In fact, there were twice as many incidents regurgitated in the *Canberra Times* than had been indicated in my document, which members were given a copy of.

What had occurred was that a court reporter—it was a court case as well—had gone to court and got relevant affidavits, which were on the public record, and published them. None of the 17 members who had a copy did the wrong thing. They respected the confidence in which the document had been given, and they respected the ruling of the Speaker not to have it made available to the media. That was very proper in those circumstances.

So, unless there is a clear public interest in something going further, our members are smart enough to respect the ruling. But to sign a confidentiality clause before you can see something goes to the very heart of what we are here for. It is our job to put before the public issues of great importance that we need to discuss and sort out. That is why it is unrealistic for members to sign such an agreement.

But if an agreement is signed, what happens to a member who breaches it? What sanctions are there? What track do we go down? If we go down this path, we do so at our peril. The other suggestions that have been put forward are quite clear. Mr Smyth has read out advice from Mr Evans of the Senate. When such a senior person quite clearly warns us of the dangers of going down this path, we should take notice of that. We should certainly act in accordance with that. If we do not, we do so at our peril and would be going down a very dangerous path indeed. We should listen to what Mr Evans is suggesting and be very cautious before we take the step Mr Corbell is asking us to take in moving this amendment.

MR CORNWELL (6.20): I have in the past criticised both governments in this Assembly for the abuse of commercial-in-confidence activities. These are, frankly, often used as a means of protecting public servants or private companies from their own

mistakes. This afternoon, while we would appear to have moved on from the abuses of commercial-in-confidence, we saw an example of this government refusing to allow me to adjourn a motion on a report relating to Totalcare, which had more blackouts in it than London during the Blitz.

The analogy is appropriate because we are looking at a fundamental threat to the Westminster tradition. I know that there are many republicans in this Assembly—much to their chagrin, Canberra is again out of step with the rest of the nation—but I believe that even they would not challenge the Westminster tradition when it comes to parliamentary historical precedents.

Therefore, I wonder why yet another minister of this government is moving an amendment that appears not to be transparent or open—although they talk about it as being both. The amendment was moved by Mr Corbell, who "signed a confidentiality agreement" that is provided by not the Speaker, not the Assembly, but the Minister for Planning.

Mr Hargreaves interjected on my colleague Mr Stefaniak, asking what the penalty would be if a member breached the confidentiality. Mr Hargreaves suggested that he or she would be in contempt of the Assembly. I am not sure; I think they would just be in contempt of the Minister for Planning.

Mr Hargreaves: You're already in contempt of the Minister for Planning, let me tell you!

MR CORNWELL: Well, that is what the amendment states. I am confused. Let me conclude on this point. Mr Corbell stated that one of the reasons why we wanted this confidentiality clause signed was to do with matters perhaps appearing before the courts. I refer to *House of Representatives Practice*, page 595:

> In 1994, following a dispute between the Government and a Senate select committee over the production of documents concerning Foreign Investment Review Board decisions, a private Senator introduced a bill giving the Federal Court the power to determine whether documents in dispute in such circumstances could be withheld from a House or committee on public interest grounds.211 The bill was referred to the Senate Privileges Committee, which recommended that the bill not be proceeded with and that claims of public interest immunity should continue to be dealt with by the House concerned.212 The House also referred the matter of the appropriateness of such legislation to its Privileges Committee.213 The committee concluded that the evidence available did not establish that it would be desirable for legislation to be enacted to transfer to the Court the responsibility to adjudicate in these matters.214

This is the crucial part and point:

> In any consideration of this question it is important to bear in mind that, because different aspects of the public interest are involved—that is, the proper functioning of the parliament as against the due administration of justice—the question of disclosure of documents to the Parliament is not the same question as disclosure of documents to the courts.215

We must support that view, and we must defend the right of this Assembly not to be influenced by what may or may not come before the courts. I believe that the House of Representatives Practice should be upheld in this Assembly.

MR CORBELL (Minister for Health and Minister for Planning): I seek leave to speak again.

Leave granted.

MR CORBELL: I want to reiterate a couple of points. I am not endeavouring for this motion to be what those opposite would portray it as. What I am endeavouring to do with this motion is uphold my responsibilities as a minister to ensure that the authority that reports to me is in the best position to protect its interests in any potential legal action. That is why I am doing this.

It is not some secretive attempt to hide information from members. I am very confident in the legal advice; I am very confident in the documentation. Equally, I have no difficulty with members seeing it. My concern is that, if third parties who are in dispute with the authority see it, as a result of my action in providing information I will have undermined the ability of the authority to properly represent its case in court. It is my responsibility as a minister to ensure that the authority's interests—the territory's interests—are protected in that regard. That is the reason for the amendment.

I would like to draw members' attention to the practice in other chambers of parliaments in Australia. Mr Smyth referred to the practice of the New South Wales upper house. The New South Wales upper house has a fairly standard practice in situations like these. If the house demands certain documents, those documents are delivered to the clerk of the house and made available only to members of the Legislative Council and not published or copied without an order of the house.

Where a member of the house disputes the validity of the claim of privilege in relation to a particular document, there is an independent legal arbiter to determine that. In the New South Wales upper house there is an accepted process of information not being able to be made available to anyone other than members of that place. I am proposing a similar process, albeit by a different means. If another member would like to suggest an alternative process, similar to that of the New South Wales upper house, I would be quite happy with that. My intention is the same as the process used in the New South Wales Upper House.

Mr Smyth: Yes, except there's no compulsion to sign any document.

MR CORBELL: The intent is the same, Mr Smyth. If a member would like to propose an alternative process, such as that used in the New South Wales upper house, I would be equally comfortable with that and would be happy to withdraw this amendment.

In the early 1990s in the Northern Territory Legislative Assembly, the then Chief Minister moved that certain legal advice be authorised for publication to all members and not be published otherwise. Again, that was an instance where advice was restricted

solely to members and not able to be used in any other way. That is an approach I am quite comfortable with.

If a member were to move an amendment to that end, I would be quite happy to withdraw my motion. But the intention is—as is the intention in the two legislatures I have just mentioned—to ensure that members see the advice that they have a concern about and, equally, to ensure that the territory's or state's interests are not compromised because that advice is to a government body or authority that may be in dispute with other parties.

It is the same approach here. It is not an attempt to undermine Westminster practice or convention. It is not an attempt to gag members. It is an attempt to strike a balance between the need of members to see the information they believe it is appropriate to see and the need that I have, as the responsible minister, to ensure that the interests of the authority—in this case, the Gungahlin Development Authority—are not compromised. That is the balance I am trying to strike.

Sitting suspended from 6.30 until 8 pm.

MR CORBELL: Mr Speaker, I seek leave to withdraw my amendment.

Leave granted.

Amendment, by leave, withdrawn.

MR CORBELL: Mr Speaker, I seek leave to move a new amendment which is now being circulated in my name.

Leave granted.

MR CORBELL: I move:

> Add the following paragraphs:
>
> "(2) The legal advice shall not be published or copied unless the terms of this resolution are altered. Where any Member, by communication in writing to the Clerk, disputes the claim of confidentiality by the Minister for Planning, the Clerk is authorised to release the disputed document to an independent legal arbiter, for evaluation and report within 5 days as to the validity of the claim.
>
> (3) The independent legal arbiter is to be appointed by the Speaker.
>
> (4) A report from an independent legal arbiter is to be lodged with the Speaker of the Legislative Assembly and:
>
> (i) be made available only to Members of the Assembly;
>
> (ii) not be published or copied without an order from the Assembly.".

I think that the new amendment addresses the concerns that members have raised in the debate throughout the day. The proposition I am putting to members is the approach adopted by the New South Wales upper house in addressing these matters.

As I have stressed to members previously, my intent is not to withhold information from members, nor to disrupt members in going about their business as elected representatives. My intent, as the responsible minister for the Gungahlin Development Authority, is to ensure that the interests of the authority are not compromised by the release of the legal opinion to third parties which may then use it to their advantage and against the interests of the authority and the territory.

Mr Speaker, my amendment provides for the legal advice not to be published or copied, unless the terms of this resolution are altered. Where any member believes that my claim of confidentiality is not accurate and puts such a request in writing to the clerk, the clerk will release the document to an independent legal arbiter for evaluation and report within five days and that legal arbiter is to be appointed by you, Mr Speaker. If the legal arbiter decides or recommends that the report is not of such a nature that it requires further protection, members will be entitled to take steps in this place to alter the resolution. Equally, if the arbiter decides that it is confidential, that issue can also be discussed further in this place.

I would like to think that this amendment addresses the concerns that members have raised. It puts the matter firmly and entirely in the hands of the Assembly. It does not rely on members having to seek or sign some sort of waiver or confidentiality agreement and follows the approach adopted by the New South Wales upper house in similar circumstances. I commend the amendment to the Assembly.

MRS DUNNE (8.03): I am grateful that the minister has consented to withdraw his previous amendment, which was entirely inappropriate and just another plank in the current Labor Party platform of putting the executive above this Assembly. I am glad that he has agreed to rip that up and throw it away.

Mr Speaker, what this minister is proposing that we do here is a fairly radical departure for this place and I would think, on the basis of the discussion we had before the dinner break, that a proposal such as this as a general course of action might be a matter that would be reasonably referred to the Administration and Procedure Committee to set up in the context, not of a particular document, but of the need to release documents in a particular way from time to time and that we should have a procedure for doing so. My first instinct is still to ask: what is this government afraid of? What is this minister hiding that we have spent—

Mr Corbell: I'm not hiding anything.

MRS DUNNE: The minister says that he is not hiding anything, but the evidence is that we have spent two hours or so debating the means by which this minister can constrain members, once they have seen a document, from acting upon what may or may not be in there. I said at the outset of this debate at about 11 o'clock this morning that if I see the documents and I think that they are free and clear, I will be the first to admit that they are free and clear, but this minister has spent a lot of time in this place saying that there is a multitude of reasons why he should protect the GDA. It is the role of a minister to protect his agency. That is a reasonable thing for him to do.

Mr Corbell: No, to protect the public interest.

MRS DUNNE: But the public interest rests not with the interests necessarily of the GDA, but in this Assembly's capacity to know what is going on and to act on it accordingly.

I have no problem at all in referring an issue like this as a matter of principle to the Administration and Procedure Committee so that we do actually set up within the standing orders a means of dealing with contentious documents. This model may be the best one. But what this minister is doing is being done on the fly, on the run, knowing that his first suggestion to us was entirely untenable and was tearing at the very roots of the Westminster system which we depend upon and are supposed to uphold. He has come up with a second best option.

This is, on the face of it, a better option because the rules are being set by us and we are not signing up, as the previous amendment sought, to a confidentiality clause which is not even canvassed in here before we sign up to it, but something that would have been provided by the minister after the event. Mr Cornwell made a very good point in saying that we had no idea what we were signing up to.

The message that we are getting here today is that this minister is a minister on the ropes, a minister who is afraid to come clean with his colleagues in this place. The minister does mount an argument that it is his responsibility to protect the interests of the territory in relation to the GDA. It is the responsibility of this Assembly, each and every one of us, to protect the interests of the people of the ACT.

I would like to go back to *House of Representatives Practice*. I looked at the advice that was given by Mr Evans, the Clerk of the Senate, to Mr Smyth and it caused me to read further in the area. There are a couple of really interesting things here. This is about the rights of a parliament to have access to documents. The rights of a parliament to have access to documents by convention, by the practice over centuries, are much higher than anyone else's rights of access to a document.

Page 592 of *House of Representatives Practice*, Fourth Edition, says:

> In the judgment of the High Court of Australia in Sankey v Whitlam—

I love to refer to Sankey v Whitlam, Mr Speaker—

> it was held that the public interest in the administration of justice outweighed any public interest in withholding documents which belonged to a class of documents which may be protected from disclosure irrespective of their contents.

The public interest is supreme; the High Court of Australia has said that. On the same page, under how that is dealt with in parliament, *House of Representatives Practice* says:

> By the end of the 19th century the United Kingdom Parliament was invested with the power of ordering all documents to be laid before it which were necessary for its information.

The motion that we started to debate at 11 o'clock this morning is a motion that goes to whether it is necessary for this parliament to have a document to do its job properly. We

have now had two amendments moved by this minister, one withdrawn and another now before us, trying to curtail our power, our capacity, not to read but, once having read, to act upon.

Mr Speaker, the proposal that has been put before us today means that we are actually having our capacity curtailed to read that document in the first instance because, effectively, we have to wait five days. It could be said, Mr Speaker, that this amendment is out of kilter with what has already been moved and amended here because the current motion says that this minister should provide this document by close of business today. After providing that document by close of business today, he is finding a mechanism to stop the members of this place seeing it for almost five days.

This is a filibuster. This is a means of stopping the members here from obtaining access to a document which, all the conventions, all the practices and all the things that have gone before us in the House of Representatives, in the Senate, in the House of Commons and in other parliaments, would point to the fact that we are entitled to ask for and receive.

In 1975 the then Prime Minister, officials of the Department of the Prime Minister and Cabinet and officials and ministers of the departments of energy, the treasury and the attorney-general were called before the bar of the Senate to provide documents to the Senate in relation to foreign loans and the Senate eventually determined that no amount of filibustering and no amount of advice from learned judges or learned lawyers would override the power of the Senate and the right of the Senate to obtain such documents.

This is not a document of that order. This is not the sort of document on which a government might rise or fall. This is a simple piece of legal advice that a small agency associated with the Department of Urban Services has used and it needs to be explored. It is about a matter on the public record of concern to many people in this community. I have received today a number of phone calls from people both within the industry and just casual observers who are saying to me, "Mrs Dunne, there is something wrong in this and you need to get to the bottom of it. This minister wants to stop members of this place getting to the bottom of a very important issue that goes to the capacity of this government and this territory to deal in land.

I think that, as we opposed the previous amendment, we have to oppose this amendment, not on the principle, but on its current application. I would be quite happy to have a system like this for dealing with documents in the future referred to the Administration and Procedure Committee for consideration. I think that that is important. But what we are seeing here is this minister using this mechanism to filibuster and to get in the way of this Assembly getting to the bottom of the story.

MS TUCKER (8.13): I have listened with interest to the comments made by various speakers on this subject and I must say that they have amused me slightly as I remember that Mr Smyth had to have a censure motion put on him to get him to provide information for us on CTEC. I still remember the debate. It probably would be better in some ways for the Liberals if I did not remember everything they did when they were in government.

On this issue, the Assembly has accepted that there are reasons for claiming confidentiality. How we should deal with that in terms of contracts has been the subject of a long saga over the years. I notice Mr Moore is present in the gallery. When he was a member of the Assembly, he was working strongly with the Greens to the use of commercial-in-confidence claims used by the previous Liberal government.

We ended up with an act which enables the Auditor-General to keep a check when confidentiality clauses are claimed and used. That is something of which we are all well aware and the Auditor-General reports on it. Basically, it means that departments have to account for claims that a particular issue is confidential. That is the way that we have, as an Assembly, tried to maintain accountability in terms of the use of confidentiality clauses.

I heard Mrs Dunne say that she would like to see this subject referred to the Administration and Procedure Committee. I do not have a problem with that, but we are actually dealing with a particular issue tonight. The particular issue is about calling on each of us tonight to make a judgment on how the public interest is best served. I was also not prepared to support Mr Corbell's previous amendment, which was asking members to sign on to a statement that they would not disclose any of the information, even though members had not read it and could not possibly know whether it would or would not be in the public interest to disclose it. So I also would not have supported that amendment.

The amendment that has been put now, from listening to the debate so far, seems to me to be a proper process because, as with the Auditor-General and contracts, it is one that allows advice to be given. It is a slightly different process, but it is still about bringing some accountability into the process. As I have said already, we know that there can be a public interest argument for not releasing particular documents.

My amendment was about members having the right to see this legal advice and do so it in the office of the clerk, which we have done before on a number of occasions. I recall that at one point there was an offer by a minister to members to look at a particular document in his office. I do not know whether that ended up being changed to the clerk's office, but I do recall that. From memory, that involved Mr Moore as well.

I know that this issue has come up before and there have been attempts by governments to try to deal with the rights of members of the Assembly against the need for confidentiality in certain circumstances. I see this amendment as ensuring that each member of the Assembly, after they have looked at this advice, will have access to impartial advice on the legal implications of release of the information. For me, that is a reasonable thing to do. I will continue to listen to the debate, but I have not heard anything from Mrs Dunne to persuade me to think that this amendment is not a reasonable compromise.

MR HARGREAVES (8.17): Mr Speaker, I think that this amendment from the minister is evidence of good faith. I am reading from this amendment that the minister is saying, "Okay, you have made a point. You want to have a look at it. That's fine." But he is also saying that there is a danger of the contents of legal advice regarding the commercial activity being leaked as there is potential for legal action which may have some claim on

the taxpayers of this town and that would put the taxpayers of this town at a distinct disadvantage. He is saying that there is a distinct possibility of that.

I am prepared to accept the minister's word on that. I am seeing him as saying that if his judgment is not right on that issue, or if the judgment of anybody else within the executive or the government is not right on that issue, he is prepared to have somebody totally independent of the process adjudicate on that. I would like to know what is wrong with that.

I take Ms Tucker's point. In the interests of transparency, a document is available for members to look at. If you think that a case has not been made for protection of the ACT taxpayer in a potential damages case, if you think that that case has not been mounted, you can submit your case on that or your fears on that to an independent arbiter, who will look at the document and say that this advice does or does not put the ACT taxpayer at a disadvantage. If it does not, the document can be released.

It seems quite simple to me. In fact, this is a very good compromise. It actually shows that the minister is prepared to act in good faith. I am surprised that the opposition do not recognise that. I would urge them to reconsider their opposition to this amendment. If, in fact, members of the opposition have information to which we are not privy and which makes them suspect that the document does not put the ACT taxpayer at a legal disadvantage, perhaps they would care to share it with us, because we also seem to be at a bit of a disadvantage here.

If, in fact, they are just going on a gut feeling and do not trust the government on this issue, perhaps that lack of trust is being reciprocated. I for one am quite happy to have an independent arbiter look at that. Mrs Dunne is quite happy to quote *House of Representatives Practice*, which does not specifically refer to this type of issue, but the New South Wales upper house practice does. It is a tried and true practice in New South Wales and it works there.

Mr Smyth: No, it's a motion from 2003.

MR HARGREAVES: I take the Leader of the Opposition's point. The issue, though, is one of having someone independent of the process. This is an offer to have an independent arbiter in the process. It is a good offer. It is an offer made in good faith. I would very seriously urge the opposition to reconsider their case.

This is not the time for political point scoring. If you want to play politics after the event, fine, but right now you should consider very carefully what you do. If you get your hands on this document and it does turn out to be prejudicial to the case, you will be costing the taxpayer $X, or at least creating the potential for that. You will be—there is no may be—putting the taxpayer at a legal disadvantage.

Mrs Dunne: No.

MR HARGREAVES: Mrs Dunne can shout no as much as she likes, but the simple fact is that when two people are having a commercial dispute and one of them knows the complete case of the other, the one who knows is at an advantage, end of story. The minister is not saying that he has closed up the shop. He is saying, "I'll submit this to an

independent arbiter if you're happy with that." I urge you very seriously to accept that offer.

MR STEFANIAK (8.22): Mr Hargreaves stated that *House of Representatives Practice* does not specifically address this issue and kept talking about an independent arbitrator. It does, actually, because on page 594, going on to page 595, it says:

> The final report of the Joint Select Committee on Parliamentary Privilege, presented in 1984, addressed these matters. The committee noted that the trend in respect of court proceedings had been away from ready recognition of claims for Crown privilege and towards examining these claims closely and carefully weighing competing "public interest" considerations, and considered it possible that an analogous evolution in thinking might develop in Parliament to help resolve cases where disputes arose between committees requesting information and Executives resisting their requests; however, it could not be presumed that this would happen. Observing that the Parliament had never conceded that any authority other than its Houses should be the ultimate judge of whether or not a document should be produced or information given, the committee rejected the adoption of any mechanism for the resolution of disputes over the production of executive documents, such as by arbitration by the Head of State, which involved concessions to executive authority. The committee further reasoned that it was inherent in the different functions and interests of the Parliament and the Executive that there be areas of contention between them on such matters, that it was impossible to devise any means of eliminating contention between the two without one making major and unacceptable concessions to the other, and that adjudication by a third party would be acceptable to neither "in this quintessentially political field". In effect, the committee's conclusion was that matters should be allowed to stand as they were.

It seems that *House of Representatives Practice* certainly does address this issue. Mr Corbell's amendment is, admittedly, a lot better than the one he had before. I certainly agree with the points made by my colleague Mrs Dunne on that. But it still attempts to obtain adjudication by an independent third party, in this case the independent legal arbitrator to be appointed by the Speaker.

I think that all members, even Mr Corbell, might have conceded that the general principle of this matter should be looked at by the Administration and Procedure Committee—absolutely. Yes, we have to make a decision tonight, but I think all the precedents point to the most sensible decision we can make being to go down the path of passing Ms Tucker's amendment—not the second, albeit improved, amendment by Mr Corbell—and look at this document—

Mrs Dunne: We have passed it.

MR STEFANIAK: Sorry, we have Ms Tucker's amendment. We should reject this amendment. By all means, let the Administration and Procedure Committee consider it properly, not on the spur of the moment, and come back to that issue in this way. But we do have to make a decision tonight. I think that Ms Tucker's amendment, which was the first amendment put, is the most sensible. It is very much in accordance with standard practice. Again, I think that we would be going down a particular path at our peril if we were to accept Mr Corbell's amendment, although it is better than the one initially put. That is the course of action that I think we should take. That is the course of action that the various precedents suggest we should take.

MR SMYTH (Leader of the Opposition) (8.26): Mr Speaker, with the amendment put forward by the minister we are moving into ground that is just getting murkier and murkier. It does go to the heart of the Westminster system and the right of the parliament over the executive, which is a fundamental right. I am just wondering about the effect of setting up the system that Mr Corbell proposes, because it will become a system. It will become the dispute resolution mechanism for when we cannot decide, whether we set it up tonight or we set it up at some other stage. I refer members to standing order No 239, which says:

> A committee shall have power to send for persons, papers and records.

Is that standing order now to be subject to the sort of process that Mr Corbell is setting up where ministers do not want to table documents and committees send for them? They have that power. It is an established power, it is an established right. Would we now have to go through an arbitrator to get access to documents from a committee perspective? Committees, of course, are the representatives of the Assembly on various issues. They are appointed by the Assembly and given a charter by the Assembly to inquire on behalf of the Assembly.

The paragraph that Mr Stefaniak just read is the guiding paragraph, I believe, from *House Of Representatives Practice*. Indeed, in looking to decisions in this place, if we are unsure we go to the body that is at the source of our system, which is, of course the House of Representatives, and *House of Representatives Practice* makes it quite clear. The final report of the Joint Select Committee on Parliamentary Privilege, presented in 1984, addressed these matters and they said, "Don't go there." They simply said, "Don't go there."

That is not to say that we as an Assembly do not have the right to set up our own rules on the way we govern ourselves and the way we modify what we do here. But I do not believe that we should be doing it tonight at half past eight after a very busy couple of sitting weeks, because the magnitude of what is contained in Mr Corbell's—

MR SPEAKER: Is that a motion for an adjournment?

MR SMYTH: No, it is not a motion for an adjournment, Mr Speaker; nice try. It is a motion that says it needs to be considered. Both Ms Tucker and Mrs Dunne have said that perhaps the Administration and procedure Committee needs to look at whether we need such a process, but I do not think tonight is the night suddenly to be deciding that we will adopt this process. The process, I understand, whilst it is not set out in the upper house book of practice or whatever it is called for New South Wales, is a process that is used sometimes in the upper house of New South Wales.

The minister also referred to a process that was followed in the Northern Territory, so we know that there are at least a couple of different sorts of processes that may or may not lead to the tabling of a document and access by members to that document. But, in terms of guidance, pages 594 and 595 of *House of Representatives Practice* came to the conclusion, following a substantial inquiry into this subject after a number of inquiries, that you should not go there. It simply says:

> Observing that the Parliament had never conceded that any authority other than its Houses should be the ultimate judge of whether or not a document should be produced or information given, the committee rejected the adoption of any mechanism for the resolution of disputes over the production of executive documents, such as by arbitration by the Head of State, which involved concessions to executive authority. The committee further reasoned that it was inherent in the different functions and interests of the Parliament and the Executive that there be areas of contention between them on such matters, that it was impossible to devise any means of eliminating contention between the two without one making major and unacceptable concession to the other, and that adjudication by a third party would be acceptable to neither "in this quintessentially political field". In effect, the committee's conclusion was that matters should be allowed to stand as they were.

That is that houses of assembly or houses of parliament resolve their own issues on the votes on the evening. I think that it is a fundamental precept that if we undo that this evening by adopting Mr Corbell's amendment to the motion we have travelled down that path without due consideration to what we are doing, not just to this jurisdiction, but to the other jurisdictions. We all learn from the collective wisdom and from the precedents set in various jurisdictions round the country. I think that it would be dangerous to adopt what it is that Mr Corbell provides for tonight.

Ms Tucker has put forward a reasonable amendment that allows members to have access to the document quickly and easily. It does not give us copies of the document, which is already impinging on our rights as members and impinging on our ability to do our job, but in this case the opposition has accepted Ms Tucker's amendment simply to move away from the impasse that we may end up with here.

I think that we need to set up a process whereby, either through the Administration and Procedure Committee or some other committee set up to inquire into the process, we actually determine whether or not we as an Assembly want to undermine and undo what the House of Representatives has said. That would be our right. We can change and set our own laws, but I think we need to change and set them with due consideration. I for one would be voting against it, I would have to say, because I think that, once we attempt to start to codify and box in all the things that we might do in a place like this, those things then become open to legal interpretation and all sorts of unwinding or constricting of our powers. I think that that would be a very dangerous thing.

