# DEBATES

OF THE

LEGISLATIVE ASSEMBLY

FOR THE

AUSTRALIAN CAPITAL TERRITORY

# HANSARD

23 September 2003

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

## Estimates 2003-2004 (No 2)—Select Committee
### Report

**MR SMYTH** (Leader of the Opposition) (10.34): Mr Speaker, pursuant to order, I present the following report:

> Estimates 2003-2004 (No. 2)—Select Committee—*Report on the Inquiry into the Appropriation Bill 2003-2004 (No. 2)*, dated 18 September 2003, together with a copy of the extracts of the relevant minutes of proceeding.

I seek leave to move a motion authorising the publication of the report.

Leave granted.

**MR SMYTH**: I move:

> That the report be authorised for publication.

Question resolved in the affirmative.

**MR SMYTH**: I move:

> That the report be noted.

Mr Speaker, at the end of August, the government brought into this place a second appropriation bill seeking another $28 million, in the main, to implement a large number of recommendations from the McLeod inquiry into the bushfires of 18 January this year. The committee held public hearings and had deliberative meetings and has asked me to table this report today on behalf of the committee. I am sure that other committee members will speak to it as well. There are 12 recommendations in the report, which does cover a number of areas. I wish to make a few general comments about what the committee found out and the conclusions that the committee came to.

Mr Speaker, the bill was tabled in the Assembly some eight weeks after the budget itself was passed, which was in the last week of June this year, and the majority of the members of the committee had some concerns that many of the items listed for consideration really should have been included in the budget which was tabled in May and passed in June.

There seems to be a lack of strategic planning in the way in which the finances of the territory are being managed because, eight weeks after the budget was passed, another appropriation bill came forward under the guise of being for the implementation of recommendations of the McLeod report with a fair amount of activity tacked on that

really could have been anticipated and should have been included in the first round of the budget for this year.

Mr Speaker, with regard to the bushfires in particular, the majority of the members of the committee had some concerns about what appears to be a lack of a strategic overview in the approach to fire management in the ACT. For instance, Mr McLeod recommended that a new structure be set up under a commissioner for emergency services and a process has been put in place by the government to employ the new commissioner, but decisions are already being made which will shape and form the direction the new service will take without the input of the commissioner.

We think that this highlights the lack of a strategic approach to what the government is attempting to do in its response to the January bushfires. In many cases, the answer has been more or less, "McLeod told us so; it was a recommendation by McLeod." When asked what sort of strategic analysis had been done, Treasury officials told us that they had left the strategic stuff to the experts and they had done the number crunching; but when the experts were asked whether McLeod's recommendations had been tested by other experts and what were the thoughts there, the response was that that work had not been done.

What we have is confirmation of what the Chief Minister said some days before the McLeod report was delivered, that is, that the government was simply going to accept almost blithely what McLeod said and implement it. I think that there are some concerns in that, because McLeod seems to be recommending a model which would be based largely on the approach that, say, Tasmania, Victoria or South Australia take; yet the ACT is, of course, an island in New South Wales and the first response units that would ever arrive here would be from New South Wales. I have some concerns about that and the committee certainly had some concerns about that as well.

Other concerns that we had in particular on the bushfire elements of the bill related to the way that some of the recommendations are being implemented. For instance, on page 131 of the McLeod report there is a recommendation that four rural pumpers be added to the fire service fleet, specifically for use in the rural-urban interface. There was a large amount of discussion about those four pumpers. When asked how the number of four was achieved and what analysis had gone into ensuring that that was the appropriate number, the answer that came back basically was that that would give us a pumper for each of the stations on the western side of the ACT. There was no analysis as to whether that was where they were needed. There was no analysis as to whether there should be more or less. It was just that we were told to build four and we are building four. I think that that highlights the government's approach to the response to the McLeod report.

The concern for me is that, even though McLeod does not say so, what will happen is that nine units that the Fire Brigade, the paid metropolitan brigade, currently have will be removed from the Fire Brigade. Three Mercedes units, four light units and two bushfire tankers will be removed from the Fire Brigade and go to a strategic pool or be allocated to the volunteer brigades. At first blush, it sounds like we will have an extra resource, and we will, but we will have removed from the Fire Brigade the flexibility that they have in the approach that they take to combating small grass fires or larger fires that start in the urban area when they are the first response unit.

From talking to fire officers, I know that they are lamenting the fact that they are losing their old Mercedes units, which have been fabulous units. I am sure that some of the volunteer units will be looking forward to getting their hands on them. The fire officers said that it is really appropriate on some days to send two members of the brigade in a light unit to put out a small grass fire, but they will now have to send a fully crewed urban fringe tanker with far more capacity.

Currently, they can send a light unit to one fire and a tanker to a different fire, but they will lose that capability. If on days like yesterday, which was extremely windy and got quite hot in the afternoon, no volunteer units stood up, the Fire Brigade units would go first. My concern is that they have lost that flexibility. There is also the issue that they have lost litreage. The Fire Brigade had something like 20,000 litres through the nine units that they have. Under the new arrangements, they will have something like 13,000 litres. To that is added a compressed foam capability, which takes the relativity from about 100,000 litres of foam down to 65,000 litres of foam. I think that the loss of flexibility in the Fire Brigade and the loss of litre capacity in the Fire Brigade, which is always on duty, is something that needs to be reconsidered. Nowhere can I find reference in the report to McLeod saying that those units should be taken from the ACT Fire Brigade, so it is a question of the implementation of what McLeod has said.

Mr Speaker, I shall move on. I am sure that other members will canvass some of the other issues discussed. Some money is to be appropriated for the acquisition of land in the Majura Valley, particularly around the airport. We have some concerns that the government has put forward a figure. There is a dilemma here. They need money to purchase land, but they have flagged their intent, saying that they now believe the land to be worth, I think, $1.059 million. If it comes in at more than that, they will be back here for more money, I suggest. But they have also flagged their value to the Commonwealth. It is an ACT government valuation and I am not sure that Defence will agree with it. I suspect, given the way that things are negotiated, Defence will be looking at that figure and saying, "If they want all that land, we may want to get a little bit more money than that for it."

I suspect that the acquisition of the Hotel Kurrajong is something that the Assembly will watch with a great deal of interest. The Treasurer has sought $350,000 to purchase the building. What we will do with that building from this point in time will be interesting. We do have a lease. One of the recommendations is that the Treasurer report back at the earliest possible opportunity on the progress of the negotiations on the Kurrajong Hotel and the Majura Valley land.

Some community groups appeared before the committee. Both ACTCOSS and FaBRiC—Family Based Respite Care Inc—raised concerns about the impact of the bushfires on the community sector and the lack of financial recognition of that and, particularly in FaBRiC's case, although ACTCOSS also mentioned it, the ongoing battle with governments, and they said successive governments, about some things that all members of the Assembly need to take on board. For instance, the community groups looked at this bill and saw that EBAs had been negotiated with a number of public service bodies and they got pay increases as a matter of course, but the community sector has to come cap in hand to government for the full flow-on effect of increases under the

SACS award and have to fight tooth and nail to get it. The committee suggests that some sort of process be set up to make that easier for them.

There is some information in the report about FaBRiC itself. FaBRiC is experiencing a lot of emerging need arising from the bushfires and because of the services that they provide. There is a need at all time for their services and we have suggested that the government renegotiate funding levels with FaBRiC so that they can continue their services. Members might not know it, but the Treasurer pointed out during his stint before the committee that he was formerly a director of FaBRiC, so I am sure he will know about and have a great deal of sympathy for the work which FaBRiC does.

Also included in the bill is an allocation of money for a position with the union movement to work on occupational health and safety. I think it would be fair to say that, basically, this is just about money being given to Unions ACT to create a position because there is no process in place, there is no service level agreement, and there is no contract. I think you could say that this is a special favour for special friends, simply because every other community group, business organisation, arts group or any other group that wanted to come forward and get some money would go through a process. There is no process in place in this instance. There is not even a reporting mechanism.

I think that it is unfortunate that the government is willing to give taxpayers' money to the union movement for this position without attaching to it the same process that they attach for all other groups. We will be urging other groups to watch the process by which ACT unions get money, simply because I do not think the government has shown good process and accountability in this regard. I would suggest that the government should secure from Unions ACT a contract and some sort of agreement about what the money will be spent on and how it will be accounted for.

Mr Speaker, I would like to thank a number of people who were involved in the entire process, but before I do that I will point out that, in the main, the departments got back the answers to questions on notice quite readily, but some are still outstanding, which is unfortunate because committees cannot complete their work properly without the assistance of the departments. Mr Speaker, I expect that, at some stage, you will be tabling in this place answers yet to be received to questions taken on notice. I would like to make the comment to the departments that the best and quickest way of handling questions taken on notice is to get the answers in before reports are tabled. I would like the committee office to make those available to you, Mr Speaker, so they can be tabled for the information of members.

I thank Ms Dundas and Mr Hargreaves for their hard work. The process moved smoothly and we got through it quickly. I thank also all the other members who turned up during the hearings to ask questions. To the staff of the committee—Ms Siobhan Leyne and Ms Jane Carmody, with the assistance of Judy Moutia—I thank you for all the work that you have done. The committee was assisted in some of the deliberation phase by Messrs Jamison and Bushmills and I thank them for their assistance in getting the process to work smoothly and deliver a good quality report by lubricating the wheels of discussion.

Mr Speaker, the committee has recommended that the bill be passed. We are aware that there is still work to be done on fixing the damage that was done in the bushfires of

January and building up the resources to prevent further damage being done in the future. It is interesting that the Treasurer has noted the potential for contingencies to emerge in the future. He very kindly gave to the committee a list of nine. So the Assembly should be aware that there may be a need for a third appropriation bill this financial year to cover some of the contingencies that the Treasurer brought to our attention. I commend the report to the Assembly.

**MR HARGREAVES** (10.48): I rise to support recommendation No 1 of the report, which is that the bill be passed. Mr Speaker, I would like to make a couple of comments about some of the recommendations. Members may or may not agree with the comments that the chairman of the committee made. I disagree with the view of the majority of the committee that there has been a lack of a strategic overview. In fact, I think that the overview has been sufficient to warrant the supply under this appropriation bill.

One of the things that worry me about comments by committees is to see statements that there was insufficient analysis, that the committee did not get enough information or that it did not get enough supporting data. There is a temptation for some committee members, new and old, to believe that they have to be told about the dots on the back of a fly. You do not necessarily need that kind of information at that level of detail to make decisions at this level. This level is not about micromanaging the executives' job for them; it is about scrutiny.

I agree that there is a balancing act between how much information you need to discharge that responsibility and the temptation to micromanage. However, when it comes to the sort of information that was provided to us in this appropriation bill, I think that the temptation to acquire sufficient information to satisfy some members was, in fact, a thinly veiled attempt at micromanaging particular issues, so I cannot agree with that statement.

One of the issues for me, Mr Speaker, is that it will be a matter of days before the fire season starts this year and this bill provides at least some funds to get on with the job. I take the point that nothing happens overnight and that it takes a certain length of time for certain pieces of equipment to be provided. But if we do not appropriate the money now there will be even further delays. If some of these initiatives will not come off until halfway through the season, I am sorry about that, but they would be further delayed if these funds were not being provided.

The government has been criticised over its handling of the McLeod report. It has been said that the government is not doing enough about it. In one part of the report, the committee says the government has moved on 16 of the recommendations, so there is implied criticism that it has not moved on the rest, yet there was implied criticism and sometimes direct criticism earlier that the government had slavishly accepted the recommendations of Mr McLeod.

Mr Speaker, I think that we should be saying that we accept the McLeod recommendations and get on with it. The reason funding is not being sought for all the recommendations is twofold. The first is that some of the initiatives can be brought off within existing appropriations. The second is that they require a hell of a lot more work than time permits. This seeking of funds actually goes to doing the things that we can get on with and do.

Recommendation 3 and 4 talk about the involvement of the community sector in the aftermath of the disaster. I support both recommendations. It is important that we understand that response is a multifaceted thing when it comes to bushfires and it is not just those people who are articulated in the disaster plan who actually come to the fore. A range of community sector organisations come to the fore and do a heck of a lot more than they would otherwise be required to do.

The reason I am supporting these particularly is that I think that the disaster plan, known as the displan, could be refined a little bit more to talk about what the impact on the community sector is going to be in the event of a disaster. I can recall doing disaster response training and saying that we have to get St Vincent de Paul and the Red Cross to kick in. We do not realise that they have to keep going with their normal day-to-day operations anyway. That has not been taken into account. I would not suggest that it should have been anticipated, but we know about it now. That is why I support the recommendations.

Recommendation 6 talks about funding levels for FaBRiC as a result of the bushfires. It is but one organisation. It is interesting that the community has been critical of the committee for putting forward bids, if you like, without proper analysis. It is interesting that the FaBRiC bid was an initial grab for $350,000, which was later determined to be $60,000 because they spread it over a couple of years instead of just one, and then it went down from $1.036 million, if my memory serves me correctly, to $870,000. These are basic inaccuracies one does not expect from organisations like that. So, in terms of criticism about the analysis, let's be a bit fair about it. I would also encourage community organisations to do their sums properly before submitting numbers to a committee which might just pick them up and run with them because, unless a proper analysis is available, it ain't going to happen.

Recommendation 7 is a thinly veiled exercise in union bashing. The government is providing a certain amount of funding to Unions ACT to assist it in the provision of occupational health and safety information and policy direction. That shows the commitment of this government to occupational health and safety. Members will see further evidence of that commitment in the industrial manslaughter legislation when it is debated. More will be said about that later today, Mr Speaker.

In terms of equity, questions have been asked about why the government is giving the funding to the unions and statements have been made about the unions getting special treatment. Nothing could be further from the truth, Mr Speaker. I can cite two examples off the top of my head. The Youth Coalition gets money to assist the government in policy development for young people. It is just a grant. It is not a contract. It is not something that they had to bid for. That is because they happen to be experts in their field.

A series of parents and citizens association organisations get $70,000 a year under exactly the same scenario. Why? It is because they know what they are doing; they are experts in their field. It is the government's view that, when it comes to occupational health and safety, Unions ACT might be well placed to augment the government's bank of knowledge. But nothing is free in this world. As with the Youth Coalition and the P&Cs, the government is prepared to put its money where its mouth is.

It has been said that this bill is a bushfire response appropriation, a McLeod report appropriation. Certainly, the majority of the items in it fit that description. But there are a number of other approaches for funding contained within the appropriation. Money for the acquisition of land and the future use of the Hotel Kurrajong are probably the ones that stand out. The government has been criticised for not sticking those items in the original appropriation bill. The short answer to that is that the figures did not emerge until after that appropriation bill was developed.

It would have been irresponsible and illegal for the Treasurer to have applied the Treasurer's Advance to these initiatives or these opportunities knowing full well the amount and the possibility. They were neither urgent nor unexpected, two of the main planks of the Treasurer's Advance. If anything, the Treasurer should be congratulated on taking the opportunity, given that there was an appropriation bill on the table, to put forward two significant pieces of expenditure when they were known and they were not absolutely urgent.

I think that this appropriation is a responsible seeking of funding from the Assembly. It articulates the main planks of what the government is doing in relation to the bushfire response. It puts forward other issues which have emerged since the appropriation—aerial photography is one of them. When you get a mix-up in the bills, when you get some sort of cost sharing arrangement which was not apparent when the original budget was delivered, and you discover that and wish to do an accounting treatment on it which requires a supplementary appropriation for a particular agency, then it is irresponsible not to do that. I consider this bill to be a most responsible appropriation bill to put before the Assembly and I urge all members to vote for the bill.

**MS DUNDAS** (10.58): I wish also to speak briefly on the report of the Estimates Committee on this appropriation bill. The first point that I would like to make is that this report was a consensus report. The committee considered the appropriation bill in a lot of detail in the time that it had. I also extend thanks to the people who were able to provide us with information in a timely manner. We made a number of recommendations that are actually about seeking more information and answers as to where the government is progressing in a range of areas and what it is hoping to achieve in a range of areas.

I would like to touch first on what we have said about community groups. The points raised with us by community organisations such as ACTCOSS and FaBRiC were quite valid in that they are always fighting for resources, as are all organisations within government, but they feel that they have to fight harder to do more with less. After the bushfires had had their effect on the community, the community sector stepped up to the plate and took a lot of the burden of that. The needs of their clients increased, but the resources for them to help those clients did not.

The point that ACTCOSS was putting forward was that we need to support our community sector to support the community. The community sector cannot continue to do so in the way that it does with the resources that it has. We need to be aware that we are forcing workers in the community sector to work longer and harder and that they are not getting remunerated adequately for that. The recommendations are quite clear in asking the government to assist the community sector to quantify and identify the impact of the bushfires on it so that we can at least get a figure and know how much more in

resources the community sector needs to continue to do the work and bring the community sector into the emergency response plans so that it is fully recognised for the work that it already does.

In terms of the ongoing impact of the bushfires and future contingencies, I do thank the Treasurer for providing a list of the items that the government has already identified that may need to be dealt with in a third appropriation bill, thereby giving us a good lead up to how Treasury and the government are thinking as to areas they have identified and are still working on. Recommendation 5 is quite clear in asking for an interim report specifically on counselling services so that we assess what the long-term impact will be in that regard. Once the Bushfire Recovery Taskforce has wound down and the recovery centre has closed, it will fall on the community sector to continue this work and we do need to know what we are asking it to shoulder.

Looking at the other bushfire-related expenses in this report and the appropriation bill, the committee raised some questions about what the implementation team mentioned in the McLeod report will be doing and how it will be bringing together the whole of the McLeod report and the government response. I was interested to learn that the implementation team will be basically a purchasing team and will not necessarily be looking at a strategic overview or doing a detailed analysis of where we are going with the McLeod report. I do think that needs to be done so that we do have a big picture understanding of what we are building and how it is going to assist us in regard to our emergency services and fire fighting capabilities into the future.

We also examined the implementation of a hazard reduction team that is to sit in the Department of Urban Services and have a whole-of-government approach to how hazard reduction is being done across the different agencies. That is something that needs to be supported. One must question why we have not had one before. How many of these appropriations are going to be in force or ready to go come the new bushfire season was a question that we could not get an answer to. To quote from paragraph 5.5:

> The Committee asked the Government to provide a list of what will be provided to support the 2003-2004 fire season out of this Bill. The Minister took the question on notice and told the Committee that "we'll give you the best we can".

Unfortunately, we still have not seen an answer as to what is going to be ready in the short term and what is going to be ready in the long term. I think that that information is necessary so we can have a better picture of how the work that we are doing out of the 2003-04 budget and the supplementary appropriation will be making an impact on the next bushfire season and how we are going about planning for future bushfire seasons. This information is important and I do hope that it will be forthcoming.

The Chief Minister said in the media over the last couple of days, I believe, that we are as ready as can be expected for the next bushfire season. I guess that that is the best that we can do, but we would like to have information about how the new initiatives that have been brought about since the January bushfires are being implemented and acted upon so that we can track how our response is going and whether our response is going the right way.

I would like to touch on the non-fire expenses. Other members of the committee have touched on them already, but I would particularly like to draw attention to the discussion that was had about the Griffin Centre. Money is being put forward to buy extra space in the new community centre that is being built, but it appears that the extra space is actually extra travel ways and infrastructure for extra space that was bought a couple of years ago in the Griffin Centre.

I think that it is a matter of concern that those initial negotiations for the extra space did not cover that. I think that this is one of the areas in which we can say, "Why wasn't this covered in the initial budget? Why are we discussing this at all? Why wasn't it taken into account as part of the initial negotiations that you were buying not only extra floor space, but also lift wells, stairwells and hallways around the space that you were purchasing?" I hope that, as the new Griffin Centre is developed and we move our community organisations into an up-to-date, safe, modern facility, we will be providing them with adequate space in which to grow and to build and that we will not be continually hampered by the fact that we forgot to account for lift wells, because that is not a very good way to run things and is not good for the community sector.

Mr Hargreaves raised the issue of the funding of Unions ACT to support them in the work that they do in terms of communications with government. I do think that the provision of this money is warranted. Recommendation 7 reads:

> The Committee recommends that the Government invite not for profit community organisations to indicate whether they require additional resources to participate in specific Government activities/consultation processes.

Mr Hargreaves mentioned some organisations which are already getting such money. I see no harm in asking all of the organisations whether they would benefit from or need a similar resource to participate in the great breadth of consultations that the government has initiated over the last two years. We are asking a lot of our community sector. That is barely touched on in this appropriate bill, which is a great shame. We should recognise the work being done by the community sector, thank them for it and make sure that they are continually resourced to provide this support.

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

## Legal Affairs—Standing Committee
### Alteration to reporting date

**MR STEFANIAK** (11.08): Mr Speaker, I seek leave to move a motion to alter the reporting date of the Standing Committee on Legal Affairs inquiry into the Long Service Leave (Private Sector) Bill 2003.

Leave granted.

**MR STEFANIAK**: Mr Speaker, I move:

> That the resolution of the Assembly of 7 May 2003, concerning the reference of the Long Service Leave (Private Sector) Bill 2003 to the Standing Committee on Legal Affairs, be amended by omitting the words "by 23 September 2003".

Just very briefly, a number of submissions are still to be made, Mr Speaker. I do note that—and this causes my colleague Ms Tucker some concern—the government apparently is not going to put in a submission. I am not quite sure why. Perhaps they could just contact us, write to us, and just make that point. I think that would be helpful. I would like to make that point. There are a number of other organisations who wish to appear before, and make submissions to, the committee.

**MS TUCKER**: (11.09) I just want to make a couple of comments. I am supporting this movement of the reporting date because we haven't basically been able to complete the work. It is a very important inquiry; it is a very important social issue. I am extremely and slightly painfully aware of the fact that there are many people—I think one of the figures I have seen is around 80,000 people—right now in the ACT who are extremely disadvantaged in terms of protection, of entitlements and of portability in this area.

I am very concerned that the government is not putting a submission in to this inquiry, and I would like to put that on the record. I echo Mr Stefaniak's concerns there because this is a subject, obviously, of great interest. I'm not quite sure why the government would not put in a submission to help inform the committee's work on this matter.

We are not actually giving a reporting date today, but I know that the committee is of the view that this does need to be reported on before the end of the year, hopefully in the November sitting, so that we can move quickly into the debate on this issue. As we are all well aware, it is a slightly contentious issue, and it would be a tragedy, in my view, if we saw this thing dragged out so that we actually didn't do it because suddenly it was too hot an issue for an election year. I think it is really critical that we do actually get this thing progressed quickly.

Question resolved in the affirmative.

## Scrutiny report No 37

**MR STEFANIAK**: Mr Speaker, I present the following report:

> Legal Affairs—Standing Committee (performing the duties of a Scrutiny of Bills and Subordinate Legislation Committee)—Scrutiny Report No 37, dated 2 September 2003, together with the relevant minutes of proceedings.

I seek leave to make a brief statement.

Leave granted.

**MR STEFANIAK**: Scrutiny report No 37 contains the committee's comments on 10 bills and 2 government responses. The report was circulated to members out of session. I commend the report to the Assembly.

**MR HARGREAVES**: I seek leave to make a statement about scrutiny report No 37 which has just been delivered by the Chair of the Legal Affairs Standing Committee.

Leave granted.

**MR HARGREAVES**: I wanted to do two things. Firstly, I wanted to make comment on the public record about how easy it is for the media to misinterpret something which is provided in the form of an Assembly standing committee report. One of the major planks of scrutiny report No 37, which has been a recurrent theme for many reports in previous assemblies as well as this one, is the issue of strict liability. Many reports of this standing committee's comments on that were actually wrong, Mr Speaker. They talked about how horrible the strict liability could be if it was applied to certain transgressions.

Mr Speaker, the actual report talks about the need for the government—and with a particular message to Parliamentary Counsel—to explain why something should be a strict liability offence. There is nothing surprising about strict liability offences, Mr Speaker. Your parking tickets, your speeding tickets, they are all strict liability offences. You can say, "Oh, sorry, I didn't notice what I was doing," or, "I wasn't paying attention." In my own case, I actually crossed double unbroken lines to avoid having an accident. Nonetheless, I was guilty of having crossed double yellow lines and Magistrate Dobson duly fined me half a week's pay for doing so.

The thing here, Mr Speaker, is that strict liability is nothing new, and in certain offences it is the most appropriate liability to apply to these transgressions. The issue wasn't about the application of strict liability to some offences, which is what the media report was all about; it was about the need for Parliamentary Counsel, through the government of the day, to tell us why it needs to be a strict liability offence.

Mr Speaker, there are two messages. One is to the media, if you are listening: get it right. If you are confused about these things, ask someone that knows. The chairman of this particular standing committee is a lawyer. The same thing can't be said for the previous chairman who was a footballer. But sometimes I see a similarity, I have to tell you, Mr Speaker. Nonetheless, there are plenty of experts who can tell you the difference between strict liability and others. Do not portray a thing incorrectly.

The very strong message of course to Parliamentary Counsel is that, when you're preparing explanatory memoranda or presentation speeches, tell the Assembly why you say that strict liability needs to be applied.

But the other thing, Mr Speaker, I wanted to highlight—and it doesn't happen that often—is that the committee actually makes consistent points to the government of the day. This did happen, I have to say, under the previous government, so this is nothing new. But it is new in this particular issue.

I draw members' attention to page 4 of the computer report. When dealing with the Victims Of Crime (Financial Assistance) Amendment Bill 2003, the committee, in fact, talks about undue trespass and rights of liberties and says:

> The Committee notes and commends the provision made in the transitional provisions of the Bill to protect the substantive rights of persons whose injuries occurred before the commencement of the Act.

This committee actually will commend government and, through it, the Parliamentary Counsel if they get something right. All too often people see a scrutiny process as one which is hunting for criticisms to make. Such is not the case.

With regard to these positive sorts of comments, I would dearly love to see such a positive comment come forward to this government and to Parliamentary Counsel over the strict liability application.

## Report No 6

**MR STEFANIAK**:(11.17): Mr Speaker, I present the following report:

> Legal Affairs—Standing Committee—Report No 6—*Crimes (Industrial Manslaughter) Amendment Bill 2002*, dated 16 September 2003, together with a copy of the relevant extracts of the minutes of proceedings.

The report, which includes a dissenting report, was circulated to members out of session. I move:

> That the report be noted.

Might I start but not be too effusive, as things were at the meeting of chairs, by thanking a number of people, which I do think is appropriate. Firstly, my colleagues on the committee—Deputy Chair, John Hargreaves, and Kerrie Tucker—for their usual and expected diligence to this inquiry as they show, in fact, to all inquiries that come before us; the secretaries, Derek Abbott, who left us towards the end, and especially Judith Henderson who had to read herself in at a very late stage and who did the thoroughly professional job that we've come to expect from her; and Judy Moutia from administration.

Mr Speaker, the committee looked at this question long and hard. There is a list of people who appeared before the committee. A number of recommendations were made. First, I'll speak just briefly to the six recommendations that were unanimous. I had a dissenting report in relation to one and some additional comments which I will touch on soon.

Recommendation 1 was:

> The Committee recommends that Section 49B (1) and (2) be amended to make it clear that their application is limited to relevant responsibilities and undertakings of an employer or senior officer in those capacities.

They currently state:

> … an omission to act by an employer or senior officer can arise from 'anything in the employer's [or senior officer's] possession or control' or from 'any undertaking of the employer [or senior officer]'.

These paragraphs, to the committee, seem very generally expressed and it would be desirable to limit their application to the employers and senior officer's responsibilities and undertakings as employers and senior officers. Hence the recommendation.

In relation to recommendation 2, a number of submitters made some comments that, effectively, an employer's recklessness or negligence should relate specifically to the employee who has died and the circumstances of that death. Hence the recommendation:

> … paragraphs 49C (c) (i) and (ii) and 49D (c) (i) and (ii) be reviewed to clarify the meaning of the phrase 'or any other worker of the employer'.

In relation to recommendation 3, two of the committee, my colleagues Mr Hargreaves and Ms Tucker, recommended the bill be proceeded with. I dissented from that. I will come to that shortly.