I take members back to page 44 of the standing orders. Standing order 239 says:

> A committee shall have power to send for persons, papers and records.

That is a power bestowed on it by the Assembly through its standing orders. What effect does Mr Corbell's amendment have on that standing order? What is the limiting sum that we set here tonight on ourselves? I do not think that we are giving ourselves or those who will come after us the opportunity to think about the magnitude of this matter. I think that the current state of affairs whereby the decision would be made here by us and in future by those members present in future assemblies is the path that should be followed. It is the path that the guidance of the House of Representatives gives us. It is the path that the Assembly has gone by for the last almost 15 years and I think that it is the path that we should accept tonight.

The Liberal opposition has accepted Ms Tucker's amendment that the legal advice just be lodged with the clerk and that members have access to it as they so choose. We give that concession with the rider that it is not a precedent. We do not expect that to happen often, if ever, but we will allow it this evening on the condition, in the first instance, that the Administration and Procedure Committee look at this issue, which the Liberal representative on that committee will be raising at the next meeting, and that we do understand what we are doing here tonight.

What we are doing here tonight is we are starting to codify how the house might scrutinise the executive and, once you start to do that, the house has given away all of its powers, because that is the start of the slippery slope. Once the house, through pressure from the executive, is forced to concede anything, we are diminished and we have conceded to the executive that they are beyond or above the scrutiny of the house. That is unacceptable; that is not the Westminster system.

I urge members to reject Mr Corbell's amendment. I would ask members not to attempt to amend it because, in attempting to amend it, we would be actually having the argument that the Administration and Procedure Committee rightly should have on our behalf and, if the Administration and Procedure Committee suggested that some sort of committee be set up to look at it, that committee might do.

I think the middle ground and the only acceptable ground, the only acceptable concession that the house should make to the executive, is that proposed by Ms Tucker on the clear understanding that it does not set a precedent. I think that we should be getting on with what may prove to be somewhat longer and even more important matters because they also set precedents.

Members, I would ask that you reject Mr Corbell's amendment. I think it is a diminution of our powers. Those powers were given to us by the people of the ACT and they are not for us to give away.

Question put:

> That **Mr Corbell**'s amendment be agreed to.

The Assembly voted—

Ayes 10		Noes 7	
Mr Berry	Ms MacDonald	Mrs Burke	Mr Smyth
Mr Corbell	Mr Quinlan	Mr Cornwell	Mr Stefaniak
Ms Dundas	Mr Stanhope	Mrs Cross	
Ms Gallagher	Ms Tucker	Mrs Dunne	
Mr Hargreaves	Mr Wood	Mr Pratt	

Question so resolved in the affirmative.

Amendment agreed to.

Motion (by **Mrs Burke**) put:

> That the debate be adjourned.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Pratt	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Smyth	Mr Corbell	Mr Stanhope
Mrs Cross	Mr Stefaniak	Ms Gallagher	Ms Tucker
Ms Dundas		Mr Hargreaves	Mr Wood
Mrs Dunne		Ms MacDonald	

Question so resolved in the negative.

MRS DUNNE (8.41): Mr Speaker, I started out this morning at about 11 o'clock, as I attempted to do yesterday, to obtain what appeared to be a simple and straightforward piece of information. What we have seen here today is a minister on the ropes who is terrified of something and we do not know what it is. But what we have done in the process of trying to come to a conclusion which could have been achieved in a straightforward and courteous manner—he loves to talk about courtesy, but does not show it—has gone a long way to undermining the power of the Assembly vis-a-vis the executive.

We attempted to adjourn this debate so that on another day cooler heads might prevail, because I truly believe that, although I would be interested in seeing the document as it would help to put to rest the controversy over the particular issue, the principle at stake is much more important than a document or what Mr Hargreaves might call a political point. The principle of what we have just done goes—

MR SPEAKER: Order, Mrs Dunne! You are reflecting on a vote of the Assembly and that is disorderly.

MRS DUNNE: Sorry, I withdraw that. I just realised what I was about to say. I do apologise.

It is because we are concerned with the principle of what this might mean to the Assembly, not just today but on other occasions, the Liberal opposition will vote against the motion, although we introduced it. It has been substantially amended and does not bear much resemblance to the simple motion that started in the first place. That is because the document is less important than the principle. The capacity of the Assembly to obtain information from the executive is important, but it should not be in any way constrained. It is a sad day that a government is so afraid of a small document which appears to be an email because the minister held it up and waved it round that we would go to such lengths and we would in, I daresay, a fairly hasty way make a move down a particular path that we might regret.

MR SPEAKER: Mrs Dunne, I have warned you about reflecting on votes of the Assembly.

MRS DUNNE: Yes, you are right. I withdraw. I would submit to members that they should vote against this motion.

Motion, as amended, agreed to.

Papers

Mr Corbell, pursuant to the resolution of the Assembly of today, 26 June 2003, presented the following papers:

> Gungahlin Development Authority—Harrison 1 Estate—Copies of legal advice from the Deputy Chief Solicitor to the Chief Executive Officer, Gungahlin Development Authority, dated 24 June 2003 and related correspondence.

Privileges—Select Committee
Proposed appointment

Debate resumed from 18 June 2003, on motion by **Mr Wood**:

> That:
>
> (1) pursuant to standing order 71, a Select Committee on Privileges be appointed to examine whether the unauthorised dissemination of information on ABC Radio relating to Report No 5 of the Standing Committee on Public Accounts and the Report into the Appropriation Bill 2003-2004 of the Select Committee on Estimates 2003-2004 was a breach of privilege and whether a contempt of the Legislative Assembly was committed.
>
> (2) the Committee be composed of:
> (a) one Member to be nominated by the Government;
> (b) one Member to be nominated by the Opposition;
> (c) one Member to be nominated by a Member of the ACT Greens, the Australian Democrats or the Independent Member
> to be notified in writing to the Speaker prior to the Assembly adjourning on that sitting day.
>
> (3) the Committee report by 20 August 2003.

and on the amendment by **Mr Smyth:**

> Insert the following new paragraph:
>
> "(1A) the Select Committee also examine
> (a) the refusal of Mr Wood to answer questions of the Select Committee on Estimates;
> (b) the refusal of Mr Corbell to answer questions of the Select Committee on Estimates;
> (c) the creation and distribution of the document known as 'Budget Estimates 2003' by certain persons within ACT Health
> and determine whether each constitutes a contempt of the Legislative Assembly.".

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (8.45): Mr Speaker, in speaking to Mr Smyth's amendment, which my colleagues and I will be opposing, I will be speaking to the motion as it affects me. This opposition has no credibility, especially in matters such as this, in matters such as saying who does things correctly or otherwise.

I recall people on that side criticising this government not so long ago over the email affair. You stood up there and criticised me on the emails. You practically said that the fault was mine. There were inferences that perhaps I had acted to entrap somebody and that perhaps I did not even understand the email system, computing and IT well enough to know what was happening and what was not happening.

This opposition took every step to try to discredit what occurred on that occasion to protect one of their own and to deny that there was any problem at all. To the extent that there was perceived to be a problem, it was really because the Labor Party was trying to misinform people about something. That is my memory of that time.

It is difficult to place in context what Mr Smyth said about the Estimates Committee with what actually happened. Mr Smyth grossly exaggerated. Outrageous hyperbole was engaged in by Mr Smyth at that hearing on 21 June. Subsequently, reinventing history, he said that I said that the committee could not ask me certain questions.

The other day on ABC Radio he said, "Mr Wood in his opening address said, 'You will not ask us questions on these issues.' What Bill Wood is saying is: 'You can't ask us.'" That was not the case at all. He repeated that claim in the Assembly, saying:

> Ministers cannot come down and dictate to a committee what a committee can and cannot ask…Mr Wood ignored all of that and…simply said, "Nah, you can't do it. You can't even ask the questions.

I didn't even say that. What outrageous hyperbole!

If you read my opening statement you will see how careful I was in my wording. I did not say that the committee could not ask me questions. I am not so naive that I would think that I would stop members such as Mr Smyth and Mrs Dunne asking questions. I did say that I would not answer questions relating to the details of the bushfires of January this year. Let me repeat that. I said that I would not answer questions relating to the details of the bushfires. That was simply not a matter relating to estimates.

Members of estimates committees are entitled to ask questions within the committee's terms of reference as they see fit. Equally, ministers are free to answer those questions as they see fit. My answer to such questions was that they should be directed to Mr McLeod. Members might not like the answer I gave, but they cannot deny that I gave an answer and they cannot claim that I tried to tell them what questions they could ask.

My answer, if you like, in the first instance was expansive, a good reason for the approach I was taking. Subsequently, that answer could be quite shortened, indeed quite brief, but with that background it was clear. You did not like the answer, whether it was

substantial or short. Members, I will read to you—as if you don't know—the terms of reference for the Estimates Committee. I quote:

> …to examine the expenditure proposals contained in the Appropriation Bill 2003-2004 and any revenue estimates proposed by the Government in the 2003-2004 Budget.

They are as simple as that—to examine the income and expenditure as detailed in the budget. In my opening remarks to the committee, I made it very clear that I was happy to answer questions about expenditure and revenue estimates, but would not answer questions of detail about the January bushfires. I said:

> Historically, Assembly estimates committees have ranged widely but, after the momentous events of January this year, this committee needs to remember that matters of personal responsibility and what happened and when are matters for elsewhere. They will be specifically and expertly addressed by the McLeod inquiry and the coroner's inquest and should be left for them. This is following correct Assembly processes.

I went on:

> For this reason, I, with officers from ACT Policing and Emergency Services Bureau, won't be answering any questions relating to the details of the bushfires of January this year. This is also consistent with the response to media requests for interviews on the same matter. There is a sound process under way, with the McLeod inquiry and the coroner's inquiry, and that is where officers from the Emergency Services Bureau and others will provide answers to questions.

That is what I said; so I did answer your questions, quite explicitly.

There is a proper process in place in which all the questions will be asked and answered in a responsible, non-political arena. Detailed questions about who did what and when around 18 January 2003 have no place in an examination of expenditure, other than to drive a political witch-hunt which is being pursued solely for reasons of media exposure and short-term political gain.

I said that I welcomed questions on the usual matter of estimates. In fact, on occasions when the bushfires were mentioned, I accepted questions as being relevant. I said, for example, "That's a fair question. I'll seek a response." On another occasion I said, "I'll accept that question because it's separate from the actual incident of the fire."

We did give appropriate answers to appropriate questions. Officers gave detailed answers to the questions on the communications upgrade and on the burning of the fire trucks on 18 January, but we did not answer questions relating to where the fire was at some time. The coroner will be spending many months on that alone and you think you want to cover it in half an hour or an hour in estimates.

My statements and responses like that show that I had no intention of impeding the work of an estimates committee, a committee I have sat on in the past on many occasions, as indeed I have on many other committees. I was, however, justifiably concerned that an

ill-informed and hurried process would produce a result that would ultimately be detrimental to the ACT, to the Assembly, to the committee and to certain individuals.

I would have expected that Mr Smyth, in preparing his committee's report, would have given some good background for why the Assembly should take up this outrageous measure, but did he do so? Did he quote standing orders? He or his colleagues quoted them a number of times in the last debate. Did you quote standing orders to say where I had transgressed? No, of course you did not, because there was no transgression. The first thing you should have done would have been to quote back to me the standing orders. Your failure to do so—obviously you could not—is a clear indication that there was no problem.

Secondly, if the standing orders do not cover something, you go to parliamentary practice. In fact, you did go to parliamentary practice with a totally spurious quote talking about sub judice. I never mentioned sub judice. It was not part of my argument. I did not include it in the preamble I gave and just read. I never mentioned it. Sub judice has nothing to do with it. The fact that that is the best thing that you can find in evidence tells me that you have no case and it tells everybody else that you have no case.

I repeat the two points that you should have been making. Were standing orders transgressed? No, certainly not, there was no mention of that. Was parliamentary practice transgressed? Certainly not. *(Extension of time granted.)* So there we are. There is simply no basis, no evidence, to support this claim, other than Mr Smyth's hyperbole. The only thing that it has got going for it is the nonsense that he spelt out. The claim is pathetic, pathetically weak.

But let me go on further. The committee report itself that Mr Smyth prepared congratulates one of my departments, Urban Services, on its excellent response to the considerable burden of questions. The other departments, Police and Emergency Services and Disability, Housing and Community Services, were just as good. All of my departments responded properly to the vast load of questions. We were only too happy to cooperate; so you can see the real nonsense.

I do not do things lightly, so pay attention, and I do not normally use the names of officers in this place, but when I was considering this issue I went to the then clerk, Mr McRae, and said, "We have concerns. What would you advise?" That was the outcome. I prefer not to have to use officers' names, but that was the case. I sought the best advice available and took it. It was a darn sight better than yours and the nonsense that you were going on with. For heaven's sake, you stand up and rabbit on at great length, with all the exaggerated statements in the world, and think that you ought to put up a proposal. I think that your action was just disgraceful.

As you can see, I am rather annoyed, because I have been a member for a long time and I think that I have been very conscientious. I have worked on committees and I believe that on every occasion I have responded absolutely to the requirements of the house and the committees. I have done it again on this occasion, but for some political advantage, for some mean political advantage, you want to send me off to a privileges committee. I think that that is disgraceful.

I also said in answer to a question from Mr Pratt:

> You made an opening comment that these are very important issues and warrant a response, and a quick response; and that is true…It is then the case that they ought to be thoroughly and properly considered by people and a process competent to do that.

It was not that committee at that time. An estimates committee established to examine expenditure and revenue—again I say that members should look at the terms of reference—could not manage in an hour or two to do the same thing as Mr McLeod and the coroner will be doing over a period.

My record in appearing before the committee, as always, indicated my willingness to give answers and to respond to members. I have always respected the work of the Assembly through its committees and I am offended that anything else could be suggested. I stand by the action I took in seeking to focus the Estimates Committee on the purpose for which it was established and in not allowing a few quick questions on the January bushfires to be misused for political processes.

A contempt can be found if it can be shown that the work of a committee of the Assembly has been impeded. I did not impede the work of the committee. I focused on its stated purpose and you cannot go beyond the terms of reference, to repeat for the nth time, to examine the expenditure proposals contained in the appropriation bill and any revenue estimates proposed by the government.

Members, this proposal to refer this matter to a privileges committee is a nonsense and I think that the opposition should have the good sense and the willingness to withdraw it.

MRS CROSS (9.00): Mr Speaker, I have just a few words to say. Mr Wood has just expressed some concerns. I know that members of the Estimates Committee had concerns. Given that there are concerns all round, why don't we just go ahead with this privileges committee and explore every area and see what is there, if anything?

MR CORBELL (Minister for Health and Minister for Planning) (9.01): Mr Speaker, I have reflected carefully on the evidence I gave to the Estimates Committee at its budget hearing into the department of health. There are two issues that affect the department of health. The first is a document that was produced by an officer within the department of health which was completely inappropriate.

It seems to me that the reason the Liberal Party are seeking a privileges hearing into that matter is that they do not believe that the department has supplied all of the necessary documents in relation to that matter. That seems to be the argument. They say, "We don't believe you. We don't believe there aren't more documents." That seems to be the issue. Mr Smyth made that point as much when he spoke in this debate last week.

Mr Speaker, the committee called for all documents in relation to the internal unauthorised memo that was subsequently leaked to the media. I provided all of the documents. The committee had the power to call for all the documents. I provided all of the documents. On what basis does the Liberal Party claim that there are more

documents? Is it just some innuendo, is it just some wild assertion, or do they have any evidence to back that up?

The reality is that they do not have any evidence to back that up, nor do they have anything that indicates that there are other documents. There has been no reference to other documents. There has been no reference to documents that have not been included in the package provided to the Estimates Committee.

The government was very upfront about that piece of information. We said, Mr Speaker, that that memo was not produced at the request of me, as Minister for Health, or my office, nor was it requested by the executive management team in the department of health. It was authored by an officer who should have known better and the officer has been disciplined and counselled in the appropriate manner. The government provided all the documents in relation to that matter and I do not really see what it is the Liberal Party is trying to achieve in regard to that matter.

In relation to my evidence to the committee, I have had cause to reflect very carefully on the evidence I gave. In relation to that, the committee found in its majority report that the Assembly should consider a privileges investigation into my evidence. Mr Speaker, the relevant passage is an exchange between me and the chairman of the committee, Mr Smyth.

Mr Smyth asked me when the March figures for the waiting lists for elective surgery in our public hospitals would be made available. I indicated that I would be releasing those figures later in the week of the hearing, which would have been the Friday. The chairman asked whether that was a break from routine as they were normally available on the 21st of the month, and I said that it was. It was because the government had decided to change the reporting format and that the government wanted to announce that new format and explain the reasons for the change in presentation.

The chairman asked me whether I had those figures with me then. I said that I did not. The chairman then asked me whether officers of the department of health had those figures with them then and whether the waiting list had grown or shrunk in that month. I said that officers did have them, but that I would be releasing those figures later in the week. Mr Smyth asked me if I could provide a raw figure then and a breakdown later in the week and I said no.

Mr Speaker, having reflected on that evidence, I believe that I was wrong to do that. I should not have denied that information to the committee. It was a mistake on my part and I apologise to members for doing so. The point I was wanting to make, Mr Speaker, was that the government had revised the presentation of the elective waiting list figures and the government wanted, as all governments do, to release that information at a time of its choosing and to explain the changes in the format and why that had been done.

The document that was to be released was not ready to be released on the Thursday of the Estimates Committee hearing. It was ready to be released the following day. It had been planned to be released the following day and it was not finalised until late on the Thursday prior to its release the following day. Mr Speaker, that does not excuse my not providing the raw figure to Mr Smyth. I should have done so. I regret that I did not. It

was a failure of judgment on my part and I apologise to members for doing so. If this privileges investigation proceeds, I will be making the same comments to it.

Mr Speaker, the intention was not to deny the information to the committee. The intention was to allow the government to present the information in the new format, that it had decided to do so, and to have an opportunity to explain that at a timing which was suitable to it. That was not a reason to deny the information to the committee.

Mr Speaker, it is interesting in reflecting on the committee's response to this issue that it did not seek to request the information from me. Members would almost certainly argue that it should not have to, and I accept that, but it is interesting to contrast the approach of the committee in relation to the Health memo, where it sought all documents and called for papers, whereas it did not do so in relation to this other information. I cannot know what was the reason behind that, but it was a markedly different approach.

Given that, Mr Speaker, I think that it is clear that my judgment was not the appropriate one at the time and it is a matter that, having reflected on the *Hansard*, causes me some regret, because I understand the need for committees to call for papers and information. I have sat on committees and I have done that as a member of a committee. I am prepared to accept that I made a mistake and to apologise to the Assembly for it. Whether or not members choose to pursue a privileges investigation in relation to my evidence is a matter for the Assembly to decide.

MS TUCKER (9.10): I have been looking back on the report on the unauthorised diversion and receipt of a member's emails, a report of another privileges committee that was held in 2002, and it might be useful to go over the section on contempt for members. It reads:

> Erskine May, the guide to British parliamentary practice, describes contempt as:
>
> > …any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any Member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent to the offence. It is therefore impossible to list every act which might be considered to amount to a contempt.

The report went on to say:

> It is reasonable to conclude…that for an action to constitute a contempt it should include the following:
>
> (i) improper interference in the free performance by a member of his or her duties as a member;
>
> (ii) serious interference with a member's ability to perform his or her duties as a member;
>
> (iii) an intention by the person responsible for the action to improperly interfere with the free performance by a member of his or her duties as a member; and

(iv) that the interference related to the member's duties as a member of the Assembly not to any other area of responsibility or activity.

Looking to the three instances in Mr Smyth's amendment, I will speak firstly to the first one, which is about the refusal of Mr Wood to answer questions of the Select Committee on Estimates. I have concluded after looking at what was said that you would not be able to argue successfully a case for contempt because Mr Wood demonstrated quite clearly that he was attempting to work in good faith with the procedures of the parliament and the duties of members by seeking advice on what he was intending to do from the clerk. I think that the intent part of contempt would not be able to be determined for that reason.

On the second instance—the refusal of Mr Corbell to answer questions of the Select Committee on Estimates—unfortunately, even though I have heard him apologise for it and I appreciate that, I do believe that it would be quite possible to find a case for contempt in what he did in the estimates process because it could be perceived to have been an improper interference in the work of the committee. It was a serious thing in principle not to be giving information to an estimates committee which was set up by the parliament. The intention obviously was there not to give that information.

Whether the intention was there to stop the work of the committee and so on is what the privileges committee will be charged with determining, but I think that there is an arguable case there for saying that it needs further looking at. That, obviously, is what we have to decide here tonight. We do not have to come up with an absolute answer, but we have to work out whether there is a strong enough case to refer an issue to a privileges committee.

The third issue is the creation and distribution of the document known as "Budget Estimates 2003". I think that it is arguable that that also could be perceived to be in contempt of the parliament, because having an instruction not to answer questions implies, and I am not actually making a judgment on this matter, that it was about disrupting the work of the committee. I think that there is a strong enough case there for it also to be referred to this committee to look at in detail.

Obviously, I have a different view on the different sections of the amendment, so I will be asking under standing order 133 that the question be divided when a vote is taken on the amendment.

MRS DUNNE (9.15): Mr Speaker, I will move serially through these issues, as Ms Tucker did, because they are important, but at the end I would like to have a bit of a wrap-up. On the subject of Mr Wood, he came in here in a theatrical mode, which you see from Mr Wood from time to time, and to quote the bard and amend it a bit, the gentleman doth protest too much, methinks.

Mr Wood: That's always a pathetic argument, even more pathetic tonight.

MRS DUNNE: The intimation of Mr Wood is that he is a righteous man who has been in this Assembly for 13 years, so how could anyone think that good, honest Bill could ever do anything quite like this? Ms Tucker quotes Erskine May and goes to intent. With respect, seeking advice from someone does not mean that you do not have an intent to

disrupt or to impede. I do not know that Ms Tucker was there, but the clear message from the tone and the words on that day was, "You will not ask me questions about a whole category of issues," and the fallback was because it might be about bushfires and not about the budget.

Mr Wood: Were you there at that time?

MRS DUNNE: Yes, I was, Mr Wood. I was a member of the committee and I was there for every hour but one of the time that the committee sat. I was there. What happened there was that the minister came in and used a form of words that said, "There is a class of questions that you may ask me this afternoon that I will not answer because I do not think that this relates to the business of the Estimates Committee."

The Estimates Committee was looking at the budget for the 2003-04 financial year and in that budget are tens of millions of dollars of moneys to be expended in this year and in the out years as a direct result of the fires on 18 January. The terms of reference were to examine the expenditure proposals contained in the appropriation bill and any revenue estimates proposed by the government in the 2003-04 budget and report by 17 June. There is tens of millions of dollars of expenditure in this year and in the forthcoming years and it would be reasonable that some members might want to know something without knowing the sensitivities. There are sensitivities and there are issues perhaps of sub judice, but to anticipate—

Mr Wood: I never used the expression "sub judice", never touched it.

MRS DUNNE: No, I am not saying that you did. There may be issues; there may be sensitivities. This minister obviously was aware that there may be issues and sensitivities, and he made a pre-emptive strike, Mr Speaker. He came in and said, "Here is a class of things about which you may not ask me; I will not answer." We had a discussion about that and we went on to talk about a range of things in the Emergency Services Bureau. Issues arose about the bushfires and over and over again the minister, after he had already made a pre-emptive strike by saying, "You will not ask me these questions," gave a form of words—

Mr Wood: I didn't say that at all. I didn't say that. I said I won't answer them.

MRS DUNNE: The minister said:

> …this committee needs to remember that matters of personal responsibility and what happened and when are matters for elsewhere…For this reason, I, with officers from ACT Policing and Emergency Services Bureau, won't be answering any questions relating to the details of the bushfires of January…

He said, "I won't be answering questions in a certain category of things." When it came to the situation and issues arose, he said, "I won't answer that. I won't answer that," and then I came to ask him a question—I cannot remember what it was about—and he said, "I'll allow that question."

Mr Speaker, this minister is a man who, after all his years of experience in this place, does not actually understand how the estimates process works. As a minister, as a

witness before the Estimates Committee, he has no right to say, "I'll allow you to ask me that question." He has every right to say, "I can't answer a question for a particular reason. I can answer this question, and I can't answer that." But he has no right to come in and pre-emptively say, "I will not answer a whole range of questions."

If this is allowed to stand, we run the risk of creating a precedent. I am not an expert in these things, but I am a student of history and I have spent a lot of time in past lives studying these things and we will create a precedent whereby a minister can say, "I will or won't do something." There will now be a precedent. Members of Congress come before congressional hearings and say, "I won't answer that. I'll call the fifth." Somewhere along the line, in a parliament somewhere in this country, someone is going to be asked a question and say, "No, you can't ask me that. I'm going to rely on the Wood defence. I'll call the Wood."

That is what will happen. If this is allowed to stand, we will have created a precedent whereby any time a minister does not want to deal with a particular set of questions he can come in and pre-emptively say, because Bill Wood did it and got away with it in 2003 in the ACT Legislative Assembly, "I won't do that," and the precedent will have been set by Bill Wood.

Mr Speaker, this goes to the heart of Westminster government. This is the sort of thing that has created crises in governments over generations. This is the reason that the King or Queen cannot enter the House of Representatives. This is the reason that the King or Queen cannot enter the House of Commons. It is because of attempts by the Crown, or in this case the executive, to exert unnatural and unreasonable power over the parliament. This is why Charles I lost his head in 1649. This is the reason—

Members interjecting—

MRS DUNNE: Okay, I will take you back to history 304 in 1979 and Kenyon's *Stuart Constitution*. You might think that it is esoteric, but it is where we come from. Everything that we do is based on the precedents of things too much. Let's just look at some of the issues that are here. The Commons' freedom of speech was on the anvil in 1610, says Kenyon.

Government members: Ha, ha!

MRS DUNNE: You might think that it is unimportant, but the reason that we pulled back from the previous motion is that the principle is more important than the individual issue. He says:

> The Commons' freedom of speech was on the anvil again in 1610. Late in April, with the King away in Newmarket, they set about investigating the legality of a new imposition on trade latterly imposed by the government. But the King—

James I, if you don't remember—

> sent the council word that he could not allow parliament to debate any aspect of his prerogative without leave, especially after it had been confirmed by a court of law. On 21 May the King returned to London and made a speech in both Houses in which he repeated his prohibition.

> When the Committee of Grievances discussed his speech, Francis Bacon—

no slouch—

> brought forward a series of awkward precedents from Elizabeth's reign demonstrating that she had often tried to stop debate when she considered that it touched upon her prerogative, but what the House could not deny it was prepared to ignore and on 23 May it submitted a petition claiming the right to debate any aspect of the royal prerogative which encroached on the Parliament's liberties.

You might think that it is esoteric, but this is really what it is about. When you have the glorious revolution of 1688, it is about asserting the right and power of parliament over the Crown, and in this case over the executive. *(Extension of time granted.)* That means that in this place this parliament is entitled to ask for and receive, for the most part, straightforward answers to straightforward questions. We are entitled to that and a member is not entitled to make a pre-emptive strike and say, "I will not answer a certain class of question."

Moving on to Mr Corbell: I thank Mr Corbell for making his apology. I always say that it is a very important thing that people can admit their mistakes and apologise for them, and I do thank you for that. But the issue that still arises is: what was the motivation for doing what you did? You had three weeks notice at least that you would be appearing on a particular day and you would know from your experience in being on estimates committees that the hospital waiting list would be an issue of prime concern.

I can see that, with hindsight, you regret it, but what you did on that occasion was to fly in the face of convention and to fly in the face of what is reasonably acceptable. I think that this matter needs to be addressed by a group of people who are dispassionate and removed from the occasion.

Mr Corbell also spoke about the document that was generated in his department. He said here that the real issue was that we were after more documents. Yes, we did ask for documents. The Estimates Committee asked for documents to be produced and there was a reasonable list of documents produced. There is some belief that not all the documents were produced, because there was a class of documents asked for in relation to what disciplinary actions were taken and those documents were not provided, so there were documents outstanding.

But that is not the point; it was not a document fishing exercise. The point is whether the document that was created in your department, with or without the permission of the minister, the executive or anyone in the minister's office, irrespective of who was involved, constitutes a contempt of this Assembly through the Estimates Committee. I believe that it does. That is why I will be voting to refer that matter to a privileges committee and there the privileges committee must determine whether a contempt exists.

In all of these cases, Mr Speaker, it is not for us to say tonight that a contempt has been committed. It is for us to determine whether there is sufficient evidence and whether we should refer that matter for someone else to make that determination, to a subset of those of us here today to make that determination. It is not for us here today to say that a

contempt has been committed. I think that there is evidence in the three of these cases that a contempt has been committed.

Those people who think that there is sufficient evidence for this matter to be discussed further should vote to refer this matter to a committee. If you are absolutely and utterly sure that no contempt has been committed, vote no. But if you are in doubt, you need to vote for referral to a committee. In many senses, we owe the people who have been implicated here the opportunity to clear their names. A vote of this place that does not actually clear the air leaves those people under a cloud.

Although it might be difficult and it might be unpleasant, it might be the best thing in the long run to allow those people the opportunity to clear their names, to have their day in court and allow a group of our peers to make a determination in a dispassionate way. What we are doing here is not making that determination; it is allowing the opportunity for us to clear the air.

Mrs Cross: I seek guidance, Mr Speaker. Standing order 47, I believe, allows me to get up and make a comment about a member's—

MR SPEAKER: If somebody has misinterpreted something you have said in a speech, it is open to you to correct that.

Mrs Cross: Minister Corbell, in his speech, talked about a minority report and a majority report. Can I just state that a report was signed off by all members of the Estimates Committee, but there was no dissenting report—

MR SPEAKER: Order, Mrs Cross! It is only in relation to a speech which you have made in here, so it's not really—

Mrs Cross: Mr Corbell has misrepresented the Estimates Committee.

Mrs Dunne: You will have to seek leave to speak again.

Mrs Cross: Can I seek leave to speak again?

MR SPEAKER: Let me go to the standing order. Standing order 47 says that a member who has spoken to a question may again be heard to explain where some material part of that member's speech has been misquoted. I do not think that you can claim that in relation to something that you have said in the context of this debate.

MRS CROSS: I seek leave to speak again.

Leave granted.

MRS CROSS: Firstly, Mr Corbell, in his statement a little earlier, referred to a minority report and a majority report. There was neither. There was a report, an estimates report, from a committee of five people who signed off on the report. There was no dissenting report. I want to make it clear that when the minister uses comments like that in his speech he is actually misrepresenting a former committee of this Assembly and he is misrepresenting the outcome of that report. That is the first thing.

The second thing is that Mr Wood mentioned in his earlier comments that he went to the clerk to seek guidance before coming to the Estimates Committee to give evidence. I am just wondering, firstly, what the intentions of Mr Wood were in doing that and, if he did get guidance, whether it was in writing or verbal. If it was in writing, could he table that evidence or that guidance or advice in the Assembly?

MS DUNDAS (9.32): I will only speak briefly, but I think that it is important to add my voice to this debate. I have been listening to what everybody has had to say and I know that people still have things to say. Some important questions have been raised about the role of this Assembly, the role of our committees, how they operate and what it is we are trying to achieve.

Basically, there are four different referrals to a privileges committee before us and I am going to do them in the reverse order. On the dissemination of information relating to reports that have yet to be published of the Public Accounts Committee and the Estimates Committee, I think that it is an important issue in relation to committees and how they conduct their business and one worthy of examination.

On the creation and distribution of a document known as "Budget Estimates 2003" by certain persons within ACT Health, I think that some important questions have been raised about the relationship between this Assembly and the executive and departments and on the role of the Estimates Committee, how it operates and its purpose, and how that is being treated by the executive and members of the departments, and hence, again, it is something that I believe is worthy of examination.

With relation to the refusal of Mr Corbell to answer questions, even though he has apologised for that, I do think that a privileges committee needs to examine the standing orders and practice around that—I think that this also covers the refusal of Mr Wood to answer questions of the Select Committee of Estimates—and, again, investigate the relationship of the Assembly to their committees, the relationship of the committees to the executive, how they operate and what they are trying to achieve. How the executive relates to those committees and to this Assembly is something that I believe is worthy of examination.

I have been quite careful in my considerations of this matter because I think that if a select committee is formed I will be serving on it and I do not want to prejudge any outcome; but, that being said, I do think that it is important that these matters are examined as part of the way that this Assembly operates.

MR STEFANIAK (9.34): Mrs Dunne, towards the end of her speech, started looking at what a select committee is all about, and I think that she made some very good points. I will take the paragraphs of the amendment seriatim, too, because one needs to consider them. We need to look at what the Estimates Committee found, in terms of the facts before it, in making the recommendations that it did. I note that there were no dissenting reports in relation to that.

We also need to look, as Mrs Dunne has suggested quite properly, at exactly what we are doing. Tonight, we are not deciding whether the persons around the document knows as "Budget Estimates 2003" or the two ministers concerned are in contempt of the

Assembly. That is not our role tonight. We do not have the judicial authority, as it were, to decide that.

We are setting up an Assembly committee of our peers to have a hearing, take further evidence, hear from the persons concerned, no doubt, sift through all the facts, any documents and any statements, call relevant persons, and see at that stage, after all of that evidence, whether there has been, in fact, what constitutes a contempt. If the findings are that there was one instance of contempt or more, obviously the matter would come back to this Assembly for consideration as to what action it should take as a result. Obviously, if no instance of contempt was found, the third stage would not matter.

It is a little bit like, I suppose, any court case or prosecution. We are at the stage where certain evidence was taken by the committee and the committee made some findings. There is now a proposal to send the matter to a select committee to consider whether there has been an instance of contempt; in other words, to give detailed consideration to that, to take evidence and to decide on that. But the stage we are at now, I would suggest, is that prima facie, because of the findings of this Estimates Committee on the facts they have gathered, it is the duty of this Assembly to send this matter to a committee to decide whether there has been contempt.

The Estimates Committee, in its sittings, actually made findings on a number of key facts. At pages 17 and 18 of its report it cites a number of matters in relation to Mr Wood. My colleague Mrs Dunne has read out the statement that the minister made. On page 18, the committee stated:

> The Minister's grounds for declining to answer questions were twofold. Firstly, he believed that, despite established practice, these matters were not appropriate to an Estimates Committee. As outlined above, the Committee does not accept this.

The committee has already made a decision in relation to those matters. The report continued:

> Secondly, the minister put forward the view that the current McLeod inquiry and the Coroner's inquiry into the bushfires made it inappropriate to answer questions in the Committee.
>
> The Committee is concerned that this approach wholly misunderstands the relationship between witnesses, including ministers, and a committee of the Assembly and the grounds on which a witness may decline to answer questions.

The committee goes on to talk about that, saying that it does not accept that.

I think it is worth noting—I do not know whether the committee actually made the point—that the coronial inquest had not started. Another point it probably did not make is the fact that it would have been quite proper for the questions to be asked and answers given even if a coronial inquest was going on. Indeed, that might have been of some assistance to a coronial inquest. Those two additional points indicate that maybe the minister was quite mistaken in his view and it was not appropriate for him not to answer questions.

In an earlier debate mention was made of the fact that at no time previously has the Assembly had a situation in which ministers have come along and not answered questions at an estimates committee. It is a very serious matter. Even if at the end of the day we find that the minister was somewhat mistaken, it is something on which, because of the serious nature of it and because of the findings of fact as reported in the report, we would be derelict in our duty if we did not send the matter to a special committee to look at whether there had been any contempt. We have to do so because of the serious and unique nature of this matter. We have not had such a situation before.

It is quite clear in relation to Mr Wood that the matter needs to go to a select committee for determination of whether a contempt of the Assembly has occurred. Such contempt does not necessarily have to be deliberate contempt whereby someone wilfully and obviously wants to cause difficulties for the work of the Assembly. The contempt can be unintended; nevertheless, it is contempt. Those questions, if contempt is found, relate to what occurs to the person after that, which is, I suppose, the third level.

In relation to Mr Corbell, the position was not of the same magnitude in terms of the number of questions the committee wanted to ask which he would not answer, but it was a more specific example and one for which he has come in here tonight and apologised. We have absolutely no way of knowing whether he has made that apology because the proceedings have got to this stage or whether he has realised that, obviously, he has done the wrong thing and made an apology. In fairness to him, we probably have to assume that the latter is the case.

Nevertheless, he has effectively admitted that he has done the wrong thing and should not have done that. That probably strengthens the factual finding of the Estimates Committee on page 19 that his response should be referred to a privileges committee to determine whether it constitutes a contempt.

On pages 19, 20 and 21, the committee looked at the document known as "Budget Estimates 2003", written on ACT Health letterhead, which offered advice to the health executive on how to deal with and, if necessary, avoid questions at estimates hearings. To quote from page 20 of the Estimates Committee's report:

> The document showed not only contempt for the Committee but also represents a clear breach of the Public Service code of ethics.

Again, the committee has made a finding, a unanimous finding, and made recommendations. It is quite clear that that matter has to be sent to a privileges committee for consideration as to whether it constitutes a contempt.

It would seem, Mr Speaker, that the Estimates Committee felt that there was a prima facie case for the Assembly to send to a special committee three particular items to see whether they constituted a contempt. It may well be that when the special committee considers these matters it will be shown in one, two or maybe all of them that the persons involved do not at the end of the day have a case to answer. But it may well be that they do. There may be all sorts of circumstances in relation to the contempt which distinguishes each of these matters, but they are very serious matters.

I have never seen in my time in the Assembly a situation like this. Normally, ministers duck and dance, weave and do a few little tap dances. In Mr Quinlan's case, there was a tap dance and a waltz. I suppose we have all done that as ministers, but everyone has tried to answer questions, maybe some not as well as others. This situation is rather extraordinary. These are extraordinary circumstances. It is rather extraordinary for an estimates committee to unanimously recommend these things. Accordingly, I think that we do have a duty to do what they wish.

Mr Smyth's amendment is along those lines. It clearly recognises the three issues in terms of the three actual instances that we have to look at. I think that a prima facie case has been established for a committee to be set up to investigate the matters and see whether they should be taken further.

MR QUINLAN (Treasurer, Minister for Economic Development, Business and Tourism and Minister for Sport, Racing and Gaming) (9.44): Mr Speaker, I just want to pick up on a couple of points. As members might have noticed, I have not been in the chamber all of the time but I have been following the debate on closed circuit television. Closed circuit television lifts you somewhere closer to the world of entertainment and I was wondering overall whether this could be anything other than a comedy if David Williamson were to make a play out of it. I doubt very much whether you could make a serious drama out of it.

Mrs Cross: That smacks in the face of democracy, Ted.

MR QUINLAN: Certainly. I truly confess to this place that over a lifetime I have not had a great deal of respect for pomp and circumstance, and occasionally that has cost me. So you will have to forgive me if I express a little concern about just how very serious people have been about Mr Corbell not giving information which he released the next day.

I was particularly intrigued—and I want to share this with the Assembly—by Mrs Dunne's reference to Charles I.

Ms MacDonald: Off with his head.

MR QUINLAN: Off with his head. Mrs Dunne is a student of history and I am not, so while I was in my office I looked Charles up on the net. I thought I would read what I found. This is just one extract from the net and it might be open to objection, but it goes like this:

> Charles I was to be tried by 135 judges who would decide if he was guilty or not. In fact only 68 turned up to the trial. Those that did not were less than happy about being associated with the trial of the king. In fact, there were plenty of MPs in parliament who did not want to see the king put to trial but in December 1648 these MPs had been stopped from going to Parliament by a Colonel Pride who was helped by some soldiers. The only people allowed into Parliament were those who Cromwell thought supported the trial of the king. This Parliament was known as the "Rump Parliament" and of the 46 men allowed in (who were considered to be supporters of Cromwell), only 26 voted to try the king.

Twenty-six out of 135. I just want to draw a practical parallel because we are a very small parliament. I have just been talking to my confederates here about how we can get a privileges committee together out of 17 members, when one of those members has been accused and others were members of the Assembly committees which are concerned with the matter now before us. All of a sudden the number of members from which to choose has been reduced. We have to find three people. One is going to be from the opposition side and there are politics involved; one is going to be from this side, and there are politics involved. We are all honourable people and we will say we will be on it, but no matter what happens, this privileges issue is going to be decided by a single person, and I think we should reflect on that.

We are so serious about these issues and, as I said, if David Williamson were writing the a play about this he could do nothing else but make it a comedy.

MRS BURKE (9.48): As may have been said already today, the opposition has moved its amendment more in sorrow than in anger. However much the Treasurer might want to make light of what has happened, I do not think we should resile from the fact that these are serious matters.

I believe that what happened during the estimates hearings has the potential to set a very dangerous precedent in this place, and that has probably been said, too. In effect, it has the potential to give the executive greater power than that of the Assembly. I, as a fairly new member of this place, thought that was an absolute no-no. I think we need to take that point very seriously.

I was astounded to see contempt of the Westminster system. I am very saddened that it should have been laughed at and made light of. If you do not like the pomp and ceremony and the order, the respect and the dignity of this place, then shame on you. We should be proud of the system of governance that we have and the democracy that we enjoy. I, therefore, view the actions of the ministers named to be a very grave matter indeed. As I have just said, it is an out and out attack on the Westminster system that we enjoy. It is not up to ministers to rule what is in and what is out.

Mr Wood said he would not answer questions relating to the detail of the bushfires. He said he would talk about income and expenditure, as detailed in the budget. Mr Wood said that historically Assembly estimates committees have ranged widely. He said he would give appropriate answers to appropriate questions. In the committee's view, both general and quite specific questions on the management and impact of the January emergency were appropriate, both in terms of the achievement of outputs and the impact of the bushfires on the ACT's overall financial situation. Indeed, there is a separate section in our budget on bushfire expenditure. Or was I mistaken? Any questions that were asked were totally relevant.

As I see it, it was out of order and an abrogation of responsibility not to answer those questions. If there is nothing to hide, Mr Speaker, then referring this matter to a select committee will vindicate the actions of the ministers. I would think if enough members have risen in this place to share their concern about the estimates process and what did or did not happen, then surely those ministers would be only too happy to have their names cleared and be totally vindicated. They should have nothing to fear.

Mr Corbell apologised for his actions and I think it takes a big person to do that. What he did was good and commendable and I applaud him for being able to take it on the chin. Although Mr Corbell has apologised, how are we to know that there are not other areas that we should have some concerns about and that need investigating and looking at? The committee process will surely clear up this matter so that there will be no doubt about whether there was a contempt.

Ms Tucker has read out this evening what constitutes contempt and what does not. I think we all need to step back. However, I am concerned that we are not stepping back from the emotion of the matter. As I have said, surely, if enough members have some concerns about due process, we owe it to each other in this place to respect that and ensure that such matters are investigated beyond a shadow of doubt.

MS TUCKER: Mr Speaker, I seek leave to speak again.

Leave granted.

MS TUCKER: I just want to make a couple more comments. I want to make it clear that I am interested in the question that has been raised, particularly by the opposition, of where it is appropriate for a person to not answer questions asked in a committee hearing. I do not think a privileges committee is the appropriate place to look at that. I am talking in particular about part (a) of Mr Smyth's amendment, which is to do with Mr Wood.

Earlier this evening members wanted—I do not know quite what people want now because they seem to be annoyed, but they might still be interested in this—to see referred to a committee the question of whether or not information should be made available to the Assembly. This interesting question is related to the question of when is it appropriate for a person to not answer questions that are put by a committee? Obviously, if you look at the standing orders—I cannot remember which one it is, but it is related to witnesses—there is a capacity for people not to answer questions, but it is not spelt out when.

I think it would be quite interesting to refer this matter to our Administration and Procedure Committee. I am happy to develop a motion addressing questions of legal advice and put it on the notice paper for the next sitting period so that we as an Assembly can get a sense of the parameters that we might be guided by when these questions come up. Similarly, the motion could deal with the question of when is it appropriate for particular questions not to be asked in a committee hearing.

Obviously we in this place have an understanding of sub judice, but it is unclear and that is what this debate is about. You could have a coroner's inquiry, inquiries under the Inquiries Act and other sorts of inquiries, so I think it would be quite useful for the Assembly to take a look at that. I am suggesting that, if there is support from a majority of members and the Administration and Procedure Committee is interested, this would be a way to progress these important questions.

I still, of course, reserve the right to make a decision about whether I think the potential charge of contempt needs to be worked through in a select committee on privileges.

I remind members of the Assembly that when we had the debate about the emails I seem to remember that people were quite prepared to say they did not think it was appropriate to refer the matter to a privileges committee. Then, of course, the majority of members thought we should, the committee was appointed and a contempt was found.

Everyone has the opportunity at this point to make a decision informed by the information as they see it, and that is what I have done. In my view, the intent has not been proven. Mr Wood took the time and made the effort to seek advice on whether it was appropriate that certain questions should be allowed to be asked and whether he could be forced to answer certain questions, and by seeking that advice he was showing good faith in wanting to work with respected principles of the Assembly. That is what the Clerk is there for, and if people seek that advice, that is something that we have to take into account.

MRS CROSS: Mr Speaker, I have never done this before, but I seek leave to speak again.

Leave granted.

MRS CROSS: I have just listened to Ms Tucker and I understand what she is saying, but my concern with this issue is not that the minister went to seek guidance from the Clerk—I think we all do that from time to time. Seeking guidance or advice from the Clerk does not give anyone the right to come to an estimates committee and decide that they are not going to give information to that committee when asked to do so. One does not equal the other. It is a little bit like taking out an insurance policy, deliberately going out and doing whatever you have to do, assuming speculation, and then saying, "Well, we'll claim it." Insurance investigators look into an insurance claim to determine validity and genuineness.

I think it is admirable that the minister sought guidance and advice. I think it is admirable that members go to the Clerk, whom we have a very high regard for, to seek advice. That does not, however, give the minister or any other member of this Assembly or any parliament the right to come before any committee, and an estimates committee in particular, and decide that "I'll allow that" or "I'm not going to answer it". That cannot happen.

The concern that I have as a new member in this place is that I regard those who have been here the longest as role models. I look to learn from those who have far more experience than I do in this Assembly. I have seen members of this place who have been here a long time showing obvious contempt for the procedures and processes of this Assembly. They do it and they are smug about it. In fact, some of the ministers who came before the Estimates Committee actually made quite disparaging comments under their breath that they thought we could not hear. Well, we could hear. It was obvious to me that they considered the estimates process a waste of time. That is how it appeared to me.

I am only new and I do not know as much as most of the members of this place, but it was obvious that there was a sense of arrogance and contempt and that some ministers considered the committee process a waste of time. Seeking information, guidance or advice from a clerk or anyone else in this place does not give any of us the right to come

before a committee and decide not to give information. Perhaps the minister could have handled it better. Perhaps the minister could have come before the committee and said, "You know what, I've been to the clerk, I got advice." You can laugh, that's fine. That's how you treat this whole thing.

Mr Hargreaves: No, I am laughing at something else, Mrs Cross—something which is far more important than this.

MRS CROSS: That is okay. It is just indicative of how many of you on this side treat this process, and this is one of the reasons why I have a concern about the way the process was handled. That is fine.

Ms MacDonald: I'm sorry but I object to that. The implication is that all the people on this side are tarred with the one brush. I ask Mrs Cross to withdraw that comment.

MRS CROSS: That is not what I said, Mr Speaker. That is the interpretation of the member and it is incorrect.

MR SPEAKER: Well, it is late—

MRS CROSS: Mr Speaker, I have a high regard for some of the members on this side, and you are one of them. Ms MacDonald is trying to impugn my character, inferring that I have impugned the character of others on this side, and I reject that completely.

MR SPEAKER: Mrs Cross, are you finished?

MRS CROSS: No. I appreciate your patience, Mr Speaker. I know that you have been through a lot today.

MR SPEAKER: I have got lots left, too.

MRS CROSS: Thank you. Mr Speaker, I come back to a process that we should, as elected members, take seriously in this Assembly. I think some of us have been here so long that we sit through Assembly days reading novels. And even when it is highlighted to us that we are reading novels, we continue to do so because we think, "So what. I don't care what anyone else thinks, I'm going to continue to do what I want to do." That to me smacks of—

Mr Quinlan: Some of us don't come down for a vote.

MRS CROSS: Thank you, Mr Quinlan. I think it is important that we show respect. Some of us have more work to do than others.

Mr Speaker, my concern is to do with process, my concern is to do with showing respect for the committee process in this Assembly, and asking or seeking advice from a clerk does not give any member, including members of the executive, who should be setting an example to the newer members in this place, the right to deny information to a committee. Thank you.

MR PRATT (10.01): Mr Speaker, I rise to express my concern about uncooperative acts carried out by a government minister. I personally witnessed behaviour that was verging on the contemptible during estimates hearings.

I was really disappointed at the actions of Mr Wood during estimates. I personally witnessed what took place that afternoon when I was seeking to question him on his portfolios. Mr Wood, in fact, spent the entire afternoon stonewalling on the sorts of issues that the committee was quite entitled to scrutinise.

Mr Speaker, on behalf of the people of the ACT who might wish to know whether their territory's budget has been properly prepared and is likely to be judiciously spent, I sought to ask the minister about the territory's emergency bushfire fighting and emergency management capabilities. After all, Mr Speaker, some $160 million of the territory's money has been allocated in 2003-2004 and in the three out years to the territory's emergency management. That money must be spent wisely.

The Legislative Assembly is duty bound to scrutinise the territory's emergency management capability and the emergency services designed to implement the emergency management plan. Is the plan adequate? Do we need to spend additional funding in risk analysis and/or revamping the plan? Do we need to spend further funds on the service? Are we spending that money efficiently? Importantly, are there weaknesses in the emergency management system that need further funding now? Which weaknesses can we decide to take action on now without needing to wait until after the McLeod inquiry?

Mr Wood: Why didn't you ask those questions?

MR PRATT: Because you stonewalled me. I didn't get a damn chance to. Mr Speaker, we know that there are immediate steps that can be taken to rectify fundamental capabilities in our emergency services. Now is the time—

Mr Wood: Yes, we spoke about the fire trucks, remember? Remember that?

MR PRATT: Yes, I do and I appreciated that, Mr Wood.

Mr Wood: And what about the communication system? We spoke about that.

MR PRATT: I certainly appreciated that. Mr Speaker, we know that there are immediate steps that can be taken to rectify fundamental capabilities in our emergency services, and those steps can be taken now. We need to scrutinise these issues now because time will be needed to learn the lessons and improve the territory's emergency management position in time for the next fire season. Was it not important and was it not the minister's duty to reassure the committee, and through it the people, in regard to the very obvious questions relating to emergency service capability and the relevant budget issues? This is resource management.

Mr Speaker, emergency services is not just an ordinary run-of-the-mill government department. It is an emergency response agency.

Ms Tucker: Not like education or health.

MR PRATT: I think I hear Ms Tucker's mother calling, but we won't worry about that. The emergency management plan for the ACT is not just another run-of-the-mill administrative instrument. It is a critical instrument. In other words, our emergency services and our emergency plan do not have the luxury of time when matters need to be reviewed. That is why I and the opposition thought it most necessary to question the minister about the state of our services against the lessons of January 2003. And the minister failed to respond to what can only be described as a reasonable and genuinely motivated scrutiny.