In relation to recommendation 4, we noted this bill wasn't limited to business corporations and government; it applied to a wide range of entities, incorporated and unincorporated; voluntary organisations, charities and religious groups and a wide range of community organisations are to be subject to it. We noted that, when similar legislation was being considered in Victoria, not-for-profit organisations were excluded. We received very little evidence on this issue, hence our recommendation:

> … the government advise the Assembly as to why agencies, such as charities, voluntary associations and community groups have been included.

In the only real bill that is similar to this that has even got to the stage of getting to a parliament, it was excluded.

Recommendation 5 looked at the issue of contractual relationships, and we recommended the government:

> … review section 49B (3) to ensure that it does not obstruct fully informed contracting arrangements entered into in good faith which attribute responsibility for workplace safety to one party to the contract.

In other words, if a subcontractor knew exactly what was required of them, if something went wrong, they could not have it hung on the actual contractor.

Recommendation 6 recommended:

> … the definition of 'agent' be reviewed to clarify that an employer, having satisfied him- or herself that a sub-contractor had the necessary skills, knowledge and experience, is entitled to rely on the contractual undertakings of a sub-contractor that a workplace will be conducted in full compliance with Occupational Health and Safety laws.

Again, a similar issue.

In relation to five of the six recommendations, the committee agreed. As the dissenting member of the committee, it was my view that if this legislation, which I do not think is remotely necessary, were to pass, those recommendations would improve the legislation.

I come now to make some dissenting and other comments. Firstly, my dissenting comments in relation to the bill. Mr Speaker, I feel there is absolutely no need for this legislation. No-one wants to see injuries in the workplace, and I don't think any reasonable person, employer/employee, sets out to wreak havoc in a workplace and have a work situation where injuries occur. It is not fair; it is not right; it is also incredibly bad for business as well. Generally, most people really support a very strong need for safety in the workplace. We have very strong occupation health and safety laws in Australia as a result.

In the ACT, we're a bit different from other states and territories; we don't have a manufacturing industry base, or very little. We don't have the types of industries that traditionally have led to deaths. There have been, from evidence before the committee, I think, some 23 deaths in the workplace. Some of those actually are to or from work—absolutely nothing to do with the workplace as such, but relate to car accidents. Some just relate to an illness the person had, a heart attack whilst they happened to be at work.

Some however did relate—I think about 11 or so—to something that might have gone wrong in the workplace, and several of those seem to have been where there might well have been some type of negligence. But there was no evidence whatsoever put before this committee that any of those deaths resulted from negligence that would justify an act such as this coming into force. Indeed, if a lot of the evidence put before my committee is correct, this particular act would possibly never be actually used because of the necessary standards required. There is nothing at all to indicate a justification for this.

I point out, too, to members of this Assembly that no other state or territory is going down this path. Victoria did. Initially it was rejected by their upper house. It is interesting, however, that the current Victorian government, the Bracks government, now has a majority and Mr Bracks has not seen fit to bring this legislation back.

New South Wales and other states, in fact, have gone about it in a very different way. They have enhanced their occupational health and safety legislation. I had chats with Queensland officials in relation to this matter. They are certainly enhancing their occupational health and safety matters, including penalties of up to, I think, three years imprisonment for some matters.

In New South Wales I think the penalties are somewhat similar. In fact, the fines and other provisions are in the millions of dollars, so it's not like the penalties are light there. But they are certainly not going down this path.

Queensland is looking, although there's no guarantee that they'll do it, of possibly bringing in an offence of negligent act causing death in the workplace, very similar to our laws in relation to culpable driving. But again there's no guarantee that they're even going to do that.

So we would be the only Australian state or jurisdiction going down this path. That, I think, should tell members of this Assembly something—especially when one considers the nature of our industry too—and the fact that a lot of those states and even the Northern Territory have workplaces where traditionally, because of the nature of the employment, there is a greater danger of people actually being injured.

Then there's the current law. I think it is bad law to have two offences for manslaughter. I hark back to the culpable driving matter. If we go down the path of having industrial manslaughter, why not manslaughter for under 18-year-olds or manslaughter for women, or things like that? It does not make good legal sense to have two offences for manslaughter.

Culpable driving is a good case in point. If the driving is of such a bad standard and a death arises, the offence of manslaughter has been brought. With industrial manslaughter, albeit rarely, there have been instances of people prosecuted.

In one recent case in Victoria, a person was successfully prosecuted for industrial manslaughter. I have been advised that the facts in relation to that were that a director, someone who owned the company, worked in the building, went out and said, "I am going out to lunch." He said to his foreman, "Fred, make sure the vat's cleaned." The foreman then, without properly supervising the young apprentice, had him clean the vat—it was a chemical vat—and the apprentice died.

The boss actually went to jail as a result of being found guilty of manslaughter. If anything, I thought perhaps the foreman would be the one responsible because he was duty bound to supervise the apprentice. But no, the court said it was manslaughter and it was the boss who went to jail.

So it is not impossible as a result of incidents in the workplace to have a manslaughter charge brought if the evidence warrants it. It is rare. The evidence that was put before this committee suggests that, if the standards here are no different than normal manslaughter, it is going to be very, very difficult, in our situation, to ever see this particular act, if it becomes an act, being used. Again, why on earth have it in that case, apart from the fact that we are now creating a second offence of manslaughter, which is certainly very strange to me and something that has not happened anywhere else in this country—for obvious, very good reasons.

If, indeed, there are some lesser standards—not so much standard of proof; the standard of proof is beyond reasonable doubt, and that is enshrined in our law and I doubt very much if anyone is ever going to get rid of that; and nor should they—if the elements are somewhat different, if there are lesser elements to actually prove industrial manslaughter as opposed to manslaughter under the normal law, then that is of real concern, especially when the penalties for this are greater than for normal manslaughter. It is 25 years maximum as opposed to 20 years maximum, and some very significant fine provisions and other provisions to impose financial penalties on corporations. It is not that I have a particular problem with strong penalties for serious offences—far from it.

But the penalties here are even greater than what they are for normal manslaughter. If the elements somehow involve a lesser degree of culpability, if they are easier to prove, then

that is even worse law because we really are bastardising the criminal law when we have very high standards for manslaughter.

I have given an instance of industrial manslaughter in Victoria. I will give you two instances of manslaughter in the ACT under normal law. It is a very high standard—gross negligence, effectively, has to be shown; an act which causes death.

An example is the very tragic case of Rita Cameron and Rod Cameron's son, Grant Cameron. The Grant Cameron Centre is named after him. He was at a school fete. A young bloke called Kenta and his mates picked on Grant because they didn't like the shirt he was wearing. They punched him around. He went to the ground. They kicked him and certainly laid into him with the boots. He died.

I remember I was at the DPP at the time. We argued whether that was murder or manslaughter. It was manslaughter. A charge of manslaughter was brought. Justice was duly dispensed. That was an instance—and I think a very good example—of what manslaughter is.

I will give an example of manslaughter when driving a motor vehicle. Again, a very high standard is required in terms of the elements. There was some altercation outside, I think, a pub or a drinking establishment in Phillip. Someone got a car and just kept ramming this other person into a brick wall with the car and killed them. I think that is reckless indifference to human life and would justify a murder charge, but manslaughter was brought in by the court.

I think that just shows you the seriousness of the offence of manslaughter. If this is to be an equally serious offence, as it should be, it isn't something that one would expect to be used very, very often at all. Certainly from the history of the ACT, I would suspect, again, that this is an offence that may actually never be used at all. And that is a problem.

I know a lot of industry groups and a lot of individuals gave evidence before the committee—and I appreciate the fact the government made a commitment before the last election to the unions that it would bring in this offence and there is strong support for it in the union movement—but I think it is indicative that no-one else in the community gave evidence before the committee that this is something we really need. All the evidence, indeed, was the other way.

I think most of those groups were employer groups, but I think they made some very valid points in relation to occupational health and safety; why we should not have this particular offence; the fact that over the years employers and employees have really improved their game in terms of safety standards in the workplace; how they have actually worked together in a cooperative way to ensure that the same accidents and any negligence are ruled out and minimised. This might turn the clock back. Employers might well be trying to seek ways to show how they can actually justify getting out of this type of offence if something happens to go wrong.

There is a real fear in the workplace in terms of employers that this will have a really bad effect. I have certainly spoken with a number of persons who have given evidence before the committee, and there is a fear that not only will the people not invest in the territory and simply go over the border, but that certain people are feeling, "Right, we will give up

the ghost. What's the point of potentially going to jail for something outside our control, effectively?" There is some real angst in the community in relation to this legislation, and I don't think that is sensible when we have good laws at present which can be used and used effectively.

In terms of corporate responsibility, we have that in the criminal law now. That is something that came in 2002, so the argument that you can't really attack a corporation goes out the window. They can be attacked now for manslaughter. Some additional penalties might need to be included; let's do that through the normal criminal law and not through this particular piece of legislation which, in my view, is bad law.

As I have said earlier, there are strong penalties, but I think they are more appropriate in other laws rather than in this one. *(Extension of time granted.)* If the government has to go down this path I think a much better way of doing it—and it is a way I am sure the employers would necessary like—is to perhaps look at what Queensland is considering, that is, a negligent act causing death in the workplace which is akin to a negligent driving act causing death, which is culpable driving. There is a much stronger legal basis for that than there is for this particular bill, and I would urge both members of the Assembly and the government to have a very serious rethink about the need for this legislation and urge them to do something very different to what they are doing in this particular bill.

**MR HARGREAVES** (11.33): Mr Speaker, this legislation is a courageous piece of legislation which actually leads the country because the other jurisdictions haven't got the guts to get on and do it. Mr Speaker, they all balked. They all blinked. Mr Speaker, when the corporate giants twitched their noses at them they blinked. Victoria, I have to say, had a fundamental flaw in their legislation, and that was the vicarious liability clause which, you will note, from reading this bill, is not included. The ACT does not intend to include vicarious liability as part of this package.

I wish to commend the minister and your good self, Mr Speaker, because I know the commitment you had, before this Assembly actually came to be, to this particular piece of legislation. I commend the union movement for coming in and saying to the government, "We support this initiative." I condemn those people who have opposed the legislation because I wonder whether or not they suffer from gross ignorance, a lack of ability to read a simple piece of legislation, or are trying to protect their own back. I will come to that a little bit later.

Mr Speaker, I have a particular criticism of the media again. The media reports on this legislation have been biased, misleading and totally inappropriate. What they have succeeded in doing, Mr Speaker, with aiding and abetting from the Chamber of Commerce and Industry, for which they need to be grossly ashamed, is putting the frights up a whole series of small business people without justification and without cause. Mr Speaker, I find this particularly appalling. In fact, I heard from a small business person today, a person who is a director of a very small franchise who was frightened by the publicity—by what the person heard on the radio this morning and read in the *Canberra Times*.

Mr Speaker, the portrayal of this legislation in the media has been unbalanced, has not provided both sides to the issue and has quoted the opinions of only one member of the Assembly committee that considered it. Had the reporter bothered to check, there would

have been a balanced reporting. I can only assume that it was laziness on the part of the reporter. There was either an editorial thumbprint all over it or it was a gross misunderstanding and then being victim of the spin which has been put on it by the opposition and by the Chamber of Commerce and Industry. I find this sort of reporting appalling, when we are talking about legislation which is supposed to be about protecting the lives of workers. We are not talking about injury; we are not talking about missing pay packets; we are talking about people's lives.

Mr Speaker, the report says the bill has three main purposes, and the chairman indicated it establishes a new offence of industrial manslaughter. It certainly does—a second crime of manslaughter. What is the problem with that? I don't see the chairman in his dissenting report giving us a reason why that shouldn't be the case. If a person is driving a motorcar and kills somebody, you get charged with about six or seven offences. I don't see a problem at all with having a couple when we are talking about the loss of a person's life in the workplace.

Mr Speaker, it also seeks to clarify and define the range of employment relationships. This is about the chain of responsibility, Mr Speaker. This is to stop only one person being charged when negligence has been proven—the foreman in the example that Mr Stefaniak quoted. It actually talks about contracted labour, agents. It actually clarifies once and for all that, when somebody has a responsibility for someone else's safety, the responsibility is sheeted home to them no matter where they are in the chain.

The corporate culture in the boardroom of people like Woollies and companies of that size— I don't wish to single them out, only to say that that's a good example of a certain size; Grace Bros is another one—can be equally as responsible for the death of a transport driver delivering fresh food to their supermarkets as the transport driver's company foreman or owner under the contract that they have with another transport company and so on up the chain.

This legislation actually holds those people responsible as well as the immediate foreman. And that's one of the significant parts of the legislation. It provides for substantial penalties for the offences. They are good penalties, and I'll come to the most important one of those in a moment.

But it adds another two issues. It allows, in fact, Mr Speaker, for non-natural persons to be held accountable for the death of someone at the workplace. It allows a corporation to be held responsible. At the moment it is really difficult to put Woolworths in a cell. You need a really big cell. What this legislation does is put a fine of up to $1.25 million and other penalties as the court sees fit if the court so desires, up to a total of $5 million. That is a big enough penalty to make even the boards of these large corporations sit up and take notice.

For honest people and people who are diligent in their OH&S practices, there is not a problem. For road companies who really don't care less about what the cost is, to achieve their profit margin, that sort of penalty can send them out of business. As far as I am concerned, Mr Speaker, good riddance to them; they shouldn't be in business in the first place.

It also allows for the inclusion of corporate culture, Mr Speaker. Mr Stefaniak is quite right. It is in the Criminal Code. But a lot of this stuff needs to be underscored. This is a significant issue, Mr Speaker. The ACT—Mr Stefaniak is quite right—is leading the way. The opposition should be congratulating this jurisdiction for doing it, not pointing to it as being inappropriate.

Mr Speaker, one of the things which have been misrepresented in the media is the fact that the burden of proof—the general principles of criminal responsibility, which include corporate criminal responsibility, the burden of proof, the general defences—needs to be beyond reasonable doubt. It has to be a significant contribution to the negligence. It is not—and I repeat not—a case that, if someone is accidentally killed at work, someone is going to go to jail. If that was so, we would have had 20-odd people in jail over the last few years, not just one person prosecuted.

Those people who are diligent in their OH&S practices, those people who concede, particularly in some dangerous workplaces, that the potential for significant injury and death is there and take reasonable steps to avoid it, have nothing to fear before the law.

And with what conviction do I say this, Mr Speaker? The fact is that the laws of manslaughter apply to those people today, already. They know this legislation is nothing new. It is not a monster that can be held up to frighten the horses. The same burdens of proof exist under this legislation as exist under the existing legislation.

I was interested to hear Mr Stefaniak say that if there are lesser criteria—and that's my word—for proof, he would have some concerns. He was told, Mr Speaker, that the burden of proof—the criteria for establishing responsibility—has not been diminished under this legislation. So introducing that possibility is to give birth to a furphy. Mr Speaker; it is just not the responsible thing to do.

Mr Speaker, it was also reported in the press that the illustrious Mr Peters said that this is bad for business. I would like to ask this question then: what are these people afraid of? Are they suggesting, Mr Speaker, that it is bad for business to look after your workforce, to make sure they don't get significantly injured and killed in the workplace? Are they suggesting that good OH&S practices are a barrier to profit margins? Are they trying to protect the corporate entities? Are they trying to avoid the business going broke because it had a strongly proven example of negligence resulting in death?

What are they trying to avoid, Mr Speaker? When these people have got corporate lawyers by the yard—they're so thick on the ground, Mr Speaker, that you trip over them—why on earth haven't those same lawyers said to them, "There is nothing different about this; it is just putting the accent further on it." But the fundamental difference, of course, is that non-natural persons can get done as well. All of a sudden, Mr Speaker, it's not the foreman that is in jeopardy; it is those people making corporate decisions who are also in jeopardy. Hence the scare mongering that has been trotted out.

Mr Speaker, opposition to this legislation is nothing more than supporting a regime which sheets home a responsibility to minor players, to minor people in the workplace. The opposition to this legislation seeks to exempt people who are responsible for corporate culture. It seeks to eliminate the definition of an agent, of a contractor, what is

an employee and what is not. Mr Speaker, it matters not whether someone is on your payroll. If you are responsible through your management for practices which result in the death of somebody, and it can be proven under rigorous examination that your negligence or deliberate action caused the death of this person in the workplace, then you should be charged. Opposition to this legislation would see these people escape.

It is appalling, I say to you, Mr Speaker, that people would not understand that this legislation is all about proportioning responsibility and holding people to account. It is not about trying to frighten people, which is what I have seen in the media. I would expect, Mr Speaker, that this Assembly would in fact support the apportionment of that responsibility, when you consider that there's nothing new in this, except for the entrée of corporate culture, corporate responsibility and a clarification of definition.

I strongly urge the Assembly to pass this legislation. I strongly urge the opposition to reconsider their position on it. I strongly urge the media and the Chamber of Commerce and Industry to start representing their members instead of scaring the hell out of them.

**MS TUCKER** (11.47): I think that the work the committee has done in looking at this legislation is very important work. I am obviously supporting the recommendations of the committee, along with Mr Hargreaves.

I am also, I have to say, quite concerned about media coverage of this matter. I was very concerned also about some of the statements made by the chamber of commerce as well, because the arguments that were put in the paper today were actually put by them in the committee process as well and were responded to. It's unfortunate if people continue to just say the same thing without actually bothering to respond to the counterarguments in any way. It, of course, has alarmed people.

I note one comment that was in the paper today from Mr Peters. He said that, no matter how safety conscious an employer was, there were some accidents that were simply outside their control. He also said:

> It could affect every business, but especially those in higher-risk industries such as construction, and there are people who have been running successful companies for 20 or 30 years who will find it too difficult to go on.

There is another quote from another person:

> We are well aware of our training and safety needs. Why do we need to have a 25-year jail term hanging around our necks for something we can't do anything to avoid?

For the information of members and for the information of Mr Peters—although he really should know this—this bill basically establishes a new offence of industrial manslaughter and clarifies and defines the range of employment relationships.

Death in the workplace is a very serious matter. The fact that we do not have many is not a reason to not create law which deals with the offence. I have to say, it is a very strange argument to suggest that, because a crime doesn't happen very often, you don't bother to legislate against it. I am sure people who loved victims of crimes would like to hear that particular argument. In this case, the victims would be dead and not able to comment.

Basically, as far as I can ascertain, no-one is disagreeing that death in the workplace is a very serious issue. The concerns that have been expressed by people are well articulated, as I said, in the *Canberra Times* today. It is quite wrong, though, to suggest that an employer will be up for 25 years jail for something they had no control over, and anyone who has read this legislation will know that that is not the case.

A person will commit an offence only if they cause the death of a worker, are reckless about causing serious harm to the worker and/or are negligent about causing the death of a worker. Each of these matters must be proved by the prosecution to the criminal standard of proof beyond reasonable doubt. Both negligence and recklessness are defined in the Criminal Code 2002. This bill does not vary these definitions, and both terms have been the subject of extensive legal debate before the courts.

It is very important to understand that in this bill there is no vicarious liability. An officer cannot be liable for prosecution just because he or she occupies a particular position in an organisation. Recklessness requires the person to be aware of a substantial risk and, having regard to the circumstances known to the person, it is unjustifiable to take that risk.

I will just quickly refer to the argument—I think this was also in the paper—that high-risk industries are going to be particular vulnerable. That shows a complete misunderstanding of the basic premise of this law. It is about unjustifiable risk; it is about knowing that something is going to happen that could be avoided. Clearly if we have a high-risk industry, the people who engage in it know—security guards or whatever; it is not like sitting behind a computer all day—if that security guard has not been properly trained, has not been given ways to deal with dangerous situations which are reasonable, then there is a culpability or a liability. The point that really has to be made is that this legislation puts a very, very high level, a very high bar.

To be liable for prosecution, a person requires knowledge of the substantial risk and their actions must be judged having regard to their knowledge of the circumstances. As well, negligence requires such a great falling short of the standard of care that a reasonable person would exercise in the circumstances.

The actual definition of the offence provides a number of strong requirements which must be met before criminal liability can be established. I repeat: for a person to be convicted of industrial manslaughter, they must be charged on the basis of their own actions or omissions, and negligence or recklessness causing death must be proved beyond reasonable doubt.

This bill is actually necessary because of the range of contractual employment relationships which have blurred lines and created gaps in accountability. In the report we go into some detail about this. Basically, legal responsibilities of corporations are dealt with in the Criminal Code 2002. The issue facing a prosecutor is finding intent of a corporation, and the bill does not use vicarious liability, as I said; so the question is about identification. In the committee we go to some length about this.

This identification of a range of employment relationships is central to the bill. It recognises the change in nature of the employment relationship in Australian society.

"We have seen the increasing use of contracting arrangements as a means of avoiding the obligations of employers to their employees." That is a direct quote from the report. I don't think I will go into the detail and repeat it all now because people are well able to read it themselves and hopefully will do so.

But this is a fundamental issue that is being faced not only in Canberra, not only in Australia, but around the world, where basically structures of corporations effectively remove responsibility being taken by anyone even after catastrophic events which we should all be quite familiar with—whether it is about no responsibility being taken for shareholders or whatever; whether it is about the corporate crimes of Enron, World Com Tyco or HIH in Australia; whether it's about Bhoper where 8,000 people died or Dyncorp, more recently, drenching Equadorian peasants with toxic chemicals in the so-called US war against drugs; or whether it's Exxon Mobil who, after polluting Alaska, saw their gas plant in Australia explode and kill a number or workers. There are endless examples that we can give of corporate crime which is not actually able to be addressed.

This is an international debate that is occurring. The fact that the ACT is looking at this is totally consistent with the discussion that is occurring across the world. As I said, the argument that we don't have a huge occurrence of this would not sit well with the loved ones of any victim of such crime.

The other point that is sometimes made by people is that they don't like the idea of having a penalty; they think we should just be encouraging corporations to do the right thing. That again is a very strange argument. I would like to see the people who are proponents of it make it apply to, say, domestic violence. "Let's not punish people. Let's not call domestic violence a crime after all, even though we have decided to do that because basically we know that this can be tough on the people who might be found guilty and after all they were just a bit upset or whatever the excuse was. Let's just work with prevention and education." I don't think people would say that.

What you have to acknowledge is that there is a spectrum here, and of course you have prevention and you have education and you strengthen OH&S. But finally, if people are dying in the workplace and you prove beyond reasonable doubt that management were reckless and negligent, it is a very serious matter and it needs to be regarded as such by the society.

Consumers all over the world, as I said, are arguing this argument, and corporations and people like the chambers of commerce are saying what they are saying. I feel very confident that this is important legislation. It's overdue and we need to progress it.

**MR PRATT** (11.56): Mr Speaker, I stand to strongly oppose the findings of this committee report. I believe this has probably been a waste of time and effort. It is a committee report which seeks to recommend the introduction of a very divisive piece of legislation. I am at least pleased to see that one member of that committee exercised some sensibility and submitted a dissenting report.

Mr Speaker, industrial manslaughter legislation is an unnecessary piece of legislation. It is another layer of bureaucracy. We currently have OH&S regulations and laws which meet all the requirements where managers do not exercise a duty of care and are held responsible for the death of an employee. Therefore, the introduction of a new law will

just be another added layer of bureaucracy that people will need to be exercising and supervising the expedition of.

Mr Speaker, present OH&S regulations are more than adequate to cover all contingencies of management neglect relevant to the workplace. Individual workers, foremen, managers, CEOs are all accountable for their OH&S responsibilities. Mr Speaker, present statute law manslaughter provisions are also more than adequate to meet workplace safety and legal requirements. If a CEO is negligent and his lack of duty of care results in the death of an employee, statute manslaughter law would deal with that contingency.

Mr Speaker, if the law works and managers and business owners can be held accountable for workplace deaths, as is the case under present statute law and OH&S regulations, there is no need to introduce what is now being referred to as "industrial manslaughter". If there were gaps in existing law, then I would support the introduction of new laws, but that is simply not the case. I don't believe the committee has been able to prove that such gaps exist.

Mr Speaker, the whole idea of so-called industrial manslaughter legislation is based on political imperatives. I believe it is union driven. It is simply unacceptable that this committee report has not seen through that dynamic. This committee report has failed to fairly and objectively assess the workplace arena. It has been swayed by political imperatives, not by fundamental workplace requirements.

The committee has failed to notice that only the unions, this union-based government and the one government department responsible for industrial relations have called for this odious and divisive legislation. The committee has failed to take notice of the majority of community stakeholder groups who have repeatedly pointed, and continue to point, out the failures of industrial manslaughter and the detrimental impact that this would have on justice, fairness and the community generally.

Mr Speaker, we are all very concerned about workplace deaths. We must ensure that existing regulations are adjusted wherever necessary to tighten this up, and we have the mechanisms to do that. We have sufficient mechanisms also in place to guard against reckless management practices.

Mr Speaker, the history of the attempts to introduce an offence of industrial manslaughter across the Western world demonstrates that the proponents have failed dismally. Even labour-type jurisdictions here and overseas have on the main rejected industrial manslaughter.

Mr Speaker, industrial manslaughter is unfair. Industrial manslaughter is unnecessary. Industrial manslaughter is divisive. I believe the ACT community will be disappointed that this committee did not properly scrutinise this issue and have failed to uphold the principles of fairness in the workplace.

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

## Health Amendment Bill 2003

Debate resumed from 28 August 2003, on motion by **Mr Wood**:

> That this bill be agreed to in principle.

**MR SMYTH** (Leader of the Opposition) (12.01): Mr Speaker, the opposition will support this bill. However, I suspect we should vote against it in spirit because what it seeks to do is hand too much power back to a minister and create a different system of arbitration for one group of people in our society, in this case visiting medical officers. I note that Mr Corbell has tabled some amendments, which we will discuss in the detail stage, that will I suspect go a long way to addressing some of the fears. But there still are parts of this bill that I think are unjust.

The purpose of the bill is to provide specific authorisation for the purposes of the Trade Practices Act. The bill is intended to enable the terms and conditions of engagement of visiting medical officers to be determined by collective negotiation. So this would seek to protect VMOs, and I think that is a reasonable thing to do. However, what we would call into question is the way in which it is done.

I note that the minister wrote to members yesterday afternoon outlining the five areas that he will be amending. Before we get to that, I think you have to question the government's intention and commitment to providing a world-class, a first-class, health system for the people of the ACT. They have let this matter drag on. It should have been resolved in May but has been extended for six months. Is it not curious that in that period of six months following the extension we get an amendment to the legislation that puts power into the hands of the minister to determine that "the arbitration must be conducted under the Commercial Arbitration Act 1986 and in accordance with principles and rules determined, in writing, by the Minister"? So the minister is going to negotiate and the minister is going to be in charge of the process. Hardly fair, Mr Speaker.

You do have to question the government's approach to and inaction on this, and it has been inaction. We have all known for a long time that the VMO contracts were coming up for re-negotiation and that in theory this should have been done by May. Contracts often take a little bit longer; we know there is a bit of argy-bargy and that is okay, but this work should be completed by 28 November. But here we are in August bringing in a bill that sets up the way in which those negotiations will be conducted.

To the best of my knowledge—and the minister can clarify this—I understand the VMOs still have not seen a contract. They cannot have seen a contract because we have not worked out how these contracts will be made. We have not done that because the minister currently does not have the power to set the rules. And that is what this is about—the Minister for Health wants the rules to determine how everybody gets to negotiate about their future and he has got the whip hand. This is about giving the minister the whip hand; it is not about fairness.

Indeed, Mr Corbell outlined in the letter he sent to members yesterday five areas of reform. I note that none of the five areas of reform talks about proposed new section 33G (3). I think 33G (3) is the sticking point. We currently have an act called the Commercial

Arbitration Act 1986 and that is how you would normally do this. Indeed, in his speech the minister said they believe it should be carried out under commercial rather than some other form of negotiation, and normally that would be done under the Commercial Arbitration Act 1986. There is a set of rules in this act for everyone. However, the minister will now determine in writing the principles and rules for VMOs. Mr Speaker, the minister will determine that and I think that should set the alarm bells ringing for everyone.