I find this state of affairs entirely unacceptable. The community has no idea of whether the government is managing its emergency services properly and whether the budget is now wisely and efficiently positioned to deliver the ACT community a refurbished emergency services and a re-evaluated emergency management plan. The community has had an opportunity missed. There was an opportunity at estimates in June to at least review some part of the ACT's position approaching the next fire season.

Mr Speaker, I believe that ministers do not have the right to dictate to an estimates committee what questions can or cannot be asked. It is not for ministers to determine what line of questioning estimates should follow. Mr Wood has repeated here tonight that the details of what happened around the 18 January 2003 set of circumstances should not be questioned in estimates as, he says, such issues have no place in estimates.

I believe the circumstances of 18 January 2003 have much to do with testing territorial expenditure and the way in which territorial resources are managed. The fitness of the territory's resources and the territory's capability to cope with an emergency are assessable in estimates in June of 2003, not when some other phase of inquiry may or may not have finished on time.

Sure, the estimates process is not structured to assess, in scope terms, the fitness of the Emergency Services Bureau and its attendant agencies to cope with emergencies as well as McLeod can. But three points can be made about this. Firstly, estimates was another mechanism of assessing capability and therefore did play a valuable supplementary role while we wait to see the outcome of the other inquiries. Secondly, estimates was happening much more quickly than McLeod or the coronial inquest and therefore could have determined much earlier certain courses of action on some equipment and some capability matters. Thirdly, estimates was a line of inquiry which, frankly, I think was going to be far more independent than is the case with the McLeod inquiry. There was every reason for estimates to follow this line of inquiry; there was every reason for the minister to answer the questions on that line of inquiry.

Mr Speaker, I will finish by saying that I believe the people of the ACT have been dudded in respect of knowing what sort of emergency capability they are getting for their money—$160 million in 2003-04 and the three out years. Were they dudded by a stonewalling government? Did Minister Wood treat the committee, and through it the people, with contempt? I believe that these matters, along with possible breaches by Mr Corbell, need to be examined by the proposed select committee.

MR STANHOPE (Chief Minister, Attorney-General, Minister for Community Affairs and Minister for the Environment) (10.10): Mr Speaker, I do not want to speak for long, because more than enough has been said, but I want to refer to one issue in relation to the amendment. I am concerned about the capacity for this committee to be seen to be above question in terms of the capacity of individual members of the Assembly to be seen to not have a conflict of interest in relation to their representation on the committee that the Assembly quite obviously, from what has been said by members, is going to appoint tonight.

Almost all 17 members of the Assembly are in one way or another disqualified from membership of this privileges committee. On this side, a couple of members of the government have been nominated as the subject of the inquiry and a couple of our members were on the Estimates Committee; you, Mr Speaker, are a decision maker in relation to process; similar considerations apply to many members of the opposition; and, of course, in relation to the infamous ABC affair, the ABC journalist involved has essentially nominated a member of the crossbench as the dobber of the information. So, as far as I am concerned, all three members of the crossbench need to disqualify themselves.

Ms Tucker: We're the suspects?

MR STANHOPE: Well, in my mind you are. Chris Uhlmann effectively nominated the person who provided the information as a member of the crossbench. There are only three of you. One of you did it.

Ms Dundas: Wasn't on the committee. Haven't you read the reports, Jon?

MR STANHOPE: Well, that is in the public domain; that is what is in the atmosphere—that a member of the crossbench was the person who contacted the ABC. I guess when the committee is established—

Mrs Burke: No, you've got it wrong.

MR STANHOPE: Everybody in Canberra thinks it. It is the message that Chris Uhlmann relayed; it is what I believe.

Mrs Burke: You don't follow the facts, Jon.

MR STANHOPE: Well, it is what I believe. Let us get down to tin tacks: it is what I believe on the basis of the reports from the ABC journalist who outed a member of the Assembly. It was Chris Uhlmann who outed a member of the Assembly in relation to the call to the ABC, and from his outing the appearance or the interpretation that I have of his comments is that it was a crossbench member of this place—I think there is a quite clear suggestion from the transcripts of the ABC that it was a member of the crossbench. So no member of this crossbench can in conscience appear on this privileges committee.

So if it is the view of the Assembly to appoint a privileges committee tonight, the motion really should be amended to provide that on a proportional basis there be two members

of the government and a member of the opposition because the crossbench is quite clearly disqualified if they are serious about appearances.

Mrs Burke: That is some proof for you, Chief Minister. You are obviously behind the times.

MR STANHOPE: I am serious about this. It would be simply an outrage if, under this motion, a member of the crossbench were on a privileges committee when the ABC has nominated a member of the crossbench as the person who provided the information which is to be the subject of the inquiry.

MR SMYTH (Leader of the Opposition): Mr Speaker, I seek leave to answer some of the questions raised by Ministers Corbell and Wood.

Leave granted.

MR SMYTH: Mr Speaker, there were a number of things raised by both the ministers, one of which seemed to be a concern about whether I was tough enough as the chair of the committee. We are making the point that the minister cannot determine what is appropriate—that is not his role, that is not his function.

Mr Wood in his opening remarks to the Estimates Committee said that these "are matters for elsewhere". He went on to say:

> They will be specifically and expertly addressed by the McLeod inquiry and the coroner's inquest and should be left for them. This is following correct Assembly processes.

Well, point out to me where those processes were followed when the Assembly established the McLeod inquiry. They were not. Show me where those processes were followed when the Assembly established the coronial inquiry. They were not. So you have to ask by whose judgment that statement is correct. There were no processes of the Assembly behind the coronial inquest or the McLeod inquiry. Mr Wood then went on to say we "won't be answering any questions relating to the details of the bushfires".

The minister spoke of his advice from the Clerk, and I wonder if the minister would table that advice. I am happy to give members the advice I have, and I will get to that in a minute. Before I do so, I will refer to something else that Mr Wood said. Mr Wood went on to say:

> The McLeod inquiry, as with the coronial inquest, has been properly and well-established for the purpose of inquiring into response to the fires. This approach also applies to the Auditor-General's report No 3, which has been referred to the McLeod inquiry.

By whom? The Auditor-General's report No 3, by determination of this place, comes straight to the Public Accounts Committee. It does not go to the McLeod inquiry. The government can give McLeod a copy of the report but it certainly does not refer the Auditor-General's report for examination. So this process of defence that Mr Wood uses is flawed.

Yes, I appreciate that he got some advice from the Clerk—we all go to the Clerk—but the process or the justification that he gave to the committee is flawed. Indeed, the advice that I have from the acting clerk said that it nevertheless does seem incongruous that there are two bodies receiving the Auditor-General's report at the same time. It is not possible. There is only one body to which it can be legally referred, and that is the PAC.

The other issue seems to be that, because there is a coronial inquiry, questions cannot be asked by a committee. Let us face it, there were I think four coronial inquiries inquiring into deaths in the disability community and the Gallop inquiry, but that did not stop questions being asked. The advice, again from the acting clerk, is, well, committees are able to canvass issues before a coroner but because this is not strictly speaking subject to the sub judice convention, committees need to be careful. Well, Mr Speaker, the Estimates Committee did not even get the opportunity to be careful, because the minister determined that he would not be speaking to it.

The issue was raised about whether I warned people that they were potentially in trouble, and I actually did. I said to Mr Wood that committees "are normally given answers". Mr Wood said:

> Yes, I think that's right.

I said:

> On very rare occasions would a committee be denied an answer. I will ask my questions.

Mr Wood said:

> Well, this is one of those occasions.

And I did warn him. I said:

> Well, then, Mr Wood, I suspect you run the risk of being in contempt of this committee and possibly in contempt of the Assembly.

He said:

> Well, you may take that through. If that's the course you wish to take, you may do so. But I have stated the position, and the position holds.

Well, the position does not hold. Mr Wood makes the case that the two inquiries that he thinks will do the job better than the Estimates Committee are not creatures of the Assembly.

Mr Wood spoke about proper process. He said that we are ill-informed and it would be hurried. Well, Mr Wood's case is damaged simply because the Chief Minister answered questions about the bushfires and, indeed, provided me with answers to questions taken on notice. Ms Gallagher answered questions and allowed her officials to answer questions specifically about the bushfire and the days leading up to 18 January. Mr Corbell answered questions and allowed action to answer questions. If those three

ministers are entitled to and were allowed to answer questions and did not hide behind this false construct, then clearly Mr Wood's case is flawed.

Mr Corbell had some interesting notions, and Mrs Cross put some of them to bed. I actually asked for the April figures, not the March figures. Mr Corbell kept talking about the Liberals' report and the majority report. Well, there is no minority report. It was the Assembly's report. So to create this notion that it is a report of the Liberals and the opposition is false.

Mr Corbell says there are no more documents. We actually asked for all the documents concerning the creation of the email, the distribution of the email, the response to that distribution, and any disciplinary action that was taken about it. We did not get any information on a disciplinary action. Of the 29 or so individuals who received the original document, apparently not one of them responded. No-one in the health department, until it became a public issue, was interested in that document. It is amazing—Mr Speaker, I am sure you are amazed—that 29 people chose not to respond. One very wise person got in at about 9 or 10 on the Monday morning when it was aired on 2CN and deleted it. There is a wise man. The rest of them, I can only assume, either read it or left it on their machines.

Mr Corbell seemed to say that because we did not ask and demand the numbers relating to the hospital waiting list, therefore somehow the committee was deficient. I want to talk about the process that we took. It took several days, and Mr Hargreaves will confirm this, because Mrs Cross had concerns about what we were asking for in relation to the documents. I think we saw Mr Corbell on the Thursday and the letter from the committee to Mr Corbell asking for the documents went the following Tuesday. We did not have that opportunity with the figures because he dropped them the next morning.

I think the dangerous thing is that Mr Corbell said—and I accept his apology:

> The government will make decisions on when it announces and releases things, as I have indicated.

Again, there was no concession given to the right of the committee to ask for information, to seek information on behalf of others. So I think those things need to be put into context. I will leave it at that. Mr Speaker, it appears that my amendment will be voted on seriatim, and that is acceptable to me.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services): Mr Speaker, I seek leave to speak again.

Leave granted.

MR WOOD: Mr Speaker, members who have been here a little while know that I do not like the procedure of members getting up and seeking endless extensions. I think your rulings have stopped that somewhat. However, members are still seeking leave to speak again and again. As I say, I do not normally do that.

I just want to make a couple of points. We gave Mr Smyth leave to speak again and he went into some obfuscation that really has no relationship at all to what this debate is about. Further, the coroner's report and the sub judice issue were not part of my conversation or part of anything that I have been outlining. This is just not relevant. It may well be a firm statement to make, but I did not make it.

Maybe I can wrap up the debate—I cannot guarantee that this will be the case—on this amendment. Mrs Dunne made the point that I have been making. As she was about to ask for an extension of time she said that generally speaking questions asked at committee meetings are answered. She said that for the most part they are answered. That is rather what I have been saying, on good advice.

MR SPEAKER: The question is that Mr Smyth's amendment be agreed to.

Ms Tucker: Mr Speaker, under standing order 133, I ask that the question be divided.

Ordered that the question be divided.

Question put:

> That line (1A) be agreed to.

Question resolved in the affirmative.

Question put:

> That paragraph (a) be agreed to.

The bells being rung—

Mr Stanhope: I'll be looking forward to those subpoenaed telephone records, crossbenchers. I'll be looking forward to those subpoenaed telephone records of telephone calls in the middle of the night. I wonder whose office it will come from or whose mobile telephone it will come from, when we get the subpoenaed telephone records? From the hypocrites that sit on the crossbenches? What hypocrisy! Let's inquire into it ourselves. Dreadful hypocrisy!

Mrs Cross: Mr Speaker, is the Chief Minister allowed to say "hypocrite"? Can he withdraw that. I understand that is an imputation. He has just impugned the whole crossbench. He should withdraw that.

MR SPEAKER: "Hypocrite" has been ruled out before, so Chief Minister, will you withdraw that?

Mr Stanhope: It was a very general accusation, Mr Speaker, but I will withdraw that.

The Assembly voted—

Ayes 8		Noes 9	
Mrs Burke	Mr Pratt	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Smyth	Mr Corbell	Mr Stanhope
Mrs Cross	Mr Stefaniak	Ms Gallagher	Ms Tucker
Ms Dundas		Mr Hargreaves	Mr Wood
Mrs Dunne		Ms MacDonald	

Question so resolved in the negative.

Paragraph (a) negatived.

Question put:

> That paragraph (b) be agreed to.

The Assembly voted—

Ayes 9		Noes 8	
Mrs Burke	Mr Pratt	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Smyth	Mr Corbell	Mr Stanhope
Mrs Cross	Mr Stefaniak	Ms Gallagher	Mr Wood
Ms Dundas	Ms Tucker	Mr Hargreaves	
Mrs Dunne		Ms MacDonald	

Question so resolved in the affirmative.

Paragraph (b) agreed to.

Question put:

> That paragraph (c) be agreed to.

The Assembly voted—

Ayes 9		Noes 8	
Mrs Burke	Mr Pratt	Mr Berry	Mr Quinlan
Mr Cornwell	Mr Smyth	Mr Corbell	Mr Stanhope
Mrs Cross	Mr Stefaniak	Ms Gallagher	Mr Wood
Ms Dundas	Ms Tucker	Mr Hargreaves	
Mrs Dunne		Ms MacDonald	

Question so resolved in the affirmative.

Paragraph (c) agreed to.

Question put:

> That the line "and determined whether each constitutes a contempt of the Legislative Assembly" be agreed to.

Question resolved in the affirmative.

MR SPEAKER: The question is that the motion, as amended, be agreed to.

MS TUCKER (10.32): I seek leave to move together the two amendments circulated in my name.

Leave granted.

MS TUCKER: I move:

(1) Insert the following new paragraph:

"(1A) the Select Committee also examine Standing Order 71 (Privilege) with consideration being given to the House of Representatives procedures in relation to privilege matters.".

(2) Paragraph (1), omit the word "unauthorised".

My first amendment proposes that when the Privileges Committee is considering the second part of what we have just decided, which is the question of dissemination of information on ABC Radio, that it does not just look at the question of contempt but also looks at standing order 71, which is the standing order covering privilege, "with consideration being given to the House of Representatives procedures in relation to privilege matters".

Basically this means that, instead of going to a privileges committee, as is required here, you have the opportunity to deal with a matter within the committee where an alleged breach of the process has occurred. According to people I have spoken to, this process works very well in the federal parliament. So this would be a good opportunity for the committee to also look at this question.

My second amendment seeks to omit the word "unauthorised" from paragraph (1). I think the present wording will pre-empt the work of the select committee. We do not know that it was an unauthorised dissemination of information. We know there was dissemination of information but at this point we do not know the wherewithal of that.

Amendments agreed to.

Motion, as amended, agreed to.

Manager, Committees—resignation

MR SPEAKER: Members, I wish to inform the Assembly that Mr Derek Abbott, our Manager of Committees, is leaving Canberra on 19 July. In his earlier days in the Assembly, Mr Abbott was involved with the strategic plan for the secretariat. This was

detailed and extremely important work. He was also to the Select Committee on Privileges that was established earlier on by this Assembly.

Mr Abbott has made a significant contribution, particularly more recently in his role as secretary of the Select Committee on Estimates. Because of a fortunate turn of events, Mr Abbott is taking what is colloquially known as the Paris option. On behalf of all members, I wish Mr Abbott all the best for the future.

Privileges—Select Committee
Membership

MR SPEAKER: I have been notified in writing of the following nominations for the membership of the Select Committee on Privileges: Mr Quinlan, Mr Stefaniak and Ms Dundas.

MR WOOD (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for the Arts and Heritage and Minister for Police and Emergency Services) (10.36): Mr Speaker, I move:

> That the Members so nominated be appointed as members of the Select Committee on Privileges.

Question resolved in the affirmative.

Adjournment

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

> That the Assembly do now adjourn.

Manager, Committees—resignation

MR SMYTH (Leader of the Opposition) (10.36): Mr Speaker, I wish to add to your thanks to Mr Abbott. He certainly helped with the Public Accounts Committee, he was on the Select Committee on Privilege and recently he was on the Estimates Committee. He has done a fantastic job. I think it is a loss to all of us that he is leaving but I wish him well in taking up the Paris option.

Manager, Committees—resignation

MRS DUNNE (10.37): I would also like to rise to pay a tribute to the excellent service provided in this place by Derek Abbott. When he first arrived, as well as being secretary of other committees he was also the secretary of the Planning and Environment Committee. As a neophyte committee member, let alone as a committee chairman, I learnt much of great value from Derek Abbott and I thank him for that.

He gave up the Planning and Environment Committee because of the amount of work involved with his other responsibilities. I was regretful of his giving it up but I understand and appreciate the reasons why. I worked again with Mr Abbott on the Estimates Committee. On both of these occasions I was impressed by Mr Abbott's

professionalism, the depth of his knowledge, his willingness to put up with stumbling members and, overall, his good humour and his hard work.

As I think I have said in here on a couple of occasions, when the Estimates Committee finished meeting and all members went home, Mr Abbott stayed behind to do the work, to do the editing and to put together a very fine report. The quality of the report of the Estimates Committee is very much to the credit of Mr Abbott. Overall, Mr Abbott has always been a man with an excellent sense of humour and he is a gentleman and a scholar. I wish him well in Paris but we will miss him here.

Manager, Committees—resignation

MS MacDONALD (10.39): I, too, rise to wish Derek Abbott all the best and echo what you had to say, Mr Speaker, and also the words of Mr Smyth and Mrs Dunne. I wish Derek all the best in his new life in Paris. Of course, I would like him to take me with him in his luggage, although I have to admit it might not be a very comfortable ride.

When I first came into this place, Derek looked after the Health Committee for a short time and I found his advice to be sage and incredibly helpful. I have seen nothing in Derek's actions as the secretary of committees that I have served on to change that opinion.

I also echo what Mrs Dunne said about Mr Abbott having an incredibly good sense of humour. I think it is quite an admirable effort to sit on an estimates committee, not lose your temper for over two weeks and then, after deliberating until midnight, having to sit up until 3 o'clock in the morning typing up words that must blur before your eyes. I am sure that the committee office will do their best to make up for Derek's loss but we will all feel that loss for some time to come. Nevertheless, I wish him the best and hope that one day I will be able to say bonjour when I manage to get to Paris.

Manager, Committees—resignation

MRS CROSS (10.41): I also rise to convey my thanks to Mr Abbott. I got to know him a little bit better as a member of the Estimates Committee. I echo the sentiments of my Assembly colleagues. We put in over 90 hours during estimates, including very many long hours deliberating. He showed a great deal of patience, and also guided members along the way. One of the things that we had in common was that we had both lived in China and it was nice to be able to exchange some Chinese with him. I wish Mr Abbott well and bon voyage.

Manager, Committees—resignation

MR STEFANIAK (10.42): As Chair of the Legal Affairs Committee, I, too, would like to wish Derek Abbott all the very best and thank him for his sterling efforts as secretary to our committee. I certainly agree with everything that has been said. I was a little concerned at the initial meetings I had with Derek because he just kept calling me Mr Stefaniak. He can be quite formal and he referred to Mr Hargreaves and Ms Tucker in the same way. I said, "Mate, look, it's Bill, all right?" He would say, "I prefer it this way." I thought, "Okay, fair enough." That is his style. He is very professional.

At present our committee is engaged in a fairly hard inquiry on industrial manslaughter. Derek, who is leaving us in mid-July, will finish it before he goes. I am very impressed with his thorough professionalism; his aptitude; his ability to do so much hard work; his great skill and especially his knowledge; the excellent common sense that he has displayed on a number of occasions in quite difficult situations; and, of course, his absolute diligence. It is a real shame to lose him.

I have been on a number of committees and I have seen some excellent committee secretaries. Derek Abbott is right up there with the best of them. It is hard to toast a posting such as going to Paris in such a capacity, but to Derek, might I say: merci beaucoup, au revoir et bon chance.

Manager, Committees—resignation

MS DUNDAS (10.43): Just briefly, I also rise to add my farewell thoughts on the departure of Derek Abbott. He has served this Assembly well as Manager, Committees. He has also served on a number of committees. His advice, dedication to process and ability to work through all the different aspects of an inquiry have been invaluable. I found these attributes to be very useful in my time working with him. I wish him all the best for the future.

Question resolved in the affirmative.

The Assembly adjourned at 10.43 pm until Tuesday, 19 August 2003, at 10.30am.

Schedules of amendments

Schedule 1

Planning and Land Legislation Amendment Bill 2003

Amendments circulated by Minister for Planning

1
Proposed new clause 3A
Page 3, line 4—
insert
3A Delegation by land agency
Section 56
after
chief executive officer
insert
or a land agency staff member.

2
Clause 7
Page 9, line 18—
omit proposed clause 7, substitute
7 Acts, regulations and instrument amended—sch 1
Schedule 1 amends the Acts, regulations and instrument mentioned in it.

3
Schedule 1
Proposed new amendments 1.1A and 1.1B
Page 10, line 4—
insert
1.1A New section 24 (1A)
insert
(1A) The planning and land authority must give the Executive a written report about the authority's consultation with the national capital authority.
1.1B Section 24
renumber subsections when Act next republished under Legislation Act

4
Schedule 1
Proposed new part 1.1A
Page 12, line 12—
insert
Part 1.1A Land Titles (Unit Titles) Act 1970
[1.6A] Section 21
omit
the chief executive of the administrative unit responsible for the administration of the *Unit Titles Act 2001*
substitute
the planning and land authority

5
Schedule 1
Proposed new part 1.5
Page 13, line 18—
insert
Part 1.5 Territory plan
Part D, schedule 1, definition of *Authority*
substitute
Authority means the planning and land authority

Schedule 2

Firearms (Prohibited Pistols) Amendment Bill 2003

Amendments circulated by Ms Dundas

1
Clause 5
Proposed new definition of *prohibited pistol*, paragraph (d)
Page 4, line 9—
omit the paragraph, substitute
(d) a pistol with a capacity of more than 10 rounds of ammunition;
(e) a pistol declared by the Minister under section 4AA to be a prohibited pistol.

2
Proposed new clause 5A
Page 4, line 11—
insert
5A New section 4AA
after section 4, insert
4AA Declaration of prohibited pistols—s 4, def *prohibited pistol*, par (e)
(1) The Minister may, in writing, declare a pistol to be a prohibited pistol.
(2) A declaration is a disallowable instrument.
Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

Schedule 3

Firearms (Prohibited Pistols) Amendment Bill 2003

Amendments circulated by Minister for Police and Emergency Services

1
Clause 22
Proposed new section 137
Page 19, line 18—
omit proposed new section 137, substitute
136A Compensation and mandatory licence disqualification—licensed pistol shooters withdrawing from pistol shooting
(1) This section applies to a person if—
(a) the person is the holder of a category H licence issued for the genuine reason of sport or target shooting; and

(b) the person cannot comply with the applicable minimum participation rate mentioned in the *Firearms Regulations 1997*, regulation 4A (2), table of shooting club participation rates because of the making of the *Firearms (Prohibited Pistols) Amendment Act 2003*; and
(c) during the amnesty period the person surrenders to a police officer—
(i) the licence; and
(ii) all registered pistols that the person is authorised to possess under the licence.
(2) The person is entitled to the compensation prescribed under the regulations for the pistols.
(3) The licence (and any other licence that authorises the person to possess a pistol for the genuine reason of sport or target shooting) is automatically cancelled on the surrender of the licence.
(4) The registrar must not issue to the person a category H licence for the genuine reason of sport or target shooting during the period of 5 years beginning on the day after the day the person complied with subsection (1) (c).
(5) This section expires on 1 January 2009.

136B Compensation for surrendered post-1946 pistols— licensed collectors not authorised to possess pistols
(1) This section applies to a person if—
(a) the person acquired a post-1946 pistol before 1 July 2003; and
(b) the person was, immediately before 1 July 2003, the holder of a collectors licence that authorised the person to possess the pistol; and
(c) the pistol is registered; and
(d) the person ceases to be authorised under this Act to possess the pistol because of the making of the *Firearms (Prohibited Pistols) Amendment Act 2003*; and
(e) the person surrenders the pistol to a police officer during the amnesty period.
(2) The person is entitled to the compensation prescribed under the regulations for the pistol.
(3) In this section:
post-1946 pistol means a pistol manufactured after 1946.

136C Regulations to prescribe compensation for parts etc of surrendered pistols
(1) This section applies in relation to parts, accessories and ammunition for a pistol for which a person is entitled under this part to be paid compensation.
(2) The regulations must provide for the payment of compensation to the person for the parts, accessories and ammunition surrendered by the person to a police officer during the amnesty period.
(3) For subsection (2), the regulations may prescribe—
(a) the parts, accessories and ammunition for which the compensation is, or is not, payable; and
(b) the circumstances in which the compensation is, or is not, payable; and
(c) the amount of the compensation or how the amount of compensation is to be worked out.

137 Regulations to prescribe valuation dispute resolution procedure
The regulations must provide a procedure for resolving disputes about the value of pistols, and parts, accessories and ammunition for pistols, surrendered by a person to a police officer for which the person is entitled under this part to be paid compensation.

2
Clause 22
Proposed new section 139
Page 19, line 26—
omit proposed new section 139, substitute
139 Expiry of transitional provisions
Sections 129 to 136, 136B to 138 and this section expire on 1 July 2004.

Schedule 4

Land (Planning and Environment) (Compliance) Amendment Bill 2003

Amendments circulated by Ms Dundas

1
Clause 8
Proposed new section 256
Page 11, line 1—
omit

2
Clause 8
Proposed new section 257 (1) (a)
Page 11, line 15—
omit
the Executive or the planning and land authority (as appropriate)
substitute
the planning and land authority

3
Clause 8
Proposed new section 257A
Page 13, line 22—
omit
If the Executive or the planning and land authority makes an order, the Executive or
substitute
If the planning and land authority makes an order,

4
Clause 8
Proposed new section 257A (h)
Page 14, line 11—
omit
the Executive or the authority believe
substitute
the authority believes

5
Clause 8
Proposed new section 258 (1) (a)
Page 15, line 3—
omit
the Executive or

6
Clause 8
Proposed new section 258A (2)
Page 15, line 18—
omit
the Executive or the planning and land authority (as appropriate)
substitute
the planning and land authority

7
Clause 8
Proposed new section 258A (4)
Page 15, line 23—
omit
The Executive or the
substitute
The

8
Clause 8
Proposed new section 258B (1)
Page 16, line 2—
omit
the Executive or

9
Clause 8
Proposed new section 258B (2)
Page 16, line 5—
omit
If the Executive or the planning and land authority revokes an order, the Executive or authority
substitute
If the planning and land authority revokes an order, the authority

10
Clause 8
Proposed new section 259A (1)
Page 17, line 4—
omit
The Executive or the
substitute
The

11
Clause 8
Proposed new section 259A (2)
Page 17, line 11—
omit
The Executive or the
substitute
The

12
Clause 8
Proposed new section 259A (3) (a)
Page 17, line 18—
omit
the Executive or the planning and land authority (as appropriate)
substitute
the planning and land authority

13
Clause 8
Proposed new section 259A (4) (a)
Page 18, line 4—
omit
the Executive or

14
Clause 8
Proposed new section 259B (1)
Page 18, line 12—
omit
The Executive or the
substitute
The

15
Clause 8
Proposed new section 259E (1)
Page 19, line 19—
omit
The Executive or the
substitute
The

16
Clause 8
Proposed new section 259F (1)
Page 20, line 3—
omit
the Executive or the planning and land authority (as appropriate)
substitute
the planning and land authority

17
Clause 8
Proposed new section 259G (1)
Page 20, line 10—
omit
The Executive or the
substitute
The

18
Clause 8
Proposed new section 259H (1)
Page 20, line 19—
omit
The Executive or the
substitute
The

19
Clause 8
Proposed new section 259I (1)
Page 21, line 10—
omit
the Executive or the planning and land authority (as appropriate)
substitute
the planning and land authority

Schedule 5

Land (Planning and Environment) (Compliance) Amendment Bill 2003

Amendments circulated by Minister for Planning

1
Clause 8
Proposed new section 259AB
Page 18, line 10—
insert
259AB Contravening direction to carry out rectification work
(1) A person commits an offence if—
(a) the Executive or the planning and land authority makes a direction to carry out rectification work in relation to a controlled activity; and
(b) the person is required to comply with the direction; and
(c) the person is given notice of the making of the direction; and
(d) the person contravenes the direction.
Maximum penalty: 50 penalty units.
Note A Territory authority is not liable to be prosecuted for an offence against this section (see Legislation Act, s 121).
(2) An offence against this section is a strict liability offence.

2
Schedule 2
Amendment 2.1
Proposed new section 4, note 1
Page 40, line 12—
insert
- s 259AB (Contravening direction to carry out rectification work)

Schedule 6

Land (Planning and Environment) (Compliance) Amendment Bill 2003

Amendment circulated by Ms Dundas to Minister for Planning's amendment No 1

1
Clause 8
Proposed new section 259AB
omit
the Executive or the planning and land authority
substitute
the planning and land authority

Answers to questions

Gungahlin Town Centre—parking (Question No 704)

Mr Cornwell asked the Minister for Planning, upon notice:

In relation to the Gungahlin Town Centre:

(1) When the new shops including Coles and Big W come on line in Gungahlin where will extra parking be located;

(2) How many car parking spaces are planned for the Gungahlin Town Centre upon completion of the new shops;

(3) Will residents have to pay for any of these car parking spaces

Mr Corbell: The answer to the member's questions is as follows:

For Questions 1 and 2 the following information is provided:

Section	Lessee	What the Development Will Include	Projected Opening	Number of Car Parks and Location (based on concept plan)
Section 10	Section 10 Pty Ltd	Aldi Supermarket, specialty retail, office, and residential units	Late 2004	364 spaces (approx) on site – all at grade
Section 13	Coles Myer Ltd	Coles Supermarket, specialty retail, office and residential units.	Mid 2005	434 spaces (approx) on site - combination of basement (333) and at grade (101)
Section 14	Fabcot Pty Ltd	Big W, specialty retail, office and residential units	Early 2005	809 spaces on site (approx) - mainly basement but some at grade

As part of these developments, a number of new roads will be built including the construction of Gribble Street, East Street and Gungahlin Place. All of these streets will be designed to incorporate maximum on street car parking.

(3) The car parks will be located on leased land. It would be up to the lessee whether charges would apply.

Queen Elizabeth II Family Centre (Question No 707)

Mr Cornwell asked the Minister for Health, upon notice:

In relation to the Queen Elizabeth II Family Centre:

(1) Is there a proposal to limit the availability of the Centre to three or four days per week;

(2) If so, what is the rationale for such a proposal.

Mr Corbell: The answer to the member's question is:

(1) There is no proposal to limit the availability of the Centre to three or four days per week.

(2) n/a

Computers—stocktake (Question No 710)

Mr Cornwell asked the Chief Minister, upon notice, (redirected to the Treasurer):

Further to your reply to Question on notice no. 52, dated 19 February 2002 regarding unaccounted for computers and the statement that "further advice on the outcome of this process of the stocktake will be provided when it becomes available". Can you now advise the result of the stocktake.

Mr Wood (Acting Treasurer): The answer to the member's question is as follows:

(1) Rolling asset stocktakes and data audits have been undertaken across the ACT Government, with the exception of The Canberra Hospital and CIT Bruce. CIT Bruce will be completed by the end of July 2003. The stocktake at The Canberra Hospital will be undertaken in concert with its LAN upgrade and refresh programs both of which are due for completion later this calendar year.

With the exceptions of The Canberra Hospital and CIT Bruce, all Departments have now agreed on a baseline for InTACT asset holdings.

(2) As part of the ongoing review of processes and procedures in the Asset and Acquisitions Section of InTACT, a number of initiatives have been introduced. Extensive recruitment activities have and continue to be undertaken to fill key positions including that of Manager Assets and Acquisitions on a permanent basis. Team structures have also been revitalised and realigned to provide better, more streamlined work throughput and appropriate checks and balances. A dedicated Data Integrity and Audit Team has been established to verify and report on asset holdings recorded in the asset database ATLAS. This team is also responsible for system interrogative reporting data that will be more visible and informative.

Ongoing enhancements of ATLAS continue. Comprehensive reviews of work practices, policies and procedures are being undertaken to enable up to date and more appropriate understandings and parameters in Assets Management to be made and published. A number of fora have also been established to allow expert interactions and information flows.

Lump sum payouts (Question No 711)

Mr Cornwell asked the Attorney General, upon notice, on 17 June 2003:

Further to your reply to Question on Notice no. 151 of 7 May 2002 that the ACT is considering a scheme whereby long term care costs would be substituted by long-term care and that you "would report back to the Assembly in due course on the proposal". Can you now advise further developments.

Mr Wood: The answer to the member's question is as follows:

Treasury and Health officers are reviewing current and alternative arrangements for the long term care of people who are catastrophically injured.

This project is being co-ordinated by a sub-committee of the Heads of Treasuries' Insurance Issues Working Group, known as the Long Term Care Taskforce.

The Taskforce will report to the Heads of Treasury Insurance Issues Working Group on 18 July 2003 who will report on progress to Treasurers at the next insurance summit meeting on 6 August 2003.

Canberra Connect—online applications (Question No 714)

Mr Cornwell asked the Minister for Urban Services, upon notice:

(1) Are you aware that on the Canberra Connect site by providing name, address, birthday and signature it is possible to obtain an ID in someone else's name;

(2) What can be done to prevent such a breach of privacy and will the Government consider requiring photographic identification to be added to the other particulars required for an ID.

Mr Wood: The answer to the member's questions is as follows:

(1) No.

The Registrar Generals Office web site enables a citizen to apply online for a birth, death or marriage certificate. This service can be accessed through Canberra Connect.

This application requires the citizen to provide information to establish their identity, including their name, birthday and other information. When the Registrar General's Office receives this information it will issue a certificate based on appropriate verification and authentication of the information.

The process for verification and authentication, and the subsequent issue of a certificate is a responsibility of the Registrar General's Office.

This online application was cleared through the Federal Privacy Commissioner prior to its implementation

(2) Urban Services and the Registrar General's Office are not aware that any breaches of privacy are occurring.

Tuggeranong Community Arts Association (Question No 715)

Mr Cornwell asked the Minister for Arts and Heritage, upon notice:

In relation to Tuggeranong Community Arts Incorporated's 2002 Annual Report (given that Tuggeranong Community Arts Association is in receipt of significant government funding).

(1) Can an explanation be given as to why the Association's 'Receivables' increased from $27,093 in 2001 to $186,391 in 2002 (page 32 of 2002 Annual Report - Statement of Financial Position), an increase of almost 700%;

(2) Can an explanation be given as to the factors that have caused the Association's 'Cash assets' to decrease from $105,628 as at 31 December 2001 to $27,267 as at 31 December 2002 (page 32 of 2002 Annual Report – Statement of Financial Position), a decrease of around 400%.

Mr Wood: The answer to both the member's questions is as follows:

The Tuggeranong Community Arts Association Inc is an independent organisation that is responsible for its own Annual Report. The organisation is an incorporated association under the ACT Associations Incorporation Act 1991. This legislation requires the Association to lodge annual returns, including audited statement of its accounts, to the ACT Registrar Generals Office.

The Association has satisfactorily acquitted its 2002 multiyear funding from the Funding Program. It also generates significant activity beyond the level of ACT Government funding.

I feel certain that this successful arts body would willingly respond to questions arising from its Annual Report.

TOCTAX revenue
(Question No 717)

Mr Cornwell asked the Treasurer, upon notice:

In relation to the TOCTAX listed under 'Other Taxes" in Table 5.2.4, 2003-04 Budget Paper 3, page 91:

(1) What is the source of this tax revenue;

(2) What is the reason for the revised increase in revenue from this tax, from $319,000 in 2002-03 (2002-03 Budget Paper 3, page 88) to $415,000 in 2002-03 (2003-04 Budget Paper 3, page 91);

(3) What is the reason for the revised increase in revenue from this tax, from $329,000 in 2003-04 (2002-03 Budget Paper 3, page 88) to $355,000 in 2003-04 (2003-04 Budget Paper 3, page 91).

Mr Quinlan: The answer to the member's question is as follows:

(1) TOCTAX revenue is payment from agencies subjected to the National Tax Equivalent Regime (NTER). The amount collected is the equivalent amount that would have been paid in income tax and hence is related to the expected profitability of the agency. In this case, there is only one agency currently expected to pay the income tax equivalent and that agency is ACTTAB.

(2) The revised increase of TOCTAX from $319,000 (2002-03 BP3, page 88) to $415,000 (2003-04 BP3, page 91) for 2002-03 result is due to better than expected financial performance (compared to previous budget) by Territories Owned Corporations that are subjected to NTER.

(3) The revised increase of TOCTAX from $329,000 (2002-03 BP3, page 88) to $355,000 (2003-04 BP3, page 91) for 2003-04 result reflects updated information since the preparation of the 2002-03 Budget. Please note that TOCTAX revenue is expected to reduce from $415,000 in 2002-03 to $355,000 in 2003-04 due to an anticipated more competitive operating environment for the agencies subjected to NTER.

Fees and charges—traffic fines
(Question No 718)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to the initiative for additional revenue from the increase in fees and charges for Parking and Traffic Penalties as per 2003-2004 Budget Paper 3, page 90:

(1) What are the current charges per transaction and by type for the various parking and traffic penalties included in the above initiative, and including the use of a hand held phone whilst driving;

(2) What are the proposed new charges per transaction and by type for the items listed in (1) above;

(3) What percentage of the forecast increase in revenue from parking fines of $0.447 million in 2003-04 (Budget Paper 3, page 99) is proposed to be from parking fines issued as the result of the introduction of pay parking in Belconnen, Tuggeranong and Barton.

Mr Wood: The answer to the member's question is:

(1) & (2) The penalty amounts for each offence under the road transport law (parking and traffic penalties) are as per the Road Transport (Offences) Regulations 2001. Authorised versions of the Road Transport (Offences) Regulations 2001 are available on the ACT legislation register at www.legislation.act.gov.au .

The following table provides an indicative comparison between the amounts applicable from 7 July 2003 and those applicable before that date.

Typical ACT Offence - provision and short description	Penalty ($) prior to 7 July 2003	Penalty ($) from 7 July 2003
Bike rider not wear helmet	45	47
Disobey no parking sign	63	66
Drive motor vehicle towing more than 1 vehicle	67	70
Rear lights not on/visible	70	74
Stop in loading zone	86	90
Drive vehicle with TV/VDU image visible	95	99
Drive moving bus with doors opened	111	117
Exceed speed limit by £ 15 km/h	118	123
Not move out of path of police /emergency vehicle	141	147
Not keep left of median strip	157	164
Not turn left from far side of road	165	173
Exceed speed limit by >15 km/h but £ 30 km/h	188	197
Not stop before lights (twin red lights)	200	209
Remove or deface infringement notice on vehicle	205	215
Stop on or near children's crossing	210	220
Not stop at stop line at red arrow	211	221
Seatbelt not adjusted/fastened (driver)	220	230
Drive/tow vehicle with insecure load	263	275
Unlicensed driver/rider	336	351
Insert prohibited thing into ticket machine	355	372
Burnout	368	385
Use unregistered/suspended vehicle	428	448
Aggravated burnout	473	495
Exceed speed limit by > 30 km/h but £ 45 km/h	524	549
Sell/offer for sale/buy traffic offence evasion device	1089	1140
Exceed speed limit by > 45 km/h	1447	1515

The penalty for using a hand held mobile phone while driving was increased for $118 to $220 on 7 July 2003 and the offence now attracts 3 demerit points.

(3) 33.5%.

Fees and charges
(Question No 719)

Mr Cornwell asked the Attorney-General, upon notice, on 17 June 2003:

In relation to the initiative for additional revenue from the increase in fees and charges for Regulatory Services as per 2003-04 Budget Paper 3, page 90:

(1) What are the current charges per transaction and by type for births, deaths and marriages, land titles, and business names and associations;

(2) What will the new charges be per transaction and by type for the items listed in (1) above;

(3) What is the total estimated increase in revenue from 2002-2003 to 2003-2004 as a result of the increased fees and charges above.

Mr Wood: The answer to the member's question is as follows:

(1) and (2) The information requested is attached hereto.

(3) The estimated/projected total revenue increase from 2002-2003 to 2003-2004 as a result of the increased fees and charges is $296,095.00, based upon a sustained level of business activity.

Attorney-General (Determination of Fees and Charges for 2003/2004) – 2003 (No 1)

Adoption Act 1993
Associations Incorporation Act 1991
Business Names Act 1963
Births, Deaths and Marriages Registration Act 1997
Instruments Act 1933
Land Titles Act 1925
Registration of Deeds Act 1957

Legislative Authority *Adoption Act 1993*		
Fee payable for the purposes of Regulation 24(3)(b)	$30.00	$ 31.00
Legislative Authority *Associations Incorporation Act 1991*		
For incorporation of an association and issue of a certificate of incorporation by the Registrar-General under section 19	$114.00	$ 117.00
For amalgamation of 2 or more incorporated associations and issue of a certificate of incorporation by the Registrar-General under section 27	$114.00	$ 117.00
For inspection or search, under section 11, of a register or document kept by the Registrar-General where the register or document is kept in paper form	$18.00	$ 18.00
For inspection or search, under section 11, of a register or document kept by the Registrar-General where the register or document is kept in electronic form and a copy of the electronic record is made for the purpose of the search	$18.00	$18.00
For the issue by the Registrar-General of a document or a copy of a document under section 11	$18.00	$ 18.00
For lodgement of an application for the reservation of a name under section 37	$26.00	$ 27.00
For lodging, under section 59, a notice of appointment of a public officer or for lodging, under section 59, a notice of the change of address of a public officer	Nil	Nil

For lodging, under section 62, a notice of a person becoming a committee member, or of an office of a committee member becoming vacant or of a member of a committee changing his or her address	Nil	Nil
For lodgment, under section 59, of a notice of appointment of a public officer or for lodging a notice of the change of address of a public officer more than 1 month after the appointment or change of address (late lodgement)	$26.00	$ 27.00
For lodgment, under section 62, of a notice of a person becoming a committee member, or of an office of a committee member becoming vacant or of a member of a committee changing his or her address more than 1 month after the occurrence of those events (late lodgment)	$26.00	$ 27.00
For lodgement of an annual return under section 79	$26.00	$ 27.00
For lodgment, under section 79, of an annual return after the period of 6 months beginning at the end of the financial year of the association (late lodgment)	$52.00	$ 53.00
For lodgement, under section 33, of a notice of a special resolution to alter the rules of an association	$26.00	$ 27.00
For lodgement, under section 33, of a notice of a special resolution to alter the rules of an association more than 1 month after the resolution was passed (late lodgment)	$52.00	$ 53.00
For any other approval given or act done by the Registrar-General for the purposes of the Act and for which a fee is not elsewhere provided [paragraph 125(1)(e)]	$26.00	$ 27.00

Legislative Authority *Business Names Act 1963*

For an application for registration of a business name under section 7	$114.00	$ 120.00
For lodging an application for the consent of the Minister under section 9 (3) for the registration of a business name	$29.00	$ 30.00
For lodging an application for renewal of registration	$93.00	$ 100.00
For lodging with the Registrar-General a statement under section 12, not including statements required by section 12 (1) (b) or 12 (3)	$6.00	$ 6.00
For inspecting a document lodged with the Registrar-General under section 22	$6.00	$ 6.00
The lodgement, or late lodgement, of a statement with the Registrar-General pursuant to this Act:		
(i) if lodged within 1 month after the prescribed time	$16.00	$ 16.00
(ii) if lodged more than 1 month after the prescribed time	$35.00	$ 36.00
The production by the Registrar-General of the register, a statement or other document kept by or in the custody of the Registrar-General	$13.00	$ 13.00
The issue by the Registrar-General of a statement or other document or a copy or extract of that statement or document	$11.00	$ 11.00
Any approval given, or other act done, by the Registrar-General for the purposes of this Act for which a fee is not otherwise determined	$6.00	$ 6.00

Legislative Authority *Births, Deaths and Marriages Registration Act 1997*

Application to Register Change of Adult's Name section 18	$74.00	$ 76.00
Application to Register Change of Child's Name section 19	$42.00	$ 73.00
Request for Change of Name to be noted in Birth Record section 21	$30.00	$ 32.00
Application to alter Register to Record Change of Sex section 24	$30.00	$ 32.00
Access to the Register section 42	$30.00	$ 32.00
Search of the Register including issue of a Certificate section 43	$30.00	$ 32.00
Search of the Register including issue of a Certificate or extract from, or entry in an index or register or notifying the result of a search by Aboriginal and Torres Strait Islander people affected by separation from their families and communities	Nil	Nil

Legislative Authority *Instruments Act 1933*

Registration of:		
a bill of sale under subsection 9 (1A) or a transfer thereof under subsection 13 (2).	$34.00	$ 35.00
a lien under subsections 17 (2) or 25 (2) or a transfer thereof under subsections 21 (2) or 29 (2).	$34.00	$ 35.00
a mortgage under subsection 27(2) or a transfer thereof under subsection 29(2)	$34.00	$ 35.00

Search any book, index or register kept pursuant to the Act under subsection 36 (1)	$9.00	$ 9.00
Office copy or extract of any instrument or document under subsection 36 (2)	$11.00	$11.00
Legislative Authority *Land Titles Act 1925*		
issue of duplicate grant under subsection 17(2)	$78.00	$ 80.00
issue of certificate of title under subsection 44(1)	$78.00	$ 80.00
issue of replacement certificate of title under 62A	$78.00	$ 80.00
lodgement of map or plan for purposes of 64 or purposes of Land Titles (Unit Titles) Act 1970	$303.00	$ 311.00
stationery for map or plan under subsection 64 (1A)	$11.00	$ 11.00
issue of certified copy of part of the Register under subsection 65(1)	$18.00 per page, to a max of $54.00	$ 18.00 per page, to a max of $54
inspection of Register under subsection 66(1)	$18.00	$ 18.00
furnishing a copy, other than a certified copy, of information contained in the Register, under section 67	$11.00	$11.00
lodgement of memorandum of transfer under 73	$154.00	$ 160.00
lodgement of lease under section 82	$78.00	$ 80.00
lodgement of memorandum of surrender under subsection 86(1)	$78.00	$ 80.00
lodgement of memorandum of variation under section 87C	$78.00	$ 80.00
lodgement of sub-lease under section 88	$78.00	$ 80.00
lodgement of memorandum of mortgage under subsection 92(1)	$78.00	$ 80.00
lodgement of memorandum of encumbrance under subsection 92(2)	$78.00	$ 80.00
lodgement of memorandum of postponement of mortgage under subsection 92A(2)	$78.00	$ 80.00
lodgement of discharge of mortgage or encumbrance under section 101	$78.00	$ 80.00
lodgement of memorandum of variation of mortgage under section 101A	$78.00	$ 80.00
lodgement of discharge of mortgage by court order under section 103(3)	$78.00	$ 80.00
lodgement of memorandum of provisions under section 103A	$76.00	$ 80.00
lodgement of memorandum of easement under section 103B	$78.00	$ 80.00
lodgement of application of transfer of easement in gross under section 103C	$78.00	$ 80.00
lodgement of application for transfer of all easements in gross relating to a specified public utility business under section 103C	$78.00	$ 80.00
lodgement of memorandum of extinguishment of easement under section 103E	$78.00	$ 80.00
lodgement of memorandum of variation of easement under section 103F	$78.00	$ 80.00
lodgement of memorandum of incorporeal right under section 103G	$78.00	$ 80.00
lodgement of memorandum of extinguishment of incorporeal right under section 103H	$78.00	$ 80.00
lodgement of caveat under section 104A	$155.00	$ 160.00
lodgement of application to remove caveat under subsection 107(1)	$78.00	$ 80.00
lodgement of revocation of power of attorney under section 131	$78.00	$ 80.00
lodgement of application to register transmission on bankruptcy or insolvency under section 132	$78.00	$ 80.00
lodgement of application to register transmission on death of proprietor under section 135	$78.00	$ 80.00
lodgement of declaration by executor under section 138B	$78.00	$ 80.00
lodgement of application to hold a duplicate of a registered instrument under subsection 164A(1)	$13.00	$ 13.00
lodging a request for approval for printing of a document bearing a representation of the Registrar-General's seal	$78.00	$ 80.00
examining a document which has been printed without the Registrar-General's seal	$78.00	$ 80.00
subject to section 108D, lodging for registration, or entry on the Register, any other document that affects land under the Act	$78.00	$ 80.00

The determined fee is $0, in respect of an activity being the lodgement or search of any Plan, Crown Lease, document, dealing or application concerning an area of land designated by the Territory Plan as a Local Centre (Commercial "D") or an area of land adjacent to a Local Centre, where the Chief Executive, Department of Urban Services, has certified that activity elates to a local centre development referred to in the Land referred to in Regulation 13A in the Land (Planning and Environment) Regulations	Nil	Nil
Lodgement of request to register a community title scheme under Section 16(1) Community Title Act 2001	$78.00	$ 80.00
Lodgement of Management Statement under Sections 16(2) and 82(3)(b) Community Title Act 2001	$78.00	$ 80.00
Lodgement for registration of a Master Plan under Section 16(2) Community Title Act 2001	$303.00	$ 311.00
Lodgement of a request for registration of an amendment of a community title scheme under Section 25 Community Title Act 2001	$78.00	$ 80.00
Lodgement for registration of an order of the Supreme Court for amendment of a community plan under Section 27(9) Community Title Act 2001	$78.00	$ 80.00
Lodgement for registration of a by-law under Section 50(1) Community Title Act 2001	$78.00	$ 80.00
Lodgement of an application for registration of a change of address for service of the body corporate under Section 59(2) Community Title Act 2001	$78.00	$ 80.00
Lodgement of notice of the appointment, removal or replacement of an administrator under Section 61(7) Community Title Act 2001	$78.00	$ 80.00
Lodgement of a request to record the amalgamation of community title schemes under Section 82(1) Community Title Act 2001	$78.00	$ 80.00
Lodgement of a request to record the termination of a community title scheme under Section 90(1) Community Title Act 2001	$78.00	$ 80.00

Legislative Authority *Registration of Deeds Act 1957*

Registration of a deed under subsection 4 (1)	$74.00	$ 76.00
Issue of certified copy of a deed under section 7	$18.00 per page, to a max of $54.00	$ 18.00 per page to a max of $54

Gungahlin bike path (Question No 721)

Mr Cornwell asked the Minister for Urban Services, upon notice:

> In relation to the bike path between Gungahlin and the City and further to your answer to part 4 of Question on notice no 576, where I asked what the new completion date for the project was. The response stated the reasons for the delay but did not given a completion date. What is the revised completion date for this project?

Mr Wood: The answer to the member's questions is as follows:

> The revised completion date is June 2004.

Aged Care Advisory Council (Question No 722)

Mr Cornwell asked the Minister for Health, upon notice:

Concerning the new Aged Care Advisory Council:

(1) Was there any cost to the Government in relation to the formation of the Aged Care Advisory Council, and if so, what was that cost;

(2) Will there be sitting fees paid to members of the Aged Care Advisory Council and, if so, what is the forecast cost;

(3) In regards to the choice of members of the Aged Care Advisory Council, was any consideration given to ensuring an equal representation of males to females upon the Council, and if so, why is there a gender imbalance;

(4) If no consideration was given in regards to gender equity, why not.