The dilemma is that we are going to attempt to do this by 28 November. Mr Corbell in his letter states that he is going to move an amendment that talks about a negotiating period after 31 December this year which "must not be shorter than three months" unless it is agreed to by the parties. But he does not say in his letter to members what will happen before 31 December this year. He goes on to say in that paragraph:

> This amendment will allow notification of a short negotiating period immediately following passage of the Bill, in keeping with the need to have new contracts in place by 28 November 2003, while providing for a longer period in all future negotiations.

Isn't that interesting? Why would we have a short negotiating period on the contracts that are going to be in place for probably five, six, seven or eight years to come, but then afterwards you can negotiate for as long as you want—a minimum of three months and you can either negotiate a short period or you can negotiate a long period? What are we afraid of? Where is the transparency and process that allow the VMOs to negotiate properly? The VMOs would be denied, through the passage of this bill and the ability of the minister to set the principles and the rules in writing, the ability to negotiate properly.

How will it happen? Mr Speaker, I believe that we will conclude the in-principle stage of this bill sometime today. We will then come back on Thursday and look at Mr Corbell's amendments and some of the amendments that I have on the drawing board. So the bill might be passed early next week and that will leave about 60-odd days, about two months, for agents to be found to conduct negotiations, for VMOs to decide whether they want to go with this agent or that, whether they want to do it collectively or do it through an agent, whether they will do it by speciality or whether they will do it by organisation. They have to work out where they are going to go. Then they have to work out what sort of agent they are going to employ. When they get their agent they then have to go and talk to the government. The government is going to have some negotiations, there will be argy-bargy and eventually a draft contract will appear. That, of course, has got to go back to all the members and this has all got to be done by 28 November.

Mr Speaker, I do not believe that that can happen in that timeframe in a fair, honest, open and accountable way. So you have to question why this is happening so late in the day. The minister presented this bill in this place in August and he wants it to be determined in September. He wants us to deal with the legislation as quickly as we can so that they can have a negotiated outcome by the end of November. That is not fair. That is not fair to the VMOs and it is not fair to the people of Canberra because it will send a message to other doctors around the nation and around the world that the system in Canberra does not allow proper negotiation. We all know that there is a worldwide shortage of specialist doctors and if you want to attract people you have to have an environment that gives

them confidence that they can come here and practise their medicine and not be short-changed by the government.

So what we have is a process that the minister is setting up on what you might call the model contract—the contract that will be used for five, six, seven or eight years—and we are going to do in under two months. Are we going to do it fairly in under two months and is everybody going to be happy? I do not think so. Mr Speaker, as a former health minister you would know how long and protracted negotiations with VMOs can be. I think it is a joke that we are being asked to consider this in this way.

The government knew that these contracts should have been done in May. They knew when they extended the deadline by six months that November was rapidly approaching and yet three months out we received legislation and two months out we are discussing it. I think that is highly inappropriate.

Mr Corbell talks about other things in his letter to members and I think we would be agreeing with some of them. Dot point 1 and probably dot points 3 and 4 are things that we can live with as well. But it is proposed that a new section 33G (5) (b) be inserted requiring that the rules determined by the minister "must be fair and reasonable". Who will determine that the rules are fair and reasonable? We will we asked to insert a paragraph that says that the minister is going to give us fair and reasonable rules, but who will judge that they are fair and reasonable?

This is to be a disallowable instrument. We will have to wait for the disallowable instrument to be lodged in this place, and if the Assembly does not think it is fair and reasonable we will need to have time to debate it and that will put the process back even further. Mr Speaker, I think that is something that we should all take on board.

I think what we have is a minister who has been tardy in his duty. In fact, we have two ministers who have been tardy in their duty. Negotiations should have commenced and been in place when the Chief Minister was still the health minister, and Mr Corbell has had since December last year to be working on this. So what we have is a tardy minister who has not paid enough attention to the health portfolio.

Mr Speaker, Mr Corbell does make some sensible suggestions in his letter and we will get to those suggestions when we consider the amendments. I want to talk about paragraph (c) (iv) of proposed section 33E (2). According to his letter, Mr Corbell is going to delete this paragraph because it might be seen that if a mediation agent is too successful the government will have the ability to actually knock that agent out. So it is quaint that you can read the bill the other way, which of course you can with any interpretation of law. But it is interesting that we are willing to get rid of that but we are still leaving 33G (3) in, and I want to concentrate a little bit on that section.

Proposed section 33G provides for arbitration and I think what we would all like to see is mediation and arbitration before we go to court to sort these things out. It is certainly something that most people would agree to. This section provides that if agreement is not reached in collective negotiations the matter then can be decided by arbitration. Proposed section 33G (3) provides that "the arbitration must be conducted under the Commercial Arbitration Act 1986 and in accordance with the principles and rules determined, in writing, by the Minister". I think people should be afraid of that, Mr Speaker, because

what we are saying is that everybody else in a commercial arrangement will do it under the Commercial Arbitration Act 1986 but if you happen to be a VMO negotiating with the health minister, he is going to have the whip hand because he is going to set the rules and principles in writing.

Unless a case can be made, I do not think we should be setting up different systems for different groups. I have not seen any case made that VMOs should be treated differently. What is the case that is so imperative that we should bring on a bill to give a minister power to beat into submission a group of professionals, men and women with qualifications, because the government does not agree with what they should be paid or what their terms and conditions are? I do not think anyone in this place believes that that is fair.

I think what has to happen when we get to the detail stage is either all words after "Commercial Arbitration Act 1986" be removed so that arbitration for VMOs, like everybody else, is conducted under the Commercial Arbitration Act or the minister should make up a much better case than he has for wanting these special powers that I think are well and truly beyond the pale.

Mr Speaker, this is a very important piece of the legislation. On the one hand it is offering some protection for VMOs from the Trade Practices Act but, on the other hand, this is being done under the veil, the guise, of giving a minister powers far beyond the minister's need, and I think far beyond the realms of fairness. I will be asking members when they consider the amendment on Thursday: what is this urgent need to have a different set-up for VMOs; and why is it that the minister gets to determine all of these things? There is a note in the bill that says:

> A notifiable instrument must be notified under the Legislation Act.

Proposed section 33G (6) states:

> A determination of principles and rules for arbitration is a notifiable instrument.

We have only got a two-month timeframe in which to do this and six weeks or more of that could be taken up from when the minister tables the notifiable instrument and the Assembly determining whether it is fair and reasonable. The whole process may be concluded by 28 November—I doubt it—but sometime before then or after then the Assembly may determine, depending on the sitting pattern and when the minister tables the notifiable instrument, that the minister was not fair, that the minister had not got it right. So, again, there has been too much haste too late; a sense of unfairness in a bill that is not necessary; a process that shows and reveals the inactivity and inaction of the health minister and his lack of interest in his portfolio; a blatant lack of fairness for individuals; and, of course, a minister trying to get the power that he thinks he needs to get the outcome he wants rather than ensuring that all parties in this process are treated fairly.

The minister's tabling speech also talks about the attempt to bring the contracts, I suspect, back to standard contracts. He talks about the need to eliminate the inequities that have arisen in recent years between medical specialist groups and to establish more consistent performance requirements for each group. I think that is code for lowest

common denominator and I do not want a health system in the ACT that is based on the lowest common denominator.

Surely our health system should be based on excellence and the ability to attract excellent physicians to work in our hospital system.

**Mr Corbell**: Are you saying we don't?

**MR SMYTH**: As we currently have. Surely we should be going after people with excellent qualifications, with long experience, with leadership and innovation, rather than saying, "This is the health system that Minister Corbell presides over. It's the lowest common denominator health system." I do not think that anybody in Canberra wants a lowest common denominator health system. What I think people want is a system that encourages people to come here—doctors of innovation, leaders in their field, people who want to innovate in the health field to get better outcomes for patients. It sounds like this legislation will result in a better outcome for the department. It is a bottom line health amendment bill rather than a better health outcomes for ordinary Canberrans health amendment bill.

Mr Speaker, we do need to give the VMOs the protection that part of this bill gives but what we do not need to do is give the minister the whip hand, which is well and truly hidden, I suspect. There is no talk in the tabling speech of the powers that the minister will get. It talks about making sure the VMOs are protected in their bargaining practices. So under the guise of something good, I think we have got something that will take away from the ACT health system and will limit our ability to attract VMOs. We already know that, like every other jurisdiction, our ability to attract good medical officers is limited by the number of medical officers out there.

We ought to be creating a climate that is conducive to more, better and the most excellent of health professions coming here, not a bill that gives the minister the power to work to a bottom line. The lowest common denominator is not what the Liberal Party wants in the health system. What we want is innovation and excellence so that Canberrans know that should they need to use their hospital they are going to get the best of treatment on every occasion.

**MR SPEAKER**: I understand it is the wish of the Assembly to break for lunch at 12.30, so I will interrupt the debate at 12.30.

**MS TUCKER** (12:18): According to the presentation speech, the key rationale for the proposed return to a collective negotiation process is to progressively eliminate the inequities within and between medical specialists groups that have arisen in recent years, and to establish more consistent performance requirements for each group. Later in the speech it is explained that the policy on remuneration will address such matters as transparent, consistent and competitive rates of remuneration that will ensure that the territory is in a position to engage and retain the services of medical specialists now and in the future, productivity and performance requirements and value for money for the ACT community. That all sounds good and worthy of support.

My comments on this come from a different angle to those put forward by Mr Smyth. I am a little intrigued and interested to see what are in some ways greater protections being

given to one particular group of workers in our community. It seems to me that the VMOs will be able to engage in collective bargaining but have arbitration, that they will retain their individual contractor status but they can collude, that they can avoid the restrictions of the ACCC collusive tendering restrictions, and that they will have all the freedoms and protection of commercial operators as well as the benefits of acting as a collective. I am interested also in the fact that they are able to have arbitration and that this is not available to other workers under the Workplace Relations Act. It seems to me that it would be perfectly reasonable for, say, computer programmers to then go to the government and say, "Well, we are in a similar situation. We would like to have those kinds of protections and special arrangements as well."

I have received correspondence, as I think other members probably have, from the ACT VMO Association which, as I understand it, is seeking registration as a union. I also understand that the government is opposing this, and that raises a few general questions, which maybe the minister can answer. One question is about the jurisdiction of the two acts. We would have the Workplace Relations Act and then we would have this act. I do not know what the position would be with the Workplace Relations Act if one of these groups of VMOs became a union. I imagine that that act, if they wanted to use it, would take precedence over the ACT act.

I do not know whether they would be successful in registering as a union, but I am interested to know what the minister thinks about that and what the implications would be if in fact they were granted the status of a union. I am interested to know why the government is opposing this. Hopefully Mr Corbell will deal with that in his wrap-up to this debate.

In his presentation speech the minister spoke about value for money for the ACT community. The history of negotiations between VMOs and governments, both Liberal and Labor, is obviously well known to most of us and there is a real concern in the context of value for money that we have this group who have very strong bargaining power and are not afraid to use it. Unlike Mr Smyth, I am concerned that we are giving them a lot of capacity to collectively use their might to get what they want, which will be higher salaries, because that is what people go for. This legislation gives them definite protection which other groups in the community do not have. I am even interested to know what salaried medical officers think about their colleagues being given these protections.

I would like to know how existing contracts will be affected if this legislation changes the arbitration arrangements in favour of VMOs. What will the difference be in the doctors' situation? I hope that the minister could elaborate and explain that a little bit more comprehensively as well.

Although we have not reached the detail stage consideration of this bill, I would like to make some comments about some of the amendments. I note that under proposed section 33G arbitration will be conducted under the Commercial Arbitration Act 1986 and in accordance with principles and rules determined in writing by the minister. I am not quite sure when we will get to see that, whether they are disallowable or what their status is. I would like to know what the situation is before I am asked to vote on this.

I also note that there is to be mediation before arbitration, and that seems sensible. I would like the minister to clarify whether it will be possible for individuals to go to arbitration or will this be restricted to groups of people. I will ask the rest of my questions when we reach the detail stage.

**MRS DUNNE** (12.25): Mr Speaker, I will be blissfully brief. While the opposition recognises the importance of creating a situation where VMOs can negotiate with the government in an orderly fashion, what has happened with this legislation and with the actions of the minister in the Industrial Relations Tribunal is that this government wishes to create a different class of treatment for visiting medical officers from that given to other people in industrial situations.

What is being proposed in this legislation is unconscionable. What if this minister, who was once a minister for industrial relations, tried to impose these conditions on the Australian Nurses Federation or the Transport Workers Union? Could you imagine the situation if this minister, as a minister for transport, tried to impose these sorts of conditions upon the Transport Workers Union and you could only negotiate in accordance with a set of guidelines set down by somebody who was also a party to those negotiations—in that case, the minister?

**Mr Corbell**: VMOs are not employees.

**MRS DUNNE**: On the occasions that they are actually serving the people of the ACT in public hospitals they are effectively employees.

This impasse is to the detriment of the health of the people of the ACT. It is important that we create a situation where there is no circumstance in which the VMOs might be appearing to collude under the Trade Practices Act, and that part of the legislation needs to be supported. But the soft and cooing words of the minister in his introduction speech hide the fact that really what he wants to do is screw the VMOs over.

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

**Sitting suspended from 12.28 pm to 2.30 pm.**

## Questions without notice

### Trees in Nettlefold Street, Belconnen

**MR SMYTH**: My question is to the Minister for Planning, Mr Corbell. Minister, on 27 August this year, this Assembly passed a motion that the ACT government negotiate with the owners of the site at the corner of Nettlefold Street and Coulter Drive a land swap, or suitable compensation, to ensure the preservation of the magnificent trees on that site. Have you negotiated with the owners, as the Assembly called for?

**MR CORBELL**: No.

**MR SMYTH**: I have a supplementary question. Minister, when will you negotiate with the owners, as the Assembly called for?

**MR CORBELL**: The government will not be initiating those discussions. The government made its position in relation to Nettlefold Street quite clear. We felt it was not appropriate to revisit a land sale conducted by the previous government for land sold by the previous government—in fact, sold by Mr Smyth when he was Minister for Urban Services—for development on that site.

In the debate in the Assembly in relation to Nettlefold Street it was clear, from the government's perspective, that there was no new evidence to suggest any need to revisit that site, and that the only point being pursued by those opposite was the political advantage gained by the changing of their position.

Whilst the government respects the right of members in this place to move such resolutions, the government is not obliged to follow up on them if it believes there is no strong reason for doing so. Based on the debate, no new evidence was presented that would warrant a change of mind—except the political advantage the Liberal Party thinks it will accrue to itself from its policy backflip.

## Minister for Health and Minister for Planning
### Motion of censure

**MR SMYTH** (Leader of the Opposition) (2.34): I seek leave to move a motion of censure of the minister for his failure to comply with the direction of the Assembly.

Leave granted.

**MR SMYTH**: I move:

> That the Assembly censures Mr Corbell (Minister for Planning) for his refusal to negotiate with the owners of the site at the corner of Nettlefold Street and Coulter Drive as directed by the Assembly.

These are very serious matters. In the past, when the Assembly has called on, or directed, ministers in a government to do something, those matters have been taken very seriously. Unfortunately, the arrogance of this minister is such that he feels he is beyond the direction of the Assembly—and he feels he can ignore motions passed in this place. In effect, he feels that he can ignore the people of the ACT when their representatives ask him, or direct him, to do something—in this case, to negotiate. He feels that he does not have to do so.

I cannot think of too many occasions in the past when directions of this nature have been made on which governments have failed to adhere to what the Assembly has called for. I can recall a number of occasions, particularly in the last Assembly—I think of the heritage listing at Red Hill and the issue of an inquiry that later became the Gallop inquiry into disabilities—on which there have been motions of this Assembly directing, or calling on, a government to do something.

This goes to the fundamental basis of whether or not the Assembly has the right to direct a government, or call on a government, to do something. I believe it does, otherwise, the executive would have unfettered power—and that is not how the Westminster system

works. Under the Westminster system, governments are responsible to the people through their Assembly. In this case, the Assembly made a decision and that decision was passed by a vote. I note that the government did not like it at the time, and that it did not vote for it, but you do not expect the arrogance of a flat no from a government minister who simply says, "I will not do as you direct me to do."

It's a long-held tradition in Westminster that ministers can receive directions from parliaments. Although this Assembly has a short history, we have traditionally always had minority governments—and it is a fact that Assemblies have, in the past, directed governments as to what to do—and I am sure Assemblies in the future will continue to do so.

This was not an onerous direction but, because of the arrogance of the minister, we see him continually saying no—he is not responsible to anyone. He is responsible to himself alone, apparently, because he simply answered, "No, I have not." What was asked of the minister? Not a great deal. The minister was simply asked to negotiate with the owners of the site, with a view to a land swap or suitable compensation, to ensure the preservation of the magnificent trees on that site. It is not hard to negotiate, Mr Speaker.

What is involved here is simply talking to people. If a suitable accommodation was unable to be reached, he could have come back and asked the Assembly for further direction, but no—this very arrogant Minister for Planning has determined that he does not have to listen to what the Assembly tells him. He does not have to listen to the will of the people, through their elected representatives, when a majority decision is taken. He is not liable; he is not responsible; he does not have to listen to anybody else because he is the planning minister.

At times, when we were in government, there was seemingly a hierarchy that the Assembly would ask for something, then call for something, and then direct something. If you look at the motion passed on 27 August this year, the Assembly was quite clear in what it said—the government is to negotiate. There is no room for manoeuvring there. The minister was directed to do something. However, he has failed to do that, therefore showing contempt for the motions passed by the Assembly. He shows an arrogant attitude which says, "I don't have to do what the elected representatives of the people of the ACT tell me to do." I do not want to reflect on the work of the committee which has already led the minister to be before a contempt committee. What we see here is a pattern.

There is an easy way out of this. The minister should do as he is asked. Governments, when directed by the Assembly or asked by the Assembly, should comply as much as they can. Maybe sometimes the Assembly will put terms or conditions in a motion which are completely beyond the ability of a government. It would then be right for a government to come back and say, "We tried, but we cannot do that. Here are the reasons why. We ask your indulgence not to make us pursue this motion."

However, the minister did not even try. He had no intention of trying. He told the *Canberra Times*—it was reported the next day, "No, I won't!" That arrogance is unacceptable in a minister. That is the reason why Mr Corbell—the Minister for Planning—deserves to be censured for his attitude.

The minister will no doubt get up and say, "I am just implementing a decision of the former government." Maybe he is, and maybe he is not, but that is not the point. He was asked to do something new. He was asked to negotiate, as more work had been done, as more information had come to light from the community's opinion.

The community asked its elected representatives—the crossbenchers and the Liberal Party—to put a message forward from them. The community said, "Okay, you sold it, but we think the decision should be reversed. We think something should be done to save some trees that we, as a community, value." The debate moves on. The members in this place—the majority of them, unlike the minister, having listened to the community and reassessed what had happened before—determined that they would pass a motion that called on the minister to negotiate.

The censure is not about the previous land sale. Indeed, the censure is not actually about the trees. The censure is about the minister's failure to acknowledge that he has an obligation to carry out, where possible, the directions of the Assembly. He did not even attempt to carry it out. He blithely ignored it and said, "I am above you. I am above the majority of the elected representatives in this place, representing the people of Canberra. I don't have to do what you tell me to do."

I think the reality and tradition of Westminster, and the reality and tradition—although you might not like it—of minority governments is that you should do what is requested of you. To do otherwise results in these motions which lead to censure. We will watch and see what the minister does in the coming weeks, to see where it goes from here.

It is a very simple point. It is about who is responsible for carrying out what the executive does, but it is also about who is responsible for carrying out what the people want. It is the will of the Assembly that determines what the people of the ACT want, as we are their elected representatives.

Eight Labor, six Liberal, a Green, a Democrat and an independent make up this Assembly. Nine of those members voted in favour of the motion that the government should negotiate. It is not onerous and it is not hard. It is something that should have been carried out between the last sitting week and this sitting week, simply because it was what the Assembly asked.

We come down to a fundamental issue here, Mr Speaker: who is in charge? Ultimately, it is the Assembly that is in charge. The Assembly elects a Chief Minister and the Chief Minister appoints the ministers, through the warrants he issues for them. It is the Assembly that empowers the government—through legislation, appropriation and terms of reference to do its job. It is the Assembly that empowers the government. In this case, it is the Assembly which also directs the government to negotiate over the future of certain trees.

It was a very simple request. It is not hard to get on a phone to ACTPLA and ask, "What are the options here to swap? How do we carry out what, ultimately, the people of Canberra have asked us to do?" It is not hard to do that, Mr Speaker. You have been a minister. You know how easy it is to do that. We have a minister who did not even try.

He did not want to try. He decided he did not have to try. He should have taken note of what the Assembly told him—that he should negotiate on these blocks.

It does not say there should be a positive outcome, although I think we all want a positive outcome; it does not specify a price; it does not say what else you might throw in as a sweetener—we all know that happens when these things occur—but it does say that you should negotiate. The minister said he is not responsible to anyone. The minister must understand that he is responsible to the Assembly and, through us, to the people of the ACT.

I have had reports of the rallies that occurred on that site and of a constant stream of cars driving past with signs saying, "Honk if you want to save the trees!" There were actions like that. You could hear it in the background on the news reports, and see it in the coverage in the paper and on TV—and there were discussions on the radio.

We had a decision of a former government. Governments and parties change their minds—we all do. We could talk about continuous registration from the Labor Party who, in opposition, thought it was a terrible, evil thing—along with speed cameras and several other initiatives of the previous government. They were going to change things. They were going to fix things.

This minister, as soon as he was the Minister for Planning—if he was the Minister for Planning—was going to issue the dragway lease. How interesting it is when you get to government! However, when we went to this motion, once more information became available, and as community opinion became more and more apparent, it was a question of whether members listened.

We have listened. The members of the Liberal Party listened to what the residents of Belconnen had to say. In turn, the Green member, the Democrat member and the independent member have also listened to what the people of Belconnen had to say, because they supported the motion of 27 August which simply called for negotiation. They did not expect the arrogant response of the minister in the paper the next morning.

I do not think any of us expected the arrogant response of the minister today when he said, "No, I have not—and I have no intention of doing it." That is why the minister should be censured. He should be censured for his attitude. He should be censured for the arrogance displayed in what he says and does. He should be censured because he seeks to put the executive above the Assembly. That is not how it is meant to be. The minister should be strongly reminded that, if he does not negotiate, we will come back to this issue.

Mr Speaker, I put it to you that the Minister for Planning is deserving of a censure on this matter. It is a fundamental tenet—a basic tenet. It is about who is in control. The Assembly creates a Chief Minister and the Chief Minister then creates his government. The Assembly empowers the Chief Minister to carry out his or her programs through the budget process and the appropriation bills. It is this Assembly that will, every now and then, ask the government to do something and expect it to be done.

If this goes unchallenged today—if this censure motion fails—then we will have evidence of an arrogant government that will do and say whatever it wants, whenever it wants, because it does not feel responsible to anyone. The minister deserves censure.

**MR STEFANIAK**: (2.47): During the course of this Assembly, I think we have only ever had one government with a majority of members. That was the Alliance government which, as it turned out, was a somewhat loose coalition.

It is a tradition in this Assembly that we have minority governments. Minority governments are in a position where they must listen and can be forced—and should, indeed, be forced from time to time—by the will of the Assembly to do the bidding of the majority of members. As my colleague, Mr Smyth, has most eloquently put it, the actions of Mr Corbell—or rather total lack of actions and total disregard for what the Assembly required him to do as Minister for Planning—are deserving of censure.

I am trying to think of an example where the previous government might not have obeyed the Assembly. There may be one, but I seem to recall, over the six and a half to seven years of that previous government, an acceptance that, if the Assembly directed, or called on, you to do something and a majority of members voted for that, you would, as a minister, go away and do it. It happened on a number of occasions to my colleague, Mr Smyth; it happened on a number of occasions to me; and I believe it happened on a number of occasions to every other minister in that government, because that was the will of the Assembly. That is the convention.

This is something of a litmus test for this Assembly. If we let this go through—if the majority of this Assembly votes against the motion put by Mr Smyth—then we will have failed as an Assembly. We will have failed to uphold the fundamental democratic right—that is, the will of the majority of the Assembly.

As Mr Smyth has said, this is not calling on the minister to do something impossible, it is calling on him to have discussions. It is calling on him to do sensible things to see if, in fact, there can be a land swap. He has done nothing. He has indicated, quite bluntly and arrogantly, that he has not done anything. When given a second chance by the supplementary question as to whether he is going to do something, he indicated that the government has no intention of doing anything. That is not good enough.

**Mr Stanhope**: I wish to raise a point of order, Mr Speaker. I would welcome your guidance on whether or not this motion is in order, on the basis that, on my understanding, standing order 200 says that no vote of the Assembly or resolution for the appropriation of the public money of the territory should be proposed in the Assembly except by a minister.

The motion under discussion here was effectively in breach of the standing orders. That was a view I had at the time, but did not raise. Having regard for the political stunt being pursued now, I wish to raise with you whether or not, on a proposal raised in this house otherwise than on the motion of a minister that moneys be expended—namely the payment of compensation—we can possibly be debating a censure on a motion that is clearly out of order.

**Mrs Dunne**: You are straining at gnats!

**Mr Stanhope**: The motion requires the payment of compensation.

**Mrs Dunne**: Where? Show us the words. Show us where it says "spend money".

**Mr Stanhope**: It requires us to spend money.

**Mrs Dunne**: It does not require you to spend money.

**MR SPEAKER**: Order, members! Standing order 200 goes to the issue of an enactment, vote or resolution for the appropriation of public money for the territory—that these must not be proposed in the Assembly except by a minister, and so on. Without reference to *Hansard*, the motion as we have recorded it here is: a motion censuring the Minister for Planning for failure to comply with the direction of the Assembly to negotiate with the owners of the land on the corner of Nettlefold Street and Coulter Drive, Belconnen.

I do not know that that directs the minister to appropriate public money—in fact, my view is that it does not. All of that aside, leave was granted for the motion to be moved. So it really is in the hands of the Assembly.

**Mr Stanhope**: If I may speak on a point of order, the motion being debated and the motion raised by Mr Smyth is quite explicit—that the ACT government negotiate with the owners of the site on the corner of Nettlefold Street and Coulter Drive, a land swap or suitable compensation. In the words of the Leader of the Opposition, the minister has been asked to comply with a motion which required him to negotiate suitable compensation with the owners of this site.

No moneys have been appropriated to pay suitable compensation to the owners of this site. The motion requires the minister to negotiate suitable compensation. No moneys have been appropriated by this Assembly to pay any compensation, let alone suitable compensation. The minister does not have the capacity to negotiate suitable compensation because this parliament has not appropriated it.

**MR SPEAKER**: The standing order goes to the appropriation of public money, which is the appropriation of funds from the public. It is not about directions to ministers in relation to certain matters. In any event, the Assembly gave Mr Smyth leave to move the motion. It really is in the hands of the Assembly. My hands are tied.

**MR SMYTH**: Can I offer a point of clarification for the Chief Minister?

**MR SPEAKER**: No. I have ruled on the matter.

**MR STEFANIAK**: As I was about to say before that interruption, the motion called on Mr Corbell to do something and he indicated he had not done it. He was asked whether he was going to do it, and he said, "No." It might be a very different situation if Mr Corbell did what the Assembly asked him to do—seek to negotiate a land swap. If he

came back and said, "I have tried A, B, C and D—and X, Y and Z—but it is impossible; it just cannot be done—the government is not going to change its position", that would be another story.

In that situation, he would have accepted the direction of the Assembly and gone away and done something along the lines of what he was requested to do. Then, if he still did not want to change his position and gave the Assembly good reasons for it, the Assembly might well take a completely different course.

He has done none of that. He has arrogantly refused to abide by the will of the Assembly. He has done nothing and has indicated to us again today that he proposes to do nothing. That is worthy of a censure. If the minister is censured, as Mr Smyth has said, we will see what he does after that.

I would strongly urge all members of the government that, if the Assembly calls on you to do something, or directs you to do something, you go ahead and do it. That is just a fact of life in a minority government in an Assembly such as this. You might not like it. I am sure that, at times, we did not especially like it when we were in government, but that is something the democratic process expects you to do. That is something the people of the ACT expect you to do, and it is not all that hard.