Mr Corbell: The answer to the member's question is:

(1) There has been no considerable cost to the ACT Government in establishing the Aged Care Advisory Council (ACAC). The major cost was placing the advertisement in the Canberra Times and regional newspapers seeking expressions of interest. The ACAC will be reimbursed for parking fees when attending meetings, as well as taxi vouchers for those members who require transport to meetings.

(2) Members of the ACAC will not be paid sitting fees.

(3) As set out in the Cabinet Handbook, the ACT Government must take into account issues of gender equity when establishing boards, committees and advisory groups or councils. The ACAC is comprised of seven members, six females and one male. A gender imbalance exists in this case as only two applications were received from males, with one of these applications being withdrawn at the applicant's request.

(4) As noted in question (3), issues of gender equity were considered in establishing the ACAC, as required in the Cabinet Handbook.

Red Hill cattle
(Question No 724)

Mr Cornwell asked the Minister for Environment, upon notice:

(1) Have the cattle been removed from the Red Hill Nature Reserve and if so, why;

(2) Was the removal of these animals carried out at the behest of any person or party:

(3) What steps now will be taken to reduce bushfire risk on Red Hill previously provided by these cattle and what will be the cost of the new steps compared with use of cattle.

Mr Stanhope: The answer to the member's question is as follows

(1) The cattle were removed from the Reserve on 7 May 2003. They had been grazing on Red Hill Nature Reserve for a period of ten weeks which was the maximum period for relief grazing that was agreed to with the lessee. At the time of removal, the stock food had been utilised to a level where further grazing had the potential to cause environmental harm.

(2) The cattle were removed from the Reserve by the owner at the request of Environment ACT and in accordance with the agreement reached prior to the grazing commencing.

(3) Perimeter slashing will be undertaken in accordance with the Bushfire Fuel Management Plan 2002 – 2004. The need for further grazing to reduce fire fuel levels will be considered after spring grass growth has been assessed. There is no additional cost associated with this course of action.

Residential aged care facilities (Question No 727)

Mr Cornwell asked the Minister for Planning, upon notice:

Concerning residential aged care facilities, is land set aside for such facilities:

1) Near John Knight Park, Belconnen; and

2) Gungahlin Town Centre.

Mr Corbell: The answer to the member's questions is as follows:

1) The Belconnen Lakeshore Masterplan identifies Block 6 Section 87 Belconnen as a possible site for aged persons' facilities.

A Planning Study has just been completed that looks at the suitability of the site for a retirement complex. The Study identifies about 6 hectares on the corner of Aikman Drive and Ginninderra Drive Belconnen as a suitable site for a 100 bed hostel/nursing home and 150 aged persons' units.

2) A number of sites have been identified in the Gungahlin Town Centre as being suitable for aged care facilities. The former Gungahlin Development Authority has had ongoing discussions with potential providers. It is planned for the release of suitable sites in the near future.

The pilot public sector land development project, Yerrabi 2, has provision for up to 12 blocks suitable for older persons housing. These blocks will be sold in August this year.

Housing—guidelines (Question No 730)

Mr Cornwell asked the Minister for Planning, upon notice:

Further to your comments in The Canberra Times on 5 June 2003, page 6 that "PALM was in the process of developing guidelines for supportive housing but they were yet to be finalized": Who is conducting the study?

(1) When is it anticipated these guidelines will be available?

(2) Can a copy be provided to interested parties, including myself?

(3) Why were these guidelines imposed upon the St Anne's Convent development in Campbell before they were finalised and approved?

Mr Corbell: The answer to the member's questions is as follows:

(1) The Supportive Housing Guidelines are being developed by ACT Planning and Land Authority (ACTPLA) and will be available shortly. It is intended that they be released initially as an interim guideline and made available for comment by interested parties. It is anticipated that they will then be formally adopted as a planning guideline under the Territory Plan.

(2) Interim Guidelines are listed on ACTPLA's website and available to the public. Members of the Assembly or public can also request a hard-copy version to be forwarded to them. Comments on listed interim guidelines may be made to ACTPLA.

(3) The Guidelines are designed to assist proponents and planners in the interpretation of the Community Facility Land Use Policy as it relates to Supportive Housing. Any proposed use of land with a Community Facility land use policy is only permitted where it meets the restrictions on the use of land contained in the Territory Plan. The proponents of the St Anne Convent site required assistance in interpreting the controls related to Supportive Housing.

Residential aged care facilities (Question No 733)

Mr Cornwell asked the Minister for Planning, upon notice:

In relation to the provision of residential aged care facilities or aged care units, what are the proposals for new or extension of existing such services including block and section and estimated number of people to be accommodated in:

(1) Woden Valley;
(2) Weston Creek;
(3) Tuggeranong;
(4) Belconnen; and
(5) Gungahlin.

Mr Corbell: The answer to the member's question is as follows:

I have been advised by the Land Development Agency and the ACT Planning and Land Authority that a range of proposals are being considered for new or extensions to existing residential aged care facilities or aged care units.

Details of the proposals are attached.

In some instances, the land use policy for the sites under consideration would require a variation to the Territory Plan. Some proposals are at a formative stage and the numbers are unknown, or may change over time or may not proceed.

Area	Block	Section	District	Extension /new facility	Size (Hostel beds & Aged persons' Units)
(1) Woden Valley	7	501	Isaacs	New	4 units
	53	8	Garran	New	65 beds & 18 units
	Part 12	28	Hughes	Extension	Approximately 40 units
	6	47	Woden	New	24 units
(2) Weston Creek	2	59	Weston	Extension	40 beds
	70	11	Chapman	New	42 units
	9	13	Fisher	New	Not known at this stage
(3) Tuggeranong	12 & 13	56	Monash	New	Mixed development including 50 units
	Part 3	53	Monash	Extension	Not known at this stage
	Sites 14 & 19		Greenway	New	Not known at this stage
	12	226	Gowrie	New	20 units
	10	228	Conder	New	8 Units
(4) Belconnen	Part 6	87	Belconnen	New	100 beds & 150 units
	1& 4	4	Bruce	New	100 beds & 86 units
	7	85	Kaleen	New	37 units
	21	2	Page	Extension	25 units
	86	24	Stirling	Extension	25 units
	6	33	Bruce	New	24 units
	23	2	Page	Extension	18 units
	21/22	1	Aranda	New	8 units
(5) Gungahlin					

Housing—waiting lists (Question No 734)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to waiting lists for ACT Housing properties and further to your reply to Question on notice no 647 (Notice Paper of 6 May 2003):

(1) Of the 3 520 residents on the public housing waiting list as at 1 May 2003, including:

(a) Belconnen – 924;
(b) Gungahlin –173;
(c) Tuggeranong – 784;
(d) Inner North – 677;
(e) Inner South – 304;

Please provide a further breakdown, for each area above, of these figures in terms of:

(i) nature of preferred property, as sought;
(ii) waiting periods since first notice of application;

(iii) clarification as to whether this list includes current residents seeking transfers and, if so, a breakdown distinguishing between each category for each area.

(2) Please provide comparable figures for each of the following areas as at 1 January, 2003, 2002, 2001, 2000, 1999 and 1 July, 2002, 2001, 2000, 1999:

(a)Belconnen;
(b) Gungahlin;
(c) Tuggeranong;
(d) Inner North;
(e) Inner South.

Mr Wood: The answer to the member's question is as follows:

After careful consideration of the question, and advice provided by my Department, I have determined that the information sought is not in an easily retrievable form, and that to collect and assemble the information sought solely for the purpose of answering the question would be a major task, requiring a considerable diversion of resources. In this instance, I do not believe that it would be appropriate to divert resources from the provision of direct services to clients, for the purposes of answering the Member's question. The question requires specific details of each application at 6 monthly intervals over 5 years.

Information on Housing Stock and New Applicants by Area is available in the Department of Disability, Housing and Community Services Ownership Agreement 2003-04, and in the Ownership Agreements previously containing ACT Housing. The Member was provided a copy of the 2003-04 Ownership Agreement with the 2003-04 Budget Papers on 6 May 2003.

Honour Walk memorial (Question No 735)

Mr Stefaniak asked the Minister for Urban Services, upon notice:

In relation to the Honour Walk and further to your reply to Question on notice no 532:

(1) Has a revised memorials policy been adopted yet, if so, please provide a copy or outline the details in the new policy, if not, why not and when will it be finalised.

(2) What will or has happened to the $24,000 outstanding authorisation for the Honour Walk.

Mr Wood: The answer to the member's questions is as follows:

(1) No. The memorials policy is still being finalised. The delay was caused by priority being given to bushfire recovery tasks, with completion now expected by September 2003. The policy will be released publicly at that time, with a copy provided to all MLA's.

(2) The Honour Walk capital expenditure has been spent except for $23, 824, which remained unspent at the conclusion of the 2002-03 financial year. This amount remains available for this purpose during the current 2003-04 financial year.

Sportsground maintenance (Question No 738)

Mr Stefaniak asked the Minister for Sport, Racing and Gaming, upon notice:

In relation to sportsgrounds:

(1) Has the Government received any requests to bring back any of Canberra's low maintenance ovals to full maintenance, if so, which ovals have been highlighted and by whom i.e. individual or sporting group;

(2) Will the Government bring back any low maintenance to full maintenance in the 2003-04 financial year, if so, which ovals and why, if not why not;

(3) Will the Government revert any full maintenance ovals back to low maintenance in 2003-04, if so, which ovals and why.

Mr Wood, answering as the Minister responsible for these matters:

The answer to the Member's questions is as follows:

(1) No such requests have been received.

(2) No low maintenance ovals are proposed to be reinstated to full maintenance as there are insufficient funds available in the budget of Canberra Urban Parks and Places to permit this.

(3) It is not proposed to have any additional ovals revert to low maintenance.

Schools interest subsidy scheme (Question No 739)

Mr Pratt asked the Minister for Education, Youth and Family Services, upon notice:

In relation to the Interest Subsidy Scheme (ISS) used by non government schools:

(1) Which schools made use of the ISS in (a) 2000-01, (b) 2001-02 and (c) as at 31 May 2002-03;

(2) For what purpose was the ISS used in (a), (b) and (c) above;

(3) How much has the ISS cost the ACT Government in (a), (b) and (c) above;

(4) Will the scheme automatically end at the close of this financial year or will it be phased out over a period of time;

(5) What are the consequences in terms of financing for those schools that are currently utilising ISS for a loan that extends beyond the end of this financial year or from the date the scheme will end.

Ms Gallagher: The answer to Mr Pratt's question is:

(1) The list of schools accessing the ISS during the periods in question is given in Attachment 1.

(2) The purposes for which the ISS was used by the above mentioned schools are given in Attachment 1.

(3) The ISS has cost the ACT Government:-

In 2000-2001	$2 340 645.43
In 2001-2002	$2 140 164.15
As at 31 May 2003	$2 140 164.15
Total	$6 603 576.98

(4) The scheme is closed to new applications. Approved interest subsidies will continue to be paid until the loans reach their termination dates.

(5) See answer to question 4.

[*A list attached to the reply was lodged with the Chamber Support Office.*]

Road spikes
(Question No 740)

Mr Pratt asked the Minister for Police and Emergency Services, upon notice, on 18 June 2003:

In relation to road spikes:

(1) How many sets of road spikes are available to ACT Policing at any one time;

(2) When was the first set of road spikes purchased, how much did they cost and from where did the funds come from to purchase them;

(3) How many times have road spikes, since their inception, been used in the ACT in direct response to high speed car chases;

(4) On how many occasions, since their inception, could road spikes have been used but were not and why not;

(5) How effective does ACT Policing rate the use of road spikes;

(6) What are the rules and regulations for use of road spikes by police.

Mr Wood: The answer to the member's question is as follows:

(1) From available data, there are 36 sets of road spikes available for use by ACT Policing.

(2) The first road spike purchased occurred in June 2002 with a total purchase price of $5100

for 6 kits. This included 6 kits comprising of 3 road spikes, 1 replacement stick, a tray, cord reel and sleeve and equates to $212.50 per unit. The funds for this purchase came from the Traffic Operations Cost Centre.

(3) Until recently the data which you seek in relation to pursuits has not been readily retrievable from systems in use by ACT Policing. A process which will enable the extraction of statistics relating to the use of a tyre deflation device was implemented by ACT Policing on 31 May 2003.

(4) The data which you seek in relation to the use of tyre deflation devices is not readily retrievable from systems in use by ACT Policing.

(5) Whilst there is no statistical data from which the effectiveness of tyre deflation devices can be determined ACT Policing is of the opinion that the availability of such devices provide a valuable and relatively low risk option to police in situations where it is necessary to forcibly stop a motor vehicle.

(6) A tyre deflation device can only be used:

- by a member who has successfully completed an approved course;
- by a member who has been authorised to use a tyre deflation device by the Chief Police Officer by virtue of Section 81 of the Road Transport (General) Act 1999; and
- in compliance with the provisions of ACT Policing Practical Guide Use of Tyre Deflation Devices.

Obstetricians (Question No 742)

Mr Smyth asked the Minister for Health, upon notice:

In relation obstetrics:

(1) How many private obstetricians are operating in the ACT;

(2) How many babies were delivered in the ACT between 1 July 2002 and 31 May 2003;

(3) How many of those babies were delivered at (a) the Canberra Hospital (b) Calvary Hospital or (c) elsewhere;

(4) How many babies were delivered by private obstetricians in the ACT between 1 July 2002 and 31 May 2003

Mr Corbell: The answer to the member's question is:

(1) There are 12 private obstetricians operating in the ACT

(2) 4,328 babies were reported to have been delivered in the ACT between 1 July 2002 and 31 May 2003

(3)
(a) 1,800 babies of these babies were delivered at The Canberra Hospital

(b) 1,006 of these babies were delivered at Calvary Public Hospital

(c) 1,522 of these babies were delivered elsewhere (970 John James, 552 Calvary Private Hospital)

(4) 1,609 babies were reported to have been delivered by private obstetricians between 1 July 2002 and 31 May 2003

The figures quoted above are based on estimates provided by Hospitals in the ACT, final figures vary slightly when data verification processes are completed.

Erindale Library
(Question No 743)

Mr Smyth asked the Minister for Urban Services, upon notice:

In relation to the Erindale Library Refurbishment and further to Question on notice no 597.

(1) Further stages of this project were to be completed by June 2003. Can the Minister confirm that the Erindale Library Refurbishment will be completed by the end of this month and what is the expected completion date.

Mr Wood: The answer to the member's questions is as follows:

The refurbishment will be completed by the end of June with the exception of one item involving some plumbing at the front of the building. This work has been delayed for the convenience of customers entering the library while the new front entrance is also being completed. Work will commence on this last item shortly and be completed by 31 July.

Bushfires—free plant issues
(Question No 747)

Mr Smyth asked the Chief Minister, upon notice, on 18 June 2003:

In relation to the 2003 Bushfire Fire Plant Issue Scheme:

(1) On what date was this issue first raised as an initiative for the Budget;

(2) Did the Government receive representations from any individuals, organisations or Departmental officials to fund this initiative, if so, please provide supporting documentation;

(3) On what date was the final decision made to include this initiative in the Budget;

(4) Why was it decided to include this initiative in the Budget as part of the January bushfire recovery. Please provide any supporting documentation.

Mr Stanhope: The answer to the member's question is as follows:

(1) ACT Budget considerations are confidential.

(2) See (1).

(3) See (1)

(4) See (1)

Bushfires—rebuilding (Question No 749)

Mrs Dunne asked the Minister for Planning, upon notice:

In relation to people whose houses or other buildings were destroyed in the January bushfires:

1. How many have applied to rebuild their (a) houses or (b) other dwellings as at 31 May 2003:

2. How many applications have received all the approvals necessary to start rebuilding as at 31 May 2003:

3. How many applications are still waiting as at 31 May 2003 and what is the average waiting time for approval;

4. What has been the average time taken to rebuild (a) houses and (b) Government structures destroyed by the bushfires?

Mr Corbell: The answer to the member's question is:

As at May 2003:

1 (a) 61 development applications for new single houses to replace houses destroyed in the bushfires had been received.

(b) 8 other development applications for replacement housing had been received - 7 for dual occupancies and one for replacement of two units in a 14 unit ACT Housing complex.

2. 34 single house applications had received development approval. Of those, 18 had proceeded to building approval.

3 (a) 7 single house development applications were awaiting approval, and 5 dual occupancy development applications.

(b) Average time for single house development approvals: 10.8 business days.
Average time for dual occupancy development approvals: 23.5 business days.

4 (a) The average time to rebuild private houses is expected to be four to six months. The only new house to be completed to date, that of the Lucey's at Block 7 Section 22 Chapman, took 17 weeks from DA lodgment on 27 February 2003 to the issue of the Certificate of Occupancy, or 15 weeks from the Building Approval.

(b) The average time to rebuild Government structures is expected to be four to six months. No reconstruction is complete at this time.

Higgins shopping centre (Question No 751)

Mrs Dunne asked the Minister for Urban Services, upon notice:

In relation to the current Higgins Shopping Centre refurbishment.

(1) What safety mechanisms will be in place to protect residents who use Higgins shops during the upgrade;

(2) How will residents be inconvenienced during the upgrade;

(3) What is the completion date for the upgrade;

(4) How will the upgrade highlight the 'history of the complex and the achievements of the suburb's namesake, Justice Henry Bourne Higgins'.

Mr Wood: The answer to the member's questions is as follows:

(1) An approved Temporary Traffic Management Plan (TTMP) is in place for the construction period of the project. The TTMP sets out requirements for temporary fencing, signage, and temporary access ways.

(2) The required re-routing of access ways within the shopping centre during the various phases of construction will marginally inconvenience residents. There will also be intermittent noise from construction machinery. Some parking spaces will be closed and used as loading areas and a construction compound.

(3) Expected completion for the project is mid October 2003.

(4) The history of the complex and the achievements of the suburb's namesake, Justice Henry Bourne Higgins, will be incorporated into various functional and artwork elements within the centre. For example, an entry sign for the central courtyard will incorporate interpretative information about Justice Higgins. It will display seven oversized metal coins as a reference to the basic wage (seven shillings a day, Harvester judgement c.1907) that Justice Higgins helped establish.

Jamison shopping centre
(Question No 752)

Mrs Dunne asked the Minister for Urban Services, upon notice:

In relation to Jamison Shopping Centre Refurbishment

(1) Has this project been completed, if so, when, if not, why not and when will it be completed.

(2) Please provide a list of the works undertaken as part of this project.

(3) What was the total cost of this project.

(4) $800,000 was allocated to this project, what will happen to any remaining funds, if the project cost more, where did additional funds come from.

Mr Wood: The answer to the member's questions is as follows:

(1) Project has been completed except for installation of additional lighting to Wiseman Street, delayed due to difficulty in sourcing poles. Project is expected to be complete by the end of July 2003.

(2)
- Replacement of selected pedestrian pavements and steps;
- Installation of new street furniture, handrails and lighting;
- Replacement of bus shelter and wind breaks;
- Installation of overhead shelters to an entrance; and
- Installation of new trees;
- Improvements to disability access;
- New pedestrian crossover at Bowman Street;
- Incorporation of artworks into selected furnishings and structures.

(3) $805,000

(4) There are no remaining funds. Additional funds will come from the Landscape Upgrade Program.

Oaks Estate bus services
(Question No 753)

Mrs Dunne asked the Minister for Planning, upon notice:

In relation to bus services to Oaks Estate:

(1) What bus services are available for use of residents of Oaks Estate to other parts of Canberra;

(2) Is there a service provided to Oaks Estate residents via Fyshwick, if so, when did this service commence, if not, why not.

(3) What is the frequency of all services provided to Oaks Estate residents;

(4) What is the current level of patronage for each service provided.

Mr Corbell: The answer to the member's questions is as follows:

(1) Deane's Buslines of Queanbeyan provides bus services, including services to Canberra, to Oaks Estate residents.

(2) Yes. Residents of Oaks Estate have access to the Deane's Buslines services travelling into Canberra along Canberra Avenue where passengers can use the bus stops adjacent to Fyshwick. This service has operated since 1995.

(3) Deane's Buslines provides a loop services through Oaks Estate interchanging with other Deane's services travelling to and from Woden and the City.

This service operates on Monday to Friday at 8.04am; 8.44am; 10.49am; 12.19pm; 2.29pm; and 4.24pm. Residents can also access other Deane's services by walking to nearby bus stops in Queanbeyan

Deane's Buslines provides a school bus service to students residing in Oaks Estate. The service interchanges with other Deane's school services and provides access to a range of ACT schools.

(4) Deane's Buslines indicates that patronage levels average one (1) passenger per 10 services based on 120 passengers over the period 1 January 2002 to 31 December 2002.

AUSTOUCH kiosks (Question No 754)

Mr Smyth asked the Minister for Urban Services, upon notice:

In relation to AUSTOUCH Kiosks.

(1) Is there still a contract/property agreement between the ACT Government and North Communications Australia (NCA) for the AUSTOUCH Kiosks;

(2) If so, what were the costs of the service provided by NCA for the financial years:

(a) 2000-01;
(b) 2001-02;
(c) to date in 2002-03.

(3) How many AUSTOUCH Kiosks are there across Canberra;

(4) What is the average monthly use of AUSTOUCH Kiosks.

Mr Wood: The answer to the member's questions is as follows:

(1) There is currently no valid agreement or contract between the ACT Government and North Communications Australia (NCA). The AUSTOUCH Kiosks were decommissioned in February 2003.

(2) The costs of service provided by NCA was for the listed Financial Years:

(a) 2000-01: $152,275.49
(b) 2001-02: $154,027.75
(c) 2002-03: $118,637.19

(3) There are currently no AUSTOUCH Kiosks in Canberra. 18 Kiosks were decommissioned in February 2003. These Kiosks were located in shopping centres, bus interchanges, Shopfronts, a Library, a Tourist Centre and a Government Office.

(4) (a) Average number of transactions per month Jan 02 - Jan 03 = 355
(b) Average value of transactions per month Jan 02 - Jan 03 = 80,000
(c) Average number of AUSTOUCH users per month (including information requests) = 3800
Note: A 'user' is defined as an activation of the kiosks, such as simply touching the kiosk screen.

Motor vehicle registration revenue (Question No 755)

Mr Smyth asked the Minister for Urban Services, upon notice:

In relation to Vehicle Registration

(1) How much revenue was collected in car registrations in the ACT for the financial years (a) 2000-01 (b) 2001-02 (c) and to date in 2002-03;

(2) What is the value of revenue forgone due to the application of pensioner concessions for vehicles registered in the ACT;

(3) How much revenue has been collected through the administrative charge for vehicles that are registered for less than 12 months.

Mr Wood: The answer to the Mr Smyth's questions is as follows:

(1) The amount of revenue collected in car registrations is as follows

(a) 2000-01	$50.44m
(b) 2001-02	$58.03m
(c) to date in 2002-03	$57.61m

(2) The total value of revenue foregone due to the application of pensioner concessions for vehicles registered in the ACT was $1.45m as at the end of May 2003.

(3) The revenue collected through administrative charges in 2002-03 for vehicles that were registered for less than 12 months is $3.97m as at the end of May 2003.

Youth smoking
(Question No 774)

Mrs Burke asked the Minister for Health, upon notice:

In relation to youth smoking:

(1) What are the current statistics regarding the number of youths that smoke in the ACT, please provide a breakdown in gender;

(2) How will the Government monitor the success of its new Youth Smoking Prevention Project;

(3) How will this project, in theory and practice, break the cycle of smoking among ACT youths;

(4) Will this campaign be linked or combined with a health and fitness campaign, if so, please provide details, if not, why not.

Mr Corbell: The answers to the member's questions are:

(1) The 1999 ACT Secondary Student Alcohol and Drug Survey showed that over 20% of ACT students aged 12 to 17 years reported having smoked in the last week. Twenty-three per cent of females had smoked in the last week, compared with 18 per cent of males.

Preliminary results from the 2002 Secondary Student Alcohol and Drug Survey, currently in preparation for release, indicate that there has been a decline in the prevalence of recent smoking, particularly in females aged 12 to 17 years.

(2) A management committee with membership from ACT Health and The Cancer Council ACT will closely monitor the project.

In addition The Cancer Council ACT will arrange an independent evaluation of the process, impact and outcomes of the project. The management committee will supply progress reports to the ACT Chief Health Officer on a regular basis.

(3) The project is based on the successful 'Smarter than Smoking' program developed in Western Australia more than 5 years ago.

In that state, the program was shown to have reduced smoking rates in the target group from 27% in 1996, to 21% in 1999. WA had the lowest smoking prevalence of all Australian States amongst 12 to 17 year olds in 1999.

The ACT project will emulate and improve on the Western Australia success through the use of multi-faceted approaches and direct youth input to project planning, implementation and evaluation.

The project will enhance our anti-smoking strategy which already provides strong anti-smoking legislation, QUIT programs, Health Promoting Schools programs and continual efforts by non-government organisations such as The Cancer Council ACT, National Heart Foundation and others to help support healthy lifestyles.

(4) The project is not linked at this stage to any one health and fitness campaign. It is part of our on-going effort to improve the health and well being of Canberra's citizens and in this case Canberra's youth.

The ACT Health Action Plan 2002 sets out priorities to be addressed including reducing smoking rates in youth. This project represents our promise to do that. Because of the nature and scope of the project there is great potential to link it into other lifestyle related areas promoting physical activity, nutrition, self-esteem and resilience like ACT Health's 'Vitality' campaign. I expect the project will indeed do this as it evolves, just as it has done in Western Australia.