We did it. We came back, and sometimes we were forced, probably, to back down and accept that it was the will of the Assembly. "Fine, we will do that." We would maybe make some changes as a result of the Assembly saying, "Government, you are not going to go ahead and do that—do this instead." Quite clearly, it is not good enough to arrogantly say, "No, I'm not going to do it and I have no intention of doing it."

Members, if you allow the minister to get away with this today, this Assembly will have failed one of the most significant litmus tests it could have put to it. We will not be doing what we are paid to do on behalf of the people of the ACT. We will not be upholding one of the great tenets of our democratic system—the right of the parliament to vote and to make decisions—and, in this instance, the right of the majority of this democratically elected Assembly to call on or direct a minister of the government to do a certain simple thing which he has refused to do. He has not done anything about that over the last three weeks, and he comes here today and tells us that neither he nor the government has any intention of doing that.

**MRS DUNNE** (2.56): For the first time in this Assembly, we are here today to bring a motion to censure a minister. The stock in trade of the previous opposition was to censure anyone at the drop of a hat, but this opposition has not been inclined to do so. We have been brought here today because of the continuing and almost breathless arrogance of this minister.

During the debate on 27 August, when we discussed the Nettlefold Street trees, the minister said, "No, I am not going to do it. You cannot make me do it." He then repeated those remarks in the *Canberra Times*. As a result of that, and after discussion with members around this place, I found that the people who had supported the motion on 27 August were pretty unhappy with what had been said by the minister. Therefore, I took the opportunity in the adjournment debate the following day, which was 28 August, to

warn this minister that, if he persisted in his arrogance, he would have to face the consequences in this place.

The minister was put on notice that, if he came back into this place and said, as he did today, "No, I have not done anything, and I do not intend to", he would risk facing the censure of this place. He had a months warning. He had a clear motion from this Assembly that required him to do certain things. He has arrogantly said, "I will not do it." As Mr Smyth said, it would not have been hard for him to negotiate with the people who own that block of land, but he did not even try.

We have seen the wonderful negotiating skills of Simon Corbell—it is all, "Take it or leave it." Yet he did not even bring those to bear. The classic Bruce Willis comes out—shoots you between the eyes and says, "Who else wants to negotiate?" That is how Simon Corbell negotiates. Yet he could not bring those great skills to bear over a simple block of land and the possibility of a land swap. He would not do it. He stood in here with his hand in his pocket, as he always does, with his pose of the young, arrogant minister and said, "I will not do it."

We have here, as my colleagues Mr Smyth and Mr Stefaniak have said, a complete turning away from everything we stand for as a Westminster parliament. There is a division between the parliament and the executive but, from time to time, the parliament has the capacity to—if it exercises its will it may do so—direct a minister to do a particular thing.

It is not palatable, I am sure, for ministers to be told they must take specific courses of action, but that is the reality of politics—it is the reality of the Westminster system. This arrogant young minister has been caught out. He was warned—he was given ample warning. He has been caught out here today, thinking he can get away with just saying, "No—yah, boo and sucks!" That is what he usually says. The pathetic defence of the Chief Minister, who came in here and tried to derail this debate by saying that this motion was out of order because we were trying to appropriate money, is absolutely risible.

**Mr Corbell**: Risible?

**MRS DUNNE**: Yes, it is risible—it is pathetic. You have one or two courses of action. You could justify your unjustifiable position—or this government and this minister could sit back and take the medicine.

On 27 August, this house asked the minister to do a simple thing—to negotiate, with a view to saving the trees. As Mr Smyth said, it was always on the cards that he may not succeed in those negotiations. He could then have come back here and perhaps sought further guidance from the Assembly and the people of the ACT, who have strong views about the future of the trees on Nettlefold Street.

As I said on that day, I am proud to represent the people of Belconnen who brought this issue to the Assembly. They were persistent with their arguments and persistent with their support for the issue. That caused us to rethink the issue. It caused us to look at the new evidence which had come forward. That block of land was sold under the previous government by my former boss.

**Mr Stanhope**: By you.

**MRS DUNNE**: Not by Mr Smyth—by my former boss.

**Mr Stanhope**: On your advice.

**MRS DUNNE**: As I said on that day, one of the most important things you can learn in life, and in politics, is to admit it, when you have made a mistake. Mr Corbell will never admit it, when he has made a mistake, and it is about time he was brought to book.

I do not care that we made a mistake. I would care if this opposition didn't care that it made a mistake. I would care if we didn't do anything about rectifying a mistake. I care that this government has not done anything about rectifying the mistake. This parliament voted by a majority for a simple negotiation to take place. Since that time almost a month has passed, and this minister has done nothing.

This is not the first occasion this has happened. In the life of this Assembly, on two previous occasions motions were passed in this place asking this minister to carry out particular courses of action in relation to Animals Afloat—to carry out a draft variation to the Territory Plan. "No", said this minister. He would not do it.

In relation to the pedestrian precinct in Gungahlin, he was asked to do a specific thing. In the debate, he stood in this place and said, "I don't care what you tell me to do—I will not do it." This is unsupportable arrogance from a minister who needs to be brought to book. It flies in the face of the will of this Assembly and, through it, the will of the people of Belconnen and the people of the ACT.

It is time, Mr Speaker and members, this minister was made to realise what his responsibilities are. They are many, and they are great. He has a lot of things to do. He must remember that he is not here serving his own ego. He is here serving the people of Belconnen. He is here serving the people of the ACT. His arrogance in refusing to do as this Assembly asked him to do, and his arrogance in the answering of the question today, shows that he has no interest in serving the people of the ACT. He should surely be censured.

**MR CORBELL** (Minister for Health and Minister for Planning) (3.04): Mr Speaker, the motion that the opposition has moved today is one of the weakest censure motions I have ever heard. It is a censure motion, Mr Speaker, which asks me to implement something which was unimplementable and to justify action that was unjustifiable. Mr Speaker, for both of those reasons I did not accept the resolution of the Assembly.

I am accountable to the people of Canberra, and I am happy to go to the next election and say to the people of Belconnen, Tuggeranong, Gungahlin or anywhere else in this city, "This is what I have done. Judge me on it." That is the approach of this government. We will be held accountable for the steps we take. I am responsible for ensuring that there is a reliable source of land, and for the effective and good administration of land, in this territory.

One of the principles of the good administration of land in the ACT is that land, once released by the government, can be developed for the purposes for which it was sold. That is what occurred in relation to this site. This land was sold for a purpose. The development of the land was consistent with the Territory Plan, approved by this place. This place approved the Territory Plan land use policy that permitted development on that site. How contradictory is it for members to come into this place now and say, "No. We are not asking you to vary the Territory Plan but we do not want you to develop this land." The development of this land was permitted for that use and the land was sold to allow that use to occur, and it was done with the sanction of this place.

I am responsible, Mr Speaker, for making sure that that process is upheld and that that process continues to work fairly and equitably for all concerned.

Let me go to the substance of Ms Dundas's motion. She said in her motion:

> That the ACT Government negotiate with the owners of the site at the corner of Nettlefold Street and Coulter Drive a land swap or suitable compensation to ensure the preservation of the magnificent trees on that site.

There are no ifs or buts in this motion, Mr Speaker. There is no "try to negotiate". There is no "try to negotiate but, if you do not succeed, that is fine." The motion says, "negotiate to achieve this outcome"—no ifs, no buts. It says you must negotiate to get a land swap or you have to provide suitable compensation. It says you must provide for a land swap or you must provide suitable compensation.

That is an unreasonable motion: to direct this government to do certain things when there was no money provided for the compensation of that party, when no other equivalent land was available and when other land in the town centre was already designated for other uses.

What I was doing, as was the previous government, was what was consistent with the Territory Plan. We were upholding the contract entered into by the territory and the leaseholder for the use of that land. What this Assembly is asking me to do is ignore the contractual obligation between the territory and the leaseholder, to ignore the provisions of the Territory Plan, and to go ahead and swap the land or pay compensation—no ifs, no buts.

There were other ways of addressing this proposition. The Assembly could have requested me to vary the Territory Plan, but it did not. I do not think that necessarily would have solved the problem but it would have been a more logical way to go. What it should have said was, "We believe the land use policy on this site is inappropriate." However, that is not what the Assembly said. The Assembly said nothing about the land use policy. The Assembly said, "The land use policy is fine. We just do not want you to sell this block of land." That does not make sense but that is what the Assembly asked me to do.

**Mrs Dunne**: No, we did not discuss this. Point of order, Mr Speaker.

**MR SPEAKER**: Order, members!

**Mr Pratt**: Do not bully Mrs Dunne into not taking a point of order, please.

**MR SPEAKER**: Order, Mr Pratt!

**Mrs Dunne**: In accordance with the standing orders, the minister has to debate the issue and not just recapitulate the arguments that he put forward, and which failed, on a previous occasion.

**MR SPEAKER**: Mrs Dunne, this is a serious motion about the censure of the minister. The minister is entitled to defend himself.

**MR CORBELL**: Thank you, Mr Speaker. What this motion did was ask me to do something which was unenforceable and for which the government had not appropriated any money to allow it to occur.

**Mrs Burke**: What, to just talk to people? Give me a break.

**MR CORBELL**: Mr Speaker, I hear Mrs Burke's interjection—"We just wanted you to talk to people." No, you did not, Mrs Burke. Read the motion: the motion said negotiate for a land swap or compensation. It said very clearly, "This is the outcome you must achieve"—no ifs, no buts. That is why the government did not agree to it, and why the government does not agree to it.

I do not like seeing trees cut down. No-one likes seeing trees cut down. It is very easy to go out there and say, "We love these trees and we are going to protect them." However, where were the members of the Assembly when the land use policy permitted development on this site? Where were they then, calling for a change to the land use policy, for a change to the planning policies that underpin the use of that land? They were not there. What has occurred at this site is consistent with every law in the territory.

The tree protection legislation was applied to the site even though tree protection legislation does not apply to unleased land. Even though this was unleased land prior to its sale, the tree protection legislation was applied to it, trees were identified for attention, and they were identified, not by the government, but by an independent arbiter.

First of all, the conservator, who is an independent statutory office holder, made the decision about which trees should be retained and which it was not appropriate to retain. Second, an independent adviser advised the independent decision maker about which trees should be retained and which should not. The law was complied with fully in relation to this site.

How realistic is it, if people want to make decisions about investing and building in this city, and they comply with every single law about tree protection, about development controls and about the territory plan itself, that this Assembly can then come in and say, "Yes, we passed all of those laws, but they mean nothing because we want to protect those trees."

Either there is a legislative framework for determining the land use on that site, and how trees will be protected or not protected on this site, or there is not. What members in this

place should be conscious of is upholding the laws that they themselves pass. We have passed laws that protect trees, that allow for a process of assessing which trees should be protected and which should be removed. We have passed laws on what sort of development should and should not occur on that block of land. We have passed laws on how a development application should be assessed.

However, what you are saying to me today, if you support this censure motion is this: it does not matter whether a minister ensures that the process is consistent with every law in the territory, he or she can still be censured for it, if he or she ignores that. That is what you are saying to me today. I reject it, Mr Speaker. If you are unhappy with the policy, change the policy, but do not play petty, cheap politics about trees that are valuable. *(Extension of time granted.)* Do not play petty, cheap politics when you have failed to address the policy issue.

It is the policy issue that matters. What should the land be used for? How should trees be protected? We heard in the debate absolutely nothing about what had changed that made these trees valuable all of a sudden, compared to when the land was sold. We heard nothing about that. We just heard a broad assertion that these trees are valuable. Yes, there are some attractive trees on the site, I accept that, and most of them will be retained. However, they will be retained in accordance with the law, in accordance with the application of the territory's requirements. The development will occur in a way which is consistent with the land act and consistent with the Territory Plan.

When the Assembly agrees on a policy framework about how land should be used and how trees should be protected, if I ignored it, I would expect you to censure me. If I ignored the requirements of the land act or the tree protection legislation, yes, you should censure me, because I would have failed in my duty. However, I have made sure that the land act is being upheld. I have made sure that the tree protection legislation is being upheld and you are attempting to censure me because I have done that. That is what is at the heart of this.

**Mrs Dunne**: On the contrary, we are attempting to censure you because you would not try.

**MR CORBELL**: I hear it again from Mrs Dunne. You are saying we did not try. That is not what the motion says, Mr Speaker. The motion was clear and unambiguous. It required me to negotiate to achieve a land swap or pay compensation. That is what the motion required—no ifs, no buts. It required me to negotiate to achieve that outcome and anything less would have meant I would not have abided by that resolution. It was a nonsensical resolution, it was an unjustified resolution and it was an unenforceable resolution. Mr Speaker, I treat—

**Mrs Dunne**: Point of order, Mr Speaker. I seek your guidance on this. Is the minister reflecting upon the vote of 27 August when he said that it was an unjustifiable resolution?

**MR SPEAKER**: Mrs Dunne, the minister is facing a serious motion of censure. He is entitled to use any devices he can, I think, to defend himself in this place. I think you would want the same latitude.

**Mrs Dunne**: But within the standing orders? Is he allowed to break the standing orders?

**MR SPEAKER**: No, he is not allowed to break the standing orders, but it would seem to me that he is allowed to go to the issue which gave rise to the censure motion, for heaven's sake.

**Mr Stanhope**: You do not want him to talk about the issue.

**MR SPEAKER**: Order! Members, remain silent while the minister speaks to the matter?

**MR CORBELL**: Mr Speaker, there were no ifs and no buts in this resolution. There was no "try to negotiate", there was not even "negotiate and fail", there was "negotiate to ensure a land swap or compensation". That is what the resolution said. It was unenforceable and it was unjustified. Censure me, yes, if I did not uphold the tree protection legislation. Censure me, yes, if I did not uphold the land act, but do not censure me for doing those things, because that is what I did, consistent with the legislation and the requirements passed by this place.

**MR CORNWELL** (3.19): Thank you, Mr Speaker. Five out of 10, Minister, for attempting to shift the debate from the simple fact that you have ignored a direction of this Assembly. The motion simply said that the "ACT government negotiate with the owners of the site…a land swap or suitable compensation to ensure—

**Mr Wood**: Ensure? What does that mean?

**MR SPEAKER**: Order, Mr Wood!

**MR CORNWELL**: Just a minute!—"ensure the preservation", and I am leaving the rest of it out. The reason I am leaving it out is that it is not a question of trees, it is not a question of upholding the laws of which you speak: it is a question of this Assembly giving a directive. A majority of the Assembly gave you a directive to look either at a land swap or at suitable compensation in this particular area. If the majority of this Assembly and its views are to be ignored by arrogant ministers of this government, what is the point of the rest of us being here?

Mr Speaker, I suggest to you, sir, that we are not here for a talkfest. We are not here to stand up and speak on matters hour after hour without some resolution. It so happens that the majority of this house is generally in the government's favour. That is why it is the government, it is fairly obvious. However, that does not remove the right of all members of this house to have a view on matters that sometimes disagrees with what the government of the day believes to be the case. That was the situation in this matter of Nettlefold Street.

It was not just this opposition, it was the crossbenchers as well who felt sufficiently strongly about it, because they, in turn, had had representations from that great forgotten majority, Mr Speaker, namely the people of Belconnen, and perhaps other areas of the ACT, who felt very strongly about this matter. If we do not listen to these views, I repeat, why are we here? There is no point in the Assembly staying. We might as well all leave and leave the government to do just as it likes.

It is all very well to talk, as the minister did, about a legislative framework and about people who were involved in these negotiations. What about the people who were not involved and who subsequently decided that they wanted a different result? They deserve to be heard. We gave them the opportunity in this Assembly. A direction was given to the minister to look at a land swap or at suitable compensation, and the minister has ignored it. What is our purpose here if that is to be the case on every occasion?

My colleague, Mrs Dunne, mentioned Animals Afloat and the Gungahlin pedestrian precinct. I think I recall another one which involved self-funded retirees. This government simply cannot ignore the wishes of the majority of the house. You normally get your own way with this because that is the way that the Assembly operates, but there are occasions when the matter in hand is sufficiently important that members will take a stand. This Nettlefold Street issue was one of those.

I do not believe, Minister, in your words, that the motion that was put and supported by the majority is "unimplementable" and I do not believe it is "unenforceable". It is only unenforceable if you, Minister, in your arrogance, decide to ignore the wishes of the majority of this house. We are only asking that the government negotiate with the owners of the site for a land swap or suitable compensation. We are not demanding that the whole arrangement there be torn up.

I could imagine that you would be rightly annoyed, and you would probably have a stronger argument to put forward, if this Assembly had simply said, "Tear up the contract. Throw the whole thing out. We do not want anything of that nature to take place." We did not do so. We acted as a responsible body: we gave you a couple of options to follow. We gave you a chance to solve this problem in the interests of the people of Belconnen and elsewhere, in relation to these trees in Nettlefold Street.

We gave you those options, but you chose to ignore them because you appear to believe that, as minister, you have some infallibility. I was not aware that ministers of the Crown had that advantage over the rest of the other mortals in this house, far less the people out there in the ACT.

I would urge you, Minister, to take account of what is being said here today. This censure motion has not been brought on lightly. However, I suspect that one of the reasons that members believe, as I certainly do, that it has to be brought to a head here today is that if we do not challenge this question, if we do not challenge this minister now with a censure, for the next 12 months this type of arrogance, as shown by him, will continue.

If he gets away with it, who is to say that it will not affect or infect the rest of this government, that this government will not be following the wishes of the majority of this Assembly, and thus the wishes of the majority of the people of the ACT? It will simply be ruling as it sees fit, in its own interests and—perish the thought—those of its mates.

**MR WOOD** (Minister for Disability, Housing and Community Services, Minister for Urban Services, Minister for Police and Emergency Services, and Minister for Arts and Heritage) (3.26): Mr Speaker, this motion today is a pretence. The opposition—and I say that it is confined to the Liberals, as they are the ones I have heard—are not really

serious. When Mr Smyth spoke, he made that clear, as did Mrs Dunne. Mrs Burke did so through her interjection: "You only had to go and talk. Go through the motions, that is all you had to do."

**Mrs Burke**: You do not like doing that, any of you.

**MR SPEAKER**: Order!

**MR WOOD**: "Go through the motions. Just do that. Go and talk, nothing more." It seems to me very clear, from their words today, that this is a pretence. They are going through the motions now, as they wanted Mr Corbell to. They are not doing too well out there in the community. They are looking desperately for any issue that they can hang something on, and this is it. This was raised at the time and now they are saying to this Assembly that what they did was put a motion forward and, when it got up, Mr Corbell just had to go and talk about it and go through those motions and they would have been satisfied.

They were not really serious about it, nor, of course, should they have been serious, since it was their business in the first place. They carried it forward: "Oh, we made a mistake", they said. You make many mistakes but the biggest mistake is this, today. You have demonstrated quite clearly that you are not really serious about this at all. You just wanted to run a line out there for the community. I think it is a very poor effort on your part.

**MRS BURKE** (3.28): This is a serious issue to which, in a way, we are forced to stand and speak. I am disappointed and, quite frankly, I am appalled that we have to rise in this place and even be here doing such a thing. It really makes a mockery of why we are all here in this place. This debate has swayed way beyond the bounds of what we are actually talking about. It could not be simpler. The mocking snipes and gibes from the government can only reinforce the arrogance of their stance on this.

Mr Wood seems to think that you do not go and talk to people when you are a minister or when you are in government. It is a hard job—it is in the too-hard basket—to face the people out there.

**Mr Wood**: Where did that come from?

**MRS BURKE**: From you, Minister, from you. You do not like talking to people. You have told me that you are not going to do that, so I have it first hand as well.

**Mr Wood**: No, do not distort my words.

**MR SPEAKER**: Order, members!

**MRS BURKE**: The minister is trying to sway this debate and bring the credibility of this place down to an all-time low. Let's once again do something at its lowest common denominator. Let's not support and uphold the tenets of this place, the Westminster system or the democratic process.

This was about talking, at the very least, with the people in the first instance. It was about trying. It was about having a go and, in the fair dinkum Aussie way, giving people a fair go. If the minister then had to make the decision he did, so be it. Nobody is knocking him or judging him on that.

Why does this minister think and believe that he is above this place and its conventions? We enjoy those and we abide by them, usually. It seems that it was with an air of arrogance and self-inflated pride that the minister was not prepared to do that. I noticed that the minister, and many from the government who have spoken since, made no mention of Assembly process, democratic process or the Westminster system, for that matter.

Is it not somewhat hypocritical for this blatant and arrogant practice to be adopted by a government supposedly trumpeting a human rights agenda? Isn't that considering the rights of people out there?

**Mr Quinlan**: I enjoy a good laugh.

**MRS BURKE**: They may laugh, and that is fine. Let them laugh. I am glad you are laughing, Chief Minister.

**MR SPEAKER**: Order!

**Mr Stanhope**: I am laughing at that—this is a human rights issue!

**MRS BURKE**: No, people do not know. They have no idea.

**MR SPEAKER**: Order, members!

**MRS BURKE**: Surely the actions of the planning minister fly in the face of not only that, but of our democratic process in this place. That is the thing that is in question today. The democratic process of negotiation, of talking. Politicians have a bad enough image out there as it is, let alone the image that is created by the stunts that have been pulled by the planning minister, Mr Corbell.

Why could the minister not eat humble pie and negotiate and consult with the community? On 27 August this year, I believe that the minister created this monster that is now coming back to bite him. This Assembly has been ignored. It is disgusting and it is appalling. The Assembly cannot and must not allow such behaviour and must therefore, in all conscience, support this censure motion in order to uphold and maintain the political and democratic systems in this place.

**MS DUNDAS** (3.32): There are a few points that I think need to be made in this debate. When we are debating a motion of censure—and I would like to stay on that topic—we should not take such a motion lightly. I see censure as quite distinct from want of confidence, but it still sends a very strong message from the Assembly to the minister concerned that we are concerned about his or her actions. In this case, it is Minister Corbell and concerns a particular motion that has been ignored. It is not calling for him

to step down or resign his ministry. It is calling for him to rethink the way he is approaching his position and the way he is approaching this Assembly.

What the original motion called for, as has been repeatedly said today, was negotiation to protect some magnificent trees. The minister has said, "No ifs, no buts", but he would not even try to see how these trees could be protected.

I am trying very hard not to reflect on the debate but, from memory, the motion that I moved on that day had been sitting on the notice paper for a couple of months before it was debated. It was not a surprise motion. The minister could have moved amendments. We have seen amendments moved many times during private members' day, not only by non-government members but by government members, to motions put forward by private members, to make them work and to help find a position that everybody can agree with. Sometimes that happens and sometimes it does not.

However, a blanket "We do not think the motion is workable so we are just going to ignore it" is not an adequate response. We could have had a more lengthy debate. The minister has raised some very interesting points today that, from my recollection, were not raised during the debate on the substantive motion and which might have prompted us to move amendments. However, that information was not provided to us that day.

The minister's reaction of "No, this is unworkable so we are not even going to try" gives me cause to be concerned about his respect for this Assembly, for the majority of this Assembly, and for the democratic processes in this Assembly. He did not put forward an alternative. He did not even think he should try to negotiate, see what was possible and then report to the Assembly. The report could have said, "I tried but, under current constraints, I cannot." Then we could have had a further debate about planning laws, about policy laws and about interim tree protection legislation, which we still have.

I do not want to go into the details of the Nettlefold Street trees because we have had that debate, but I am disappointed in the minister's attitude to the outcome. As has been noted, it is not just about the motion of 27 August in relation to the Nettlefold Street trees, it is also about motions earlier this year on the Gungahlin town centre marketplace and consultations.

**Mr Corbell**: Point of order, Mr Speaker. The censure is about my failure, or alleged failure, to do certain things in relation to the Nettlefold Street trees. I do not think it is appropriate to raise other issues which are not the substance of the censure. If members want to censure me on those things, they are entitled to, and they should give me an opportunity to respond, but that is not the substance of the matter before the chair.

**Mrs Dunne**: On the point of order, Mr Speaker: the issue raised by Ms Dundas is not new material and it goes to the character of the man.

**Mr Wood**: It is part of another consideration.

**Mr Quinlan**: We are debating his character, are we?

**Mr Corbell**: We are not debating my character.

**MR SPEAKER**: Order, members! My memory of censure motions is that they have resulted in wide-ranging debates. However, I think it is fair for the affected minister to be concerned that issues to which he will not be able to respond are being raised in the context of a debate about a site at the corner of Nettlefold Street and Coulter Drive. I would ask members to contain their discussion of the issue to the matter which is the subject of the censure motion in order that the minister is treated fairly with regard to his ability to contribute to the debate on that subject.

**Mr Smyth**: Mr Speaker, to the point of order: Mrs Dunne raised these issues and the minister responded to them and Ms Dundas is now responding to the minister. On behalf of the opposition, I will say that we are happy for the minister to speak again before I wrap up. This is a serious matter and he should have the right to answer questions that are raised, but he has already responded to some of these matters.

**MR SPEAKER**: I did not particularly note those. However, the question has been raised as a point of order for me to rule on, and I think that members have to be relevant now that the point has been raised. Please proceed, Ms Dundas.

**MS DUNDAS**: I have been trying to limit myself to the censure motion itself. To finish, I will again make the point that this Assembly called on the minister to do something and the minister said, "No." The minister did not even try to find a way to comply, did not even come back and say, "This is what is wrong. This is why I cannot do this. Here are the options." That is the most concerning thing. This question was put to the minister today: "Have you done anything?" The answer was, "No." That is acceptable: it has only been a month and it takes time to do things.

However, for the next question, "Will you do anything?", the answer is still "No", and that is where the concern lies. That is why I think it is adequate today to say that the Minister for Planning does deserve to be censured for not complying with a direction of the Assembly, for not working towards a resolution, and for not providing information to this Assembly about how a resolution might have been achieved. That is what I think is at the heart of what we are talking about today.

**MRS CROSS** (3.39): Mr Speaker, I think the purpose of this censure today is not just saving trees or obtaining compensation. This is about the minister thumbing his nose at this Assembly and the processes that this very minister, when in opposition, stressed were important parts of the parliamentary system.

Like it or not, this government is a minority government, just like the government before it. Accordingly, this government does not represent the majority of ACT voters. I think it is also necessary to remind this government that it is there because of the crossbench members. It is also clear that this technicality irks the government from time to time. That is just the way it is: just put up with it. That is life. Thumbing your nose at your nine Assembly colleagues, three of whom are on the crossbench, is not a very clever thing to do given that you are there because of the crossbench and you are a minister because of the crossbench.

Mr Speaker, nine of the 17 members passed a motion in this place in August. The last time I did the maths, and correct me if I am wrong, nine beats eight every time. This

censure is about the minister thumbing his nose at nine Assembly colleagues when, to him, they became superfluous when their resolution did not suit his agenda. Perhaps, had this minister made some attempt to negotiate or compromise, thereby showing a willingness to respect the motion that was passed by the nine members of the 17 in this place, we would not be here facing a censure motion.

This is not about expecting the minister to perform miracles, expecting the minister to overturn decisions that he or his department feel are valid or worthy. This is about the minister basically saying, without saying it to his colleagues, "Go to buggery. You are not important. You are only important when I need your numbers or your vote, but frankly I do not care if you represent the majority of voters in this city."

I am sorry, but that is not what people put us here to do. We are not here to indulge the whim of one person. We are here to represent the people who elected us and put us in this place. Like it or not, that is a fact. Like it or not, this is a minority government. Like it or not, the crossbench is important, and that has to be remembered. I think the former government knew that. The current government has to get its act together and just accept the fact that that is the way it is.

What happens after the next election is another story, it is another kettle of fish and you can deal with it at the time. You have at least another year in this place, and to thumb your nose at the people who are here, not knowing who will be here next time and who will not be, is not a very wise thing to do when we take our jobs as elected representatives very seriously.

If the aim of this minister was to win the award for the most dismissive and arrogant minister then I hereby declare—arrogantly as well—this minister the winner, hands down, and someone can bestow on him an HRH title forthwith.

**MR PRATT** (3.43): I rise to point out that Mr Corbell's arrogance on this matter is only but one in a series of arrogant behaviours by this minister. I very briefly point to his treatment of the Assembly and his treatment of the community. I would point out that the two issues are his thumbing his nose at the majority on the Gungahlin Drive issue and his desire to arbitrarily rule out religious education when in fact we still had a draft exposure bill to be examined by the Assembly.