Northbourne Flats (Question No 775)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to the Northbourne Flats upgrade:

(1) From where in the budget will the funds for this upgrade come from;

(2) How much of the $3.8m allocated will be spent on (a) fire safety (b) upgrades other than fire safety;

(3) Is the entire renovation being paid for with money previously allocated to fire safety;

(4) What new measures will be introduced as part of the fire safety upgrade;

(5) Is there a forecast (a) start date and (b) completion date (date, month and year) for this project, if not, why not.

(6) How many tenants currently reside at Northbourne Flats;

(7) Are any of the 107 units currently empty, if so, why, if not, how will you reaccommodate tenants during the upgrade.

Mr Wood: The answer to the member's question is as follows:

(1) Housing and Community Services ACT Capital Program.

(2) (a) None.
(b) The $3.8m budget allocation includes internal to unit improvements, and common services such as laundry upgrades, hydraulic services upgrades and landscape/ lighting improvements.

(3) No.

(4) No new fire safety measures are being introduced as part of the $3.8m upgrade.

(5) (a) Proposed start date is August 2003, depending on attaining vacant possession of an entire block of units
(b) Completion date estimated at late 2004 – again largely dependent on temporary relocation of tenants to alternative accommodation, while blocks are upgraded.

(6) As at 26 June 2003 there were 111 tenancies at the site.

(7) Yes, currently there are 4 vacant units on site, which are vacant in order to upgrade them or to provide temporary accommodation for tenants during the refurbishment.

Housing—maintenance
(Question No 776)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to maintenance requests in public housing and further to your reply to Question on notice no 699:

(1) Your answer states that "… the data available includes works raised but not requests which may have been rejected or included in future programmed works". What is meant by the term "works raised";

(2) How many works had been raised in ACT Housing as at 31 May 2003;

(3) Please provide details of the circumstances in which maintenance requests are "rejected".

Mr Wood: The answer to the member's question is as follows:

(1) The term "works raised" indicates work recorded on Housing ACT's computer system

(2) 51,692

(3) Where the requests do not comply with Housing ACT's standards, eg requests for alternate appliances (such as a request to substitute a working gas heater for an electric heater), or where non health and safety tenant responsible maintenance is identified, as this is the responsibility of the tenant.

Urban Services—projects
(Question No 777)

Mr Stefaniak asked the Minister for Urban Services, upon notice:

In relation to Minor New Works in Sport and Recreation and further to your response to Question on notice no 533...

(1) What are the completion dates for each of the five projects listed in part (2) of your response;

(2) In the December Quarterly Capital Works progress report the figures reveal that $79,000 of the $250,000 allocated to Minor New Works in Sport and Recreation have been spent, your response to Question on notice 533 outlines the actual expenditure as $48,383, why is there a discrepancy of $30,617.

Mr Wood: The answer to the member's questions is as follows:

(1) The completion dates of the listed projects are as follows:

- Contribution to Department of Education, Youth and Family Services project for improved parking areas to service adjoining schools and sportsgrounds at Waramanga and Kaleen – two projects. Waramanga was completed in mid-February 2003 and Kaleen is due for completion in mid-August 2003.
- Replacement of dilapidated fence around O'Connor Enclosed Oval. This project was completed on 27 March 2003.
- Refurbishment of office area – Manuka Swimming Pool. This project is due for completion in August 2003.
- Stabilisation and rectification of cracking in walls at Manuka Swimming Pool. This project was completed on 7 April 2003.
- Minor irrigation improvements at Page Oval. This project was removed from the program as a result of changed priorities.

(2) The actual expenditure to 31 December 2002 is in fact $79,000 and the figures in the December Quarterly Capital Works progress report are correct. The figure of $48,383 as advised in the response to QON 533 was incorrect. I apologise for this error in the reported amount.

Phillip Oval
(Question No 778)

Mr Stefaniak asked the Minister for Urban Services, upon notice:

In relation to Phillip Oval:

(1) Who currently owns Phillip Oval;

(2) Has the Minister been advised of any plans to sell Phillip Oval;

(3) Has the Minister been advised of any requests to change the use of the Phillip Oval.

Mr Wood: the answer to the member's questions is as follows:

(1) The Australian Capital Territory Australian Football League (ACTAFL) hold the lease on Phillip Oval. ACTAFL is now known as Australian Football League-NSW/ACT (AFL-NSW/ACT)

(2) I understand AFL-NSW/ACT has been exploring options, including sale, for the future use of Phillip Oval. Any transfer of the lease would require ministerial approval.

(3) No proposal has been put to the Minister.

Haydon Drive
(Question No 781)

Mr Cornwell asked the Minister for Urban Services, upon notice:

> In relation to the temporary closure of the left lane of the southbound section of Haydon Drive between Calvary Hospital and Belconnen Way last week due to urgent road repairs made after damage by a burst water main ('Lane Closure' in The Chronicle News on 17 June 2003, p 44). What was the total cost to the Government for the repairs required as a result of the above.

Mr Wood: The answer to the member's questions is as follows:

> The total cost to the ACT Government is estimated at $101,000. $1,000 for the time spent on-site by a Roads ACT officer to ensure that the road repairs were carried out to an acceptable standard and $100,000 for the cost of repairs associated with the burst water main undertaken and paid for by ACTEWAGL.

Roads—black spots
(Question No 783)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to your reply to Question on notice No 315 regarding ACT road 'black spots' and other 'worst crash sites' as listed therein:

(1) What funding has been provided in the 2003-2004 ACT budget to address (a) ACT road "black spots" and (b) "other worst crash sites";

(2) What funding has been approved or provided to the ACT from the Federal Government for 2003-2004 in order to address (a) and (b) above;

(3) Which are the actual sites at (a) and (b) above that will be provided with funding in 2003-2004;

(4) For the designated sites as identified at (3) above, what is the projected time frame for implementation of safety improvements at these sites.

Mr Wood: The answers to the member's questions are as follows:

(1) In the 2003/04 ACT Budget funding of $300,000 has been allocated for Road Safety Improvements. This money will be spent on improving the intersection of Cotter Road and McCulloch Street in Curtin.

No other specific funding has been approved for other crash sites during 2003/4 as part of the ACT budget, but a range to other roadworks will also contribute significantly to road safety including the Fairbairn Avenue Upgrade and Woden Valley on-road cycling facilities.

(2) The Federal Budget allocation of Black Spot funding for the ACT is $602,000 per annum for the four years from 2002/03 through to 2005/06.

(3) The sites being investigated for improvement in 2003/04 are:
- the intersection of King Edward Terrace/Administration Place in Parkes
- the intersection of Mawson Drive/Yamba Drive in Mawson
- the intersection of Hindmarsh Drive/Palmer Street in Garran

Which of these three intersections are to be improved during this financial year is yet to be determined. The process of determination is as follows:
- Roads ACT investigates the options for improvement of the project sites and costs these options
- the projects are then checked against the criteria for Federal Black Spot funding before being nominated as Black Spots. Sites require a proven crash history and must be able to demonstrate a benefit to cost ratio of at least 2 to be eligible
- the ACT Black Spot Consultative Committee meets to discuss and consider the projects nominated and recommend how the available funding is to be allocated
- Roads ACT applies to the Federal Department of Transport and Regional Services for ACT Black Spot funding under the Federal Road Safety Black Spot program for the project(s) recommended by the ACT Black Spot Consultative Committee
- the Federal Minister for Transport approves the project(s) as Black Spots and the funding for them

(4) The projected time frame for implementation of safety improvements at the sites being investigated for improvement in 2003/04 is dependant on the cost of the recommended improvements which is still to be determined, and the availability of funding. However these projects are progressed as rapidly as possible, and often the ACT Government has partially funded them (like the joint funding of the Cotter Road/McCulloch Street project) to expedite the process.

Grey water customers (Question No 787)

Mrs Dunne asked the Treasurer, upon notice:

In relation to grey water:

(1) How many customers does ActewAGL currently have for grey water;

(2) Of these customers are (a) residential or (b) business;

(3) Are there extra charges related to grey water, if so, what are they;

(4) What is the average amount of water a household would save per year by using a grey water system hooked up by ActewAGL; and

(5) How much would it cost a resident to hook up to ActewAGL's grey water network and is that currently possible or is it still under trial.

Mr Quinlan: The answer to the member's question is as follows:

(1) Neither ACTEW nor ActewAGL operate a grey water system for Canberra households.

However, ActewAGL does operate, on behalf of ACTEW, several sewerage re-use schemes in which sewage is collected from certain sites for treatment before being re-distributed for irrigation purposes.

I am advised that these effluent re-use schemes currently have four large customers, namely:
- the Department of Defence;
- Sport and Recreation ACT;
- the Belconnen Golf Course; and
- BRL Hardy Vineyard.

(2) The four customers identified in response to Question (1) are business customers.

(3) Since ACTEW does not have a grey water network, there are no charges for grey water re-use.

The sewerage re-use schemes operated by ActewAGL on behalf of ACTEW do not have a connection fee. However, customers are generally required to meet a proportion of the infrastructure connection costs. Depending on the particular scheme and associated infrastructure costs, customers are charged a proportion of the equivalent potable water charge. For instance, the Southwell Park irrigation scheme includes a charge of 75% of the equivalent annual potable water charge. Effluent pumped from the Lower Molonglo Water Quality Control Centre for irrigation purposes, is priced at around 10% of the potable water price.

(4) ACTEW does not have a grey water system to which residents can be connected.

A common approach is for householders to install a system to collect and treat grey water or sewerage for re-use on site. These systems are owned and operated by the householder and regulated by the ACT Planning and Land Authority, ACT Health and Environment ACT.

An integrated domestic re-use scheme implemented at the time of construction, which utilizes grey water and a rainwater tank, can save around 45% of water use. It is more expensive to install the system to an existing house.

(5) ActewAGL does not have a grey water network. However, I am advised that the cost of a on-site grey water re-use system, which is owned and managed by the householder, varies greatly depending on the nature of the site. Rainwater and grey water systems incorporated into the design of a new house may cost between $5,000 and $10,000.

Concessional leases (Question No 788)

Mrs Dunne asked the Minister for Planning, upon notice:

In relation to concessional leases

(1) How many concessional leases are currently issued in the ACT.

(2) How many of these have been issued at less than the market value.

(3) To whom is each lease issued to and for what purpose.

(4) When was each lease issued.

(5) When does each lease expire.

Mr Corbell: The answer to the member's questions is as follows:

(1) One of the biggest obstacles to the effective administration of concessional leases has been the fact that there is not a comprehensive record of them. Before the Land Act commenced in 1991, there were seven separate Acts providing for the granting of leases, Of those, several, including the *Leases Act 1918*, the *Leases (Special Purposes) Act 1925* and the *Church Lands Leases Act 1937* principally provided for non-residential or non-commercial uses, and were therefore used to grant leases to churches, charitable institutions, dubs and other institutions. The legislation never expressly referred to the granting of leases on a concessional basis. Further, the Land Act recognises concessional leases only in the context of requiring an increase in CUC if such a lease is varied for a use other than a community use. Attached is a list of leases that may be considered concessional. However, an in-depth investigation of files would need to be undertaken to determine the terms of the grant of the lease.

(2) In order for a lease to be considered 'concessional' under the definition given in the Land (Planning and Environment) Regulations it had to be granted for a consideration less than the market value.

(3) The lessee and purpose for which the leases have been granted are included in the attachment.

(4) The date of grant of the lease is included in the list attached.

(5) The date of expiry of the lease is included in the list attached.

[*A list attached to the reply was lodged with the Chamber Support Office.*]

Currong apartments—survey of residents (Question No 789)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to the surveying of tenants at the Currong Apartments:

(1) Can you provide a copy of the Survey issued to tenants at the Currong Apartments (blank form);

(2) Can you provide details of the arrangement between the government and the privately engaged consulting firm used to conduct the survey, including copies of relevant communications concerning the nature of the survey and the scratchie aspect of same;

(3) Were all the scratchie tickets utilised during the surveying period;

(4) If there are residual number tickets, what, if anything, is planned for their use. Where and by whom are they being stored;

(5) If there is a surplus of tickets, will the Minister ensure the surplus is returned to the original supplying outlet for a refund. If not, why not.

(6) When preparing the survey, is the government aware of whether any other forms of incentive schemes were considered to be a part of the surveying process to obtain information from ACT Housing tenants.

(7) Can you provide documentary evidence of the purchase of the tickets to indicate how much was expended, by whom, and how many $5 scratchies were purchased;

(8) Were the tickets purchased by an ACT Housing officer or did the Minister's office arrange the purchase;

(9) Was a purchasing order or some form of expenditure authorisation signed off by the relevant departmental officer.

Mr Wood: The answer to the member's question is as follows:

(1) A copy of the survey cannot be provided at this time, however, a copy will be included in the final report on the survey when it is publicly released.

(2-9) The conduct of the survey and any associated activities are managed by the consultants. The Government does not intend to comment on this matter, although it is understood that unused tickets were returned to their source.

Community Linkages program (Question No 790)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to Community Linkages and support activities at public housing properties:

(1) Please provide a list of all public housing complexes presently involved in the Community Linkages program, including details of all persons associated with the program, including contact details, in relation to each complex;

(2) Specifically, further to (1), in relation to activities either already underway or planned for the immediate future at each complex please confirm the details of all organisations, including their representative(s), currently involved in programs, including but not limited to Community Linkages, and plans for future involvement of other parties, if any;

(3) Please provide details of the precise role expected of each participant / organisation in this area, including copies of any documentation detailing such responsibilities;

(4) What measures are being taken to ensure that these different agencies are providing a coordinated approach in delivering their services;

(5) What measures are being taken to improve common facilities (if any) where residents can meet and become involved in these programs (please distinguish details for each complex, including existing arrangements and proposed changes).

Mr Wood: The answer to the member's question is as follows:

The complexes involved in Community Linkages are Oaks Estate, Bega Court, Allawah Court, Currong Apartments, Griffith Flats, Gowrie Court, Kanangra Court, Strathgordon Court, Fraser Court, Reid Court, Northbourne Flats, Windeyer Court, Stuart Flats, Jerilderie Court and Red Hill. Beyond that the material is not in an easily retrievable form, and to collect and assemble the information sought solely for the purpose of answering the question would be a major task, requiring a considerable diversion of resources. In this instance, I do not believe that it would be appropriate to divert resources from the provision of direct services to clients, for the purposes of answering the Member's question. However, I would be pleased to provide you with a verbal briefing covering information relevant to this subject, should you request it.

Commonwealth-State housing agreements (Question No 791)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to Commonwealth–State Housing Agreements (CSHA):

(1) Please provide details of the new CSHA due to commence on 1 July 2003;

(2) What are the government's anticipated priorities for expenditure of CSHA funds under the new Agreement.

Mr Wood: The answer to the member's question is as follows:

(1) The aim of the Multilateral Agreement is to provide appropriate, affordable and secure housing, specifically for people on low-moderate incomes. The Multilateral CSHA seeks to recognise the provision of housing assistance to people requiring access to affordable and appropriate housing and its effect on the reduction of poverty, homelessness, negative health status and other socio-economic outcomes. As a Notifiable Instrument, the Multilateral Agreement, once signed, will be published on the ACT Legislation Register, and further details will be available to the Member from that site.

Under the Commonwealth State Housing Agreement, each State and Territory must also enter into a separate Bilateral Agreement with the Commonwealth, outlining the housing assistance to be provided out of Commonwealth and Territory funds over the five years of the Agreement. Negotiations continue between the Department of Disability, Housing and Community Services (in conjunction with other agencies and stakeholders) and the Commonwealth regarding the development of the Bilateral Agreement.

(2) The ACT Government's anticipated outcomes and strategies for housing under the new Agreement will be spelt out in the Bilateral Agreement. While this process is still in its consultation stage, I am confident that the initiatives that will be developed will go towards meeting the needs of the ACT community.

While the ACT does not receive funding from the Commonwealth through the Aboriginal Rental Housing Assistance Program (ARHP), specific mechanisms are being developed, in conjunction with Indigenous organisations and the community, to target Indigenous people and their housing needs.

The ACT Government will also be working with the Commonwealth and other jurisdictions to develop a national affordable housing strategy across Australia.

Conder 4 Estate
(Question No 792)

Mr Cornwell asked the Minister for Planning, upon notice:

Concerning recent land sales at Conder 4 sub-division:

(1) How many residential blocks were auctioned;

(2) What was the average price paid per block;

(3) How many blocks in total were purchased by developers;

(4)What would be the average cost of developing a block in this sub-division, including roads, curbing and guttering etc.

Mr Corbell: The answer to the member's questions is as follows:

(1) The Conder 4 Estate allows a maximum of 126 dwellings to be developed.

(2) The Estate sold for $11,550,000 which represents a raw land sale value of approximately $91,000 per dwelling.

(3) Conder 4 Estate was sold englobo for private development. The purchaser will develop the site and sell individual blocks following completion of servicing.

(4) In March 2003 SMEC Australia Pty (Engineering Consultants) provided an indicative costing of providing infrastructure at $21, 524 per dwelling. Actual costs will depend on the developer's final proposals and will not be known until construction is complete.

Housing—conveyancing costs
(Question No 793)

Mr Cornwell asked the Treasurer, upon notice:

In relation to stamp duty:

1) What proposals were put forward by the aged community for a change to stamp duty laws to remove the obstacle of changing house accommodation (Budget paper 3, page 228)?

2) Why specifically was the proposal/s rejected?

Mr Quinlan: The answer to the member's question is as follows:

1) In its submission to the 2003-04 ACT Budget community consultation process, the ACT Council on the Ageing (COTA) proposed that the Government should introduce a scheme for waiving or reducing duty on conveyancing, where older people seek to move to more 'appropriate accommodation' (p.5 March 2003 COTA Submission No. 03-02).

2) COTA's proposal was not implemented. The Government does not believe that there is a strong justification for this proposal and no evidence was provided, to indicate that conveyancing duty deters the move by older people to more 'appropriate accommodation'.

The aged group is not necessarily a low-income group. In many cases, aged persons have a large amount of equity already built up within their place of residence and many own their own home outright. At a time when this group needs to move to more 'appropriate accommodation' usually a smaller, more manageable property, it is reasonable to suppose that the amount of equity available to the home owner in their current residence would cover the cost of new accommodation, including any stamp duty liability.

Under special circumstances and on a case-by-case basis, the Government would consider concessions or waivers of stamp duty where the payment of duty would cause significant financial hardship.

St Andrews Village (Question No 795)

Mr Cornwell asked the Minister for Planning, upon notice:

In relation to the extension of St Andrews Village, Hughes to Stage 4 off De Largie Place:

(1) What stage have these negotiations reached after three years;

(2) Is Block 12 Section 28 Hughes still available;

(3) When will this matter be resolved.

Mr Corbell: The answer to the member's questions is as follows:

(1) Block 12 has an Urban Open Space land use policy and because my Government has initiated a review of Urban Open Space, the ACT Planning and Land Authority has undertaken an audit of the site to establish its value to the open space system. Part of the site has been identified as a possible area which could be developed. St Andrews has been asked to prepare a concept plan for the site which takes account of the trees located on the site.

(2) Yes, the block has not be sold.

(3)The Land Development Agency is awaiting a response from St Andrews. To enable the proposal to progress further studies, a Preliminary Assessment and a variation to the Territory Plan are required.

Justice and Community Safety—staff (Question No 796)

Mr Smyth asked the Attorney-General, upon notice, on 24 June 2003:

(1) How long has the Department of Justice and Community Safety (JACS) had a position of 'Communications Manager';

(2) Is this a position that has been created recently, if so, what establishment methodology was used to justify its creation;

(3) Was this position advertised, if so, in what forums, if not, why not;

(4) How many applications were received for this position;

(5) Was a Merit Selection Process undertaken to fill the position;

(6) Who was on the selection panel for this position;

(7) When was the current "Communications Manager' appointed;

(8) What credentials did the current 'Communications Manager' have that saw the selection committee (if there is one) choose that person for the job;

(9) What salary level is this position;

(10) What is the duty statement and selection criteria of this position;

(11) Are temporary vacancies in JACS available to non permanent Public Servants.

Mr Stanhope: The answer to the member's question is as follows:

(1) The position of Communications Manager was created as a new position on 16 May 2003. Previously this role was undertaken using the services of external (contracted) communication consultants on an as required basis. The creation of a permanent position on the Department's establishment is regarded as a more cost effective means of providing these services to Government and the community, the need for which was heightened by the January bushfire crisis and its aftermath.

(2) The standard JACS establishment methodology was used to justify the creation of this position. This involves evaluating the need for the position as well as the work level standard.

(3) The position has not as yet been advertised having only recently been created. The position is temporarily filled on a short term employment contract pending a full recruitment and selection exercise. This exercise is expected to commence shortly.

(4) See response to 3 above.

(5) See response to 3 above. A full merit selection process will be undertaken in accordance with the Public Sector Management Act and Standards, the Department's Certified Agreement 2003-2004 and the Department's internal recruitment policy.

(6) See response to 3 and 5 above. An appropriate selection panel will be convened when the position is advertised.

(7) The Acting Communications Manager was engaged on a temporary six-month contract on 2 June 2003.

(8) The acting occupant of this position has significant expertise and experience in media liaison and communications, particularly within the ACT. The acting occupant is also highly familiar with the roles and responsibilities of this portfolio and has a sound working relationship with the Ministers' offices.

(9) The position is remunerated at the Senior Officer Grade B level under the Department of Justice and Community Safety's Certified Agreement 2003-2004.

(10) The Duty Statement (attached) requires the employee to have extensive experience in public relations, journalism or related field, and especially in preparing and implementing communication strategies for external and internal audiences. In addition, the occupant of the position must demonstrate sound understanding and experience in developing internal communications strategies within a government department or the corporate sector, and a proven record of obtaining successful outcomes.

(11) Temporary vacancies are generally only open to permanent officers of the ACT Public Service (ACTPS). However, agencies may accept applications from non-permanent employees for temporary employment to positions where no permanent officer is suitable or available (see section 106 of the Public Sector Management Act) or if agencies do not wish to pursue a wider field of applicants. These provisions may be varied under Certified Agreements.

Consistent with the provisions in the Public Sector Management Act and the Department's Certified Agreement (Section 26.2) the Department utilises temporary employees only where there is no employee available in the ACTPS with the expertise, skills or qualifications required for the duties to be performed, or the assistance of a temporary nature is required for the performance of urgent or specialised work, and where it is not practical in the circumstances to use the services of an existing employee.

In this instance a non-permanent officer was engaged on a short-term contract as Acting Communications Manager, as there was no suitable available permanent employee to undertake this specialised work when it was urgently needed.

Attachment

Department of Justice & Community Safety
Communications Manager

Classification: **Senior Officer Grade B**
Position No: **48898**

26 June 2003

Title	**Communications Manager**
Division:	**Corporate Services**
Immediate supervisor:	**Executive Director, Corporate Services, Exec 1.2**

DUTY STATEMENT

KEY ACCOUNTABILITIES

1. Proactively seek and recognise portfolio opportunities to promote activities and programs to clients and the community.

2. Provide sound strategic communication advice to the Department's business areas and the portfolio Ministers' offices, and develop and implement external and internal communication strategies.

3. Respond to media inquiries and liaise with the media as appropriate.

4. Develop and implement effective strategies for the department's internal communications so that staff understand their roles in the context of the department's Mission and Outcomes, and to convey important departmental administrative and cultural information.

5. Work with the Information Technology Unit and the department's business areas to develop content for the department's website that is appropriate to the portfolio's target audience.

6. Research and write articles for the department's staff magazine and for other external publications as required.

7. Undertake other public relations activities as required by the Chief Executive and the Executive Director, Corporate Services.

Duties representing highest function: 1, 2, 3
Most time-consuming duties: 1, 2, 3

SELECTION CRITERIA

1. Extensive experience in public relations, journalism or related field, and especially in preparing and implementing major communication strategies for external and internal audiences.

2. Sound understanding of and demonstrated experience in developing internal communications strategies within a government department or the corporate sector, and a proven record of obtaining successful outcomes.

3. Ability to provide sound communication advice to the department's business areas, including senior officers, and to the Ministers' offices.

4. Excellent written and oral communication skills and extensive experience in writing for print and web-based communications.

5. Demonstrated experience in using the Internet and intranets as a communication tool for portfolio stakeholders and staff.

6. Demonstrated ability to work with minimal supervision and to set priorities, meet deadlines and work under pressure.

7. A knowledge of and commitment to modern management principles including Workplace Diversity, Participative Management and Occupational Health and Safety (OH&S) principles and practice in the workplace.

QUALIFICATIONS/SPECIAL CONDITIONS

Relevant experience in public relations or related field or have completed a degree or diploma from an Australian tertiary institution with a major in journalism/public relations (or comparable overseas qualification).

ActewAGL—contracts (Question No 797)

Mr Smyth asked the Treasurer, upon notice:

In relation to ActewAGL and given the National Competition Policy, and the ACT Government's stated policy of seeking best value for the ACT Taxpayer's dollar:

(1) When will ActewAGL's role in constructing and maintaining the ACT's electricity, water and sewerage networks open to competition;

(2) ActewAGL has recently won several contracts to undertake construction of street lighting systems in the ACT e.g. single select packages of work (Margaret Timpson Park - $314k, and Replacement of Armoured Street Lighting cable - $600k+). How does the ACT Government ensure value for money and the best result for the community when it awards these packages without going to the market place;

(3) Given that the true internal recovery rate for an ActewAGL worker is of the order of $100/hr or more, is it possible that ActewAGL is being permitted to undercut the ACT's contracting community, and reducing the eventual dividend that it pays to the ACT Government in the process;

(4) When will ActewAGL's current contract for maintaining the ACT's street lighting assets end, and at that time will that contract become open to competition by others, if not, why not.

Mr Quinlan: The answer to the member's question is as follows:

1 The construction and maintenance of ActewAGL's water and sewerage networks are currently undertaken by a combination of ActewAGL personnel and private contractors. The Government has asked the Independent Competition and Regulatory Commission (ICRC) to undertake an Inquiry into the public benefit of contestability in work on the electricity distribution network. The public benefit is assessed within the context of concerns about public safety, maintenance of technical integrity, and implications for capacity to respond to emergencies. The Government has also requested that the ICRC reports on this Inquiry in December 2003

The Government will be guided by the outcome of that Inquiry in addressing the issue of contestability in these works.

2 Single select tendering for design and construct streetlighting projects is used only where specialist knowledge of the existing streetlighting system obtained through ActewAGL's maintenance operations is beneficial to the project's success and the time involved in another provider obtaining this information from ActewAGL would present an unacceptable delay to the project. In these circumstances, ActewAGL is required to provide a full price breakdown in its offer, which is compared with the current rates in the Streetlighting Maintenance contract for similar works; and ActewAGL obtains at least three quotations for subcontract services, such as underground boring that represent a significant percentage of the overall project cost.

The use of a single select tendering process for Streetlighting Armoured Cable Replacement in 2002-03 and Margaret Timpson Park Lighting should not be considered to indicate that this is the sole procedure adopted for the procurement of such works and services.

Roads ACT regularly tests the market, and plans to do so with future street lighting projects, including the Streetlighting Armoured Cable Replacement Project in 2003-04.

3 ActewAGL is a joint venture between ACTEW Corporation Ltd, a 100% Government owned business enterprise, and the Australian Gas Light Company. The Government is not in a position to comment on the nature of specific areas of ActewAGL's commercial arrangements. The ActewAGL Board is responsible for the day-to-day running of ActewAGL's activities and ensuring that its operating results meet the expectations of both joint venture owners.

4 ActewAGL was awarded Contract No.C01434 "Maintenance Services for Streetlight Assets". The letter of acceptance was issued on 13 September 2001 and advised a completion date of 12 September 2004. A further one-year extension is available. The contract has over two years remaining given the likely take up of the one-year extension. A decision on a new contract will be subject to the ACT Government policy at that time.

Civic Library strategy (Question No 798)

Mr Cornwell asked the Minister for Urban Services, upon notice:

In relation to the Libraries Improvement Program:

(1) Why has the name of this project changed from the Civic Library Strategy to the Libraries Improvement Program as shown in the March quarter report for Capital Works;

(2) What was delivered for the $297,000 expended in the March Quarter;

(3) What is the main aim of the Libraries Improvement Program;

(4) How is the aim of the Libraries Improvement Program different from the original project called the Civic Library Strategy (in the December Quarter capital works progress report);

(5) Are there any losers in changing the details of this project, if so, who.

Mr Wood: The answer to the member's questions is as follows:

(1) The Department of Urban Services, Capital Works Program, December Quarterly Report had inadvertently named the Libraries Improvement Program as the Civic Library Strategy. This was rectified in the March Quarterly Report.

(2) By the end of the March Quarter we were significantly advanced in delivering the Libraries Improvement Program with works in progress in the following locations:

- Belconnen
  - Cooling tower controls system and support
  - Internal lighting
  - Fire and lift services
- Woden
  - Air conditioning
  - Mechanical, fire and lift services
- Civic
  - Replacement front door operator mechanism
- Tuggeranong
  - Air conditioning management system and control work
  - Fire services
- Griffith
  - Heating, mechanical and fire systems work
  - Roofing and guttering

(3) The main aim of the program is to provide funding to address items identified in Condition Audits and include OH&S, fire, air conditioning and disabled access in various libraries.

(4) The aim of the program has not changed from that originally stated in the Budget Papers - refer page 190 of revised BP4, 2002-03 – which clearly states the $500,000 approved funding is for the Libraries Improvement Program.

(5) There has been no change to the details of the original program.

Playground Safety program (Question No 800)

Mrs Burke asked the Minister for Urban Services, upon notice:

In relation to the Playground Safety Upgrade Program, further to your reply to Questions on notice numbers 577 and 683.

(1) Have all playgrounds identified for construction work in Packages 2 and 3 now been completed. If not, please identify which playgrounds remain unfinished, what stage each playground is at, when it can be expected for completion of work, and why completion has been delayed (in each case);

(2) In relation to all playgrounds in Packages 2 and 3, whether or not completed, please

provide details of the nature of work undertaken (proposed to be undertaken) at each location, and a detailed breakdown of costs at each playground;

(3) In relation to Packages 4 and 5, please identify the nature of the work proposed to be conducted at each location selected, including a timeframe for construction; estimated breakdown of expenditure;

(4) In relation to Package 6, why is this package not programmed for completion until "mid to late 2003/04 financial year";

(5) Is it proposed for playgrounds included in Package 6 to be revised at a future date or is this package already final;

(6) Are there plans for further playgrounds to be included in funding allocated in Budget 2003/04 in a supplementary safety program, and, if so when can details of playgrounds not included in Packages 1 to 6 be expected to be announced.

Mr Wood: The answer to the member's questions is as follows:

(1) All playgrounds in Package 2 have been completed except Chippendale Circuit, Theodore. The delay for completion of this playground is due to a decision to carry out more extensive works than was originally planned for this playground. The expected completion will be mid August 2003.

The construction tender for package 3 has been awarded. Completion of Package 3 is expected in early to mid September 2003. Completion of Package 3 has been delayed due to longer than anticipated manufacture time for play equipment.

(2) The work undertaken for playgrounds in Package 2 is as follows:

Playground	Works Completed	Works Proposed
Bettington Circuit, Charnwood	• replace swing, softfall, seat and concrete edging	
Bingley Crescent, Fraser	• replace swings • recap retaining wall	
Pulleine Street, Macgregor	• replace swings and softfall • repair seat and edging	
Woolner Crescent, Hawker	• replace swings, retaining wall, softfall and seat	
Chippindall Circuit, Theodore		• replace play equipment • replace softfall • replace seat

The works proposed for playgrounds in **Package 3** is as follows:

Playground	Works Completed	Works Proposed
Alberga Street, Kaleen		• replace play equipment • replace softfall • increase softfall area
Burkitt Street, Page		• replace play equipment • replace softfall • increase softfall area

Oakover Circuit, Kaleen		• replace play equipment • replace softfall • increase softfall area
Plowman Place, Flynn		• replace play equipment • replace softfall • increase softfall area
Teague Street, Cook		• replace play equipment • replace softfall

Each playground in Packages 2 and 3 will cost approximately $45,000.

(3) Completion of Package 4 is expected by the end of September 2003. The works proposed for playgrounds in Package 4 is as follows:

Playground	Works Completed	Works Proposed
Halfrey Circuit, Wanniassa		• replace play equipment • replace softfall • increase softfall area
Karney Street, Kambah		• replace play equipment • replace softfall • increase softfall area
Maxworthy Street, Kambah		• replace play equipment • replace softfall • increase softfall area
Summerland Circuit, Kambah		• replace play equipment • replace softfall • increase softfall area
Billson Place, Wanniassa		• replace play equipment • replace softfall
Marconi Crescent, Kambah		• replace play equipment • replace softfall

Completion of **Package 5** is expected by mid October 2003.The works proposed for playgrounds in Package 5 is as follows:

Playground	Works Completed	Works Proposed
Copland Drive, Melba		• replace play equipment • replace softfall • increase softfall area
Mildenhall Street, Fraser		• replace play equipment • replace softfall • increase softfall area
Rechner Street, Flynn		• replace play equipment • replace softfall • increase softfall area
Sculptor Street, Giralang		• replace play equipment • replace softfall • increase softfall area
Bishop Street, Melba		• replace play equipment • replace softfall

Each playground in packages 4 and 5 will cost approximately $45,000.

(4) The construction of Package 6 was delayed due to a decision to increase the scope of refurbishment works to include all play areas within the Fadden Pines District Park.

(5) The design stage has not yet begun for Package 6. The package may be varied to include the Bullock Street, Fadden playground.

(6) The 2003/04 Budget has allocated $500,000 to the Playground Safety Upgrade Program. Proposed playgrounds in this package are:

Caldwell Street,	Hackett
Dean Place,	Charnwood
Sadleir Place,	Charnwood
Edlington Place,	Fraser
Erldunda Street,	Hawker
Chubb Place,	Latham
Braine Street,	Page
Meyrick Place,	Florey
Handcock Street,	Spence

Garran Oval
(Question No 801)

Mr Stefaniak asked the Minister for Urban Services, upon notice:

In relation to Garran Oval:

(1) What was the total cost of installing the solar powered irrigation system at the Oval;

(2) Do you plan to install such systems on other ovals in Canberra, if so, which ones and when, if not why not;

(3) Did you receive a quote for hooking an irrigation system up to electricity at Garran Oval, if so, what was the quote if not, why not;

(4) Since this system is solar powered will that mean the oval has to be watered during the day or can it be used at any time in a 24 hour period;

(5) What times is the Garran Oval currently watered, and is it in compliance with water restrictions in the Territory.

Mr Wood: The answer to the member's questions is as follows:

(1) The total cost for the solar power system, not including the irrigation component, was $4,396.

(2) Similar systems may be considered in the future in situations where mains power is not readily available. There are no immediate plans for such installations.

(3) A quote for connection to reticulated mains electricity was received from ActewAGL. It was for $17,120 including trenching, cabling and restoration.

(4) The system uses solar power to recharge batteries during day light hours which are used to operate radio transmitter/receiver of the irrigation system. The system can then be used at any time, in a similar manner to those at other grounds.

(5) Garran Oval is being watered at present using the new system to re-establish a quality grass surface after the installation process. Watering is in compliance with current water restrictions.

Canberra Hospital—security (Question No 803)

Mr Cornwell asked the Minister for Health, upon notice:

In relation to security arrangements at The Canberra Hospital and an incident that occurred there on Monday 23 June 2003 at approximately 2.30 pm where a telephone was ripped out from a reception area by a seemingly irate person:

(1) Does The Canberra Hospital currently have security arrangements in place for the protection of patients, staff and visitors, and if so, what are those arrangements;

(2) If the answer to (1) above is no, then why are security arrangements not in place;

(3) Do the security arrangements differ by (a) day and (b) time;

(4) What was the amount of funding provided by the ACT Government for security at The Canberra Hospital in the (a) 2001-02 (b) 2002-03 (c) 2003-04 budgets.

Mr Corbell: The answer to the member's question is:

The Canberra Hospital views the issue of security very seriously. The main focus of security at the hospital is protection of staff, patients and visitors. While it may be desirable in some circumstances to seek to exclude some people from the campus, the hospital is a large public facility that is freely available to the public during business hours.

(1) The Canberra Hospital has security officers that patrol the Hospital Campus at all times (internal and external). A minimum of two guards are present on the campus after 6.00pm. Although all car parks on the Hospital campus are public areas, there are protective measures in place. This includes periodic patrolling day and night by the on-duty security officer, security lighting and emergency communication facilities.

The security by Chubb consists of the following:

- One Security Officer 24 hours / 7 days. (2 x 12 hour shifts)
- One Security Officer 7 days (1900 to 2300)
- One Security Officer 7 days (1900 to 0500)
- Nightly visit by Chubb Duty Inspector

Designated Guards patrol both car parks between 1900 – 2300 daily and one guard is located at Accident and Emergency between 2300 – 0500.

At various points across the campus there are Duress buttons in place. These buttons can be activated for immediate assistance from Security personnel and are located underneath a blue light.

The Hospitals automatic security system locks down the perimeter doors of the main buildings from 9-30pm to 7-00am each day. Access to the Hospital after this time can only be made via the Emergency Department entrance or through a programmed swipe card issued to staff.

(2) N/A

(3) Security arrangements in place are as outlined above 7 days a week and do not differ between (a) day and (b) time.

(4) Funding for security for The Canberra Hospital provided by the ACT Government is as follows:-

(a) 2001 – 2002	$485,439.95
(b) 2002 – 2003	$436,344.01
(c) 2003 – 2004	$480,000-00 (budget projection only)

Rubbish burning (Question No 804)

Mr Cornwell asked the Minister for Environment, upon notice:

In relation to burning rubbish

(1) Are any Canberrans allowed to burn rubbish in their backyards, if so, what rules do they have to follow, if not what penalties are enforced if caught;

(2) Are developers, constructing new homes in new areas, allowed to burn construction rubbish on site, if so, what rules do they have to follow, if not what penalties are enforced if caught;

(3) On Wednesday 25 June a constituent phoned my office to inform me developers were burning off material at the new development area on Kate Crace Place in Gungahlin, was this burn off authorised;

(4) Should residents report this sort of behaviour if they witness it, if so, to whom.

Mr Stanhope: The answer to the member's questions is as follows:

(1) Canberrans are not permitted to burn rubbish in their back yards. There is an on-the-spot fine of $120 for individuals caught lighting or maintaining open air fires. Canberrans may light a fire in a properly constructed fireplace to keep warm, or for cooking purposes provided only seasoned timber is used for fuel. Garden waste, treated timber, unseasoned timber and other wastes cannot be burnt in the ACT.

(2) Developers and builders constructing new homes in new areas or renovating old houses in established areas are not allowed to burn rubbish, either on site or off site at other

locations in the ACT. There is an on-the-spot fine of $600.00 for corporations caught lighting or maintaining open air fires. They may have a fire to keep warm provided it is in a properly constructed fire place and only seasoned timber is used as fuel.

(3) Developers at Kate Crace Place in Gungahlin had no authority granted to burn off.

(4) Residents should report incidents involving the burning of rubbish to Environment ACT on 6207 9777 (BH) or 132281 (AH)

Canberra Hospital—bulk billing (Question No 805)

Mr Smyth asked the Minister for Health, upon notice:

In relation to the Canberra Hospital:

(1) How much money was bulk billed at The Canberra Hospital in (a) 2000? 01, (b) 2001-02, and (c) as at 25 June in 2002-03;

(2) How was this money disbursed or expended by the hospital in (a), (b) and (c) above.

Mr Corbell: The answer to the member's question is:

(1) Bulk billing of services provided at Canberra Hospital is co-ordinated and processed in two areas, Patients Office and the Pathology Dept.

Patients Office

Bulk billed at TCH - Patients Office	Scheme A	Scheme B &C & AWA	Total
2000-01:	274,289	4,156,622	4,430,911
2001-02:	508,413	4,327,646	4,836,059
As at 30 June in 2002-03:	819,713	4,011,384	4,831,097

ACT Pathology

Bulk billed at TCH - ACT Pathology	
2000-01:	2,896,649
2001-02:	3,489,638
As at 25 June in 2002-03:	3,976,726

Total Patients Office and ACT Pathology

(a)	2000-01:	7,327,560
(b)	2001-02:	8,325,697
(c)	As at 30 June in 2002-03:	8,807,823

(2) (a) (b) and (c)

TCH

All Private Practice Revenue that is billed by TCH, including bulk billings, is initially recorded under the names of individual Senior Medical Officers. It is then distributed in the following ways:

i) Bulk Billings from Scheme A Doctors

Under their contracts Scheme A doctors assign 100% of their private revenue to TCH as a facility fee. In lieu of this private practice income the doctors are entitled to an allowance which is calculated as a percent of their salary.

ii) Bulk Billings from Scheme B &C Doctors

Under their contracts Scheme B & C Doctors are entitled to a certain percent of their salary as a bonus. This bonus is paid out of the private revenue recorded under their name. A percentage of their private practice revenue is then distributed to the TCH as facility fees and if enough private revenue has been earned the specialists are entitled to a further bonus. Once a specialist has been paid their full amount of bonuses they are entitled to, any extra revenue is donated to the Private Practice Trust Fund (PPTF). The money in the PPTF is generally used to fund training and research in TCH.

iii) Bulk Billings From AWA contracted Doctors

An AWA contract is structured like a scheme A contract in that the doctors assign 100% of their private revenue to TCH as a facility fee. In lieu of this private practice income the doctors are entitled to an allowance which is calculated as a percent of their salary. The AWA contract is different to Scheme A in that the allowance in lieu of private practice income is usually larger than in a standard Scheme A contract (ie the allowance is a higher percentage of salary). Specialties within TCH such as Medical Imaging have their own AWA contracts.

ACT Pathology

In all cases the money is retained by The Canberra Hospital as facilities fees revenue.

All of the Pathology Facility fees are billed in the name of one Provider, namely the Director of ACT Pathology. In return for the facility fees being retained by TCH as revenue, each Pathologist has the option of selecting an allowance 'in lieu of a private practice'.

Doctors—bulk billing
(Question No 806)

Mr Smyth asked the Minister for Health, upon notice:

In relation to bulk billing:

(1) How many General Practitioners are currently working in the ACT;

(2) How many of these General Practitioners bulk bill for their services;

(3) How much has this number increased or decreased in the last 3 years.

Mr Corbell: The answer to the member's question is:

(1) According to the Report on Government Services 2003, there were 406 GPs in the ACT

in 2001-02. Because many of them work part time the number of full time workload equivalent GP's was 212.

(2) GPs are private practitioners and billing practices are the decision of individual General Practitioners, therefore the ACT Government does not have access to this information.

(3) This information is not available.

Canberra Hospital—paediatric ward (Question No 807)

Mr Smyth asked the Minister for Health, upon notice:

In relation to the paediatric ward at The Canberra Hospital:

(1) How many beds are available in this ward;

(2) What is the monthly average occupancy rate in the ward for the last 12 months;

(3) On how many occasions has this ward been understaffed in the last 12 months;

(4) On how many occasions has this ward been understaffed meaning no more admissions can be taken in the last 12 months;

(5) What facilities are provided for parents who wish to remain with their children overnight.

Mr Corbell: The answer to the member's question is:

(1) The numbers of beds are seasonal and based on historical data pertaining to occupancy. The Summer numbers are 20 beds over the Christmas period and 24 beds from January 6th – February 24th. From February 24th the bed numbers increase to 28. From May 10th the Winter bed numbers come into place with a total of 40 beds available.

(2) The monthly average occupancy rate for Paediatrics in the last 12 months ranged from 99% in September 2002 to 60% in April 2003.

(3) The Paediatric ward has been fully staffed to cover the number of beds over the last 12 months and has been able to deal with demand for beds. There have been a few occasions when due to unplanned leave, difficulty with finding replacements or cancellation of surgery when there has been excessive demand on the service due to admissions through the Emergency Department.

(4) There have been no occasions when we have not taken admissions via the Emergency Department.

(5) There are bedside foldout beds provided for parents to sleep next to their children at night. Parent accommodation with overnight rooms is available including a lounge with tea and coffee making facilities, which is due to be upgraded. There is also accommodation available in the Residences at the hospital for those families coming from interstate. Parents can utilise the facilities available at the hospital.

Housing—stocks
(Question No 810)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to housing stock:

(1) For the years (a) 2000-01, (b) 2001-02 and (c) 2002-03, how many properties did ACT Housing sell or otherwise dispose of and what are the addresses of these properties;

(2) In (a), (b) and (c) above, how many properties did ACT Housing purchase or build and what are the addresses of these properties.

Mr Wood: The answer to the member's question is as follows:

(1) (a) 226;
(b) 435;
(c) 230;
In order to protect the privacy of the purchasers of these properties, I do not intend to provide the addresses, however a breakdown of disposals and increases in stock by region is attached.

(2) (a) 276;
(b) 178;
(c) 145.
In order to protect the privacy of tenants of these properties, I do not intend to provide the addresses, however a breakdown of disposals and increases in stock by region is attached.

[*Data attached to the reply was lodged with the Chamber Support Office.*]

Housing—stocks
(Question No 811)

Mrs Burke asked the Minister for Disability, Housing and Community Services, upon notice:

In relation to ACT housing stock:

(1) In relation to all ACT housing stock, please provide a comprehensive list of all properties including a breakdown, for each property, of the number of single, double bedroom, or greater size dwellings within each property;

(2) Further to (1), please indicate, in relation to each property and showing a breakdown distinguishing between different property types available within each complex, the number of dwellings not occupied as at 15 June 2003;

(3) Further to (2), of the properties presently unoccupied please provide details in relation to each property, distinguishing between the different types of dwelling available, as to why such property is unoccupied and when it can be expected that each property will be next occupied.

Mr Wood: The answer to the member's question is as follows:

After careful consideration of the question, and advice provided by my Department, I have determined that the information sought is not in an easily retrievable form, and that to collect and assemble the information sought solely for the purpose of answering the question would be a major task, requiring a considerable diversion of resources. In this instance, I do not believe that it would be appropriate to divert resources from the provision of direct services to clients, for the purposes of answering the Member's question. However, I would be pleased to provide you with a verbal briefing covering information relevant to this subject, should you request it.

Housing—dumped vehicles (Question No 812)

Mrs Burke asked the Minister for Urban Services, upon notice, (redirected to the Minister for Disability, Housing and Community Services):

In relation to dumped motor vehicles and associated issues within ACT public housing properties:

(1) Please provide details of the number of motor vehicles which have been removed from parking areas or the common property of ACT Housing properties since 1 July 2002;

(2) Please explain the procedure by which such vehicles, having been brought to the Government's attention or otherwise identified by the authorities, are processed leading to their removal from the property;

(3) What are the costs associated with this process, please provide details for the period commencing 1 July 2002 to date;

(4) Under what circumstances does the Government determine not to arrange for the removal of these vehicles;

(5) Further to (1), please provide comparable figures for the period 1 July –30 June 1999-2000, 2000-2001 and 2001-2002;

(6) In the removal process, please indicate further to responses to (1) and (5), the percentage of occasions within which a public housing resident is held responsible for such vehicle;

(7) Further to (6), in relation to identified resident-vehicle owners, what action is taken against such persons:
(a) in respect of the vehicle offence;
(b) in respect of their continued tenancy.

Mr Wood: The answer to the member's question is as follows:

(1), (5) and (6). Housing ACT does not record on its computer the number of vehicles removed from parking areas or the common property of Housing ACT properties;

(2) Once a vehicle is identified as unregistered a report is prepared on its condition and its estimated value. If registration plates or registration sticker are on the vehicle Housing ACT checks with Motor Registry and the police to identify the owner and whether the vehicle has been stolen.

If the police confirm that it is a stolen vehicle they will impound it.

A yellow sticker is placed in a prominent position on the vehicle advising the owner that they have 7 days to remove or register it. If the owner does not contact Housing ACT and/or remove the vehicle, the yellow sticker is replaced with a red sticker and the City Ranger is requested to remove it from the complex. Depending on the value of the vehicle, it is either stored for 90 days or destroyed in accordance with the Uncollected Goods Act 1996;

(3) Housing ACT does not compile on its computer information on the costs to identify and remove unregistered or derelict vehicles from its complexes;

(4) Refer to answer (2). If the owner of the vehicle is identified Housing ACT contacts them and explains its procedures in regard to unregistered vehicles. Housing ACT will take no further action if the owner registers the vehicle within the 7 days. Alternatively, Housing ACT may grant the owner an extension of time to repair the vehicle so that it can be registered if they are experiencing financial hardship. These extensions are for periods of up to three months but an extension beyond this time will be considered in certain circumstances.

The owner who has been granted an extension of time is required to store the vehicle under cover (if carports are available on site) and keep it safe, clean and tidy;

(7) (a) The owner of the vehicle is responsible for any costs Housing ACT may incur in removing the vehicle from the complex and cleaning the area where the vehicle was parked. They are also responsible for any storage fee incurred by the City Ranger;

(b) Keeping an unregistered vehicle at a complex is not a breach of a tenancy agreement. Therefore, if the vehicle owner were a tenant no action would be taken in respect of their tenancy if Housing ACT removed their vehicle.

Gungahlin broadband coverage (Question No 813)

Mr Smyth asked the Minister for Planning, upon notice:

In relation to telecommunications in Gungahlin:

(1) When will the new telephone exchange in the Gungahlin Town Centre announced on 25 June be fully operational;

(2) Will this exchange speed up internet access in the Gungahlin area;

(3) What is the minimum guaranteed capacity (speed) of the enhanced service;

(4) How many dwellings will remain un-serviced by the new, enhanced service;

(5) What is the estimated cost of providing the new high speed services in Gungahlin;

(6) How many mobile phone stations will there be;

(7) What areas of Gungahlin will remain not serviced by mobile phone;

(8) What will be the altitude (above mean sea level) and height above ground level of the mobile phone base stations;

(9) What is the estimated cost of installing the new mobile phone base stations.

Mr Corbell: The answer to the member's question is:

(1) Telstra has advised that construction will commence before the end of this calendar year. ASDL will become progressively available to Gungahlin residents during early 2004, with services expected to be fully operational by mid 2004. Telstra Country Wide will contact residents directly as the timetable for enabling ASDL services for their area becomes clearer.

(2) The provision of dial-up internet access via the standard public switched telephone network (PSTN) will continue unchanged. The new exchange will enable an entirely new product – ASDL, which will provide access to a broadband internet option for those who subscribe to the service. As broadband has the capacity to send text, video and voice at very high speeds, the exchange will provide subscribers to the service with high speed internet access.

(3) ASDL provides download speeds starting at 256K.

(4) Telstra anticipates full broadband coverage in the Gungahlin and Dunlop areas supported by its range of delivery options.

(5) Telstra anticipates its total investment in upgraded telecommunications for the Gungahlin and Dunlop areas to be approximately $5 million.

(6) To ensure adequate mobile phone coverage in the area, Telstra anticipates that six base stations will be required including that proposed for Dunlop. These sites will be determined in consultation with the ACT Government. One tower has been approved for the Gungahlin Hill Reservoir in Crace.

(7) Telstra anticipates comprehensive coverage of the Gungahlin area once all sites are fully established.

(8) The heights of the towers will vary according to technical and environmental requirements and will be constructed in full compliance with all relevant legislation. The Crace tower will be 20 metres high.

(9) Telstra anticipates its total investment in upgraded telecommunications for the Gungahlin and Dunlop areas to be approximately $5 million. The figure includes the exchange in the Gungahlin Town Centre.