However, going to the nub of the issue, the executive is accountable to the Assembly. Yes, the government, as Mr Corbell rightly pointed out, will be accountable to the people at the next election but, in the interim, it is accountable to the Assembly. Mr Corbell's weak smoke and mirrors response just now does not take away from this central principle of democracy: that the executive is accountable to the Assembly. The examples that I have given illustrate Mr Corbell's arbitrary, arrogant nature and now this Nettlefold Street issue goes straight to the heart of what this minister thinks about his accountability.

Mr Speaker, in the Nettlefold Street case, Mr Corbell is going against the will of the Assembly. Mr Corbell should have fulfilled his duty to both the Assembly and the people of the ACT. If Mr Corbell cannot carry out the will of the Assembly, he should not be given the responsibility of a portfolio. Perhaps, as well as being censured, Mr Corbell

should have his portfolios taken from him, and I call upon the Chief Minister, in that light, to perhaps move Mr Corbell to the back bench.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (3.45): I will make a few points in relation to this debate. I will make the point, in relation to the motion that was moved—and it is a fair point that we did not make the point at the time—that the motion was out of order. The motion does require—

**MR SPEAKER**: Order, Chief Minister. Resume your seat. I think that is a reflection on the vote. If I can intervene for a moment, if a point of order had been raised at the time, that may have been something to reflect on, but I would ask you not to reflect on the previous motion that was before the Assembly.

**MR STANHOPE**: I take the point, Mr Speaker. Thank you.

**Mrs Dunne**: On the point of order—

**MR SPEAKER**: I have already ordered. Resume your seat, Mrs Dunne.

**MR STANHOPE**: I have accepted the point of order. I think it is fair to say, Mr Speaker, that we are debating here a motion that was passed at the end of August. One may reflect, without reflecting on that vote, Mr Speaker, that, if one had been inclined at the time to raise a point of order to the effect that the motion was out of order, I think that point of order would have been given serious consideration, Mr Speaker.

**MR SPEAKER**: I think, Chief Minister, I have made my will clear in relation to reflections on votes in the Assembly and motions that have been before the Assembly, so I would ask you again to desist.

**Mrs Dunne**: Mr Speaker, I would like to raise a point of order which is different from the one on which you just ruled, which is that the Chief Minister has on two occasions actually reflected on a ruling that you made prior to today, and that is absolutely disorderly.

**MR SPEAKER**: I think the Chief Minister clearly understands the position.

**MR STANHOPE**: Mr Speaker, I will not go to that point.

I think it is important, though, having listened to the debate today and the discussion on the Westminster system and the operations of a Westminster system, systems that we embrace and endorse in this place, that we have some understanding of motions that make requests or directions of the executive of the government. That is at the heart of the censure motion that has been moved today: we are debating a motion that was passed in August, which called on the Minister for Planning to undertake certain actions. It was an expression of the will of the Assembly.

The Assembly passed a motion to the effect that the ACT government, through the respective minister, the Minister for Planning, should:

> negotiate with the owners of the site at the corner of Nettlefold Street and Coulter Drive a land swap or suitable compensation to ensure the preservation of the magnificent trees on that site.

The motion moved was that the government negotiate. That was an expression of opinion by the Assembly, and certainly it was an expression of the opinion of the Assembly.

It was an opinion not shared by the minister, an opinion not shared by the government, and we made that point starkly and explicitly on the day. We, as the government, as the executive, are entitled to our opinion on any matter raised in this place, and we have discretion. We have discretion about whether we pursue this line or that line or, indeed, any line of action. That is the fundamental Westminster principle: that the executive undertakes the executive action. It is the executive that does, and the executive takes advice from and notice of a whole range of sources, including the legislature.

The legislature, of course, can bind the executive through a bill. The legislature has the capacity to bind the executive through the passage of legislation. I know of no other way, under the Westminster system—a system by which we abide—that the legislature can bind the executive. It does it through the passage of legislation, and the executive is bound. The executive is not bound by motions of the legislature. A motion of the legislature is an expression of an opinion. The executive does not have to accept the opinions of the legislature. That is how the Westminster system operates. That is the fundamental Westminster principle.

Today we have heard from the opposition about the operations of the Westminster system and the Westminster principles, and the principles that are fundamental are those.

**Mrs Burke**: Why have you changed your mind since being in opposition?

**MR STANHOPE**: I have not changed my mind.

**MR SPEAKER**: Order, Mrs Burke!

**MR STANHOPE**: Mr Corbell made the point well. A number of points were well made. One is that this was your decision. It was a decision that you took, a decision that you now admit was wrong. It was a decision that was wrong, in your view, and you wish us to fix another mess that you made in government. It is another mess that you are asking us to fix.

Of course, when one reflects on that, there is a whole range of other issues on which one awaits the view of the opposition in relation to mistakes they made that they now admit to and would like the government to do something about. One awaits, in fact, a motion from the opposition, for instance, that the government reopen negotiations with the owners of FAI House to see whether we might do something about the outrageous rent that is being charged at FAI House, and whether or not that is a mistake to which the Liberal Party is likely to admit.

It may be that the Liberal Party will ask us, will move a motion in this place and acknowledge the error of its ways in relation to Fujitsu and the lease over Moore Street. The fact is that they gave away two floors of that building—

**Mr Smyth**: Point of order, Mr Speaker: Mr Corbell raised the question of relevance and Mr Stanhope is clearly debating other matters. Perhaps we should come back to the matter being discussed?

**MR SPEAKER**: I have to say that, from where I sit, Mr Smyth, the issue of negotiation has been the subject of much discussion in the course of this debate, and I think that it is fair enough to reflect on what negotiations are.

**MR STANHOPE**: Then we might go back to other mistakes that the Liberal Party made. We might actually ask whether or not they would like us to negotiate with those who led the charge on Hall/Kinlyside, in relation to the $120,000 or so of legal fees that we paid in relation to that aborted disaster. We might talk about Feel the Power and the half million dollars that that cost us. That is another mistake on which they would like us to open up negotiations. I wonder what else they might like to talk to us about, what other motions they might like to move in this place.

**Ms Tucker**: Point of order: I would actually like some clarification on that ruling then. I cannot see how this is relevant to this debate.

**Mrs Dunne**: Waffling on!

**MR SPEAKER**: I know. I thought it was pretty clear. The fact is that this censure motion goes to the issue of whether or not the minister has negotiated and there have been various discussions in this place about the issue of negotiation. The Chief Minister, on my hearing of it, was merely reflecting on other negotiations.

**MR STANHOPE**: Anyway, I am happy to wind up, Mr Speaker.

I was drawing the obvious connection, Ms Tucker, between the mistakes of the Liberal Party, the mistakes that were made under Mr Smyth, and the one mistake that they now admit, the mistake that they claim they made in relation to Nettlefold Street. Of course, there is a range of other mistakes on which this place might now move motions and ask the government, "Will you go out and pay a bit of compensation on this? Will you negotiate on these arrangements? Will you agree to actually pay the costs that the developer for Nettlefold Street has already incurred", I would imagine.

We all know this to be the case in relation to a development of the sort that is planned for Nettlefold Street. The developer already would have incurred costs of, what, $100,000 or $200,000? The suggestion is that it be either a land swap or compensation: it is not one or the other. This developer, in good faith, bought a piece of land put on the market by Mr Smyth consistent with the Territory Plan. He spent his money, drew up his plans, incurred hundreds of thousands of dollars of costs, probably, and was involved with the project for a couple of years, and you would expect him just to enter into negotiations for a land swap—for land that we do not have, in any event—without asking us to pay those hundreds of thousands of dollars of costs that he had incurred.

This is not something that can be achieved without the expenditure of very significant funds by the government, funds that were not appropriated and funds that will not be appropriated. The minister had no capacity to negotiate with this person for the payment of funds, compensation or repayment of expenses incurred at all. He had no capacity or authority to do it.

**Mrs Cross**: I rise on a point of order, Mr Speaker: standing order 62—irrelevant and tedious repetition. Earlier you ruled something out of order that was raised in relation to Mr Corbell in the previous potential censure, a motion that was passed here and that he ignored. How is it that the Chief Minister talking about something that is irrelevant to this motion is acceptable but what was said before was not? It is irrelevant to this motion.

**MR SPEAKER**: I am not quite sure of the point. Are you saying that what the Chief Minister is saying is not relevant?

**Mrs Cross**: I am saying that what he is saying is irrelevant specific to this motion.

**MR SPEAKER**: I thought it was relevant to the debate. There has been a wide-ranging debate on this issue. That has been the history of this place. Chief Minister, I have already mentioned in this place that I would like members to remain relevant to the subject of the debate, and I would ask you to do so as well.

**MR STANHOPE**: I will draw my comments to a conclusion. (*Extension of time granted.)* The history of this matter, the nature of this matter and the substance of this matter do not support a censure motion. It is another reflection of the extent to which, certainly, the opposition is seeking some political advantage.

The opposition, when in government, sold a piece of land, as they were entitled to do. It was purchased by a significant operator in this town. They extended significant funds to developing a proposal, as they were entitled to, in relation to that purchase. They paid their money; they paid good money. The money was paid into the central funds of the ACT government. It was expended. It was probably expended on health or education or those other issues that are priority issues for this government.

You somehow want us to grab that back out of consolidated revenue. You want the minister to go off and negotiate compensation to a good, upstanding company—a large employer, a major player in this town—to expend in good faith hundreds of thousands of dollars. They paid nearly three quarters of a million dollars for a block of land, and you want us to go to them and say, "Will you give it back? If we give you your money back, will you walk away? Or, if we actually pay you half a million dollars, will you call it quits?"

This is what you are asking us to do. This is how you are asking us to treat business in this town on the basis of decisions made by you. That is the fundamental decision. You ask the minister to go away and expend moneys that he has no authority to expend. You ask him to try and find money that was not appropriated. You had no capacity to undertake the negotiations you asked of him, because no funds had been appropriated, nor will they be appropriated.

**MS TUCKER** (3.58): Mr Speaker, there are a couple of issues here for me. The first point I want to make is that I agree with some of the comments from Jon Stanhope about the role of the executives in this Assembly or in most parliaments. I agree that it is not appropriate to assume that the Assembly can direct the executives through a motion in a way that is binding. That has never been my understanding. Actually, at one point I did have that understanding—going through the Gallop inquiry.

At that time there was an issue, and to get around it, from memory, we were going to draft legislation which would have created a situation where the Assembly could have taken responsibility for the expenditure of public money because they could have initiated a commission of inquiry, which requires expenditure of a considerable amount of money. The government at the time, the Liberals, were very concerned about that—for good reason, in my view—but went with the will of the Assembly rather than see that happen.

The question is not just about whether the Assembly can direct the executive through a motion. I do not think we can. The question is: what is the political weight of a motion of the Assembly to the executive? Motions are used, obviously, to communicate to the executive the view of a member. If they get majority support, then it is reasonable to conclude that the people representing a large number of people in the community have a particular view. The question then is: what is the response of the executive to that? It is very important that the executive gives due consideration to motions for that reason.

Mr Corbell has argued in his defence that this motion was inflexible and required him to do things that, in good faith, he felt he could not do, for the various reasons he has outlined. Where I have a difference of opinion with Mr Corbell is that that motion actually did not require such a rigid response, even if the minister thought that that motion was quite inflexible—I do not have a copy of the motion with me here, but it has been repeated several times—calling on the government to look at negotiating a land swap or compensation—

**Mr Corbell**: It did not call on—

**MS TUCKER**: "Calling on" or "directing".

**Mr Corbell**: It did not call on—

**MS TUCKER**: It did not call on. "Requested".

**Mr Corbell**: It said that the ACT government negotiate.

**MS TUCKER**: Okay. It was a direct call on the government to do something.

**Mr Corbell**: No, it did not call on it.

**MS TUCKER**: All right. The interjection from the minister was that we were directing the government—it seems to me that that is what he is saying—and that is not appropriate. That may be the case, and I accept that. But the point is that a conversation occurred in this place. You can use the arguments that are being used today, but that is

once again a very rigid response to the issue. That is what concerns people in the Assembly.

I understand that the Liberals are not hooked on this, and I do not think it is relevant to go there in particular. This is about a particular motion and how the current government is responding to motions of the Assembly. I would not be supporting the censure motion if the minister had said, "This looks like an unreasonable motion to me, but I understand that there is something going on here that I need to respond to and the majority of members have asked me to. I have got a real problem with the Assembly asking me to spend money on compensation. I cannot do that, but I am interested in the land swap—possibly—or I will at least look at it."

I mentioned in my speech that section 20 might have been possible, which was suggested at the time. If the minister had even said he would look at that, we would have felt there was some respect for the will of the Assembly and the people we are representing. The minister also said that we have been part of passing laws that have enshrined a particular land use. I also think—and I understand it is a point of argument in the debate—that it is a bit rigid as well.

Obviously, when particular areas come to the notice of community representatives here and, if there is a good argument for a rethink on something, we should be prepared to do that. I do not think it is fair to say that members here are aware of every single little block in the Territory Plan that we dealt with when we supported general legislation about zoning and land use. There has to be the opportunity, I would have thought, to look at things a little bit more flexibly than that.

The minister also said that the processes have been clear and good. But I have raised in this place a couple of times the question of the long-term hydrological assessment for those trees, the fact that it did not happen and that there was still concern from the Commissioner for the Environment, even after a rethink about it. There were ambiguous areas in terms of the protection of the trees.

The process was not good, and I do not think the minister would say that it was, in terms of being able to guarantee the survival of those trees in a drought, with the changes to the landscaping of that block. Scientists in the community, plus the Commissioner for the Environment, did express concerns about that. There was some lack of surety about just how well those trees were protected.

I accept the comments from the Speaker that we cannot go into the other areas of concern that have come up in the past, but I think it is important for the minister to understand that we all—well, I do—respect the role of the executive. I do not think we can tell the executive what to do, except through legislation and amendment to legislation, which is a different process.

It is also important that the minister understands that, when things come up in the Assembly and the majority of members support a particular motion, it matters enough for him to be prepared to at least commit to having a look at it, even if he thinks it is not a good idea and it is impossible. Otherwise, it starts to feel a little as if we are irrelevant, and I have not felt that in this place before—I have with the numbers that occur.

Mrs Cross said the last government knew about respecting the crossbench, but that is not true. It is often about numbers—

**Mrs Cross**: I did not say respect; I said they knew they needed you.

**MS TUCKER**: Okay. I won't go into that, but I would like to say that I have not felt the level of concern before that I am starting to feel in this place about a lack of response to a majority motion of the Assembly.

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

Leave granted.

**MR CORBELL**: This has been an interesting debate. It seems that, at least from the opposition side of the world, it is more about my character than about steps I took on this particular motion. This is not a debate about my character. Mrs Dunne may not like me, but that does not mean she can censure me. Yet some of the suggestions that have come from the other side of the house would suggest that, because they do not like me—

*Opposition members interjecting—*

**MR SPEAKER**: Order, members!

**MR CORBELL**: they want to censure me. That is a matter of character.

It is not a matter of character; it has nothing to do with my character; it has got nothing to do with my personality. It has got everything to do with whether what I did was the appropriate thing to do as a minister. That is what it is about, and it is wrong of Mrs Dunne to suggest otherwise.

I heard Ms Tucker comment, "We cannot direct the executive." Why am I being censured if you cannot direct the executive?

**Mrs Cross**: Because of your contempt of this place.

**MR SPEAKER**: Order!

**MR CORBELL**: Mr Speaker, Mrs Cross has suggested that I am in contempt of this place. That is highly disorderly and you should ask her to withdraw.

**Ms Tucker**: She said you're in contempt of us.

**Mrs Cross**: That's right—of the members.

**MR CORBELL**: That is disorderly, and I ask you to withdraw.

**MR SPEAKER**: Mrs Cross, you must withdraw that.

**Mrs Cross**: Can I maintain the sentiment and withdraw the words?

**MR SPEAKER**: No, you have got to withdraw it unequivocally.

**Mrs Cross**: Mr Speaker, am I withdrawing the whole thing?

**MR SPEAKER**: You are withdrawing your remark—

**Mrs Cross**: that Mr Corbell is in contempt of this place?

**MR SPEAKER**: You are withdrawing the imputation of contempt.

**Mrs Cross**: The whole thing.

**MR SPEAKER**: Forthwith.

**Mrs Cross**: I withdraw what I said about Mr Corbell being in contempt of this place.

**MR CORBELL**: Mr Speaker, if, as Ms Tucker argues and has said in this place, the executive cannot be bound by a resolution of this place, why is she prepared to censure? It seems to me that the only reason she is prepared to censure me is that she did not think I paid enough notice to the motion.

Mr Speaker, I did pay attention to the motion. I had discussed with my officers what could be done in relation to the motion, and it became clear to me that it was not appropriate to act on the motion. My view was confirmed. It is not as though I have not talked about it again since we walked out of this place. I was asked to comment on it, on the day the motion was passed, and I reiterated the government's position that we did not think it was a sensible thing to do and, no, we would not be doing it.

I subsequently had discussions with officers from the planning authority and from the Land Development Agency, and I explored whether it was in any way possible. It came down to whether or not I was prepared to pretend.

I could have avoided all of this by just writing a letter to the lessee, and the lessee would have written back to me and said no. I could have stood up in this place and said, "There you go," and everything would have been all right. But that is just pretending. It is duplicitous and I was not going to do it, because I knew very clearly what the answer was going to be.

I could either be duplicitous and effectively abide by the motion, or I could be honest with myself and with members of this place and say that we know it is not going to happen and we won't try to do it, because the lessee won't agree to it. Anyway, why would they when they complied with the Territory Plan, the land act and the tree protection legislation?

As a minister, my responsibility is to make sure that the laws in this place that I am responsible for are upheld. That is what I am responsible for, and that is what I did. If Ms Tucker has a problem with the tree protection legislation, she can amend the act. If the Liberals have a problem with the land use policy, they can seek to amend the Territory Plan. But how can ministers do their job if the policy framework in which they operate,

and which is agreed to by this place, changes at a whim on the resolution of this place? It is unreasonable. It is not good governance. It is policy on the run.

**Mrs Cross**: Mr Speaker, on a point of order, under standing order 62, the argument the minister is putting forward is irrelevant. It has nothing to do with the motion of this censure. He is referring to policy; no-one has discussed policy. This has got nothing to do with policy, and he should stay on the topic. It has got nothing to do with whether people like him or not.

**MR SPEAKER**: Mrs Cross, the Assembly has given Mr Corbell leave to speak on the matter without conditions. I would ask the minister to remain relevant.

**MR CORBELL**: It is entirely relevant, Mr Speaker, but I will nevertheless accept your ruling. The point I am seeking to make is this: ministers should be censured if they ignore the legislative requirements imposed on this place. They should not be censured for upholding them, and that is what this place will be doing today. Even though I made sure that the tree protection act was applied, the land act was applied and the Territory Plan was applied, I am being censured. That is an absurd proposition, Mr Speaker.

**Mrs Cross**: So your colleagues are absurd?

**MR SPEAKER**: Mr Smyth will close the debate. Order, Mrs Cross!

**MR SMYTH** (Leader of Opposition) (4.13), in reply: The weak and feeble arguments of the government highlight the little support that Mr Corbell has for ignoring the motion of the Assembly. Mr Corbell said he did not want to go through with a sham, because he knew what the answer was. How could he know what the answer was if he hadn't asked the question? That is the crux of this: he did not make the effort. He did not try to implement the will of the Assembly. If you don't try, you don't know. He throws up this smokescreen of, "But I am only implementing the tree legislation and the land act."

I remind Mr Corbell of his charge about protecting the land at Mawson, which was zoned as residential. By his logic, I, as minister, could have gone ahead and sold that land and developed it as per the conditions set out in the Assembly. But we had debate about it. We had gone through the Assembly and through the community about what we should have done. It was exactly the same with the land at East O'Malley. The land at Conder 48—exactly the same.

By Mr Corbell's logic that land is zoned residential and I should ignore all the outside influences that come to me here because it is in the policy. That has to be the daftest defence I have ever heard of inactivity. The logic of it is normally as follows. If the Assembly calls on, directs or asks the executive to do something, you are obliged to attempt to bring about what the Assembly has asked. If you can't, you come back and explain to the Assembly what you have done—"I talked to the guy; the guy said, 'No, it is unreasonable, I do not have the money,' " or "I can't do it."

The minister did not even try. You come back and you seek guidance. You come back and you say, to debunk Mr Stanhope's defence, "We did not have the money." As Ms Tucker rightly points out, the previous government did not have money appropriated for a Gallop inquiry, and we found ways to fund and carry out the will of the Assembly.

It is interesting that Mr Wood's defence seemed to imply that we weren't serious: "It's a joke. They're just doing this for fun. They're going through the motions." I assure Mr Wood that it is absolutely serious. It is a matter of principle. It is a fundamental matter that this Assembly puts in place the government that puts in place the executive.

I bet the government spin doctors have been down to the media suite over in the far wing saying "It's a joke! Don't take this seriously. They're just wasting time." We are not wasting time; we are saying that you are accountable. Mr Corbell now proposes this: "I am willing to go to the next Assembly and be accountable there." According to that flawed logic, governments are only accountable every three years, and the nine members apart from the Labor Party are now irrelevant because they have no right, having brought a government to this place, to ask it to explain what it is doing and to ask it to follow the will of the majority of members here, who are elected by the people of the ACT.

Based on my experience as a minister and the things Mr Corbell and others did to me, I expected that, when you passed a motion of this nature, the government would take it seriously. I actually expected a successful outcome. What the motion does not say is that the government will institute a land swap or the government will pay suitable compensation. It says that the ACT government "negotiate". The minister should look up "negotiate" in his dictionary. It says "confer with".

That would have been easy: "Hi! How do you feel about land swap? No? Okay. Cool. I'll tell the Assembly. I'll keep going with the meetings with a view to compromise or agreement." If we did not want compromise or agreement, "negotiate" would not have been in the motion. The second point says to "bring about by negotiation". That is what the Assembly probably meant: bring about by negotiating. But no negotiation was undertaken. Nothing was attempted. The third is to "transfer for another consideration". There is your land swap.

To "clear up" or "get over or through" are the other meanings of "negotiate". But Mr Corbell did not negotiate. Mr Corbell did not try. Mr Corbell did not seek to put any effort into carrying out what the Assembly had asked of him. I think that is the crux of the matter today. If the government did not agree with the motion and voted against it, that is irrelevant.

We as a government did not agree with some of the motions that ultimately led to the establishment of the Gallop inquiry. We did not agree to a draft variation that allowed the preservation of Old Red Hill in its current form, but we took on board what the Assembly said and we took it seriously. It is irrelevant whether or not the government agreed to it or liked it or wanted to do it. We were asked to do it.

The words in this motion could have been much stronger: "The government will land swap. The government will pay compensation." We did not say that. We said that the ACT government should negotiate, and that is what they should have done. Mr Corbell would have been quite within his rights to come back in here and say "I have negotiated, and I think it's unacceptable. I seek your guidance." That is how it works. I have heard mini smokescreens and mini disingenuous arguments, but the ones that have been presented today by the government really do take the cake.

If Mr Corbell is not censured today, we will have set—Mr Corbell talked about standards—a very low standard. That standard will now be that you are only accountable every three years. I want to refer Mr Corbell back to what he said about the Old Red Hill motion, which this Assembly passed, calling on me to review it. I said this:

> Should this motion get up today—and it would appear that there are the numbers for it to get up—we—

that is, the previous government—

> … will conduct the review that has been asked for by the Assembly. My opinion and the opinion of the government, as is clear through the variation, is that we have got the balance right. But if it is the will of the Assembly, I will have a review carried out.

Mr Corbell was not happy with that. The government said, "We think we've got it right but, if the Assembly says we want something else, we'll do what the Assembly wants." What did Mr Corbell say? People should listen very closely to Mr Corbell's interpretation, when in opposition, of what motions in the Assembly meant. He closes the debate by saying:

> I thank those members who have indicated their support for this motion. But I want to place very clearly and strongly on the record my view as to how the government should respond to this motion, assuming that the Assembly votes shortly to pass it. My recommendation to the minister is very explicit, in that it asks the minister to direct the ACT Planning Authority to review the Territory Plan as it relates to Old Red Hill to provide for a development intensity of no more than one dwelling on any block in the Red Hill housing precinct. It is an explicit recommendation. It is an explicit review.
>
> I do not want the minister to go away from this place thinking he can undertake a review and come back to this place and say there is no need to change it. I believe the majority of members in this place feel strongly that dual occupancy development cannot be allowed in the Old Red Hill precinct if its heritage significance is to be properly protected. I would like the minister, if and when he undertakes this review—assuming that the Assembly supports my motion—to know that that is the very clear wish of this place. Our wish is that he not just conduct a review but conduct a review recognising that this Assembly believes that there should be no dual occupancy development in the Old Red Hill precinct. It is incumbent upon him to treat that very seriously.

I think Mr Corbell has been hoist by the political petard of his own words.

**Mr Corbell**: It is the direction of powers in the land act.

**MR SMYTH**: Mr Speaker, I commend this motion to the Assembly.

Question put:

> That the motion be agreed to.

The Assembly voted—

| Ayes 8 | | Noes 7 | |
|---|---|---|---|
| Mr Cornwell | Mr Pratt | Mr Berry | Mr Quinlan |
| Mrs Cross | Mr Smyth | Mr Corbell | Mr Stanhope |
| Ms Dundas | Mr Stefaniak | Ms Gallagher | Mr Wood |
| Mrs Dunne | Ms Tucker | Mr Hargreaves | |

Question so resolved in the affirmative.

## Questions without notice

### Fire awareness and education

**MR PRATT**: Mr Speaker, my question is for the Minister for Police and Emergency Services. Mr Wood, the ACT bushfire brigades have been undertaking some community education and awareness raising in regard to bushfires, but the ACT bushfire brigades are being prohibited from entering any suburb where the urban fire service has community fire units in place. Minister, can you explain why the ACT bushfire brigades are being prohibited from conducting their fire awareness and education in suburbs where the urban fire service has community units in place?

**MR WOOD**: I am not aware that is happening, but I understand the background to it. There is a demarcation: the urban firefighters manage the city area, and the rural firefighters manage the bush area. One of the outcomes of McLeod is that we should blur that somewhat. That situation is historic; it goes back some time. It has not been a policy implementation of this government. It goes back in history, I would think for quite a long time. If under any new structure we plan to develop we can blur some of these demarcations it will be a good thing, and I would be looking to go down that path.

**MR PRATT**: I am happy to hear about the blurring; it is a good idea. But, Minister, will you commit now to ensuring that ACT bushfire brigade officers are allowed to continue their fire awareness education in all Canberra suburbs, especially in the lead-up to the bushfire season? How far will that blurring go, Minister?

**MR WOOD**: It depends. There is a background. Past knowledge tells me that the urban firefighters are proud of what they do and believe that they are very competent in managing urban firefighting. Issues between them and the rural bushfire fighters go back some time. We expect to move to a more integrated service, and I think we all agree that that would be a good thing. I cannot tell you exactly at this moment if there are protocols in place or what informal or formal agreements apply, but that is the direction we are moving in to get a more integrated service.

### Health action plan

**MRS CROSS**: Mr Speaker, my question is to the Health Minister, Mr Corbell. Minister, in June last year the then Health Minister, Mr Stanhope, launched the much awaited health action plan. Part of that plan was the establishment of the Health Council,

designed to guide and monitor the progress of the changes outlined in the health plan and to initiate broader debate on health issues.

This council is meant to be the health peak council and is supposed to meet several times a year with the minister and chief executive of health. Minister, can you inform the Assembly of the date this Health Council first met and how many times the council has met in the past 12 months?

**MR CORBELL**: I have to take some of that question on notice. I do not have the detail of when the council was first formed. I announced the membership of the council earlier this year, and the council has met regularly since that time. To the best of my recollection, the council has met on three or four occasions since it was first formed. In addition, I have met with the council once, and the chief executive of the department meets with the council regularly. I will take the detail points of the question on notice and provide the information to the Assembly.

**MRS CROSS**: I have a supplementary question. Minister, can you also tell the Assembly how many of the proposals outlined in the health action plan have been implemented and what those proposals are?

**MR CORBELL**: Mr Speaker, I am not sure whether Mrs Cross is asking for a detailed report on every single one. Is that what she is asking for?

**Mrs Cross**: I thought the answer to the question was pretty straightforward, Simon.

**MR CORBELL**: Without clarification from the member I cannot answer it.

## Housing tenants

**MRS BURKE**: My question is for the Minister of Housing, Mr Wood. Will the minister explain why the staff of ACT Housing have threatened, and effectively gagged, ACT Housing tenants by warning them not to discuss any matters with either me or the media and saying that otherwise there would be trouble?

**MR WOOD**: Mrs Burke is fairly free with her words—as I heard earlier today. The stock answer that people get if they say to my office or to officers of ACT Housing, "I will go to the media" or "I will go to the opposition" has long been, "That's your right. You can do that." I have heard that said at various times, and it is the established answer.

We do not gag people on a particular issue, and we recognise that we cannot gag people. In a recent instance an officer did say to someone, "If you tell me about these things, we will be able to do something about it, so keep us informed." That is the advice I have had back from the department. Someone did speak to a resident. The officer stated that he asked the tenant to keep him informed of tenancy and maintenance issues at the same time as any advice might have been going to an MLA or the media. That is the story of it. Housing is generous in the way it deals with people. It is the way they ought to be, and it is the way they are.

**MRS BURKE**: I have a supplementary question. Will the minister advise if he gave a directive to try and stop people from talking to me when they become increasingly disillusioned with the service they receive from you, Minister, or this government?

**MR WOOD**: Once again, Mrs Burke makes wild, sweeping statements with no foundation. My approach is as I have indicated. People anywhere, whether they are ACT Housing tenants or citizens of this territory, have the right to handle things as they wish. I have never given any directions, and you should know that I have never given any directions of the sort that you say.

## Film, television and interactive entertainment industry

**MR HARGREAVES**: My question is to the Treasurer. Can the Treasurer inform the Assembly of the outcomes of the Film, Television and Interactive Entertainment Industry Development Forum, held on 2 September?

**MR QUINLAN**: Thank you, Mr Hargreaves. I certainly can.

**Mr Stefaniak**: Have you been given an acting contract?

**Mrs Dunne**: The old thespian!

**MR SPEAKER**: Order, members! The Treasurer has the floor. Order!

**MR QUINLAN**: Yes, certainly. I did notice over the weekend that the Liberal Party had a conference. I saw it on TV—I thought it was someone's lounge room, but it was actually in the Canberra Club—and noticed that the phrase the Liberals were going to concentrate on was "creative industries". Previous to that, Mr Smyth had put out a press release saying that he had invented the concept of film and television schools way back in November of last year.

I want to let the Assembly know the work the government has been doing over a considerable amount of time consulting with the industry and working towards the setting up of an office of film and television—or whatever the industry feels is appropriate. There is no point—unless you are in opposition, of course—in off-the-top-of-your-head stuff. No doubt, the opposition will be aware that we have headed that way.

We have had a very positive forum, attended by some 70 people. The forum brought forward some very constructive suggestions. In fact, the industry itself wanted to form its own reference and working group and go through the issues to make sure that everybody was happy with the next steps that were taken. Formed out of that will be a group representing the three major sectors within film, within television and within the interactive games/digital games sector. They will be working, as a reference group with government, towards setting up an office.

In the first place the office will be a relatively modest thing. It is not going to be a huge shopfront with a cinemascope screen for showing trailers. The industry has indicated that what they really need is a repository of intelligence.

**Mrs Dunne**: You wouldn't get that from this government, would you?

**MR QUINLAN**: As in information. Of course, they need the facilitation. If somebody wants to come to the town and make a film or advertisement or whatever, they will need to know where to get catering, how to get through gates, how to get the right sites or how to get a road closed, et cetera. Setting up that base of information—as I said, that "repository of intelligence"—for them to avail themselves of, they would consider, at least in the discussion I had in my office some time ago, a giant step forward

I have regular industry lunches with a group of ten or 12 people from different industry groups. I have had luncheons recently with the creative industries, and the wider creative industry sector supports this move. It will be a very positive move in Canberra. Canberra is the capital city and has the most hours of sunshine of any city in Australia. It has clean air and a variety of geographic places where various films—shorts, commercial, advertising—can be made.

The Assembly can be assured that the government has brought the industry together in a very positive way and is working constructively with them.

**MR HARGREAVES**: Can the Treasurer say whether the government is continuing to develop economic opportunities on the wider front?

**MR QUINLAN**: I can and I—

**Mrs Dunne**: Point of order, Mr Speaker. To ask the Treasurer whether he is considering doing things on a wider front is (a) straying from the intent of the question and (b) asking him to announce government policy.

**Mr Hargreaves**: On the point of order, the wording I used was, "continuing to develop", not "intending to".

**Mrs Dunne**: On the other part of the point of order, the supplementary question asked the Treasurer to move on from the subject of film and television to industry development. I think that is out of order.

**MR QUINLAN**: On the point of order, Mr Speaker, in a general sense, the number of points of order raised on that side of the house—particularly by Mrs Dunne—that are used to undo the point, is getting to be a bit of a joke.

**MR SPEAKER**: Mrs Dunne, the supplementary needs to be relevant to the original question, and I rule that it is.

**MR QUINLAN**: Mr Speaker, you can see a connection between the creative industries, the development of the town and tourism. This government has worked very hard in relation to tourism. The Liberals were going to throw a whole lot of money at it to fix the problem. There was a time when a Tourism Minister called Brendan Smyth threw a whole lot of money at the tourism industry and did not take it very far at all.

**Mr Smyth**: On a point of order, Mr Speaker, I am happy to hear a reiteration of my history, but you just ruled that he could speak about the broader economic policies of the government. Under 118 (b) it would appear that he is the debating the subject and should be brought to order.

**MR SPEAKER**: Yes, Mr Treasurer, I think you should confine yourself to the subject matter of the question and not debate the issue.

**MR QUINLAN**: Context, Mr Speaker, context. The government has moved to bring about a more cohesive relationship with the tourism industry. It has moved to change the old CTECH. It is now Australian Capital Tourism. It now has programs that are starting to have effect and is getting a very positive response around town. Sure, if we announced that we would throw a whole lot of money at the tourism industry, they would be very pleased. However, I have worked very hard over a couple of years in this area to ensure that we take the industry with us, that we do not just become the agency to provide free promotion and that we all work together.

The tourism industry, although hard to draw a line around, incorporates the major attractions, the minor attractions, some retail areas and a whole raft of people who we want to see work together in a co-ordinated effort. That is happening. The latest promotion, Spring into Canberra, was launched a few weeks ago with a tremendous amount of support across the spectrum of business and the tourism industry.

We can say now that the work that has been done by the government is starting to bear genuine fruit. It was a case of taking hold of the particular problems that faced us, sorting them out, changing the place, getting on with the job and working smart. I do trust that this Assembly would want the government to continue to work smart and not just throw money into the pot, as was done in the past, to no great effect.

## Electricity charges

**MR CORNWELL**: My question is to Mr Quinlan. I refer to an article by Mr Dyer of the Association of Independent Retirees, which was published in the *Canberra Times* supplement today. Mr Dyer claims that Actew had advised several members of his organisation that a concession on electricity charges existed for holders of the Commonwealth seniors health card.

Mr Dyer spoke to Actew to confirm this advice and "was given to understand that a concession was available". As a consequence of this advice, he published the information in the *Canberra Times* in August. Actew then stated that no such concession was available, and Mr Dyer had to apologise for providing the incorrect advice.

Mr Quinlan, why did Actew provide this advice to self-funded retirees about their entitlements to electricity concessions, and would Actew please clarify again just who is entitled to such concessions?

**MR QUINLAN**: If Actew provided incorrect advice, I can only think of two reasons for it: they are a pack of so-and-sos or they have made a blue. It is highly probably that the latter is the case. As best I recall, concessions are provided on a needs basis and not a

classification basis. This government, being a progressive government, would want that sort of regime to continue so that limited public funds are used for the maximum benefit of those that most need it and therefore for the maximum benefit of the community. I cannot answer a "Why?" for Actew other than to assume that they have made this mistake. If, in fact, the misapprehension is widespread—and I will have this checked—they may seek to make a clarification to let people know.

Electricity concessions provided through Actew are actually provided by government—well, they used to be provided by government. I will double-check it. But when I worked for Actew I made damn sure the government paid for it. This government, as I said, would want those concessions to be provided to those that really need them. If we provide them to people that do not particularly need them, someone somewhere else who needs then misses out.

**MR CORNWELL**: I have a supplementary question, Mr Speaker. Mr Dyer made the point in the article that one problem is that the ACT government sees—

**Mr Hargreaves**: Preamble.

**MR SPEAKER**: Yes, no preamble.

**MR CORNWELL**: Why does the ACT government see the income limit for the Commonwealth seniors health card as too high for electricity concessions for self-funded retirees, given that the ACT has a higher cost of living than most other places?

**MR QUINLAN**: I think I could get a seniors card, couldn't I?

**Mr Cornwell**: Yes. You deserve one.

**MR QUINLAN**: The seniors card carries with it some entitlements, and that just goes with age. But generally, for us ageing fellows, and ladies as well, we do not get much with the seniors card. In recent times I sent my subscription to the Southern Cross Club, and they sent half of it back because I was over 60. I said I did not want half of it back.

**Mr Cornwell**: Relevance, please, Mr Speaker.

**MR QUINLAN**: I just thought I would entertain the house with that.

**Mr Cornwell**: I am interested in self-funded retirees and this government's failure to recognise their needs.

**MR SPEAKER**: The Treasurer has the floor.

**MR QUINLAN**: My bowling club then did the same—sent half my subs back. I am not sure of the exact basis of your question, Mr Cornwell. The point that I want to make I made in the first instance: if this government provides concessions, it will want to provide them in the most progressive fashion practicable, and that generally means trying to identify the people who most need them, identify where funds are most needed and apply the funds there. That is what being a progressive government is about.

## Bushfire season—preparations

**MS TUCKER**: My question is to Jon Stanhope as Minister for Environment. It concerns the social impact of the preparations for this year's bushfire season and, in particular, how this has been highlighted by the proposed removal of all the blue gums from Oakey Hill in Lyons.

The decision to take out all those trees came as a big surprise to residents of Lyons. While some residents became aware that something was going to happen, there was no general advice that all the blue gums were to be removed; nor was there any mention of Oakey Hill in the August or September issues of the recovery task force's community update. Through my work with the residents of Lyons, I know that most residents are aware that blue gums drop a lot of litter. A petition was sent to the government asking for some hazard reduction activity on the hill, but they were not asking for every single blue gum to be removed.

The community reaction to that inspired in your government, in your absence, a commitment to produce both a written report of the fire expert, who was brought up after the initial community reaction, and a communication strategy to avoid this happening in relation to future hazard reduction—hazard reduction generally—that has been planned for a number of areas you have listed.

Will you table in this place, by the end of the week, the written report from the Victorian expert and also your communication strategy, to reassure us that the community will be brought into the process more than has happened at Lyons? Because there was an understanding that there needed to be removal of trees, they were open to having a discussion but they felt shut out. That is a real issue.

**MR STANHOPE**: I am aware of the debate, Ms Tucker. As you indicate, I was not in Canberra at the time of the debate or when the issue arose. I am not aware of the details of some of the issues that were raised, although I have been briefed on them. I am aware of the concerns that you mention that have been raised by some residents—that they felt somewhat taken by surprise by some of the decisions that were announced—and Environment ACT is also acutely aware of them.

As indicated by the undertakings made in relation to a communication strategy, we have determined to address the significant issues of hazard reduction measures, particularly those taken on the urban edge and those affecting stands of trees that residents have become accustomed to—indeed, more than become accustomed to; attached to.

There are some significant issues for us as a community to address, and I have no difficulty at all, Ms Tucker, in taking advice on the documents that you seek to have tabled. I have no issue about tabling them, but I do need to take some advice from the department on what exactly is available. I am afraid I do not know in detail or explicitly, but I am more than happy to provide that information. I need to take some advice from the department on exactly what it is that they have and the nature and status of it. I will provide you with all the information that should be publicly available.

I am aware of the real sensitivities about tree removal and of the concurrent, or other, sensitivities in relation to the need for us to ensure that residences and residents are safe. We have acknowledged the need to undertake some significant hazard and fuel reduction activities around the town in a range of areas.

Perhaps the communication has been too broad brush or general. I am determined that we will consult more closely and more directly on those more local areas of reduction, particularly where it involves the removal of significant stands of trees, such as the blue gums at Lyons, the blue gums and radiata pines on O'Connor Ridge and the significant stands of urban radiata that appear throughout Canberra.

There are significant stands of radiata in Kaleen, in Giralang and on O'Connor Ridge and there are blue gums on O'Connor Ridge. There are five blue gum plantations around Canberra, adjacent to suburbs, all of which are being looked at closely for future fire hazard and the potential hazard they represent to residents. I take the point that you make, and it has been well made, and we will ensure that residents are aware of hazard reduction programs, particularly as they impact directly on suburban amenity.

Having said all that, the government, and I think most residents, accept that we must undertake the audit that we are currently undertaking on hazard reduction and the potential hazard that some stands of trees represent to suburbia and the community. We won't resile from that; we cannot afford to resile from that. We must continue to make the community safe.

I have discussed—in that context and in the context of "This is the bush capital, and this is an environment that embraces a bush vista and a bush setting"—the need to ensure that for every tree that is removed there is a concrete plan to replace that tree with a structured form of replanting. I am prepared, Ms Tucker, to ensure that at the end of the hazard reduction and tree removal that will be undertaken in this round of fuel reduction there will be twice as many trees replanted as we remove. I have had communications with both the Department of Urban Services and Environment ACT and have indicated to them my clear desire that, at the end of the day, for every tree removed two trees will be planted somewhere within the suburban environment.

**MS TUCKER**: I have a supplementary question. Advice given to residents from rangers—

**MR SPEAKER**: No preamble, Ms Tucker.

**MS TUCKER**: Okay. Given the information that instructions have come from your office that all trees have to go, can you tell this place whether you are prepared to reduce some of the impact, particularly at Lyons, of clearing the blue gums by, firstly, looking at whether the trees regrowing under the power lines can be just lopped and not totally felled—since they create a screen between the houses and the freeway—and, secondly, by leaving a few of the blue gums? Are you prepared to look at the potential for a little bit more flexibility there for the Lyons people?

**MR STANHOPE**: I will have to have discussions with my office, Ms Tucker. As you are aware, I only returned to duty yesterday. I would be concerned if my office had

overridden directions of the experts engaged by Environment ACT for the removal of trees, but I am not aware that my office has made any decision on the removal of trees. The suggestion that my office gave a direction that all the trees are to go is news to me.

**Ms Tucker**: That is what was said.

**MR STANHOPE**: My chief of staff shakes his head and suggests that my office made no such direction.

**Ms Tucker**: Well, that's the goss.

**MR STANHOPE**: That is what I say: that is the gossip that has been spread by somebody. It is wrong.

**Ms Tucker**: It is what residents were told.

**MR SPEAKER**: Order, Ms Tucker!

**MR STANHOPE**: I might pursue that, Ms Tucker, because it is advice that distresses me significantly. I take serious umbrage at the suggestion that I would direct my office to say, in the face of expert advice engaged by Environment ACT, "I don't care what your expert advice is; the view of this office, in the absence of its minister, is that all the trees are to go." No such suggestion or direction came from me; nor would it ever. The decisions that were made by Environment ACT were made on the basis of expert advice engaged by Environment ACT in relation to those particular trees. I will pursue the anecdotal evidence that you provide—the gossip.

**Ms Tucker**: I will give you the names of the residents.

**MR STANHOPE**: I will be very pleased to receive them.

**Ms Tucker**: They'd be happy to talk to you.

**MR STANHOPE**: I will pursue that with some vigour. That is not how I operate, and it is not how my office operates to give directions in those circumstances. To suggest that that is my attitude to the trees—

**MR SPEAKER**: Order, members!

**MR STANHOPE**: We are making decisions on the basis of evidence of the potential hazard of those trees to residents. In the environment we face and after the lessons we have learnt from the enormous destruction wreaked on 18 January, that is what the people of Canberra expect of us. In an environment where we lost over 500 homes and the lives of four people, not to take seriously the need to protect our residences and our residents flies in the face of that very recent experience and the need for us to learn the lessons we must learn. That is the attitude to this that we are adopting.

*At 5.00 pm, in accordance with standing order 34, the motion for the adjournment of the Assembly was put and negatived.*

## Oakey Hill trees

**MRS DUNNE**: My question is to the Minister for the Environment, Mr Stanhope. Minister, the *Canberra Times* of 21 September reported that an officer of Environment ACT told Lyons residents that the 300-odd trees that were to be felled on Oakey Hill would be chipped on site and taken away to Tumut to power the paper mill.

In the supplementary estimates hearings earlier this month the chief executive of Urban Services, in answer to questions about ACT forest clearing, said:

> A limited amount of the wood … is going off as woodchip being taken by Visy and being used as boiler fuel at Tumut.

He went on to say:

> … the only viable market, if you like, is for boiler fuel and even that … seemed to be at a net cost to us. It's a large cartage distance across to Tumut so the end of that is generally a net cost to the ACT rather than a positive revenue.

Minister, will Visy buy the chips?

**MR STANHOPE**: I understand that Environment ACT has entered into negotiations with the mill on the disposal of the trees. I am not aware that those negotiations have been concluded, but I understand negotiations were initiated and are taking place.

**MRS DUNNE**: I have a supplementary question. Why is the government entering into negotiations for a measure which, by its own account, will be at a net cost to ACT revenue? Have you considered other end uses for the wood?

**MR STANHOPE**: I will take the question on notice.

## Territory information

**MR STEFANIAK**: My question is to the Chief Minister. On Tuesday, 9 September thieves broke into Eclipse House and stole a laptop computer belonging to the director of ACT Corrective Services. Despite this obvious breach, Mr Quinlan, the Acting Chief Minister at the time, claimed in the *Canberra Times* of 13 September that territory government information is "pretty damn secure". That appeared on page 1. However, the director of ACT Corrective Services said in the same report that "access has been gained, and has been gained before, far too easily". Why did Mr Quinlan claim that territory government information was pretty damn secure when thieves are able to gain access to sensitive areas far too easily?

**MR STANHOPE**: I am not aware of the context in which the comments were made by the Acting Chief Minister. In a conversation I had on this matter this morning, Mr Quinlan made the point that there was no information on the hardware as such on the computer. Whilst the hardware was stolen in that burglary, the thieves did not gain access to any files or information.

In the context of computer security, I am pleased to be able to announce that the security of computers within corrections is far greater than it is within the Assembly, where, as we know, others in the past had no difficulty in gaining access to computers and to information in this place by hacking into the computers of ministers, for instance.

**Mr Smyth**: I take a point of order under standing order 118 (b), Mr Speaker. The minister is now debating the issue, instead of answering the question.

**MR SPEAKER**: Come to the point of the question, Chief Minister.

**MR STANHOPE**: The point of the question that I was discussing was computer security and we do know, Mr Speaker, that that is something that has not been too great and is not something in which this opposition, the Liberal Party in this place, places much store. Their willingness, propensity or capacity to hack into other people's machines is legend.

**MR SPEAKER**: Order! Come to the point of the question, Chief Minister.

**MR STANHOPE**: The entry into the offices of corrections and stealing of property from there is absolutely reprehensible, as is all crime. It did occur. I have not had a report from the police, but I am more than happy to pursue that, Mr Stefaniak, to see whether the entry gained on that occasion was as a result of some essential or inherent weakness in security at that building. If it was, I have to say to my officials that they had better get off their backsides and fix it.

Apart from that, whether it was simply a result of the cleverness or otherwise of the criminals involved will perhaps be something revealed by a report to me from the police. I am more than happy to chase up that issue, Mr Stefaniak, and find out whether those who occupy that building or perhaps the building manager have been complacent in relation to the security of the building. I take the point you make: it is unacceptable that criminals gain access to government buildings. But criminals do lots of things that are unacceptable.

**MR STEFANIAK**: Mr Speaker, I have a supplementary question, but the Chief Minister may not be able to answer it. How many ACT government laptops have been stolen in the past 12 months?

**MR STANHOPE**: I do not know, but I am more than happy to pursue that. Indeed, I would be more than happy to get for Mr Stefaniak such details for, say, the last five years for the purposes of balance and historical information.

## Indigenous child protection workers

**MS DUNDAS**: My question is to the Minister for Education, Youth and Family Services. I understand that the Department of Education, Youth and Family Services employs indigenous child protection workers. Where there are reports of suspected child abuse or neglect in indigenous families which are then followed up by a visit from a departmental worker, are any of these initial visits undertaken by non-indigenous workers?

**MS GALLAGHER**: I might take some of that on notice because you have asked a specific question. In relation to indigenous child protection workers, there have been some problems with recruitment to those positions, so there is a chance that non-indigenous child protection workers had to respond to urgent cases, as required.

We have statutory obligations and, if we did not have an indigenous child protection worker on duty at the time, naturally a non-indigenous child protection worker would have to attend to that child. We are doing a lot of work in relation to trying to attract indigenous workers to these positions. There are a number of complex situations, which means that for many indigenous people there is not the desire to work with the welfare agencies. We are working through those with the indigenous community at the moment and looking at ways to make those positions attractive and to retain staff in those positions. As to a breakdown of how many visits have been responded to by non-indigenous workers, I will take that question on notice.

**MS DUNDAS**: Minister, I note that you are doing work in this area. Perhaps also on notice you could provide us with information on the average duration of employment for indigenous child protection workers in the department compared with non-indigenous child protection workers so that we can see where current retention rates are at.

**MS GALLAGHER**: Yes, I am happy to take that on notice.

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

## Paper

**Mr Speaker** presented the following paper:

> Legislative Assembly Secretariat—Report and financial statements, including the Auditor-General's report, for 2002-2003.

## Executive contracts
### Papers and statement by minister

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

> Public Sector Management Act, pursuant to sections 31A and 79—Copies of executive contracts or instruments—
>
> Long term contracts:
> John Paget, dated 22 August 2003.
> Helen Strauch, dated 4 September 2003.
>
> Short term contracts:
> Michael Beattie, dated 22 August 2003.
> David Snell, dated 5 September 2003.
> Peter Kowald, dated 27 August 2003.
> Leslie Gay Williamson, dated 12 August 2003.

Schedule D variations:
Lincoln Hawkins, dated 21 August 2003 and 22 August 2003.
Trevor Wheeler, dated 18 August 2003 and 25 August 2003.
Clare Wall, dated 11 August 2003 and 29 August 2003.
Judy Redmond, dated 29 August 2003.
Stephen Bramah, dated 5 September 2003.
Diane Kargas, dated 29 August 2003 and 8 September 2003.

I ask for leave to make a statement in relation to the contracts.

Leave granted.

**MR STANHOPE**: Mr Speaker, these documents are tabled in accordance with sections 31A and 79 of the Public Sector Management Act, which requires the tabling of all executive contracts and contract variations. Contracts were previously tabled on 26 August 2003. Today I have presented two long-term contracts, four short-term contracts and six contract variations. The details of the contracts will be circulated to members.

## Paper

**Mr Stanhope** presented the following paper:

Remuneration Tribunal Act, pursuant to section 12—Determination No 131, together with statement, relating to Part-time Holders of Public Office, Education, Youth and Family Services Portfolio, dated 19 August 2003.

## Charitable Collections Regulations 2003
### Paper and statement by minister

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

Charitable Collections Act—Charitable Collections Regulations 2003—Subordinate Law SL2003-33 (LR, 22 September 2003).

I ask for leave to make a very short statement.

Leave granted.

**MR WOOD:** When we debated and passed the Charitable Collections Act earlier this year, I advised the Assembly that the government had done extensive consultation on the introduction of the new measures, and it had. I want now to advise members that we have done even more consultation on the accompanying regulations that I have tabled today.

I wish to advise the house that, as a result of the two rounds of consultation, there have been a number of changes, including exempting collections of less than $15,000 in a financial year; exempting organisations accredited with AusAID and charitable

sponsorships by corporations; exempting organisations such as P&C associations when conducting a collection for educational purposes and voluntary contributions to a school; agreeing that receipts for donations need only be supplied when requested; allowing children under six years of age to take part in collections if under adult supervision; and clarifying the minimum information required for financial reporting.

I thank all those in the charity and collections sector for their valuable and constructive contribution to that process.

**MR CORNWELL**: Mr Speaker, I ask for leave to make a statement on the same matter.

Leave granted.

**MR CORNWELL**: I will not keep the house long. I thank the minister for his statement. I was aware that there were some concerns after the first round, but I have now received a letter from the Society of St Vincent de Paul, which is quite a large player in charities collection, I have spoken to the Combined Charities Christmas Shop, which represents 31 organisations, and I understand that the P&C council has been consulted and all are happy with the arrangements outlined by the minister. The opposition is quite happy to go along with the arrangements. I suppose we will just have to wait and see whether there are further hiccups. On the face of it, Mr Speaker, the initial problems that were raised appear to have been settled at the moment.

## Handgun buyback
### Papers and statement by minister

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

> Accountability and Administrative Procedures for the Handgun Buyback—Intergovernmental Agreement, dated 10 July 2003 and 28 July 2003.
>
> Firearms Act 1996—
>
> > Firearms (Compensation) Regulations 2003 No 28—Subordinate Law SL2003-28 (LR, 28 August 2003), including explanatory statement.
> >
> > Firearms (Fees) Determination 2003 (No 1)—Disallowable Instrument DI2003-261 (LR, 28 August 2003), including explanatory statement.

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

Leave granted.

**MR WOOD**: As members will be aware, the Firearms Amendment Act 2003, which commenced on 1 July, amended the Firearms Act 1996 and the firearms regulations to give effect to an agreement late last year by the Council of Australian Governments to place greater restrictions on access to certain types of pistols. Simultaneously on 1 July 2003, the buyback of prohibited pistols and associated parts and accessories commenced

at the City Police Station and it was supported by an amnesty for the possession of such pistols as well as any illegally held firearms.

The ACT, together with Queensland, was the first jurisdiction to commence its buyback and thereby meet the date specified by COAG. The amnesty and buyback will end on 31 December this year, so we are nearly at the halfway point. For the information of members, some 340 prohibited pistols and 425 associated parts and accessories have been surrendered so far and approximately $346,000 has been paid in compensation.

A further provision allows competition shooters who are no longer able or willing to continue with their sport to exit the sport and surrender all their pistols for compensation, provided they do so for a minimum of five years. Eight shooters have so far done so. The act requires, among other things, that the regulations specify provisions for the payment of compensation for the surrender and for related parts during the buyback period. This is to ensure that payment of such compensation is on just terms.

On 28 July 2003, the Chief Minister entered into an intergovernmental agreement with the Prime Minister concerning the accountability and administrative procedures for the buyback. The states have all entered into similar agreements. This agreement sets out the broad terms. It is funded from two sources. Firstly, the residue of funds which are obtained through a special Medicare levy and allocated by the Commonwealth for the 1996 buyback of firearms. These funds have been apportioned to each jurisdiction on a per population basis. The allocation for the ACT is approximately $245,000. Secondly, cost shared funds, two-thirds of which are provided by the Commonwealth and one-third by the ACT. The ACT government appropriated $425,000 in the current budget for this purpose.

The intergovernmental agreement includes a comprehensive list of pistols, including their defining features, which was very necessary. The values are different for individual shooters and for firearm dealers. The national valuation list underpins the compensation schemes in all jurisdictions, the list being developed by the Victoria Police, which utilised its extensive weapons identification system.

The Commonwealth has also developed through Crimtrack an electronic system, the national handgun buyback support system, for valuation for payment of compensation. The AFP firearms registry, located in the City Police Station, uses the Crimtrack system. On presentation, a prohibited pistol is valued in accordance with the national list and, if this value is acceptable to the owner, a surrender is signed and compensation paid.

A capacity to do on-the-spot check payments, which is used in some jurisdictions, is not available here. If the pistol is not listed or the owner disputes the value, it is held in safe storage until the matter is determined by a valuation panel. No pistols are permitted to be taken away from the buyback centre by the owner, irrespective of any disputed value. Historical pistols are offered to the Australian War Memorial or the National Museum. The regulations are in place and I encourage members to read those regulations, which are well expressed.

I am sympathetic to those competition shooters who are now precluded from using high-calibre pistols for their sport and need to replace these with permissible calibre pistols—that is, up to 0.38 of an inch—and also to those collectors of antique percussion pistols,

which were previously exempted. Accordingly, I have made a determination to waive the permit to purchase and registration fees for replacement pistols for competition shooters and the licensing and registration fees for collectors of antique percussion pistols. I understand that the number of shooters and collectors who will now take advantage of these arrangements will be small and the amounts will be low.

I am advised that the buyback is proceeding satisfactorily without incident, as we would expect from the owners in this territory. It is being monitored by the department and by the firearms consultative committee. I will provide members with a detailed report on the outcome of the buyback on its completion on 31 December.

**MR PRATT:** I seek leave to make a statement.

Leave granted.

**MR PRATT**: We support these provisions and are quite happy to wait and see how the buyback goes from here. I am looking forward to those reports, Minister.

## Papers

**Mr Wood** presented the following papers:

Cultural Facilities Corporation Act, pursuant to subsection 29 (3)—Cultural Facilities Corporation—Quarterly Report for 1 April to 30 June 2003.

Legislation Act, pursuant to section 64—

Blood Donation (Transmittable Diseases) Act—Blood Donation (Transmittable Diseases) Donor Form 2003—Disallowable Instrument DI2003-255 (LR, 28 August 2003).

Hotel School Act—
Hotel School Appointment 2003 (No 3)—Disallowable Instrument DI2003-262 (LR, 1 September 2003).
Hotel School Appointment 2003 (No 4)—Disallowable Instrument DI2003-263 (LR, 1 September 2003).
Hotel School Appointment 2003 (No 5)—Disallowable Instrument DI2003-264 (LR, 1 September 2003).

Land (Planning and Environment) Act—Land (Planning and Environment) Determination of the Approved Form of Land Management Agreement 2003—Disallowable Instrument DI2003-253 (LR, 28 August 2003).

Mental Health (Treatment and Care) Act—Mental Health (Treatment and Care) Mental Health Official Visitor 2003 (No 1)—Disallowable Instrument DI2003-257, (LR, 25 August 2003).

Occupational Health and Safety Act—Occupational Health and Safety—Code of Practice for the Transport and Delivery of Cash 2003—Disallowable Instrument DI2003-260, (LR, 28 August 2003).

Race and Sports Bookmaking Act—Sports Bookmaking Events Determination 2003 (No. 2)—Disallowable Instrument DI2003-258, (LR, 28 August 2003).

Security Industry Act—Attorney General (Determination of Fees and Charges for 2003/2004) (Amendment No 1) 2003 (No 1)—Disallowable Instrument DI2003-259 (without explanatory statement), (LR, 29 August 2003).

Utilities Act—Utilities (Variation of Franchise Customer Electricity Metering Code) Approval 2003 (No 1)—Disallowable Instrument DI2003-256 (LR, 25 August 2003).

## Supplementary answer to question without notice
### Health action plan

**MR CORBELL**: Mrs Cross asked me in question time today when the Health Council first met and how many meetings had occurred since that time. I am happy to clarify for Mrs Cross and members that the Health Council first met on 20 March 2003 and has met four times since. It will meet again on 15 October 2003. Mrs Cross also asked me a supplementary question on which I sought clarification, which she did not provide. If Mrs Cross still wants to get that information, I will be happy to answer the question if she clarifies exactly what material she is wanting.

## Management of Treasury portfolio
### Discussion of matter of public importance

**MR DEPUTY SPEAKER**: Mr Speaker has received a letter from Mr Smyth proposing that a matter of public importance be submitted to the Assembly, namely:

The government's management of the Treasury portfolio.

**MR SMYTH** (Leader of Opposition) (5.21): Mr Deputy Speaker, prior to the Labor Party assuming government in the ACT in late 2001, we were regaled by the then ALP opposition as to how good they would be at managing the ACT economy. The question is: what has been the reality of the situation so far of the Labor Party in government in the ACT, remembering that our economy has been performing very strongly over recent years and the drover's dog would have had trouble not making a success of things?

Despite this environment, disappointment is probably the best word to sum up the reaction to this government, especially to the way that the Treasurer has managed the Treasury portfolio. We have been subjected to what has been, and continues to be, a sad saga of sloppiness and laziness in the economic and fiscal affairs of the ACT over the past two years or so, added to which there is the greed that appears to consume some treasurers when they see additional revenue flooding into the exchequer.

Mr Deputy Speaker, as the then opposition admitted prior to the 2001 election, the ACT economy had performed quite well for a number of years. The then shadow Treasurer, Mr Quinlan, commented in June 2001, "The ACT economy has enjoyed economic growth over the course of the last four or five years." Of course, the then Treasurer-in-waiting also sought to paint a picture that, although the ACT had performed, both relatively and actually, very well at least until the end of 2001, the reason for this good performance was apparently just a large slice of good luck. I guess, like all bad sports, he

just could not bring himself to acknowledge the soundness and superior performance of the Liberal treasury in government.

Since the Treasurer says that past performance was just good luck, the question we have to ask, therefore, is whether that good luck is continuing to favour the ACT, or whether it has been or continues to be good luck that has positioned the ACT where it is today. I would submit that, while it has not always been good luck that has favoured the ACT, the presence of fortunate circumstances has underpinned the very favourable position in which the current Treasurer now finds himself. It is quite clear that there is little that he or, indeed, his government has done that has placed the ACT economy in such a good position as it is at present.

Indeed, it was the Chief Minister who, in a speech to the ACT business community in April 2002, said, "There is no doubt that we have the basics right for the healthy ACT economy." There was no mention of good luck from the Chief Minister then; rather, an acknowledgment from the current Chief Minister that the former Liberal government had left the ACT economy in pretty good shape. Superimposed on this sound economy has been the recent boom in land and housing activity, which has resulted in a significant and continuing flood of revenue into the government coffers.

Prior to the 2001 election, the Labor Party spent considerable energy explaining how they would, in government, balance the books, clean up cowboy accounting, contain debt, and remove accounting distortions. As an aside, I am not sure what Labor meant by accounting distortions. I would have thought our extremely competent Auditor-General would have uncovered and reported on any such distortions.

What are some of the marks of this Treasurer's period in office? Let me list some of them: a lack of understanding of quite simple economic concepts; the embarrassing withdrawal of the proposed bushfire tax; his failure to implement his flawed proposed rating system; the fiasco of the rapidly yellowing economic white paper; the provision of $10 million from the Treasurer's Advance for supposedly urgent fire safety remediation activities that was not spent in the financial year; the fiasco over the appointment of the chairman of the ACCC; and an apparent arrangement whereby no duty on loan securities would be introduced in the 2002-03 budget, when stamp duty was increased.

Then we had the decision to introduce a loan security duty in any event in the 2003-04 budget and then the deferral of the proposed loans security duty to enable appropriate consultation to take place, creating the need for the minister to withdraw the bill which had been before the Assembly, and the suggestion from both the Chief Minister and the Treasurer that the January 2003 bushfire disaster would cost the ACT millions of dollars and that we would need additional taxation revenue to cover this unexpected cost. Mr Deputy Speaker, that represents quite a sad list, a list of matters that contrast dramatically with the intentions of this government, this Treasurer, to be, among other attributes, open, accountable, reasonable and fair.

Let us consider some of these matters in a little more detail. In my budget reply I demonstrated how this Treasurer had shown that he did not understand quite simple economic concepts, specifically the concept of an economic cycle. I did not want to make a big thing of this issue; I simply wanted to emphasise that our Treasurer is not an economist, and I found it quite extraordinary that the Treasurer had committed the error

with references to economic cycles, not once, but in each of the 2002-03 and 2003-04 budgets.

I assumed that he would correct the error in his latest budget, but no. Then, in estimates hearings this year, the Treasurer admitted that he had used the term "economic cycle" loosely. It was quite evident from his tortured explanation that he had never thought about how his poor use of words had emphasised his complete lack of economic knowledge.

Mr Deputy Speaker, a matter that is related to economic cycles concerns budget deficits. In his speech in June 2001, the then shadow Treasurer castigated the then Liberal government for spending surpluses. He said that the 2001-02 budget included no buffer against unforeseen claims or demands, and he made a number of similar comments. Unfortunately, the Treasurer, with his 2003-04 budget, has now revealed his hypocrisy on budget policy. When asked during the 2003 estimates hearings why the ACT was budgeting for a deficit at a time when the economy was performing so well, Mr Quinlan replied, "The reason why we're going into deficit is that we're spending abnormal amounts of money."

How amazing! What perspicacity! As our Treasurer might say, a statement of the bleeding obvious. Here we have a Treasurer who criticises the former government for not husbanding its resources for prospective times of need and who then commits supposedly the same error and who explains a deficit by saying that it is because of abnormal spending. Amazing!

The pity of this outcome is that it is extraordinarily difficult to untangle the Treasurer's approach to budget policy because it is lost in a mangled maze of Quinlanspeak. Let me give an example. As an attempt to justify the 2003-04, the Treasurer said, "To set a budget, to still have a surplus, when you are spending abnormal amounts of money would be really to send the budget out of sync with reality." Try to get your mind around that one.

Mr Deputy Speaker, as far as I am concerned as shadow Treasurer, I believe a more appropriate response to the current position in which the ACT finds itself would have been to budget for a surplus in 2003-04, recognising that it is more than likely that both the Australian and ACT economies will experience some slowdown from the current levels of activity, especially as the ACT has experienced quite a boom in land and housing-related tax revenues over the last year.

Remember, Mr Deputy Speaker, this is the Treasurer who announced in May this year a government sector budget deficit of $8 million when, even at that time, revenue was continuing to pour into the government's coffers, and has continued to do so. Who needs reminding of the bonus of $42 million following Mr Corbell's botched Gungahlin land sale, which I suspect was not accounted for in Treasury and possibly now makes it a surplus of $34 million that we may expect.

The Treasurer has also commented that the best way to absorb the extra amounts of money that we are spending is to allow a small deficit. Isn't that a statement of the obvious? According to my understanding of budgetary policy, running a deficit means that more resources are being put into the economy. This is the classic Keynesian

approach to budgetary policy. Rather than your deficit absorbing any additional resources, Mr Treasurer, you are adding to the supply of resources. This is the classic public policy approach as set out by Keynes to economies that experienced difficulties. In any event, as I have already commented, why, at this time of economic buoyancy, is the government spending so heavily? Yes, Mr Deputy Speaker, hypocrisy is alive and well.

Let's turn to the much delayed white—or should we call it rapidly turning yellow?—paper. In his key speech as shadow Treasurer in June 2001, Mr Quinlan promised that all the reports on economic opportunities for Canberra and the region "need to be balanced by a hard-headed assessment of all the opportunities and distilled down to the prospects that should be pursued with absolute vigour". Two years of vigour—that's what we've had, Mr Deputy Speaker—and it is quite clear from this statement that there have been enough reports and what is needed now is action. It appears that Mr Quinlan's action would be the preparation of an economic white paper that would be "that hard-headed assessment of all the opportunities and distilled down to the prospects that should be pursued with absolute vigour". Unfortunately, he does not actually say anywhere that his white paper would be that.

Soon after taking government, in April 2002, the Chief Minister said about the proposed economic white paper, "If nothing else, we will, through the white paper, provide a framework against which business groups, planning authorities and the government can determine with greater certainty the likely future policy directions of development activity." Where are we now, Mr Deputy Speaker, in September 2003? What progress has been made? We do not have an economic white paper. On the contrary, we have, as you guessed it, more reports and a discussion paper on the economic white paper, but no white paper, no policy guidance to investors and the community, no greater certainty that likely future policy directions of development activity might give.

The discussion paper lists 13 economic reports that were completed in 2002 and early 2003. Mr Deputy Speaker, I should repeat that. At least 13 reports have been commissioned by this government to assist in the preparation of the promised economic white paper. This outcome is both tragic and ridiculous. We have a government that said that we have enough reports "to fill a moderately-sized bookcase", according to the then shadow Treasurer, yet another 13 reports at least have been generated. What do we have to show for the 13 reports in two years and well over half a million dollars worth of government expenditure? We have a discussion paper. To make matters worse, the Treasurer, who is part of the team that promised open and accountable government, released a fax about the discussion paper as an aside during a committee hearing of the Assembly.

Mr Deputy Speaker, the process leading to the ephemeral economic white paper has been nothing but a public policy disaster. We have since learnt that the bureaucracy did draft an economic white paper towards the end of 2002 and, for reasons that are not public at present, the government decided not to proceed with that document and, instead, proceeded down the discussion paper path—anything to avoid a decision.

We are still waiting, the business community is still waiting and the community at large is still waiting for this government to deliver on the promised white paper. And still we wait, without the framework that this government has said is so important to guide and

encourage investment and economic development in this territory. What we have is what I would call an economic policy vacuum.

One quite disturbing development under this Treasurer is the sloppy way in which public policy is developed and then promulgated. Let me mention just two examples of what I mean. Firstly, there is the analysis that the Treasurer provided to support his contention that we needed to change the rating system. Most of us will remember Mr Quinlan's response to a question without notice from me in the Assembly in March this year seeking details of any modelling that had been undertaken to show the likely impact of the new rating system. Mr Quinlan proudly told the assembled members of the Assembly, "The only modelling we have done is one graph." How extraordinary, just one graph! Who can forget that fabulous graph that explained how it was all going to be made so well?

The Treasurer of one of the seven states and territories in Australia admitted that, in support of a substantial change in one of the most important sources of revenue in his jurisdiction, he had produced one graph. Here it is. He still cannot explain it properly. Anyone who is really interested in the whole sad saga should go to the Public Accounts Committee hearing into the Rates and Land Tax Amendment Bill 2003 to see another example of the Treasurer's tortuous language.

Mr Deputy Speaker, a Smyth Liberal government would provide a sound economic framework within which industry in the ACT can evolve and grow. Our new creative industries would be able to thrive and prosper. Our existing industries would expand and strengthen their activities. Our territory would diversify its industry base so that we can pay for those essential services that Canberrans want, things like health, education, and law and order.

**MR QUINLAN** (Treasurer, Minister for Economic Development, Business and Tourism, and Minister for Sport, Racing and Gaming) (5.36): I rise bruised, Mr Deputy Speaker.

**Mr Smyth**: It's a tough game.

**MR QUINLAN**: I know. But I have to say in a funny way that I hope that I do live to see the day that there is a Smyth Liberal government, because that would mean that I will live a very, very long time.

Having just copped that fearless, fearsome tongue-lashing from Mr Smyth, I do feel that I ought to point out a couple of things. I do admire to some extent his courage, nay bravado, in rising to speak of economics. What we have here, Mr Deputy Speaker, is a shadow Treasurer with absolutely no qualifications for the task.

**Opposition members**: Oh!

**MR QUINLAN**: A little return of serve. He has absolutely no experience for the task, and from time to time that shows. What we have here is a shadow Treasurer who, while he was pointing out my inadequacies in his speech in this place in reply to the budget, was, in fact, demonstrating to the Assembly that he did not know the difference between a budget and an appropriation bill. This is this year. This is the Leader of the Opposition.

This is the shadow Treasurer. The shadow Treasurer did not know the difference between an appropriation bill and a budget.

He spoke of Keynesian economics. He might have heard the name Keynes once before in his life, but I doubt that he knows much about that. He claimed to have stood in this place and demonstrated my lack of understanding of economic concepts because I used the term "economic cycle", which I will use again because everybody else knew what was meant. People could see what was meant. As a communication device, if language be a process used for communication, we are communicating.

The best that I think we can expect from the shadow Treasurer of today is some imitation. I hear he has now picked up the banner of economic diversity. I think Mr Smyth works on the basis that, if you say something often enough, some people might believe you. I guess that the repetition of a line over and over again is on the basis that you can fool some of the people some of the time, but that is about it.

**Mrs Burke**: Is that what you try to do?

**MR QUINLAN**: I am tracking okay out there.

**Mrs Burke**: You fool most of the people most of the time.

**MR QUINLAN**: The results have shown. I have been in this place for two assemblies and, let me say, every bit of good economic news that came the territory's way in one way or another was claimed with great fanfare by the Liberals of the time. It was all down to good management. The fact that the Commonwealth Grants Commission had changed its whole process and overnight the ACT received a considerable boost in Commonwealth funding actually made it possible for the first time to run an accrual accounting surplus in the Territory. If you just go and look at the numbers, you will see that.

**Mrs Burke**: What do you claim your success on, then?

**MR QUINLAN**: By the standards set by the previous government—by Mrs Carnell, et cetera—you would have to say that anything good is down to me. I have heard Mr Smyth say that the good economic results that we are getting today are because the Liberals got the fundamentals right. Do not ask for any more because he would have to tell you what the fundamentals are and he would be in a bit of difficulty. The case is that the ACT economy is subject to external influence and it is subject to internal influence. The internal influences stem, in the main, from government, of course. I think that it is quite clear from the results that are being shown that the government has set the right trajectories. We have had idiotic things said in this place by people, including Mr Smyth, such as that we have a lot of money now and therefore we should change our recurrent expenditure: forget the future; it will look after itself somehow.

**Mr Smyth**: No-one said that.

**MR QUINLAN**: See you later. Mr Smyth has suggested that we spend here and spend there because we happen to be in an economic bubble. If he looks at the budget—I do

not know whether Mr Smyth is able to read it, but if he can get his advisers to read it for him—he should—

**Mrs Burke**: How condescending.

**MR QUINLAN**: You should have heard that little man before. I have a sense of humour and I will cop a bit, but I am giving it back today. This bloke has no qualifications. He is a pretender. He goes out and repeats dishonest lines—the $344 million one. How many times—

**Mr Stefaniak**: I take a point of order, Mr Deputy Speaker. I would like Mr Quinlan to withdraw the use of the word "dishonest".

**MR DEPUTY SPEAKER**: I think that the word was "lines".

**Mr Stefaniak**: "Dishonest". I would like him to withdraw that.

**MR QUINLAN**: Dishonest lines; he repeats lines.

**Mrs Dunne**: Withdraw the "dishonest", please.

**MR DEPUTY SPEAKER**: Yes.

**MR QUINLAN**: Okay, I withdraw that. Nevertheless, we have this process of repetition which is designed to paint a picture that is not the correct picture. What we have had across this table, while you are moaning, is "sloppy", "lazy" and "do not know economics". I do know a bit about economics. That man does not. Let's face it: he does not and is not qualified. He did not know the difference between a budget and an appropriation bill. The shadow Treasurer of the ACT does not know the difference between an appropriation bill and a budget. How fundamental can you get? The man has—

**Mrs Dunne**: One slip of the tongue.

**MR QUINLAN**: It was not a slip of the tongue; it was part of the argument that he was making. It was the whole point of what he was making.

**Mrs Dunne**: Do you want your blood pressure pills now?

**MR QUINLAN**: Yes, thank you. This guy is unqualified to be Treasurer and, unfortunately, you ain't even got an alternative. There is no skill over there, there are no qualifications for the job, and I get a load of abuse. Sorry, one day I am entitled to stand up and say in this joint that we have across there a guy who does not have the qualifications or the experience to do the job he pretends to do, but I will say that he is the best man for the job amongst you.

**Mrs Burke**: You are an authority on that, are you? You know us all that well, do you?

**MR QUINLAN**: I will resist the great temptation to list my qualifications, Mrs Burke. Mr Smyth asked about where are we now. Where we are now is that this government is

producing a surplus. This government has received positive results from all business surveys. It is not just that the economy is good by business surveys; the government is good by business surveys. I ask this place to contemplate that, a Labor government getting a tick from business surveys. That does not happen often. The natural reflex of business is to support conservative governments.

**Mrs Burke**: That's because we left you in a good position.

**MR QUINLAN**: And you will keep repeating that, will you?

**MR DEPUTY SPEAKER**: Order, please! This is a debate.

**MR QUINLAN**: Mr Deputy Speaker, I deny being lazy and sloppy. Yes, the bottom lines will change. Again, that is a measure of misunderstanding. I have made the effort in this place, by showing how gross revenue lines and gross expenditure lines have changed between budgets in the course of Liberal governments, of pointing out how landing close to your original estimate, if you did, was more an accident of faith than very clever planning. Those figures are available, if you care to look. But a change at the bottom line of a $2 billion turnover, heading up to $2.5 billion, of $10 million or $20 million—I do not know what fraction of a per cent that is—somehow says that we do not know what we are doing. It is out by point 0.001 per cent. What utter nonsense!

This place does, I have to say, suffer from the fact that we do not have an opposition with a credible understanding of matters economic. For the Leader of the Opposition and shadow Treasurer to start the personal insults that he started gives me a fair invitation to return serve just once, to put into perspective the fact that this guy does not know, does not have the qualifications, does not have the experience to do the job and will not have it. He is incapable.

**Mrs Dunne**: Does it entitle you to say that he is illiterate because he says that your work is sloppy?

**MR DEPUTY SPEAKER**: Order! The Treasurer has the floor.

**MR QUINLAN**: Thank you, Mr Deputy Speaker. It seems that there is some sort of hierarchy of insults in this place of which Mrs Dunne is the monitor. You would be highly qualified to be so, Mrs Dunne, because you tend, in your dissertations in this place, to get to the personal level fairly promptly.

I do not know exactly what was the whole point of this MPI, other than to take up the Assembly's time or to sling a few insults around but, just for once, I have happily indulged myself in trying to create a little perspective as to what I truly think of a mob that would be running around chanting about $344 million, even though they know that that was not true.

**Mrs Burke**: How much was it?

**MR QUINLAN**: The chant is about $344 million. In fact, it was produced by your government and, in fact, it was inflated by extraordinary items; therefore, it would mislead people. Because we have this crazy rule that we cannot say "lie", "dishonest" or

whatever, I have difficulty really telling you what I think. I am hamstrung and frustrated because to use that figure and to attribute it to Labor and to do it over and over again, and it is being done by the lot of you, not just one, is a commentary—

**Mrs Burke**: You don't like it, do you, when the boot is on the other foot, Treasurer?

**MR QUINLAN**: No, I do not like it. It is not true, Mrs Burke.

**Mrs Burke**: There are lots of things you have said that aren't true.

**MR QUINLAN**: Mrs Burke, I am not so fussed about you because you do not know, do you? You do not even know. Anyway, I will close by repeating that we have in this place a shadow Treasurer who is absolutely unqualified for that job let alone this job.

**MR STEFANIAK** (5.51): Mr Deputy Speaker, methinks he doth protest too much. I have sat in this Assembly for a long time and I do not think that I have ever seen so many supplementary appropriation bills. I accept that occasionally you do need them, but I do not think you can justify the plethora we have seen. That, in itself, says a little bit about management.

I hate to say it, Treasurer, but it is a fairly well known fact in Australian politics that Labor governments traditionally are not exactly too crash hot in terms of managing the economy. We are starting to see a little bit of that here. My colleague set out a litany of instances that demonstrate some very poor quality management of this portfolio by the present Treasurer. I give the Treasurer some credence by saying that I am sure he is doing a hell of a lot better than any of his colleagues would do. I would hate to see some of them in charge of the purse strings. Maybe he is a little hamstrung at times by them, but he is the Treasurer and has to wear all that. But there are some very real problems here.

There are a number of other instances to add to what my colleague Mr Smyth has talked about. Let me start with the January bushfire disaster and the financial fallout from those fires. Quite soon after 18 January both the Chief Minister and the Treasurer were widely quoted about the value of assets destroyed in the bushfires and about the associated costs of recovery that were being met by the ACT. The comment made by those two ministers at the time was that the response from the government would require an additional tax, the bushfire tax, and the deferral of capital projects such as the proposed prison.

As soon as the government mentioned a bushfire tax, we in the Liberal Party said that no such response would be necessary. As it turned out, we were proven to be correct. The government's proposed bushfire tax, which was included in the 2003-04 budget, has been scrapped in the face of a continuing surge in revenue coming into the government's coffers and considerable public dissatisfaction with that proposal.

We pointed out that the ACT had a wide range of potential sources of funds to assist in paying for the recovery from the bushfires and that, until they had been considered and had been either committed or ruled out, it was premature to speak of a bushfire tax. Also, we considered it to be quite inappropriate to speak of a bushfire tax so soon after the devastation and the aftermath of the disasters.

Key questions that were raised included: why should a community that had contributed millions to bushfire appeals be subjected to an additional tax? Would the tax be applied to those who had lost their homes? Would it be a progressive tax? If not, would it apply to low income earners? What about those people who had experienced damage to their homes and properties?

The notion of a bushfire tax was very much a shooting from the hip response. Even if it were a legitimate response, it should have been discounted when all the potential funding sources were identified. I also reject the suggestion that that tax should have been implemented in any event. That sort of suggestion comes from those who typically are not responsible for imposing taxes and who are not therefore concerned about the overall impact of taxation on a community.

I need to be careful in characterising the actions of the two ministers over the cost of the bushfires, but I think that an element of scaremongering can be seen in what they said. The reality has been that the actual impost on the territory has been much smaller than initially thought—indeed, a comment my colleague the shadow Treasurer has been making pretty well since the disasters occurred. The ACT did significantly benefit from insurance policies put in place by the previous government in about 1996 and 1997. I recall that very well, having had something to do with it at the time. Certainly the cost, thank God, was a lot less than what was bandied about to start with.

Each minister spoke about the need for increased taxes, apparently without being aware of the provisions of the Commonwealth government's natural disaster relief arrangements. I think that a more prudent approach would have been to acknowledge the magnitude of the disaster and been less dogmatic about the consequences of the disaster. I know that it might be difficult during times of extreme emergency to make comments that take account of all the facts and that are fully considered. Nevertheless, the end result of some inappropriate comments made by the Chief Minister and Treasurer in the early days has been that the ACT—our government and our community—has been made to look somewhat silly over the whole response to the fires in terms of finances, perhaps unnecessarily so.

Mr Deputy Speaker, I turn to the Treasurer's budget for the current financial year to talk about the proposed loan security duty or tax. The consideration of this tax has not turned out to be a fine example of public policy making, due to a mixture of sloppiness and laziness in research and approach. We were first informed of the loan security tax when the budget was brought down on Tuesday, 6 May. It is interesting to note the words used in budget paper 3 about the proposal. It was said that the proposed duty would "bring the ACT into line with the rest of Australia". That statement was incorrect, because the Northern Territory does not have that tax. We also read that "the ACT has become a haven for companies which borrow large sums of money without paying duty". It is apparent that this use of "haven" was pejorative, yet there was no evidence presented as to why the ACT should not be such a haven.

Why should we encourage these types of transactions? The Treasurer has not provided any analysis of the economic benefits that flow from such transactions. Indeed, evidence to the estimates hearings was that these transactions did not bring any particular economic benefit to the ACT. Where is the evidence? Moreover, the Treasurer has been

a bit cute about this proposed tax. He has noted that the policy would operate on a similar basis to that in Victoria, but he has not told us that Victoria has enacted legislation to abolish this form of tax as from 1 July 2004. Western Australia has announced that it will remove this tax from unsecured loans.

Also, the Treasurer has not told us that under the intergovernmental agreement there will be a review by a ministerial council of the need to retain certain stamp duties, including mortgage duty, by 2005. That might well help in terms of the housing affordability crisis. Are we keeping up with most of the rest of Australia or are we one step behind and out of time?

Of more immediate concern to us was the outcome from the estimates hearing that there could be some adverse unintended consequences arising from the loan security duty as presented by the Treasurer. We were told during the hearings that this proposed tax could lead to unintended double taxation of transactions, but that further research was necessary to establish more details about these outcomes. As far as we are concerned, that is not good enough.

To emphasise the lack of precision that is evident in this policy, we were told during the hearings that the duty would not apply to family trusts. Subsequently, the Treasurer wrote to Mr Smyth advising the duty would apply to family trusts. As we are now aware, the Treasurer has deferred the implementation of the loan security duty to permit full consultation to take place. I would have thought that full consultation should have taken place before any implementation date.

I am concerned also that the consideration of the proposed loan security duty is another policy process whereby this government, this Treasurer, treats the community with disdain. In practical terms, this confusion has meant that the Assembly had before it the Revenue Legislation Amendment Bill 2003, containing the loan security tax, and subsequently that bill was replaced by the Revenue Legislation Amendment Bill 2003 (No 2), from which the loan security tax had been removed. What a great waste of drafting resources! In a manual about how to approach the development and implementation of public policy, these examples would be included in the sections on how not to do so.

Mr Deputy Speaker, there are further examples to illustrate the sloppiness and perhaps the laziness of the approach that has been adopted by the government and the Treasurer to matters of public policy. We in the opposition will continue to monitor these and all subsequent examples of sloppiness that come to light through the actions of this government in the management of the portfolio and we will ensure that, come the next election campaign, the ACT community will be well briefed on the failings of this government as an economic manager.

There are some real concerns. The revenue that this government is getting at present from land sales, stamp duty, et cetera, is not going to last forever. The huge increase in expenditure that we can see in this budget over the last budget may well not be sustainable when the income that the government receives dries up or is less than it has become used to. That is something that scares me. I do not particularly want to be in a situation some time down the track of going into government and having to do what we did from 1995 through to about 2000 to pull the territory out of the economic quagmire it

was in. I think that it is high time that the Treasurer and the government lifted their game in terms of this portfolio.

**MR STANHOPE** (Chief Minister, Attorney-General, Minister for Environment and Minister for Community Affairs) (6.00): I am amazed that the opposition, in the circumstances in which we find ourselves in relation to the economic management of the ACT at this time, would move a motion such as this and stand in this place and criticise the management of the economy of the ACT by this government and by the current Treasury.

This motion is incredibly insulting—not to the Treasurer but to his officials. The Leader of the Opposition was unstinting in his criticism of the Treasury officials. They provide good advice, and are part and parcel of the mix which has led to the ACT experiencing very good conditions. It is amazing that the Leader of the Opposition would stand in this place today, in the current economic environment, in relation to the support this government is receiving from business and the business sector, and criticise the economic management of the ACT.

Let me go to today's *Canberra Times*. On the day the *Canberra Times* produces an article such as this, we are faced with a motion condemning the Treasurer, the Treasury and the government for its economic management of ACT. The article in today's *Canberra Times* is by Graham Cook. It is headed "ACT hiring optimism country's highest". The first paragraph reads:

> The ACT is the most optimistic area of Australia when it comes to hiring workers, 41.1 per cent of employers forecasting an increase in staff over the next quarter, a new report on employment and human resource trends said yesterday.

That is in today's *Canberra Times*—the most optimistic place in Australia, in the view of the ACT business sector. I refer to an earlier article in the *Canberra Times* today. We are talking about today—the day on which the Liberals have moved this motion condemning the economic management of the ACT by this government. This article says that Canberra's rental market is the hottest in the nation for houses and flats.

We have the hottest rental market. We have the highest levels of confidence and optimism among those who seek to hire—or undertake an expansion of their businesses. We look at the release by Sensis entitled, "Business confidence and support for ACT government increases". This report was released on 26 August—a month ago. It says that business confidence amongst the Australian Capital Territory small and medium enterprises rose in the July quarter—the equal highest confidence level in the country.

For the information of members, I am referring to the Sensis Business Index—Small and Medium Enterprises—formerly known as the Yellow Pages Business Index. We have the Yellow Pages people reporting that the ACT, in the July quarter, enjoys the highest level of confidence in Australia from its business sector.

That is what the business people of the ACT think about the way the ACT's economy is performing; that is what they think about this government; that is what they think about the economic environment. How out of step are the Liberals with the business community and with what is going on in the ACT?

**Mr Stefaniak**: Chris Peters was not too happy today!

**MR STANHOPE**: If Chris Peters listens to the ABC transcript, then I can understand that he would not be too happy with the arrant nonsense he spoke about the industrial manslaughter legislation on the ABC. In fact, Chris Peters should hang his head in shame!

I hope he is not happy; I hope he is not happy with his performance; I hope he is not happy with what he said; I hope he is not happy when he assesses the level of intellectual dishonesty that was part and parcel of the case he put this morning on the ABC. Let us hope Chris Peters is not very happy today— he has no right to be happy. He should hang his head in shame at the lack of integrity he showed in his assault on that piece of legislation.

He is also out of step with the rest of business. The Yellow Pages Business Index shows us that, in this report. Add that to the reports included in today's *Canberra Times*. We go to this article in the *Canberra Times* of 18 September—that is last week—by Peter Clack, entitled "ACT commercial property buoyant." It says:

> Canberra's commercial property market has emerged as one of the strongest investment prospects in the country, according to a national survey of valuers, fund managers, financiers and property analysts.

It continues to say that the Australian Property Institute has published the results of its six-monthly property directions survey, which shows overwhelming industry confidence in the growth potential of the property market. It says that the Institute's New South Wales president, John Sheehan, said Canberra had the highest results for prime and A grade commercial property in the nation.

That is what the property owners of Canberra think. Here we have small and medium enterprises. Here we have the high end, A grade property owners, and this is what they think of Canberra. They are not interested in talking the economy down, like the Liberals; and they are not interested, like the Leader of the Opposition and the other Liberals over here, in trashing the ACT economy.

Business people in Canberra are happy to go to the *Canberra Times* and put out their press releases. They are happy to have them reported honestly in the form of a Yellow Pages index, in the form of the property market, or in the form of all these other reports that have been released as late as today. They say how buoyant the economy is, and how well the government is going.

We have this report of 2 September, which is this month, from somebody who the Liberals did not hesitate to put the boot into—certainly around his appointment to the Bushfire Recovery Task Force—and that is Terry Snow from the Canberra Airport. We all remember that disgraceful episode—the way the Liberals put the boot into Mr Snow, in relation to attitudes he then took.

**Mrs Dunne**: I wish to raise a point of order. This is the umpteenth time the Chief Minister has peddled the misinformation that this opposition in some way denigrated the

Bushfire Recovery Task Force. I will not stand for it any longer. It has been put on the record a number of times. He continues to misrepresent the case. He must stop.

**MR DEPUTY SPEAKER**: No. There is no point of order. I ask the minister to please stick to the motion, which is the government's management of the Treasury portfolio.

**MR STANHOPE**: I will talk about the economic management of the ACT. I refer to an article on 2 September entitled "Canberra Airport will spend $50 million over the next two years upgrading its runway and terminal buildings".

Three weeks ago, we have Mr Terry Snow, the most successful business person in the ACT—a person I admire enormously—saying that he is going to spend $50 million in this town over the next two years, because of his confidence in the management of the ACT economy by this government. That is what Terry Snow thinks of the ACT economy. Terry Snow thinks this economy is going so well that he should invest another $50 million in it.

Turning to some of the other indicators, let us have a look at the unemployment figures here in the ACT. For the last two years, we have had the lowest unemployment rate in Australia. Three months ago, it dropped to 3.3 per cent. We have the lowest unemployment rate any jurisdiction in Australia has experienced since the Menzies years—essentially full employment.

**Mrs Cross**: It has gone up!

**MR STANHOPE**: It has gone up, they say, but it is still the lowest by far. We still have the highest participation rate, the highest rate of growth in jobs, and still the lowest unemployment rate in Australia. All these business organisations are lavishing praise on this government and its economic management, yet here we have the Liberals talking it down. They are talking-down confidence, talking-down performance and talking-down the ACT.

They have no notion and no understanding. They cannot accept the fact that, under this Labor government, we have the best-performing economy in Australia, and that this is as a result of the present management. It is two years now. You might wish to hark back and say, "It is all our doing." Just suck it. You have been sitting on that bench for two years. We were very pleased to see you produce your first policy on Sunday!

I will conclude with this remark: the Leader of the Opposition stands up and complains about that inquiry—the white paper. Here we have it, in this amazing speech given by Mr Smyth at his conference, that 24 new inquiries are to be conducted by the Liberal Party over the next 10 months into 24 different issues. There are 24 inquiries to be conducted by the Liberals over the next 10 months! Twenty-four inquiries are to be conducted by the Liberals in the next year! What a joke!

**Mrs Dunne**: That is a lie, Jon Stanhope—and you know it!

**Mrs Burke**: Mr Speaker, I wish to raise a point of order. There was misrepresentation by the Chief Minister to the opposition leader. He did not say "inquiries"; it was "initiatives".

**MR DEPUTY SPEAKER**: There is no point of order.

**MS TUCKER** (6.11): I would like to take the opportunity to talk about the importance of managing the Treasury portfolio, for the benefit of society and the ecological health and balance on which everything else we do depends.

That means using available resources to reduce social inequity, for example. It means not abandoning the long-term benefits of maintaining regional ecological integrity for the sake of short-term revenue-raising priorities. It means appreciating the role of the community sector as the third force in the development of our society, and ensuring that people who work in the sector are less and less the poor relations of business and government. It means investing in fundamental community infrastructure, such as public housing.

In a letter in response to mine requesting consideration of innovative measures, such as government bonds or using some of our superannuation moneys to fund increased public housing, the Treasurer notes that money can be found, depending on the priorities—and there is the rub.

Public housing is hard to go past, I would have thought. There is some argument that public housing is at a relatively high proportion in the ACT, compared to other states. However, given the absence of other major rental housing providers such as church operations, the absence of boarding houses, coupled with the shortage of affordable private rental accommodation, there is a growing need for public housing.

Access to safe and secure housing underpins education, health and employment outcomes across society. The Land Development Agency currently has objectives relating only to commercial interests. That is not responsible. It is shameful that the government is adhering to the idea of a free market approach without dealing with these more complex issues, particularly as far as it deals with land releases.

The power to choose where, when and how to release and develop land is far greater than the power to raise money. So the proposed developments at North Gungahlin are of great concern for regional conactivity and sustainability of the endangered grassy woodland communities. Once they have been covered with suburbs; they will be lost forever.

Sometimes we hear rumours that Treasury has blocked an initiative. I do not know if that is correct. Nevertheless, it is something that keeps popping up and, if it is true, it is a real concern. If we see the Treasury bottom line prioritised over setting in place a capacity to buffer people in hard times, or those who will be struggling against the market throughout their lives, we need to take that opportunity.

Sometimes I think this sort of debate is not particularly helpful—when there is always the tendency to talk about lack of responsibility when it comes to the bottom line. This has happened for a number of years—the argument is always about the bottom line. In any event, you have to bring in the value of the longer-term investments which may require expending money, borrowing, using superannuation funds or whatever. That is responsible management of the territory's assets in respect of the long-term social and ecological wellbeing of our community.

**MR SPEAKER**: Discussion on the matter of public importance has concluded.

## Health Amendment Bill 2003

Debate resumed.

**MS DUNDAS**: (6.15) The ACT Democrats are happy to support a return to collective bargaining, to set the remuneration of working conditions of medical specialists working in our two public hospitals. However, valid concerns have been raised about the provisions of the bill before us, in its current form.

The drama back in 1998 surrounding renewal of specialist contracts certainly made for exciting television, but did not produce outcomes that best served the people of the ACT, either while patients were being flown interstate for treatment or once a highly inequitable set of contracts had been concluded—some containing inadequate output requirements.

I believe collective negotiation is the only way the ACT government can achieve remuneration outcomes which are transparent and fair to specialists, to ensure that VMOs are paid for the vital work they do in training registrars to become the next generation of specialists.

The VMO association has also raised valid concerns about the way the government has chosen to implement this collective bargaining. They are setting up a new arbitration system for a small group of workers—with some peculiar features. I understand the VMO association is concerned that the wording of the existing bill would give the government too much power in negotiations, because the government will be able to determine the principles and rules of arbitration.

In its place, the VMOs want a term saying that arbitration should be equitable. They want the arbitrator to be empowered to determine the rules governing the arbitration. I believe it is their preference to have the conditions determined by the Australian Industrial Relations Commission, rather than having them determined by an arbitrator operating under a set of rules established by the government. I can see why that position has some merit.

The VMO association also wants a provision in the bill requiring conciliation before moving to arbitration. The VMOs evidently do not believe that the reference to mediation in the government's amendments is sufficient. The wording does not make conciliation mandatory, when it should be. These are reasonable amendments to request. I am currently looking at whether we can get those drafted. Hopefully, we will have more time to consider this debate and look at further amendments to try and get this right.

I also wish to record my concern that the government has left this legislation until near to the expiry of the current VMO contracts. I understand that about 40 per cent of the contracts are due to expire in November. It is difficult to see how new contracts could be negotiated in only two months when there are so many complex issues to resolve.

It is difficult to understand why this legislation could not have been debated earlier in the year. We always knew the deadline was going to be November—yet here we stand, in September, with legislation that was tabled in August.

I believe all of these issues—including interim arrangements to cover the period between contract expiry and the conclusion of the new contracts—can be addressed if we, as an Assembly, agree to take time to consider this legislation and possible amendments. It is disappointing that we are working on a tight deadline with this. I believe we would have all appreciated more time to consider the legislation in detail, as opposed to considering what we thought was going to be legislation, based on what we were reading in press releases and through the media.

Although a collective bargaining process will remove pay inequities among members of our medical specialist work force, it appears that nothing is being done by the ACT government to tackle our specialist shortage in the short term. The ACT medical school will certainly help address the problem in the longer term, but we need to do more to get additional specialists in training now.

I thought the renegotiation of VMO contracts would have provided an ideal opportunity to arrange for additional training time and training places for registrars to address our local specialist shortage. However, I have heard nothing to give me the impression that this is occurring. I hope the government will consider this as negotiations progress.

The same applies to our GP shortage. The medical school will help tackle the shortage in the long term—but we need to be doing more now, to take the pressure off our overstretched GP work force. However, it seems that the government dismisses any ideas put forward, without giving them proper consideration. This is disappointing. I would like to believe they have some practical ideas that will be announced shortly, but I do not think that is the case. I believe the government is lacking imagination, vision and courage as it approaches the medical situation.

With regard to the legislation currently before us, there have been valid points raised today. These were about the potential for two legal frameworks to be applied to the negotiations, and the government getting too much power in the contract negotiation process. I hope we will have more time to consider these points and look at amendments.

As I said, I am hoping to have some amendments available for members to look at in the near future. Hopefully, they will make this legislation a little clearer and address the concerns raised by a number of people during this debate.

**MR CORBELL** (Minister for Health and Minister for Planning) (6.20), in reply: I thank members for their support of the bill in principle this evening. In closing, I would like to address a number of the issues members have raised in the debate. I refer firstly to questions raised by Ms Tucker in relation to why the ACT government is opposing the application of the VMOA in the Industrial Relations Commission to be a registered organisation. Whilst not directly related to the bill, I think it is worth addressing this issue.

The bill provides for a commercial relationship, between the territory and VMOs. VMOs have been seen by this government, and by all previous governments, as contractors—and the relationship is a commercial one. VMOs are not employees. The VMOA is seeking to go to the Industrial Relations Commission to obtain the commission's approval for VMOs to be recognised as employees for the purpose of the Workplace Relations Act, to form their own industrial organisation and to effectively have the right to collectively bargain and take protected industrial action.

That is a significant change in direction and not one that the ACT government believes is in the public interest. I think members in this place would appreciate that VMOs already have significant bargaining power, which they have exercised on other occasions. To allow VMOs to take protected action would not be in the public interest, when it comes to the provision of important medical services for the community. That is the reason why the ACT government is opposing the application of the VMOA in the Industrial Relations Commission.

Through this legislation, we are seeking to achieve a framework for negotiation which has not existed before. Previously, we have negotiated with VMOs one on one—all 190 of them. That has been an extensive, laborious and difficult task which has not led—particularly in the situation of the last round of negotiations—to any consistent outcomes. We have seen situations of VMOs within a particular specialty performing equivalent volumes of work being paid highly differentiating sums of money, simply because one was able to negotiate more effectively than the other.

We do not believe that is fair to the VMOs—nor do we believe it is in the broader public interest. Hence, the approach adopted by the government is to provide for a consistent bargaining framework—one within which all VMO negotiations will be conducted and within which the terms and conditions of a contract will be broadly agreed and largely consistent. That is the approach underpinning this legislation. I think members understand that, because they have indicated that they are prepared to support it in principle.

The amendments I have circulated to members will be dealt with, I would hope, on Thursday. I wrote to all members last night indicating what those amendments were, providing copies and offering an opportunity for a briefing on them. These amendments are the result of discussions that I and ACT Health have had with the AMA, the VMOA and individual VMOs. They have stressed their concern and a degree of reservation with certain provisions of the bill, and we are moving to address those issues.

To foreshadow what these amendments are about, they firstly recognise that the VMOA is an organisation which would potentially want to be a bargaining agent, consistent with the terms of the bill. They are concerned that the current provisions of the bill do not provide for their association to be a bargaining agent, because they are not incorporated.

They are not incorporated because they are seeking to be recognised as an organisation in the Industrial Relations Commission. The government accepts that that is an issue of concern. We do not want to exclude the VMOA from potentially becoming a bargaining agent, so we are prepared to propose an amendment to the bill to allow that to take place.

Second is provision for a new negotiating period, which must not be less than three months. It allows the minister to set a maximum negotiating period. I believe this is in the public interest. We cannot afford to have protracted negotiations which take years. That would not be in the best interests of harmony and cooperation in the health system—neither would it be in the best interests of relationships between the VMOs and the government.

So, whilst ensuring that we have a reasonable minimum period of time, which ensures that the government cannot railroad changes through, at the same time we have a framework which does not permit negotiations to be strung out over a lengthy period of time. I think that is in the best interests of everyone concerned.

I think it would be fair to say that most VMOs simply want to get on and do the work they are so highly trained to do, without having to worry about the provisions of their contracts, as long as they know they are fair and reasonable and take account of their skills and levels of training. That is indeed the approach the government is seeking to address.

Another matter raised in the discussions relates to the resolution of issues by mediation prior to arbitration. That was not in the bill. This is an omission which—I think quite rightly—the doctors associations have highlighted to the government. The government is quite prepared to address that issue.

Concern has also been raised about the terms and conditions of the arbitration framework. The change the government is proposing there is to put in place words which require the minister, in setting the rules and principles of the agreement, to be fair and reasonable.

I want to refute a comment from Mr Smyth. Mr Smyth said that this will be fair and reasonable, based on what the minister thinks. It will not be. It may be in Mr Smyth's interests to beat that up, but it is simply not the case. The government has sought the advice of Parliamentary Counsel to look at appropriate words that will guide the minister's determination in relation to the rules and principles for arbitration.

The term "fair and reasonable" has been defined in case law—indeed, in National Mutual Life Association of Australia Limited v Jevtovic, a case in the Federal Court in 1997. The judge adopted the *Shorter Oxford Dictionary* definition of the term, which means "just, unbiased, equitable and impartial".

It is on those terms that the minister must set the rules and principles of arbitration. The government thinks that that is a reasonable position and one which ensures that the minister must have regard for those principles—that the minister must make sure that the principles and rules are fair and reasonable, knowing that they will not stand up unless they are consistent with that case law example. That will address, I hope, the concerns of doctors associations in that regard.

Finally, I want to respond to the comments made by Ms Dundas. Ms Dundas raised a number of issues about work force shortages. As in many other parts of Australia, we

suffer from work force shortages in a range of specialties. However, this legislation is not the place to outline the strategy for addressing that situation.

The government is addressing work force shortages in a range of ways. One of those will be through the negotiation process in relation to training, recognition of training and recognition of research undertaken by VMOs within their specialties. That is a process for the government's offer and the government's negotiation. It is not something the government would flag through this legislation. That is a relatively self-evident approach.

In conclusion, this process allows for a clear framework of negotiation—one that does not give VMOs the opportunity to take protected industrial action and one that does not put them in an industrial arrangement. I think it is important to stress that it does not establish an industrial framework for bargaining, because they are not employees—they are contractors. It is a commercial arrangement between the territory and the individual VMO. We are seeking to create a consistent framework in which to undertake those negotiations.

I thank members for their support in principle. I would encourage those members who have not yet taken the opportunity of a briefing on the government's amendments to do so, so they are fully informed on the approach the government is proposing.

Equally, if other members have amendments, I would encourage members to make those available as soon as possible—Mr Smyth flagged that he has amendments—in the interests of an informed and effective debate. I would welcome those amendments as soon as they are available. I commend the bill to the Assembly.

Question resolved in the affirmative.

Bill agreed to in principle.

### Detail stage

Clause 1.

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

## Adjournment

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

> That the Assembly do now adjourn.

### Mr John Alan McCrory

**MR STEFANIAK** (6.33): I rise today to bring to the attention of the house the death of John Alan McCrory—one of the inaugural Crown Prosecutors of the ACT. John McCrory—affectionately known as the colonel—was a great character in the Canberra courts. He was born on 16 May 1919 in Scotland, and died on 18 September this year.

John McCrory had an exceptional career. He enlisted in the British Army as a young lad aged about 16 or 17. In 1936, he served as a 17-year-old on the north-west frontier of India around the Gilgit area and fought Pathens before World War II. In those days, that was the edge of the perimeter of the British Raj and the British empire in India. He then served in the Middle East, where he copped quite a few wounds from shrapnel, which plagued him in later life. I remember that, when he was boss of DCS and the Crown Prosecutor, when I started there.

He then served in Burma and finished his time in the army in Hong Kong, where he was a magistrate. After John was demobilised from the British Army in 1967, he and his wife, affectionately known as the duchess, moved from Hong Kong to Canberra. He became the Crown Prosecutor in Canberra in the late 1970s—until his retirement in 1982.

John McCrory was a number of things. He was a very fine soldier and a great character. It was sad that there were not so many people at his funeral. That is often the case when one dies at quite an old age. It was good to see a number of his former legal colleagues there, including half of the ACT Magistrates Court bench. He had assisted many of those people and, in certain instances, helped to train them, including the current Chief Magistrate, Ron Cahill. An interesting fact is that John missed out on the job as magistrate. His junior, Ron Cahill, got it in 1977.

I recall John very fondly. An interesting character, he was built a bit like a cross between a bulldog and a walrus. He had a flowing white moustache and spoke with a Scottish accent. He called nearly everyone "laddie"—and his secretary was referred to as "lassie".

John was old-fashioned in many ways. He had a wonderful and rather wicked sense of humour. He was a very good lawyer, although probably not so much with a legal argument in court—that was not his forte. He was what we in the fraternity call a facts man.

This man had a lovely style about him. When he appeared in court before a judge and jury, being the old monarchist that he was, he would announce, "Ladies and gentlemen of the jury, I appear on behalf of her Majesty the Queen, who has commissioned me to bring this case to you." It was almost as if the Queen had rung him up the night before and asked him to pursue a case in her Supreme Court!

John McCrory was also a lover of cricket analogies. As a young prosecutor instructing him, I found that he would often tell his witnesses, such as senior police officers, exactly where they would be in what he called the batting order. I recall things he said to now very senior policemen.

One day, he said to ex-policeman, Rick Ninnis, "Righto, Ninnis—you're number three. You're going to keep a straight bat, laddie. We've got a few bumpy ones from the defence. I just want you to play a steady wicket." Then he would say, "Righto, McQuillan! You'll be batting at number five. Put a bit of flair in your evidence, laddie. I think you can have a few swipes. Go for a few boundaries and knock them about a bit!"

He was a delightful old character. He was more than that, though. Aside from just being a wonderful character, he was probably one of the best bosses I ever had. He was a rather gruff, blustery man in many ways—and quite ferocious if you did not really get to know him. Yet behind that gruff exterior was a heart of gold.

John made an immense contribution to all those around him. His words of advice were quite prophetic. He helped people in many ways. He helped me—and not only as far as becoming a prosecutor is concerned. He was a very fair man and believed in fairness by the prosecution. Being an ex-soldier, he strongly supported me when I was going through my commissioning course in the army reserve. He was always happy to give me time off.

John ran a fine and friendly office because of his nature, professionalism and sheer humanity in dealing with all those with whom he came in contact. This included the people he had dealings with in the profession, and especially the people who worked for him.

Unfortunately, he was preceded by his wife, whom he lovingly called the duchess. John passed away after spending the latter years of his life in one of the old people's retirement villages in Page—I saw him only last year. He was quite well then but, sadly, passed away. Farewell, Colonel. Thank you very much for all you have done for the law in Canberra, for me personally and for so many others.

## Ms Roslyn Dundas—fire at home

**MS DUNDAS** (6.38): On behalf of the Henry Street workers paradise, I want to put on the record our grateful thanks to the fire units from Belconnen and Charnwood—and the breathing support unit from Ainslie—which attended the fire at our house over the weekend. I would also like to thank the fire investigation unit for the work they have done and the support provided to us on Sunday after the fire.

Of course, we would like to thank our neighbours, who spotted the flames and made the call to 000. We were impressed with the speedy response from the Belconnen unit. They were there in five minutes and got the flames under control. The damage was contained, and we were able to save a large amount of our property that was in the house.

We have had many offers of support, and many people have offered to donate books to replace our collection that was lost. We are most appreciative of that and say thank you. To the members of the Assembly who have been supportive as well, I personally have really appreciated that at this time. We want to thank all the people who offered support—and the firies for the great job they did over the weekend.

## Fire hazard reduction

**MRS DUNNE**: (6.40) I rise to speak about hazard reduction and the issues which have been prominent about trees in and around Canberra of late. There has been controversy around the place about my views on hazard reduction burning. I have made public statements where I have disagreed with the Greens—and especially Bob Brown—on their response to hazard reduction.

On that point, Senator Brown saw fit to have his solicitor send me a letter asking me to stop picking on him. I thought that was an unusual tactic for a senator. It seems that it boils down to this: when Senator Brown says he is against hazard reduction burning, it means he is against it when Wilson Tuckey proposes it, but not quite so much when it is recommended by the McLeod report.

That is fairly inconsistent. However, my views, and those of the members of the opposition, have been perfectly consistent. We are concerned with the protection of the human environment. We believe there should be hazard reduction in appropriate measures in national parks and areas like Black Mountain. The national parks and Black Mountain were, until the Christmas fires—and still are—time bombs.

We could have a fire season like last year's. It certainly seems to be shaping up that way, with a total fire ban in New South Wales yesterday—22 September—and fires raging across northern New South Wales. If we have a fire season like the last one and a fire gets onto Black Mountain, we may well have a situation on our hands to rival 18 January.

That is not good enough for the people of the ACT. I have drawn the attention of this place and its ministers to the hazards on places such as Gossen Hill, the Aranda bushland and Wybalena Grove. To this stage, very little has happened—and there are other places across the ACT where very much has happened.

The Chief Minister had the audacity to say on national television that we had not done any hazard reduction burning in the ACT because it was too wet and cold in the wintertime. I do not think that is the reason. There are many other things occurring.

That brings me to what is really going on with hazard reduction burning. I put a question on the notice paper some time ago. The answering time expired last week. Just before question time today, someone hotfooted it from the Chief Minister's Office with a letter trying to explain that it was really quite difficult to answer such a complex question within 30 days. It was really about how much hazard reduction had happened, and whether that was according to the plan.

There are many things going on here in the ACT which cause us concern. One of those is the instance of Oakey Hill. Environment ACT, after it has been reluctant to do much about hazard reduction, suddenly wants to clear-fell most of Oakey Hill.

I am wondering if we are being set up in a sort of *Yes Minister* situation where, when people call for hazard reduction, the environmentalists say, "If you want hazard reduction, we will give you hazard reduction." They do it in the most obvious way, in a place where they know it will cause a great number of problems.

In this case, they are proposing to essentially clear-fell all of that area, creating an eyesore and severely impeding the environment around Lyons—on the dubious basis that some of those trees may cause a fire hazard. There are other ways of addressing the fire hazard there—on the even more dubious argument that they are foreign trees, because they come from Tasmania.

This government has been very inconsistent on hazard reduction burning. It is about time it got its act together. The bushfire season is less than a week away and we are, I fear, very unprepared for this season.

Question resolved in the affirmative.

**The Assembly adjourned at 6.45 pm.**